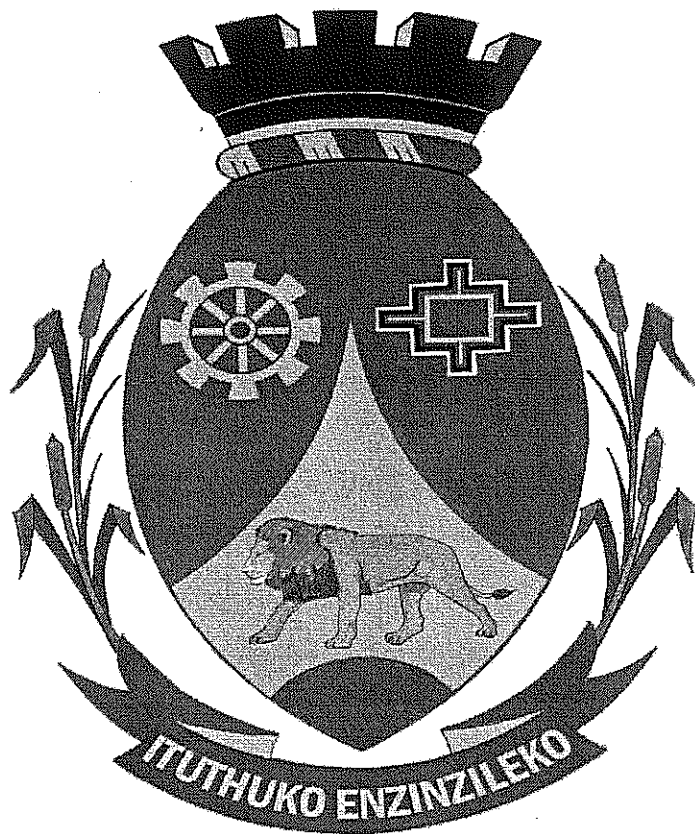


THEMBISILE HANI LOCAL MUNICIPALITY



ANIMAL BY-LAW



THE PROVINCE OF MPUMALANGA
DIE PROVINSIE MPUMALANGA

Provincial Gazette Extraordinary
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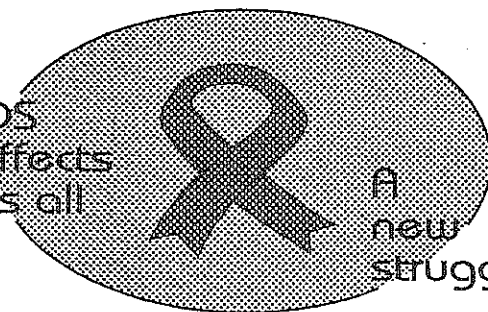
Vol. 20

NELSPRUIT, 15 FEBRUARY 2013
FEBRUARIE

No. 2138

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

**AIDS
HELPLINE**

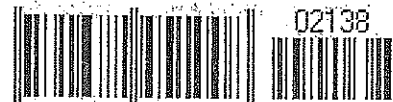
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DEPARTMENT OF HEALTH

Prevention is the cure

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PART 1 OF 2



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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 14

THEMBISILE HANI LOCAL MUNICIPALITY

ANIMALS BY-LAWS

Under the provisions of section 156 of the Constitutional of the Republic of South Africa, 1996 (Act 108 of 1996), the Thembisile Hani Local Municipality, enacts as follows:

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GENERAL PROVISIONS RELATING TO KEEPING, IMPOUNDING AND DESTRUCTION OF ANIMALS

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1. Interpretation

In these by-laws, unless the context otherwise indicates-

- "Animals"** means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or an insect such as, but not limited to, a bee which is used or controlled by a person;
- "Animal disease"** means an impairment or disturbance of the normal function of any organ or the, body of any animal that is caused by any organism, protozoon, Bacterium, virus, bird or fungus, rickettsia, parasite, other organism or substances;
- "Animal waste"** means the faeces, manure, dropping, shed hair or feathers of an animal;
- "Appurtenance"** means a container, apparatus, equipment, tool, or appliance used in connection with the keeping of an animal;
- "Bird"** means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, Ostrich and any other domesticated bird or wild bird kept in captivity;
- "Council"** means the Thembisile Hani Local Municipality Council;
- "Dangerous",** in relation to an animal, means an animal which has an inherent propensity to attack human beings or other animal, or the

keeping of which is likely to become a public nuisance or is fraught with danger to any person or animal;

"Dog"

includes a neutered male dog and spayed bitch;

"Dog kennel"

means an accommodation establishment which, for gain, caters for the accommodation of dogs;

"Livestock"

means a head of cattle, goat, sheep, pig, horse, donkey, mule, ostrich and camel;

"NSPCA"

means the National Council of societies for the Prevention of Cruelty to Animal as established by section 2(1) of the Societies for the Prevention of Cruelty to Animals Act, 1993 (Act No.169 of 1993);

"Owner" in relation to-

(a) animals or things conveyances and other movable property, means the person in whom ownership is vested and includes a person who is responsible for the control or management thereof or a person who has such animal or thing, conveyance or movable property in his or her possession, but in the case of game or animals that are not branded in terms of the Animal Identification Act, 2002 (Act No.6 of 2002), or of which the ownership cannot readily be established, the user of

the land on which such game or animal are present is deemed to be the owner; and

(b) land-

(i) means the person in whose name that land is registered;

(ii) that has been purchased by a person but has not yet been registered in his or her name, means such purchaser;

(iii) that is subject to a usufruct, means the usufructuary; and

(iv) of which the owner or purchaser is a minor, mentally disabled person, insolvent or is otherwise incompetent in law to administer his or her estate, or is deceased, or is a body corporate under judicial management or liquidation, means the agent or legal representative of such owner or purchaser or another person authorized by law to administer his or her affairs or, in the case of a body corporate, the judicial manager or liquidator concerned;

"Parasite"

means any organism that is detrimental to the health of any animal, or which is capable of causing or spreading any animal disease;

"Pest"

means a noxious organism inhabiting or associated with animals such as, but not limited to, internal or external insects or parasites such as parasitic worms, fleas, flies, cockroaches, lice, and ticks;

"Pet"

means a an animal which is kept for companionship or pleasure;

"Poultry" means a fowl such as a chicken, turkey, goose, duck, muscovy-duck, bantam-fowl and guinea fowl, whether domesticated or not, including the young of such poultry;

"Premises" means –

(a) land or a portion of land, whether or not a building or structure has been constructed or erected on the land or portion of land; or

(b) a building or structure and the land on which it is situated;

"Public nuisance" means an occurrence specified in section 8;

"User" in relation to land, means-

(a) any person who has a personal or real right in respect of land in his or her capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier, irrespective of whether or not he or she resides thereon;

(b) any other person who is generally recognized as having a right of tenure on the land concerned;

"Veterinarian" means a veterinarian as defined in section 1 of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), and any other word or expression to which a meaning has been assigned in the Animal Protection Act, 1962 (Act No.71 of 1962),

the Health Act, 1977 (Act No. 63 of 1977), and the Animal Health Act, 2002 (Act No. 7 of 2002), carries that meaning.

2. Principles and objectives

1. The Thembisile Hani Council, acting within the framework of Provincial and National Legislation in its functions under these By-laws, and-

- a) taking into considerations the inequalities of the past which may have had an adverse impact on all residents of the Municipality regarding the keeping of animals;
- b) striving within its boundaries-

- i. to protect all animals, birds, reptiles and insects;
- ii. to encourage its citizens to protect all animals, birds, reptiles and insects;
- iii. to encourage its citizens, to ensure the health of all animals; and
- iv. to minimize the adverse effects of negligence to all animals, birds, reptiles and insects by the residents; and

c) acknowledging that everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislation and other methods that-

- i. eliminate where possible any source of a public nuisance, and
- ii. prevent any infestation by pets or vermin, strives within its capacity, financial and otherwise, to ensure that a safe and comfortable environment for all the residents are promoted and developed.

2. The Council, in order to-

- a) protect, by application of these by-laws, the residents from the effect of public nuisances that may arise from the keeping of animals.
- b) ensure good decision-making which would have a significant effect on the keeping and welfare of animals thus to reduce the risk of public nuisances;
- c) ensure that residents receive considerate and adequate information regarding decisions that can affect the keeping of animals;
- d) ensure that all officials are thoroughly trained in the identification and prevention of public nuisance and the humane handling of animals; and
- e) to encourage good ownership skills in the management of animals amongst residents thus to prevent public nuisances, and the maltreatment of animals; for these reasons, and in accordance with the principles set out in subsection(1)-
 - i. adopts a framework whereby good management of the keeping of animals is developed and whereby public participation in enforcing Animals laws by authorized officials, residents and non-residents is encouraged; and
 - ii. in these By-laws establishes and strives to ensure that policies and procedures are implemented to facilitate in the minimization and prevention of nuisances and handling of animals

3. Application of By-laws

These By-laws apply to any owner who keeps an animal, for whatever purpose, on land of which he or she is the owner or user within the jurisdiction of the Thembisile Hani Council, but does not apply to-

- a) a veterinary surgeon in respect of an animal left in his or her care for treatment; and;
- b) a license holder or licensee under the Performing Animals Protection Act,1935(Act No. 24 of 1935).

1. Appointment of pound keeper

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

2. Trespassing or straying animals may be impounded

(1) The owner of land upon which any animal is found trespassing may seize such animal : Provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 48 (forty-eight) 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 Service;
- (b) a member of the South African National Defence Force;
- (c) a member of the KwaZulu-Natal Road Traffic Inspectorate;
- (d) a member of the 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 purposes of impounding in terms of in subsections (1) and (2), for a period longer than 6 (six) hours without supplying such animal with adequate food and water.

3. Release of animals before removal to pound

(1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(1) for the release of such animal prior to its removal to the pound.

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

- (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.

(3) The owner of an animal seized in terms of section 5(2) may apply to the relevant person referred to in section 5(2) for the release of such animal prior to its removal to the pound, in which event that person must release such animal forthwith.

4. Care of trespassing animals

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

5. Pound to which animals must be taken

(1) An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time : Provided that animals of different species must be separated at all times according to their species.

6. Information to be supplied to pound keeper

1. A person sending animals to the pound must advise the pound keeper in writing of -

- (a) The number and descriptions of the animals;
- (b) The land upon which they were found trespassing; and
- (c) The distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

7. Acceptance at pound of animals to be impounded

1. The pound keeper may not refuse to accept an animal for impounding.

8. Pound register

(1) The pound keeper must -

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

(2) If the pound keeper -

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

he or she is guilty of an offence.

9. Notice to owners of animals

The owner of an animal contemplated in section 5(1), must be notified by -

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

10. Fees and costs payable

1. The pound keeper must -

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

11. Public nuisance

- 1) An owner of an animal or the owner or user of land creates a public nuisance if any of the following occurs or arise on premises on which an animal is kept:
 - a) A water pool, ditch, gutter, dung pit or heap is so foul or in such a state or so situated or constructed to be offensive;
 - b) an accumulation of animal waste or other matter which is offensive;
 - c) a building, structure, enclosure or runway on the premises is-
 - i. so constructed, situated, used or kept as to be offensive;
 - ii. not kept in a clean state and free from offensive or obnoxious smells or effluvia there from;
 - iii. kept or permitted to remain in an unsanitary state as to be offensive; or
 - iv. infested with pests or vermin or in a state that is conducive to the Breeding of pests or vermin;
 - v. insufferable noise emanates from premises on which an animal is kept, or

- vi. any organic matter is being used or kept in a manner that attracts vermin and pests

10. Destruction of animal

1) The Council may order the destruction of an animal which is-

a) dangerous or ferocious;

b) found at large in a public place and-

c)

i. appears to be ownerless or abandoned by its owner;

ii. in respect of which the owner of the animal refuses or fails to pay tax due or obtain a permit in terms of these By-laws; or

d) injured or diseased to such an extent that it would be humane to do so.

The Council may order the removal and burial of the carcass of an animal destroyed in terms of subsection (1)

AREAS FOR KEEPING OF ANIMALS

COLUMN 1	COLUMN 2	COLUMN 3
AREA (Section 6(1)(a))	SPECIES (Section 6(1)(b))	NUMBER (Section 6(1)(c))
of the Animal By-laws, 2004	of the Animals By-laws, 2004	of the Animals By-laws, 2004
1. Residential area		
Poultry	0	
Swine	0	
Goats	0	
Sheep	0	
Rabbits	0	
Head of Cattle	0	
Horses	0	
Mules	0	
Donkeys	0	
Ostriches	0	
2. Smallholding (up to hectares in size)	Horses	2
Poultry	20	
Swine	2	
Goats	2	
Sheep	10	

Rabbits	10
Mules	5
Donkeys	5
Head of cattle	5
Ostriches	5

3. Farms, Smallholding(greater Poultry than 2 hectares in size) Swine

Goats

Sheep

Rabbits

Head of Cattle

Horses

Mules

Donkeys

Dogs

Cats

Ostriches

PRESCRIBED FEES

1. Section 8 (6)(b)

Smallholdings (up to hectares in size)	Horses	RXX, xx
Every horse in excess of determined number	RXX, xx Poultry(per head)	RXX, xx

Every head of poultry in excess of determined number RXX, xx

Swine RXX, xx

Every swine in excess of determined number RXX, xx

Goats RXX, xx

Every goat in excess of determined number RXX, xx

Sheep RXX, xx

Every sheep in excess of determined number RXX, xx

Rabbits RXX, xx

Every rabbit in excess of determined number RXX, xx

Ostriches RXX, xx

Every ostrich in excess of determined number RXX, xx

Farms, Smallholdings(greater Poultry than 2 hectares in size) Swine

Goats

Sheep

Rabbits

Head of Cattle

Horses,

Mules

Donkeys

Ostriches

2. Section 23 (2)(b)

Residential areas	Dog (male, unsterilized)	RXX, xx	
Bitch (unsterilized)		RXX, xx	
Dog (male, unsterilized)		RXX,xx	
Bitch (sterilized)		RXX,xx	
Every dog or bitch (unsterilized) in excess of determined		RXX, xx	
Every dog or Birth (sterilized) in excess of determined number		RXX, xx	Smallholding(up to
2 hectares in size)	Dog (male, unsterilized)	RXX, xx	
Bitch (unsterilized)	RXX, xx Dog (male, sterilized)	RXX, xx	
Bitch (sterilized)			RXX, xx
Every dog or bitch (unsterilized) in excess of determined		RXX, xx	
Every dog or bitch (sterilized) in excess of determined		RXX, xx	
Farms and smallholding (greater than 2 hectares in size)	Dog (male, unsterilized)		RXX,
x			
Bitch (unsterilized)	RXX, xx		
Dog (male, sterilized)	RXX, xx		
Bitch (sterilized)	RXX, xx		
Every dog or bitch (unsterilized) in excess of determined		RXX, xx	
Every dog or bitch (sterilized) in excess of determined number		RXX, xx	