



DR NKOSAZANA DLAMINI ZUMA MUNICIPALITY

ANIMAL POUND POLICY

OBJECTIVE :

To regulate the establishment of a municipal pound and the impounding of animals; and to provide for matters connected to the impoundment of animals.

ARRANGEMENT OF SECTIONS

Section

1. Definitions
2. Application and administration of the Policy
3. Establishment and operation of pounds
4. Appointment of a pound keeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
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- 27. Offences and penalties
- 28. Regulations
- 29. Schedules 1, 2 and 3 for part of the Act
- 30. Repeal of laws
- 31. Transitional arrangements
- 32. Short title

Schedule 1 : Code of Good Practice on the Handling and Transportation of Impounded Animals

Schedule 2 : Pound Register information

Schedule 3 : Fees and costs per animal due and payable to pound keeper

Schedule 4 : Repeal of laws

Definitions

In this Policy, unless the context otherwise indicates –

“animal” means a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and **“animals”** has 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 KwaZulu –Natal;

“municipality” means a municipality contemplated in section 155 of the Constitution of the Republic of South Africa, 1996, and established by and under sections 11 and 12 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998) read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000), and **“municipalities”** has a corresponding meaning;

“organised local government” means the KwaZulu-Natal Local Government Association being that organisation in the Province of KwaZulu-Natal recognised in terms of section 2(1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), as representing the majority of municipalities in the Province;

“owner”, in relation to any –

- (a) Animal, means an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and includes the agent of the owner or other person having the lawful custody or possession of such animal; or
- (b) Land, means the owner, and includes a lessee or lawful occupier of such land or his or her agent;

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“pound” means a pound established in terms of section 3, and **“pounds”** has a corresponding meaning;

“pound keeper” means any person appointed in terms of section 4, and includes any person acting for or on behalf of the appointed pound keeper;

“regulations” means any regulation made in terms of section 28;

“responsible Member of the Executive Council” means the Member of the Executive Council of the Province of KwaZulu-Natal responsible for local government;

“service delivery agreement” means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“the Act” includes the regulations and the Schedules to the Act

Trespassing or straying animals may be impounded

1. The Owner of land upon which any animal is found trespassing may seize such an animal for impounding: Provided that such an animal may not be removed to a pound before notice is given to the owner in writing no less than 72 hours prior to the removal to the pound.
2. Any animal found straying untended 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 KwaZulu-Natal Road Traffic Inspectorate;
 - (d) a member of any municipal police or protection services; or
 - (e) the owner of any land through or alongside which such road passes or which abuts on such public place.
3. A person may not keep an animal, seized for longer than six hours without supplying such animal with adequate food and water.
4. Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practise on the Handling and Transportation of Impounded Animals contained in Schedule 1.

Animals too vicious, intractable or wild to be impounded

If a Veterinarian, or in a situation where a veterinarian cannot be reached a member of the South African Police Services, is satisfied that an animal found trespassing on any land, or straying untended on a public road or public place, is too dangerously vicious, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal after giving written reasons and written notice thereof to the owner of the animal.

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Release of animals before removal to pound

5. The owner of an animal seized in terms of trespassing or straying, may apply to the owner of the land for the release of such animal prior to its removal to the pound.
6. The owner of land in terms of trespassing or straying animals –
 - (a). may release such animal forthwith; or
 - (b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.
7. The owner of an animal seized in terms of, an animal straying untended upon any public road or public place, may apply to the relevant person referred to in Section 2. for the release of such animal prior to its removal to the pound, in which event the person who seized the animal must release such animal forthwith.

Care of trespassing animals

8. A person may not work, use or ill-treat an animal found trespassing on any land or whilst such animal is in the process of being removed to a pound.

Pound to which animals must be taken

9. An animal seized for the purpose of impounding referred to in Section 1 and 2, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that animals of different species must be separated at all times according to their species.

Information to be supplied to the pound keeper of animals sent to the pound

10. A person sending animals to the pound must provide the pound keeper of the nearest accessible pound with the following –
 - a) The number and description of the animals in writing;
 - b) The land upon which the animals were found trespassing in writing;
 - c) The distance in kilometres, by the shortest practical route, between the place on such land where the animals were seized and the pound in writing; and
 - d) A copy of the notice given in terms of Section 1.

Acceptance at pound of animals to be impounded

11. A pound keeper may not refuse to accept an animal for impounding.

Pound Register

12.
 - 12.1 Each pound keeper must –

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- 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 animal

12.2 A pound keeper who –

- a) Neglects or refuses to comply with any of the provisions of Subsection 12.1;
- b) Knowingly makes a false entry in the pound register;
- c) Fraudulently destroys or erases any previous entry in the pound register; or
- d) Wilfully delivers a false copy or extract from the pound register to any person,

Is guilty of an offence

Notice to owners of impounded animals

13. A pound keeper must immediately notify the owner of an impounded animal in writing of the impounding of any animal.

Care of impounded animals

14. A pound keeper –

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- a) Is responsible for the proper care of all impounded animals;
- b) Must ensure that fresh water and sufficient food is available to impounded animals at all times; and
- c) Is liable to the owner of an impounded animal for any damage caused by his or wilful or negligent acts or omissions.

14.2

- a) If the pound keeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court, who may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.
- b) Where the Court authorizes the destruction or disposal of an animal on application by the pound keeper, the pound keeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

Isolation of infected animals

15. Any pound keeper who suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), must –

- a) Provide separate accommodation for such animal;

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- b) Immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
- c) Immediately notify the owner of the animal of such disease in writing.

Treatment of impounded animals

16. A pound keeper –

- a) May not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- b) Must ensure that all impounded male animals are at all times kept apart from female animals.

Death of or injury to impounded animals

17. If an impounded animal is injured or dies, the pound keeper 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 animal in writing of the injury or death.

Copies of the Act to be made available

18. A pound keeper must ensure that sufficient legible copies of the English, isiZulu and Afrikaans texts of this Act are available at the pound for inspection.

Fees and costs payable to pound keeper

19. A pound keeper may –

- a) Charge, and recover from, the owner of an impounded animal the fees; and
- b) Recover from the owner of an impounded animal the cost of any dipping, inoculation, medical care or other treatment that may be necessary or required in terms of the Act or any other law, in accordance with Schedule 3.

Release of impounded animals

20.

20.1 A pound keeper must immediately release an impounded animal, and give the owner a written receipt, upon the owner –

- a) Providing proof of ownership of such animal; and
- b) Paying to the pound keeper any fee and costs due in terms of Section 19.

20.2 If the owner of an impounded animal is unable to pay the fees or costs due in terms of Section 19, a pound keeper may retain such animal to recover such fees or costs as may be due and payable.

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Sale of impounded animals

21.

21.1 The pound keeper must –

- a) Within 14 days of the impounding of an animal, apply to the Court for authority to sell the animal; and
- b) In the application contemplated in paragraph (a), provide the Court with proof that the pound keeper lodged a statement with the owner setting forth all the amounts, including fees, costs and damages, due in terms of the Act.

21.2 The statement contemplated in subsection 1(b) must include –

- a) The fees and costs incurred by the pound keeper; and
- b) The amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.

21.3 Whether or not the amounts set forth in the statement contemplated in subsection 1(b) are disputed, the Court must -

- a) Summarily enquire into the matter;
- b) Enquire whether notice was given to the owner of the animal by the pound keeper; 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 keeper in the sale of the animal

The pound keeper may not purchase impounded animals

22. The pound keeper, or, a family member or close associate of the pound keeper, may not purchase an animal offered for sale at a sale of the relevant pound, either personally or through another person.

Animals unsuccessfully offered for sale

23. In the event that any animal is not sold as contemplated in Section 21 –

- a) The pound keeper 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.

Proceeds of sale

24. If any impounded animal is sold at a price in excess of –

- a) The fees and costs incurred; and
- b) Any damages awarded in terms of Section 21, such excess must be paid by the pound keeper to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which

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event the excess must be paid by the pound keeper into the municipal revenue fund.

Action for recovery of damages

25. Nothing in the Act prevents any person from instituting action in any court with jurisdiction for the recovery of damages suffered by reason of a trespassing animal.

Procedure to be followed in applications to Court

26. An application to Court for –

- a) The impoundment of an animal in terms of the Act, must comply with the procedure referred to in Rule 55 of the Rules of Court; and
- b) The sale of an impounded animal in terms of the Act, must comply with the procedure referred to in Section 66 of the Magistrates' Court 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 the Rules Board for Courts of Law Act, 1985 (Act), 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.

Offences and penalties

27. A person who –

- a) Releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- b) Unlawfully seizes an animal for the purpose of impounding it;
- c) Unlawfully impounds an animal; or
- d) Contravenes any provision of the Act,

is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding six months.

Regulations

28.

28.1 The responsible Member of the Executive Council may, by notice in the *Gazette* and after consultation with organised local government –

- a) Make regulations concerning any matter referred to in the Act which, in the opinion of the responsible Member of the Executive Council, is or may be necessary or expedient for the effective carrying out or furtherance of the provisions and objects of the Act; or
- b) If in the application of the Act, administrative problems are being experienced, make regulations to remove such administrative problems.

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- 28.2 The regulations may provide that any person contravening any regulation or failing to comply therewith is guilty of an offence and liable on conviction to a fine, or to imprisonment not exceeding six months.

Schedules 1, 2 and 3 for part of the Act

29.

- 29.1 Schedules 1, 2 and 3 to the Act form part of the Act for all purposes.
- 29.2 The responsible Member of the Executive Council may, by notice in the *Gazette* and after consultation with organised local government, amend Schedules 1, 2 and 3 to the Act.

SCHEDULE 1

**Code of Good Practice on the Handling and Transportation of
Impounded Animals**

PART 1

Paddock requirements

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all an animals to lie down at the same time and must not be less than 1.5 sq. metres of floor area for each animal.
3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for –
 - a) Facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
 - b) Water troughs with an adequate supply of suitable fresh water at all times;
 - c) Sufficient facilities for the adequate cleaning of paddocks; and
 - d) Facilities for the safe handling of animals.
6.
 - a) The paddocks must at all times be maintained in a good state of repair.
 - b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

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PART 2

Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals –
 - a) Animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - b) Herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head, ears or tail.
11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.
12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
13. Electric prodders, sticks or goads may not be used on young calves.
14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART 3

Movement of animals

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

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19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
20. Animals may not be moved in the dark.
21. No sick, injured or disabled animal may be moved on the hoof.

PART 4

Vehicles used in transporting animals

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

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PART 5

Watering and feeding of live animals prior to loading

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

Loading and off-loading procedure

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
27. No animal may be loaded or off-loaded or by lifting by the head, fleece, skin, ears, tails, horns or legs.
28. No animals may be loaded or off-loaded otherwise than –
 - a) By means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or
 - b) At a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.
29. Where a truck is equipped with an on-board removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.
31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately
35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto the vehicle.
36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
37. In the event of –

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- a) A breakdown of the transport vehicle;
- b) An accident or collision in which the transport vehicle is involved; or
- c) Injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from –
 - (i) In the case of paragraph (a), a breakdown service;
 - (ii) In the case of paragraph (b) the South African Police and traffic authorities; or
 - (iii) In case of paragraph (c) a veterinarian.

PART 6

Restraining of animals during transportation

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

SCHEDULE 2

Pound register record book :

- All stock that is impounded has to be recorded into the pound register, giving all descriptions of the stock as listed below :
 - 1. Name of pound
 - 2. Date of receipt of animal
 - 3. Number and description of animals
 - 4. Brands or markings on animal
 - 5. Ear tag number assigned by the pound keeper
 - 6. Name and address of person who seized the animal
 - 7. Name and address of person who delivered the animal
 - 8. Name and address of owner of the land
 - 9. Name and address of the owner of the animal
 - 10. Name and address or description of place where the animal was found
 - 11. Distance from location where animal was seized to the pound
 - 12. Particulars of damage caused by the animal
 - 13. Transport fees payable
 - 14. Details of destruction or disposal of animal

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15. Cause of death or injury or impounded animal
16. Description and amount of pound fees
17. Damages awarded by court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of order of court with regard to animal not sold in execution

SCHEDULE 3

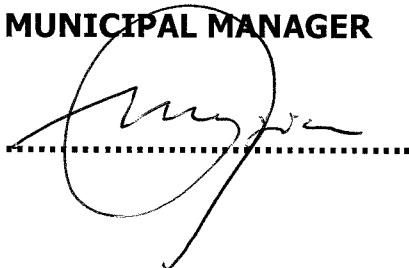
Fees and costs per animal due and payable to pound keeper

Type of fee or cost	Amount of fee or cost due and payable
1. Transport fee	The kilometre tariff for the vehicle which, in the discretion of the pound keeper, is reasonably necessary to transport the relevant animal to the pound, as determined by the Automobile Association of South Africa (AA) from time to time
2. All inclusive Pound fee, which includes – a) The pound fee b) A tending fee c) Dipping or spraying fees d) Wound dressing costs and fees e) Medication costs and fees f) Veterinarian fees	(i) R15.00 per day, or part thereof, for any pig, sheep or goat (ii) R50.00 per day, or part thereof, for any other animal

42. COUNCIL APPROVAL AND EFFECTIVE DATE

Approval of Policy by Council and Effective date: **09 September 2016**

MUNICIPAL MANAGER



DATE

12 September 2016