

BY-LAW

To provide for control of the keeping of dogs in the EMTHANJENI municipality; and for matters connected therewith.

BE IT ENACTED by the Emthanjeni municipality, as follows:-

Definitions

1. In this By-law, unless the context otherwise indicates -

“**authorised officer**” means –

- (a) a peace officer as defined in section 1 of the Criminal Procedures Act, 1977 (Act No. 51 of 1977) in the Municipality’s service;
- (b) any other person, whether in the service of the Municipality or not, who is appointed an authorised officer of the Municipality;

“**dog**” for the purpose of section 3(1) and (2), means a dog over the age of six months;

“**keep**” in relation to a dog, includes to have such dog in possession, under control or in custody or to harbour such dog;

“**Municipality**” means the Emthanjeni municipality;

“**owner**” in relation to a dog, means any person who keeps a dog and includes any person to whom a dog has been entrusted or who has control of a dog in respect of any site within the area of jurisdiction of the Municipality where such dog is kept or is permitted to live or remain;

“**public place**” includes any land, park or open space, road, street, sanitary passage or thoroughfare, bridge, building or structure which is commonly used by the public and is the property of the Municipality or, of which the control, to the entire exclusion of the owner, is vested in the Municipality or to which the inhabitants of the Municipality have a common right or access;

“**street**” includes a sidewalk; and

“**zoned**” means a land-use attached to premises by or under any law, the town planning scheme or a title deed.

Application of By-law

2. The provisions of sections 3(1) and 5 shall not apply to premises which is zoned for agricultural purposes: Provided that a person keeping dogs on premises zoned for agricultural purposes shall not be exempted from compliance with any other provision of this By-law or any other legislation which may be applicable.

Number of dogs

3. (1) Subject to the provisions of subsection (2), no person shall keep more than two dogs on any erf or premises without the prior written consent of the Municipality.
- (2) A breeder of dogs who wishes to keep more than two dogs on –
- (a) premises zoned for agricultural purposes, shall be entitled to do so without any restrictions;
- (b) premises zoned for any purpose other than agricultural purposes, must obtain the prior written consent of the Municipality.
- (3) An application for the Municipality's consent in terms of subsection (2) shall not be considered by the Municipality unless –
- (a) the Municipality is satisfied that the size of the premises on which the dogs are to be kept is not smaller than 5 000 square meter; and
- (b) such an application is accompanied by an application for the alteration of the land-use restrictions applicable to the premises concerned, where it is necessary.
- (4) The Municipality's consent in terms of subsection (2)(b) to keep more than two dogs on a premises, shall be granted –
- (a) only in those instances where there are no objections against the proposed departure of the land-use restrictions after having advertised the proposal in terms of the relevant legislation; and
- (b) subject to such conditions and restrictions as the Municipality may deem fit to impose.
- (5) The Municipality may, after due process, revoke a consent granted in terms of subsection (2)(b).

Control of dogs

4. No person shall –
- (a) permit any bitch on heat owned or kept by him or her to be in any public place;

- (b) urge any dog to attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property or of any other person;
- (c) abandon any dog owned or kept by him or her;
- (d) keep any dog which –
 - (i) by barking, yelping, howling or whining;
 - (ii) by having acquired the habit of charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner,

interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours; or
- (e) permit any dog owned or kept by such person –
 - (i) to be in any public place while suffering from mange or any other infectious or contagious disease;
 - (ii) which is ferocious, vicious or dangerous to be in any public place, unless it is muzzled and held on a leash and under control of some responsible person;
 - (iii) to trespass on private property;
 - (iv) to constitute a hazard to traffic using any road or street;
 - (v) to constitute or to his or her knowledge be likely to constitute a source of danger or injury to any person outside the premises on which such dog is kept; or
 - (vi) to be in any public place except on a leash and under control of some responsible person.

Fencing of property

- 5. No person shall keep a dog if the premises where such a dog is kept, is not properly and adequately fenced to keep such dog inside when it is not on a leash.

Dogs shall not be a source of danger

- 6. Any person who keeps a dog on any premises shall –
 - (a) take reasonable precaution to ensure that the dog does not constitute a source of danger to the employees of the Municipality entering upon such premises for the purpose of carrying out their duties; and

- (b) display in a conspicuous place a notice to the effect that a dog is being kept on such premises.

Removal of offensive matter

- 7. If a dog defecates at a public place, the person in charge of the dog shall forthwith remove the excrement, place it in a plastic or paper bag or wrapper and dispose of it in a receptacle provided for the deposit of litter or refuse.

Dogs on premises where food is sold

- 8. Any person being the owner or person in control of any shop or other place where food is prepared, sold or exposed for sale shall not permit any dog to be or remain in or at such shop or place.

Seizure, impounding and destruction of dogs

- 9. (1) Any dog, found at a public place suffering from mange or any other infectious or contagious disease, or which is ferocious, vicious or dangerous, or which is badly injured, may be seized and destroyed by an authorised officer of the Municipality.
- (2) An authorised officer may seize and impound at a place designated by the Municipality, any dog which is found at a public place in contravention with the provisions of this By-law.
- (3) A dog impounded in terms of subsection (2), may –
 - (a) be released to the owner of such dog upon payment of a fee determined by the Municipality in addition to any costs, fines or taxes which may be outstanding in respect of such dog; or
 - (b) after the expiry of 30 days, be destroyed by the Municipality or be dealt with as the Municipality deems expedient.

Liability

- 10. Neither the Municipality nor any authorised officer or any employee of the Municipality shall be liable for or in respect of any injury suffered or disease contracted by or damage caused to any dog as a result of or during its seizure, impounding, detention or destruction in terms of this By-law.

Penalty clause

- 11. (1) Any person who contravenes or fails to comply with any provision of this By-law or any requirement or condition thereunder, shall be guilty of an offence.

- (2) Any person convicted of an offence in terms of subsection (1) shall be liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

Repeal of laws and savings

12. (1) The following laws are hereby repealed:

All previous by-laws with regard to this matter are hereby repealed.

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Short title

13. This By-law shall be called the Keeping of Dogs Control By-law, 2008