

LOCAL GOVERNMENT NOTICE

ENDUMENI MUNICIPALITY

BY-LAW RELATING TO THE KEEPING OF DOGS

Note: (Words applying to any individual shall include persons, companies and corporations, and the masculine shall include females as well as males and the singular shall include the plural and vice versa),

1 for the purpose of these bylaws-

“Animal welfare organization” means any association of persons, corporate or unincorporated, or institution, the objects of which are the prevention of cruelty to animals and the promotion of animal welfare;

“Area of jurisdiction” unless otherwise stated in the context of these bylaws means the area of jurisdiction of the Endumeni Municipality;

“Authorized Officer” means:

- (a) A traffic Officer or warden appointed in terms of the National Road Traffic Act, 1996 (Act no. 93 of 1996);
- (b) A member of the Services as defined in Section 1 of the South African Police Services Act, 1995 (Act No. 58 of 1995);
- (c) A Peace Officer contemplated in Section 34 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (d) Any other official duly authorized by the Council.

“Breeder” means a member of KUSA (Kennel Union of South Africa) or similar organization;

“Council” means the Endumeni Municipality or its successors in title, and includes the council of that municipality or its executive committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the executive committee has delegated any powers and duties with regard to these bylaws;

“Dog” means the male or female of this species;

“Farm” means a portion or portions of agricultural land as defined in the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), and includes a small holding, on which the utilization of the means of production and the utilization by man of the natural agricultural resources for the production of, inter alia, food, fibre, and drink of quality takes place;

“Nuisance” means unless otherwise provided for in these bylaws means any condition, thing, act or sound which is offensive or injurious or tends to prejudice the safety, good order, peace or health of the area or part thereof the rights or reasonable comfort, convenience or quiet of any neighbourhood within the area;

“Premises” shall be any building together with the land on which the same is situated and adjoining land used in connection therewith or any land without buildings thereon;

“Prescribed fee” means the fee as provided for the Council’s tariff of charges;

“Public Place” shall mean an area as defined in section 1 of the Town Planning Ordinance, 1949 (Ordinance 27 of 1949)

“Public Street” means any street, road, lane, passage or other right-of-way and includes any bridge, subway, drain, culvert or the like in a street;

“Traditional Council” means a traditional council as defined in Section 1 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

“Traditional Community” means a traditional community recognized as such in terms of section 2 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) and which:

- (a) Is subject to a system of traditional leadership in terms of that community’s custom’s; and
- (b) Observes a system of customary law;

“Traditional Leadership” means the customary institutions or structures or customary systems or procedures of governance, recognized, utilized or practiced by traditional communities, as provided for in Section 1 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003);

2. No person shall keep on any premises within the area:

- (a) Any dog which is ferocious or vicious unless such a dog is kept on a lead or chain so that lawful visitors to the premises are safe from attack. (For the purpose of this paragraph, a dog which has bitten or attempt to bite a person or animal other than in defense of itself or it’s custodian, on the premises shall be deemed to be vicious);
- (b) Any dog on any premises where such premises are not properly surrounded by a fence of such material as to ensure that such a dog is confined to such premises, or suitably enclosed area of not less than 70m² in which any dog can be

confined, unless such a dog is kept on a leash, provided that where it is physically impossible to provide an enclosure of 70m² on the property, such enclosure shall be to the size as determined by the authorised officer, taking into account the size of the property, any obstruction or buildings thereon, the topography and shape thereof, and the type of the dog;

- (c) Any bitch in season unless he keeps such a bitch under proper control so as to prevent her from being a nuisance to the neighbours or public. The Council may through an authorized officer, by notice in writing, require the owner or person in control of such premises to remove it to a place in which suitable accommodation has been provided for the housing of such a bitch and at the owner's expense there to be kept until she is out of season;
- (d) With the exception of a farm and/or a Traditional Community as defined herein, more than three dogs without the consent in writing of the Council which consent may be given subject to conditions and may be withdrawn by the Council. An authorized breeder may, with the permission of Council, keep breeding stock, subject to such conditions as may be imposed by council;
- (e) Any dog for which no valid license is held, all such license fees being due to the Council on the first day of January in each year in respect of every dog which is then of the age of six months or more and shall be payable on or before the last day of the March next succeeding except in the following cases of exemptions from licensing:
 - (i) The Society for the Prevention of Cruelty to Animals or any similar body approved by Council or any authorized representative of said Society or body living in the area in cases where the Society/body does not have official premises in the area, in respect of any dog or dogs in it's possession or under his control as a result of any action taken in terms of these bylaws, including strays; and
 - (ii) A blind person, in respect of one dog used by such a person as a guide dog, if such dog has been supplied to that person by the South African Guide Dog Association or similar body, or such a dog is certified in writing by a responsible official of the aforesaid Association or similar body or any branch thereof, to be dog suitable for blind persons;
- (f) Any dog for which he does not hold a valid rabies inoculation certificate;

- (g) Any dog which attacks, bites or savages any person, unless it can be proved that such action was in defense of the owner or person keeping the dog, their dependants or property and that the person bitten seriously threatened the owner, dependants or property of the owner or person keeping such a dog, or that the person bitten entered the property without the owners' permission or in defiance thereof;

(to prove the said contravention it shall be not be necessary to prove that the dog in question had previously shown a vicious nature nor that it was acting against the nature of domestic pets)

- (h) Any dog which, by reason of continued barking, yelping, howling, or making other noises, disturbs the public peace or is a source of nuisance to the neighbourhood, commits a breach of these bylaws if the nuisance or disturbance continues after the expiration of a reasonable time to be stipulated in a notice signed by the Municipal Manager or his authorized representative, upon receipt of a written and signed complaint, and served upon such person, requiring him to abate such disturbance or nuisance; provided that any officer duly appointed in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) may, in any circumstances in which the nuisance is of such a nature as to require immediate abatement, disregard the service of a notice as herein before provided, and provided he has witnessed the nuisance first hand, issue a notification in terms of Section 341 of the aforementioned Act upon the owner of such dogs or proceed immediately with further action as provided for in these bylaws. If any person is found guilty of a second contravention of this bylaw in respect of the same animal, it shall be competent for the court, which has found him guilty, in addition to imposing any other sentence, to order the removal of the animal in accordance with bylaw 5(a).

3. For the purpose of Bylaw 2 and without in any way detracting from or diminishing the liability of the owner of or person keeping any dog for a breach of these regulations:

- (a) The owner of the premises, if he resides on such premises, shall be deemed to be keeping any dog kept on such premises;.
- (b) If the owner of the premise does not reside on the premises, any person over the age of twenty one years who resides on such premises shall be deemed to be keeping the dog on such premises. In the case of any prosecution in term sof these bylaws, it shall be competent to charge the true owner of the dog in question or alternatively, to charge the person keeping or deemed to be keeping the dog in question.

4.
 - (a) No person shall allow any dog being his property or in his charge to be in any street or place to which the public has access unless it is on a leash held by the person or under some form of bodily restraint, provided that no dog shall be permitted on any portion of town lands under Council's jurisdiction where signs expressly prohibiting dogs have been erected, except in the case provided for in bylaw 2(e)(2);
 - (b) Any dog which is not on a leash held by a person or under some other form of body restraint and is found at large in any public street, public place, or in a diseased state and apparently ownerless, may be removed or seized in accordance with bylaw 5(a) or (b) and, if found to be dangerous, vicious or diseased, may be destroyed by an authorized officer;
 - (c) any dog, not being the property of the owner of any land or property on which it is found, may, if such dog has the tendency to attack any animal belonging to the owner of such land, be dealt with in accordance with the provisions of section 5(a) to (g) of these bylaws; provided that in the event of it being impossible for any authorized officer or owner to capture such dog for any reason, the authorized officer may authorize the destruction of such dog by the owner or any competent person nominated by him or may destroy it himself. In either case, the circumstances surrounding the destruction of any dog in terms of this section shall be reported to the council as soon as possible after the event;
 - (d) Unless otherwise authorized in terms of the KwaZulu Nature Conservation Act, 1992 (Act No. 29 of 1992) or any other applicable legislation, no person, being the owner of, or in possession of any dog or dogs used for hunting purposes, shall permit such dog or dogs to hunt on any property within the council's area of jurisdiction without the consent, in writing, of the appropriate minister and the owner of the property in question first having been obtained. Any consent thus obtained shall be produced by the owner of such dog or dogs to any authorized officer on demand.

(For the purpose of this regulation, any dog not wearing a collar disc or other means of identifying the owner thereof and which appears to be ownerless shall be deemed to be ownerless).
5.
 - (a) Any police officer or other officer duly authorized by the Council who shall remove or seize any dog in the exercise of the power hereby conferred shall take or convey the same to a place of safety or any animal welfare organization or dog pound approved by the council.

- (b) Any person claiming that any dog so removed or seized in his property shall be allowed to take away the same on satisfying the officer in charge of such place of safety, animal welfare organization or such dog pound that he is owner of such dog and upon payment of the following charges:

Lodging, vet fees, feeding and travelling payable to such place of safety, animal welfare organization or dog pound in accordance with rate laid down from time to time.

- (c) Any dog not claimed within 7 (seven) days may be sold by the person in charge of such place of safety, animal welfare organization or dog pound. The proceeds of such sale shall be applied in defraying the expenses incurred in connection with removal and maintenance of the dog so sold and the balance, if any, paid to the place of safety, animal welfare organization or such dog pound.
- (d) If any dog is not claimed within 7 (seven) days or cannot be sold under the provision of sub-bylaw (c) or if any dog is found to be suffering from any infection or incurable diseases or injury or to be so vicious as to be dangerous, the person in charge of the place of safety, animal welfare organization or dog pound may act in terms of Section 5(1) and (2) of the Animals Protection Act, 1962 (Act No. 71 of 1962), as amended from time to time;
- (e) The powers herein conferred upon any police officer may be exercised by any officer of an animal welfare organization or dog pound authorized under the provision of Section 8 of the Animal Protection Act, (Act No. 71 of 1962), as amended from time to time;
- (f) Any such officer may convey any dog removed or seized by him to any building or place provided for the purpose of keeping stray dogs;
- (g) The provisions of sub-bylaw (e) and (f) of this bylaw shall apply to the sale or destruction of dogs removed or seized by any such officer.

6. Any person claiming any dog impounded under the preceding bylaws shall be deemed, unless he proves the contrary, to be the owner thereof and thus liable to prosecution for a contravention of these bylaws;
7. No person shall use or cause or allow any premises in a residential area of the Council's area of jurisdiction to be used for the accommodation for reward of dogs which are the property of some other person, or for the commercial breeding thereof;

8. The owner or person in charge of any dog which has died shall be responsible for its proper burial at such place as may be approved by the Council, and should the owner or person in charge of any dead dog fail or be unable to bury it, the Council shall cause it to be buried or otherwise disposed of at the expense of the owner or person in charge, in accordance with the tariff of charges prescribed;
9. No person, being in a street or public place, shall by any means wilfully frighten, tease or enrage any dog.

OFFENCES AND PENALTIES AND APPEALS

10. The provisions of the council's Bylaws Relating to Offences and Penalties and Appeals shall mutatis mutandis apply.
11. The Bylaws relating to the Keeping of Dogs as well as the Bylaws relating to Dog Licenses together with any amendments thereto as published previously are hereby repealed.

NOTE: The Animals Protection Act, 1962 (Act No. 77 of 1962)

1. Section 5 deals with the circumstances in which a police officer may destroy any animal. It provides authority for a police officer to destroy any animal in the absence of the owner or in circumstances where the owner will not grant consent, if the animal is injured or diseased to the extent that such police officer considers the destruction thereof to be necessary, provided he summonses a veterinarian who concurs. In the event of there being no veterinarian available the police officer shall call upon two adults who he considers to be reliable and of sound judgment. If they concur with the opinion of the officer, he may destroy the animal.
2. Section 8 deals with the powers conferred upon officers of a society for the prevention of cruelty to animals. This section empowers such an officer, if authorized thereto by writing under the hand of the Magistrate of a District, to exercise the duties of a police officer in terms of Section 5.