

Hessequa, South Africa

Impoundment of Animals

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Impoundment of Animals
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Hessequa South Africa

Impoundment of Animals By-law, 2018

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In terms of Section 156 of the [Constitution of the Republic of South Africa, 1996](#), the Municipal Council of the Hessequa Municipality has enacted the by-law as set out below:

1. Definitions

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context otherwise indicates -

"**animal**", means any equine, bovine, donkey, mule, camel, sheep, goat, pig, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal, wild bird or reptile which is in captivity or kept in captivity or under the control of somebody.

"**authorized official**", means an official, authorized in terms of Section 8 of the Animal Protection Act, 1962 ([Act No. 71 of 1962](#)), as amended, or any peace officer authorized in terms of Section 334 of the Criminal Procedures Act, 1977 ([Act No. 51 of 1977](#)), as amended, or any employee of the Hessequa Municipality, who is authorized by the Hessequa Municipality to enforce the provisions of this by-law;

"**cattle**", means an adult bull or cow, an ox or young ox, or a heifer or bull calve;

"**court**", means a Magistrates Court, as referred to in Section 166(d) of the constitution of the Republic of South Africa, 1996, in the area of jurisdiction in which the animal pound is situated;

"**goat**", means an adult ram or she-goat, castrated goat or a wether or a kid;

"**horse**", means a stallion, mare gelding, colt, filly, male or female donkey or mule;

"**identification mark**", means a prescribed mark on an animal, as required by the Animal Identification Act, 2002 ([Act No. 6 of 2002](#)), as amended;

"**land**", means any premises or property or public place, within the area of jurisdiction of the Hessequa Municipality;

"**lot**", a multitude, collection, number of group of animals;

"**microchip**", means an electronic mechanism which is affixed to an animal, on which data of the animal and or the owner of the animal are stored;

"**municipal systems act**" means the Local Government: Municipal Systems Act, 2000 ([Act No 32 of 2000](#)), as amended;

"**municipality**", means the Hessequa Municipality established in terms of Section 12 of the Local Government: Municipal Structures ([Act 17 of 1988](#)), and includes reference to any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof, or any duly delegated and / or appointed officials in the service of Hessequa Municipality;

"**newspaper**", means any newspaper registered as a newspaper and which includes the local and provincial newspaper;

"**occupant**", means a person who occupies and control land or premises, and includes a resident of a premises;

"owner", means an owner who is known or whose identity can be established reasonably quick and in relation to the ownership of any animal and includes any person who is the lawful agent of such an owner, or any other person who is responsible for the care, custody or control of an animal; or in relation to land, it includes the owner, tenant, or legal occupant of such land, or the agent thereof.

"owner of property", means in relation to the ownership of any property, any person, who as owner, legal lessee or occupant resides on premises or a portion of land, or use or utilize it for whatever purpose, or who as agent of the owner exercise control over it;

"person", means and includes for purpose of this by-law, a natural person or a juristic person or any agricultural, industrial or commercial undertaking or and an organ of State;

"pig", means a boar, sow, or any sucking pig or pet pig;

"poultry", means a chicken, goose, duck, turkey or muscovy duck, either tame or wild;

"pound", means any fenced-off area consisting of one or more buildings, structures, cages or camps, which is provided by the Hessequa Municipality or a service provider to be used as a pound, and which is under the control of a pound master or a service provider in terms of a service delivery agreement, and which functions as a pound where stray, lost or animals at large can be temporarily accommodated;

"pound master", means a person:

- (a) who is a temporary or fulltime employee of the Hessequa Municipality, and who has been tasked and / or authorized to fulfill the functions and responsibilities of a pound master; or
- (b) who in terms of a service delivery agreement with the Hessequa Municipality has been appointed to fulfill the functions and responsibilities of a pound master;

"private property", means all properties not in possession of an organ of state or another municipality or the Hessequa Municipality;

"property", means—

- (a) immovable property registered in the name of a person, including in the case of a Sectional title scheme, a Sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right or land right registered in the name of a person or granted to a person in terms of legislation;
- (d) a public place registered in the name of the Hessequa Municipality or any other organ of state or entity; and
- (e) public service infrastructure, including any public road;

"public road", means any public road as referred to in Section 1 of the National Road Traffic Act, 1996 ([Act No 93 of 1996](#)), as amended, and includes any municipal road, alley or road reserve;

"public place", means any premises or property or land, under the control of the Hessequa Municipality, to which the public have access, and includes, but are not restricted to: any square; building; park; recreational area; sports grounds; beach; open space; nature reserve; municipal street, alley or road reserve; public road; parking area, municipal commonage; unused, used, build-up or vacant municipal land; or a cemetery;

"public property", means all properties in possession of an organ of state or another municipality or the Hessequa Municipality;

"reserve price" means the minimum amount that Hessequa Municipality will accept as the winning bid in the auction for an item up for auction;

"**services delivery agreement**", means a service delivery agreement as contemplated in Section 1 of the Local Government: Municipal Systems Act' 2000 ([Act No 32 of 2000](#)), as amended; and

"**sheep**", means an adult ram or ewe, a wether or a lamb;

"**stallion**", means a male horse, donkey or mule, not castrated or partially castrated;

"**stock inspector**", any person duly competent and qualified to inspect stock, and who is appointed for this purpose by the Department of Agriculture; veterinary surgeon", means a person who is qualified and registered in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 ([Act No 19 of 1982](#)), as amended, to practice as veterinary surgeon.

2. Purpose of by-law

The purpose of this by-law is-

- (1) to improve the realisation of a healthy and safe environment to the benefit of the residents within the jurisdiction of the Hessequa Municipality;
- (2) to make provision for procedures, methods and practices to regulate the impoundment of animals.

3. Application

This By-law is applicable within the jurisdiction of the Hessequa Municipality provided that nothing shall prohibit or prevent any animal which is in captivity in terms of this by-law, from being impounded in a pound or a similar facility, which is erected by another municipality or lawful authority.

4. Establishment of a pound

- (1) The Municipality may establish a pound and any places of safe-keeping at any chosen or convenient place within the area of jurisdiction of the Municipality, as required, provided that the Municipality also may enter into a service delivery agreement with an Animal Welfare Organisation or an institution or person, as contemplated in Section 76(b) of the Municipal Systems Act, to provide for the establishment and operation of a pound and places of safe-keeping to service the area of jurisdiction of the Municipality as a whole or partially.
- (2) The Municipality shall give notice of the intention to establish a pound, by publishing a notice in at least one (1) newspaper circulating in the area of jurisdiction of the Municipality.
- (3) The Municipality may close any pound under its control.

5. Appointment of a Pound Master

The Municipality shall, in terms of the appointment policy of the institution, appoint a suitably skilled and experienced person as a Pound Master, unless the pound is established and operated in terms of a service level agreement as contemplated in [section 4\(1\)](#).

6. Impounding of animals

- (1) Any owner of private property, may detain any animal which has trespassed or strayed on his or her property for purpose of impounding the animal concerned or moving an animal to a place of safe-keeping, on condition that before such animal may be removed, the following conditions shall be complied with–
 - (a) The owner of the property on which the animal is found, may detain the animal concerned, and when a property owner does not have the resources or ability to detain such an animal himself or herself, such person may request the assistance of the Municipality to detain such animal, on condition that such animal may not be removed to a pound, before a written notice to remove the animal from the property concerned within twenty-four (24) hours

- has been served on the owner of the animal by the property owner, when the particulars of the owner of the animal is known or when ownership can be determined by means of an identification mark on the animal or a microchip affixed to the animal.
- (b) The owner of the property on which the animal is detained shall in instances where the owner of the animal concerned is unknown, make a reasonable attempt to identify the owner of the animal, and when unsuccessful, the owner of the property or the Municipality may remove the animal to a place of safe-keeping or a pound for impoundment.
 - (c) The owner of the animal that was detained, may on submission of proof of ownership, petition the owner of the property where the animal was found and detained, for the release of such animal.
 - (d) The person who detained the animal concerned, may release the animal, after consideration of the representation of the owner of the animal and after the penalties payable in terms of the provisions of this by-law and the Public Nuisances and Nuisances resulting from the Keeping of Animal's By-law of the Hessequa Municipality, have been imposed by the Municipality on the owner of the animal, and have been paid by the owner of the animal, provided that the owner of the property shall retain the right to submit a claim to the Court for damages in relation to the incident.
 - (e) When the owner of the property on which an animal was detained, refuse to release the animal to the owner after consideration of the representation for release of the animal, the animal concerned shall within a period of forty-eight (48) hours be handed over to an authorized official or the Pound master to be removed to a pound, provided that the authorized official or the Pound master may only release such animal when such release comply to the provisions of section 20 of this by-law.
 - (f) The owner of the property shall be entitled to refer any dispute in relation to the impoundment of an animal or a claim for damages suffered as a result of the incident, to a Court within a forty-eight (48) hour period for settlement, in which case an order for the impoundment of the animal may be issued, together with an order for costs and damages, which the Court deems fair and reasonable.
- (2) Any person may request an authorized official, or an authorized official may at his or her discretion decide, to detain or impound, as applicable, an animal which is found grazing unauthorized or at large or straying unattended in or on any public place or public road.
 - (3) Any animal found at large, grazing or straying unattended upon any public road, municipal street, road reserve, alley or residential area including informal settlements which is a danger for road traffic and / or vehicles and the community, or disease carrying animal or unwanted animal found in any residential area shall be detained for impounding by—
 - (a) a member of the South African Police Services;
 - (b) a member of the South African National Defence Force;
 - (c) a member of the Provincial Traffic;
 - (d) a member of any animal protection organization; or
 - (e) an authorized municipal official.
 - (4) The owner of any property through or alongside which a public road passes or which abuts a public road, may if a valid reason exists for it, request an authorized official to detain and remove any animal for impoundment, when an animal is found at large, grazing or straying unattended upon the public road concerned.
 - (5) A person may not keep an animal, detained for any purpose, or for purpose of impounding the animal in terms of in Section 4(1), 4(2), 4(3) and 4(4) of this bylaw, for a period longer than six (6) hours without supplying such animal with adequate food and water.

- (6) Any person who has detained an animal for any purpose, or for purpose of impounding the animal, shall comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1 of this by-law.

7. Destruction of dangerous and injured animals and animals with contagious diseases

- (1) Whenever a Pound master is of the opinion that an impounded animal is so diseased or so severely injured or in such a poor physical condition or a danger to people or other animals in the pound, that it ought to be destroyed, the Pound master or authorised official shall request a veterinary surgeon to examine the animal concerned, to determine in collaboration with the Pound master the necessity for the humane destruction of the animal, on condition that before such animal is destroyed—
- (a) a written notice be served on the owner of the animal, informing him or her of the intention to destroy the animal concerned and the reasons for the intended action, when the particulars of such an owner is known and / or when ownership can be determined by means of an identification mark on the animal or a microchip affixed to the animal;
 - (b) when it is impractical or impossible to inform the owner of the animal concerned of the intended action, a verbal notification or any other practical method of notification, shall be considered as sufficient; and
 - (c) when an emergency situation exists, and it is impractical or impossible to give the owner of an animal concerned any form of notice of the intended action to destroy an animal, a veterinary surgeon may authorize the humane destruction of the animal concerned, on condition that the owner of such animal, be notified as soon as possible about the destruction of the animal and the reasons for the action.
- (2) When any animal or animals suffering from a contagious Disease as contemplated in the Animal Diseases Act, 1984 ([Act No 35 of 1984](#)), as amended, is impounded at a pound or becomes Infected while impounded in a pound—
- (a) such animal or animals shall be kept separate from other impounded animals, as long as it is needed, if the animal is not immediately destroyed;
 - (b) such animal or animals shall be isolated from other impounded animals and the presence of the infected animal or animals shall be reported to the nearest State Veterinarian; and
 - (c) the owner or owners of the animal or animals shall immediately be notified in writing of the impoundment of the infected animal or animals and the actions taken to curtail the infectious disease, where the particulars of the owner or owners are known and / or can be determined by the Pound master.

8. Care of impounded animals

- (1) The pound master or authorised person—
- (a) is responsible for the proper care of all impounded animals;
 - (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
 - (c) is liable to the owner of an impounded animal for any damage caused by his or her willful or negligent acts or omissions.
- (2) If the pound master or authorised official is of the opinion that an impounded animal is dangerous vicious, permanently disabled or terminally ill or injured or in such a physical state that it should be destroyed, he or she, must inform a veterinarian and or police official and request him / her to act in terms of section 5 of the Animal Protection Act, 1962.

- (3) The pound master or authorised official must immediately notify the owner in writing of the destruction and disposal of the animal.

9. Information that shall be provided to the Pound Master

A person who send or take animals to a pound, shall provide the Pound master in writing with the following information—

- (a) the number and description of the animal or animals to be impounded;
- (b) the property or land upon which the animal or animals were found trespassing;
- (c) the distance in kilometres, by the shortest and most practical road route, between the place where the animal or animals were seized and the pound;
- (c) where an animal or animals have been detained on private property, proof of the required written notice of removal to the owner of the animals concerned and other processes as contemplated in [section 6\(1\)](#) of this by-law, as applicable;
- (e) where the owner of the animal or animals which have been seized on a private property, could not be traced, an affidavit stating that the identity of the owner of the animal and / or animals is unknown and that a reasonable attempt has been made by the owner of the property to identify the owner of the animal or animals; and
- (f) the condition of the animal impounded and the circumstances under which an animal has been impounded.

10. Acceptance of animals at pound to be impounded

The pound master or authorised official may not unreasonably refuse to accept an animal for impounding subject to the provisions of [section 7](#) of this by-law.

11. Receipt for impounded animals

The Pound master or authorised official shall provide every person who left an animal or animals in the care of the Pound master or authorised official with a written receipt, and the receipt shall indicate the number and description of the animals impounded and the particulars of the person leaving the animal for impoundment.

12. The provision of paddocks and/or cages in a pound

The Municipality shall for purpose of a pound, provide and properly maintain separate paddocks and / or cages, free from all infectious diseases, for—

- (a) ostriches and equine;
- (b) bovine;
- (c) sheep, goats and pigs;
- (d) dogs;
- (e) cats; and
- (f) any other type of animal, as determined from time to time, on condition that the Municipality may grant permission to the Pound master or authorised official to provide and maintain less paddocks and / or cages for any pound in the area of jurisdiction of the Municipality.

13. Compulsory pound register

- (1) Every Pound master or authorised official shall keep a pound register, containing the following information—
 - (a) the date when every animal was impounded and the reasons for the impoundment of the animal concerned;
 - (b) the number and description of each animal impounded;
 - (c) the name and address of the person who impounded an animal, and the name and address of the owner or presumed owner of an animal, if the information is known to the Pound master or authorised official;
 - (d) the date and particulars of the release and / or sale of impounded animals;
 - (e) the fees, tariffs and costs paid in cases where animals have been released and the receipts numbers for each individual payment received; and
 - (f) any other matter determined by the Municipality to be recorded.
- (2) The entries referred to in Sections 13(1)(a), 13(3)(1)(b) and 13(1)(c) of this by-law shall be done when an animal is impounded, and the entries referred to in Sections 13(1)(d), and 13(1)(e) of this by-law, shall be entered into the pound register when the information is obtained by the Pound Keeper, provided that no entry shall be done when a dispute exist with regard to the impoundment of an animal.
- (3) When an animal die, is stolen or is injured while impounded, the Pound master or authorised official shall enter a description of such animal in the pound register, and the reasons for the death, injury or theft of the animal concerned.

14. Notices to owners of impounded animals

- (1) When the particulars of an owner of an impounded animal are known to the Pound master or authorised official or can be determined by means of an identification mark on the animal or a microchip affixed to the animal, the Pound master shall notify the owner of the animal concerned immediately that the animal has been impounded.
- (2) When the impounded animal has an identification mark, as required by the Animal Identification Act, 2002 ([Act No. 6 of 2002](#)), as amended, the Pound master or authorised official shall follow the procedures for the confirmation of ownership, as contemplated in Section 14 of the Regulations for Animal Identification, as amended, and promulgated in terms of GN R1683 of 21 November 2003.
- (3) When the details of the owner of an animal are unknown to the Pound master or authorised official and/ or cannot be determined, the Pound master or authorised official shall on receipt of the animal at the pound report the impoundment of the animal concerned at the nearest office of the South African Police Service, and post a notice of the impoundment of the animal on a notice board in the immediate vicinity where the animal was seized.

15. Impounded animals that die or are stolen or injured

When an impounded animal is injured or dies or is stolen, the Pound master or authorised official shall –

- (a) record the cause of death or injury or theft in the pound register as referred to in section 13 of this by-law;
- (b) notify the owner of the animal in writing of the injury, death or theft of the animal concerned, where the particulars are known to or obtainable by to the Pound master or authorised official; and
- (c) in the case of the theft of an animal from the pound, report the theft to the nearest office of the South African Police Service.

16. Inspection of by-law

The Pound master or authorised official shall ensure that a copy of this by-law is available for inspection at all times at a pound.

17. Fees, tariffs and costs payable

- (1) The Municipality shall annually determine fees and tariffs in terms of the Tariff By-law of the Hessequa Municipality, for the keeping, transport and / or care of impounded animals, and may levy different fees and tariffs for different types of animals.
- (2) The Pound master or authorised official shall—
 - (a) charge the owner of an impounded animal the fees and tariffs as determined by the Municipality annually; and
 - (b) recover the costs for any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of the Animal Diseases Act, 1984 ([Act No 35 of 1984](#)), as amended, from the owner of an impounded animal.

18. Payments

- (1) The tariffs and fees that are determined in terms of [Section 17\(1\)](#) of this by-law, and all other costs incurred, shall be paid to the Municipality by the owners of the animals that have been impounded and the Municipality shall issue a receipt for all monies received; and
- (2) The owner of an animal shall supply the Pound master or authorised official with a valid receipt, before an impounded animal may be released.
- (3) The animals which have been impounded, may be kept by the Municipality as surety for the payment of the applicable pound fees and tariffs, and any other costs incurred by the Municipality in relation to the impounding of an animal, provided that when the value of the impounded animals are in excess of the total amount owed for fees, tariffs and costs, and when the owner of an animals is unable to pay the amount owed, the Pound master or authorised official may only retain the number of animals that are sufficient to cover the amount owed, and shall release the remainder of the animals to the owner concerned.
- (4) A Pound master or authorised official who unlawfully retain animals after the required payments for the release of animals has been received or for purpose of surety for unpaid amounts, as contemplated in [Section 18\(1\)](#) and [18\(3\)](#) of this by- law, shall be liable towards the owner and / or owners of the animals for any damage caused as result of the retention of the animals.
- (5) The fees, tariffs and costs paid in terms of this by-law, shall be deposited in terms of the instructions and procedures dictated by the Municipality, as income of the Municipality.
- (6) No pound master or authorised official may release an animal impounded in terms of the provisions of this by-law, without the required fees, tariffs and costs being paid.

19. Inspection of pound register

The pound register of a pound shall be kept at the pound or any other designated place, and shall be available free of charge for inspection at all reasonable times, by any authorized official of the Municipality, any veterinary surgeon, any livestock inspector, any member of the South African Police Service or any member of the public.

20. Release of impounded animal

- (1) The Pound master or authorised official shall immediately release an impounded animal, subject to the provisions of [section 18\(2\)](#) of this by-law and give the owner a receipt of release, provided that the owner—
 - (a) provides proof of ownership of such animal; and
 - (b) pays the fees, tariffs and costs as contemplated in [section 17](#) of this by-law and provide the Pound master or authorised official with a receipt of such payment.
- (2) The Pound master or authorised official shall provide to the owner of an impounded animal a calculation of costs, when the particulars of the owner of an animal are known to the Pound master or authorised official, which shall include—
 - (a) the tariffs, fees and costs due in terms of this by-law, for the impoundment of an animal or animals;
 - (b) the amount of any damages that the owner of the land on which the impounded animal or animals trespassed, may have suffered; and
 - (c) all estimated costs associated with the publication of notices and the auctioning of the animal or animals, as applicable.
- (3) When an impounded animal is an animal that is required to bear an identification mark as set out in the Animal Identification Act, 2002 ([Act No 6 of 2002](#)), as amended, and if such animal does not display such mark, the Municipality shall report the matter to the South African Police Services and shall refuse the release of such animal upon receipt of a written instruction by the South African Police Services that the animal should remain impounded.
- (4) When the owner of an impounded animal is unable to pay the fees, tariffs or costs as contemplated in [section 17](#) of this by-law, the Pound master or authorised official may retain such animal until all outstanding fees, tariffs or costs as may be due and payable to the Municipality has been paid or otherwise recovered.
- (5) All risks attached to ownership of an animal shall pass to the person who provided proof of ownership, as soon as the Pound master or authorised official can confirm that sufficient proof of ownership has been provided.

21. Sale of impounded animals

- (1) The Pound master or authorised official shall—
 - (a) whenever any impounded animal has not been released on payment of the applicable fees, tariffs and costs, as contemplated in [section 17\(2\) \(a\)](#), [section 17\(2\) \(b\)](#) and [section 24\(2\)](#) of this by-law by its owner, within seven (7) days from the date of its impoundment, or when the owner of an animal cannot be traced, apply to the Court to sell such animal to recover costs; and
 - (b) in the application contemplated in [section 21\(1\)\(a\)](#) of this by-law, submit to the Court evidence, when the particulars of the owner of an animal are known to the Pound master or authorised official, that a calculation of costs as contemplated in [Section 24\(2\)](#) of this by-law, has been provided to the owner.
- (2) An application to the Court to sell an animal in terms of the provisions of this bylaw, shall comply to the procedures contained in Rule 55 of the Magistrate's Court Act, 1944 ([Act No 32 of 1944](#)), as amended, on condition that the application concerned may be brought ex parte, when the Municipality can provide proof that in spite of all reasonable efforts, the owner of the involved animal could not be found.

- (3) When the Court is satisfied that the provision of this by-law with regard to the impoundment of the animal concerned, has been complied with, the Court may order the sale of the involved animal per auction, as provided for in this by-law.
- (4) The Court shall, irrespective whether the calculation of costs as contemplated in Section 24(1) and (2) of this by-law, is in dispute or not—
 - (a) immediately investigate the matter;
 - (b) where the particulars of the owner of the animal or animals concerned are known, determine whether the Pound master or authorised official has given the owner concerned proper notice of the costs associated with the impoundment and release; and
 - (c) make an order as it considers just and equitable, including an order—
 - (i) as to costs; and
 - (ii) on the process to be followed by the Pound master or authorised official in the sale of the animal concerned.
- (5) At such authorized auctions of impounded animals—
 - (a) only animals ordered by the Court to be sold, may be offered for sale;
 - (b) all animals shall be sold one by one, except for sheep and goats;
 - (c) sheep and goats shall be offered for sale in lots of maximum ten (10), and sheep and goats with different identification marks shall under no circumstance be sold together in the same lot;
 - (d) animals shall be sold for cash;
 - (e) the total proceeds of the fees, tariffs and costs contemplated in [Section 17](#) of this by-law, shall be deposited in the municipal revenue fund, on provision that when an animal is sold for a higher amount at an auction—
 - (i) as the pound fees and tariffs payable and the costs of the impounding of an animal; and
 - (ii) as any compensation for damages as ordered by the Court in terms of [Section 6\(1\)\(f\)](#) of this by-law, the surplus of the amount received shall be paid out to the owner of the animal or animals concerned within thirty (30) days after the auction, except when the identity of such owner cannot be determined;
 - (f) the Municipality may determine a reserve price for any animal to be sold; and
 - (g) any animal may be withdrawn from the auction by the auctioneer, if the highest bid received is considered not to be fair or reasonable, irrespective whether a reserve price has been determined by the Municipality or not.
- (6) The auction of impounded animals shall—
 - (a) be attended to by the Pound master or a person properly authorized thereto by the Municipality; and
 - (b) begin at a time and be held on a day as determined by the Pound master or authorised official in terms of [Section 23\(1\) \(a\)](#) of this by-law.
- (7) The Pound master or any municipal official or any other person designated to handle an auction, or a close associate or a family member or a fellow employee or a municipal employee, or a family member of any of aforestated persons, may not purchase an animal offered for sale at an auction as contemplated in [section 21\(6\)](#) of this by-law, either personally or through any other person, directly or indirectly.

- (8) The owner of an animal shall remain liable for any costs to the Municipality, not covered by the proceeds from the sale of an animal or animals.

22. Procedures to be followed in application to Court

An application to Court for—

- (a) The impoundment of an animal in terms of this by-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
- (b) the sale of an impounded animal in terms of this by-law, must comply with the procedure contemplated in Section 66 of the Magistrate Court Act, 1944 ([Act No. 32 of 1944](#)), and Rule 41 of the Rules of Court made by the Rules of Board for Courts of Law in terms of Section 6 of the Rules for Courts Act, 1985 ([Act No. 107 of 1985](#)), and published under the Government Notice No. R. 1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

23. Notice of an auction

- (1) The Pound master or authorised official shall—
 - (a) when an order has been granted by the Court for the sale of an impounded animal or animals, give notice that such animal or animals shall be sold at a public auction at a specified date, time and place;
 - (b) provide particulars in the notice with regard to the specie, breed, identification marks and distinguishing marks of the animal or animals to be sold;
 - (c) provide such notice to the Municipality, and post a notice on the official notice board of the Municipality, and at or near a pound, until the day of the auction;
 - (d) publish a notice in a registered newspaper that is distributed in the area of jurisdiction of the Municipality, that an animal and / or animals shall be sold;
- (2) The costs of a notice as contemplated in [Section 23\(1\)](#) of this by-law, shall be recovered from the owner of the impounded animal, and such costs shall be considered to form part of the costs that shall be recovered from the proceeds of the sale of the animal concerned.

24. Animals unsuccessfully offered for sale

- (1) In the event that any animal is not sold—
 - (a) the Pound master or authorised official shall immediately advise the Court and the owner, where the particulars of such owner are known, of the situation and the estimated value of the animal concerned, and the fees, tariff and costs incurred with regard to the impounding of the animal concerned; and
 - (b) the Court may, based on the information provided, make any such order as it may deem just and equitable to address the situation, including the humane destruction of the animal concerned.
- (2) When a dog or cat or any similar animal, which normally cannot be sold at an auction, are not claimed within seven (7) days after a notice, as contemplated in [Section 14](#) of this by-law, has been served on the owner of such animal informing the owner that the animal has been impounded, or within seven (7) days after a notice has been published in a local newspaper with regard to the impounding of the animal concerned, when the particulars of the owner of the animal concerned are unknown, such animal may be destroyed. The costs incurred for the care and destruction of such animal, may be recovered from the owner of the animal, if the particulars of the owner are known.

- (3) When an animal which is normally sold at an auction, is not sold, the Municipality may:
 - (a) present the animal or animals for sale to the local abattoirs;
 - (b) arrange a further auction in the prescribed manner, including notices and advertisements,
 - (c) or may approach the Court for an order for the humane destruction of the animal concerned, in terms of the provisions of Rule 55 of the Magistrate's Court Act, 1944 ([Act No 32 of 1944](#)), as amended, on condition that the application concerned may be brought ex parte, when the Municipality can provide proof that in spite of all reasonable efforts, the owner of the involved animal could not be found.

25. Submission of pound register after auctions

The Pound master or authorised official shall within fourteen (14) days after the date of each auction submit to the Municipality a copy of all entries in the pound register, made since the date of the preceding submission of the pound register to the Municipality, and the Municipality must properly keep such copies for inspection by any person desirous to see the records.

26. Inspection of pound register at a place of auction

Whenever an auction of impounded animals is to take place, the Pound master or a person authorized to conduct the auction, shall make the pound register available for inspection free of charge to any person desirous to see the pound register.

27. Arrangements for service delivery agreements

- (1) The Municipality may enter into a service delivery agreement with another municipality or any other entity, for optimal service delivery in terms of this by-law, and any other municipalities or entity shall be allowed per agreement, to utilize a pound or similar facility of Hessequa Municipality.
- (2) The fees and tariffs payable for services rendered as contemplated in [Section 27\(1\)](#) of this by-law, shall be determined by the service level agreement involved.

28. Exemptions

The Municipality, the Pound master or any authorized official shall not be liable for the death or theft of, or injury to any animal, as a result of the seizure, transport, impoundment or release of any such animal during the impounding process or as a result of impoundment.

29. Offences and penalties

A person who—

- (a) releases an animal that was lawfully detained for safe-keeping or for the purpose of being impounded or which has been lawfully impounded;
- (b) unlawfully seizes an animal for the purpose of impounding it;
- (c) unlawfully impounds an animal;
- (d) intervenes with the Pound master or authorised official in the execution of his or her duties;
- (e) releases any animal from his property onto a public road or municipal street or road reserve or alley;
- (f) allows an animal to unlawfully roam around or graze on or in a public place;
- (g) unlawfully opens gates, cut fences or wilfully release animals;

- (h) ignores an instruction of an authorized official or an instruction on a notice board;
- (i) who contravenes or fails to comply with the provisions of this by-law, or fails to comply with a notice served in terms of this by-law, is guilty of an offence and is liable on conviction, for—
 - (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
 - (ii) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
 - (iii) any further amount as an order of court for costs, equal to any costs and expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

30. Maltreatment of animals

No person may chase or tease or maltreat any animal found trespassing and / or seized for impoundment.

31. Appeals

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 ([Act No 32 of 2000](#)), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty-one (21) days of the date of the notification of the decision.

32. Conflict between legislation

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

33. Service of notices and other documents

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law, is deemed to be duly issued when a duly delegated official of the Municipality has signed it.
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served—
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in Sections [33\(1\) \(a\)](#), [30\(1\) \(b\)](#) or [33\(1\) \(c\)](#) of this by-law;
 - (e) if that person's address and agent or representative in the country of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.

- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand, or other document, to describe the person in the notice, instruction, letter of demand or other document, as the owner, occupier, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

34. Schedules 1 and 2 form part of the by-law

Schedules 1 and 2 of this by-law, form part of this by-law for all practical purposes.

35. Repeal of existing by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

Provincial Notice Number	Title	Scope of repeal
P. K 6588 dated 19/12/2008	Impoundment of Animals	In whole
P. K 6970 dated 23/03/2012	By-Law regarding Impoundment of Animals	In whole

36. Short title

This by-law is called the Impoundment of Animals By-law of Hessequa Municipality.

37. Operative date

This by-law shall take effect on the date of publication.

Schedule 1

Code of good practice on the handling, transportation and care of impounded animals

Part I – Paddock requirements

1. For purpose of this schedule kraal, paddock and cage have a similar meaning, and any reference to a kraal is also a reference to a paddock or cage or similar structure, where animals can be kept.
2. Different species of animals shall be kept in separate paddocks.
3. Animals may not be penned in overcrowded paddocks, and the space provided in any paddock shall be sufficient to permit all animals to lie down at the same time and the space provided shall not be less than one point five (1.5) square meters floor area available for each animal.
4. Fractious animals may not be kept with other animals.

5. Young, weaned or juvenile animals, may not be penned together with adult animals in a paddock, except in the case of a mother and her offspring.
6. Provision shall be made in paddocks for—
 - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which shall allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
 - (b) water troughs which can provided an adequate supply of suitable fresh water at all times;
 - (c) sufficient facilities for the adequate cleaning of paddocks; and
 - (d) facilities for the safe handling of animals.
7.
 - (a) Paddocks shall at all times be maintained in a good state of repair.
 - (b) Sharp points of wire ends, broken boards, jagged ends and protruding hinges or bolts, which could cause injury to animals shall be removed or otherwise suitably covered.
8. The floor of each paddock, including the off-loading banks, races, and passages of the off-loading facility at a pound, shall be constructed in such a way as to provide for non-slip surfaces that can be efficiently and suitably cleaned, and kept dry and in a proper condition for the holding and / or handling of animals.

Part II – Handling of animals

9. Animals shall always be handled humanely, and with patience and tolerance
10. The following shall be kept in mind when handling animals—
 - (a) animals respond more readily to being driven, when the person driving them stands behind the animal, but within the field of vision of the animal; and
 - (b) animals in a herd respond more readily to being driven, than alone.
11. Animals may not be dragged by their legs, or be carried by their heads, ears or tails.
12. Young calves shall be carried if they cannot walk themselves with ease, by lifting the calf around the chest and hindquarters. Alternatively, they shall be guided with one hand on the hindquarters and the other near the shoulder or neck, and be steered in the required direction at an appropriate and comfortable pace.
13. Only sticks with canvas or belting flaps may be used when driving animals, and it is preferable to strike the ground behind the animals, rather than to hit the animals themselves.
14. Electric prodders, sticks or goads may not be used on young animals.
15. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

Part III – Movement of animals

16. Animals driven on the hoof shall always be under proper and competent supervision.
17. Animals shall be moved along in a calm manner, at a gait which is relaxed, comfortable and natural for such animal, and the gait shall never be faster than that of the slowest animal in the herd or flock.
18. Animals may not be driven continuously for periods in excess of ten (10) hours, without being given rest of at least one (1) hour. Sufficient and suitable fresh water shall be made available to all the animals during the drive.

19. No animal on the hoof may be moved in excess of the following distances—
 - (a) during a journey of not more than one day's duration—
 - (i) twenty (20) kilometres for sheep and goats; and
 - (ii) thirty (30) kilometres for cattle; and
 - (b) during a journey of more than one day's duration—
 - (i) twenty (20) kilometres during the first day and fifteen (15) kilometres during each subsequent day for sheep and goats; and
 - (ii) twenty-five (25) kilometres during the first day and twenty (20) kilometres during each subsequent day for cattle.
20. On reaching their night camp or final destination, animals shall immediately be watered and fed with sufficient food of a quality and of a type compatible with each species concerned.
21. Animals may not be moved in the dark.
22. No sick, injured or disabled animal may be moved on the hoof.

Part IV – Vehicles used in transporting animals

23. Vehicles and all trailers used in the transport of hooved animals shall be suitable for the transport of such animals and in a roadworthy condition.
24. All vehicles and trailers referred to in paragraph 23 shall have—
 - (a) a suitable non-slip floor, which may not impede the cleaning of the floor of the vehicle, and which may be fastened with hinged or removable battens or steel grids;
 - (b) adequate ventilation and light whilst in motion, as well as when stationary, and no vehicle shall be totally enclosed;
 - (c) adequate protection against exhaust fumes, as exposure to exhaust fumes could interfere with the respiration of animals or cause distress;
 - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle, provided that the sides and / or partitions—
 - (i) the sides and partitions, when used in a vehicle to separate animals transported therein, shall be of a height not lower than the shoulder joint of the largest animal being transported;
 - (ii) in the case of cattle other than calves, the minimum height shall be one thousand eight hundred (1 800) millimetres; and
 - (iii) the minimum height shall be seven hundred and fifty (750) millimetres in the case of any smaller animals;
 - (e) in multi-tier vehicles, heights between decks shall be adequate, and in case of sheep and pigs not less than one thousand (1 000) millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for free flow of air above the animals;
 - (f) floors that are solid and impervious;
 - (g) openings for the loading and off-loading of animals at the rear of the vehicle that are the full width of the vehicle, or if at the side of a vehicles, with a width not less than two thousand four hundred (2 400) millimetres; and

- (h) gates, with or without partitions—
 - (i) of a design and construction strong enough and suitable for the intended conveyance of the consignment of animals; and
 - (ii) that are able well-secured, and can open and close freely.
25. The amount of animals packed into any given space to be transported, shall be as such, to ensure the safety and comfort of the animals during transport, and the recommended floor space to be provided per animal is—
- (a) one point four (1.4) square meters surface area per large animal; and
 - (b) zero point five (0.5) square meters surface area per small animal.

Part V – Watering and feeding of live animals prior to loading

26. Animals shall be provided with sufficient and suitable food and fresh water until the commencement of the journey.

Part VI – Loading and off-loading procedures

27. The loading and off-loading of animals into or out of a vehicle shall be done as quietly and calmly as possible, with patience and tolerance, and without harassing, terrifying, bruising, and injuring the animals, or suffering and undue stress to the animals.
28. No animal may be loaded or off-loaded by lifting of the animal by the head, fleece, skin, ears, tails, horns or legs.
29. No animals may be loaded or off-loaded otherwise than—
- (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than twenty-five (25) degrees; or
 - (b) at a loading bank, equal to the height of the floor of the vehicle or, at off-loading, not more than three hundred and ten (310) millimetres below the level of the off-loading vehicle and with an incline not exceeding twenty-five (25) degrees.
30. Where a vehicle is equipped with an on-board removable loading ramp it shall have a non-slip surface and be of such a sufficient length when lowered, that the inclination is not steeper than twenty-five (25) degrees, with the distance from the ground to the heel of the ramp not exceeding one hundred and twenty (120) millimetres.
31. Loading ramps shall be correctly adjusted for each loading or off-loading, to the exact height of the floor of a vehicle.
32. Journeys must commence as soon as possible after the animals have been loaded and the animals shall be promptly off-loaded upon arrival at the destination.
33. Unless adequate provision has been made for the effective separation of different species of animals, different species of animals may not be loaded and transported in the same vehicle.
35. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle, unless adequate provision has been made for the effective separation of such animals.
36. Adult horned cattle may not be transported with polled cattle and they shall always be penned separately.
37. When there is reason to believe that an animal is likely to give birth in the course of a planned journey, such an animal may not be loaded onto a vehicle to be transported.

38. In the case of an animal giving birth during transport, the necessary precautionary measures shall be implemented, to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
39. In the event of—
- (a) a breakdown of the transport vehicle;
 - (b) an accident or collision in which the transport vehicle is involved; or
 - (c) injury to, or death of, any animal in transit, the cartage contractor shall immediately report the details to, and request assistance from—
 - (i) in the case of paragraph (a), a breakdown service;
 - (ii) in the case of paragraph (b), the South African Police Service and the involved traffic authorities; or
 - (iii) in the case of paragraph (c), a veterinarian surgeon.
39. Where the transport of any animal may cause injury to itself or any other animal, such animal shall be restrained in such a manner, as to prevent any such injury.
40. No animals may be restraint for more than four (4) hours in any twenty-four (24) hour period.
41. No wire or bailing twine may be used for tying the legs or feet of an animal.
42. To avoid strangulation or a neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope shall be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

Schedule 2

Pound register information

A pound register shall at least, contain the following information -

- (a) Name of the pound.
- (b) The date of receipt of the animal.
- (c) The number and description of animals impounded.
- (d) The brands or markings on animals.
- (e) The ear tag number assigned by the Pound Keeper to each animal impounded.
- (f) Name and address of person who seized the animal.
- (g) Name and address of the owner of the land where the animal was seized.
- (h) Name and address of owner of the animal.
- (i) The reason why the animal has been impounded.
- (j) Address or description of place where animal was found.
- (k) Distance between the place where the animal was seized and the pound.
- (l) Particulars of the damage caused by the animal.
- (m) Transport fees payable.
- (n) Details of the destruction or disposal of an animal.

- (o) Cause of death, theft of or injury to an impounded animal.
- (p) Description and amount of pound fees payable.
- (q) Damages awarded by the Court.
- (r) Date of release of an animal.
- (s) Date of sale of an animal.
- (t) Proceeds of the sale of an animal.
- (u) Name and address of purchaser of an animal.
- (v) Excess amount of the proceeds of the sale of an animal, if any, paid to the owner of the animal.
- (w) Receipt number of monies received.
- (x) Details of the court order, with regard to the future disposal of the animal concerned, if not sold at an auction.