

PROVINCIAL NOTICE

[NO. 197 OF 2011]

**NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000:
PUBLICATION: STANDARD LICENSING OF DOGS BY-LAW**

I, MG Qabathe, member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Structures Act, 2000 (Act No. 32 of 2008), make standard by-laws as set out in the Schedule.

SCHEDULE

LICENSING OF DOGS BY-LAW

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Definitions

1. (1) In these by-laws, unless the context indicates otherwise –
"Council" means the municipal council of the local municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates;
"dog" means both a male and female dog regardless if it has been spayed or castrated.
"licensing fee" means the fee charged for the licensing of dogs as determined by the Council from time to time by means of a resolution;
"municipality" means the Local Municipality 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 these by-laws 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

"nuisance" means any conduct or condition which brings about or may bring about a state of affairs or condition which is obnoxious and, or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

"owner" in relation to a dog, means any person who keeps a dog and includes any person to whom the dog has been entrusted or who has control of a dog in respect of any site within the municipality where such dog is kept or is permitted to live or remain, unless such person is able to prove that he or she is not the owner of such dog and that the dog was kept or allowed to live or remain on such site without his or her knowledge or consent.

"public place" includes any public road, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds registry or surveyor general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in the municipality or to which the owners of erven in the township have a common right, and all property belonging to an organ of state;

"premises" means any building, room, maisonette, hut, shed, tent or any other structure above, on or below ground level, together with the land on which it is situated and the adjacent land used jointly therewith or any land without buildings;

"vicious" means, for the purposes of these by-laws, a dog which has bitten or attempted to bite a person or animal other than in defence of itself or its custodian;

"year" or **"annually"** means a calendar year.

- (2) In these by-laws, unless the context indicates otherwise, words and expressions denoting the singular includes the plural and vice versa, and reference to a natural person includes a legal person and vice versa.

Imposing of Licensing Fees

2. (1) Subject to the exemptions referred to in section 3, the owner of each dog within the municipality must pay annual licensing fee to the Council.
- (2) Any person, who becomes the owner of a dog during the course of a year, must pay the licensing fee for such dog within the period prescribed in section 4, notwithstanding the fact that the previous owner may have paid the licensing fee for the year in respect of such dog.
- (3) No pro -rata payment or repayment of the annual licensing fee is applicable.

Exemptions

3. (1) The annual licensing fee is not payable in respect of:
- (a) dogs under the age of six (6) months. The onus of proving that any dog is under that age, is upon the owner;
 - (b) a guide dog kept by a blind person;
 - (c) a dog temporarily brought into the municipality for a period not exceeding thirty days;
 - (d) a dog in respect of which the licensing fee has been paid for the year concerned, while such dog is kept within another municipality within the province of the Free State, but not where there was a change in ownership after the licensing fee had been paid;
 - (e) a dog in possession or in the care of the Society for the Prevention of Cruelty to Animals or a similar organisation approved by the Council;
 - (f) a dog used by either the Municipality or the South African Police Services in the execution of their duties;
 - (g) a dog used by:
 - (i) private security companies registered at the Security Industry Regulator;
 - (ii) the National Defence Force;
 - (iii) the Department of Correctional Services;
- (2) Breeders of dogs may apply to the municipality for a reduction in licensing fee per dog, which applications will be considered by the Chief Financial Officer. It is in the Chief Financial Officer's discretion to allow for a reduced licensing fee for a breeder and this subsection does not create an obligation to approve such an application.

When Licensing Fee Becomes Payable

4. (1) The licensing fee for which the owner of a dog is liable, is due:
- (a) in the case where he or she is the owner of such dog on the 1st day of January, on that date;

- (b) in the case where he or she becomes the owner of such dog after the 1st day of January during any year, on the day on which he or she becomes the owner;
 - (c) in the case where such dog attains the age of six months, on the date on which such dog attains that age.
- (2) Any owner of a dog who fails to pay the licensing fee payable in respect of such a dog within 30 days from the date on which it became payable, must pay a penalty at a rate of ten per cent of the licensing fee for each month or part of a month during which such licensing fee, with effect from the date on which it became payable, remains unpaid: Provided that such penalty must not exceed the licensing fee payable.
 - (3) The payment of any amount in terms of the provisions of subsection (2) does not relieve any person of any criminal liability arising from his or her failure to obtain a license, nor must the fact that any person has been criminally punished for such failure relieve him or her from liability to pay any amount in terms of subsection (2).

Issue of Dog Licensing Fee Receipt

- 5. Upon payment of the licensing fee by an owner, in respect of any dog, a dog licensing fee receipt must be issued to him or her.

Dog Licensing fee Receipt Not Transferable

- 6. No dog licensing fee receipt may be transferred from one owner to another or in respect of one dog to another.

Dog Licensing Fee Receipt to Be Produced

- 7. Any person having in his or her possession any dog must produce the dog licensing fee receipt for such dog whenever requested to do so by the Council or a member of the South African Police Services.

Seizure, Impoundment and Discarding of Dogs

- 8. (1) The Council may seize and impound:
 - (a) any ownerless dog;
 - (b) a dog found in a street, a road, a public place or other land belonging to the Council, without being under control of the owner or another person,
 - (c) a dog in respect of which the licensing fee has not been paid, or
 - (d) a dog which is in contravention of the provisions of sections 10 and 11.
- (2) The owner of an impounded dog must claim it within 96 hours of impoundment, upon payment of the licensing fee due plus a impoundment fee as decided from time to time by the Council by way of a resolution.
- (3) In the event that such a dog is not claimed within the period mentioned in subsection (2) it will be donated to the Society for the Prevention of Cruelty to Animals or any other society which may have use for dogs, or sold to interested parties, or destroyed.
- (4) The fact that a dog has been impounded, sold or destroyed under the provisions of this section, does not exempt the owner from payment of the licensing fee, pound fees and costs relating to the catching of the dog.
- (5) Every dog, found in any street, road or public place, which is suffering from any incurable, infectious or contagious disease or which is ferocious, vicious or dangerous, or which is badly injured, may be seized and destroyed by an official of the Council or a member of the South African Police Services.

Dogs Must Not Be a Source of Danger

- 9. (1) Any person who keeps a dog on any premises must keep such dog in such manner as not to be a source of danger to the Council's employees entering upon such premises for the purpose of carrying out their duties.
- (2) A notice to the effect that a dog is being kept on such premises must be displayed in a conspicuous place.

Vicious Dogs and Bitches on Heat

- 10. (1) Dogs which are wild or vicious or which have acquired the habit of charging passing vehicles, bicycles or persons and are thereby liable to cause accidents or injury to persons or animals or cause damage to persons or their property, must not be permitted to be kept within the municipality, unless they are under proper control and supervision.
- (2) No bitch on heat must be allowed to run loose in public places within the municipality but must be locked up. Any such dog may immediately be impounded by the Council or a member of the South African Police Services and the owner must in addition to the liability to pay impoundment-fees and catch costs, be liable to prosecution for contravention of this section.

Dogs Causing Nuisances

11. (1) It is an offence to keep within the municipality, dogs which:
- (a) chase or worry any animal or hunt game;
 - (b) by continuous barking, howling or whining cause a nuisance;
 - (c) suffer from a contagious disease and are not under veterinary supervision and which are not suitably isolated;
 - (d) pollute a premise to such an extent that a health hazard is caused;
 - (e) stray in any public street, thoroughfare or other public place or in any private open space, private place or private premises, other than that of the owner of such a dog, unless such dog is led by a chain or leash and accompanied by a person.

Dogs on premises where food is sold

12. Any person being the owner or person in control of any shop or other place where food is prepared, sold or exposed for human consumption, must not permit any dog to be or remain in or on such shop or place.

Fencing of premises

13. No person must keep a dog if his or her premises are not properly and adequately fenced to keep such dog inside when it is not on a leash.

Obstruction of employees

14. (1) No person must:
- (a) hinder, obstruct or interfere with any employee of the Council or a member of the South African Police Services in the performance of any duty relating to these by-laws; or
 - (b) refuse to give such information as the Council may reasonably require; or
 - (c) prevent or obstruct an official of the Council or a member of the South African Police in any manner whatsoever to obtain free and unobstructed entrance to any premises for the purposes of enforcing these by-laws.

Liability

15. Neither the Council, nor any employee of the Council is liable for or in respect of any injury suffered or disease contracted by or damage caused to any dog as a result of or during its seizure or destruction in terms of this by-law.

Offences and penalties

16. (1) A person who -
- (a) contravenes any provision of these by-laws or fails to comply therewith or with any condition imposed in terms thereof;
 - (b) deliberately furnishes false or misleading information to an officer or an employee of the Council;
 - (c) fails to comply with any condition granted or imposed in terms of these by-laws;
 - (d) ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these bylaws,
- is guilty of an offence and must upon conviction by a court be liable to a fine or imprisonment or both fine and imprisonment.
- (2) Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

Repeal

17. Any by-laws relating to the licensing of dogs adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title

18. These by-laws are called the by-laws relating to the Licensing of Dogs, 2011.