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## LOCAL AUTHORITY NOTICES

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### NOTICE 106 OF 2007

#### MAKANA LOCAL MUNICIPALITY

#### BY-LAWS RELATING TO KEEPING OF ANIMALS, BIRDS AND POULTRY, AND BUSINESSES INVOLVING KEEPING OF ANIMALS, BIRDS, POULTRY OR PETS

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Makana Local Municipality, enacts as follows:-

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## CHAPTER I

### GENERAL

#### 1. Definitions

In these by-laws, unless the context otherwise indicates –

“**animal**” means any head of cattle, sheep, goat, horse, mule, donkey, pig, rabbit, cat, dog, indigenous mammal and a wild animal;

“**approved**” means approved by the municipality;

“**authorized official**” means any person authorized by the municipality to perform the functions of an authorized office under these regulations;

“**aviary**” means a roofed or unroofed enclosure used for the keeping of birds, other than a portable cage;

“**battery system**” means the method of keeping poultry or rabbits in cages in either single rows or tier formation within a building or structure;

“**bird**” means a feathered vertebrate other than poultry;

“**brand**” means any mark made or placed on any livestock for any purpose whatever, and includes an representation of a mark intended so to be made or placed on any livestock, as the circumstances may require, but does not include –

- (a) any mark made or placed on the horn or hoof;
- (b) any mark made with paint on any livestock;
- (c) any earmark;

- (d) any clasp, rivet or tag attached to the ear, or any mark made on such clasp, rivet or tag;
- (e) any tattoo on cattle or horses;

“**cattery**” means premises in or upon which boarding facilities for cats are provided or cats are kept and bred for commercial purposes;

“**dwelling**” means any building or part thereof used for human habitation;

“**enclosure**” in relation to animals, means any kraal, pen, paddock or other such fenced or enclosed area used for accommodating, keeping or exercising animals;

“**kennels**” means premises in or upon which –

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes; and
- (c) dogs are kept for the purpose of being trained or hired out;

“**livestock**” means horses, cattle, shecp, goats, pigs, mules, donkeys and ostriches;

“**municipality**” means the Local Municipality of Makana established in terms of section 12 of the Municipal Structures Act, 1998 (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;

“**permit holder**” means the person to whom a permit has been issued by the municipality in terms of these by-laws;

“**person in control**” means the person actually managing or actually in control of a premises or a businesses;

“**pet**” means any domestic or other animal which may be lawfully kept as a pet and includes any bird or non-poisonous reptile;

“**pet salon**” means any premises in or upon which beauty treatment is given to a dog or cat by washing, drying, brushing, clipping, trimming or attending to its nails or teeth;

“**pet shop**” means the business of keeping and selling pets on the approved premises;

“**pigsty**” means a building, structure or enclosure in which pigs are kept;

“**poultry**” means a fowl, duck, muscovy duck, geese turkey, peafowl and domestic guinea-fowl;

“**poultry house**” means any roofed-over building or structure, other than in which a battery system is operated, in which poultry is kept;

“**poultry run**” means any unroofed wire mesh or other enclosure whether or not an addition to a poultry house, in which poultry is kept;

“**premises**” means any land, building or structure or any portion of land, building or structure on or in which any of the activities regulated by these by-laws are carried on;

“**public nuisance**” means any act, omission or condition on any premises, including any building, structure or growth thereon, 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 the public;

“**public place**” means any road, street, pavement, sidewalk, park or other place to which the public has authorized or unimpeded access;

“**rabbit hutch**” means any roofed-over building or structure, other than one in which a battery system is operated, in which rabbits are kept;

“**rabbit run**” means any unroofed wire mesh or other enclosure, whether or not an addition to a rabbit hutch, in which rabbits are kept;

“**stable**” means any kraal, building or structure or any part thereof used for accommodating or keeping any cattle, horses, mules or donkeys;

“**stray animal**” means an animal, which is not approved by the municipality, found in the municipal area.

## 2. Application of by-laws

(1) The provisions of these by-laws do not apply to -

- (a) the keeping of cows for commercial milk production;
- (b) an agricultural show where animals, poultry or birds are kept on a temporary basis;
- (c) any laboratory where animals, poultry or birds are kept for research purposes,

however, the municipality may, by notice to the person concerned, require such provision be complied with if a public nuisance occurs or may occur.

(2) The provisions of sections 4, 5, 10 and 11 do not apply to the temporary keeping of a goat on any land for the provision of milk for medical reasons, provided the prior approval of the municipality is obtained and no nuisance arises from the keeping of such a goat.

- (3) The provisions of section 3, 4(a) 6, 8, 10, 12, 14, 16, 18, 19 and 21 apply only to premises which are newly constructed, re-constructed or converted after the commencement of these by-laws, however, the municipality may, if a public nuisance occurs or may occur, give notice in writing to the owner or person in control of such premises to comply with such requirements as it may specify and within a reasonable period stated in the notice.
- (4) The provisions of sections 12(d), (f) and (g) and 13(d) inclusive do not apply to the keeping of poultry.

### **3. Premises for keeping of livestock, and kennels**

No person may -

- (a) keep any livestock, other than poultry, or maintain kennels within any area defined by the municipality as unsuitable for the keeping of livestock and the maintenance of kennels, however, the foregoing does not apply in respect of a veterinary clinic or veterinary hospital operating with the municipality's consent; and
- (b) keep any livestock, other than poultry, on premises situated on land less than 1ha in extent, however, in the case of a dealer or speculator in livestock, the land may not be less than 2.5 ha in extent.

### **4. Keeping of animals, poultry and birds**

No person may keep any animal, poultry or bird in or upon any premises -

- (a) which does not comply with the provisions of these by-laws; or
- (b) which are so constructed, maintained or situated that the keeping of animals, poultry or birds thereon is likely to cause a public nuisance.

### **5. Permits for keeping of animals and poultry**

(1) No person may -

- (a) keep any animal or poultry in excess of the number specified in a permit issued by the municipality, however, the progeny of any mammal still suckling, are not to be taken into account; or
  - (b) keep, or allow to be kept, more than 100 poultry in number on an agricultural holding, however, the municipality may, if a public nuisance is not likely to occur, on written application by the owner, grant such an owner a permit to keep more than the maximum poultry in number, and the provisions of this section do not apply to a bona fide poultry farmer.
- (2) Application for a permit must be made to the municipality in a form supplied by the municipality.

- (3) A permit is not transferable and expires on the date on which the permit holder ceases to keep the animals or poultry for which the permit was issued.
- (4) A permit holder must in writing notify the municipality if he or she ceases to keep the animals or poultry in respect of which a permit was issued or any increase in the number of animals or poultry kept in excess of the number specified in the permit concerned, within 10 days of such occurrence.
- (5) The municipality may cancel a permit issued in terms of subsection (1) (a) if –
  - (a) the construction or maintenance of the premises concerned at any time does not comply with any provision of these by-laws, or the permit holder contravenes, or fails to comply with any such provision, or the permit holder fails to comply with a written notice from the municipality requiring him or her to make such premises comply with the by-laws or to cease such contravention or failure within a period specified in such notice;
  - (b) any contagious disease breaks out amongst the animals or poultry kept under such a permit;
  - (c) the permit holder or person in control of the premises at the time, personally or through his or her employee obstructs the municipality in execution of its duties under these by-laws;
  - (d) the permit holder has been found guilty in a competent court of a contravention of these by-laws; or
  - (e) a public nuisance exists due to the keeping of animals.
- (6) The municipality must, as soon as a permit has been cancelled, notify the permit holder of that fact in writing.
- (7) The municipality may, subject to the foregoing provisions of this section, issue a new permit if it is satisfied that the reason for the cancellation no longer exists or that there is no reason why a new permit should not be issued.

**6. Duties of keeper of animals, birds or poultry**

- (1) Every person keeping animals must –
  - (a) maintain the premises, any equipment, apparatus, container and receptacle used in connection with such keeping in a clean and sanitary condition and in good repair;



- (b) take effective measures for the prevention of harbouring and breeding of, and for the destruction of flies, cockroaches, rodents and other vermin;
  - (c) remove all manure from the stable, pigsty and the enclosure at least once every 24 hours and every 7 days from the enclosure, building or shed for goats and sheep; and
  - (d) ensure that the manure is disposed of in a manner which does not create a nuisance.
- (2) Every person keeping birds and poultry must –
- (a) comply with section 6(1)(a), (b), (c) and (d), with the necessary changes;
  - (b) maintain the premises free from offensive odours arising from the keeping of birds and poultry; and
  - (c) ensure that such poultry or birds do not disturb or hinder the comfort, convenience, peace or quite of the public.

## CHAPTER II

### KEEPING OF CATTLE, HORSES, MULES AND DONKEYS

#### 7. Requirements for premises

- (1) A stable or enclosure, which complies with the requirements in this section, must be provided for the keeping of any cattle, horse, mule or donkey.
- (2) Every wall and partition of the stable must be constructed of brick, stone, concrete or any durable material.
- (3) The internal wall surface of the stable must be of smooth brick or other durable surface brought to a smooth finish.
- (4) The floor of the stable must be so constructed as to prevent the forming of standing water and graded to a channel for drainage as in terms of section 25.
- (5) Any enclosure must have an area of at least 10m for each head of cattle, horse, mule or donkey to be accommodated therein and the fencing must be of such substantial material so constructed as to prevent such animals from breaking out and must comply with the provision of section 3(b), with the necessary changes.
- (6) No enclosure may be situated within 100m and no stable may be situated less than 15m of any boundary of any land, dwelling or other building or structure used for human habitation or within 50m of any well, water course or other source of water supply intended or used for human consumption.

- (7) A potable water supply adequate for drinking and cleaning purposes in or adjacent to every stable or enclosure must be provided.

**8. Duties of keeper of cattle, horses, mules and donkeys**

Every person keeping any cattle, horse, mule or donkey must –

- (a) ensure that any such animal is kept within a stable or enclosure; and  
(b) comply with section 6.1 (a), (b), (c) and (d), with the necessary changes.

CHAPTER III

KEEPING OF PIGS

**9. Requirements for premises**

- (1) A pigsty, which complies with the requirements in this section, must be provided for the keeping of pigs:
- (2) Every wall must be constructed of brick, stone, concrete or other durable material not less than 1,5m in height and must have a smooth internal surface.
- (3) The pigsty must have a floor area of at least 3m for each pig to be accommodated therein, with an overall minimum floor area of 6m.
- (4) The junction between the walls and floor must be covered.
- (5) The floor must be at least 150mm above the surrounding ground level, constructed of concrete or other durable and impervious material brought to a smooth finish, graded for the run-off of liquids into an open channel outside the pigsty.
- (6) The pigsty must be so constructed as to prevent the pigs from breaking out.
- (7) No person may keep any pigs on premises situated on land less than 1 ha in extent, however, in the case of a dealer or speculator in livestock, the land may not be less than 2.5 ha in extent.
- (8) No enclosure may be situated within 100m and no stable may be situated less than 15m of any boundary of any land dwelling or other building or structure used for human habitation or within 50m of any well, water course or other source of water supply intended or used for human consumption.
- (9) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the pigsty.

**10. Duties of keeper of pigs**

Every person keeping pigs must –

- (a) ensure that every pig is kept within a pigsty; and
- (b) comply to section 6 (1) (a), (b), (c) and (d), with the necessary changes.

**CHAPTER IV****KEEPING OF GOATS AND SHEEP****11. Requirements for premises**

- (1) Premises, which comply with the requirements in this section, must be provided for the keeping of any goat or sheep.
- (2) An enclosure with an area of at least 1,5m must be provided for every goat or sheep to be accommodated therein with an overall minimum floor area of 30m;
- (3) If a building or shed is provided for such keeping, it must comply with the following requirements:
  - (a) Every wall thereof must be constructed of brick, stone, concrete or other durable material not less than 2m in height; and
  - (b) the floor must be so constructed as to prevent the forming of standing water and be of such a nature to be cleaned and graded to the lowest point of the premises;
- (4) No building or shed may be situated within 15m and no enclosure within 100m of any boundary of any land, dwelling or any other building or structure used for human habitation or within 50m of any well, water course or other source or water supply intended or used for human consumption; and
- (5) A potable water supply adequate for drinking and cleaning purposes in or adjacent to every enclosure, building or shed must be provided.

**12. Duties of keeper of goats and sheep**

Every person keeping any goat or sheep must –

- (a) ensure that every such animal is kept within an enclosure, building or shed; and
- (b) comply with section 6.1 (a), (b), (c) and (d), with the necessary changes.

## CHAPTER V

## KEEPING OF POULTRY

**13. Requirements of premises**

- (1) Premises, which comply with the requirements in this section, must be provided for the keeping of poultry.
- (2) If a poultry house is provided –
  - (a) every wall thereof must be constructed of brick, stone, concrete or other durable material and must have a smooth internal surface;
  - (b) the floor must be constructed on concrete or other durable and impervious material brought to a smooth finish;
  - (c) the upper floors of the structure of two or more tiers must be of an impervious and easily cleaned material; and
  - (d) it must have an area of at least 0,20m for each grown fowl, duck, muscovy duck or guinea fowl, 0,5m for each grown goose or turkey to be accommodated therein, with a minimum aggregate area of 4m.
- (3) If a poultry run is provided, it must be enclosed with wire mesh or other durable material.
- (4) If a battery system is to be operated, a building or structure in which such system is to be housed, constructed and equipped in accordance with the following requirements, must be provided:
  - (a) Every wall, if provided, must be at least 2,4m high, and must be constructed of concrete, stone, brick or other durable material and must have a smooth internal surface;
  - (b) if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area equal to no less than 15% of the floor area of the building;
  - (c) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish, and if required by the municipality, the floor surface must be graded and drained by means of a channel drained in terms of section 25;
  - (d) if no walls are provided, or the walls are of metal, the floor must be provided with a curb at least 150mm high around it's extremities;

- (e) every junction between the floor and walls and curbing must be covered;
  - (vi) the cages of the battery system must be constructed of an impervious material;
  - (f) if required by the municipality, a tray of an impervious material and design must be fitted under every cage for the collection of manure; and
  - (gi) a wash hand basin with a constant supply of water laid on must be provided and drained in terms of section 25.
- (5) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the battery system building or structure or poultry house.
- (6) There must be at least 3m of clear unobstructed space between any poultry house, poultry run, or building or structure housing a battery system and the nearest point of any dwelling, other building or structure used for human habitation or place where foodstuffs are stored or prepared for human consumption and the nearest boundary of any land;
- (7) A storeroom must be provided for the storage of feed where a battery system is to be operated.
- (8) A curbed concrete washing platform or stainless steel trough with draining board and with a constant supply of water laid on, must be provided if required by the municipality within or adjacent to such building or structure for the cleaning and disinfection of cages, and the washing platform and trough must be drained in terms of section 25.

#### **14. Duties of keeper of poultry**

Every person keeping poultry –

- (a) excluding keeping poultry on farms, must ensure that all poultry is kept within the poultry house, poultry run or building or structure housing a battery system;
- (b) must comply with section 6.2 (a), (b) and (c), with the necessary changes;
- (c) must remove all manure and other waste from a poultry house and poultry run at least every 48 hours or at such intervals approved by the municipality, from a building or structure housing a battery system; and
- (d) may not store any material or article in any poultry house, poultry run or building or structure housing a battery system, except material which is required for use in such house, run, building or structure.

## CHAPTER VI

## KEEPING OF RABBITS

**15. Requirements for premises**

- (1) Premises, which comply with the requirements in this section, must be provided for the keeping of rabbits:
- (2) A rabbit hutch complying with the following requirements:
  - (a) Every wall thereof must be constructed of brick, stone, concrete or other durable material and must have a smooth internal surface;
  - (b) the floor surface, which must be at least 150mm above ground, level must be constructed of concrete or other curable and impervious material brought to a smooth finish and, if required by the municipality, the floor must be graded to a channel drained in terms of section 25;
  - (c) natural light and ventilation must be provided;
  - (d) it must have a minimum area of 0,4m for every rabbit to be accommodated; and
  - (e) a rabbit run, if provided, must be enclosed with wire mesh or other durable material and constructed so as to prevent the escape of rabbits from the run.
- (3) If a battery system is to be operated, a building or structure in which such system is to be housed, constructed and equipped in accordance with the following requirements, must be provided:
  - (a) Every wall, if provided, must be at least 2.4m high, be constructed of concrete, stone, brick or other durable material and have a smooth internal surface;
  - (b) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish, and if required by the municipality, the floor surface must be graded to a channel drained in terms of section 25;
  - (c) the cages of the battery system must be constructed of impervious material and fitted with trays of an impervious material under every cage for the reception of urine; and
  - (d) a wash hand basin with a constant supply of water laid on must be provided and drained in terms of section 25.

- (4) A potable water supply adequate for drinking and cleaning purposes must be provided in or adjacent to the battery system building or structure or the rabbit hutch.
- (5) There must be at least 5m of clear unobstructed space between a rabbit hutch, rabbit run, or building or structure housing a battery system, and the nearest point of any dwelling or other building or structure used for human habitation or place where foodstuffs are stored or prepared for human consumption and the nearest boundary of any land.
- (6) A curbed concrete washing platform or a stainless steel trough with draining board and a constant supply of water, must be laid on within or adjacent to such building or structure for the cleaning and disinfection of cages, and the washing platform and trough must be drained in terms of section 25.

#### **16. Duties of keepers of rabbits**

Every person keeping rabbits –

- (a) must ensure that all rabbits are kept within the rabbit hutch, rabbit run or building or structure housing a battery system;
- (b) must remove all manure and any other waste matter from the rabbit hutch, rabbit run or building or structure housing a battery system at least once every 48 hours or such intervals approved by the municipality;
- (c) must comply with section 6.1 (a), (b) and (d), with the necessary changes; and
- (d) may not store any material or article in any rabbit hutch, rabbit run or building or structure housing a battery system, except material or an article which is required for use in such house, run or building or structure.

### CHAPTER VII

#### KEEPING OF BIRDS

#### **17. Requirements for premises**

- (1) Premises, which comply with the requirements in this section, must be provided for the keeping of birds in an aviary.
- (2) The aviary must be properly constructed of durable materials, rodent proof and provided with access thereto for cleaning purposes.
- (3) If the aviary is constructed above ground level, the use thereof must be constructed of an impervious and durable material and may not be less than 300mm above ground level.

- (4) No aviary may be situated within 3m of any building structure, boundary fence or boundary wall.
- (5) A potable supply of water must be provided adequate for drinking and cleaning purposes.

**18. Duties of keeper of birds**

Every person keeping birds must –

- (a) ensure that such birds are kept in an aviary; and
- (b) comply with section 6.2(a), (b) and (c), with the necessary changes.

CHAPTER VIII

PET SHOPS AND PET SALONS

**19. Requirements for premises**

- (1) No person may conduct a business of a pet shop or pet salon in or upon any premises –
  - (a) in which there is direct internal access with any room or place used for human habitation, or in which clothing is stored or sold or food for human consumption is prepared, stored, sold or consumed; and
  - (b) unless the premises meet the following requirements:
    - (i) Every wall, including any partition of any building, must be constructed of brick, concrete or other durable material and must have a smooth internal surface and painted with a white washable paint or given some other approved finish;
    - (ii) the floor of any building must be constructed of concrete or other durable and impervious material brought to a smooth finish;
    - (iii) the ceiling of any building must be constructed of durable material, have a smooth finish, be dust proof and painted with a washable paint;
    - (iv) one wash hand basin with a constant supply of hot and cold running water must be laid on, and must be provided for every 15 or part of that number of persons employed on the premises which must be drained in terms of section 25;



- (v) a rodent proof store-room, with an adequate floor space must be provided;
  - (vi) facilities for the washing of cages, trays and other equipment must be provided in such a manner that no nuisance is created;
  - (vii) a stainless steel sink or trough not less than 304mm deep with a drainage board and with a constant supply of water laid on must be provided, which must be drained in terms of section 25;
  - (viii) for each employee for which no change-room is required, a metal clothes locker must be provided; and
  - (ix) no door, window or other opening in any wall of a building on the premises may be within 2m of any door, window or opening to any building in which food is prepared, stored or sold for human consumption or consumed by humans.
- (2) If the washing, clipping or grooming of pets is done on the premises, the following apply:
- (a) A bathroom with a minimum floor area of 9m a width of not less than 2,1m fitted with a bath or similar approved fitting and wash hand-basin with a constant supply of hot and cold running water laid on, must be provided;
  - (b) a clipping and grooming room with a minimum floor area of 10m, a width of not less than 2,1m and fitted with approved impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids for the storage of cut hair pending removal, must be provided;
  - (c) the floor of the rooms referred to paragraph (a) and (b) must be constructed of concrete or other durable and impervious material, brought to a smooth finish, graded to a channel drained in terms of section 25;
  - (d) every junction between the floor and walls of such rooms must be covered and the coving must have a minimum radius of 75mm;
  - (e) every internal wall surface must be smooth plastered and painted with a light coloured washable paint; and
  - (f) if cages are provided for the keeping of cats, such cages must be of durable impervious material and constructed so as to be easily cleaned.

**20. Duties of trader**

- (1) A person who conducts the business of a pet shop, must comply with the requirements in this section.
- (2) He or she must provide cages for housing animals, poultry or birds.
- (3) The cages must be constructed entirely of metal or other durable impervious material and must be fitted with a removable tray below the floor thereof to facilitate cleaning.
- (4) Every cage must be free from any recess or cavity not readily accessible for cleaning and every tubular or hollow fitting used in connection therewith must have its interior cavity sealed.
- (5) Every cage must be of such size and mass and so placed that it can be readily moved.
- (6) Every cage must be fitted with a drinking vessel filled with water and accessible to pets kept in the cage.
- (7) The distance from any cage to the nearest wall must at all times be not less than 150mm.
- (8) The cage must be kept not less than 150mm above floor level and the space beneath the cages must be unobstructed.
- (9) He or she –
  - (a) must provide refrigeration facilities in which all perishable pet food kept on the premises must be stored at a temperature not higher than 10C;
  - (b) must maintain in every room in which pets are kept an unobstructed floor space not less than 30% of the floor area of such room and a distance of not less than 800mm between rows of cages;
  - (c) must maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop, in a clean, sanitary condition, free from vermin and in good repair;
  - (d) must take effective measures for the prevention of harbouring or breeding and for the destruction of flies, cockroaches, rodents and other vermin and for the prevention of offensive odours arising from the keeping of pets on the premises;
  - (e) must provide overalls or other protective clothing for the use of persons employed in connection with the pet shop and ensure that such apparel is worn by the employee when on duty;

- (f) may not keep any pet in the yard or other open space on the premises, unless otherwise approved by the municipality;
- (g) must provide isolation facilities, in which every pet which is or appears to be sick must be kept whilst on the premises;
- (h) must ensure that there is a constant and potable cold and hot water supply for drinking and cleaning purposes;
- (i) must ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the pets; and
- (j) must ensure that the number of pets per cage are not such that the free movements of such pets is impeded.

## CHAPTER IX

### HAWKING OF POULTRY AND RABBITS

#### 21. Requirements of hawking

No person may hawk poultry or rabbits, unless the following requirements are complied with:

- (a) The business of a hawker must be conducted from premises on which poultry or rabbits may be kept in compliance with the provisions of chapters V and VI and facilities must be provided for the parking of the vehicle used for hawking after normal trading hours;
- (b)
  - (i) a vehicle of sound construction bearing the name of the hawker, together with his or her residential address and the address of his or her business premises in clear legible letters on both sides of the vehicle must be provided; and
  - (ii) that part of the vehicle in which poultry or rabbits are conveyed, must be provided with a top or cover of heat resistant material, other than metal, and provision for through ventilation must be made;
- (c)
  - (i) cages or crates of an impervious and durable material must be provided for conveying poultry or rabbits on the vehicle; and
  - (ii) such cages, crates or divisions thereof must be fitted with removable trays of impervious material for the reception of poultry or rabbit droppings; and

- (d) every cage, crate or division must be provided with a drinking vessel, not less than 100mm in depth filled with water, which must be fixed to an inside corner of the cage, crate or division.

## **22. Duties of hawker**

Every person hawking poultry or rabbits must –

- (a) wash and thoroughly cleanse that part of the vehicle in which poultry or rabbits are conveyed and every cage, crate and tray used on the vehicle, after each day's trading;
- (b) remove from every cage or crate on the vehicle any poultry or rabbit which appear to be sick and place such poultry or rabbit in a separate cage;
- (c) maintain the premises, vehicle and every cage, crate, tray, vessel, container and receptacle used in connection with such hawking in a clean and sanitary condition, free from vermin and in good repair; and
- (d) store all feed in rodent receptacles or storeroom.

## CHAPTER X

### KEEPING OF BEES

## **23. Requirements and conditions**

- (1) No person may keep bees without the written permission of the municipality. The municipality may grant or refuse such permission. Where such permission is granted it is subject to the conditions the municipality may impose, and the municipality may at any time withdraw or modify such permission.
- (2) Permission for the keeping of bees shall not be granted if any area the keeping of bees may be dangerous to or constitute a nuisance to the inhabitants of such area.
- (3) Any person applying for permission to keep bees must satisfy the municipality that he or she has a reasonable knowledge of the habits of bees.
- (4) Any person keeping bees must keep such bees in a half frame hive or hives. Such hives or hive must be enclosed by means of screens or fences, or in such other manner as the municipality may direct, so as to render them inaccessible to animals or unauthorized persons.
- (5) No person may destroy bees on any land under the control of the municipality, nor may any person remove any bees, beeswax or honey from any land under the control of the municipality without the written permission of the municipality.

## CHAPTER XI

## MISCELLANEOUS PROVISIONS

**24. Number of animals**

For the purpose of controlling and restricting the keeping of animals within townships, the municipality may from time to time, by special resolution, determine the number, kinds and sex of the animals that may be kept per unit area and the areas within which such animals may be prohibited.

**25. Draining**

All sinks, wash hand basins, baths, shower baths, troughs, floor surfaces, including channels and washing platforms, required to be drained in terms of these by-laws, must be drained to an external gully, connected to the municipality's sewer or, where no sewer is available or readily accessible, to other means of drainage approved by the municipality.

**26. Disposal of dead animal**

No person may fail to duly dispose of a dead animal in such a manner as prescribed by the municipality.

**27. Illness attributed to animals**

The illness of any person which is attributed to the keeping of any animal, poultry, bird or pet as contemplated in chapters VII to VIII inclusive, must be reported to the municipality.

**28. Inspection**

The municipality may, in order to satisfy itself that the provisions of these by-laws are being complied with –

- (a) enter any premises on which animals, poultry, birds or pets are kept or on which kennels or a cattery is conducted or the business of a dealer or speculator in livestock or a pet shop, a hawker of poultry or rabbits is being conducted or on which he reasonably suspects animals, birds or pets are kept or such business is being conducted at all reasonable times;
- (b) inspect such premises or any vehicle used or reasonably suspected to be used for such business and anything thereon or therein; and
- (c) question any person on such premises or in such vehicle or who has recently been on such premises or in such vehicle.

**29. Impounding of animals**

- (1) Any stray animal found in the area of jurisdiction of the municipality, or which is being kept in contravention of any provision of these by-laws, shall be seized and placed in the nearest pound by the municipality.
- (2) No person may set free or attempt to set free any animal lawfully impounded except after paying the prescribed fees for the lawful release of it, as well as compensation for damages caused by such animal.
- (3) Neither the municipality nor any authorized official is liable for compensation to any person for an animal in respect of which has been impounded in terms of these by-laws or any pound regulations.

**30. Animals kept in unsatisfactory manner**

Whenever any animals kept on any premises are causing a public nuisance, the municipality may by written notice require the owner or occupier of such premises within a period to be stated in such notice but not less than 24 hours after the date of such notice to remove the cause of and to abate such nuisance and to carry out such steps as the municipality may deem necessary for the said purpose.

**31. Provision of camps**

The municipality may reserve and fence off or conditionally allow to be fenced off such portions of land within its area of jurisdiction as may be deemed desirable by the municipality, and establish a special camp or camps for the grazing of animals of the residents and may control the use of camps as it deems fit in order to ensure proper administration and to prevent soil erosion.

**32. Grazing fees**

Any grazing fees prescribed by the municipality is payable by every person in whose name animals are registered or should in terms of this by-law be registered.

**33. Register of animals**

The municipality must cause all information furnished in support of an application for permission in terms of section 5 to be entered in a register of animals in a suitable form if such application is approved. Any animals reflected in the register of animals are deemed to be registered.

**34. Duties of keepers of livestock**

Anyone who keeps livestock within the jurisdiction of the municipality must -

- (a) ensure that each animal bears a brand;

- (b) keep a register of all animals;
- (c) provide a copy of register of all animals to the municipality;
- (d) keep kraals in a clean and hygienic condition at all times;
- (e) cause all animals to be vaccinated as required in terms of the Animal Health Act 2002 (Act 7 of 2002);
- (f) cause all animals to be tested for tuberculosis and brucellosis in accordance with the Animal Health Act, 2002 (Act 7 of 2002), or as often as required by the municipality;
- (g) cause all manure from animals to be stored and disposed of in an approved manner;
- (h) cause all feed to be stored in a rodent proof place; and
- (i) cause the premises to be kept in such conditions as not to attract or provide shelter for rodents.

### **35. 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, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

### **36. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
  - (a) creating conditions for the local community to participate in the affairs of the municipality; and
  - (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of –
  - (a) a member of members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.

- (3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of these by-laws, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative an input to the municipality for consideration.

### **37. Offences**

A person commits an offence if he or she –

- (a) contravenes or fail to comply with any provision of these by-laws;
- (b) keeps animals, birds or poultry or is the person in control of or conducts the business of a dealer or speculator in livestock, a pet shop, dog kennels or cattery or hawker of poultry or rabbits on any premises and fails to ensure that all provisions of these by-laws applicable to such premises or business are complied with;
- (c) fails or refuses to give access to premises to the authorized official or any officer contemplated in section 26 when requested to give such access;
- (d) obstructs or hinders an authorized official or other officer in the execution of his or her duties under these by-laws; or
- (e) fails or refuses to give information to the authorized official or such other officer which is lawfully required, or knowingly furnishes false or misleading information.

### **38. Penalty**

A person who committed an offence is guilty of an offence and liable on conviction to a fine, and in the event of a continuing offence, liable to a fine not exceeding R50 for every day during which the offence continues after the date stipulated in any provision of written notice issued by the municipality.

### **39. Short title and commencement**

This by-law may be cited as the By-laws relating to the Keeping of Animals, Birds and Poultry, and Businesses involving the Keeping of Animals, Birds, Poultry or Pets, and commences on the date of publication thereof in the Provincial Gazette.



**MAKANA LOCAL MUNICIPALITY  
PREVENTION OF PUBLIC NUISANCES BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Makana Local Municipality, enacts as follows:-

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1. Definitions
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9. Repeal of by-laws
10. Short title and commencement

**1. Definitions**

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

**“agent”**, in relation to the owner of a property, means a person appointed by the owner of the property-

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

**“district municipality”** means the Cacadu District Municipality established in terms of section 12 of the Municipal Structures Act, 1998 (Act 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof 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;

**"municipality"** means the Local Municipality of Makana established in terms of section 12 of the Municipal Structures Act, 1998 (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 person appointed by the municipality in terms of section 82 of the Municipal Structures Act, 1998 (Act 117 of 1998), and includes a person –

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

**"owner"** –

(a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;

(b) in relation to property includes an occupier, lessee, servitude holder, trustee, executor, curator or assignee, agent or administrator of such property;

**"premises"** means –

(a) land or a portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof; or

(b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

**"public nuisance"** means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely effects the safety of the public;

**"public place"** means any 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;

**"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,;

**"structure"** means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter or the keeping or enclosing of animals.

## 2. General provisions relating to public nuisances

(1) No person may –

(a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;

(b) carry on any trade, business, profession or hobby which may be a source of discomfort or annoyance to other people;

(c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;

(d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;

(e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;

(f) use any stoep, verandah or alley of any shop or business premises or vacant land adjoining such shop or business premises for the purpose

- of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
- (g) enclose any stoep or verandah of any shop or business premises by any means otherwise than by such means as approved by the municipality;
  - (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
  - (i) be foul, misuse or damage public toilets;
  - (j) carry or convey in any street or public place, any objectionable material or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
  - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
  - (l) by an action allow that a nuisance be created or continued;
  - (m) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
  - (n) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
  - (o) cause a nuisance by loitering in any street or public place;
  - (p) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
  - (q) in any street or public place use any abusive or threatening language;
  - (r) cleanse or wash any vehicle or part in any street or public place;
  - (s) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of subsection (1)(a) to (l), the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefore.
- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.

(3) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.

(4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under is guilty of an offence.

### **3. Right of entry and inspection**

(1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.

(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, 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 employee, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

### **4. Service of documents and process**

(1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –

- (a) when it has been delivered to him personally;
- (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
- (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

(2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

## **5. 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, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

## **6. Penalties**

A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment and a further amount equal to any costs and expenses incurred by the municipality as result of any contravention.

## **7. Liaison forums in community**

(1) The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for the local community to participate in the affairs of the municipality; and
- (b) promoting a safe and healthy environment;

(2) A liaison forum may consist of –

- (a) a member or members of an interest group, or an affected person;
- (b) a member or members of a community in whose immediate area a public nuisance occur;
- (c) a designated official or officials of the municipality; and
- (d) a councillor.

(3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of these by-laws, request the input of a liaison forum.

- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative an input to the municipality for consideration.

## **8. Service agreements with, and failure and omission of district municipality**

(1) In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared.

(2) If the service delivery referred to in subsection (1) is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of subsection (1), the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the

Republic of South Africa (Act 108 of 1996), proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the district municipality.

**9. 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 these By-laws, 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, 1998 (Act 117 of 1998).

**10. Short title and commencement**

This by-law is called the Prevention of Public Nuisances By-law and will come into operation on the date of publication thereof in the Provincial Gazette.

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