

# KWA SANI LOCAL MUNICIPALITY

The Council of Kwa Sani Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government : Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-laws:

## BY-LAWS RELATING TO DOGS

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#### **1. DEFINITIONS**

- (1) In these By-laws, unless the context otherwise indicates –

"Council" means the Kwa Sani Local Municipality and its successors in law, 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 By-laws;

"dog" means both a male and a female dog;

"driving fees" means the fees payable when a dog has been seized and transported to the pound by an authorised officer of the Council in terms of these By-laws;

"owner" in relation to a dog includes any person who keeps or has in his possession or charge a dog, excluding:

- (a) a person contemplated in paragraphs (2)(c) and (d) of item 18 of Schedule 1 to the Licences Ordinance, 1974;
- (b) a veterinary surgeon in respect of a dog left in his care for treatment;
- (c) a society for the prevention of cruelty to and the advancement of the welfare of animals registered as a welfare organisation in terms of the National Welfare Act, 1965;

"poundmaster" means a person in charge of a pound;

"tax" means the tax as determined by the Council in the appropriate resolution from time to time;

"tax receipt" means a receipt issued by the Council as proof that tax has been paid;

"year" means a period of twelve (12) months ending 24h00 on 31 December.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

## 2. LIABILITY FOR TAX

- (1) The owner shall pay the tax as determined by Council resolution in respect of each dog which is six (6) months old or older.
- (2) No owner may keep a dog which is six (6) months old or older within the Municipality unless such dog has been registered at the municipal offices and a tax receipt for such dog has been obtained.
- (3) In any legal proceedings instituted in terms of these By-laws against any person for not paying the tax prescribed in terms of subsection (1), such dog shall be deemed to be six (6) months old or older unless the contrary is proved.

## 3. PERSON LIABLE FOR TAX

For the purposes of these By-laws any person who keeps a dog or within whose premises any dog is found or seen, shall be deemed to be the owner of such dog until the contrary shall have been proved.

## 4. EXEMPTION FROM PAYMENT OF TAX

- (1) The following owners shall be exempted from the payment of tax as contemplated in section 2 –
  - (a) any person residing outside the Municipality –
    - (i) who brings a dog into the Municipality for a period not exceeding thirty (30) days;
    - (ii) who brings a dog into the Municipality for treatment or boarding at a veterinary surgeon or a kennel: Provided that such dog shall be removed from the Municipality immediately after such treatment or boarding; Provided further that the owner of such dog shall be in possession of a licence issued by the authority within whose jurisdiction such dog is normally kept;
  - (b) a blind person using a dog as a guide or lead dog.

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**5. APPLICATION TO PAY TAX**

- (1) Every person applying for a dog tax receipt shall furnish his full name and address, as well as particulars with regard to the breed and sex of the dog.
- (2) The tax payable in terms of section 2 is levied annually and is payable –
  - (a) on or before 31 January of each year in respect of each dog which has attained the age as determined in section 2(1); or
  - (b) within thirty (30) days after attaining such age in respect of each dog attaining such age after 31 January: Provided that in any case where a dog attains the age of six (6) months after 30 June of the year concerned, only half the tax as prescribed shall be payable.

**6. DUPLICATE TAX RECEIPT**

Any person may obtain a duplicate of a tax receipt issued in terms of section 2 upon payment of the relevant charges as prescribed by Council resolution.

**7. TRANSFER OF TAX RECEIPT**

Where the ownership in a dog is transferred to someone else, the transferee shall, after payment to the Council of the prescribed charges cause such transfer, together with his name and address, to be endorsed on the tax receipt or on the duplicate thereof.

**8. TAX RECEIPT TO BE PRODUCED FOR INSPECTION**

The owner shall produce the tax receipt for inspection to any authorised officer when reasonably requested to do so.

**9. IMPOUNDING OF DOGS**

- (1) Any authorised officer may seize and impound any dog -
    - (a) which he reasonably believes to be ownerless; or
    - (b) in respect of which he reasonably believes that the tax due in terms of these By-laws has not been paid;
  - (2) Any person may seize and impound any dog found trespassing on property of which he is the owner or occupier and -
    - (a) which he reasonably believes to be ownerless; or
    - (b) in respect of which he reasonably believes that the tax due in terms of these By-laws has not been paid.
  - (3) Notwithstanding the provisions of subsections (1) and (2) no person shall seize or impound –
    - (a) any dog if he reasonably believes that such dog is exempted from tax in terms of section 4;
    - (b) any bitch rearing unweaned young, unless such bitch and unweaned young are impounded together; or
    - (c) any diseased dog in respect of which the provisions of section 10 of the Animal Diseases and Parasites Act, 1956, apply.
  - (4) Any person who has seized a dog in terms of this section shall ensure that such dog is not ill-treated in any manner.
  - (5) Any person who has seized a dog in terms of this section shall forthwith cause such dog to be impounded.
  - (6) No person shall set free any dog that has been seized, is being kept in custody or has been impounded in terms of this section.
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- (7) Subject to any provisions to the contrary in these By-laws contained, any dog impounded shall be kept in the pound until the person claiming such dog produces to the poundmaster a tax receipt in respect thereof, and shall have paid to the poundmaster the prescribed charges.
- (8) Where the name and address of a person appears on the collar of any dog impounded, the poundmaster shall forthwith give notice to such person that such dog has been impounded. A written notice addressed to the address appearing on the collar shall be deemed to be sufficient notice.

**10. UNCLAIMED DOGS MAY BE SOLD OR DESTROYED**

- (1) Where an impounded dog is not claimed by any person entitled thereto within five (5) days after it was impounded, an authorised officer may cause the dog to be sold or destroyed.
- (2) If the poundmaster is of the opinion that an impounded dog is so ill, or seriously injured or in such a physical condition that it would be inhuman to keep it alive, he may have it destroyed.

**11. DOG'S COLLAR NOT TO BE UNLAWFULLY USED OR REMOVED**

- (1) The owner of every dog aged six (6) months or older, shall provide it with a collar bearing a clear impression of the name and address of such owner.
- (2) No person shall unlawfully use or destroy the collar of a dog or remove it from the neck of the dog.

**12. CERTAIN DOGS NOT ALLOWED IN PUBLIC PLACES**

- (1) Subject to provisions to the contrary in these By-laws or any other law, no person shall bring or allow in a public place any dog that -
  - (a) is wild, dangerous or ferocious; or
  - (b) is in the habit of charging or chasing people, vehicles, animals, fowls or birds outside the premises where such dog is kept; or
  - (c) causes damage to any person or property; or
  - (d) is a bitch on heat.
- (2) Any authorised officer may impound a dog such as that described in subsection (1).

**13. DOGS NOT TO BE INCITED**

- (1) No person shall, without reasonable cause -
  - (a) set any dog on any person, animal or bird; or
  - (b) permit any dog under his supervision or in his custody to attack or terrify any person, animal or bird.

**14. DOGS CAUSING DISTURBANCE**

- (1) No person shall keep a dog that -
  - (a) creates a disturbance or a nuisance; or
  - (b) suffers from a contagious disease, excluding a veterinary surgeon who keeps such dog in a clinic for treatment.

**15. DESTRUCTION OF DOGS**

- (1) The Council may, subject to the provisions of section 10, order the destruction of a dog-
  - (a) where it appears that such dog is of the type described in section 12(1)(a), (b) and (c) and that the person claiming such dog is not entitled to its return in terms of section 9(7); or
  - (b) where such dog is found at large in any public place and appears to be ownerless; or

- (c) where such dog is found at large in a public place and the owner refuses or fails to pay the tax due in terms of these By-laws in respect of such dog; or
- (d) where such dog is in such a state of injury that it would, in the opinion of the Council, be humane to do so.

**16. NUMBER OF DOGS ON PREMISES**

- (1) The number of dogs, older than six (6) months, which may be kept within the Municipality shall be as follows –
  - (a) Two (2) dogs per household of which not more than one (1) may be an unsprayed bitch: Provided that a person owning a larger number of dogs than the prescribed number at the date of promulgation of these By-laws, may continue to keep such larger number of dogs but shall not replace any dog in excess of the prescribed number should one or more of the dogs die or be disposed of, unless prior written consent of the Council has been obtained for the replacement or for exceeding the prescribed number.
- (2) The Council may at the written request of an owner of an erf, grant permission for the keeping of a larger number of dogs than the prescribed number on such erf, should it be justified in the opinion of the Council.

**17. CONTROL OF DOGS IN PUBLIC PLACES**

- (1) No person shall allow any dog in a public place unless the owner or another person keeps such dog on a leash.
- (2) An authorised officer may impound any dog found wandering at large and uncontrolled in a public place.
- (3) Except in the event of a blind person being lead by a guide dog, any person in charge of a dog in a public place, shall remove any faeces left by such dog.

**18. ENTERING UPON PREMISES**

- (1) An authorised officer may for any purpose connected with the application of these By-laws –
  - (a) at any reasonable time and without notice, enter upon any premises, accompanied, if he deems it necessary, by an interpreter or other assistant with a view to –
    - (i) carrying out any examination, inspection or enquiry as he may deem necessary; or
    - (ii) exercising any other power in terms of these By-laws and he may for that purpose take any necessary appliance with him onto the premises;
  - (b) call upon the owner of a dog to render such assistance or to furnish such information, including his full name and address; as such officer may reasonably require.

**19. KENNELS**

Subject to the provisions of any other law, no person may establish, manage or keep any kennels or a pets' boarding establishment in any residential area or in any area that has been classified in terms of an approved town planning scheme for residential usage, or within 500 metres thereof.

**20. ESTABLISHMENT AND LEASE OF DOG POUND**

- (1) The Council may for the purposes of these By-laws establish a dog pound and lease such pound to any person or body on the terms and conditions deemed fit by the Council.
- (2) If a pound is leased to any person or body –
  - (a) the powers and duties set forth in sections 9, 10 and 15 shall be deemed to have been delegated to such person or body or to any authorised official in the employ of such person or body, as the case may be, and the provisions of the said sections shall *mutatis mutandis* apply;

- (b) such person or body shall accept in the pound any dog seized in terms of sections 9 or 17(2) for the purpose of impounding it and shall thereafter dispose thereof in accordance with these By-laws;
- (c) such person or body shall be entitled to any fees payable in terms of these By-laws for an impounded dog and to any amount derived from the sale of an impounded dog in terms of section 10(1).

## 21. DUTIES OF POUNDMASTER

- (1) The poundmaster –
  - (a) keeps the pound open between 08h00 and 17h00 during every day of the week;
  - (b) receives any dog brought to the pound in terms of these By-laws during the hours when the pound is open and shall, subject to the provisions of these By-laws, keep such dog in the pound: Provided that the poundmaster may refuse to receive a dog, and may release any dog if he at any time has reason to believe that such dog was not lawfully seized or impounded;
  - (c) keeps a register in which the following particulars in respect of every impounded dog are recorded:
    - (i) the name, residential address and telephone number of the person who impounded the dog;
    - (ii) the time at which and date on which, the dog was impounded;
    - (iii) the place where the dog was seized or found;
    - (iv) the date on which and the time at which the dog was seized or found;
    - (v) the reason for impounding the dog;
    - (vi) the age, breed, sex, colour markings and any injury found on it when the poundmaster received it;
    - (vii) the manner in which the dog was disposed of;
    - (viii) the amount of money obtained for the release or sale of the dog;
    - (ix) the cost of any veterinary services incurred in respect of such dog;
  - (d) ensures that all utensils used in connection with impounded dogs are at all times kept in a clean condition and in a good state of repair;
  - (e) ensures that the pound is at all times free from flies, insects, rodents and odious smells;
  - (f) ensures that every dog in the pound is properly fed and cared for;
  - (g) isolates bitches on heat;
  - (h) takes all reasonable steps to prevent fighting among dogs in the pound; and
  - (i) isolates any diseased dog, have such dog treated by a veterinary surgeon and take all possible steps to recover the costs incurred in this respect from the owner.

## 22. PENALTIES

Any person contravening any of the provisions of these By-laws shall be guilty of an offence and liable, on conviction, to a fine not exceeding Five Hundred Rand (R500.00) or in default of payment, to imprisonment for a period not exceeding three (3) months, or to both such fine and imprisonment.

## 23. REPEAL

The By-laws relating to Dogs for the Kwa Sani Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

**24. APPLICATION**

The Council may by notice in the *Provincial Gazette*, determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.