STANDARD DRAFT IMPOUNDMENT OF ANIMALS BY-LAW

LETSEMENG LOCAL MUNICIPALITY

7 GROOTTREK STREET

Privaatsak/Private Bag X3
KOFFIEFONTEIN
9986

FOON/PHONE:
(053) 3300-210

E-mail: mm@letsemeng.gov.za

[NO. 192 OF 2011]

NOTICE IN TERMS OF SECTION 14(2) (a) (i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD IMPOUNDMENT OF ANIMALS BY-LAW

In terms of section 14(2) (a) (i) of the Local Government: Municipal Structures Act, 2000 (Act No. 32 of 2008), make standard by-laws as set out in the Schedule.

SCHEDULE

IMPOUNDMENT OF ANIMALS BY-LAW

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Definitions

1. In this by-law, unless the context otherwise indicates -

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"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;
"cattle" means bulls, cows, oxen, heifers, steers and calves;
"Goat" means an adult male or female goat, a wether and a kid;
"Horse" means a stallion, mare, gelding, colt, filly, donkey and mule;
"municipality" means the Local Municipality of .....established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
"Occupier" means any person in actual occupation of land or entitled as owner to occupy land;
"owner", in relation to an animal, includes any person having possession, charge, custody of control of such animal; **"pound"** means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;
"Pound master" means a person who may be -
(a) a part-time or full-time employee of a municipality, or
(b) appointed under a service delivery agreement to keep and operate a pound;
"Proprietor" means any owner, lessee, or occupier of land;
"Sheep" means a ram, a ewe, a weather and a lamb;
"stallion" means a male horse, donkey or mule not castrated or partially castrated; **"veterinary surgeon"** means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No.19 of 1982).

Purpose of by-law

2. The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

Impoundment

3. Any person may impound an animal found abandoned upon his or her property or any street, road, road reserve or other public place.

Pound to which animals are to be sent

4. Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

Receiving of animals by pound master

5. (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
(2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

Receipt for impounded animals

6. A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

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Number of enclosures

7. The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for- (a) ostriches and horses;
   (b) cattle;
   (c) sheep, goats and pigs;
   (d) dogs; and
   (e) cats,

   Provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

Destruction of dangerous or contagious animals

8. (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
   (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

Notice of impounded animals

9. (1) a pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
   (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 2002 (Act No. 6 of 2002), is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
   (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police office.

Keeping of pound register

10. (1) a pound master must keep a pound register with the following particulars:
   (a) the date when, and the cause for which, all animals received by him or her 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, if known;
   (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 or she may be directed by the municipality to ascertain and record.
   (2) The entries under subsection (l)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (l)(d) and (e) must be made as soon as the pound master obtains the necessary information. Provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
   (3) In case of the death of injury of any impounded animal, the pound master must enter in his or her pound register a description of such animal and the cause of its death of injury.

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Inspection of and extracts from pound register

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

Submission of pound register entries after pound sales

12. A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

Inspection of pound register at place of sale

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

Pound master's fees

14. (1) the municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.

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

Fees payable

15. (1) the fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.

(2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner,.

(3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.

(4) If the pound master is an official of the municipality, he or she must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.

(5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

Notice of sale

16. (1) every pound master must -

(a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;

(b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;

(c) post a copy of the notice at a conspicuous place at the pound, there to remain until the day of the sale; and

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(d) Cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.

(2) The cost of a notice in terms of subsection (l) (a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.

(3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality must make good the deficiency.

Auctioneer

17. (1) every sale of impounded stock must -

(a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and

(b) Commence at the time and date mentioned in the notice in terms of section16 (a).

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

Sale of animals

18. At every such sale-

(a) no animal may be put up for sale unless impounded for at least two weeks;

(b) all animals, except sheep and goats must be sold individually;

(c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;

(d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -

(i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;

(ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;

(e) the municipality may fix a reserve price for any animal offered for sale; and

(f) The auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

Illegal impounding and penalties

19. Any person who illegally impounds any animal commits an offence.

Recovery of loss in respect of impoundment of animals from area of another municipality

20. Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

Use, detention and ill-treatment of animals

21. No person may furiously drive or ill-treat any animal found trespassing.

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Appeal

22. A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

Offences and penalties

23. Any person who -
    (a) contravenes or fails to comply with a provision of this by-law;
    (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
    (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to -
        (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
        (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or
        To such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
        (iii) A further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

Repeal of by-laws

24. Any by-laws relating to impoundment of animals adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

Short title

25. This by-law shall be known as the Impoundment of Animals By-law, 2011.