



## MBHASHE VEHICLE IMPOUNDMENT POLICY

*'Caring for the impounded vehicles'*

*"Currently Mbashe Local Municipality has no vehicle impounded policy yet"*

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## PURPOSE OF THE POLICY

The purpose of the policy is as follows:-

- a) To provide for the establishment and management of the pounds within the Mbhashe Local Municipal area of jurisdiction;
- b) To provide for the administration and conducting of the pound sale;
- c) To provide for the receiving and releasing of the impounded vehicles
- d) To provide for any matters connected therewith.

### 1. PREAMBLE

Whereas the establishment and management of pounds have been identified as a critical issue in the movement of vehicles within the public roads in Mbhashe municipal area;

And whereas the existing pounds are establishment without any policy guidance and the absence of national guidance (except for the National Road Traffic act 93/1996 ).

And whereas the existing pounds are not properly management and it is clearly stated that all the vehicles impounded will parked at owners risk , and if not collected within three months will be sold to defray expenses .

### 2. Definitions of terms

In this policy, unless the context indicates otherwise:-

**Pound** means the vehicle pound as established in terms of clause 4 of this policy

**Vehicle** means any motor vehicle, any self-propelled vehicle including the wagons and trailers .

**Superintendent Traffic** means an official appointed in terms of clause 8 of this policy

**Owner in relation to:-**

- a) **Vehicle** includes the owner and any other person who may have lawful custody or possession of such animal or the authorised agent of such owner or other person
- b) **Land** includes owner, lessee or lawful occupier of such land, or such land, or the agent of such owner, lessee or lawful occupier
- c) **Pound** includes a person, traditional council, municipal entity or a municipality who establishes or has established a pound

**Municipality** means a municipality as contemplated in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000)

**Municipal entity** means a municipality entity as contemplated in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000)

**Council** means Mbhashe Municipal Council as constituted in terms of the section 12 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998)

**Identification mark or mark** has the meaning ascribed to it in the motor vehicle Identification ( Registration plate / engine number of such vehicle.

**Traditional authority/ council** has the meaning ascribed to it in the Traditional Leadership and governance framework act, 2003 (Act No 41 of 2003)

**Public road** means the public road as contemplated in the National Road Traffic Act of 1996 (Act No 93 of 1996)

**Damage** means any loss, injury or damage incurred to the person, property or surroundings as a result of the un road worthy vehicles.

### 3. Establishment of pound

- 1) A pound may be established, subject to any applicable national or provincial legislation, by:-
  - a) Municipality
  - b) Municipal entity
  - c) Traditional authority
  - d) Any other entity as prescribed by the national or provincial legislation
- 2) An application for the establishment of the pound, in a form prescribed by the Municipality, shall be made through the Council and no pound shall operate without the approval by the Council
- 3) A maximum of thirty (30) days shall be allowed for the affected parties to object to the establishment of the pound
- 4) Where an application for the establishment of a pound is not granted by the Council, the applicant shall be furnish with reasons for such a non-approval within thirty (30) days from the date of resolution
- 5) Any party aggrieved by the decision of the Council may appeal to the MEC for Cooperative Governance in the Eastern Cape within seven (7) days of receipt of the non-approval notice from the Council
- 6) A vehicle pound must meet the national and/or standards set by the Municipality from time to time. Any vehicle pound that does not meet the set standards must be closed by the Municipality.
- 7) A person or entity establishing the pound in terms of clause 4 of this policy shall be deemed as the owner of the pound.

### 4. Duty of care for motor vehicles

- 1) The owner of a vehicle must exercise care and control over his or her vehicle so as to avoid damage, vehicle parked at owners risk at the pound yard.
- 2) The owner of the vehicle is responsible for the offence caused by his vehicle.
- 3) Where there is a dispute with regard to the damages or any other matter, such disputes must be directed to the Council for resolution.

## 5. Impounding of vehicles.

- 1) A vehicle may be impounded for the following reasons-
  - a) Operated on a public road with serious offences, like driving a motor vehicle on a public road without driving license. Any vehicle posing a danger to other road users on a public road.
  - b) A vehicle operated on a public road without a license disc.
  - c) Suspected to be in possession of unauthorised person
  - d) Causing damage to the property of another person.
  - e) Anyone who interfere with Municipal staff during impoundment of vehicles will be dealt with even the price will be doubled
  - f) Any person who wilfully hinders the free flow of traffic deliberately on a public road.
  - g) Any person suspected of being drunk and who operates a motor vehicle on a public road.
  - h) A Learner who drives motor vehicles on a public road without being accompanied by a licensed driver.
  - i) A person who deliberately ignore the road traffic sign ( eg a no entry sign , skipping red robot )
  - j) A learner driver not accompanied by a licensed driver .
  - k) A learner driver accompanied by a licensed drunk driver .
  - l) In the case of a public motor vehicle, bus, taxi or any vehicle carrying passengers for reward without road transportation permit, such vehicle shall be impounded .
  - m) A public passenger vehicle which operates contrary to terms and conditions of the permit , such vehicle shall be impounded .

## 6. Care of impounded vehicles

- 1) Impounded vehicles must be kept and handled according to acceptable standards .
- 2) The Superintendent Traffic shall be liable for the vehicle owner for the loss, or damage caused as a result of the negligence of the pound owner.
- 3) Every pound owner must take reasonable care of vehicles whilst impounded, by:-
  - a) Providing sufficient shelter and protection against the elements
  - b) Putting in place security measures to ensure that the vehicles are safe from theft.
  - c) Keeping vehicles in a manner that ensures that there would be no scratching or dents caused as a result of improper parking .

## 7. Appointment or Designated Supervisor or Superintendent Traffic

- 1) The council shall
  - a) Appoint a Pound superintendent who is competent to manage the pound
  - b) The appointed Pound Superintendent should be fit and proper to manage the pound
  - c) Notify the Registrar of Pounds of such appointment

- 2) As his/ her duties and functions, the Pound Superintendent must:-
  - a) at all reasonable times accept vehicles brought for impounding
  - b) keep records of all impounded vehicles and how they have been released from the pound
  - c) submit regular reports the Council and/or Pound owner about the pound activities
  - d) supervise the staff working with him/her
  - e) ensures that the impounded vehicles are taken care of
  - f) perform pound sale
  - g) keep up-to-date record of the existing vehicle pounds in the Mbhashe municipal area
  - h) perform any other duties and functions as may be necessary

## 8. Pound sale

- A. Municipal Pound Sale shall involve only vehicles impounded and/or kept in the MLM pound and procedure of disposing such vehicles shall be as contained below:-
  - 1) If a vehicle has not been claimed by its owner or its owner is not known to the Pound Superintendent at the expiry of ninety(90) days from the day of impounding, the Pound Master may proceed to dispose of the vehicles through public auction in the following manner:-
    - a) An attempt will be made to trace the owner of the vehicle thereof.
    - b) The use of local and provincial newspapers shall be used to trace the owners and publish the auction.
    - c) Should the owner of the vehicle shows interest in his or her vehicle he will be charged the prescribed fine and the storage thereof .In the notice for the auction, a date should be set for further claim on the impounded vehicles , before the date of the auction.
    - d) The proceeds of each pound should be accounted for and reported separately through the structures of Council.
      - a. Such individuals would have to produce adequate proof of ownership of such vehicle, including but not limited to certified copy of ID, proof from the local ward Cllr, clearance from SAPS as well as papers from the registering authority.
      - b. The MLM would provide the pound facilities for use by the vehicle owners.

## 9. Reporting

- 1) Regular reports on pound activities shall be prepared and processed through the structures of the Council, at least on a quarterly basis. Such reports would include, but not limited to the following matters:-
  - a) Pound sale
  - b) Impounded vehicles and the releases made
  - c) Awareness campaigns to the motorists and affected stakeholders
  - d) Expenses and revenue related to the pound management
  - e) Proposals on improvements on the pound management

- f) Activities and monitoring of non-municipal pounds existing within Mbhashe municipal area

#### 10. Transfer and closure of a pound

- 1) When an owner of a pound is transferring ownership to another person and/or body, or may not be interested in operating the pound, the original owner of the pound must:-
- a) Inform the Council through the Municipal Pound Master in writing of his/her intention
  - b) The receiving owner of the pound must apply for the establishment of the pound in terms of clause 4 of this policy

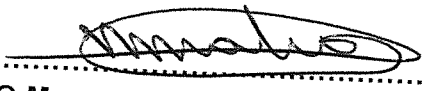
#### 11. Name of the policy

This policy shall be known as Mbhashe Motor Vehicle Pound Policy, otherwise referred to as MMVPP for short.

#### 12. Commencement of the policy

The Council on approval of the policy, shall spelt out the date of commencement of the policy

Approved by the Council and assigned by:-

  
.....  
NAKO M  
ACTING MUNICIPAL MANAGER

07/08/2017  
.....  
DATE

  
.....  
CLLR JANDA S N  
MAYOR

07/08/2017  
.....  
DATE