Cape Town, South Africa

Animal By-law, 2011

Legislation as at 5 August 2011

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Animal By-law, 2011
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Repealed

Cape Town
South Africa

Animal By-law, 2011

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[Repealed on 9 December 2021 by Animal Keeping By-law, 2021]

WHEREAS old municipalities within the area of jurisdiction of the City of Cape Town have been disestablished to form one municipality with legislative and executive powers over all areas of such old municipalities;

WHEREAS there is a need to develop one piece of legislation to govern the control of animals including dogs, cats and working equines uniformly throughout the City;

WHEREAS the City has competence in terms of the Constitution of the Republic of South Africa to make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS the City has the competence in terms of Part B of Schedule 5 of the Constitution relating to control of public nuisances, pounds, facilities for the accommodation, care and burial of animals, licensing of dogs, municipal roads, traffic and parking and has the competence in terms of Part B of Schedule 4 of the Constitution relating to municipal health services;

AND NOW THEREFORE, be it enacted by the Council of the City of Cape Town, as follows:

Chapter 1
Interpretation

1. Definitions

In this By-law, unless the context otherwise indicates-

"**adjoining and affected neighbour**" means a neighbor whose property directly abuts the common boundary of the premises of the applicant or which is located opposite or diagonally opposite the premises of the applicant;

"**agricultural property**" means land zoned for agricultural use in terms of any town planning scheme of the Council or any other law;

"**animal**" means horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile, dog, cat, or other domestic animal, indigenous animal and other wild animal or exotic animal, but for the purpose of Chapter five, excludes dogs, cats, and working equines to the extent that they are regulated separately in other Chapters;

"**animal drawn vehicle**" means a standard designed cart with swivel and shafts which is attached to the working equine by means of harness;

"**authorised official**" means an officer authorized in terms of section 8 of the Animal Protection Act, 1962 (Act No. 71 of 1962) and any other official of the Council who has been authorized by the Council to enforce the provisions of this By-Law;

"**carcass**" means the remains of any animal or poultry;

"**cat**" means both a male and a female cat of any age, unless otherwise specified;

Repealed

"**cattery**" means premises in or upon which-

(a) boarding facilities for cats are provided for; or

(b) cats are bred for commercial purposes;

"**Council**" means –

(a) the Council of the City of Cape Town established by Provincial Notice No. 479 of 2000 issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998)

(b) a successor in title;

(c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000):, or

(d) a service provider fulfilling a responsibility under this By-law assigned to it in terms of section 81 (2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law;

"**dog**" means both a dog and a bitch of any age, unless otherwise specified;

"**dwelling house**" means a single building designed for use as a residence for a single family situated on premises containing not more than two such buildings;

"**dwelling unit**" means an inter-connected suite of rooms including a kitchen or scullery designed for occupation by a single family, other than a dwelling house, irrespective of whether such unit is a single building or forms part of a building containing tow or more such units;

"**guide dog**" means a dog which has been trained to assist blind or poor-sighted person and includes a service dog which has been trained to assist a person who is mentally or physically incapacitated;

"**health nuisance**" means any activity, condition, premises or thing which, on account of effluent, vapours, chemical effluvia, odours, noise, vibration, radiation, refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper general hygiene, ventilation, lighting, design, situation or on account of any other cause or practice whatsoever, is or are in the opinion of the Executive Director: Health or a duly authorized Council employee potentially injurious or dangerous to health or which is or are offensive, including, without affecting the generality of the aforegoing, any facility for the storage, distribution or handling of water that is likely to be used by man for domestic purposes or consumption, including such water itself, which is contaminated or polluted;

"**kennels**" means premises in or upon which –

(a) boarding facilities for dogs are provided;

(b) dogs are bred for commercial purposes;

(c) dogs are kept for the purpose of being trained or hired out with or without handlers; or

(d) dogs are kept for commercial security purposes;

"**large dwelling house**" means a dwelling house on an erf more than six hundred square meters;

"**owner**" in relation to a dog, cat or working equine includes any person having the possession, charge, custody or control of that dog, cat or working equine;

"**permit**" means the written permission granted by the Council in terms of this By-Law;

"**person**" includes any sphere of government, natural and juristic person;

"**poultry**" means any fowl, goose, ostrich, duck, pigeon, dove, turkey, Muscovy, guinea-fowl, peacock or pea-hen or bird whether domesticated or wild;

Repealed

"**pound**" means a place designated by the Council in terms of any law for the impounding, sale and destruction of animals and includes the premises of the organizations and any other animal welfare organization recognized by the Council;

"**poundmaster**" means a person who has been appointed by the Council to be in charge of a pound;

"**premises**" means a building, tent or any other structure, together with the land on which the same is situated and the adjoining land is used in connection therewith and any land without buildings or tents, and includes any vehicle, conveyance, ship or boat;

"**public place**" and public street" means –

(a) a public road;

(b) any parking area, park, recreation ground, sports ground sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has –

(i) in connection with any subdivision or payout of land into erven, lots or plots, been provided or set apart for use by the public or the owners or occupiers or such erven lots of plots, whether or not it is shown on a general plan, plan of subdivision or diagram;

(ii) at any time been dedicated to the public;

(iii) been used without interruption by the public for a period of at least thirty years expiring after 31 December 1959; or

(iv) at any time been declared or rendered as such by the City or other competent authority; or

(c) a public transportation motor vehicle, but will not include public land that has been leased or otherwise alienated by the City;

"**structure**" means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure. run, loft or building, used for the keeping, housing or enclosing of animals and poultry; and

"**working equine**" means a horse, donkey, mule or ass that is fit for pulling an animal drawn vehicle used for financial gain.

Chapter 2
Dogs

2. Restriction on number of dogs

(1) The Council may determine the number of dogs that may be kept on any premises.

(2) in the absence of a determination made in terms of the provisions of subsection (1) and subject to the provisions of subsections (3) and (4), no person may keep more than –

(a) two dogs, or allow more than two dogs, over the age of six months, to be kept in or at a dwelling unit;

(b) three dogs, or allow more than three dogs, over the age of six months, to be kept in or at a dwelling house;

(c) four dogs, or allow more than four dogs, over the age of six months, to be kept in or at a large dwelling house;

(d) six dogs, or allow more than six dogs, over the age of six months, to be kept on an agricultural property;

(e) three dogs, or allow more than three dogs, over the age of six months, to be kept on at any other premises;

(3) Subsection (2) does not apply to any person who-

(a) is the holder of a permit issued in terms of section 4 to keep a greater number of dogs;

(b) is the holder of a permit to keep kennels;

(c) is the owner or manager or is in charge of, a pet shop and who has written proof that all dogs under the control of such owner or manager have been vaccinated against canine distemper, hepatitis, kennel cough and parvovirus;

(d) is the owner or is in charge of premises where guide dogs are being kept or trained; and such guide dogs are kept or trained and such guide dogs are kept or trained under auspices of the SA Guide Dogs Association;

(e) is the owner or manager of a veterinary clinic; or

(f) is in charge of dogs owned by the Metropolitan Police Department of the Council as specified in paragraph (a) of the definition of "Council", the South African Police Service or the South African Defense Force, and are kept for operational purposes;

(g) operates a pound

(4) A person whose permit to keep a dog has been cancelled or who has previously had a dog removed from his or her care or has a previous criminal conviction or civil judgment against him or her in respect of an animal in his or her care, may not keep a dog, unless the Council determines otherwise.

3. Dog registration and licensing

(1) The owner of a property where one or more dogs are kept must register the dog or dogs with the Council.

(2) Dog registration must take place within four months of the dog's birth or within 30 days of acquiring a dog on property within Council's jurisdictional boundaries.

(3) The Council may levy a dog license fee in respect of a property where one or more dogs are kept.

(4) The amount of the dog license fee may be determined in terms of a resolution of Council. A reduced dog license fee may apply for sterilized dogs.

4. Permits to keep more dogs than the prescribed number

(1) Any person who wants to keep a greater number of dogs on premises than the number permitted in terms of section 2 (2), must apply to the Council for a permit.

(2) An application in terms of subsection (1) must be in writing on a prescribed form and must be accompanied by the prescribed fee.

(3) The Council may require the applicant to provide any information which it considers relevant to enable it to make an informed decision.

(4) The Council may refuse to consider an application in terms of subsection (1) in respect of which the provisions of subsection (2) have not been complied with or information contemplated in subsection (3), has not been furnished.

(5) The Council may only consider an application in terms of subsection (1) after receipt of a written report from an authorised official –

(a) as to whether the dog for which the permit is required is likely to cause a public health hazard or the keeping of such dog may result in a contravention of section 6;

(b) setting out the results of an inspection of the premises on which the dog concerned is being kept or is to be kept; and

(c) as to whether to applicant has previously had a dog removed from his or her care or has a previous criminal conviction or civil judgement against him or her in respect of an animal in his or her care.

(6) The Council may refuse an application in terms of subsection (1) or approve it subject to any conditions aimed at reducing the risk of any public health hazard created by the dogs on the premises concerned occurring, continuing or to reduce such risk to a level acceptable to the Council.

(7) In respect of any application approved in terms of subsection (6), an authorised official must issue a permit on a prescribed form specifying every condition imposed by the Council.

(8) A permit is not transferable from one person to another or from the premises in respect of which it has been issued, to other premises.

5. Amendment, suspension and cancellation of permits

The Council may, after consideration of a report and recommendation of an authorised official or veterinary surgeon, by written notice to the holder of a permit contemplated in section 4 –

(a) amend, suspend or cancel that permit it is satisfied that failure to do so would result in-

(i) the creation or continuation of a public health hazard; or

(ii) a continued contravention of any provision of section 6;

(b) with immediate effect amend, suspend or cancel that permit if –

(i) such official is of the view that it is urgently necessary to do so to eliminate or reduce a significant risk to the public posed by a public health hazard or potential public health hazard; or

(ii) there is a criminal case pending against the permit holder or a civil case which the permit holder is a party to, involving an animal in his or her care.

6. Prohibition relating to the keeping of dogs

No person shall –

(a) permit any bitch on heat owned or kept by him or her to be in any public street or public place;

(b) urge any dog to attack, worry or frighten any person or animal or through negligence fail to prevent any dog from attacking, worrying or frightening any person or animal, except where necessary for the defence of such first-mentioned person his or her property or of any other person;

(c) keep any dog which causes damage to public property;

(d) keep any dog the faeces of which he or she fails to remove regularly and dispose of suitably;

(e) keep any dog which barks, yelps, howls or whines for more than six accumulated minutes in an hour or more than three accumulated minutes in an half hour;

(f) keep any dog which is starved or under-fed or denied water of adequate shelter;

(g) keep any dog which causes a nuisance to inhabitants of the neighbourhood by -

(i) having acquired the habit of charging any vehicle, animals, poultry, pigeons, or persons outside any premises where it is kept; or

(ii) by misbehaving in any other manner;

(h) permit any dog owned or kept by him or her –

(i) to be in any public street or public place while suffering from mange or any other infections or contagious disease and cannot prove that the dog is under treatment by a registered veterinarian and is no longer a public health hazard;

(ii) which is in the assessment of the authorised official ferocious, vicious or dangerous to be in any public street or public place, unless it is humanely muzzled and held on a leash and under control;

(iii) to trespass on private property;

(iv) to constitute a hazard to traffic using a public street;

(v) to constitute or to his or her knowledge be likely to constitute a source of danger or injury to any person outside the premises on which such dog is kept;

(vi) to be in any public street or public place except on a leash and under control unless the dog is in an area designated by the Council as a free running area;

(i) keep any dog which does not have its collar or micro-chip a name, telephone number and physical address or reference to a society for the prevention of cruelty to animals or registered animal welfare organisation;

(j) provoke, harass or tease any dog;

7. Seizure, impounding and destruction of dogs

(1) An authorised official may seize and impound at a place appointed by the Council any dog which-

(a) may be destroyed in terms of the provisions of subsection (10) or any other law;

(b) in his or her opinion is suffering from mange or any other infectious or contagious disease;

(c) in his or her opinion constitutes a hazard to traffic using any public street;

(d) is at large and apparently without an owner;

(e) is found in any public place or public street where such a dog is, in the opinion of the authorised official, not on a leash or under proper control, unless the dog is in an area designated by the Council as a free running area;

(f) enters any premises while an authorised official is attempting to take it into custody;

(g) is starved or under-fed or denied water or adequate shelter; or

(h) is being kept in contravention of section 2 or section 6.

(2) Any person may on premises of which he or she is the owner or occupier, take into custody any dog found trespassing thereon or therein for the purpose of having it impounded.

(3) Notwithstanding the provisions of subsection (1) and (2), no person may take any dog into custody for the purpose of having it impounded if there are reasonable grounds to believe that the dog is a female dog with unweaned young, unless such dog and unweaned young are taken into custody together.

(4) Any person who has taken a dog into custody in terms of this section-

(a) must ensure that the dog is not ill-treated; and

(b) may, when the pound is closed, keep the dog in his or her custody until the pound re-opens.

(5) No person may free any dog which has been taken into custody by an authorised official, or is being kept in custody in terms of this section or which has been impounded.

Repealed

(6) The Council shall keep a record of all dogs seized and impounded in terms of this By-law indicating the species, marks and distinguishing peculiarities (if any) of such dogs, as well as the last date for their release or otherwise, and such records shall be open for inspection by the public at the Council Offices during office hours.

(7) Any person may claim an impounded dog if he or she-

(a) satisfies the pound master that he or she is the owner or is otherwise entitled to the custody of the dog concerned;

(b) satisfies the pound master that releasing the dog into his or her custody will not result in any provision of section 2 or 6 being contravened; and

(c) pays the pound master the prescribed fees and the amount of veterinary expenses, if any, incurred in respect of the dog.

(8) A dog impounded in terms of subsection (1) other than a dog impounded in terms of subsection (1) (b) shall be released to the owner of or person keeping such dog upon payment of the fee as fixed by the Council.

(9) A dog impounded in terms of subsection (1), other than a dog so impounded in terms of subsection (1) (b) may be sold or destroyed after it has been detained for not less than ten days and after such destruction has been approved by a veterinarian unless it has been claimed and released in terms of subsection (7) or subsection (8). At least 7 days prior notice of the intended destruction must be given by the pound master to the organisations and other animal welfare organisation recognised by the Council.

(10) Notwithstanding the provisions of subsection (9), a dog which has been seized or impounded in terms of –

(a) subsection (1)(b); or

(b) any provision of this By-law or the provisions of any other law and which is found by the authorised official-

(i) to be suffering from any incurable, infectious or contagious disease, or to be badly injured; or

(ii) to be ferocious, vicious or dangerous, may be destroyed forthwith.

(11) If an authorised official is of the opinion that a dog is a dog contemplated by the provisions of section 6, he or she may -

(a) cause a notice to be served on the owner of such dog requiring such owner to take such steps as will effectively abate such nuisance or contravention and to establish to the satisfaction of the authorised official that such dog is being properly kept;

(b) impound the dog and deal with it in terms of this section, provided that such dog shall not be released to its owner unless such owner, within the period of ten days contemplated by subsection (9), provides the authorised official with satisfactory proof that such dog, if release to him or her, will not cause any further nuisance and will be kept under control.

(12) The destruction of any dog shall be by such painless method as may be approved by a registered veterinarian and shall take place under the supervision of an authorised official.

(13) The proceeds of any sale shall be used to defray all costs connected with such sale and the impounding of such dog.

(14) Neither the Council nor the authorised official nor any employee of the Council shall be liable for or in respect of any injury suffered or disease contracted by or damage caused to any dog as result of or during its seizure, impounding, detention, sale or destruction in terms of this By-law.

Repealed

8. Fencing of property

No person shall keep a dog if his or her premises are not properly and adequately fenced to keep such dog inside when it is not on a leash unless the dog is confined to the premises in some other manner, provided that such confinement is not inhumane in the assessment of the authorised official.

9. The rescue of stray dogs

A person who rescues a stray dog shall report the date and time of the rescue and a description of the dog to the Council within twenty four hours.

10. Dogs shall not be a source of danger

(1) Any person who keeps a dog on any premises shall keep such dog in such a manner as not to be a source of danger to the Council's employees entering upon such premises for the purpose of carrying out their duties.

(2) A notice to the effect that a dog is being kept on such premises shall be displayed in a conspicuous place at each access point to the premises.

11. Removal of excrement

(1) If any dog defecates in any public street, public place or public road, any person in control of such dog, excluding a person assisted by a guide dog, shall forthwith remove the excrement, place it in a plastic or paper bag or wrapper and dispose of it in a receptacle provided for the deposit of litter or refuse, excluding a person who is assisted by a guide dog.

(2) No person shall walk a dog, other than a guide dog, in a public street, public place or public road, without carrying a sufficient number of plastic or paper bags or wrappers, within which to place the excrement of the dog, in the event of the dog defecating.

12. Sterilisation

(1) An authorised official may cause a dog to be sterilized should he or she deem it necessary –

(a) In the interests of the welfare of the dog;

(b) to prevent nuisance;

(c) when the dog is stray;

(d) at the request of the owner,

and the costs thereof may be recovered from the owner.

(2) The owner of a sterilized dog must obtain from a registered veterinarian proof that the dog has been sterilized and must product such document for inspection to any authorised official on demand.

13. Designation of public places as free-running, on leash or off-limits

The council must designate public places, with appropriate signage, as one or more free-running on leash or off-limits and the designation may vary according to time of day and season.

Repealed

Chapter 3
Cats

14. Restriction on number of cats

(1) The council may determine the number of cats that may be kept on any premises.

(2) in the absence of a determination made in terms of the provisions of subsection (1) and subject to the provisions of subsections (3) and (4), no person may keep more than –

(a) four cats, or allow more than four cats, over the age of six months to be kept in any premises;

(b) six cats, or allow more than six cats, to be kept on an agricultural property.

(3) (a) The provisions of section 2 (3), except paragraph (d), and (f) of subsection (3), read with the necessary changes apply.

(b) For the purpose of applying the provisions of section 2 (3) in terms of praragaph (a)-

(i) paragraph (b) thereof is deemed to refer to a cattery; and

(ii) paragraph (c) thereof is deemed to refer to cat flu and feline respiratory diseases.

(4) A person who has previously had a cat removed from his or her care or has a previous criminal conviction or civil judgement against him or her in respect of an animal in his or her care, may not keep a cat, unless the Council determines otherwise.

(5) The provisions of sections 4, 5 and 7, read with the necessary changes, apply in respect of cats.

(6) No person shall keep any cat which does not have on its collar or micro-chip, a name, telephone number and physical address or reference to a society for the prevention of cruelty to animals or registered animal welfare organisation.

15. Powers of council to sterilize cats

(1) An authorised official may cause a cat to be sterilized should he or she deem it necessary-

(a) in the interests of the welfare of the cat;

(b) to prevent nuisance;

(c) when the cat is stray;

(d) on the request of the owner;

and the costs thereof may be recovered from the owner.

(2) The owner of a sterilized cat must obtain from a registered veterinarian proof that the cat has been sterilized and must produce such document for inspection to any authorised official on demand.

16. Taking cats into custody

(1) An authorised official or a person authorised thereto by a person, body or structure contemplated in paragraph (c) or (d) of the definition of the Council may, for the purpose of having a cat impounded, take into custody any cat which is kept in contravention of section 14.

(2) The provisions of section 7, read with the necessary changes, apply to the taking into custody of cats.

(3) Council make take the necessary steps to ensure that entrapment of cats is affected.

Repealed

Chapter 4
Working equines

17. Permits to keep working equines

(1) (a) Any owner who wants to put to work a working equine, must apply to the Council for a permit, in respect of such working equine.

(b) No more than one permit may be issued in respect of a working equine.

(2) An application in terms of subsection (1) must be in writing on a prescribed form and must be accompanied by –

(a) the prescribed fee;

(b) documentary evidence that the working equine is suitable to pull a animal drawn vehicle;

(3) The Council may require the applicant to provide any further information which it considers relevant to enable it to make an informed decision.

(4) The Council may refuse to consider an application in terms of subsection (1) in respect of which the provisions of subsection (2) have not been complied with or information contemplated in subsection (3), has not been furnished.

(5) The Council may only consider an application in terms of subsection (1) after receipt of a written report from an authorised official-

(a) as to whether the working equine for which the permit is required is likely to cause a nuisance in a public place or its use may result in a contravention of section 19;

(b) setting out the results of an inspection of the working equine and its working circumstances; and

(c) as to whether the applicant has previously had a working equine removed from his or her care or has a previous criminal conviction or civil judgement against him or her in respect of an animal in his or her care.

(6) The Council may refuse an application in terms of subsection (1) or approve it subject to any conditions aimed at reducing the risk of nuisance in a public place occurring, continuing or recurring or to reduce such risk to a level acceptable to the Council.

(7) A person who has applied for a permit in terms of subsection (1) may not work a working equine pending the outcome of such application, in the absence of a permit.

(8) In respect of any application approved in terms of subsection (6), an authorised official must issue a permit on a prescribed form specifying every condition imposed by the Council.

(9) A permit is not transferable from one owner to another.

18. Amendment, suspension and cancellation of permits

The council may, after consideration of a report and recommendation of an authorised official or veterinary surgeon, by written notice to the holder of a permit contemplated in section 17 –

(a) amend, suspend or cancel that permit if it is satisfied that failure to do so would result in-

(i) the creation or continuation of a nuisance in a public place; or

(ii) a continued contravention of any provision of section 19

(b) with immediate effect amend, suspend or cancel that permit if such official is of the view that it is urgently necessary to do so to eliminate or reduce a significant risk to the public posed by a nuisance in a public place.

19. Control of working equines

No person putting to work a working equine shall-

(a) permit the working equine to be in any public place whilst being incapable of pulling an animal drawn vehicle;

(b) permit the working equine to constitute a hazard to traffic using any public street;

(c) permit the working equine to constitute or to his or her knowledge be likely to constitute a source of danger or injury to any person using a public street;

(d) permit the working equine to be in any public street or public place except when under his or her control;

(e) work any working equine which does not have on the name, telephone number and address of its owner;

(f) permit any working equine to draw any vehicle, or use any harness which does not comply with the SABS standards and criteria which may be determined by the Council from time to time.

20. Seizure, impounding and destruction of working equines

(1) An authorised official may seize and impound at a place appointed by the Council any working equine which-

(a) may be destroyed on the advice of a veterinary surgeon or in terms of the provisions of any law;

(b) in his or her opinion is incapable to continue to pull an animal drawn vehicle;

(c) in his or her opinion constitutes a hazard to traffic using any public street;

(d) is at large or apparently without an owner; or

(e) is found in any public place where such a working equine is, in the opinion of the authorised official, not under proper control.

(2) The Council shall keep a record of all working equines seized and impounded in terms of this By-law indicating the species, marks and distinguishing peculiarities (if any) of such working equines, as well as the last date for their release or otherwise, and such records shall be open for inspection by the public at the Council Offices during office hours.

(3) A working equine impounded in terms of subsection (1) shall be released to the owner of or person keeping such working equine upon payment of the fee as fixed by the Council.

(4) A working equine impounded in terms of subsection (1) may be sold or re-homed after it has been detained for not less than ten days unless it has been claimed and released in terms of subsection (3).

(5) If an authorised official is of the opinion that a working equine is a working equine contemplated by the provisions of section 19, he or she may-

(a) cause a notice to be served on the owner of such working equine requiring such owner to take such steps as will effectively abate such nuisance and to establish to the satisfaction of the authorised official that such working equine will be kept under proper control;

(b) impound the working equine and deal with it in terms of this section, provided that working equine shall not be released to its owner unless such owner, within the period of ten days

contemplated by subsection (4), provides the authorised official with satisfactory proof that such working equine, if released to him or her, will not cause any further nuisance and will be kept under control.

(6) The proceeds of any sale shall be used to defray all costs connected with such sale and the impounding of such working equine.

(7) Neither the Council or the authorised official nor the employee of the Council shall be liable for or in respect of any injury or disease contracted by or damage caused to any working equine as result of or during its seizure, impounding, detention, sale or destruction in terms of the By-law

21. The rescue of impounded working equines prohibited

No person shall, by threats of violence or otherwise, rescue or attempt to rescue from the person or persons in charge thereof any working equine being lawfully brought to the pound, or shall rescue or attempt to rescue any working equine after such working equine has been lawfully impounded by an authorised official.

Chapter 5
Animals and poultry

22. Animals and poultry

In order to promote public health no person shall keep or permit to be kept on any premises of property any animal or poultry without the permission of the Council.

23. Permits

(1) For the purposes of promoting public health and restricting public nuisances, the Council may from time to time determine the number if animals or poultry that may be kept per unit area and the areas within the which such animals or poultry shall be prohibited.

(2) The Council may from time to time, determine the kinds of animals and poultry for which a permit is required and the relevant application fee and annual fee for such permit. Applications for such permits must be made on the prescribed form made available by the Council for such purposes.

(3) Permits issued in terms hereof are not transferable and shall not be valid for the specfic property in respect of which the application was made.

24.

(1) The Council may require an application in terms of section 23 (1) to be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the property for which a permit is required.

(2) The Council may require detailed plans and specifications of structures wherein it is proposed to keep animals and poultry, in order to evaluate whether or not to grant a permit applied for in terms of section 23 (2).

(3) Notwithstanding anything to the contrary contained in the By-law, the Council may refuse to approve an application or grant approval subject to specific conditions if, in its opinion, the property owing to its location, siting or geographical features or size, is unsuitable for the keeping of animals or poultry;

(4) No structure that accommodates animals shall be sited-

(a) within one and half metres of any boundry of the erf which abuts another residential erf;

(b) within six metre of any boundry of the erf which abuts any road or public open space; and

(c) within four and half metres from any dwelling, servants quarters, inhabited outbuilding and shop or building where food is processed.

(5) Where a structure in which animals will be kept forms part of an outbuilding used for human habitation, such structure must be sited at least four and half metres from such habitable room and must not be under the same roof as the habitable room.

(6) No structure in which poultry is kept shall be sited:

(a) within one and half metres from any boundry of a residential erf; and

(b) within one and half metres from any dwelling, servants quarters, inhabited outbuilding and shop pr building where food is processed, sold or stored.

(7) All structures in which animals or poultry are kept shall be suitably screened from any street to the satisfaction of the Council.

(8) No structure in which poultry is kept shall have a height in excess of three and a half metres.

(9) Notwithstanding the aforementioned provisions, the Council may, after considering conditions particular to the property and on condition that no objection is received from adjoining and affected neighbours, waive any or all of the requirements of this chapter and impose other conditions if appropriate.

25. Storage of feed and manure, disposal of carcasses

(1) All manure resulting from the keeping of animals and poultry shall, pending removal from the premises, be stored under shelter in sealed fly-proof containers and disposed of on a regular basis as to prevent any nuisance from being created, provided that such disposal may not include composting on the premises, except on agricultural property.

(2) All feed should be stored in a rodent proof place, container or storeroom for the keeping of animals and poultry.

(3) The premises for the keeping of animals and poultry shall be kept in such condition as not to attract or provide harbourage for rodents.

(4) Carcasses are to be disposed of at the owner's expense and in a manner approved by the Council.

26.

The Council may from time to time determine that a fly and rodent proof manure store and feed store of adequate size and constructed of permanent material, is required on premises where animals are kept.

27. Kennels and catteries

No person shall keep a kennel or cattery unless the following requirements are complied with a permit has been obtained from the Council:

(a) Dogs and cats are kept in separate enclosures-

(i) constructed of durable materials and with adequate access for cleaning, disinfecting and devermination purposes;

(ii) with a floor constructed with concrete or other durable and impervious material brought to a smooth finish and graded to a channel one hundred millimetres wide, extending over the full width of the floor and situated within the enclosure, which channel shall drain into a gully connected to the Council sewer system by means of a pipe approved material with a minimum diameter of one hundred millimetres or to another approved disposal system;

(iii) with a kerb one hundred and fifty millimetres high along the entire length of the channel referred to in subparagraph (ii), to prevent stormwater from such area from entering the channel;

(b) every enclosure referred to in paragraph (a) shall contain a roofed shelter for the accommodation of dogs and cats of which –

(i) every wall shall be constructed of brick, stone, concrete or other durable material and shall have a smooth internal surface without cracks or open joints: and

(ii) the floor shall be on concrete or other impervious and durable material brought to a smooth finish without cracks or open joints and the surface between the floor and the walls of a permanent structure shall be covered.

(c) in the case of dogs, a dog kennel of moulded fibre cement or other similar material which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in paragraph (b) and if the base of such kennel is not rendered waterproof, a raised sleeping board which will enable the dog to keep dry shall be provided in every such kennel;

(d) a cencrete apron at least one metre wide shall be provided at the entrance of the enclosure over its full width, the apron to be graded to allow for the drainage of water away from the enclosure;

(e) a supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to every enclosure;

(f) separate isolation facilities for sick dogs and cats shall be provided to the satisfaction of the Council;

(g) if cages are provided for the keeping of cats, such cages shall be of durable, impervious material and constructed so as to be easily cleaned.

28. Structures to be in proper state of repair and no alterations

(1) All structures shall be at all times be kept in a proper state of repair by the owner or occupier of the premises.

(2) No person shall alter or use a structure for the keeping of animals or poultry for purposes other than those specified in the permit.

29. Notices, amendments and cancellation of permits

(1) If, in the opinion of the Council, any animals kept on the property in terms of which a permit has been issued by the Council under this By-law cause a health nuisance, danger to health or endanger the safety of the public or where more animals are kept than authorised in the permit issued, the Council may serve written notice on the holder of the permit, or in his absence the person in charge, to remove or cause to be removed such nuisance or danger or excess number of animals within a specified period.

(2) The holder of a permit or the person in charge, on receiving a notice in terms of subsection (1), shall comply with the requirements as specified by the Council in such notice, failing which the Council may, at its discretion-

(a) cancel the permit to keep animals on such property, or

(b) amend the permit.

(3) The holder of a permit shall, when requested by Council to do so, return the permit issued to him for amendment or cancellation, as the case amy be.

Repealed

30. Animals offered for sale

A person or manager of premises where dogs or cats our horses are offered for sale shall keep proper records of vaccination and shall not leave such animals unattended overnight.

31. Fireworks

No person may terrify or cause stress to any animal with fireworks or by any other means.

32. Animal cruelty

Any person who -

(a) possesses, keeps, imports, buys, sells, trains, breeds or has under his or her control an animal for the purpose of fighting any other animal

(b) baits, provokes or incites any animal to attack another animal or to proceed with the fighting of another animal;

(c) for financial gain or as a form of amusement promotes animal fights;

(d) allows any of the acts referred to in paragraph (a) and (c) to take place on any premises or place in his or her possession or under his or her charge of control;

(e) owns, uses or controls any premises or place for the purpose or partly for the purpose of presenting animal fights on such premises or place or who acts or assists in the management of such premises or place, or who receives any consideration for the admission of any person to such premises or place; or

(f) is present as a spectator at any premises or place where any kind of the acts referred to in paragraph (b) to (e) is taking place or where preparations are being made for such acts,

is guilty of an offence and liable on conviction to a fine of R20 000.00 (twenty thousand rand) or to imprisonment for a period not exceeding two years;

(g) in any prosecution it is presumed, unless the contrary is proved, that an animal that is found at any premises or place is the property or under the control of the owner of those premises or that place, or is the property or under the control of the person who uses or is in control of the premises or place.

Chapter 6
Duties of pound master

33. Duties of pound master

A pound master –

(a) (i) must keep the pound open between 08h00 and 16h30 from Monday to Friday and Saturday between 08h00 and 12h00 unless any such day is a public holiday;

(ii) may, notwithstanding the provisions of subparagraph (i), keep the pound open during such earlier of later hours as he considers necessary, subject to displaying an easily legible notice to that effect at the entrance to the pound;

(b) must accept, take charge of and impound any animal brought to the pound with a view to impounding it, during the hours when the pound is open and must, subject the further provisions of this By-law, detain that animal in the pound: Provided that the pound master may refuse to receive, or may release any animal if he or she reasonably believes that such animal was not lawfully taken into custody or impounded;

Repealed

(c) must keep a register in which the following particulars of any animal are recorded:

(i) the name of the authorised official or the name, residential address and telephone number of any other person who brought the animal to be impounded;

(ii) the time at which and date on which the animal was impounded;

(iii) the place where the animal was found immediately before it was taken into custody;

(iv) the date on which and the time at which the animal was taken into custody before being being brought to the pound;

(v) the reason for impounding the animal;

(vi) a description of the animal indicating the estimated age, breed, sex, colour, markings and any injury found on the animal when the poundmaster accepted it;

(vii) whether the animal was released, sold or destroyed and the date and time of such release, sale or destruction;

(viii) the amount or money realised in respect of such release or sale;

(ix) the amount of veterinary expenses, if any, incurred in respect of the animal;

(d) must ensure that the pound and all equipment used in connection with impounding animals are kept in a clean condition and free from flies and other vermin, to the satisfaction of the Council's Executive Director: Health;

(e) must ensure that every animal in the pound is properly fed and cared for;

(f) must isolate any female animal on heat;

(g) must take all reasonable steps to prevent fighting amongst animals in the pound;

(h) must isolate any diseased animal from the healthy animals, have such animal attended to by a veterinarian and take all steps to recover the expenses incurred in this regard from the owner if the identity and address of the owner are known;

(i) must take all necessary steps to have any animal destroyed as contemplated in this By-law and recover any expenses incurred in this regard from the owner if the identity and address of the owner are known;

(j) must take all reasonable steps to ensure that animals are re-homed and not destroyed;

(k) must levy the prescribed fee for impoundment and daily holding fees in respect of any animal;

(l) may cause any animal to be sterilised and provide it with identification as set out in Sections 6(i) and 14(6) and recover the costs thereof from the claimant provided that the claimant may provide for consideration a motivation as to why the animal should not be sterilised;

(m) must cause any animal to be sterilized and provide it with identification as set out in Sections 6(i) and 14(6) prior to releasing the animal from the pound to any person other than the original owner thereof; and

(n) must scan any animal taken into custody by an authorised official for the purposes of detecting a microchip.

Repealed

Chapter 7
Miscellaneous

34. Offences and penalties

(1) Any person who –

(a) contravenes or fails to comply with any provision of this By-law or with any order or notice lawfully issued thereunder commits an offence; and

(b) continues to commit an offence after notice has been served on him or her to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.

(2) Any person convicted of an offence under this By-law shall be liable to a fine or imprisonment for a period not exceeding two years;

(3) in the case of a continuing offence an additional fine or imprisonment for a period not exceeding ten days for each day on which such offence continued may be imposed or both a fine and imprisonment.

(4) Any court convicting any person of keeping any animal which is not kept under control in accordance with the provisions of this By-law may, in addition to the penalty referred to in subsection (2), order the destruction of the animal concerned, and thereupon an authorised official may destroy such animal.

35. Application to the state and council

These By-laws bind the State and Council.

36. Repeal

The following By-laws are hereby repealed:

(a) Kuilsrivier Municipality By-law relating to the keeping of dogs as published in Provincial Notice No. 1027 of 1977;

(b) Milnerton Municipality By-law relating to the control of dogs as published in Provincial Notice No. 481 of 1987;

(c) Brackenfell Municipality By-law relating to the keeping of dogs as published in Provincial Notice No. 190 of 1979 and Amendment of By-law relating to the keeping of dogs as published in Provincial Notice No. 510 of 1990;

(d) Kraaifontein Municipality By-law for the Control of dogs as published in Provincial Notice No. 669 of 1979 and Amendment to the By-law for the control of dogs as published in Provincial Notice No. 526 of 1982;

(e) Divisional Council of Stellenbosch By-law relating to the keeping of dogs as published in Provincial Notice No. 692 of 1979;

(f) Fish Hoek Municipality dog controlled By-law as published in Provincial Notice No. 675 of 1979;

(g) Simonstown Municipality Regulations relating to the keeping of dogs as published in Provincial Notice No. 549 of 1963;

(h) City of Tygerberg By-law relating to the control of dogs as published in Provincial Notice No. 567 of 2000;

Repealed

(i) Cape Town Municipality By-law for the control of dogs as published in Provincial Notice No. 658 of 1981;

(j) Cape Divisional Council By-law relating to the control of dogs as published in Provincial Notice No. 781 of 1985;

(k) Part 2 of the Environmental Health By-law of the City of Cape Town as published in the Provincial Gazette Extraordinary dated 30 June 2003.

37. Transitional provisions

(1) A nine month transitional period for the registration of dogs in terms of section 3 (1) and section 3 (2) of this By-law will apply from the date of promulgation of this By-law by publication in the Gazette.

(2) Applications in terms of section 4(1) of this By-law to keep a greater number of dogs on premises than the number permitted in terms of section 2(2), will in the first six months after promulgation of this By-law, be granted up to a maximum of six dogs on any premises, subject to the owner not replacing any dog that dies or is disposed of if it would result in a contravention of section 2(2).

(3) Applications to keep a greater number of cats on premises than the number permitted in terms of section 14(2), will in the first six months after promulgation of this By-law, be granted up to a maximum of six cats on any premises, subject to the owner not replacing any cat that dies or is disposed of if it would result in a contravention of section 14(2).

(4) Section 6(i) and section 14(6) of this By-law takes effect after a period of six months has elapsed since the date of promulgation of this By-law by publication in the Gazette.

(5) Section 17(7) of this By-law takes effect after a period of six months has elapsed since the date of promulgation of this By-law by publication in the Gazette.

(6) Section 12 (1) and section 15 (1) of this By-law takes effect after a period of six months has elapsed since the date of promulgation of this By-law by publication in the Government Gazette.

38. Short title

This law is called the City of Cape Town: Animal By-law, 2010.