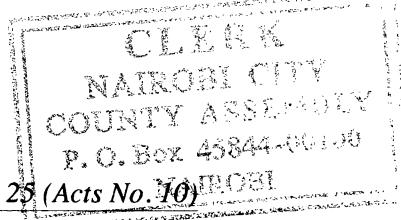


SPECIAL ISSUE

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REPUBLIC OF KENYA

NAIROBI CITY COUNTY GAZETTE SUPPLEMENT

ACTS, 2016

NAIROBI, 22nd April, 2016

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THE NAIROBI CITY COUNTY DOG CONTROL AND WELFARE
ACT, 2015

No. 10 of 2015

Date of Assent: 12th January, 2016

Date of Commencement: See Section 1

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**THE NAIROBI CITY COUNTY DOG CONTROL
AND WELFARE ACT, 2015**

**AN ACT of Nairobi City County Assembly to provide
for the control and welfare of dogs within the
County of Nairobi City and for connected
purposes.**

ENACTED by Nairobi City County Assembly as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nairobi City County Dogs Control and Welfare Act, 2015 and shall come into operation upon the expiry of ninety days from the date of its publication.

Short title and commencement.

2. In this Act, unless the context otherwise requires—

Interpretation.

“authorized officer” means an officer appointed under section 22;

“dog pound” means the place where dogs seized under this Act are kept;

“licensing officer” means an officer of the relevant Department designated as a licensing officer for the purpose of this Act;

“Member of the County Executive Committee” means the Member of the County Executive Committee responsible for matters relating to dog control and welfare;

“owner” includes any person on whose premises a dog is found or whose premises a dog is known to frequent, unless such person can show that the dog is not his dog, and was on his premises without his consent.

“place” means any land or building or part of a building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building ;

“public place” means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, market, house-gully or way, whether a thoroughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass;

"recognized society" means—

- (a) the National Government or County Government as the case may be; or
- (b) any organization which the Member of the County Executive Committee may, with the prior approval of the County Assembly, declare, by notice in the Gazette, to be a recognized society for the purposes of this Act;

"relevant Department" means the Department of the County Executive for the time being responsible for matters relating to veterinary services;

"veterinary surgeon" has the meaning assigned to it by section 2 of the Veterinary Surgeons and Veterinary Para-professionals Act, 2011.

3. The object and purpose of this Act is to provide for the control and welfare of dogs within the precincts of Nairobi City County pursuant to Part II of the Fourth Schedule to the Constitution by—

Object and purposes of Act.

- (a) providing for a licensing regime for dogs;
- (b) providing standards of conduct in the habitation and handling of dogs by its owners;
- (c) prohibiting the unhygienic disposal of dog carcasses in public places, drains and sewers, for restoring and maintaining clean environment;
- (d) such other measures as outlined in this Act.

4. The provisions of this Act shall apply to the County of Nairobi City and shall be in addition to and not in derogation of the provisions of any national law on the subject, for the time being in force.

Application.

5. (1) No person shall own or keep any dog within Nairobi City County unless such person is in possession of a licence for the dog issued under this Act.

Licence to own or keep a dog

(2) The provisions of subsection (1) shall not apply to a dog owned or kept by a recognized society

6. (1) An application for a dog licence shall be made in such form as may be prescribed.

Application for
licence.

(2) The application under subsection (1) shall be accompanied by—

- (a) the appropriate licence fee specified in the Schedule;
- (b) a valid certificate issued by a veterinary surgeon to the effect that the dog in respect of which the licence is applied has been inoculated against rabies

(3) Notwithstanding the provisions of subsection (2), no licence fee shall be payable in respect of an application for a licence for any dog kept by a disabled person or used for the purpose of guiding a disabled person.

7. (1) A licensing officer may, upon being satisfied that the applicant has complied with the requirements of section 6, issue a licence in such form as may be prescribed.

Issuance of a licence.

(2) A licence issued under subsection (1) shall—

- (a) be subject to such terms and conditions as may be specified in the licence;
- (b) be valid for one year and shall expire on 31st December of that year;
- (c) be valid only in respect of the dog for which it is issued;
- (d) be issued together with an identification tag to be displayed by the dog in accordance with section 8.

(3) A duplicate licence or identification tag may be issued upon—

- (a) proof that the original licence or identification tag has been lost; and
- (b) payment of the fee set out in the Schedule for each duplicate licence or identification tag.

(4) A licence issued under this section may be revoked by the licensing officer if the licensing officer is satisfied that—

- (a) the licence was obtained by fraud or misrepresentation or without fulfilling the provisions of this Act; or
- (b) the licence has breached the provisions of this Act or the conditions under which the licence was issued.

8. (1) The owner of a dog to whom a dog licence has been issued under the provisions of section 11 shall, at his own expense, cause such dog to wear at all reasonable times an identification tag collar on which shall be affixed—

- (a) the licence label issued with such licence; and
- (b) the name and address of the keeper inscribed on it or on a plate or identification tag attached to it.

(2) An identification tag shall—

- (a) be of metal or plastic not less than 1.00mm in thickness and shall be of the prescribed shape, dimensions and colour in relation to the period during which a dog licence is issued.
- (b) bear a symbol or mark which denotes the County of Nairobi City as the issuing authority.

(3) An identification tag shall not be attached to a dog other than the dog in respect of which the relevant dog licence was issued.

9. (1) The Relevant Department shall keep a register of dog licences which shall contain such particulars as may be prescribed.

Register of dog licences

(2) The register may be kept in manual or computerized form capable of being reproduced in a legible form for inspection.

PART III—DOG WELFARE

10. A person shall not keep a dog if his or her premises are not properly and adequately fenced to keep

Fencing of property.

such dog inside when it is not on a leash unless the dog is confined to the premises in some other manner, provided that such confinement is not inhumane in the assessment of the authorised official.

11. (1) A person shall not leave a dog in premises where there is no responsible person unless—

- (a) it has access to drinking water;
- (b) has reasonable shelter against the sun and rain; and
- (c) is able to move freely.

Water, shelter and movement

(2) The Member of the County Executive Committee shall from time to time issue guidance as to the manner in which a dog whilst restrained by a chain or other means may be able to move freely.

(3) An owner of a dog or any other person who has the custody of a dog shall ensure that the welfare of the dog is safeguarded at all times in line with the recognized freedoms of animals and in accordance with section 3 of the Prevention of Cruelty to Animals Act.

12. A person shall not keep or leave a bitch on heat in any public place which will permit a male dog to approach it and no keeper of a bitch shall allow a male dog to approach it unless both the keeper of the bitch and the keeper of the dog desire the approach for the purpose of breeding.

Bitches on heat

13. A person shall not—

Other prohibitions.

- (a) urge any dog to attack, worry or frighten any person or animal or through negligence fail to prevent any dog from attacking, worrying or frightening any person or animal, except where necessary for the defense of such first-mentioned person or his or her property or of any other person;
- (b) take out a dog on a public place unless it is on a leash.
- (c) keep any dog which causes damage to public property;

- (d) keep any dog the faeces of which he or she fails to remove regularly and dispose of suitably;
- (e) keep any dog whose barking, yelping, howling or whining constitutes a public nuisance;
- (f) keep any dog which causes a nuisance to inhabitants of the neighborhood by—
 - (i) having acquired the habit of charging any vehicle, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (ii) by misbehaving in any other manner;
- (g) permit any dog owned or kept by him or her—
 - (i) to be in any public street or public place while suffering from mange or any other infectious or contagious disease and cannot prove that the dog is under treatment by a registered veterinarian and is no longer a public health hazard;
 - (ii) which is in the assessment of the authorised official ferocious, vicious or dangerous to be in any public street or public place, unless it is humanely muzzled and held on a leash and under control;
 - (iii) to trespass on private property;
 - (iv) to constitute a hazard to traffic using any public street;
 - (v) to constitute or to his or her knowledge be likely to constitute a source of danger or injury to any person outside the premises on which such dog is kept;
 - (vi) to be in any public street or public place except on a leash and under control unless the dog is in an area designated by the Council as a free running area;
- (h) provoke, harass or tease any dog.

14. Any person who contravenes the provisions of this Part commits an offence.

Commission of offence

PART IV—DISPOSAL PROVISIONS

15. (1) No person, shall throw or cause to be thrown at any public place or in any place open to public view or in any drain, ventilation shaft, pipe and fittings connected with the private or public drainage works any dead carcass of a dog, which may—

Prohibition on disposal of dog carcass.

- (a) be dangerous or cause nuisance or be prejudicial to public health;
- (b) likely to be eaten by stray animals or used to misleadingly feed the public leading to serious health hazards; or
- (c) injure the proper functioning of the drainage and sewerage system or interfere with the free flow or affect the treatment and disposal of drain and sewer contents;

(2) If any person disposes any dog carcass in contravention of subsection (1), any person aggrieved of any such nuisance, may complain to the relevant Department in such manner as may be prescribed.

(3) A person who contravenes the provisions of subsection (1) commits an offence.

16. It shall be the duty of the relevant Department to establish a dog pound or other convenient place where dogs seized under the provisions of this Act may be detained.

Establishment of a dog pound.

(2) The relevant Department shall designate a suitable person to be the keeper of the dog pound.

17. (1) It shall be lawful for every authorised person to seize any dog not bearing a valid identification tag, and for such purpose to enter any private premises with the prior consent of the owner or occupier thereof if such person has reasonable cause to believe such dog to be trespassing or straying on such premises and every dog so seized shall be carefully conveyed to the dog pound within twelve hours of the seizure thereof and there be detained for a period of four days unless such dog shall be sooner claimed.

Seizure of unlicenced dogs

(2) Every person so seizing a dog shall place such notification as may be prescribed at the premises of the owner of the dog being seized, notifying the owner of the dog of the seizure.

(3) The owner of any dog so seized shall be entitled to have such dog restored to him on production of a valid licence and payment of a fee of two thousand shillings or, in the event that the dog was unlicensed during seizure, payment of a fee of five thousand shillings.

18. (1) It shall be lawful for every authorised officer to seize any dog whether wearing a valid identification tag or not, if such dog shall be found in any highway or other place of public resort between the hours of ten o'clock in the night and six o'clock in the morning unattended by the owner or the owner's servant or agent, and every dog so seized shall be carefully conveyed to the dog pound within twelve hours of the seizure thereof and there be detained for a period of four days unless such dog shall be sooner claimed.

Seizure of
licenced and
unlicenced dogs

(2) Every authorised officer seizing a dog shall, within twelve hours of the seizure, notify the fact to the keeper of the dog pound.

(3) The owner of any dog seized shall be entitled to have the dog back upon the production of the licence therefor and upon payment of a fee of two thousand shillings in the case of a dog and two thousand shillings in the case of a bitch.

(4) Where the owner of a bitch produces a certificate from a veterinarian showing that the bitch has been spayed a fee of five hundred shillings shall be paid.

19. (1) When no application is made for the delivery up of any dog seized under the provisions of section 17 or 18 of this Act, or when the licence for such dog has not been produced, or when the expenses of its capture have not been paid within four days from the time of its seizure, it shall be the duty of the keeper of the dog pound to report such matter to the relevant Department, who may, by order in writing, direct that such dog be destroyed.

Destruction of
unclaimed dogs.

(2) Where any dog not wearing a valid identification tag seized under the provisions of section 17 or 18 of this Act appears to the keeper of the dog pound to be suffering

from a serious disease, the keeper shall report that fact without delay to a veterinary surgeon, and such surgeon may, if the condition of the dog constitutes a danger to the public health, by order in writing direct that such dog be destroyed.

(3) Any dog not released or claimed from a pound within fourteen (14) days of having been received in the pound may either be sold, given away or destroyed painlessly under the supervision of a veterinary surgeon or a person authorized by the County, or otherwise dealt with.

(4) Any dog which is—

- (a) severely injured or suffering from an infectious or contagious disease is savage, dangerous; and
- (b) not receiving proper treatment and is not under any or sufficient control may be painlessly destroyed under the supervision of a veterinary surgeon authorized by the County.

(5) No liability shall attach to the County or any officer of the County or any veterinary surgeon or any officer authorized by the County on account of any dog being destroyed or otherwise dealt with in accordance with the provisions of this Act.

20. No action shall lie for any injury inflicted on, or for the destruction of a dog committing or about to commit any trespass or depredation on the property of the person against whom the action is brought, or that of his master or employer, nor shall any action lie for any injury inflicted on, or for the destruction of a dog, unless it shall be proved at the trial of such action that, at the time the injury was inflicted on such dog or the dog destroyed, there was no arrears of tax under this Act due and payable in respect of such dog, and further, that the dog had on, at the time of receiving such injury, or being destroyed, a valid identification tag.

No civil action in certain cases.

21. (1) The relevant Department shall—

Functions of the relevant Department..

- (a) organize and conduct a comprehensive public awareness programmes on—
 - (i) safe feeding and health practices in respect of dogs;

- (ii) the dangers of keeping dogs that do not meet medical and public health requirements; and
- (iii) the practices that are demeaning and degrading to the welfare of dogs.
- (b) collect, compile and publish technical and statistical data relating to the prevalence of the rabies and other dog related infections and hazards and their possible interventions.
- (c) establish a dog disposal facility.
- (d) in such manner and within such timelines as may be prescribed—
 - (i) remove all dog carcasses in public places; and
 - (ii) pick up stray dogs.
- (e) establish and convene at least once in every year a County dog control and welfare forum comprising of representatives of government officials, dog welfare societies and residents associations where issues relating to the residents and welfare of dogs will be discussed.
- (f) perform such other functions, as may be specified in this Act.

(2) The Member of the County Executive shall, in each financial year, prepare for tabling before the County Assembly status report outlining—

- (a) the measures taken by the relevant department in the year to ensure compliance with subsection (1);
- (b) the progress made and challenges encountered in achieving the compliance; and
- (c) such other matters as may be specified in a resolution of the County Assembly.

PART V—ENFORCEMENT

22. (1) The Member of the County Executive Authorised officers.

Committee may, upon the recommendation of the relevant Department, appoint any person or class of persons to be authorised officers for purposes of this Act.

(2) The Member of the County Executive Committee shall issue a certificate of appointment to every person appointed under this section.

(3) A person appointed under subsection (1) shall be a person who is a veterinary surgeon.

23. (1) For the purposes of ensuring compliance with this Act, an authorised officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.

Places authorised officers may enter.

(2) An authorised officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under section 22(2).

(3) The right to privacy enshrined in Article 31 of the Constitution and the right to property enshrined in Article 40 of the Constitution are limited as specified in this section for the purpose of ensuring the health and safety of the public.

24. In carrying out an inspection in any place pursuant to section 23 an authorised officer may—

Powers of officers.

- (a) examine any dog or anything referred to in that section;
- (b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the dog or thing;
- (c) open or require any person in the place to open any place of abode, kennel, container or thing found in the place that the officer believes on reasonable grounds contains the dog or thing;
- (d) conduct any test or analysis or take any measurements; or
- (e) require any person found in the place to produce for inspection or copying, any written or

electronic information that is relevant to the administration or enforcement of this Act.

25. In carrying out an inspection in a place, an authorised officer may—

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; or
- (d) scrutinize any other record system in use in that place.

Use of records.

26. (1) An authorised officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under sub-section (2).

Entry of dwelling place.

(2) Upon an ex-parte application, a magistrate or judge, may issue a warrant authorising the authorised officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that—

- (a) the dwelling place is a place referred to in section 23;
- (b) entry to the dwelling place is necessary for the administration or enforcement of this Act; and
- (c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused.

(3) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

(4) An authorised officer executing the warrant issued under this section shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorised in the warrant.

27. An authorised officer who carried out an inspection under this Act shall make a preliminary report immediately upon completion of the inspection in a prescribed format, a copy of which shall be retained in the premises.

Inspection report.

28. (1) The owner of a place inspected by an authorised officer under this Act or the person in charge of the place and every person found in the place shall —

Assistance of officers.

- (a) provide all reasonable assistance to enable the authorised officer to carry out his duties under this Act; and
- (b) furnish the authorised officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made.

(2) The inspecting agent in sub-section (1) shall issue the respective inspection completion and certification certificate once satisfied with the inspection.

29. (1) No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorised officer who is carrying out duties under this Act.

Obstruction.

(2) A person who contravenes sub-section (1) commits an offence.

30. (1) During an inspection under this Act, an authorised officer may, in addition to the avenues provided for in sections 17 and 18, seize any dog or thing by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer.

Seizure during inspections.

(2) The authorised officer may direct that any dog or thing seized be kept or stored in the place where it was seized or that it be removed to another place.

(3) Unless authorised by an officer, no person shall remove, alter or interfere in any manner with any dog or other thing seized.

(4) Any person from whom dog or thing was seized may, within thirty days after the date of seizure, apply to Court for an order of restoration, and shall send notice containing the prescribed information to the relevant Department within the prescribed time and in the prescribed manner.

(5) The provisions of subsection (4) shall not apply where the owner of the dog produces a valid licence in respect of the seized dog.

31. (1) The Court may order that the dog or thing be restored immediately to the applicant if, on hearing the application, the court is satisfied that—

Order for restoration.

- (a) the applicant is entitled to possession of the dog or thing seized; and
- (b) the dog or thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

(2) Where upon hearing an application made under sub-section (1) the court is satisfied that the applicant is entitled to possession of the dog or thing seized but is not satisfied with respect to the matters mentioned in paragraph (b) of sub-section (1), the court may order that the dog or thing seized be restored to the applicant on the expiration of one hundred and eighty days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time.

32. (1) Any act or omission which is an offence under this Act or any rules made hereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

Offences by
partnership or
bodies corporate.

(2) If an offence under this Act or any rules made hereunder is committed by a partner in a firm, every

person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence unless there is proof that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

(3) In any prosecution for an offence under this Act, it shall be sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused.

(4) Any act done or omitted to be done by an employee in contravention of any of the provisions of this Act shall be deemed also to be the act or omission of the employer, and any proceedings for an offence arising out of such act or omission may be taken against both the employer and the employee.

33. (1) In any prosecution for an offence under this Act, a copy of any written or electronic information obtained during an inspection under this Act and certified to be a true copy thereof shall be admissible in evidence and shall, in the absence of evidence to the contrary, be proof of its contents.

Nature of evidence in proceedings.

(2) Subject to this Part, a certificate or report purporting to be signed by an officer stating that the officer analyzed anything to which this Act applies and stating the results of the analysis, shall be admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report.

(3) The certificate or report may not be received in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced notice of not less than seven days of that intention together with a copy of the certificate or report.

(4) The party against whom the certificate or report provided for under sub-section (3) is produced may, with leave of the court, require the attendance of the officer for purposes of cross examination.

(5) In a prosecution for a contravention of this Act—

- (a) information on an identification tag indicating that the dog is licensed is, in the absence of evidence to the contrary, proof that the dog is licensed; and
- (b) a name or address on an identification tag purporting to be the name or address of the person who owns the dog is, in the absence of evidence to the contrary, proof that the dog is owned by that person.

34. No suit, prosecution or other legal proceedings shall lie against the County Government or any officer or other employee of the County Government or any other person or authority authorized by the County Government, for anything, which is done or intended to be done in good faith under this Act or the rules made thereunder.

Protection of actions taken in good faith.

35.(1) A person who contravenes the provisions of this Act for which no penalty is specified or fails to comply with any order or direction given under this Act, shall be punishable with fine not exceeding five thousand shillings.

General penalty

(2) A person who having been convicted of an offence under this Act, is again found guilty and is convicted of an offence under this Act, shall be punishable with double the penalty provided for the offence.

36. For purposes of this Part, reference to a “thing” means reference to any item related to dog control and welfare.

PART VI—PROVISIONS ON DELEGATED POWERS

37. (1) The Member of the County Executive Committee may make rules for the purpose of carrying out the provisions of this Act.

Rules.

(2) Without prejudice to the generality of subsection (1), the rules made may provide for—

- (a) the leashing of dogs;
- (b) the muzzling of dogs;
- (c) the kenneling or caging of dogs;

- (d) the neutering or spaying of dogs;
- (e) the tattooing of dogs;
- (f) the identifying of dogs;
- (g) the excluding of dogs from certain places;
- (h) the imposing of special conditions in connection with the licensing of dogs or of premises where dogs are bred or to be bred;
- (i) the keeping of dogs;
- (j) the breeding of dogs;
- (k) the destruction of dogs;
- (l) the removal of dog carcasses in public places;
- (m) the picking up of stray dogs;
- (n) establishment and convening of County dog control and welfare forum;
- (o) the forms for application of licence and form for licences issued under this Act; and
- (p) the prescribing of anything required to be prescribed in this Act.

(3) Every rule made under this Act shall be laid before the County Assembly for approval before the rule is gazetted.

(4) For purposes of enabling the effective operationalization of this Act, the Member of the County Executive Committee shall ensure that the rules referred to in this section are made within ninety days from the date of publication of this Act.

SCHEDULE (s. 6)

LICENCE FEES

1. On issue of a dog licence.....Kshs. 2,000.00
2. On issue of an identification tag.....Kshs. 1,000.00
3. On issue of a duplicate licence.....Kshs. 1,000.00
4. On issue of duplicate identification tag.....Kshs. 500.00

