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KWAZULU-NATAL PROVINSIE
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DEPARTMENT OF HEALTH

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MUNICIPAL NOTICES

No. 30**26 February 2015**
**JOZINI MUNICIPALITY
(KZ 272)**
**Private Bag X028, Jozini, 3969
Town, Jozini**
Circle Street, Bottom
Tel: (035) 5721292 Email: tbuthelezi@jozini.org.za Fax: (035) 5721266

MUNICIPAL NOTICE
CEMETARY AND CREMATORIA BY-LAWS

Be it enacted by the Council of the JOZINI Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, and approval of the Member of the Executive Council responsible for Local Government in terms of Section 104 (2) Funeral, Burial and Cremation Services Act of 2002 in the Province of KwaZulu-Natal, read with section 11 of the Local Government: Municipal Systems Act No. 32 2000, as follows :

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CHAPTER 1

GENERAL

1. Definitions

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

“**adult**” means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;

“**after-hours fee**” means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours, save in the case of cremations or burials, which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

“**ashes**” means the cremated remains of a body;

“**Births and Deaths Registration Act**” means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

“**body**” means any dead human body, including the body of a stillborn child;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act;

“**burial**” means burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body;

“**cemetery**” means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;

“**child**” means a deceased person who is not an adult;

“**Commonwealth war grave**” means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

“**Council**” means the Jozini Municipal Council

“**cremation**” means the process of disposing of a human body by fire;

“**crematorium**” means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which the ceremony is conducted and the cremation carried out;

“**crematorium section**” means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

“**cremated remains**” means all recoverable ashes after the cremation process;

“**exhumation**” means the removal of a body from its grave;

“**garden of remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work , placing or scattering of ashes, but does not include a columbarium;

“**grave**” means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;

“**grave of conflict**” means the grave of a person who died while defending the country;

“**hero**” means a person who performed a heroic act for the country and is given the status of a hero by the Council;

“**indigent person**” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or non governmental organization can be found to bear the burial or cremation costs of such deceased person and includes a pauper;

“indigent relief” means assistance received for the burial or cremation of an indigent person;

“medical officer of health ” means the officer appointed by Council or any other person acting in the capacity of the medical officer of health;

“memorial section” means a section of a cemetery set aside for the erection of memorials;

“memorial wall” means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

“memorial work” means any headstone, monument, plaque, or other work, or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“municipal area” means the area under the control and jurisdiction of the Council;

“niche” means a compartment in a columbarium or garden of remembrance for the placing of ashes;

“officer-in-charge” means the person in the employ of the Council who, from time to time, is in control of any cemetery.

“prescribed” means prescribed by the Council;

“prescribed fee” means a fee determined by the Council by resolution of that Council or its successor.

“South African Heritage Resources Agency” means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

“stone mason” means a person carrying on business as a stone mason;

“**victim of conflict**” means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

CHAPTER 2

ESTABLISHMENT AND MANAGEMENT OF CEMETERIES

2. Establishment of cemeteries

(1) The Council may from time to time set aside and reserve suitable municipal land within the municipality for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Council may deem necessary.

(2) The Council may set aside, reserve and demarcate within a cemetery, in accordance with an approved layout plan, such areas as the Council may deem necessary for exclusive use by the members of a particular religion or denomination, or for the burial of adults, children, security forces or war heroes, or for the creation and management of the following sections:

(a) Berm-section where memorial work of a restricted size may be erected only on a concrete base provided by the Council at the top or bottom end of a grave the top surface of graves are level and the Council will cut planted as well as natural grass as part of its maintenance program;

(b) Monumental-section where memorial work erected shall cover the entire grave area,

(c) Semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Council;

(d) Natural-grass section where the surface of graves are levelled. Graves are identified by numbers affixed on top of the graves in such a way that lawnmowers can be used to cut the natural grass without damaging the numbers;

(e) Traditional-section where memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the Berm-section. The surfaces of graves are level;

(f) Columbarium-section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Council;

3. Official hours

(1) The cemetery and the office of the caretaker shall be open during the hours as determined by the Council. The cemetery office of the caretaker shall be open from Monday to Friday.

(2) Burials shall take place on the days and during the hours as determined by the Council.

(3) The Council has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Council may deem fit

(4) No person shall be or remain in a cemetery or part thereof before or after the official hours as determined by the Council or during any period when it is closed for the public, without the permission of the caretaker.

4. Register

(1) A register of graves and burials shall be kept by the caretaker.

(2) Such register shall be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

5. Numbering of graves

(1) All graves in a cemetery that are occupied or for which a burial has been authorised in terms of the provisions of this by-law shall be numbered by the Council.

(2) The number shall be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

6. Reservation of graves

(1) No reservation of a grave in a cemetery shall be allowed.

(2) Reservation of graves made and recorded in the official records of the Council in terms of any previous by-laws shall still be valid and the Council shall honour such reserved rights.

7. Transfer of reserved rights

(1) A reserved right as contemplated in section 6(2) may not be transferred without the prior approval of the Council.

(2) Application to transfer such right shall be made to the caretaker in writing by completing and submitting a prescribed application form.

(3) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder

(4) The reserved right may be cancelled on request of the holder and if the request is approved by the Council, the amount paid by the holder (if any) minus 10% administration fees, will be refunded to the holder.

8. Number of corpses in a grave

(1) Only one corpse may be buried in a grave with measurements as contemplated in this by-law.

(2) Only two corpses may be buried in a grave with measurements as set out in sub-section 15(4): Provided that application for the burial of two corpses has been made to the caretaker in writing by completing and submitting the required application form before the first corpse is buried.

(3) After the re-opening of a grave for the purpose of the burial of a second corpse as mentioned in sub-section 9(2) in that grave, a concrete layer of not less than 25 mm thick shall be cast above the coffin previously buried.

(4) If on re-opening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation will be handled in consultation with the Medical Officer of Health.

9. Number of Corpses in a coffin

(1) A deceased stillborn child and his or her deceased mother may be buried in the same coffin at the fee for a single interment of an adult.

(2) Still-born twin babies may be buried in the same coffin at the fee for a single interment of a stillborn child.

CHAPTER 3

BURIALS

10. Application for a burial

(1) Application for permission for a burial in a cemetery shall be made to the caretaker in writing by completing and submitting a prescribed application form. An application shall be accompanied by:

- (a) the prescribed burial order;
- (b) the prescribed fees; and
- (c) a reservation certificate, if applicable;

(2) No person shall, without the prior written approval of the Council, execute, cause, or allow a burial in any other place in the municipality than in a cemetery established and managed by the Council. This includes the burial of a corpse, of ashes and of a cadaver.

(3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(4) No person shall execute a burial or cause or allow a burial to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date, and time for the burial has been arranged with the caretaker.

(5) In allocating a date and time for a burial, the caretaker shall have regard to the customs of the deceased's relatives and their religion or church affiliation.

(6) In allocating a grave the caretaker shall as far as practicable possible allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his choice, but not the individual grave of his or her choice. The allocation of a specific grave is the sole responsibility and discretion of the caretaker and a burial shall be executed only in a grave allocated by him or her.

(7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.

(8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.

(9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.

(10) Except with the permission of the Council, no person shall place or cause any coffin constructed of any material other than natural wood or other perishable material to be placed in any grave.

11. Burial of a corpse

(1) All graves shall be provided by the caretaker with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work shall be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.

(2) There shall be at least 1 200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.

(3) All corpses shall be placed in a coffin for the burial thereof, except as provided for the Muslim community.

(4) No person shall without the prior permission of the caretaker conduct any religious ceremony or service according to the rites of one denomination in any

portion of a cemetery reserved by the Council in terms of the provisions of this by-law, for the use of some other denomination.

(5) No person shall permit any hearse in a cemetery to leave the roads provided, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.

(6) Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker as to the route to be taken within the cemetery.

(7) No person shall convey or expose a corpse or any part thereof in an unseemly manner in any street, cemetery or public space.

(8) Every application and every document relating to any burial shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Council for a period of not less than ten years.

(9) Every coffin or body upon being placed in any grave shall, at once, be covered with 500 mm of earth.

(10) No person shall disturb any human remains or any soil adjacent thereto in any cemetery, except where such disturbance is expressly permitted by this bylaw or by an order of court.

12. Burial of ashes

(1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave; provided that a coffin does not exceed the average body weight of 70 kg, and further-more that the grave is re-adjusted to the prescribed depth and measurements.

(2) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date, and time for the burial has been arranged with the caretaker.

(3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility shall be made to the caretaker in writing by completing and submitting a prescribed application form.

(4) Niches will be allocated by the caretaker strictly in the order in which the applications therefore are received and no reservations for future use will be made.

(5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.

(6) An urn or casket containing ashes that has been deposited in a building, columbarium, or other facility shall not be removed without the caretaker's prior written consent.

(7) Every niche containing ashes shall be sealed by a tablet approved by the Council and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it will once again be sealed.

(8) Application for the opening of a niche shall be made to the caretaker in writing by completing and submitting a prescribed application form.

(9) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein unless and until:

- (a) approval for the burial has been obtained from Council;
- (b) approval for the erection of the memorial work has been obtained from Council; and,
- (c) the prescribed fees have been paid which shall be determined by Council from time to time.

(10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official office hours of the cemetery.

(11) No permanent wreaths, sprays, flowers, or floral tributes may be placed in or on a columbarium.

(12) The columbarium may be visited daily during the official cemetery hours as determined by Council.

(13) Plaques shall be made of material approved by the Council and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

13. Burial of a cadaver

The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in sub-section 15(4): Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.

14. Persons dying outside the municipal area

The provisions of these by-laws shall apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the municipality

15. Grave measurements

(1) The excavation of a grave for an adult shall be at least 1820 mm deep, 2300 mm long, and 760 mm wide.

(2) The excavation of a grave for a child shall be at least 1370 mm deep, 1520 mm long, and 610 mm wide.

(3) In the event that a grave of a greater depth, length or width than those specified above is required, application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker together with the application to obtain permission for a burial.

(4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2400 mm deep 2300 mm long and 760 mm wide.

(5) Deviations from measurements of graves shall be as follows:

Extra wide : 2300 mm long
: 840 mm wide

Extra long : 2530 mm long
: 760 mm wide

Rectangular small : 2300 mm long
: 900 mm wide

Brick-nogging : 2600 mm long
: 1050 mm wide

(6) The area of a rectangular grave for an adult shall be 1500 mm wide by 2600 mm long.

(7) The area of a grave for an adult shall be 1210 mm wide by 2430 mm long.

(8) The area of a grave for a child shall be 1210 mm wide by 1520 mm long. If a coffin is too large, an adult grave shall be used.

CHAPTER 4

RE - OPENING OF GRAVES AND EXHUMATIONS

16. Conditions of exhumations

(1) No person may exhume or cause to be exhumed a body without the written consent of the -

- (a) Premier of the Provincial Government;
- (b) the Council;
- (c) the provincial Department of Health;
- (d) the Administrator of cemeteries;
- (e) the Council's Medical Officer of Health or
- (f) by an order of a court having jurisdiction over such matters.

(2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.

(3) A member of the South African Police Services must always be present when an exhumation is being conducted.

(4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.

(5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;

(6) (a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and

(b) The authority referred to in paragraph (1)(d) of this Section and the prescribed fee must accompany such notice.

(7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.

(8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.

(9) The South African Police Services must -

(a) if there is proof of illegal burial immediately exhume the body; and

(b) take it to a government mortuary for investigation.

(10) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.

(11) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

17. Exhumation and reburial

(1) The Council may, if a body has been buried in contravention of these By-laws, cause the body to be exhumed and re-buried in another grave.

- (2) The relatives of the deceased must be -
- (a) notified of the intended exhumation and re-burial; and
 - (b) allowed to attend.

18. Screening of exhumation

- (1) A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.
- (2) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

CHAPTER 5

MISCELLANEOUS

19. Injuries and damages

(1) A person using a cemetery do so at his own risk, and the Council accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.

(2) A person using a cemetery accepts full responsibility for any incident, damages or injuries that may be caused by or that may result from the aforementioned use of the cemetery and he or she accordingly indemnifies the Council, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by himself, his or her dependants or third parties in respect of any patrimonial loss, consequential damages, injuries or personal prejudice that may be suffered or sustained in connection with or resulting from such a person's use of a cemetery. The aforementioned indemnity also applies to injuries sustained by employees of the Council while on duty at the cemetery, as well as damages to Council property at the cemetery.

20. Fire-arms and traditional weapons

No fire-arms and traditional weapons shall be allowed in a cemetery.

21. Offences and penalties

(1) Any person contravening or failing to comply with any of the provisions of these by-laws shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).

(2) Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

22. Complaints

Any person wishing to lodge a complaint shall lodge such complaint, in writing with the Director.

23. Charges

The charges set forth in "the tariff" in respect of the various items therein contained, shall be paid to the Council in advance.

24. Rights on Graves

No person shall acquire any right to or interest in any ground or grave in any cemetery.

25. Consents, Notices and Orders

Any written consent, notice or other order issued by the Council in terms of these by-laws, with the exception of consent by the Director or any officer authorised by him and shall be prima force evidence of the contents of such a signed consent, notice or other order.

26. Religious Ceremonies

(1) The members of any religious denomination may conduct religious ceremonies in connection with any interment of memorial service subject to the control and by-laws of the Council.

(2) No animal may be slaughtered on the premises of the cemetery regardless of any religious ceremony which may require an animal to be slaughtered.

27. Hearses and vehicles at Cemeteries

(1) No person shall cause any hearse or vehicle, as defined by the Road Traffic Act, while within a cemetery to depart from the carriage drives or certain any hearse within any cemetery after the removal of the body from such hearse or vehicle. Every hearse or vehicle such removal shall leave the cemetery by the route indicated by the caretaker.

(2) The cemetery is a public place and all laws applicable to the driving of a vehicle and the use of a public road will be applicable inside the premises of the cemetery.

28. Exposure of Bodies

No person shall convey a dead body, which is not covered, or whose any such body or any part thereof in any street, cemetery or public place.

29. Instruction of Caretaker

Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker while such person is within a cemetery.

30. Music Inside Cemetery

Only sacred singing shall be allowed in any cemetery, except in the case of police and military funerals.

31. Interments Attended by large Numbers of People

In any case where it is probable that an unusually large number of persons will be present at any interment, the person giving notice of such interment shall notify the caretaker the day before the funeral.

CHAPTER 6

REPEAL OF BY-LAWS

Repeal of existing By-laws

32. The Council's existing by-laws are hereby repealed.

Short title and commencement

33. These by-laws shall be called the Cemetary and Crematoria By-Laws By-laws, 2015, and shall come into operation on

No. 31

26 February 2015



JOZINI MUNICIPALITY (KZ 272)

Private Bag X028, Jozini, 3969
Jozini

Circle Street, Bottom Town,

Tel: (035) 5721292 Email: tbuthlezi@jozini.org.za Fax: (035) 5721266

MUNICIPAL NOTICE

POUND BY-LAW

Be it enacted by the Council of JOIZINI MUNICIPALITY, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act No. 32 of 2000 and after having consulted the broader community of KZ272 as follows:-

POUND BYLAWS

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1. DEFINITIONS

In these bylaws, unless inconsistent with the context –

“**Act**” means the KwaZulu-Natal Pound Act, 2006 (Act No. 03 of 2006);

“**animal**” means any equine or bovine animal or any donkey, sheep, goat, pig or domesticated ostrich, dog, cat or any hybrid of such animals, or any poultry;

“**council**” means the council of the JOZINI MUNICIPALITY;

“**impounded animal**” means any animal received into a pound as contemplated in section 5;

“**owner**” in relation to any animal includes the registered owner, the lessee and any lawful occupier of such land or his or her agent;

“**pound**” means any premises on which a pound has been established in terms of section 3 of the Act by or on behalf of the Council for the impounding of animals under these bylaws;

“**poundkeeper**” means a person who may be – any employee of the municipality appointed to such position as contemplated in section 4 of the Act , and includes any person acting for or on behalf of the appointed poundkeeper; or such position as contemplated in section 4 of the Act , and includes any person acting for or on behalf of the appointed poundkeeper; or appointed under a service delivery agreement to keep and operate the pound, as provided for in section 3 of the Act;

“**public place**” means any place to which the public has access including, without limiting the generality of the foregoing, any square, park, recreation ground, sports ground, open space, beach, shopping centre on municipal land, unused/vacant municipal land or cemetery; and

“**public road**” shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

“**service delivery agreement**” means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 3 of 2006.

2. APPLICATION

These by-laws apply to the area of jurisdiction of the Municipality; provided that nothing prevents any animal detained in terms of these bylaws from being

impounded in a pound or any similar facility established by any other municipality, the provincial government or other lawful authority.

3. ESTABLISHMENT OF POUND

- 3.1 The Council shall establish a pound in accordance with the provisions of section 3 of the Act at any convenient place within its area of jurisdiction and, whenever the Council deems it necessary, may disestablish such pound and shall establish a pound as it deems fit
- 3.2 The Municipality shall give notice of the establishment of a pound, or the disestablishment thereof, by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Council.
- 3.3. Notwithstanding the provisions of subsection (3.1.), a municipality may, within a period of 12 months after the commencement of this Act, enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction.

4. APPOINTMENT OF A POUNDKEEPER

The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a poundkeeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(2) of the Act.

5. DETENTION AND REMOVAL OF ANIMALS

- 5.1 The owner of land upon which any animal is found trespassing may seize such animal for impounding; provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 72 hours prior to the removal to the pound.
- 5.2 Any animal found straying untended upon any public road or public place may be seized for impounding by –
- (a) a member of the South African Police Services;
 - (b) a member of the South African National Defence Force;
 - (c) a member of the KwaZulu-Natal Road Traffic Inspectorate;
 - (d) a member of any municipal police or protection services; or

(e) the owner of any land through or alongside which such road passes or which abuts on such public place.

5.3 A person may not keep an animal, seized for purposes of impounding in terms of in subsections (1) and (2), for a period longer than six hours without supplying such animal with adequate food and water.

5.4 Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1 to the Act.

6. ANIMALS TOO VICIOUS, INTRACTABLE OR WILD TO BE IMPOUNDED

If a Veterinarian, or in a situation where a veterinarian cannot be reached a member of the South African Police Services, is satisfied that an animal found trespassing on any land, or straying untended on a public road or public place, is too dangerously vicious, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal after giving written reasons and written notice thereof to the owner of the animal.

7. RELEASE OF ANIMALS BEFORE REMOVAL TO POUND

7.1 The owner of an animal seized in terms of section 5(1) may apply to the owner of land referred to in section 5(1) for the release of such animal prior to its removal to the pound.

7.2 The owner of land referred to in section 5(1) –

(a) may release such animal forthwith; or

(b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

7.3 The owner of an animal seized in terms of section 5(2) may apply to the relevant person referred to in Section 5(2) for the release of such animal prior to its removal to the pound, in which event the person who seized the animal must release such animal forthwith.

8. CARE OF TRESPASSING ANIMALS

A person may not work, use or ill-treat an animal found trespassing on any land or whilst such animal is in the process of being removed to a pound.

9. POUND TO WHICH ANIMALS MUST BE TAKEN

An animal seized for the purpose of impounding in terms of section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that animals of different species must be separated at all times according to their species.

10. INFORMATION TO BE SUPPLIED TO POUNDKEEPER

A person sending animals to the pound must advise the poundkeeper in writing of -

- (a) his or her name and permanent residential address;
- (b) the date, time and place of the detention of the animal/s;
- (c) the capacity in which he or she detained the animal/s;
- (d) the number and descriptions of the animals;
- (e) the land upon which they were found trespassing;
- (f) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound; and
- (g) a copy of the notice given in terms of section 5(1)

11. ACCEPTANCE AT POUND OF ANIMALS TO BE IMPOUNDED

The poundkeeper may not refuse to accept an animal for impounding.

12. RECEIPT OF ANIMALS

12.1 The pound manager shall, upon receipt of a detained animal –

- (a) record the particulars furnished in terms of section 10 above and enter the same in a book maintained for the purpose;
- (b) furnish the person delivering the animal with a receipt reflecting –
 - (l) his or her name;

(II) a description of the animal; and

(III) the date and time of receipt of the animal at the pound; and

(c) keep a copy of each receipt issued.

12.2 No person shall release or attempt to release, otherwise than in accordance with these bylaws, any animal which has been received at a pound.

13. POUND REGISTER

13.1 The poundkeeper must

(a) maintain a pound register containing the information contemplated in Schedule 2 to the Act, which must be available for public inspection at all reasonable times; and

(b) complete the pound register immediately upon the acceptance into the pound of any animal.

13.2 If the poundkeeper –

(a) neglects or refuses to comply with any of the provisions of subsection (1);

(b) knowingly makes a false entry in the pound register;

(c) fraudulently destroys or erases any previous entry in the pound register; or

(d) willfully delivers a false copy or extract from the pound register to any person,

he or she is guilty of an offence.

14. NOTICE TO OWNERS OF ANIMALS

The owner of an animal contemplated in sections 5(1), 6, 15(2)(b), 16(c), 18(b), 22(1)(b), and 24(a), must immediately be notified by

(a) addressing a written notice to him or her; or

(b) placing a copy of the notice to the owner on the Municipal Notice Board: and

(c) publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation within the Municipal area.

15. CARE OF IMPOUNDED ANIMALS

15.1 The poundkeeper

- (a) Is responsible for the proper care of all impounded animals;
- (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
- (c) is liable to the owner of an impounded animal for any damage caused by his or her willful or negligent acts or omissions.

- 15.2 (a) If the poundkeeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court, which may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.
- (b) Where the Court authorises the destruction or disposal of an animal on application by the poundkeeper, the poundkeeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

16. ISOLATION OF INFECTED ANIMALS

If the poundkeeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No; 35 of 1984), he or she must –

- (a) provide separate accommodation for such animal;
- (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
- (c) immediately notify the owner of the animal of such disease in writing.

17. TREATMENT OF IMPOUNDED ANIMALS

The poundkeeper –

- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (b) must ensure that all impounded male animals are at all times kept apart from female animals.

18. DEATH OF OR INJURY TO IMPOUNDED ANIMALS

If an impounded animal is injured or dies, the poundkeeper must –

- (a) record the injury or cause of death in the pound register referred to in section 12; and
- (b) notify the owner of the animal in writing of the injury or death.

19. COPIES OF ACT AND BY-LAWS

The poundkeeper must ensure that legible copy copies the Act and of these by-laws are available at the pound for inspection.

20. FEES AND COSTS PAYABLE

The poundkeeper must -

- (a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of these by-laws or in accordance with any other law, in accordance with Schedule 3 of the Act.

21. RELEASE OF IMPOUNDED ANIMALS

21.1 The poundkeeper must immediately release an impounded animal, and give the owner a receipt upon the owner –

- (a) providing proof of ownership of such animal; and
- (b) paying the fees and costs contemplated in section 19.

21.2 If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the poundkeeper may retain such animal in order to recover such fees and costs as may be due and payable.

22. SALE OF IMPOUNDED ANIMALS

22.1 The poundkeeper must –

- (a) within 14 days of the impounding of an animal, apply to the Court for authority to sell the animal; and
- (b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in subsection (2) with the owner.

22.2 The statement contemplated in subsection (1)(b) must include –

- (a) the fees and costs due in terms of these by-laws; and
- (b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.

22.3 Whether or not the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, the Court must –

- (a) summarily enquire into the matter;
- (b) enquire whether notice was given to the owner of the animal by the poundkeeper; and
- (c) make such order as it considers just and equitable, including an order –
 - (i) as to costs; and
 - (ii) on the process to be followed by the poundkeeper in the sale of the animal.

23. POUNDKEEPER MAY NOT PURCHASE IMPOUNDED ANIMALS

The poundkeeper, or a family member or a close associate of the poundkeeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

24. ANIMALS UNSUCCESSFULLY OFFERED FOR SALE

In the event that any animal is not sold as contemplated in section 21 –

- (a) the poundkeeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and
- (b) the Court may make such order as it may deem just and equitable.

25. PROCEEDS

If any impounded animal is sold at a price in excess of –

- (a) the fees and costs incurred; and
- (b) any damages awarded in terms of section 21,

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

26. ACTION FOR RECOVERY OF DAMAGES

Nothing in these by-laws prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

27. PROCEDURE TO BE FOLLOWED IN APPLICATIONS TO COURT

An application to Court for –

- (a) the impoundment of an animal in terms of these by-laws, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
- (b) the sale of an impounded animal in terms of these by-laws, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court,

made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

28. INDEMNITY

The Council, the pound manager and any officer, employee, agent or councillor of the Council shall not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

29. OFFENCES AND PENALTIES

A person who –

- (a) unlawfully releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;

- (b) unlawfully seizes an animal for the purpose of impounding it;
- (c) unlawfully impounds an animal; or
- (d) contravenes any provision of these by-laws,

is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding one year.

30. SCHEDULES 1 AND 2 OF THE ACT FORM PART OF THESE BY-LAWS

Schedules 1 and 2 to the Act form part of these by-laws for all purposes.

31. Repeal Of Existing By-Laws

The Municipality's existing Pound by-laws are hereby repealed.

32. Short Title

These by-laws will be called the JOZINI MUNICIPALITY Pound By-laws, 2012

SCHEDULE 1

Code of Good Practice on the Handling and Transportation of Impounded Animals

(Section 5(4))

PART 1

PADDOCK REQUIREMENTS

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1.5 square meters of floor area for each animal.
3. Fractious animals may not be kept with other animals.
4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.
5. Provision must be made in paddocks for

- (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean. which will allow the feeding of an animal off the floor. and which can be serviced without disturbing the animals:
 - (b) water troughs with an adequate supply of suitable fresh water at all times;
 - (c) sufficient facilities for the adequate cleaning of paddocks: and
 - (d) facilities for the safe handling of animals.
6. (a) The paddocks must at all times be maintained in a good state of repair.
- (b) Sharp points such as wire ends. broken boards. jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or other wise suitably covered.
7. The floor of the entire paddock, including the off-loading banks, races. and passages. must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II

HANDLING OF ANIMALS

8. Animals must at all times be handled humanely and with patience and tolerance.
9. The following must be kept in mind when handling animals
- (a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - (b) herd animals respond more readily to being driven when in a group rather than singly.
10. Animals may not be dragged by their legs, or carried by their head. ears or tail.
11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters. alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck. and walked in the required direction at an appropriate and comfortable pace.
12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
13. Electric prodders, sticks or goads may not be used on young calves.
14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III

MOVEMENT OF ANIMALS

15. Animals driven on the hoof must at all times be under proper and competent supervision.
16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.
17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
18. No animal on the hoof may be moved in excess of the following distances
 - (a) during a journey of not more than one day's duration
 - (i) 20 kilometers for sheep and goats; and
 - (ii) 30 kilometers for cattle; and
 - (b) during a journey of more than one day's duration
 - (c) 20 kilometers during the first day and 15 kilometers during each subsequent day for sheep and goats; and (ii) 25 kilometers during the first day and 20 kilometers during each subsequent day for cattle.
19. Animals must be watered and fed immediately on reaching their night camp or final destination with sufficient food of a quality and of a type compatible with the species.
20. Animals may not be moved in the dark.
21. No sick, injured or disabled animal may be moved on the hoof.

PART IV

VEHICLES USED IN TRANSPORTING ANIMALS

22. Vehicles and all trailers used in the transport of hooved animals must be suitable for the transport of such animals and in a roadworthy condition.
23. All vehicles and trailers referred to in item 22 must have

- (a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle with hinged or removable battens or steel grids being permissible;
 - (b) adequate ventilation and light whilst In motion as when stationary with no vehicle being totally enclosed;
 - (c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress:
 - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle: Provided that
 - (I) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
 - (II) in the case of cattle other than calves, the minimum height must be 1 800 millimeters; and
 - (III) the minimum height must be 750 millimeters in the case of any smaller animals;
 - (e) in multi-tier vehicles, height~ between decks must be adequate. and in case of sheep and pigs not less than 1 000 millimeters, to enable the largest animals to stand naturally. freely and fully erect and to allow adequate space for the free flow of air above the animals;
 - (f) floors that are solid and impervious;
 - (g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimeters; and
 - (h) gates, with or without partitions
 - (I) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
 - (II) that open and close freely and are able to be well-secured.
24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is
- (a) 1.4 square meters per large animal; and
 - (b) 0,5 square meter per small animal.

PART V

WATERING AND FEEDING OF LIVE ANIMALS PRIOR TO LOADING

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

LOADING AND OFF-LOADING PROCEDURE

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
28. No animals may be loaded or off-loaded otherwise than
 - (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees: or
 - (b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimeters below the level of (the off loading vehicle and with an incline not exceeding 25 degrees.
29. Where a truck is equipped with an onboard removable loading ramp it must have a nonslip surface and be of a sufficient length when lowered that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimeters.
30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.
31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.

33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
34. Adult homed cattle may not be transported with polled cattle and they must also be penned separately.
35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey the animal may not be loaded onto a vehicle.
36. In the case of an animal giving birth during transport the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
37. In the event of
 - (a) a breakdown of the transport vehicle:
 - (b) an accident or collision in which the transport vehicle is involved; or
 - (c) injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from
 - (I) in the case of paragraph (a), a breakdown service:
 - (II) in the case of paragraph (b), the South African Police and authorities: or
 - (III) in the case of paragraph (c), a veterinarian, the South African Police and authorities.

PART VI

THE TRAFFIC

Restraining of animals during transportation

38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.
39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.
40. No wire or bailing twine may be used for tying the animal's legs or feet.
41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2

POUND REGISTER INFORMATION

(Section 12) A pound register must, at least, contain the following information

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal
5. Ear tag number assigned by the poundkeeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land
9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance from location where animal was seized to pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution

