

Hessequa, South Africa

Keeping and Treatment of Dogs and Cats

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Hessequa South Africa

Keeping and Treatment of Dogs and Cats By-law, 2021

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Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Hessequa Municipality enacts as follows: -

Chapter 1 Interpretation and objectives

1. Definitions

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

"authorised official" means an officer authorised in terms of section 8 of the Animals Protection Act, 1962 ([Act 71 of 1962](#)) and any official of the municipality who has been authorised by the municipality to enforce the provisions of this by-law;

"breed" as a noun means a population of animals which produces progeny possessing a high degree of genetic stability as evidenced by identifiable uniformity in breed standards and performance;

"breed" as a verb means to allow animals to produce offspring;

"breeder" means the owner of a breeding female animal at the time of natural or artificial conception or at the birth of progeny;

"municipality" means the Hessequa Municipality 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;

"municipal manager" means the municipal manager as defined in the Systems Act, and includes a person –

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility;

"nuisance" means any act or omission on any premises or public place, including any building or structure, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people and includes any condition identified in section 3 of the Hessequa By-law Relating to the Prevention of Public Nuisances and Nuisances Arising from the Keeping of Animals;¹

"owner" in relation to a dog or cat, includes the person having the possession, charge, custody or control of such dog or cat;

"premises" means –

- (a) land or a portion of land, including a public place, irrespective of whether a building or structure has been constructed or erected on such land or portion thereof; or

- (b) a building, structure or tent and the land on which it is situated and includes any vehicle or vessel;

"**public place**" means any land, square, building, park, recreation ground or open space which –

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township; and

"**street**" means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access.

¹Published in *Provincial Gazette* Extraordinary No 6588 dd 19 December 2008.

2. Objectives and application of by-law

The municipality, aware –

- (a) of the constitutional right of every person to an environment that is not harmful to his or her health or well-being;
- (b) of the constitutional obligation not to assume any power or function except those conferred in terms of the [Constitution](#);
- (c) of its constitutional objective to promote a safe and healthy environment;
- (d) of the powers conferred upon it in terms of section 156 of the [Constitution](#);
- (e) of the classification of animal control as a functional area of concurrent national and provincial legislative competence;
- (f) of the fact that dog attacks are at the order of the day² and that South Africa has the highest incidence of dog attack deaths in the world, relative to population;³
- (g) that municipal by-laws that are in conflict with national and provincial legislation, are invalid;
- (h) of the constitutional guarantee to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources;
- (i) that the municipality, as part of the state, must respect, protect, promote and fulfil the rights provided for in the [Constitution](#);
- (j) the developmental duties of municipalities; and
- (k) subject to the provisions of the Animals Protection Act, 1962 adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Hessequa area.

²It is difficult to obtain statistics, but in 2017 ER24 responded to 103 dog attacks in Cape Town alone. Tswana (5 December 2017) "103 dog attacks responded to in 2017" IOL News <https://www.iol.co.za/capeargus/news/103-dog-attacks-responded-to-in-2017-12270264> (accessed 1 Sep 2019).

³Resulting in 9 fatalities in 2016. Khanyile (26 Mar 2019) "Brutal dog attacks" Eye Witness <https://www.news24.com/SouthAfrica/News/brutal-dog-attacks-20190326> (accessed 1 Sep 2019).

Chapter 2

Dogs

3. Licensing and permission to keep dogs

- (1) No person may keep a dog unless a license fee determined by the municipality has been paid and such person must, on demand by an authorised official, produce the receipt issued by the municipality for the payment of the license fee.
- (2) No person may keep or permit the keeping on any premises of more than two dogs without the written approval of the municipality and the municipality may impose restrictions in connection with such keeping.
- (3) An application for permission in terms of subsection (2) must contain an exposition of the breed, gender and number of dogs applied for.
- (4) A restriction imposed under subsection (2) on the number of dogs that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from a dog kept in terms of an approval.
- (5) The owner of a litter of a dog must sell or donate such a litter within 10 weeks of its birth.
- (6) Any prospective owner of a dog acquired in terms of subsection (5) must produce proof of the payment of any prescribed licence fee or that the provision of subsection (2) have been complied with to the owner of such litter.
- (7) The provisions of subsections (1), (2) and (3) apply to all members of a litter that could not be sold or donated within 10 weeks of its birth.
- (8) Failure to comply with the requirements of subsections (1), (2), (4), (5) and (6) constitutes an offence.

4. Breeding and hawking of dogs

- (1) No person may –
 - (a) breed dogs without the prior written permission of the municipality; or
 - (b) hawk any dog in a street or public place or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

5. Dogs in streets or public places

- (1) No person may –
 - (a) bring a dog or allow a dog to be brought within 50 metres of any sign prohibiting the presence of any dog; or
 - (b) permit any dog to be in a street or public place without a leash and supervision.
- (2) A person who contravenes any of the provisions of subsection (1) commits an offence.

6. Keeping of dogs

- (1) No person may allow any dog to –
 - (a) enter upon public or private land other than the premises where it is kept, unless it is on a leash;
 - (b) suffer from an infectious or contagious disease; or

- (c) act in such a manner that a nuisance is created for other residents.
- (2) No person -
 - (a) may keep a dog if the premises are not adequately fenced to keep such dog inside when it is not on a leash; or
 - (b) who owns or is in control of a dog may permit a dog -
 - (i) to trespass on private property;
 - (ii) to constitute a hazard to traffic using any public road;
 - (iii) to constitute a source of danger or injury to a person outside the premises on which such dog is kept;
 - (iv) to be a source of danger to employees of the municipality or a contractor entering such premises for the purpose of carrying out their duties, and a notice to the effect that such a dog is kept must be displayed in a conspicuous place;
 - (v) to take part in dog fighting; or
 - (vi) on a leash to be handled by a child under the age of 15 years on public or private property without adult supervision.
 - (c) may keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by-
 - (i) barking, yelping, howling or whining;
 - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner that it is a nuisance.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

7. Treatment of dogs

Any person who -

- (a) beats, kicks, ill-treats, neglects infuriates, terrifies, tortures or maims any dog;
- (b) confines, chains or secures any dog unnecessarily or under conditions or in a manner that causes such a dog suffering;
- (c) keeps a dog in any place which affords inadequate space, ventilation, light, protection or shelter;
- (d) starves or underfeeds or fails to provide sufficient water or food to a dog;
- (e) keeps a dog in a dirty or parasitic condition or allows it to become infested with external parasites;
- (f) liberates or allows any animal to be liberated in a manner or place where it is exposed or in danger of being exposed to attacks by other dogs or animals;
- (g) baits, provokes or incites any dog to attack another dog or animal or allows another person to bait, provoke or incite a dog in such a manner;
- (h) keeps, uses or manages or assists in the management or use of any premises or place use in full or partially for any animal fighting or allows the admission of any person to any such premises, whether for any consideration or not;
- (i) amputates or allow the amputation of the tail of any dog or who cuts off the ear or any part of an ear of any dog;
- (j) allows any dog to hunt any animal;

- (k) being the owner of a dog, without reasonable cause or excuse, abandons it in circumstances causing or having the possibility to cause such a dog any suffering;
 - (l) causes, procures or assists in the commission or omission of any of the conduct listed in the subsections listed above; or
 - (m) maliciously, unreasonably or negligently causes any suffering to any dog
- is, subject to the provisions of this by-law and any other law, guilty of an offence.

8. Destruction and sterilisation of dogs

- (1) The municipality may order the euthanization or destruction of a dog which is-
 - (a) dangerous or ferocious; or
 - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) A dog to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or where such veterinary surgeon is not available, by an authorised official with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) An authorised official may cause a dog to be sterilised if he deems it necessary:
 - (a) for the welfare of the dog;
 - (b) to prevent or abate nuisance;
 - (c) where the dog is a stray animal; or
 - (d) on the request of the owner,and the cost of such sterilisation may be recovered from the owner.
- (4) The owner of a sterilised dog must obtain proof from a registered veterinarian that such dog has been sterilised and must produce such document for inspection on demand of any authorised official.
- (5) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsections (2), (3) or (4) commits an offence.

Chapter 3 Cats

9. Restriction on number of cats

- (1) No person may without the written permission of the municipality, keep or allow to be kept, more than –
 - (a) two cats over the age of six months in or at a dwelling unit;
 - (b) four cats over the age of six months in or at premises containing one or two dwelling houses or premises that are used for storage or business; or
 - (c) six cats on an agricultural property.
- (2) A person who contravenes subsection (1) commits an offence.

10. Powers to sterilise cats

The municipality may sterilise –

- (a) a male or a female cat at the request of its owner, subject to payment of the costs thereof by the owner; and
- (b) a stray male or female cat and recover the costs thereof from the owner.

11. Breeding and hawking of cats

(1) No person may –

- (a) breed cats without the prior written permission of the municipality;
- (b) allow cats to wander or prowl; or
- (b) hawk any cat in a street or public place or from a movable structure or vehicle.

[Please note: numbering as in original]

(2) A person who contravenes subsection (1) commits an offence.

12. Treatment of cats

Any person who –

- (a) beats, kicks, ill-treats, neglects infuriates, terrifies, tortures or maims any cat;
- (b) confines, chains or secures any cat unnecessarily or under conditions or in a manner that causes such a cat suffering;
- (c) keeps a cat in any place which affords inadequate space, ventilation, light, protection or shelter;
- (d) starves or underfeeds or fails to provide sufficient water or food to a cat;
- (e) keeps a cat in a dirty or parasitic condition or allows it to become infested with external parasites;
- (f) being the owner of a cat, without reasonable cause or excuse, abandons it in circumstances causing or having the possibility to cause such a cat any suffering; or
- (g) maliciously, unreasonably or negligently causes any suffering to any cat

is, subject to the provisions of this by-law and any other law, guilty of an offence.

Chapter 4 General provisions

13. Conditions and restrictions

Any consent granted by the municipality in terms of this by-law may be subject to conditions that the municipality may deem fit to impose.

14. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction imposed by the municipality the municipality may, after hearing that person, withdraw its consent and may order the removal of dogs or cats from the premises for care and safekeeping by an animal welfare organisation or pound.

- (2) Any costs incurred by the municipality for the removal and safekeeping of any dog or cat in terms of subsection (1), will be recovered from the owner or keeper of such animals.

15. Exemptions

The municipality may exempt any person and class of persons from any or all the requirements of this by-law and may impose any other requirements it deems appropriate.

16. Right of entry and inspection

- (1) Any duly authorised employee of the municipality may inspect any premises within the municipal area to determine whether there is compliance with the provisions of this by-law, provided that a private dwelling may not be entered for routine inspection purposes without the permission of the owner or occupier.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

17. Transitional provisions

A person who, at the commencement of this by-law, owns more than two dogs or the prescribed number of cats may not replace the dogs or cats that die or are disposed of and must gradually reduce the number of dogs and cats that are kept.

18. 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.

19. Penalties

A person who has committed an offence in terms of this by-law or fails to comply with any provision thereof, is on conviction, liable to a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

20. Application of by-law

- (1) Subject to the provisions of the Animals Protection Act, 1962 and in the event of any conflict between this by-law and any provision in any other by-law of the municipality, the provisions of this by-law will prevail.
- (2) The provisions of the Hessequa Municipality By-law Relating to the Impoundment of Animals# apply to the impoundment of any dog or cat in terms of this by-law.

#Published in *Provincial Gazette* Extraordinary No 6588 dd 19 December 2008.

21. Short title and commencement

This by-law is called the By-law Relating to the Keeping and Treatment of Dogs and Cats and will come into operation on the date of publication thereof in the *Provincial Gazette*.