

**MOGALE CITY LOCAL MUNICIPALITY  
BY-LAW RELATING TO THE IMPOUNDMENT OF ANIMALS**

Purpose of By-Law

- To promote the achievement of a safe, and healthy environment for the benefit of residents within area of jurisdiction of the municipality;
- To provide for procedures, methods and practices to regulate the impoundment of animals.

**Definitions**

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa;-

“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;

a stallion, mare, gelding, colt, filly, donkey and mule;

“municipality” means the Local Municipality of Mogale City established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 482 dated 22 September 2000 and includes any political structure, political office-bearer, councilor, duly authorized agent thereof 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 office-bearer, councilor, 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 or control of such animal

“pound” means a fenced-off area consisting of one or more camps under the control of the S.P.C.A, which was created for the housing and care of stray animals which are astray, lost or at large;

“S.P.C.A” means the local Society for the Prevention of Cruelty against Animals

“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 occupier of land;

“stock inspector” means any owner, lessee, or occupier of land;

“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 19 of 1982).

### **Impoundment for trespassing**

2. Any person may impound an animal found abandoned upon any street, road, road reserve or other public place

### **Pound to which animals are to be sent**

3. Any proprietor upon whose land any animals are found trespassing may send such animals to an S.P.C.A pound as is nearest by a passable road of thoroughfare to the land trespassed upon, or such pound designated by the municipality.

### **Offer by owner before impoundment of animals**

4. The owner of any animals liable to impoundment for trespassing may, before the animals are removed from the property trespassed upon, offer to the person complaining of the trespassing a sum of money in compensation of the damage suffered by him. Such offer shall be made to the complainant himself or to his employee or agent charged with the duty of taking the animals to the pound.

### **Receiving of animals by S.P.C.A**

5. (1) It shall be the duty of the local S.P.C.A to receive into its charge all animals brought to its pound, during such hours as the S.P.C.A may determine, by the proprietor, or by any person authorized in writing thereto by such proprietor or caretaker, as be impounded for having been found trespassing upon the land of such proprietor.  
(2) If the local S.P.C.A unreasonably refuses or fails to receive animals brought to its pound as aforesaid, it 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 of 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 S.P.C.A may cause such animals to be finished off under the provisions of section 8.

#### **Receipt for impounded animals**

6. The local S.P.C.A 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.

#### **Number of enclosures**

7. The local S.P.C.A 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
  - (e) feline

provided that a municipality may in regard to any pound in its area give permission to the local S.P.C.A to maintain a smaller number of enclosures thereon.

#### **Finishing off of dangerous of contagious animals**

8. The local S.P.C.A may cause to be finished off 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 shall be finished off unless a veterinary surgeon has examined it has agreed with the S.P.C.A as to the necessity for its finishing off.

#### **Notice of impounded animals**

9. If the local S.P.C.A knows the name or residential address of the owner of any animal impounded in its pound, it shall forthwith give written notice to such owner that the said animal has been impounded.

#### **Keeping of pound register**

10. (1) The local S.P.C.A shall keep a pound register with the following particulars:
  - (a) the date when, and the cause for which, all animals received by it 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 it 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 local S.P.C.A 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 local S.P.C.A shall enter in its pound register a description of such animal and the cause of its death or injury.

#### **Inspection of and extracts from pound register**

11. 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 authorized officer of the municipality, veterinary surgeon, stock inspector, and any member of the South African Police Services.

#### **Submission of pound register entries after pound sales**

12. The local S.P.C.A shall within a fortnight after the date of each pound sale submit to the municipality a copy of all entries in its register and the municipality shall reserve 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 local S.P.C.A or a person authorized to conduct the sale, shall take the pound register with him to 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.

#### **S.P.C.A's fees**

14. (1) The local S.P.C.A may fix fees and charges or tariffs for the keeping of animals in its 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.

#### **Fees payable**

15. (1) The fees and charges or tariffs determined by the S.P.C.A in terms of section 14 shall be paid to the S.P.C.A by the owner of the animals impounded, and the said fees and charges or tariffs, together with any costs which the S.P.C.A may have incurred and such animal may be

detained by the S.P.C.A 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 S.P.C.A 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, and
- (b) if the local S.P.C.A retains any greater number of such animals than is reasonably necessary to secure such amount, it shall be liable to the owner for any damages sustained by him on account of such retention.
- (c) The S.P.C.A shall not release any impounded animal until the prescribed fees and charges or tariffs have been paid to him.

#### **Notice of sale**

- 16. The local S.P.C.A may sell any animal impounded without having to give notice of such sale.

#### **Sale of animals**

- 17. At every such sale-
  - (1) no animals 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 of brands shall in no circumstances be sold together in the same lot;
    - (a) animals shall be sold for cash, and the proceeds shall be retained by the S.P.C.A to cover its costs related to the impoundment of animals.

#### **Illegal impounding and penalties**

- 18. 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.

#### **Use, detention and ill-treatment of animals**

- 19. No person shall harm any animal found trespassing.

#### **Offences and penalties**

- 22. Any person who-

- (1) contravenes or fails to comply with a provision of this by-law or commits an offence as stated elsewhere in this by-law;
- (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;
- (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 on 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 or the S.P.C.A as result of such contravention or failure.

## MOGALE CITY LOCAL MUNICIPALITY

### BY-LAW FOR THE PREVENTION OF PUBLIC NUISANCES CAUSED BY ANIMALS AND LICENSING OF DOGS

#### Purpose of By-Law

- To promote the achievement of a safe, pleasant and tranquil environment for the benefit of residents within the area of jurisdiction of the municipality;

#### Definitions

*In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa:-*

**“animal”** means horse, pony, mule, donkey, cattle, pig, sheep, goat,, camel, reptile, indigenous animal or exotic animal, and also includes dogs and cats as domestic pets;

**“licensing of dogs”** means the control over the number and health status of dogs through a licensing mechanism. According to Section 156(1) of the Constitution and Section 84(1) and (2) of the Municipal Structures Act, the licensing of dogs function is a local municipality function.

**“municipality”** means the Local Municipality of Mogale City established in terms of Section 12 of the municipal Structures Act, 117 of 1998, Provincial Notice 482 dated 22 September 2000 and includes any political structure, political office bearer, councilor, duly authorized agent thereof 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, councilor, agent or employee;

**“official”** shall mean any employee of the Municipality or the S.P.C.A delegated with the necessary powers to act upon these By Laws.

**“owner”** includes –

- (a) the person or persons in whom from time to time shall be vested the legal title to any immovable property.
- (b) In any case where a property is subject to a registered lease the lessee of such property;
- (c) In cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or assignee, or administrator.
- (d) In cases where the owner as above described is absent the agent or person receiving the rent of the property in question.

- (e) In any case where the property is beneficially occupied under a servitude or right similar thereto the occupier of such property.

**“premises”** means any building, tent or other structure, together with the land on which it is erected and any adjacent land, whether vacant or not, which is used in coherence therewith, and includes any vehicle, carriage, ship or boat;

**“public nuisance”** means any act, omission or condition on any premises, including any building, structure or growth thereon, which in the opinion of the municipality or the S.P.C.A is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of property in the neighbourhood or which adversely affects the safety of the public;

**“public place”** means any square, building, park, recreation ground or open space which: -

- (a) is vested in the municipality;
- (b) the public has the right to use, or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**“public road:** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

**“S.P.C.A”** means the local Society for the Prevention of Cruelty against Animals

**“structure”** means any stable, shed pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter or the keeping or enclosing of animals, poultry, pigeons or bees;

## **PART 1**

### **COMPULSORY LICENSING OF DOGS**

#### **Dogs licenses**

1. No person shall keep or permit to be kept on any premises or property, any canine without a valid license.



### **Application for dogs licenses**

2. All canine owners including government, business and private shall apply for a dog license at the local S.P.C.A. before the 30<sup>th</sup> of December 2005.
3. The owner shall apply for one license per dog.

### **Conditions for the issuing of a dogs license**

4. A license shall only be issued to the owner of the dog if the following conditions are met:
  - (a) A maximum of four dogs shall be permitted per 1000m<sup>2</sup> of property space
  - (b) A property shall have at least 125m<sup>2</sup> of lawn and garden space available per dog.
  - (c) The dogs must have sufficient covered shelter available.
5. The S.P.C.A may issue conditional licenses to dog owners

### **Issuing of a dogs license**

6. The S.P.C.A shall issue one license per dog if it is satisfied that the owner meets the conditions for the issuing of such license.
7. A dog's license shall be valid for a period of 12 months from the date of issue after which the owner of the dog will be required to apply for renewal of such license.

### **Fee payable for a dogs license**

8. The S.P.C.A will charge a fee for the issuing of a license of which such income shall be used to subsidize its operations.
9. 50% of the income received from the licensing of dogs shall be kept in trust by the S.P.C.A which shall be used annually at the discretion of the Municipality for the advancement of animal health, sustenance farming with animals, conservation or can be paid over as a grant to the S.P.C.A.
10. The Municipality shall implement a policy to guide the utilization of the trust fund contemplated under section 9.
11. The S.P.C.A shall submit a fee structure by the end of May of every year to the Director of Integrated Environmental Management for approval by the Municipal Council. Such fee structure shall include licensing fees and fines as applicable to this By-Law. The fee structure shall be sensitive to prevailing socio-economic conditions to ensure that poor households maintain the right to keep animals.

## **PART 2**

### **STRAY ANIMALS**

#### **Stray animals and pets**

12. (1) The municipality or the S.P.C.A may seize animals found on any premises, land or road which are not under supervision or control of any person and which are causing a nuisance or danger to the safety of persons.
- (2) Animals seized in terms of sub-section (1) will be impounded if the animal poses no risk or danger to any persons during the seizure of such animal or may alternatively be destroyed or caused to be destroyed by the municipality or S.P.C.A if there is unreasonable risk or danger in the seizing of such animal. The animal may be destroyed with such instruments or appliances and with such precautions and in such a manner as to inflict as little suffering as possible.

### **PART 3**

#### **ANIMALS CAUSING PUBLIC NUANCES**

13. The S.P.C.A shall investigate any public complaint regarding any public nuisance caused by any animal.
14. Should the S.P.C.A find reasonable grounds for the existence of a public nuisance it shall serve a warning on the owner of the animal to take all reasonable steps to stop such public nuisance within a period as stipulated by the relevant official.
15. Should the owner of such animal contemplated in section 13 not give effect to the warning served on him, he shall be guilty of an offence and shall be fined.

### **PART 3**

#### **CO-OPERATION BETWEEN MUNICIPALITIES AND NON-GOVERNMENT ORGANIZATIONS**

16. In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality, bordering municipalities and non-government organizations with which legislative and executive powers is shared, in respect of the following:
  - a. the practical arrangements with regard to the execution of the provisions of this by-law;
  - b. the recovery of costs and expenses related to any action in terms of this by-law;
  - c. mechanisms for the settlement of disputes with regard to execution of powers or functions in terms of this by-law or matters on which have been agreed;
  - d. any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

## **PART 4**

### **POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY**

17. If the municipality is of the opinion that optimal service delivery referred to in section 15 in its area of jurisdiction is endangered by the refusal or omission by the district municipality, bordering municipalities or non-government organizations to execute any of the practical arrangements envisaged in section 15(a), it may serve written notice on such entity to give effect or adhere to such arrangement within reasonable time. Upon failure to adhere to such notice, the municipality may proceed to give effect to such arrangement.
18. Any expenses or cost incurred by the municipality in giving effect to any arrangement referred to in section 16 may be recovered from the district municipality, bordering municipality or non-government organization.

## **PART 5**

### **GENERAL PROVISIONS**

#### **Right of entry and inspection**

19. (1) Any duly authorised employee of the municipality or S.P.C.A. is authorised to inspect any remises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.
  - (2) When entering premises in terms of sub-section (1), the authorized employee must on request by any person, identify him/herself by producing written proof of authorization.
  - (3) The authorized employee may be accompanied by a person reasonably required to assist in conducting the inspection.
  - (4) Any person who fails to give or refuses access to any authorized employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

#### **Service of documents and process**

13. (1) Whenever any notice, order, warning, demand or other document is authorized or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person:
  - a. when it has been delivered to him personally
  - b. when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years

- c. when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
  - d. if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c), or
  - e. if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, warning, demand or other document as aforesaid is authorized or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of immovable property, it shall not be necessary to name him but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property ore other right, as the case may be.

### **Penalties**

14. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to-
15. a fine or imprisonment, or to such imprisonment without the option of a fine or to both such fine and such imprisonment and
16. in the case of 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 continues and,
- 1. 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.

### **Exemptions**

22. Notwithstanding the provisions of this by-law, the municipality may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.