

Matzikama, South Africa

Impoundment of Animals By-law, 2019

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Matzikama South Africa

Impoundment of Animals By-law, 2019

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1. Definitions

In this By-law, words used in the masculine gender include the feminine; the singular includes the plural and vice versa; the English text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates-

"**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;

"**authorised official**" means an official, authorised in terms of Section 8 of the Animal Protection Act, 1962 ([Act No. 71 of 1962](#)), or any peace officer authorised in terms of Section 334 of the Criminal Procedures Act, 1977 ([Act No. 51 of 1977](#)) or any employee of the Matzikama Municipality who is authorised to enforce the provisions of this By-law;

"**cattle**" means bulls, cows, oxen, heifers, steers and calves;

"**goat**" means an adult male or female goat, a wether or a kid;

"**horse**" means a stallion, mare, gelding, colt, filly, donkey and mule;

"**Municipality**" means the Municipality of Matzikama established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 ([Act 117 of 1998](#)), Provincial Notice 481 dated 4 December 2000 and includes any political structure, political office-bearer or any employee thereof 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 or employee and also includes a service provider in terms of a service delivery agreement;

"**occupant**" means any person in actual occupation of land or entitled as owner, lessee or resident to occupy land;

"**owner**" in relation to an animal, includes any person having possession, charge, custody or control of such animal;

"**pound**" means a fenced-off area consisting of one or more camps under the control of a pound master, which was created for the housing and care of stray animals which are astray, lost or at large;

"**pound master**" means a person tasked to fulfil the duties and functions of a pound master in terms of this By-law and who may be either-

- (a) a part-time or full-time employee of the Municipality; or
- (b) appointed under a service-delivery agreement to keep and operate a pound;

"**proprietor**" means in relation to the ownership of any property any person who as owner, legal lessee or occupant resides on premises or land or uses it for whatever purpose, or who, as agent of the owner, exercises control over it;

"**sheep**" means a ram, an ewe, a wether and a lamb;

"**stallion**" means a male horse, donkey or mule not castrated or partially castrated;

"**proprietor**" means any owner, lessee, or occupant of land;

"**stock inspector**" means a person competent and qualified to inspect stock and who has been appointed by the Department of Agriculture for this purpose;

"**veterinary surgeon**" means a person who is qualified and registered in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 ([Act 19 of 1982](#)), to practise as veterinary surgeon.

2. Purpose of By-law

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.

3. Establishment of a pound and appointment of pound master

- (1) The Municipality may establish a pound or pounds and any places of safe-keeping of animals within the area of jurisdiction of the Municipality and the Municipality may enter into a service delivery agreement with an animal welfare organisation or an institution or a person to operate such a pound.
- (2) The Municipality may close any pound under its control.
- (3) The Municipality may, in terms of its human resource policy, appoint a competent and suitably skilled person as pound master or, in the event for a service delivery agreement, the person nominated by the service provider.

4. Impounding of animals

- (1) Any person or authorised official may impound any animal found abandoned, lost, strayed or trespassing upon any street, road, road reserve or other public place and deliver such animal to the municipal pound.
- (2) Any proprietor or occupier upon whose land any animals are found trespassing may send such animals to such pound as is nearest by a passable road or thoroughfare to the land trespassed upon, or such other pound designated by the Municipality.
- (3) The owner of any animals liable to impoundment for trespassing may, before the animals are removed for impoundment from the property trespassed upon, offer to the person complaining of the trespassing a sum of money in compensation for the damage suffered by him. Such offer shall be made to the complainant himself or to his servant or agent charged with the duty of taking the animals to the pound.

5. Receiving and caring of animals by pound master

- (1) It shall be the duty of every pound master to receive into his charge all animals brought to his pound, during such hours as the Municipality may determine, by an authorised official or by the proprietor, or by any person authorised in writing thereto by such proprietor or caretaker, to be impounded for having been found trespassing upon the land of such proprietor.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his pound as aforesaid shall be guilty of an offence and shall, in addition, be liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure; provided that, if any animal suffering from any contagious disease is brought to the pound, such animal shall be kept separate from all other impounded animals, and the pound master may cause such animals to be euthanised under the provisions of [Section 7](#).
- (3) The pound master is responsible for the proper care of all animals and must ensure that fresh water and sufficient food is available at all times.

6. Receipt for impounded animals

- (1) Every pound master shall give the person delivering animals into his charge a written receipt, indicating the number and description of the animals so delivered, and specifying the trespassing for which the said animals, as reported, are to be impounded.
- (2) Every pound master shall maintain in good repair and, as far as possible, free from all infection, not less than five separate enclosures for-
 - (a) ostriches and horses;
 - (b) cattle;
 - (c) sheep, goats and pigs;
 - (d) canine; and
 - (e) feline;

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.

7. Euthanising of animals

A pound master may euthanise any impounded animal-

- (a) suffering from a contagious disease or which may prove dangerous to human life; or
- (b) if it has been agreed to by the owner of the animal with the pound master as to the necessity for it being euthanised; or
- (c) if the animal impounded has no reasonable life expectancy;
- (d) if the animal is permanently unfit; or
- (e) if the animal has not been claimed by its owner within ten working days after having been impounded alternatively having been unsuccessfully offered for sale at an auction as contemplated in [Section 16](#).

8. Notice of impounded animals

- (1) Every pound master who knows the name of the owner of any animal impounded in his pound shall forthwith give notice to such owner that the said animal has been impounded.
- (2) Whenever the pound master has reason to believe that an animal brought in for impoundment may have been stolen he must report it to the nearest police station.

9. 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, sale, theft or euthanising 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.

10. 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 South African Police Service or a member of the public.

11. Submission of pound register entries after pound sales

- (1) Every pound master shall within ten working days after the date of each pound sale submit to the Municipality a copy of all entries in his pound register made since the date of the preceding submission.
- (2) The Municipality shall preserve all such copies for inspection by any person desirous of seeing them.

12. 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.

13. 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.
- (3) A pound master may recover the costs for the dipping, veterinary treatment, inoculation, spaying, sterilisation or other treatment of an animal from the owner of such animal.

14. Fees payable

- (1) The fees and charges or tariffs determined by the Municipality in terms of [Section 13](#) shall be paid to the pound master by the owner of the animals impounded, and in the event of the said fees and charges or tariffs, together, with any costs which the pound master may have incurred for the keeping of such animals not being paid by the owner, the 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 within two working days 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.

15. Notice of sale

Every pound master shall:-

- (1) whenever any impounded animal has not been released within five working days from the date of its impoundment, forward to the Municipality a notice setting forth the species, marks and distinguishing features (if any) of such animal, and in regard to horses and cattle also their colour, and stating that the animal mentioned therein will be sold at the next sale of impounded animals, as well as the time and place of such sale;
- (2) upon sending such notice to the Municipality, post a copy thereof in a conspicuous place at or near his pound, there to remain until the day of the sale; and
- (3) publish in a newspaper circulating in the area of jurisdiction of the Municipality a notice of the sale of an impounded animal; provided that the cost of such notice shall be recoverable from the owner of the impounded animal and shall be deemed to be part of the amount to be deducted from the proceeds of the sale of an animal and it shall be recoverable from the owner of such animal if the said proceeds are less than the amount due; provided further that-
 - (a) if such notice refers to more than one animal, the Municipality shall in its discretion, divide the cost of such notice *pro rata* in respect of the animals referred to therein;
 - (b) if the owner of an impounded animal is unknown, and the proceeds of the sale do not cover the amount as aforesaid, the Municipality shall make good the deficit.

16. Pound sales

- (1) Every sale of impounded animals shall-
 - (a) be conducted by the pound master or some other person duly authorised thereto by the Municipality; and
 - (b) commence at a time and be held on a day to be fixed by the person referred to in (a) above.
- (2) No person conducting a pound sale shall have any direct or indirect interest in any purchase at any sale so held by him and the following persons are prohibited from purchasing animals at a pound sale-
 - (a) the pound master or an employee of the pound;
 - (b) an employee or Council member of the Municipality;
 - (c) a spouse, life partner, parent, sibling or child of a person referred to in (a) and (b) above.
- (3) No animal shall be put up for sale unless impounded for at least five working days.
- (4) All animals, except sheep and goats shall be sold individually.
- (5) 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.
- (6) 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, which proceeds are 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 proceeds 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 the Municipality;
- (7) The Municipality has the power to compensate any pound master for any loss which he may incur in the keeping of animals where the selling price does not cover the costs incurred.
 - (8) 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.
 - (9) The Municipality or an authorised officer may fix a reserve price for any animal offered for sale.
 - (10) The auctioneer may, in the absence of a reserve price, withdraw any animal from the sale if the highest bid received is in his opinion not satisfactory.

17. Illegal impounding and penalties

Any person who illegally impounds any animal shall be guilty of an offence and shall in addition be liable to the owner for all damages, pound fees, compensation, cost and charges arising out of such proceeding, and for all charges, fees or tariffs in connection therewith.

18. Use, detention and maltreatment of animals

- (1) No person shall use an animal found trespassing for his own benefit.
- (2) No person shall furiously drive, worry or maltreat any animal found trespassing.
- (3) Any person who herds, drives or conveys an animal for impoundment must exercise reasonable care while doing so.

19. Liability

The Municipality, the pound master or any authorised official shall not be liable for the death or theft or injury to any animal, as a result of the seizure, transportation, impoundment or release of any such animal during the impoundment or as a result of impoundment.

20. Offences and penalties

Any person who-

- (1) contravenes or fails to comply with a provision of this By-law, whether or not such contravention or failure has been declared an offence elsewhere in this By-law; or
- (2) deliberately obstructs, hampers or handicaps any person in the exercise of any power or the performance of any duty or function in terms of any provision of this By-law; or
- (3) furnishes false, incorrect or misleading information, shall be guilty of an offence and liable upon conviction to-
 - (a) a fine or imprisonment or to both such fine and such imprisonment; and

- (b) 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 which such offence is continued; and
- (c) 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.

21. Repeal of By-laws

The provisions of any By-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this By-law.

22. Short title and commencement

This By-law shall be known as the By-law relating to the Impoundment of Animals and shall come into operation on the date of publication thereof in the *Provincial Gazette*.