

LOCAL GOVERNMENT NOTICE

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MUNICIPALITY OF NKONKOBE

BY-LAW RELATING TO THE KEEPING OF DOGS AND OTHER ANIMALS

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-law Relating to the Keeping of Dogs and Other Animals.

Purpose of By-Law

The purpose of this by-law is to promote the interests of animals and residents, by exercising control over the numbers and kinds of animals that may be kept, as well as the conditions under which such animals may be kept, sheltered and cared for, and to provide for the prevention of possible nuisances that could be caused through the keeping of such animals.

CHAPTER I

DEFINITIONS AND APPLICATION

Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, and, unless the context otherwise indicates -

"animal" means any member of the equine or bovine family, a sheep, a goat, a pig, a fowl, a dog, a 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;

"authorised official" means –

- [a]** an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- [b]** a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

- [c] a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- [d] a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"**cattery**" means a boarding or breeding establishment for cats;

"**keep**", in relation to an animal, means to have such animal in possession, under control, or in custody, or to harbour such animal;

"**kennel**" means a boarding or breeding establishment for dogs;

"**municipality**" means the Municipality of Nkonkobe, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], 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 to such political structure, political office bearer, councillor, agent or employee;

"**nuisance**" means any act, omission or condition which is, in the reasonable opinion of the municipality, detrimental to health, or offensive, or injurious, or which materially interferes with the ordinary comfort or convenience of the public, or adversely affects the safety of the public, or which disturbs the quiet of the neighbourhood;

"**owner**", in relation to an animal, means any person who keeps an animal, and includes any person to whom an animal has been entrusted, or who has control over an animal, on any premises within the area of jurisdiction of the municipality;

"**pet**" means any dog, cat, guinea pig, hamster, rabbit, chinchilla or bird not kept for breeding or business purposes;

"**pet salon**" means an establishment where pets are brushed, cleaned or groomed;

"**pet shop**" means an establishment that sells products for the keeping of pets and other animals;

"**pound**" means a facility where stray animals may be taken and detained, and which has been established in terms of the Municipal Ordinance, 1974 [Cape Municipal Ordinance No. 20 of 1974] or similar legislation;

"**premises**" means any piece of land registered in a deeds registry as an erf, lot, plot or stand which forms part of a township, and includes a

stand or lot forming part of a piece of land laid out as a township, but not yet registered, or a portion of such erf, stand or lot, and includes any residential site outside townships, provided by government departments, parastatal institutions or industries and, where the text so requires, buildings on such erf, stand or lot;

"public place" means any square, park, commonage, recreation ground, sports ground, lane, open space or enclosed place vested in the municipality or other sphere of government, or indicated as such on the Surveyor General's records, or utilised by the public or zoned as such in terms of the applicable zoning scheme or at any time declared or rendered such by the municipality or any other competent authority;

"public road" means any road, street or thoroughfare, or any other place which is commonly used by the public or any section thereof, or to which the public or any section thereof has a right of access, and includes -

- [a] the verge of any such road, street or thoroughfare;
- [b] any footpath, pavement or similar pedestrian portion of a road reserve;
- [c] any bridge, drift or donga traversed by any such road, street or thoroughfare;
- [d] any other work or object belonging to such road, street or thoroughfare, footpath or pavement; and
- [e] any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles, whether or not access to such a parking area or place is free of charge.

Application of by-law

- 2. [a] The provisions of this by-law shall apply to the keeping of all dogs and other animals within the municipal boundaries of the municipality.
- [b] The provisions of section 11 shall not apply to a guide dog which is bona fide utilised to accompany a blind person.

CHAPTER II

KEEPING OF DOGS AND OTHER ANIMALS

Written permission and levies

3. [1] No person may keep or permit to be kept at or on any premises or public place any animal without the written permission of the municipality.
- [2] Such permission may be withdrawn by the municipality at any time, if -
- [a] the keeping of an animal causes or poses a nuisance to any person; or
 - [b] the owner of an animal, or any other person keeping an animal, is denying the animal the provision of care or humane treatment, or the care or humane treatment of the animal is being neglected; or
 - [c] the provisions of this by-law have been contravened.
- [3] The provisions of subsection [1] shall not apply to –
- [a] premises or land which is zoned for agricultural purposes; and
 - [b] pets, except insofar as a pet is kept at or on a public place, in which event –
 - (i) the written permission of the municipality shall be obtained; and
 - (ii) the payment of any applicable levy shall be made, as required by the municipality.
- [4] The municipality may impose a levy on the keeping of any animal, and issue a licence as confirmation of the payment of such levy by the person concerned.

Responsible keeping of animals

4. Any person who keeps an animal at or on any premises or public place shall do so reasonably, and in such a manner so as to ensure that –
- [a] no nuisance is caused or posed to any person; and
 - [b] the animal is provided with food and water, given adequate shelter, permitted sufficient exercise where reasonably possible, and properly looked after in general.

Municipality may determine conditions for keeping of animals

5. [1] For the purposes of controlling the keeping of animals, the municipality may determine conditions regarding -
- [a] the number of animals that may be kept;
 - [b] the kind of animals that may be kept;
 - [c] the facilities required to keep animals; and
 - [d] the areas within which the keeping of animals may be -
 - [i] restricted;
 - [ii] prohibited; or
 - [iii] exempted from any specific provision of this by-law.
- [2] In making any determination, such as those contemplated in subsection [1], the municipality shall take into proper consideration -
- [a] the actual or possible nuisance caused or posed to any person by the keeping of any animal; and
 - [b] the care and humane treatment of an animal.
- [3] Where it is necessary, in the reasonable opinion of the municipality, to investigate the circumstances pertaining to the keeping of any animal, for the purposes of making a determination in terms of this section, the municipality may appoint or request an authorised official to conduct such an investigation.
- [4] Any authorised official appointed or requested to conduct an investigation in terms of subsection [3] shall compile and submit a report, within 30 (thirty) days of the appointment or request, setting out his or her findings.
- [5] The report compiled and submitted by the authorised official shall be taken into consideration by the municipality for the purposes of its determination.

Number of dogs

6. [1] Subject to the provisions of section 5, no person shall keep more than two dogs on any premises, unless –
- [a] the written consent of the municipality has been obtained; and

- [b] any applicable levy has been paid.
- [2] A licensed breeder of dogs who wishes to keep more than two dogs on –
- [a] premises zoned for agricultural purposes, shall be entitled to do so, without any restrictions; and
 - [b] premises zoned for any purpose other than agricultural purposes, must comply with the provisions of subsection [1].
- [3] An application for the municipality's consent in terms of subsection [1] shall not be considered by the municipality, unless it is satisfied that the size of the premises on which the dogs are to be kept shall not –
- [a] cause or pose a nuisance to any person; or
 - [b] result in –
 - (i) the denial or neglect of the care or the humane treatment of the dogs; or
 - (ii) any other contravention of this by-law.
- [4] The municipality's consent in terms of subsection [1] to keep more than two dogs on a premises shall be granted subject to such conditions and restrictions as the municipality may deem fit to impose.
- [5] The municipality may at any time revoke any consent granted in terms of subsection [1], provided that reasonable grounds exist.

Control of animals

7. No person shall –
- [1] urge or incite any animal to attack, worry or frighten any person or other animal, except where reasonably necessary for the lawful defence of such first-mentioned person, or his or her property, or the property of any other person;
 - [2] keep any animal which, by –
 - [a] barking, yelping, howling or whining;

[b] chasing after vehicles, other animals, or persons, outside any premises where it is kept; or

[c] behaving in any other manner -

interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours, or the public in general;

[3] permit any animal owned or kept by such person –

[a] to be in any public road or public place while suffering from mange or any other infectious or contagious disease;

[b] which is ferocious, vicious or dangerous, to be in any public road or public place, unless it is muzzled and held on a leash, and under the control of such person, or some other responsible person;

[c] to trespass on private property;

[d] to constitute a hazard to traffic;

[e] 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 animal is kept; or

[f] to be in any public road or public place, except under the control of some responsible person.

Fencing of property

8. [a] No person shall keep an animal if the premises where such animal is kept is not properly and adequately fenced to keep such animal inside the confines of such premises when it is not on a leash.

[b] Any person that keeps an animal on any premises shall comply at all times with the provisions of the Fencing Act, 1963 [Act No. 31 of 1963].

Animals shall not be a source of danger

9. [a] Any person who keeps an animal on any premises shall keep such animal in such manner so as not to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties.

[b] A notice to the effect that an animal is being kept on such premises shall be displayed in a conspicuous place.

Removal of offensive matter

10. If any dog defecates in any public road or public place, then any person in charge of such dog shall forthwith remove the excrement, by placing it in a plastic or paper bag or wrapper, and disposing of it in a receptacle provided for the deposit of litter or refuse.

Animals on premises where food is sold

11. Any person, being the owner, or person in control of, any shop or other place where food is prepared, sold or exposed for sale, shall not permit any animal to be or remain in or at such shop or place.

Plans for structures and management

12. [a] An application for written permission to keep animals, as contemplated in terms of section 3[1], shall be accompanied by a detailed site plan indicating all structures and fences, existing and proposed, on the premises.
- [b] Detailed plans and specifications shall be submitted to and be approved by the municipality in respect of all structures where animals are to be accommodated.
- [c] A detailed explanation of the number, kinds, sizes and sex of animals to be accommodated on premises shall accompany the plan.
- [d] Notwithstanding anything to the contrary contained in this by-law, the municipality may refuse to approve the application and plans, if the premises, owing to its location, siting or geographical features, is unsuitable for the keeping of animals thereon.

Structures shall comply with requirements

13. [a] All structures housing animals shall be constructed in a workmanlike manner, and of materials approved by the municipality.
- [b] No structure shall be sited within a distance of 15 (fifteen) metres from any dwelling or the boundary of a residential erf, or within 8 (eight) metres from any road boundary. The municipality may, depending on circumstances, and in its sole discretion, allow a relaxation of the said distances.
- [c] Every part of a structure in which animals will be housed shall be properly maintained and painted, as often as the municipality

may deem necessary.

- [d] No animals shall be kept in a structure or on land which is considered by the municipality to be undesirable or objectionable, by reason of its locality, construction or manner of use.

Premises to be kept clean

- 14. [a] All manure from animals shall be stored in a manner approved by the municipality, and disposed of on a regular basis at an approved place or disposal site, so as to prevent any nuisance from being created.
- [b] All animal feed shall be stored in a rodent-proof receptacle approved by the municipality.
- [c] The premises in which animals are accommodated shall be kept in such condition so as not to attract or provide shelter for rodents.

Animals and pets kept in an unsatisfactory manner

- 15. [a] If, in the reasonable opinion of the municipality, any animals or pets kept on any premises, whether or not such premises have been approved by the municipality under this by-law, pose a nuisance, then the municipality may, by written notice, require the owner or occupier of such premises, within a period to be stated in such notice, but not being less than 24 (twenty four) hours, to carry out such work or do such things as the municipality may deem necessary to abate such nuisance.
- [b] Upon the refusal or failure of an owner or occupier to comply with the requirements of such written notice, the municipality may withdraw any written permission granted in terms of section 3[1].

Stray animals

- 16. [1] An authorised official may -
 - [a] seize any animal found on any premises, public place or public road and which is –
 - [i] not under the supervision or control of any person; and
 - [ii] causes or poses a nuisance;
 - [b] impound or cause to be impounded any such animal at a

pound or other facility designated by the municipality for such purposes.

- [2] The municipality may sell any animal impounded in terms of subsection [1][b], provided that -
- [a] a period of no less than 30 (thirty) days has lapsed from the time of impoundment; and
 - [b] the municipality has taken all reasonable steps to notify the owner of the animal of the impoundment.
- [3] Any animal impounded in terms of subsection [1][b] may be destroyed, where such animal is -
- [a] carrying an infectious or contagious disease; or
 - [b] ferocious, vicious or dangerous,
- such that it poses an immediate and substantial danger to the health and safety of other animals, or the general public.
- [4] The destruction of any animal in terms of subsection [3] must be carried out with such precautions and in such a manner so as to inflict as little suffering as possible.
- [5] Any animal impounded in terms of this section may be released to its owner, upon payment of a fee determined by the municipality, in addition to any levies which may be owed by the owner to the municipality in respect of such animal.
- [6] Insofar as the provisions of this section may conflict with the Pounds Act, 1984 [Pounds Act (Ciskei) No. 43 of 1984], the provisions of the latter shall prevail.

CHAPTER III

DOG KENNELS AND CATTERIES

Requirements for premises

17. No person shall keep a kennel or cattery unless the requirements listed hereunder are complied with -
- [a] Every dog or cat shall be kept in an enclosure complying with the following requirements –

- [i]** it shall be constructed of durable materials, and the access thereto shall be adequate for cleaning purposes;
 - [ii]** the floor shall be constructed of concrete, or other durable and impervious material, brought to a smooth finish and graded to a channel 100 mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall be graded and shall drain into a gully connected to the municipality's sewer system by means of an earthenware pipe or a pipe of any other approved material with a minimum diameter of 100 mm, or to another approved disposal system; and
 - [iii]** a kerb 150 mm high shall be provided along the entire length of the channel referred to in subsection [ii] and on the side thereof adjacent to the surrounding outside area, to prevent storm water from such area from entering the channel.
- [b]** Every enclosure referred to in subsection [a] shall contain a roofed shelter for the accommodation of dogs and cats, and such shelter shall comply with the following requirements -
 - [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;
 - [ii]** the floor shall be of 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; and
 - [iii]** every shelter shall have adequate access thereto, for the cleaning thereof, and for the extermination of vermin.
- [c]** Instead of a shelter, as contemplated in subsection [b], dogs may be provided with a movable dog kennel made of moulded asbestos or other similar material, and placed on a base constructed of concrete or other durable material and having a smooth finish and no cracks or open joints. If the base of such kennel is not rendered waterproof, then a sleeping board, which will enable the dog to keep dry, shall be provided in every such kennel.
- [d]** A concrete apron at least 1 (one) metre wide shall be provided at the entrance of the enclosure over its full width, and the apron shall be graded, 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 the enclosure.
- [f]** All food shall be stored in a rodent-proof storeroom. All loose food shall be stored in such storeroom in rodent-proof receptacles with close-fitting lids.
- [g]** At least 5 (five) metres of clear, unobstructed space shall be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation, or any place where food is stored or prepared for human consumption.
- [h]** Isolation facilities for sick dogs and cats shall be provided, to the reasonable satisfaction of the municipality.
- [i]** 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.

CHAPTER IV

PET SHOPS

Requirements for premises

- 18.** No person shall conduct the business of a pet shop upon any premises, unless the premises is constructed and equipped in accordance with the following requirements -
- [a]** Every wall, including any partition of any premises, shall be constructed of brick, concrete or other durable material, shall have a smooth internal surface, and shall be painted with a light-coloured washable paint, or given some other approved finish.
 - [b]** The floor of any premises shall be constructed of concrete or other durable and impervious material brought to a smooth finish.
 - [c]** The ceiling of any premises shall be constructed of durable material, have a smooth finish, be dustproof, and be painted with a light-coloured washable paint.
 - [d]** Sanitation facilities shall be provided at the premises, as required by the national building regulations.
 - [e]** A rodent-proof storeroom shall be provided on the premises, to the reasonable satisfaction of the municipality.

- [f]** Facilities for the washing of cages, trays and other equipment shall be provided on the premises, to the reasonable satisfaction of the municipality.
- [g]** If required, change room or locker facilities shall be provided on the premises, to the reasonable satisfaction of the municipality.
- [h]** No door, window or other opening in any wall of the premises shall be within 2 (two) metres of any other door, window or other opening to any other building in which food is prepared, stored, or sold, for human consumption, or is consumed by humans.
- [i]** There shall be no direct access from the premises upon which the business of a pet shop is conducted to any habitable room, or any room in which clothing, or food for human consumption, is stored.

Business requirements

- 19.** Every person who conducts the business of a pet shop shall -
- [a]** for the separate housing of animals, provide movable cages complying with the following requirements -
 - [i]** the cages shall be constructed entirely of metal, or other durable, impervious material, and shall be fitted with a removable metal tray upon the floor thereof, to facilitate cleaning;
 - [ii]** every cage shall be free from any recess or cavity not readily accessible for cleaning, and every tubular or hollow fitting used in connection therewith shall have its interior cavity sealed;
 - [iii]** if rabbits are kept in a cage, then the metal tray referred to in subsection [i] shall drain into a removable receptacle; and
 - [iv]** every cage shall be fitted with a drinking vessel kept filled with water, and accessible to animals kept in the cage;
 - [b]** provide rodent-proof receptacles of impervious material with close-fitting lids in the storeroom of the pet shop, in which all pet food shall be stored;
 - [c]** maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, free from vermin, and in good repair;

- [d]** take effective measures to destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin, and to prevent offensive odours arising from the keeping of animals on the premises;
- [e]** provide overalls or other protective clothing for use by persons employed in connection with the pet shop, and ensure that such apparel is worn by every employee when on duty;
- [f]** at all times keep every animal in or on the premises, unless otherwise approved by the municipality;
- [g]** provide isolation facilities in which every animal which is or appears to be sick shall be kept whilst on the premises;
- [h]** ensure that there is a constant supply of potable water in the premises for drinking and cleaning purposes;
- [i]** ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the animals; and
- [j]** ensure that the number of animals per cage is not such that the free movement of such animals is impeded.

CHAPTER V

PET SALONS

Requirements for premises

- 20.** No person shall conduct the business of a pet salon in or upon any premises, unless the premises is constructed and equipped in accordance with the following requirements -
- [a]** A room shall be provided with a minimum floor area of 6.5 (six and one half) square metres for the washing, drying and clipping of animals.
 - [b]** The floor of such room shall be constructed of concrete or other durable, impervious material brought to a smooth finish and graded to a channel drained in terms of national building regulations.
 - [c]** The surface between the floor and the wall of such room shall be covered and the covering shall have a minimum radius of 75 mm.

- [d]** Every internal wall surface shall be smooth-plastered and be painted with a light-coloured washable paint.
- [e]** The room shall be equipped with -
 - [i]** a bath or similar facility with a constant supply of hot and cold water, drained in terms of national building regulations;
 - [ii]** an impervious-topped table; and
 - [iii]** refuse receptacles of impervious, durable material with a close-fitting lid, for the storage of cut hair or fur, pending removal.
- [f]** If cages or kennels are provided for the keeping of animals, then such cages or kennels shall be of durable material, and be so constructed as to be easily cleaned.

Business requirements

- 21.** Every person who conducts the business of a pet salon shall -
- [a]** ensure that every cage, including its base, is of metal construction, and movable;
 - [b]** ensure that all pesticidal preparations, and preparations used for the washing of animals and the cleaning of equipment and materials, are stored in separate metal cupboards;
 - [c]** ensure that all tables used for the drying and grooming of animals are of metal, with durable and impervious tops;
 - [d]** maintain the premises and every cage, tray, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean and sanitary condition, in good repair, and free of vermin;
 - [e]** at all times keep every animal inside the building which is located on the premises, unless otherwise approved by the municipality;
 - [f]** provide portable storage receptacles of impervious material with close-fitting lids, for the storage of dog or cat litter; and
 - [g]** remove all refuse, litter and other waste matter from the enclosure and shelter at least once every 24 hours, and place it in the receptacles referred to in subsection [f].

CHAPTER VI

MISCELLANEOUS

Liability

- 22.** The municipality shall not be liable for any injury suffered or disease contracted by, or damage caused to, any dog, pet or other animal, during, or as a result of, its seizure, impoundment, detention or destruction, in terms of this by-law, unless such injury, disease or damage is caused as a result of the negligence of the municipality.

Offences and penalties

- 23.** Any person who contravenes, or fails to comply with, any provision of this by-law shall be guilty of an offence, and liable, upon conviction, to a penalty not exceeding –
- [a]** a fine of R60 000, or imprisonment for a period of 12 (twelve) months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
 - [b]** in the case of a continuing offence, an additional fine of R600, or an additional period of imprisonment of 1 (one) day, 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 reasonably incurred by the municipality as a result of such contravention or failure.

Regulations

- 24. [1]** The municipality may make regulations regarding –
- [a]** the granting of written permission for the keeping of animals, the withdrawal of such permission, and exemptions from the provisions of section 3[1];
 - [b]** the imposition of a levy and issuing of a licence, as contemplated in terms of section 3[4];
 - [c]** the exercise of its powers in terms of section 5, including
 - [i]** the stipulation of conditions in respect of the number and kind of animals that may be kept, the facilities required, and the areas within which the

keeping of animals may be restricted, prohibited, or exempted from any specific provision of this by-law;

- [ii]** the specification of any provision of this by-law from which a stipulated area may be exempted from its application, as contemplated in terms of section 5[1][d][iii];
 - [iii]** the determination of the manner in which an investigation may be conducted; and
 - [iv]** the amendment of the time limit pertaining to the compilation and submission of a report;
- [d]** the number of dogs that may be kept on any premises, the granting of written consent, and the payment of any levy, as contemplated in terms of section 6[1];
- [e]** the approval of the application and plans contemplated in terms of section 12[b];
- [f]** details of the requirements, and the enforcement or relaxation thereof, as contained in sections 13, 14, 17, 18, 19, 20 and 21;
- [g]** the issuing of a written notice in terms of section 15, and the consequences of failure to comply with such notice;
- [h]** the seizure, impounding, detention, sale or destruction of stray animals, as contemplated in terms of section 16, including –
 - [i]** additional powers that may be delegated to an authorised official, to facilitate the seizure or impoundment of an animal;
 - [ii]** the designation of a pound or other facility at which an animal may be impounded;
 - [iii]** the regulation of the sale or destruction of an animal, and the conditions attached thereto, as contemplated in terms of sections 16[3]-[5]; and
 - [iv]** the fixing of a fee for the release of an animal to its owner;
- [i]** **(i)** the prescription of penalties for the offences contemplated in terms of section 23; and

