

**MBHASHE VEHICLE IMPOUNDMENT POLICY 2025/26**



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## 1. POLICY BACKGROUND

The legal process of placing a vehicle into an impoundment lot or tow yard which is a holding place for cars until they are placed back in the control of the owner, recycled for their metal, stripped of their parts at a wrecking yard or auctioned off for the benefit of the impounding agency.

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## 2. POLICY PURPOSE

The purpose of the policy is to regulate when a vehicle must be impounded in terms of the National Road Traffic Act. (93/1996) and National land transportation act (5/2009) (NLTA)

To provide for the establishment and management of pounds within the Mbashe Local Municipal area of jurisdiction:

- a) To provide a clear procedure on what needs to be considered before vehicle is impounded, how and when should vehicles be impounded.
- b) To provide for receiving and releasing of impounded vehicles.
- c) To provide for administration and conducting of pound sales.
- d) To provide for any matters connected therewith.

## 3. DEFINITIONS

In this policy, unless the context indicates otherwise: -

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

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

**Owner in relation to:** -

- a) **Vehicle** includes the owner and any other person who may have lawful custody or possession of such vehicle or the authorised agent of such owner or other person

**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 Mbashe 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.

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

#### **4. APPLICATION AND SCOPE**

A pound may only be established, subject to any applicable national or provincial legislation, and the Local Municipality

#### **5. LEGISLATIVE FRAMEWORK**

Constitution of the Republic of South Africa.

- Municipal Structures Act (no 117 of 1998)
- Municipal Systems Act (no 32 of 2000)
- National road traffic act (93 of 1996)
- National Land transport act (5/2009)
- Criminal Procedure Act (51 of 1977)
- Disaster management act ( 2002)

#### **6. IMPOUNDMENT PROCEDURES**

61. Law Enforcement or Traffic Officers must conduct an investigation and record the

Following:

6.1.1 General condition of motor vehicle and vehicle/ use of motor vehicle check list.

6.1.2 Obtain registration number, make and colour of the motor vehicle.

6.1.3 Verify through Enatis system the owner of the vehicle.

6.1.4 Give a notice within 48 hours by way of phone call and physical address of the owner that the vehicle was impounded, (in the case of abandoned vehicle). Give a notice of 30 days from the date of issue by means of issuing Sec: 341.

6.1.5 Inform the South African Police Services (vehicle theft unit) of the impoundment and request written confirmation as to whether it is a stolen vehicle or not.

6.1.6 If the vehicle is stored not reported stolen and no response received within six months from the owner, advertise the impoundment and auction the vehicle in the official local newspaper in circulation in the area.

- 6.2 Senior person/ Pound master must keep a separate file for each vehicle impounded. All impounded vehicles must be recorded in an indexed and register for impounded vehicles.
- 6.3 Municipal pound must be fenced, paving/ slab, with a guard room and a gate.
- 6.4 Should the vehicle be damaged, stolen, Mbhashe Local Municipality cannot be held liable. Liability is expressly excluded, but negligence on the part of the Municipality is not excluded.

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6.5 Normal impoundment due to traffic contraventions should simply be towed away and the vehicle report must be completed.

Normal impoundment due to traffic contraventions should be done only for the following offences:

- Vehicle driven by an unlicensed driver on a public road.
- A drunk driver, driving a vehicle on a public road and who is likely to cause danger to other road users.
- A vehicle suspected of being stolen and the case thereof is being investigated

Otherwise for other offences, a fine should be issued and the motorist should be given a date to pay the fine.

- 6.6 The normal pound fees will be payable on release of the vehicle by the registered owner.
- 6.7 The vehicle must be impounded in the official pound and the receiver of the vehicle must sign a receipt when the vehicle is released to the owner.
- 6.8 Impoundment fees as determined by Council yearly must be paid before the vehicle is released to the owner.

## **7. DUTY OF THE OWNER OF A VEHICLE**

- 1) The owner of a vehicle must exercise care and control over the use of his/her vehicle.
- 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 director of the department and later to the council.

## **8 IMPOUNDING OF VEHICLES.**

- 1) A vehicle may be impounded for the following reasons-
  - a) A vehicle operated on a public road without a valid driving license.
  - b) A vehicle operated on a public road without a license disc.

- c) Suspected to be in the hands of unauthorised person.
  - d) Causing damage to the property of another person; A vehicle causing damage to the property of another person, may be impounded in the pound yard whilst the police are still investigating the matter
  - e) A written agreement with other law enforcement agencies for various joint operation, should be a well-known to everybody and be included in the policy.
  - f) A vehicle with a person who interferes with Municipal staff during impoundment of vehicles.
  - g) Any vehicle that wilfully hinders the free flow of traffic on a public road.
  - h) Any vehicle driven by intoxicated person on a public road.
  - i) A vehicle driven by a learner driver on a public road without being accompanied by a licensed driver.
  - j) A vehicle driven by a person who ignores the road traffic sign.
  - k) In the case of a public motor vehicle, without road transportation permit.
  - l) Any public passenger vehicle which operates contrary to terms and conditions of the permit.
  - m) Suspected to be carrying illegal substances and/or goods.
- 2) All areas that vehicle will be towed from must be clearly marked and all necessary signs shall be displayed at such areas that vehicles will be towed away.

## **9. CARE OF IMPOUNDED VEHICLES**

- 1) Impounded vehicles must be kept and handled according to acceptable standards.
- 2) The Municipality shall not be liable for any loss and damage caused as a result of the impoundment of a vehicle.
- 3) All impounded vehicles are stored and driven at owners' risk

## **10. RELEASE OF IMPOUNDED VEHICLES**

- 1) Impounded vehicles may be released upon payment of the stipulated fine or
- 2) If a vehicle has not been claimed by its owner at the expiry of six months from the day of impounding, the Municipality may proceed to dispose the vehicles through the public auction.

## **11. FINES**

- a) The traffic fines shall be set and/or reviewed, as part of the tariff structure of the Municipality, annually through the budgeting process.

- b) The Municipality may provide discounts at the discretion of the Chief Traffic Officer of Department. Such discounts shall be accounted for to the structures of council on a regular basis.
  - c) A double charge may be applied in the following circumstances: -
    - i. Where the owner or delegate attempts to resist impoundment of the vehicle in whatever way
    - ii. Where the owner or delegate attempts to break-in or forcefully take the impounded vehicle
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## **12. REPORTING**

- 1) Regular reports on pound activities shall be prepared and processed through the structures of the Council on a regular basis.

## **13. IMPLEMENTATION**

The policy will be implemented on roles and responsibilities.

## **14. REVIEWAL**

Will be reviewed annually