

## **MATJHABENG LOCAL MUNICIPALITY**

### **LIVESTOCK AND DOMESTICATED GAME IMPOUNDMENT BY-LAW**

Under the powers conferred by section 156 of Constitution, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Matjhabeng Local Municipality enacts as follows:

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## Definitions

1. In these by laws, unless inconsistent with the context, the following terms will mean the following:-

**"livestock"** includes a horse, donkey, sheep, goat, pig the hybrid of

1. any such livestock, and any domesticated game and

**"livestock"** will have a corresponding meaning;

**"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 the Province of the Free State;

**"municipality"** means the Matjhabeng Local Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"owner"** includes an owner who is known, or whose identity, with the exercise of reasonable due diligence, can be ascertained, and in relation to any-

(a) livestock, includes the agent of the owner or other person having the lawful custody or possession of such livestock; or

(b) land, includes the owner, lessee or lawful occupier of such land or his or her agent;

**"pound"** means a pound established as contemplated in section 3;

**"pound master"** means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound master;

**"public place"** means any place to which the public has access including, without limiting the generality of the foregoing -

(a) square;

(b) park;

(c) recreation ground;

(d) sports ground;

(e) open space;

(f) unused or vacant municipal land; or

(g) cemetery;

(h) municipal airport; and

(i) any other municipal property not stated above.

**"public road"** means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996); and

**"service delivery agreement"** means a service delivery agreement as defined in section 80 of the Local Government: Municipal Systems Amendment Act, 2011 (Act No. 7 of 2011).

**"SPCA"** stands for Society for the Prevention of Cruelty to Animals

## **2. Application**

This by-law is applicable to the area of jurisdiction of the Matjhabeng Local Municipality, provided that nothing prevents any livestock detained in terms of this by-law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

## **3. Establishment of pound**

(a) The Municipality may establish a pound at any convenient place within its area of jurisdiction, provided that the Municipality may enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction.

(b) The Municipality must give notice of the establishment of a pound by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Municipality.

## **4. Appointment of pound master**

The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a pound master, unless the pound is established and operated in terms of a service level agreement as contemplated in section 3(a).

## **5. Trespassing or straying livestock may be impounded**

(1) The owner of land upon which any livestock is found trespassing must report to the authorities as in 7.(1) and such must happen with immediate effect.

(2) If stray livestock is found the police should be informed immediately. The reference number regarding the report to the police should be kept on record including the full particulars of the police official to whom it was reported. (refer to policy)

(3) Any livestock found straying unattended upon any public road or public place may be seized for impounding by -

- (a) a member of the South African Police Services;
- (b) a member of the South African National Defence Force;
- (c) a member of the Provincial Road Traffic Inspectorate;
- (d) SPCA Officials
- (e) by-law enforcement officers or;
- (f) municipal traffic officers

(4) A person keeping a livestock, seized for purposes of impounding in terms of in subsections (1) and (2), must supply such livestock and domesticated game with adequate food and clean water with immediate effect.

(5) Any person who has seized a livestock for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation

of Impounded Livestock contained in Schedule 1.

#### **6. Livestock too vicious, injured, intractable or wild to be impounded**

If a Veterinarian or official contemplated in section 5(3)(a) to (f) is convinced that a livestock found trespassing on any land, or straying unattended upon any public road or public place, is too dangerously vicious, injured, intractable or wild to be impounded, he or she may authorize the humane destruction or other disposal of the livestock, after giving written reasons and written notice thereof to the owner of the livestock.

***(1) Vicious livestock should only be handled by the accredited trained officials.***

***(2) In case of sick and injured livestock the trained officials have the right to use their discretion and take it down without consent from the owner. (One shot no suffering and two witnesses)***

***(3) Animal Protection Act should also be taken into consideration.***

#### **7. Release of livestock before removal to pound**

(1) The owner of a livestock, seized in terms of section 5(1) may request the owner of land contemplated in section 5(3) for the release of such livestock prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) -

(a) may release such livestock forthwith to the authorities for impoundment, whereupon he or she may claim any damages he or she may have suffered;

#### **8. Care of trespassing livestock**

A person may not work, use or ill-treat a livestock found trespassing on any land or whilst it is in the process of being removed to a pound. Animal Protection Act should be taken into account.

#### **9. Pound to which livestock must be taken**

A livestock seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that livestock of different species must be separated at all times according to their species. Transportation of such livestock and domesticated animals should meet the requirements of the Animal Protection Act.

#### **10. Information to be supplied to pound master**

A person sending livestock to the pound must advise the pound master in writing of-

(a) the number and descriptions of the livestock;

(b) the land upon which they were found trespassing;

- (c) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound; and
- (d) the details of the owner if known.

#### **11. Acceptance at pound of livestock to be impounded**

In an event that the pound master makes an observation that livestock brought in for impoundment may put such livestock into quarantine and separated from other livestock. The Pound Master must further report such livestock to the State Vet and officials as contemplated in the Animals Diseases Act.

#### **12. Pound register**

(1) The pound master must -

- (a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and
- (b) complete the pound register immediately upon the acceptance into the pound of any livestock.

(2) If the pound master-

- (a) neglects or refuses to comply with any of the provisions of subsection (1);
- (b) knowingly makes a false entry in the pound register;
- (c) fraudulently destroys or erases any previous entry in the pound register; or
- (d) willfully delivers a false copy or extract from the pound register to any person, he or she commits an offence.

#### **13. Notice to owners of livestock**

The owner of a livestock contemplated in sections 5(1), 6, 14(2)(b), 15(1)(c), 17(b), 21(1)(b), and 23(a), must be notified by -

- (a) addressing a written notice to him or her; or
- (b) placing a copy of the notice to the owner on the Municipal Notice Board; and
- (c) publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

#### **14. Care of impounded livestock**

(1) The pound master -

- (a) is responsible for the proper care of all impounded livestock;
- (b) must ensure that fresh water and sufficient food is available to impounded livestock at all times; and
- (c) is liable to the owner of an impounded livestock for any damage caused by his or her willful or negligent acts or omissions.

(2)(a) If the pound master is of the opinion that an impounded livestock is dangerously vicious, permanently disabled or terminally ill, he or she, in consultation with a veterinarian or other suitably qualified person, may authorize the destruction or other disposal of the impounded livestock.

(b) The pound master must immediately notify the owner in writing of the authorization and the destruction or disposal of the livestock.

### **15. Isolation of infected livestock**

(1) If the pound master suspects, or is aware, that an impounded livestock, or a livestock to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must -

- (a) provide separate accommodation for such livestock;
- (b) immediately isolate the livestock, and report the disease to the nearest State Veterinarian; and
- (c) immediately notify the owner of the livestock of such disease in writing.

(2) If there is no State Veterinarian available, the pound master may request a report from a private veterinarian and if such a veterinarian is not available, he or she may apply to the court, which may authorize the destruction or other disposal of the impounded livestock.

(3) The pound master must immediately notify the owner in writing of the order of Court and the destruction or disposal of the livestock.

### **16. Treatment of impounded livestock**

The pound master -

- (a) may not work or in any way make use of an impounded livestock or permit any such livestock to be worked or made use of by any other person; and
- (b) must ensure that all impounded male livestock are at all times kept apart from female livestock.
- (c) may not ill-treat any of the livestock in any way.

### **17. Death of or injury to impounded livestock**

If an impounded livestock is injured or dies, the pound master must -

- (a) record the injury or cause of death in the pound register referred to in section 12; and
- (b) notify the owner of the livestock in writing of the injury or death.

### **18. Copies of by-law**

The pound master must ensure that copies of this by-law are available at the pound for inspection.

### **•19. Fees and costs payable**

The pound master must -

- (a) charge the owner of an impounded livestock the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this by-law or in accordance with any other law.

### **20. Release of impounded livestock**

(1) The pound master must immediately release an impounded livestock, and give the owner a receipt, upon the owner -

(a) providing proof of ownership of such livestock as contemplated in the Animal Identification Act; and

(b) paying the fees and costs contemplated in sections 19 and 28.

(2) If the owner of an impounded livestock is unable to pay the fees or costs contemplated in section 19, the pound master may retain such livestock in order to recover such fees or costs as may be due and payable.

## **21. Sale of impounded livestock**

(1) The pound master must -

(a) whenever any impounded livestock has not been released within seven days from the date of its impoundment, apply to the Court for authority to sell the livestock; and

(b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in sub-section (2) with the owner.

(c) Livestock must be marked in terms of the Animal Identification Act by the Pound Master before sale of same.

(2) The statement contemplated in subsection (1)(b) must include -

(a) the fees and costs due in terms of this by-law; and

(b) the amount of any damages that the owner of the land on which the impounded livestock trespassed, may have suffered.

(3) The Court to determine whether the amounts set forth in the statement contemplated in subsection (2)(a) and (b) are acceptable.

(1)(b) are disputed or not, must -

(a) summarily enquire into the matter;

(b) enquire whether notice was given to the owner of the livestock by the pound master; and

(c) make such order as it considers just and equitable, including an order -

(i) as to costs; and

(ii) on the process to be followed by the pound master in the sale of the livestock.

**22. Pound master may not purchase impounded livestock**

The pound master, or a family member, or a close associate of the pound master, or any municipal employee, may not purchase a livestock offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

**23. Livestock unsuccessfully offered for sale on Auction**

In the event that any livestock is not sold as contemplated in section 21 -

(a) the pound master must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and

(b) The Court may make such order as it may deem just and equitable.

(c) Unclaimed and unmarked livestock will be auctioned within reasonable time (to minimize costs to the Municipality).

*(d) If livestock is unsuccessfully offered for auction at the auction centre, the Municipality has the right to sell it to the abattoir, however the Municipality has to make sure that it is certified by the State Veterinary surgeon and free from all diseases.*

**24. Proceeds**

All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund, provided that in the event that any impounded livestock is sold at a price in excess of -

(a) the fees and costs incurred; and

(b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

**25. Action for recovery of damages**

Nothing in this by-law prevents the owner of land or any other person from instituting action against the owner of a trespassing livestock, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing livestock.

**26. Procedure to be followed in application to Court**

An application to Court for -

(a) the impoundment of a livestock in terms of this by-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and

(b) the sale of an impounded livestock in terms of this by-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No.32 of 1944), and Rule 41 of the Rules of Court, made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in



Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

## **27. Indemnity**

The Municipality, pound master and any officer, employee, or agent of the Municipality will not be liable for the death of or injury to any livestock arising as a result of its detention, impounding or release, or arising during its impoundment.

## **28. Offences and penalties**

A person who -

- (a) releases a livestock that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- (b) unlawfully seizes a livestock for the purpose of impounding it;
- (c) unlawfully impounds a livestock;
- (d) owns livestock and let it go stray; or
- (e) contravenes any provision of this by-law,

is guilty of an offence and is liable on 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 a result of such contravention or failure.
- (iv) *The owner of the impounded livestock will be held liable for all costs incurred, including the fines for contravening all acts (Road Traffic, Animal Protection and other related legislation)*

## **29. Schedules 1 and 2 form part of this by-law**

Schedules 1 and 2 to this by-law form part of this by-law for all purposes.

## **30. Repeal of existing 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.

## **31. Short title and commencement**

This by-law will be called the Livestock and Domesticated Game Impoundment By-law and it will come into effect upon promulgation in the Provincial Gazette.

## **SCHEDULE 1**

## **Code of Good Practice on the Handling and Transportation of Impounded Livestock**

*(Section 5(4))*

### **PART I: Paddock requirements**

1. Different species of livestock must be kept in separate paddocks.
2. Livestock may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all livestock to lie down at the same time and must not be less than 1,5 square meters of floor area for each livestock.
3. Fractious livestock may not be kept with other livestock.
4. Young, weaned juvenile livestock, may not be penned with adult livestock, 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 livestock off the floor, and which can be serviced without disturbing the livestock;
  - (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 livestock.
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 livestock, 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 livestock.

### **PART II: Handling of livestock**

8. Livestock must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling livestock -
  - (a) livestock respond more readily to being driven when the driver stands behind the livestock but within its field of vision; and
  - (b) herd livestock respond more readily to being driven when in a group

rather than singly.

**10.** Livestock 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 livestock and it is preferable to strike the ground behind the livestock rather than to hit the livestock.

**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 livestock.

### **PART III: Movement of livestock**

15. Livestock driven on the hoof must at all times be under proper and competent supervision.

16. Livestock on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that livestock, and not faster than the pace of the slowest livestock.

17. Livestock 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 livestock.

18. No livestock 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 kilometers for sheep and goats;

and (ii) 30 kilometers for cattle; and

(b) during a journey of more than one day's duration -

(i) 20 kilometers during the first day and 15 kilometers during each subsequent day for sheep and goats; and

(ii) 25 kilometers during the first day and 20 kilometers during each subsequent day for cattle.

**19.** Livestock must be provided with watered and food immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.

20. Livestock may not be moved in the dark.

21. No sick, injured or disabled livestock may be moved on the hoof.

#### **PART IV: Vehicles used in transporting livestock**

22. Vehicles and all trailers used in the transport of hoofed livestock must be suitable for the transport of such livestock and in a roadworthy 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 gasses, as exposure to exhaust fumes could interfere with the livestock' respiration or cause distress;
- (d) sidewalls high enough to prevent livestock from escaping or falling out of the vehicle:

Provided that -

- (i) the sides and partitions, when used in a vehicle to separate livestock carried therein, must be of a height not lower than the shoulder joint of the largest livestock being transported;
- (ii) in the case of cattle other than calves, the minimum height must be 1 800 millimeters; and
- (iii) the minimum height must be 750 millimeters in the case of any smaller livestock;
- (e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimeters, to enable the largest livestock to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the livestock;
- (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 millimeters; and
- (h) gates, with or without partitions -
  - (i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
  - (ii) that open and close freely and are able to be well-secured.

24. The density of livestock packed into any given space must be such as to ensure the safety and comfort of the livestock during transport, and the recommended floor space per livestock is

- (a) 1,4 square meters per large livestock; and
- (b) 0, 5 square meter per small livestock.
  
- (c) The transportation to be used must be in line with the specific requirements as set out in the policy. i.e. the officials handling livestock and domesticated animals should be trained and accredited.
- (d) Only registered service providers from the municipality database will be allowed to transport livestock and domesticated animals to the pound and Animal Protection Act should be taken into account
- (e) Stock Theft Act (article 8) should also be taken into account in transportation of livestock.
- (f) Time frames should be attached in transporting livestock ( service providers should be clearly briefed on procedures to follow)
- (g) When livestock is collected from the pound, proper transportation should be used and SPCA officials should be on site to ensure the proper handling and transportation.

#### **PART V: Provision of water and food to livestock prior to loading**

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

#### **PART VI: 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 livestock, bruising, injury, suffering or undue stress. ***Livestock and domesticated animals Protection Act should be taken into account***

**27.** No livestock may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

**28.** No livestock may be loaded or off-loaded otherwise than -

(a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of livestock being handled, with side panels or bars adequate to prevent livestock 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 millimeters below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.

**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 millimeters.

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 livestock have been loaded and the livestock must be promptly off-loaded upon arrival at the destination.

**32.** Unless adequate provision has been made for effective separation, different species of livestock may not be loaded and transported in the same vehicle.

**33.** Livestock 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 livestock.

**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 a livestock is likely to give birth in the course of a proposed journey, the livestock may not be loaded onto a vehicle.

**36.** In the case of a livestock 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 livestock.

**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 livestock 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 the traffic authorities; or

(iii) in the case of paragraph (c), a veterinarian.

#### **PART VII: Restraining of livestock during transportation**

**38.** Where the transport of any livestock may cause injury to itself or any other livestock, it must be restrained in such a manner as to prevent such injury.

39. No livestock 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 livestock's legs or feet.

41. To avoid strangulation or neck-break, a slipknot may not be used where livestock are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the livestock's knees so that in the event of the livestock falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the livestock to lie comfortably in a natural position with its head upright.

## **SCHEDULE 2**

### **Pound register information** *(Section 12)*

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

1. Name of pound
2. Date of receipt of livestock
3. Number and description of livestock
4. Brands or markings on livestock
5. Ear tag number assigned by the pound master
6. Name and address of person who seized the livestock
7. Name and address of person who delivered the livestock to the pound
8. Name and address of owner of land where livestock was seized
9. Name and address of owner of livestock
10. Name and address or description of place where livestock was found
11. Distance between place where livestock was seized and pound
12. Particulars of damage caused by the livestock
13. Transport fees payable
14. Details of destruction or disposal of livestock
15. Cause of death or injury of impounded livestock
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of livestock
19. Date of sale of livestock
20. Proceeds of sale of livestock
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 livestock not sold in execution