

BREED VALLEY MUNICIPALITY
IMPOUNDMENT OF ANIMALS BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Breede Valley Municipality, enacts as follows:—

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1. Definitions

In this by-law, unless the context otherwise indicates—

“**animal**” means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

“**cattle**” means bulls, cows, oxen, heifers, steers and calves;

“**goat**” means an adult male or female goat, a wether and a kid;

“**horse**” means a stallion, mare, gelding, colt, filly, donkey and mule;

“**municipality**” means the Municipality of Breede Valley established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office-bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, agent or employee;

“**occupier**” means any person in actual occupation of land or entitled as owner to occupy land;

“**owner**”, in relation to an animal, includes any person having possession, charge, custody or control of such animal;

“**pound**” means a fenced-off area consisting of one or more camps, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;

“**pound master**” means a person who may be—

- (a) a part-time or full-time employee of a municipality, or
- (b) appointed under a service delivery agreement to keep and operate a pound;

“**proprietor**” means any owner, lessee, or occupier of land;

“**sheep**” means a ram, an ewe, a wether and a lamb;

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

“**veterinary surgeon**” means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982).

2. Purpose of by-law

The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

3. Impoundment

Any person may impound an animal found abandoned upon his property or any street, road, road reserve or other public place.

4. Pound to which animals are to be sent

Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

5. Receiving of animals by pound master

- (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

6. Receipt for impounded animals

A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

7. Number of enclosures

The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for—

- (a) ostriches and horses;
- (b) cattle;
- (c) sheep, goats and pigs;
- (d) dogs; and
- (e) cats, provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

8. Destruction of dangerous or contagious animals

- (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

9. Notice of impounded animals

- (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 6 of 2002, is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police Services office.

10. Keeping of pound register

- (1) A pound master must keep a pound register with the following particulars:
 - (a) the date when, and the cause for which, all animals received by him are impounded;
 - (b) the number and description of such animals;
 - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;
 - (d) the date and particulars of the release or sale of the animals, as the case may be; and
 - (e) any other matters which he may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information, provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death or injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death or injury.

11. Inspection of and extracts from pound register

A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

12. Submission of pound register entries after pound sales

A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

13. Inspection of pound register at place of sale

Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

14. Pound master's fees

- (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the fees determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

15. Fees payable

- (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.
- (3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
- (4) If the pound master is an official of the municipality, he must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

16. Notice of sale

- (1) Every pound master must—
 - (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
 - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
 - (c) post a copy of the notice at a noticable place at the pound, there to remain until the day of the sale; and
 - (c) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality shall make good the deficiency.

17. Auctioneer

- (1) Every sale of impounded stock must—
 - (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
 - (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

18. Sale of animals

At every such sale—

- (a) no animal may be put up for sale unless impounded for at least two weeks;
- (b) all animals, except sheep and goats must be sold individually;
- (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
- (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that—
 - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
 - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
- (e) the municipality may fix a reserve price for any animal offered for sale; and
- (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

19. Illegal impounding and penalties

Any person who illegally impounds any animal commits an offence.

20. Recovery of loss in respect of impoundment of animals from area of another municipality

Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

21. Use, detention and ill-treatment of animals

No person may furiously drive or ill-treat any animal found trespassing.

22. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

23. Offences and penalties

Any person who—

- (a) contravenes or fails to comply with a provision of this by-law;
- (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
- (c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to—
 - (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
 - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

24. Revocation of 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

25. Short title and commencement

This by-law shall be known as the Impoundment of Animals By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

22 October 2008

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BREED VALLEY MUNICIPALITY**INFORMAL TRADING BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Breede Valley Municipality, enacts as follows:—

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13. Short title and commencement

1. Definitions

In this by-law, unless the context indicates otherwise, a word or an expression to which a meaning has been assigned in the Businesses Act, 1991 (Act 71 of 1991), shall have that meaning, and unless the context indicates otherwise—

“goods” means any commodities, articles, receptacles, vehicles or structures used or intended to be used for informal trading;

“informal trader” means any person who carries on the business of street vendor, pedlar or hawker and includes any employee of such a person and, for the purposes of this by-law, also includes any person who trades in a public space;

“informal trading” means the selling of any goods or the supply or offer to supply any service for reward as an informal trader in a public road or public space, but does not include the sale of newspapers only;

“informal trading committee” means a committee consisting of two representatives of the informal trading sector, two representatives of the formal trading sector, one representative of the municipality, a representative from the Ratepayers Associations in the Breede Valley municipal area (when aspects regarding Breede Valley are considered), a representative from any other area falling outside the central business area and the main access roads to the central business area (when aspects regarding such areas are considered) and co-opted advisors nominated by the different sectors and accepted by the municipality or nominated by the municipality;

“litter” means any refuse, container or other object or matter discarded or abandoned by an informal trader or his customers;

“nuisance” means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to a person or the property of others or which materially interferes with their ordinary comfort, business convenience, peace or quiet;

“officer” means —

- (a) a traffic officer appointed under section 3(1)(a) of the Road Traffic Act, 1989 (Act 29 of 1989);
- (b) a member of the South African Police Service as defined in section 1(1) of the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (d) an environmental health officer in the service of the municipality;

“property” in relation to an informal trader, means any money, goods, receptacle, vehicle or movable structure used or intended to be used in connection with the carrying on of his or her business as such;

“public road” means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“public space” means any square, park, recreation ground, sports ground, sanitary lane or open space which has —

- (a) in connection with any subdivision or layout of land into erven, lots or plots been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used without interruption by the public for a period of at least thirty years since the thirty-first day of December 1959; or
- (d) at any time been declared or rendered a public space by the municipality or another competent authority;

“sidewalk” means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“the Act” means the Businesses Act, 1991 (Act 71 of 1991) read with its Schedules;

“unit” means the space from which an informal trader may conduct his or her business and which is not greater than 3 metres in length and 2 metres in width, and

“verge” means that portion of a road, street or thoroughfare which is not the roadway.

2. Purpose of By-Law

The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and—

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in economic activities; and
- (c) taking into consideration the need to maintain a clean, healthy and safe environment, in this by-law provides mechanisms, procedures and rules to manage street trading.

3. General conduct

(1) A person carrying on the business of informal trader—

- (a) may not place his or her property on a public road or public space except for the purpose of conducting trade;
- (b) must ensure that—
 - (i) his or her property does not cover an area of a public road or public space which is greater than 3 metres x 2 metres;
 - (ii) allocation of units be addressed through consultation with the municipality and the relevant recognized structures of the informal business sector;

- (c) may not obstruct access to a fire hydrant or any other designated facility or area demarcated solely for the use of emergency vehicles and services;
- (d) may not carry on the business of informal trader on a verge contiguous to—
 - (i) a church, mosque or other place of worship; or
 - (ii) a building declared to be a national monument in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);
 except to the extent that the carrying on of such business is permitted in terms of this by-law;
- (e) may not carry on the business of informal trader on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects to it;
- (f) may not carry on the business of informal trader at a place where it substantially obstructs pedestrians in their use of a sidewalk;
- (g) may not carry on the business of informal trader at a place where it causes an obstruction to vehicular traffic;
- (h) may not carry on the business of informal trader at a place where it causes an obstruction in front of—
 - (i) an entrance to or exit from a building; or
 - (ii) a fire hydrant;
- (i) may not carry on the business of informal trader without being in possession of written proof that he or she hired, or was otherwise allocated that stand or area by the municipality in an area set aside by the municipality, after consultation with the informal trading committee, in terms of section 6A(3)(b) of the Act; and
- (j) may not carry on the business of informal trader in contravention of the terms and conditions of the lease or allocation to him or her of a unit in terms of section 6A(3) of the Act.

4. Charges

- (1) The municipality shall fix the rent charges payable to it for the letting of stands or stalls in demarcated areas under its control from where the carrying on of the business of street vendor, pedlar or hawker is permissible.

5. General restrictions

- (1) A person carrying on the business of informal trader may not—
 - (a) if such business is carried on in a public road or public space—
 - (i) overnight at the place of such business; or
 - (ii) erect a structure (other than a device which operates in the same manner as, and is shaped like an umbrella) for the purpose of providing shelter;
 - (b) carry on such business in a manner as to—
 - (i) damage or deface the surface of any public road or any public space or any public or private property;
 - (ii) create a traffic hazard; or
 - (iii) create a nuisance;
 - (c) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any litter on any land or premises or in any public road or public space other than in a refuse receptable approved or provided by the municipality;
 - (d) obstruct access to a municipality service or service works;
 - (e) obstruct access to a pedestrian arcade or mall;
 - (f) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
 - (g) obstruct access to street furniture or the use of street furniture such as bus passenger benches or shelters, refuse disposal bins, and other facilities designed for the use of the general public;
 - (h) obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), and the regulations made there under or any marking, notice or sign displayed or made in terms of this by-law;
 - (i) attach any object by any means to any building, structure, pavement, tree, parking meter, lamp-pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in a public road or public space;
 - (j) make a fire in a public road or public space under circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in this by-law;
 - (k) fail or refuse to move or remove any goods after having been requested to do so by the supplier of a telecommunication service who requires access to such service, or by an authorized employee or agent of the municipality or an officer acting in terms of this by-law, and

- (l) obstruct the visibility of a display window of a business premises, if the person carrying on business in such business premises objects thereto.

6. Cleanliness and protection of public health

- (1) Every informal trader must—
- (a) carry on his or her business in a manner as not to be a danger or threat to public health or public safety;
 - (b) at the request by an employee of the municipality move his or her property in order to permit the cleaning of the surface of the unit where he or she is trading;
 - (c) keep the unit occupied by him or her for the purpose of his or her business as well as his or her property in a clean and sanitary condition and free of litter; and
 - (d) if his or her activities involve the cooking or preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of any public road or public space or splashes against a building or structure.
- (2) The municipality must—
- (a) ensure that the units on which the informal traders trade are cleaned and sanitized on a regular basis;
 - (b) provide receptacles in the area near the units in order to facilitate the disposal of litter by informal traders, and
 - (c) ensure that the receptacles are emptied on a regular basis in order to facilitate the cleaning of trading units.

7. Trading in parks and gardens

No informal trader shall carry on business in a garden or park to which the public has the right of access, except with the prior written approval of the municipality, which approval shall not be unreasonably withheld and may be granted subject to certain conditions.

8. Objects used for display of goods

- (1) An informal trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods—
- (a) is maintained in a good state of repair and kept in a clean and sanitary condition, and
 - (b) is not so placed or stacked as to constitute a danger to any person or to be likely to injure any person.

9. Removal and impoundment

- (1) If a person carrying on the business of informal trader fails or refuses to comply with a written request, the content of which has been explained to him or her, to move or remove his or her property, or leaves such property unsupervised for a period of more than 8 hours, an officer may remove and impound such property—
- (a) which he or she reasonably suspects is being used or is intended to be used or has been used in or in connection with the carrying on of the business of informal trader; or
 - (b) which he or she finds in a place where the carrying on of such business is restricted or prohibited in terms of a provision of this by-law.
- (2) Any officer acting in terms of these provisions shall—
- (a) except in the case of goods which have been left or abandoned, issue forthwith to the person carrying on the business of an informal trader a detailed receipt for any property so removed and impounded, which receipt shall contain adequate information as to where the property will be impounded and the procedure for reclaiming such property, and
 - (b) forthwith deliver any such property to the municipality.
- (3) Any property removed and impounded as contemplated by section 6A of the Act—
- (a) may, in the case of perishable property, be sold or destroyed by the municipality within a reasonable time after its impoundment, provided that such property shall, subject to the provisions of subsection (4), at any time prior to the disposal thereof, be returned to the owner at his or her request and upon providing proof of ownership by such owner to the municipality, and
 - (b) shall, subject to the provisions of subsection (4), in the case of property other than perishable property, be returned to the owner thereof at his or her request and on providing proof of ownership by such owner to the authority within a period of one month of the date of impoundment.
- (4) The municipality shall be entitled to keep the property until all reasonable expenses have been paid to the municipality, failing which the property may be sold, or in the case of perishable property, either be sold or destroyed by such municipality.
- (5) In the case of a sale of impounded property by a municipality, the proceeds of such sale less the reasonable expenses incurred by the municipality in connection with the removal, impoundment or disposal of the said property, shall be paid to the owner of the property. If such owner fails to claim the proceeds within three months of the date on which the property was sold, the proceeds shall be forfeited to the municipality and shall be paid into a special fund created by the municipality dedicated to the development of the informal sector and matters ancillary thereto.

- (6) If the proceeds of any sale of property contemplated in subsection (5), are not sufficient to defray the reasonable expenses incurred by the municipality in connection with such property, the owner of such property shall be liable for all reasonable expenses incurred by the municipality concerned in connection with such removal, impoundment or disposal.

10. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

11. Penalties

A person who who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

12. Repeal of 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, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

13. Short title and commencement

This by-law shall be known as the Informal Trading By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.