Cederberg, South Africa

Impoundment of Animals By-law, 2004

Legislation as at 22 October 2004

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Repealed

Cederberg
South Africa

Impoundment of Animals By-law, 2004

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Purpose of By-Law

• To promote the achievement of a safe, and healthy environment for the benefit of residents within the area of jurisdiction of the municipality;

• To provide for procedures, methods and practices to regulate the impoundment of animals.

1. Definitions

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the Afrikaans text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates:—

"**animal**" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

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

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

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

"**municipality**" means the Municipality of Cederberg established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 482 dated 22 September 2000 and includes any political structure, political office-bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, agent or employee;

"**occupier**" means any person in actual occupation of land or entitled as owner to occupy land;

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

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

"**pound master**" means a person who may be either

(a) a part-time or full-time employee of a municipality, or

(b) appointed under a service delivery agreement to keep and operate a pound;

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

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

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

Repealed

"**stock inspector**" means any owner, lessee, or occupier of land;

"**veterinary surgeon**" means a person who is qualified as such in accordance with the provisions of the Veterinary and Paraveterinary Professions Act, 1982 (Act 19 of 1982).

2. Impoundment for trespassing

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

3. Pound to which animals are to be sent

Any proprietor upon whose land any animals are found trespassing may send such animals to such pound as is nearest by a passable road or thoroughfare to the land trespassed upon, or such other pound designated by the municipality.

4. Offer by owner before impoundment of animals

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

5. Receiving of animals by pound master

(1) It shall be the duty of every pound master to receive into his charge all animals brought to his pound, during such hours as the municipality may determine, by the proprietor, or by any person authorized in writing thereto by such proprietor or caretaker, to be impounded for having been found trespassing upon the land of such proprietor.

(2) Any pound master who unreasonably refuses or fails to receive animals brought to his pound as aforesaid shall be guilty of an offence and shall, in addition, be liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal of failure; provided that, if any animal suffering from any contagious disease is brought to the pound, such animal shall be kept separate from all other impounded animals, and the pound master may cause such animals to be finished off under the provisions of section 8.

6. Receipt for impounded animals

Every pound master shall give the person delivering animals into his charge a written receipt, indicating the number and description of the animals so delivered, and specifying the trespassing for which the said animals, as reported, are to be impounded.

7. Number of enclosures

Every pound master shall maintain in good repair and, as far as possible, free from all infection, not less than five separate enclosures for—

(a) ostriches and horses;

(b) cattle

(c) sheep, goats and pigs;

(d) canine;

(e) feline;

provided that a municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

8. Finishing off of dangerous or contagious animals

A pound master may cause to be finished off any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded; provided that no such animal shall be finished off unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its finishing off.

9. Notice of impounded animals

Every pound master who knows the name of the owner of any animal impounded in his pound shall forthwith give written notice to such owner that the said animal has been impounded.

10. Keeping of pound register

(1) Every pound master shall keep a pound register with the following particulars:

(a) the date when, and the cause for which, all animals received by him are impounded;

(b) the number and description of such animals;

(c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;

(d) the date and particulars of the release of sale of the animals, as the case may be, and

(e) any other matters which he may be directed by the municipality to ascertain and record.

(2) The entries under subsection (1)(a), (b) and (c) shall be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) shall be made as soon as the pound master obtains the necessary information; provided that no entry shall be made after a dispute has arisen.

(3) In case of the death of injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death or injury.

11. Inspection of and extracts from pound register

Every pound register shall be kept at the pound or any other approved place and shall at all reasonable times be open for inspection, free of charge, to any authorized officer of the municipality, veterinary surgeon, stock inspector, and any member of the police service of the public.

12. Submission of pound register entries after pound sales

Every pound master shall within a fortnight after the date of each pound sale submit to the municipality a copy of all entries in his pound register made since the date of the preceding submission. The municipality shall preserve all such copies for inspection by any person desirous of seeing them.

13. Inspection of pound register at place of sale

Whenever a sale of impounded animals is to take place, the pound master or a person authorized to conduct the sale, shall take the pound register with him to the place of sale, and such register shall be open for inspection, free of charge, at the place of sale to all persons desirous of inspecting it.

Repealed

14. Pound master's fees

(1) The municipality may fix fees and charges or tariffs for the keeping of animals in a pound and may, in determining such fees and charges or tariffs, distinguish between different kinds of animals and provide for the keeping and feeding of animals in separate enclosures.

(2) Every pound master shall be entitled to claim the fees and charges or tariffs determined by the municipality in terms of subsection (1) for every animal impounded by him in terms of this by-law.

15. Fees payable

(1) The fees and charges or tariffs determined by the municipality in terms of section 14 shall be paid to be the pound master by the owner of the animals impounded, and the said fees and charges or tariffs, together with any costs which the pound master may have incurred and such animals may be detained by the pound master in security of payment of the said fees and charges or tariffs, provided that:

(a) if the value of the animals impounded is in excess of the total amount due thereon, as determined in terms of this by-law, and if the owner is unable to pay the said amount, the pound master shall detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and shall deliver the remainder of the animals to the said owner, and

(b) any pound master who retains any greater number of such animals than is reasonably necessary to secure such amount shall be liable to the owner for any damages sustained by him on account of such retention.

(2) If the pound master is an official of the municipality, he shall pay the fees and charges or tariffs received by him in terms of this by-law into the revenue of the municipality.

(3) No pound master shall release any impounded animal until the prescribed fees and charges or tariffs have been paid to him.

16. Notice of sale

Every pound master shall—

(1) whenever any impounded animal has not been released within six days from the date of its impoundment, forward to the municipality in whose area of jurisdiction the pound is situated, a notice setting forth the species, marks and distinguishing features (if any) of such animal, and in regard to horses and cattle their colour also, and stating that the animal mentioned therein will be sold at the next sale of impounded animals, as well as the time and place of such sale;

(2) upon sending such notice to the municipality, post a copy thereof in some or other conspicuous place at or near his pound, there to remain until the day of the sale, and

(3) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated a notice of the sale of an impounded animal; provided that the cost of such notice shall be recoverable from the owner of the impounded animal and shall be deemed to be part of the amount to be deducted from the proceeds of the sale of an animal and it shall be recoverable from the owner of such animal if the said proceeds are less than the amount due; provided further that—

(a) if such notice refers to more than one animal, the municipality shall in its discretion, divide the cost of such notice pro rata in respect of the animals referred to therein, and

(b) if the owner of an impounded animal is unknown, and the proceeds of the sale do not cover the amount as aforesaid, the municipality shall make good the deficiency.

Repealed

17. Auctioneer

(1) Every sale of impounded stock shall—

(a) be conducted by the pound master or some other person duly authorized thereto by the municipality concerned, and

(b) commence at a time and be held on a day to be fixed by the auctioneer.

(2) No person conducting a pound sale shall have any direct or indirect interest in any purchase at any sale so held by him.

18. Sale of animals

At every such sale—

(1) no animal shall be put up for sale unless impounded for at least two weeks;

(2) all animals, except sheep and goats shall be sold individually;

(3) sheep and goats shall be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands shall in no circumstances be sold together in the same lot;

(4) animals shall be sold for cash, and the proceeds, less the amount of the pound fees and other fees, charges or tariffs payable in respect of such animals shall forthwith upon receipt, be handed by the pound master to the municipality, to be paid to the owners of the animals sold according to their respective rights; provided that—

(a) if in any particular case the animals sold do not realise sufficient to yield the sum of pound fees and other fees, charges or tariffs as aforesaid, the proceeds shall be first utilized for the payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation shall be paid to the pound master by the municipality;

(b) any money, being the proceeds of the sale of any impounded animal as aforesaid, which remains in the hands of the municipality for a period of twelve months without being claimed by the owner of such animal, shall become the property of such municipality;

(c) it shall be competent for the municipality to make good to any pound master any loss which he may incur in the keeping of animals where the selling price does not cover the costs incurred;

(d) it shall be competent for any pound master, after compliance with the procedure prescribed by section 8 relating to diseased animals, to cause to be finished off any aged or otherwise permanently unfit animal presented at the pound;

(e) if any animal dies in the pound and the owner cannot be traced, the expenses of burying the carcass shall be borne by the municipality;

(f) the municipality or an authorized officer may fix a reserve price for any animal offered for sale, and

(g) the auctioneer may withdraw any animal from the sale if the highest bid received is not in his opinion satisfactory, irrespective of whether or not a reserve price has been fixed by the municipality.

19. Illegal impounding and penalties

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

Repealed

20. Recovery of loss in respect of impoundment of animals from area of another municipality

Any loss suffered by a municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered by such first-mentioned municipality from such other municipality.

21. Use, detention and ill-treatment of animals

No person shall furiously drive away any animal found trespassing, worry or ill-treat it.

22. Offences and penalties

Any person who—

(1) contravenes or fails to comply with a provision of this by-law, whether or not such contravention or failure has been declared an offence elsewhere in this by-law;

(2) deliberately obstructs, hampers or handicaps any person in the exercise of any power or the performance of any duty or function in terms of any provision of this by-law, or

(3) furnishes false, incorrect or misleading information shall be guilty of an offence and liable upon conviction to—

(a) a fine or imprisonment or either such fine or imprisonment or to both such fine and such imprisonment;

(b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued, and

(c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.