

**DEPARTMENT OF TRADITIONAL AND LOCAL GOVERNMENT AFFAIRS
PROVINCIAL GOVERNMENT NOTICE**

No., 2015

I, under powers vested in me by section 14(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and after having consulted the Minister of Provincial and Local Government Affairs and Organized Local Government in the Province, hereby make the standard By-laws contained in the Schedule hereto.

Signed at _____ on this _____ day of _____ Twenty Fifteen.

N DUBE

Member of the Executive Council of the Province of KwaZulu-Natal responsible for local government

POUND BY-LAWS

Be it enacted by the Council of the Mandeni Local Municipality, and approval of the member of the Executive Council responsible for local government 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:

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Definitions

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

“**Animal**” means 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 Mandeni Local Municipality;

“**Court**” means a Magistrate’s Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official Provincial Gazette of KwaZulu-Natal;

“**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;

“**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 keeper” means the person appointed from time by the Council to manage a pound established by the Council and includes any person acting for or on behalf of the appointed pound-keeper;

“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).

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 keeper.

(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 keeper with—

- a) his or 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 keeper 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. 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 keeper shall take proper care of any animal impounded in terms of these by-laws.

(2) The pound keeper shall not use or cause 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 keeper shall record the cause of such injury or death and shall retain any veterinary certificate issued.

(4) The pound keeper 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.

Released animals

7. The pound keeper shall release an impounded animal to any person who has—

- 1) satisfied the pound keeper 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.

8(1) The pound keeper 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 days 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 keeper that he or she is the owner of the impounded animal.

(4) If the pound keeper is for any reason unable to sell any impounded animal or if, in the opinion of the pound keeper the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound keeper 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, and the fees expenses referred to in section 7, or the costs of deduction as contemplated in clause 8(4), may be claimed by the Council from the owner.

Indemnity

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

Fees and charges

10.

Offences and penalties

11. 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 R2 000 or imprisonment for a period not exceeding two months or for both such fine and imprisonment.

Repeal of existing By-laws

12. The Council's existing Pound By-laws are hereby repealed.

Short title and commencement

13. These by-laws shall be called the Pound By-laws, 2015, and shall come into operation on

SCHEDULE 1

Code of Good Practice on the Handling and Transportation of Impounded Animals *{Sections 4 & 6}*

PART I

Paddock requirements

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same and must not be less than 1,5 square metres of floor area for each animal.
 3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for –
 - (a) Facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
 - (b) Water troughs with an adequate supply of suitable fresh water at all times;
 - (c) Sufficient facilities for the adequate cleaning of paddocks; and
 - (d) Facilities for the safe handling of animals.
6.
 - (a) The paddocks must at all times be maintained in a good state of repair.
 - (b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II

Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals –
 - a. Animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - b. Herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.
11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.

12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
13. Electric prodders, sticks or goads may not be used on young calves.
14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III

Movement of animals

15. Animals driven on the hoof must at all times be under proper and competent supervision.
16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.
17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
18. No animal on the hoof may be moved in excess of the following distances –
 - (a) During a journey of not more than one day's duration –
 - (i) 20 kilometres for sheep and goats; and
 - (ii) 30 kilometres for cattle; and
 - (b) During a journey of more than one day's duration –
 - (i) 20 Kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and
 - (ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
20. Animals may not be moved in the dark.
21. No sick, injured or disabled animal may be moved on the hoof.

PART IV

Vehicles used in transporting animals

22. Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a road-worthy condition.
23. All vehicles and trailers referred to in item 22 must have –
 - (a) A suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible.
 - (b) Adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
 - (c) Adequate protection from exhaust gases, as exposure to exhaust fumes could cause interference with the animals' respiration or cause distress;
 - (d) Side walls high enough to prevent animals from escaping or falling out of the vehicle:
Provided that –

- (i) The sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
 - (ii) In the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
 - (iii) The minimum height must be 750 millimetres in the case of any smaller animals;
- (e) In multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs, not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
- (f) Floors that are solid and impervious;
- (g) Loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
- (h) Gates, with or without partitions –
- (i) Of a design and construction strong enough and suitably for the conveyance, and that open and close freely and are able to be well secured.
24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is –
- (a) 1,4 square metres per large animals; and
 - (b) 0,5 square metre per small animal.

PART V

Watering and feeding of live animals prior to loading

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

Loading and off-loading procedure

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
28. No animals may be loaded or off-loaded otherwise than –
- (a) By means of a ramp with non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
 - (b) At a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 120 millimetres.
29. Where a truck is equipped with an onboard removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.

31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
33. Animals of different ages, sizes, and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.
35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto the vehicle.
36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
37. In the event of –
 - (a) A breakdown of the transport vehicle
 - (b) An accident or collision in which the transport vehicle is involved; or
 - (c) Injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from –
 - (i) in the case of paragraph (a), a breakdown service;
 - (ii) in the case of paragraph (b), the South African Police and Traffic authorities; or
 - (iii) in the case of paragraph (c), a veterinarian.

PART VI

Restraining of animals during transportation

38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.
39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.
40. No wire or bailing twine may be used for tying the animal's legs or feet.
41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animals' knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2

Pound register information

{Section 5}

A pound register must, at least, contain the following information –

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal

5. Ear tag number assigned by the pound keeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land
9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance from location where animal was seized to pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution

SCHEDULE 3

Fees and costs per animal due and payable to pound-keeper

{Section 10}

Type of fee or cost	Amount of fee or cost due and payable
1. Transport fee	The kilometer tariff for the vehicle which, in the discretion of the pound-keeper, is reasonably necessary to transport the relevant animal to the pound, as determined by the Automobile Association of South Africa (AA) from time to time
2. All inclusive Pound fee, which includes– (a) The pound fee; (b) A tending fee; (c) Dipping or spraying fees; (d) Wound dressing costs and fees; (e) Medication costs and fees; and (f) Veterinarian fees	(i) R30-00 per day, or part thereof, for any pig, sheep or goat; and (ii) R100-00 per day, or part thereof, for any other animal.