



BY-LAW ON POUND

MATATIELE LOCAL MUNICIPALITY

POUND BY-LAW

TABLE OF CONTENTS

Be it enacted by the Council of the Matatiele Local 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, as follows:

INDEX

Section 1: Definitions

Section 2: Application

Section 3: Legislation

Section 4: Establishment of pound

Section 5: Pound Master

Section 6: Rangers

Section 7: Detention and removal of animals

Section 8: Impoundment

Section 9: Impounded animals bearing identification mark or animals for which the owner is known to Pound Master

Section 10: Duties of owners of animals

Section 11: Receipt of animals

Section 12: Putting down of dangerous or contagious animals

Section 13: Care and treatment of animals

Section 14: keeping of pound register
Section 15: Inspection of and extracts from pound register
Section 16: Inspection of pound register at place of sale
Section 17: Pound master's fee
Section 18: Fees payable
Section 19: Costs of impoundment which municipality is entitled to recover from owner
Section 20: Claim by owner
Section 21: Unclaimed animals
Section 22: Release of animals
Section 23: Disposal/ Sale of animals
Section 24: Auctioneer
Section 25: Indemnity
Section 26: Offences and penalties
Section 27: Regulations
Section 28: Repeal of By-laws
Section 29: Waiver or suspension of this by-law
Section 30: Compliance and enforcement
Section 31: Short title & commencement

1. DEFINITIONS

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 Matatiele Local Municipality;

"**Animal**" means any equine, bovine, cow, bull, oxen, sheep, donkey, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, cattle, wild bird or reptile, including the young of such animal and includes also both sexes of such animal.

"**Animal disease**" has the meaning assigned to it in terms of the Animal Diseases Act No. 35 of 1984.

"**Animal health scheme**" has the meaning assigned to it in terms of the Animal Diseases Act No. 35 of 1984.

"**Auction sale**" means a public sale in which members of the public are invited to bid for the animal or animals being offered for sale, the animal or animals being sold to the highest bidder at the fall of the hammer, and which sale constitutes a legally binding contract and which complies with the provisions of the Consumer Protection Act No 68 of 2008, where applicable.

"**Contagious disease**" means any disease, sickness, or illness which is capable of being transferred or transmitted from an infected animal, carcass or other thing to another animal, plant or human either through physical contact or by being airborne.

"**Council**" means the Council of the Matatiele Local Municipality.

"**Department**" means the Department of Agriculture, Forestry and Fisheries.

"**Hooves**" means horny covering protecting the ends of digits in the foot of certain animals, such as horses or donkeys.

"**Identification mark**" has the meaning assigned to it in terms of the Animal Identification Act, 2002.

"**Municipality**" means the Matatiele Local Municipality

"**Mane**" means hair that grows from the top of the neck of a horse that naturally grows to cover the neck
and forehead

"Ranger" means any person appointed as such by the municipality in terms of these bylaws to patrol public places and roads with the intention of impounding stray or lost animals and to maintain the pound

"SPCA" means the local Society for the Prevention of Cruelty to Animals

"Ticks" means small ectoparasites living by feeding on the blood of animals

"Vaccine" means any injectable solution that provides immunity to a particular disease

"Veterinary surgeon" means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act No 19 of 1982

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

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

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

2. APPLICATION

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.

3. LEGISLATION

3.1 Constitution of the Republic of South Africa

3.2 Local Government: Municipal Systems Act No 32. Of 2000.

3.3 National Road Traffic Act No 93 of 1996

3.4 Animal Identification Act No.6 of 2002.

3.5 Animal Diseases Act No. 35 of 1984.

3.6 Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act No 36 of 1947.

3.7 Criminal Procedure Act No 56 of 1955.

3.8 Animal Protection Act No 71 of 1962.

3.9 The legislation listed in sub-paragraphs 4.1. to 4.8 above do not represent an exhaustive list of legislation to which these by laws may be subject.

3.10 In the event of any ambiguity between any provision of this bylaw and the provision of any national or provincial legislation, the provision of such legislation shall prevail.

4. ESTABLISHMENT OF POUND

4.1 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.

4.2 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.

4.3 The pound shall meet the following criteria, as well as any criteria required by the SPCA and or other legislation with regards to the keeping of animals:

4.3.1 The pound area shall be well-fenced, secure with lockable gates (barbed wire fencing is discouraged as it poses a danger to impounded animals);

4.3.2 The pound area shall be reasonably large enough to allow for free mingling of animals, provided different categories of animals shall be kept separate from one another if so dictated by the SPCA or other applicable legislation;

4.3.3 The pound shall be large enough to allow for adequate grazing;

4.3.4 Where there is insufficient ground for grazing, there must be alternative provision for feeding;

4.3.5 The pound must have adequate supply of clean water at all times;

4.3.6 The pound must be clean and well-maintained at all times;

4.3.7 Animal droppings must be removed from the enclosures as they pollute the area and serve as breeding ground for diseases;

4.3.8 A poisonous plant species must also be identified and destroyed;

4.3.9. The pound must have a constructed off-ramp for off-loading of animals from delivery vehicles;

4.3.10 Animals must be transported strictly in accordance with the transportation guidelines laid down for different categories of animals by the SPCA to ensure no harm is caused to any animal.

5. POUND MASTER

5.1 The municipality shall appoint a fit and proper person to be the pound master.

5.2 It is the duty of the pound master to receive into his or her charge, for impoundment, all animals brought to the pound, during such hours as the municipality may determine.

5.3 The pound master is responsible for the overall administration and management of the pound.

5.4 The pound master shall keep and manage the pound register.

5.5 The pound master shall liaise with the state veterinary surgeon or equivalent officer with regards to injured, sick or dead animals.

5.6 In the absence of the pound master, the municipality may appoint another person to act in such position, and such person shall assume all duties of the pound master as contained in this bylaw during the time of his or her acting as such.

6. RANGERS

6.1 The municipality shall appoint one or more persons to be rangers.

6.2 Rangers shall patrol all public and municipal spaces within a prescribed radius.

6.3 Rangers shall deliver stray, lost or trespassing animals to the pound.

6.4 Rangers shall mark all animals upon delivery to the pound. The rangers shall ensure that the markings envisaged in this section are done in a safe, and non-harmful manner.

6.5 Rangers shall remove all dead or injured animals, provided that injured animals shall only be removed upon consultation with a veterinary surgeon, from roads, public spaces and the pound.

7. DETENTION AND REMOVAL OF ANIMALS

(1) any animal –

(a) found trespassing on land; or

(b) straying or wandering unattended in a public road or other public place,

(c) 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 master.

(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.

8. IMPOUNDMENT

(1). Where it is clear that any animal is sick or injured, the pound master shall immediately consult the state veterinary surgeon or other equivalent person, with a view to securing medical treatment for the animal.

(2). The pound master shall comply with any animal health scheme pertaining to any sick or diseased animal.

9. IMPOUNDED ANIMALS BEARING IDENTIFICATION MARK OR ANIMALS FOR WHICH THE OWNER IS KNOWN TO POUND MASTER

9.1 In accordance with Regulation 8 of Government Notice R1683 dated 21 November 2003, issued in terms of section 14 of the Animal Identification Act, 2002, the pound master shall follow the following procedures with respect to animals bearing an identification mark or where the pound master is aware of the identification of the owner:

9.2.1. The pound master shall send by certified post to the owner of the animal a notice containing the following details:

- (a) the name and address of the pound;
- (b) the name and address of the owner of the identification mark;
- (c) the description of the identification mark;
- (d) the description of the animals in the pound;
- (e) the number of animals of each description;
- (f) the date on which the animals of each description were impounded;
- (g) the date on which the animals of each description will be auctioned; and
- (h) the date of issue of such notice.

- (b) mark his or her animal in the prescribed manner;
- (c) where an identification mark on an animal is invisible or indistinct, mark the animal clearly with his or her identification mark, within 14 days after he or she is directed to do so by any official of the municipality;
- (d) notify the pound master of him or her being a registered owner, and providing the pound master with his or her names, identity number and permanent place of residence.
- (e) notify the pound master in writing of any changes of his or her address
- (f) any owner of animals may apply for registration contemplated in sub-paragraph{a) above, with the assistance of the pound master who shall assist the owner with the filling in of necessary application forms and liaison with the department.

10.2 No person may -

- (a) within 14 days of the date on which he or she becomes the owner of an animal with an identification mark, sell, barter, give away or in any other manner dispose of that animal to another person, unless he or she furnishes a document of identification to the person who acquires that animal; or
- (b) after 14 days of the date on which he or she becomes the owner of that animal unless
 - (i) such animal has been marked in the prescribed manner with the identification mark of the owner disposing of that animal; and

(ii) he or she furnishes the person acquiring that animal with a document of identification.

10.3 A person acquiring an animal from a person disposing of an animal as contemplated in subsection (2) must retain the document of identification obtained from that person for a period of one year.

11. RECEIPT OF ANIMALS

(1) Any person removing an animal to a pound shall provide the pound master 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 master 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.

12. PUTTING DOWN OF DANGEROUS OR CONTAGIOUS ANIMALS

A pound master may cause any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded to be put down; provided that no such animal shall be put down unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for it being put down.

13. CARE AND TREATMENT OF ANIMALS

- a) The pound master shall take proper care of any animal impounded in terms of these bylaws
- b) The pound master shall not use or cause or permit to be used any animal impounded in terms of these bylaws.
- c) In the event of the injury or death of any impounded animal, the pound master shall record the cause of such injury or death and shall retain any veterinary certificate issued.
- d) The pound master 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.
- e) A temporary mark shall be applied to every impounded animal within 24 hours upon arrival at the pound.
- f) The pound master shall ensure that the temporary marking is done in a humane manner and shall not in any way harm or injure the animal.
- g) Where there is adequate grazing ground, animals must be allowed to graze for at least 2 hours per day after which they must be returned to their enclosures.
- h) Young who are still suckling must not be separated from their mothers.
- i) Provision for adequate water must be provided in the grazing area as well as in the enclosures.

- j) Where there is insufficient grazing ground alternative and appropriate feed must be provided for each type of animal.
- k) Male and female animals must be accommodated separately, provided that young sucklings must not be separated from their mothers.
- l) Pound enclosures must provide sufficient protection from the elements, such as rain, sunshine or wind.
- m) The pound must be kept in a clean and hygienic state at all times.
- n) The pound perimeter fences must always be in a state of good repair to prevent animals escaping from the pound.
- o) No animal shall be ill-treated, beaten, ridden, caused to work, milked for human benefit, teased, played with, denied food or water, chained, tied, whipped or in any other manner treated cruelly or in an inhumane manner. Any official found contravening this section shall be immediately disciplined which may include dismissal for a first offence.
- p) The pound master shall ensure that any animal that is visibly sick or injured shall receive veterinary attention as soon as possible.
- q) Whenever any animal is transported it shall be so transported in a manner that complies with the SPCA's guidelines on the transportation of animals.
- r) No pound official or other person may administer medical treatment to any animal otherwise than in accordance with the advice of a veterinary surgeon or other equivalent person.
- s) The pound assistants shall ensure that the pound area and grazing areas are free of any alien or poisonous plant species or any other things or objects that may be harmful to the animals.
- t) The pound master must ensure that grazing rotation is practised to avoid overgrazing of a particular area.
- u) Before any animal is sold as provided for in clause 14 above, the pound master and rangers shall ensure that each animal is tendered. This will include the trimming of manes, hooves and branding.

- v) The pound master shall not release any animal into the care of any person who is visibly under the influence of alcohol or other substance such as drugs. This provision shall apply equally to the owner who claims any animal.

14. KEEPING OF POUND REGISTER

(1) Every pound master shall keep a pound register with the following particulars—

- (a) the date when, and the cause for which, all animals received by him are impounded;
- (b) the number and description of such animals;
- (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;
- (d) the date and particulars of the release or sale of the animals, as the case may be; and
- (e) any other matters which he may be directed by the municipality to ascertain and record.

(2) The entries under subsection (1)(a), (b) and (c) shall be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) shall be made as soon as the pound master obtains the necessary information; provided that no entry shall be made after a dispute has arisen.

(3) In case of the death or injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death or injury.

15. INSPECTION OF AND EXTRACTS FROM POUND REGISTER

Every pound register shall be kept at the pound or any other approved place and shall at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, stock inspector, and any member of the police service of the public.

16.INSPECTION OF POUND REGISTER AT PLACE OF SALE

Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, shall take the pound register with him to the place of sale, and such register shall be open for inspection, free of charge, at the place of sale to all persons desirous of inspecting it.

17. POUND MASTER'S FEES

(1) The municipality may fix fees and charges or tariffs for the keeping of animals in a pound and may, in determining such fees and charges or tariffs, distinguish between different kinds of animals and provide for the keeping and feeding of animals in separate enclosures,

(2) Every pound master shall be entitled to claim the fees and charges or tariffs determined by the municipality in terms of subsection (1) for every animal impounded by him in terms of this by-law.

18. FEES PAYABLE

(1) The fees and charges or tariffs determined by the municipality in terms of section 14 shall be paid to be the pound master by the owner of the animals impounded, and the said fees and charges or tariffs, together with any costs which the pound master may have incurred and such animals may be detained by the pound master in security of payment of the said fees and charges or tariffs, provided that—

- a) if the value of the animals impounded is in excess of the total amount due thereon, as determined in terms of this by-law, and if the owner is unable to pay the said amount, the pound master shall detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and shall deliver the remainder of the animals to the said owner;

- b) any pound master who retains any greater number of such animals than is reasonably necessary to secure such amount shall be liable to the owner for any damages sustained by him on account of such retention.

(2) If the pound master is an official of the municipality, he shall pay the fees and charges or tariffs received by him in terms of this by-law into the revenue of the municipality.

(3) No pound master shall release any impounded animal until the prescribed fees and charges or tariffs have been paid to him.

19. COSTS OF IMPOUNDMENT WHICH MUNICIPALITY IS ENTITLED TO RECOVER FROM OWNER

19.1 Any owner who claims an impounded animal shall be responsible for the tariff of charges in respect of feed, accommodation and or veterinary costs and any other related costs for which a tariff has been prescribed by the municipality, for the duration in which the animal has been impounded.

20. CLAIM BY OWNER

20.1 Where a person has satisfied the pound master that he or she is the legal owner of an impounded animal, the pound master may release such animal to such person only upon the following condition:

20.1.2 The claimant has paid the amount of an invoice issued by the pound master which reflects the costs incurred for the feeding, veterinary care and accommodation of the animal charged for the period of impoundment.

20.2 The pound master shall issue an invoice of charges to the claimant, such invoice to be paid at the municipality cashier's office.

20.3 Upon proof of payment issued by the municipal cashier, the pound master issue a payment receipt in triplicate. One receipt shall be given to the owner, one receipt shall be kept by the pound master and one receipt shall be filed in a payments receipts book to be handed over to the municipality treasury department once a month.

20.4 The pound master will thereafter facilitate the safe removal of the claimed animal from the pound.

21. UNCLAIMED ANIMALS

21.1 Where any impounded animal remains unclaimed for a period of more than 14 days from date of impoundment, such animal may be put up for sale by way of auction.

22. RELEASE OF ANIMALS

The pound master shall release an impounded animal to any person who has –

- (1) satisfied the pound master that he or she is the owner of the impounded animal;
- (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.

23. DISPOSAL/SALE OF ANIMALS

(1) The pound master 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 days' 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 master that he or she is the owner of the impounded animal.
- (4) If the pound master is for any reason unable to sell any impounded animal or if, in the opinion of the pound master the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound master 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.

At every such sale-

- (1) no animal shall be put up for sale unless impounded for at least two weeks;
- (2) all animals, except sheep and goats shall be sold individually;
- (3) sheep and goats shall be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands shall in no circumstances be sold together in the same lot;
- (4) animals shall be sold for cash, and the proceeds, less the amount of the pound fees and other fees, charges or tariffs payable in respect of such animals shall forthwith upon receipt, be handed by the pound master to the municipality, to be paid to the owners of the animals sold according to their respective rights; provided that-
 - a) if in any particular case the animals sold do not realise sufficient to yield the sum of pound fees and other fees, charges or tariffs as aforesaid, the proceeds shall first be utilised for the payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation shall be paid to the pound master by the municipality;
 - b) any money, being the proceeds of the sale of any impounded animal as aforesaid, which remains in the hands of the municipality for a period of twelve months without being claimed by the owner of such animal, shall become the property of such municipality;
 - c) it shall be competent for the municipality to make good to any pound master any loss which he may incur in the keeping of animals where the selling price does not cover the costs incurred;

- d) it shall be competent for any pound master, after compliance with the procedure prescribed by section 8 relating to diseased animals, to cause any aged or otherwise permanently unfit animal presented at the pound to be put down;
- e) if any animal dies in the pound and the owner cannot be traced, the expenses of burying the carcass shall be borne by the municipality;
- f) the municipality or an authorised officer may fix a reserve price for any animal offered for sale;
- g) the auctioneer may withdraw any animal from the sale if the highest bid received is in his opinion not satisfactory, irrespective of whether or not a reserve price has been fixed by the municipality.

24. AUCTIONEER

(1) Every sale of impounded stock shall—

- a) be conducted by the pound master or some other person duly authorised thereto by the municipality concerned; and
- b) commence at a time and be held on a day to be fixed by the auctioneer.

(2) No person conducting a pound sale shall have any direct or indirect interest in any purchase at any sale so held by him.

25. INDEMNITY

The Council, the pound master 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.

26. OFFENCES AND PENALTIES

(1) any person who -

(a) Contravenes any provision of this By-law; or

(b) 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 six months or for both such fine and imprisonment.

27. REGULATIONS

The Municipality may make regulations not inconsistent with this By-law, prescribing:

(a) any matter that may or must be prescribed in terms of this By-law; and

(b) any matter that may facilitate the application of this By-law.

28. REPEAL OF LAWS

Any by-law(s) relating to impounding of animals adopted by the Council or any erstwhile Council now comprising an administrative unit of the Municipality, shall be repealed from the date of promulgation of this By-law in the Provincial Government Gazette.

29. WAIVER OR SUSPENSION OF THIS BY-LAW

This By-law may be partly or wholly waived or suspended by the Council on temporary basis.

30. COMPLIANCE AND ENFORCEMENT

Violation of or non-compliance with this By-law shall give just cause for the instituting of prosecution against the Offender.

31. SHORT TITLE & COMMENCEMENT

This by-law shall be called the Pound By-laws, 2024, and shall come into operation from the date of proclamation in the Provincial Gazette