

NEWCASTLE MUNICIPALITY

BYLAWS RELATING TO THE KEEPING OF DOGS

The Newcastle Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 23 of 2000), publishes the bylaws as set forth hereafter as bylaws made by the Municipality which bylaws will come into effect on the first day of the month following the date of publication hereof.

Definitions

For the purpose of these bylaws-

“Animals welfare organisation” means any association of persons, corporate or unincorporated, or institution whose objects are to promote the welfare of animals;

“Area” means the area of jurisdiction of the Newcastle Municipality;

“Authorised Officer” means a Police Officer and includes a member of any force established under any law for the carrying out of police powers, duties or functions and includes a person appointed in terms of Section 8 of the Animal Protection Act, Act No. 71 of 1962 as amended, as well as any person authorised by the Municipality to specifically enforce these bylaws;

“Dog” means the male or female of this specie;

“Municipality” means the Newcastle Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act 32 of 2000);

“Nuisance” unless otherwise provided for in these bylaws, means any condition, thing, act or sound which is offensive or injurious or which tends to prejudice the safety, good order, peace or health or the rights or reasonable comfort, convenience, peace or quiet of the general public within the area;

“Premises” shall be any building together with the land on which the same is situated and adjoining land or building used in connection therewith or any land without buildings thereon;

“Public place” means any area to which the public has access, and shall include the Seashore as defined in the Sea Shore Act, Act No. 21 of 1935, as amended;

“Valid rabies certificate” means valid rabies, inoculation certificate, to mean a certificate of inoculation, issued by a registered veterinarian within the previous two-year period;

“Veterinarian” means a person registered as such under the veterinary and Para-Veterinary Professions Act, Act No. 29 of 1982.

- (1) No person shall keep on any premises within the area-
 - (a) Any dog (whether male or female) which is ferocious unless such dog is kept under the direct control of the owner or person in charge thereof or confined so that lawful visitors to the premises are safe from attack. (For the purposes of this paragraph, a dog which has bitten or attempted to bite a person or animal or damages another person or animals property other than in defence of itself or its custodian shall be deemed to be ferocious);
 - (b) Any dog which has a propensity to rush at any person, animal or vehicle, or which is generally a nuisance to the public on any premises that are not properly surrounded by a fence of such a nature as to ensure that such dog is confined to such unless such dog is kept on a leash;
 - (c) Any bitch in season unless she is kept under proper control so as to prevent her from being a nuisance to the neighbours or the general public. The Municipality through an Authorised Officer, may be notice in writing direct to the owner or person in control to remove such bitch to a place in which suitable accommodation can be provided for the housing of such bitch and at the owner's expense be kept for such a period until she is out of season;
 - (d) More than three (3) dogs on any premises without the written consent of the Municipality, which consent may be given subjected to conditions which may be altered or withdrawn at any stage by the Municipal Manager, provided that where such premises are zoned for high density housing written permission from the owner or body corporate must first be obtained;
 - (e) A dog for which no valid rabies inoculation certificate is held.
- (2) No person being the owner or in charge of any dog shall keep on any premises within the area any dog which by reason of its barking, yelping, howling or whining creates a nuisance or disturbs the general public's peace.
- (3) Any person who either owns or keeps a dog shall be guilty of contravening these bylaws and guilty of an offence if such dog within the area;
 - (a) bites or savages any person unless it can be proved that such bite or savaging was in reasonable defence of the owner or person responsible for the keeping of the dog, or their dependents or property, and that the person bitten seriously threatened the owner, property or dependents of the owner or person keeping such dog;
 - (b) attacks, runs at or jumps at any person, unless it can be proved that such attack, running or jumping was in reasonable defence of the owner or person responsible for the keeping of the dog, or their dependents or property, and that the person attacked, run at or jumped at seriously threatened the owner, property or dependents of the owner or person keeping such dog;
- (4) Without in any way detracting from or diminishing in the liability of the owner of or the person keeping any dog for a breach of these bylaws:-

- (a) the owner of any premises if he resides on such premises shall be deemed to be keeping any dog on such premises;
 - (b) if the owner of the premises does not reside on the premises any person over the age of eighteen years who resides on such premises shall be deemed to be keeping any dog on such premises;
 - (c) in the case of any prosecution in terms of these bylaws it shall be competent for the true owner of the dog in question to be charged or alternatively, the person keeping or deemed to be keeping the dog in question to be charged.
- (5) Any dog which is found at large and unattended in any public place, or in a diseased state and apparently ownerless, may be seized and impounded and if found dangerous, vicious or diseased, may be destroyed in terms section 5 of the Animal Protection Act, (Act No. 71 of 1962).

For the purpose of bylaw (5), any dog not wearing a badge or other means of identification whereby the owner can be traced and appears to be ownerless, shall be deemed to be ownerless.

- (6) No person shall allow a dog being his property or in his charge to be in any public place unless it is on a leash or otherwise controlled, to ensure that it will not in any circumstances endanger the safety or any person or traffic making use of such public place, provided that no dog shall be permitted on any portion of the Sea Shore under the control of the Municipality where a sign expressly prohibiting dogs has been erected;
- (7) An authorised officer may seize any dog which is vicious or dangerous or which is creating a disturbance by barking or otherwise.
- (8) Any authorised officer who seizes any dog shall as soon as reasonable possible take or convey the same to an approved animal welfare organisation or dog pound approved by the Municipality, where suitable accommodations has been provided for this purpose.
- (9) Any person claiming that any dog seized is his property shall be allowed to take away the same on satisfying the officer in charge of such approved animal welfare organisation or dog pound, that he is the owner of such dog and that the dog has been duly licensed, has a valid rabies certificate and upon payment of the prescribed fee, as laid down from time to time by the Municipality's tariff of charges, to such approved animal welfare organisation or dog pound.
- (10) Any dog not claimed within 4 (four) days may be sold by the officer in charge of such approved animal welfare organisation or dog pound. The proceeds of such sale shall be applied in defraying the expenses incurred as set out in bylaws (9) above and the balance, if any, paid into the animal welfare organisation's funds or into the guardian's fund in the manner prescribed by section 93 of the Administration of Estates Act, Act 66 of 1965, should the animal welfare organisation not be involved in such seizure.

- (11) If any dog is not claimed within 4 (four) days or cannot be sold under the provisions of bylaw (10) such dog may be handed over to an animal welfare organisation provided that if any dog is found to be suffering from any infectious or incurable disease or injury or to be so vicious as to be dangerous the officer in charge of such place of safety, Animal Welfare Organisation or dog pound approved by the Municipality, may act in terms of section 5 (1) and (2) of the Animals Protection Act, 1962 (Act No. 71 of 1962), as amended from time to time.
- (12) Any person claiming any dog impounded under these bylaws shall be deemed, unless he proves the contrary, to be the owner thereof and this liable to prosecution for the contravention of these bylaws.
- (13) No person shall use or cause or allow any premises in the municipal area to be used for the accommodation of dogs for reward unless prior written permission is obtained from the Municipality and the prescribed fee, as laid down from time to time by its tariffs of charges, has been paid.
- (14) No person, shall by any means wilfully frighten, tease or enrage any dog.
- (15) the owner or person in charge of any dog which has died shall be responsible for its proper burial, at such place as may be approved by the Municipality, and should the owner or person in charge of any dead dog fail to or be unable to bury it, the Municipality shall cause it to be buried at the expense of the owner or person in charge, in accordance with the prescribed fee, as laid down from time to time by tariffs of charges.
- (16) Offences and Penalties**
 - (1) In any prosecution under these bylaws for the commission of an offence, it shall not be necessary to prove that the dog in question had previously shown a ferocious nature, nor that it was acting against the nature of domestic pets;
 - (2) Any person who contravenes any provision of these bylaws or who fails to comply with the requirements thereof shall be guilty of an offence and upon conviction shall be liable to the fines determined by a Chief Magistrate of the Magistrate's Court with jurisdiction in the area in which the offence has been committed or imprisonment as determined by a competent court.

17. Destruction of Animals

Whenever a police officer is of the opinion that any animal is so diseased or severely injured or in such a physical condition that it ought to be destroyed, he shall, if the owner be absent or refuses to consent to the destruction of the animal, at once summon a veterinarian or, if there is no veterinarian within a reasonable distance, two adult persons whom he considers to be reliable and of sound judgement, and if such veterinarian or adult person after having duly examined such an animal certify that the animal is so diseased or so severely injured or in such physical condition that it would be cruel to keep it alive, such police officer may without the consent of the owner

destroy the animal or cause it to be destroyed with such instruments or appliances and with such precautions and in such manner as to inflict as little suffering as practicable.

18. Powers of officers of society for prevention of cruelty to animals

- (1) If authorised thereto by writing under the hand of the magistrate of a district, any officer of any society for the prevention of cruelty to animals may in that district –
 - (a) without warrant and at any time with the consent of the owner or occupier, or failing such consent on obtaining an order from a magistrate, enter any premises where any animal is kept, for the purpose of examining the conditions under which it is so kept;
 - (b) without warrant arrest any person who is suspected on reasonable grounds of having committed an offence under this Act, if there is reason to believe that the ends of justice would be defeated by the delay in obtaining a warrant;
 - (c) on the arrest any person on a charge of an offence under this Act, seize any animal or thing in the possession or custody of that person at the time of the arrest and take it forthwith to a police officer, who shall deal with it in accordance with the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
 - (d) exercise in respect of any animal the powers conferred by subsection (1) of section five upon a police officer and in respect of such exercise of those powers, the provisions of the said section shall mutates mutandis apply.
- (2) Any authority granted under subsection (1) may at any time for good cause be revoked by the magistrate of the district.
- (3) An officer to whom authority has been granted under subsection (1) shall, when required to do so in the exercise of his powers, produce that authority for inspection.

19. Repeal of bylaws

All Municipal Bylaws, and amendments thereto, relating to Fire Safety made by the local authority of Newcastle Local Council, disestablished in terms of Provincial Notice No. 345 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998: Establishment of Municipalities 9DC 29, KZ 291, KZ 292, KZ 293, KZ 294) as published on 19 September 2000, are hereby repealed.