

## **KEEPING OF ANIMALS DRAFT BY-LAW**

Be it enacted by the Council of the Umzimvubu Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Minister of Environmental Affairs having authorized the Municipality to make these by-laws, as follows:

### **1. Definitions**

In the interpretation of these by-laws, words in the masculine gender include the feminine, the singular includes the plural and vice versa and the following words and expressions shall have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur:-

**"Animal"** means any horse, pony mule, sheep, goat donkey, cow or pig and any other livestock, reptile or wild animal, whether indigenous or exotic.

**"Approval"** means approval by the Council, or by a committee of the Council, or by councillors or officials acting in terms of powers delegated to them; and "approve" has a corresponding meaning.

**"Cat"** means a small-domesticated animal of the feline species. "Cattery" means an establishment where cats are bred or boarded and includes a pound where cats are kept.

**"Council"** means the legislative and executive authority of the Umzimvubu local municipality

**"Councillor"** means a member of the council; of the Umzimvubu Local Municipality

**"Law Enforcement Officer"** means an employee of the Municipality appointed by the Council to enforce its by-laws and in possession of an appointment card issued by the

Council attesting thereto; any member of the South African Police Service or a municipal police service; any peace officer; or any traffic officer appointed in terms of the Road Traffic Act of 1996.

**"Municipal Manager"** means the person appointed by the Umzimvubu Council in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 and includes a person acting in this capacity

**"Dog"** means the male and female of this species.

**"Domestic Pet"** means a domesticated dog or cat.

**"Kennel"** means any establishment where dogs are bred, boarded or trained and includes any pound where dogs are kept.

**"Municipal Area"** means the area of jurisdiction of the Umzimvubu Local Municipality;

**"Poultry"** means any fowl, including any goose, ostrich, duck, turkey or guinea fowl;

**"Public Place"** includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in the deeds registry of Surveyor-General's office, and all land (other than erven shown on the general plan) the control of which is vested, to the entire exclusion of the owner, in the Umzimvubu Local Municipality or to which the owners of erven in the township have a common right, and for purposes of this definition "settlement" means a group of pieces of land or of subdivisions of a piece of land which are used or intended for use mainly for farming or horticulture, and includes a combination of such groups which is suitable for inclusion in one property register;

**"Township"** means a group of pieces of land, or of subdivisions of a piece of land, which are combined with public places and are used mainly for residential, industrial business or similar purposes, or intended to be so used;

**"Umzimvubu Local Municipality"** means the local municipality of Umzimvubu established in term of Section 12 of the Local Government: Municipal Structures Act

of 1998, and when referred to as an entity means a municipality as described in Section 2 of the Local Government: Municipal Systems Act, 2000 and when referred to as a geographic area means the area as determined in terms of the Local Government: Municipal Demarcation Act, 1998.

## **2 Prohibitions.**

### ***[2.1] No person shall within the municipal area-***

*[i] keep any animal, bird or domestic pet in conditions likely to cause a nuisance or likely to constitute a danger to health; or on premises which the Medical Officer of Health shall have certified as being unfit for such purpose;*

*[ii] keep any animal, except a domestic pet or small bird in a cage, in any dwelling house or residential apartment;*

*[iii] keep any wild, ferocious or dangerous animal.*

*[iv] keep any animal, bird or domestic pet, which by reason of continued howling, crowing or other noise, disturbs the public peace or is a source of nuisance to the neighbourhood,*

*[v] by any means whatsoever wilfully frighten, tease or enrage any animal or domestic pet*

*[vi] keep any dog for which no valid licence is held, unless exempted in terms of these bylaws or for which no valid rabies certificate is held.*

### ***[2.2] No person shall within any proclaimed township-***

***[i] Keep on any premises any livestock without the written consent of the Council, unless such premises are zoned for agricultural purposes.***

***[ii] Keep live poultry without the written consent of the Council on property in extent less than 4000 square meters.***

[iii] keep any pigeons without the consent of the Council.

***[iv] practice animal husbandry without the written consent of the Council on any premises, unless such premises are zoned for agricultural purposes;***

[v] without the written consent of the Council, consent keep more than two dogs or more than two cats

[vi] keep a dog in season unless such dog is under proper control so as to prevent such dog from being a nuisance to neighbors or the public...

### 3 Structures Accommodating Animals (or in which Poultry is kept)

[3.1] No structure, which accommodates animals, shall be sited

[i] within 15 meters of any boundary, which abuts a residential erf, or [ii] within 6 meters of any boundary which abuts any road or public place, or [iii] within 4 metres of any dwelling, residential apartment, shop; or any building where food is stored or processed.

[3.2] No structure in which poultry is kept shall be sited

[i] within 1, 5 meters of any boundary that abuts a residential erf [ii] within 1, 5 meters of any dwelling, residential apartment, shop; or any building where food is stored or processed.

[3.3] All structures in which animals or poultry is kept shall be suitably screened from any street or public place, to the satisfaction of the Council.

[3.4] The Council may upon application, considering conditions peculiar to the property concerned, and taking into account any objections that may be received from adjoining neighbors, relax- the requirements s to the siting of the structure concerned and impose other conditions deemed appropriate.

[3.5] No structure in which animals or poultry is kept shall share a common roof space with any habitable room.

[3.6] All structures erected to accommodate animals; or in which poultry is to be kept shall be built to plans and specifications approved by the Council.

#### 4. General Requirements for the Keeping of Animals and Poultry on Premises

[4.1] All manure and other waste resulting from the keeping of animals or poultry shall be stored under shelter in sealed fly proof containers and disposed on a regular basis, such disposal not to include composting on the premises

[4.2] Premises upon which animals and poultry are kept shall be kept in such a condition as not to attract flies or rodents or to provide harborage for rodents.

[4.3] All feeds kept for animals and poultry on the premises shall be kept in a rodent proof place, container or storeroom.

[4.4] The Council may by notice in writing direct that a fly and rodent proof manure or feed store be constructed on the premises to specifications and of materials stipulated therein.

#### 5. Kennels and Catteries.

[5.1] All kennels and catteries shall be built to plans and specifications approved by the Council and shall provide-

[i] that every dog or cat is kept in a separate enclosure

[ii] that a supply of potable water is provided in or adjacent to every enclosure, adequate for drinking and cleaning purposes

[iii] adequate isolation facilities are provided for dogs and cats that are sick

[5.2] The owner or occupier of the premises shall ensure that any kennel or cattery, as the case may be, is at all times kept

[i] in good order and repair

[ii] thoroughly clean and free of any waste material.

## 6. Pigeon Lofts And Aviaries.

[6.1] All pigeon lofts and aviaries shall be built to plans and specifications approved by the Council.

[6.2] The owner or occupiers of the premises shall ensure that any pigeon loft or aviary, as the case may be, is at all times -[i] kept in good order and repair, [ii] thoroughly clean, free of waste material and clear of vermin.

## 7 General

[7.1] Carcasses of animals and, poultry (including domestic pets and birds) shall be disposed of by the owner at the owner's expense and in a manner approved by the Council.

[7.2] No person being the owner or person in charge any animal, shall permit such animals to be on any street or public place, except whilst such is being transported in or on a vehicle; or, with the prior written consent of the Council and subject to such conditions as may have been imposed by the Council.

[7.3] No person being the owner or person in charge of a dog shall permit such dog to be on any street or public place, unless such dog is on a leash or harness, or in a park or other open space except where the Council, by notice, has permitted dogs to be at large

[7.4] Any animal, including domestic pets found at large may be seized and removed to a place of safety or to the nearest pound.

[7.5] The owner of any dog of an age of six months or more is required to licence such dog, provided, however that a dog used by a blind person as a guide dog and a dog under the care of the Society for the Prevention of Cruelty to Animals or similar body recognised in writing by the Council shall be exempt from such requirement.

## 8. Entry And Inspection

[8.1] The Council through its law enforcement officers shall be entitled upon production of a duly attested municipal identity document to enter into and upon the premises, at reasonable times, to carry out any inspections necessary for the proper and administration and enforcement of the provisions of these bylaws.

## 9. Notices

[9.1] Where it comes to the notice of the council that a person is in contravention of provisions or provisions of these bylaws, the Council may cause a notice to be served on the person concerned to take such action as may be necessary to comply within a period of time specified therein.

[9.2] Should the Council's demands, as set out in the notice, not be carried out within the time period specified in the notice, the Council may, without further notice, carry out such actions that may be specified in such notice and recover any costs incurred from the person on whom the notice was served.

[9.3] Where any notice or other document is required by these bylaws to be served on any person, such notice or document shall be deemed to have been properly served if served personally on the person concerned, or any member of the person's household apparently over the age of 16 years, or at the person's place of residence, or on any person employed by or with him or her at the person's place of business, or if it is posted by registered mail to such person's residential or business address as it appears in the records of the municipality, or if such person is a company, closed corporation or trust, if served on any person apparently employed by such company, closed corporation or trust at the registered office thereof, or sent by registered mail to such office.

## 10 Offences

[ 10.1 ]. Any person who-

[i] contravenes or fails to comply with any provisions of these bylaws;

[ii] contravenes or fails to comply with any requirements set out in a notice served on him or her in terms of these bylaws;

[iii] contravenes or fails to comply with any condition imposed in terms of these bylaws;

[iv] knowingly makes a false statement in respect of any application in terms of these bylaws, shall be guilty of an offence and on conviction liable to a fine Or imprisonment as set out below.

[10.2]. The fines and penalties applicable to offences in terms of these bylaws are;

[i] upon conviction of a first offence, the guilty party shall be liable to a fine not exceeding R5000, 00, as adjusted from time to time or in default of payment, to imprisonment for a period not exceeding one month;

[ii] in the case of a continuing offence, the guilty party shall be liable to a further fine not exceeding R500, 00 as adjusted from time to time;

[iii] upon conviction of a second or subsequent offence, the guilty party shall be liable to a fine not exceeding R10000, 00 as adjusted from time to time or in default of payment to imprisonment for a period not exceeding 3 months.

[10.3] A Court convicting a person of an offence in terms of these bylaws may impose an alternative sentence in lieu of a fine or imprisonment.

## 11 Jurisdiction

[11.1] Notwithstanding anything to the contrary contained in any law relating to Magistrates Courts, a Magistrate shall have jurisdiction, on application by the Council, to make an Order for the enforcement of any of the provisions of there bylaws or of any approval.

## 12 Saving and Repeals

[12.1] These bylaws repeal and replace all other bylaws relating the keeping of



animals and birds hitherto applied in the areas now under the jurisdiction of the Umzimvubu Local Municipality, provided that any application for permissions made prior to the promulgation of these bylaws shall be considered by the Council in terms of these bylaws; provided further that anything unlawfully done and not complying with these bylaws shall remain unlawful.

## EXPLANATORY MEMORANDUM

These by-laws deal specifically with the keeping of animals, birds as well as domestic pets. It was considered desirable to deal with all manner of animals in one set of by-laws to avoid confusion

The definitions distinguish specifically as; between animals in general and what are considered to be domestic pets. For the purposes of these bylaws domestic pets are confined to dogs and cats. Whilst such a close fit definition may be construed as limiting the keeping of other tame animals this is not quite so. A rabbit for example may be kept, but not in dwelling house or residential apartment.

The by-laws also distinguishes a township area from the municipal area as a whole and because of the nature the different types of townships that maybe found in a municipal area it was felt that the definition of "township" should follow the description to be found in the Deeds Registry Act.

The by-laws prescribe certain prohibitions that apply to the whole of the municipal area and more definitive prohibitions that would apply only within a defined township area.