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General Notice

OSHAKATI TOWN COUNCIL

No. 680

2018

DOG CONTROL REGULATIONS

Under section 94(1)(af) of the Local Authorities Act, 1992 (Act No. 23 of 1992), after consultation with the Minister of Urban and Rural Development, the Oshakati Town Council has made the regulations set out in the Schedule.

A. IYAMBO
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

SCHEDULE

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Definitions

1. In these regulations a word or expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

“agricultural property” means land zoned for agricultural use in terms of the Oshakati Town Planning Scheme or any other law;

“Animals Protection Act” means the Animal Protection Act, 1962 (Act No. 71 of 1962);

“authorised officer” means a person appointed or authorised by the Council to administer, implement or enforce the provisions of these regulations or a police officer appointed in terms of section 4 of the Police Act, 1990 (Act No. 19 of 1990);

“chief executive officer” means the town clerk of the Council appointed in terms of section 27(1)(a) of the Act;

“Council” means the Oshakati Town Council;

“dog” means a dog over the age of six months;

“environmental health practitioner” means a person who is registered as an environmental health practitioner in terms of the Allied Health Professions Act, 2004 (Act No. 7 of 2004) and appointed by the Council as an environmental health practitioner;

“fee” means charges, fees and other monies payable in respect of any service, amenity or facility and determined by the Council in terms of section 30(1)(u) of the Act;

“guide dog” means a dog which has been trained to assist a blind or poorly sighted person and includes a service dog which has been trained to assist a person who is mentally or physically incapacitated;

“kennel” means premises on which -

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred or kept for commercial purposes; or
- (c) dogs are kept for the purposes of being trained or hired with or without handlers;

“licence” means a licence issued in terms of regulation 2;

“local authority area” means the area of the jurisdiction of the Council;

“owner” means a person having the possession, custody or control of a dog and includes a person who is in charge of a dog;

“permit” means permit referred to in regulation 4;

“pound” means a building, enclosure or facility, owned, controlled or approved by the Council for the impounding, sale or destruction of dogs;

“poundmaster” means a staff member or any other person authorised by the Council to be in charge of a pound;

“premises” means a building, tent or any other structure together with its ground and appurtenances;

“SPCA” means the Society for the Prevention of Cruelty to Animals;

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992); and

“veterinarian” means a person registered or deemed to be registered as a veterinarian in terms of the Veterinary and Veterinary Para-Profession Act, 2013 (Act No. 1 of 2013).

Licensing of dogs

2. (1) An owner of a dog kept within the local authority area must pay a dog tax determined by the Council in respect of every dog which he or she is permitted to keep in terms of regulation 3.

(2) The dog tax contemplated in subregulation (1) must be paid every year by an owner of the dog to the Council.

(3) On receipt of the dog tax contemplated in subregulation (1), the Council must issue to the owner of such dog a -

- (a) licence in the form determined by the Council; and
- (b) metal badge which displays the local authority area, the year for which the licence is valid and the licence number.

(4) A person who contravenes or fails to comply with subregulation (1) commits an offence and on conviction is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Restriction on number of dogs to be kept

3. (1) A person may not keep or allow more than -

- (a) two dogs to be kept on a premises; or
- (b) six dogs to be kept on agricultural property,

unless the person holds a permit to keep more than two or six dogs, respectively.

(2) Subregulation (1) does not apply to -

- (a) dogs kept on the premises of a veterinarian for treatment;

- (b) dogs kept at a pound;
- (c) dogs kept on the premises of SPCA or any other animal welfare society; or
- (d) dogs owned by the Namibian Police Force or Namibian Defence Force for operational or breeding purposes.

(3) A person who contravenes or fails to comply with subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Permit to keep more dogs

4. (1) A person who intends to -
- (a) keep a number of dogs, other than the number of dogs permitted in terms of regulation 3; or
 - (b) erect, install or keep a kennel within the local authority area,

must apply to the Council for a permit to keep such number of dogs.

(2) A person who intends to apply for a permit in terms of subregulation (1) must, 14 days prior to the date of the application, display a notice of intention to apply for a permit to keep such number of dogs in the manner contemplated in subregulation (3).

- (3) The notice of intention to apply for a permit referred to in of subregulation (2) must -
- (a) be in the form determined by the Council;
 - (b) be displayed within one meter of the premises concerned and on the notice board of the Council;
 - (c) be clearly visible to the public; and
 - (d) invite persons, who wish to object to the granting of the permit to lodge objections, in writing, within 21 days from the date the notice is displayed.

(4) Any objection made as contemplated in subregulation (3) must be submitted to the Council and to the person applying for the permit.

(5) An application referred to in subregulation (1) must be made in a form determined by the Council and must be accompanied by -

- (a) the application fee determined by the Council;
- (b) a copy of the notice of intention to apply for permit contemplated in subregulation (3); and
- (c) a copy of an objection submitted in terms of subregulation (4), if any.

(6) The Council may require the applicant for a permit to provide any further information which the Council considers relevant in order to consider the application.

(7) The Council must consider any objection lodged in connection with the application for a permit before the Council grants or refuses the application.

(8) For each application for a permit submitted to the Council in terms of this regulation, the Council must cause its authorised officer or an employee to inspect the premises where the dogs are to be kept and the authorised officer or employee must prepare and submit to the Council a written report on whether the -

- (a) dogs for which the permit is required, are likely to cause a public health hazard;
- (b) keeping of such dogs may result in a contravention of regulation 8; or
- (c) applicant is disqualified from holding a licence or permit in terms of regulation 5.

(9) The Council must only consider an application for a permit after receipt of a written report referred to in subregulation (8).

(10) The Council may grant or refuse the application made under subregulation (1), and if the application is granted, the Council may impose any conditions it considers necessary.

If an application for a permit is granted, the Council must issue to the applicant a permit and the permit must specify any condition imposed by the Council and the validity period of the permit.

(11) If the application for a permit is refused, the Council must give reasons for the refusal of the permit.

(12) A permit issued in terms of this regulation is not transferable from one person to another or from the premises in respect of which it had been issued to another premises.

(13) A person who prior to the commencement of these regulations, kept a number of dogs that are not permitted in terms of regulation 3 may continue to keep such number of dogs but must apply to the Council for a permit within three months after the commencement of these regulations.

Disqualification from holding licence or permit

5. (1) A person is disqualified from being issued with a licence or a permit in terms of these regulations, if such person -

- (a) is convicted of an offence relating to any dog in terms of the Animals Protection Act;
- (b) has been ordered by a court of law not to own a dog in terms of the Animals Protection Act or any other law;
- (c) has received at least three notices from the Council for contravening regulations 8 or 9 and failed to comply with the notices; or
- (d) is the owner of a dog and his or her dog has on more than three occasions, been impounded in terms of regulation 13, unless that person satisfies the Council that such impounding was beyond his or her control.

(2) A person who is disqualified in terms of subregulation (1)(c) or (d) may in writing apply to the Council to consider the disqualification and remove the disqualification.

(3) The Council must consider the application made under subregulation (2) and may grant or refuse the application.

Suspension and cancellation of permit

6. (1) The Council may suspend a permit, if -
- (a) a condition of the permit is not complied with; or
 - (b) it is in the public interest that the permit be suspended.

(2) A suspension under subsection (1) is for the period and subject to the conditions that the Council determines and specifies in the notice of suspension.

- (3) Before the Council suspends the permit, the Council must -
- (a) in writing inform the holder of the permit of its intention to suspend the permit;
 - (b) in writing inform the holder of the permit of the grounds for the intended suspension and the period of the suspension;
 - (c) give the holder of the permit an opportunity to make representations to the Council within a period specified in the notice; and
 - (d) obtain a report with recommendations from an authorised officer or an employee, an environment health officer or a veterinarian on the intended suspension, if the Council considers it necessary.

(4) The Council when finally considering the suspension of the permit must take into account the representation by a holder of the permit.

(5) If a person fails to comply with any condition imposed on the suspension of his or her permit, the Council may cancel the permit.

(6) Despite subregulation (3), the Council may with immediate effect suspend or cancel a permit if the Council considers it is necessary in order to eliminate or reduce a significant risk to the public posed by a public health hazard.

Keeping of register

7. (1) The Council must cause a register of licenses and permits issued in terms of these regulation to be kept and the register must contain -

- (a) the name and place of residence of licence or permit holder;
- (b) a description of the dog, including its sex;
- (c) the licence or permit number; and
- (d) the period of validity of the licence or permit.

(2) The register referred to in subregulation (1) is open for inspection by any member of public during office hours.

Prohibitions relating to keeping of dogs

8. (1) An owner of a dog may not allow a dog to be at large in any place, other than -

- (a) the premises of the owner or the premises of any other person with the consent of that person; or
- (b) at an area designated by the Council as a free running area for dogs,

unless the owner of the dog accompanies the dog and keeps it under his or her control.

(2) A person may not keep a dog -

- (a) which barks, whimpers or howls to such an extent that it, or has a habit which, causes a disturbance or nuisance to any other person;
- (b) which suffers from an infectious or contagious disease which in the opinion of a veterinarian cannot be treated, boarded at a veterinary clinic for treatment or quarantine at premises of an owner for treatment; or
- (c) on premises which are not fenced in such a manner that the dog is outside the confined premises, unless the dog is confined to the premises.

(3) A person may not allow a dog to be in any public place, if the dog -

- (a) is wild, dangerous or ferocious;
- (b) has a habit of chasing people or vehicles;
- (c) is an unsterilised female dog in heat;
- (d) suffers from mange or any other infectious or contagious disease;
- (e) constitutes a hazard to traffic using any public road; or
- (f) causes damage to public properties.

(4) A person may not, without reasonable grounds incite a dog to attack or terrify a person or an animal, except where necessary to defend the person or property of the person or to defend another person or the property of another person.

(5) A person may not -

- (a) provoke, harass or tease a dog; or
- (b) terrify or cause stress or fear to a dog.

(6) A person who contravenes or fails to comply with these regulations commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Defecation

9. (1) Where a dog defecates in a public place or on premises other than that occupied by the owner, the owner, except a person assisted by a guide dog, must remove the product of defecation immediately and dispose it in a way that does not cause a nuisance.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Complaints to Council

10. (1) A person may make a written complaint to the chief executive officer if regulations 8 or 9 are contravened.

(2) If the chief executive officer is satisfied that there is a contravention of any regulation referred to in subregulation (1), he or she may cause a notice to be served on the owner of the dog.

(3) A notice referred to in subregulation (2) must -

- (a) state the nature of the contravention;
- (b) specify any action to be taken by the owner of the dog that the chief executive officer considers necessary to stop or prevent the contravention;
- (c) state the period within which the action referred to in paragraph (b) is to be taken; and
- (d) inform the owner of the dog to lodge an objection to the complaint made, if the owner so wishes, within a period specified in the notice.

(4) A person who fails to comply with a notice served in terms of subregulation (2) commits an offence and on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Sterilisation of dogs by Council

11. The Council may cause a dog to be sterilised at the request of the owner of the dog on payment by the owner of a fee determined by the Council.

Keeping of pound

12. The Council may establish and operate a pound or may enter into an agreement with a person to operate a pound on its behalf subject to any condition that the Council may impose.

Seizure, impounding and destruction of dogs

13. (1) An authorised officer or any other person may take a dog which is at large to a pound if he or she reasonably believes that the dog -

- (a) suffers from an infectious or contagious disease;
- (b) is not owned or cared for by a person;
- (c) is found in a public place and is not on a leash and the control of a person; or
- (d) is not licenced in terms of regulation 2.

(2) Despite subregulation (1), a person may not impound a dog, if there are reasonable grounds to believe that the dog is a female with unweaned young, unless such dog and unweaned young are impounded together.

(3) Where a dog is impounded, the Council must cause a notice to be displayed on the notice board of the Council that a dog has been impounded, giving a full description of the dog and the reason for the impounding.

- (4) An owner of an impounded dog may claim the impounded dog, if such person -
- (a) satisfies the poundmaster that he or she is the owner of the dog impounded; and
 - (b) pays the impounding fee and the amount of veterinary expenses, if any, incurred in respect of the impounded dog.

(5) The poundmaster must, if the provisions of subregulation (4) have been complied with, return the dog to the person claiming to be the owner the dog.

(6) The owner of the dog must claim his or her dog within 10 days from the date on which a notice has been displayed in terms of subregulation (3), and if the impounded dog is not claimed within 10 days after the dog has been impounded, the Council may sell or destroy such dog or cause such a dog to be sold or destroyed.

(7) Unless the Council has instructed the poundmaster to the contrary, the poundmaster must sterilise a dog before it is sold in terms of subregulation (6) and may recover the costs incurred from the buyer of the dog.

(8) Despite anything to the contrary in this regulations, if a dog has been impounded in terms of this regulation and the chief executive officer is satisfied that the dog is -

- (a) suffering from any incurable, infectious or contagious disease;
- (b) badly injured; or
- (c) ferocious, vicious or dangerous,

the chief executive officer may cause such dog to be destroyed immediately in accordance with subregulation (9).

(9) The destruction of a dog under these regulations must be carried out in such a manner as to inflict as little suffering as practical and by means of a method approved by a veterinarian.

(10) The proceeds of any sale in terms of this regulation may be used to defray any costs incurred in connected with such sale and the impounding of a dog.

(11) A person who forcibly takes away or attempts to take away a dog which is lawfully brought to be impounded or who frees or attempts to free a dog lawfully impounded commits an offence and is on conviction is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Duties of poundmaster

- 14.** A poundmaster must -
- (a) display an easily legible notice of the opening hours of the pound at the entrance of the premises where the pound is located and at the notice board of the Council;
 - (b) keep a register in which he or she records the following particulars in respect of every dog impounded -
 - (i) the name of the person, residential address and telephone number of person who brought the dog to be impounded;
 - (ii) the time and date on which the dog is impounded;

- (iii) the place where the dog was found immediately before it was taken to be impounded;
 - (iv) the reason for impounding the dog;
 - (v) full description of the dog including the estimated age, breed, sex, colour, markings and any injury found on the dog when the dog is impounded;
 - (vi) whether the dog is released, sold or destroyed and the date and time of such release, sale or destruction;
 - (vii) the amount of money realised in respect of such sale; and
 - (viii) the amount of veterinary expenses, if any, incurred in respect of the dog;
- (c) ensure that the pound and all equipment used in connection with the impounded dogs are at all times kept clean and free from flies and other vermin to the satisfaction of the environmental health practitioner;
 - (d) ensure that every dog in the pound is properly fed and cared for;
 - (e) isolate any female dog in heat;
 - (f) take reasonable steps to prevent fights among dogs in the pound; and
 - (g) must isolate any dog suffering from any disease from the other dogs, and have such dog treated by a veterinarian and take steps to recover the expenses incurred from the owner of the dog if the identity and the address of the owner is known.

Notices, documents and orders

15. A notice, order or document required to be served to any person in terms of these regulations must be served in the manner provided for by section 93 of the Act and is considered to have been received as provided for by that section.

Enforcement

16. For the purpose of enforcing these regulations an authorised official may perform the duties or exercise the powers given or conferred in terms of section 91 of the Act.

Offences and penalties

- 17.** (1) A person commits an offence, if the person -
- (a) fails to comply with any notice issued for the purposes of these regulations;
 - (b) fails to comply with any lawful instruction given for the purposes of these regulations;
or
 - (c) obstructs or hinders an authorised official or an employee of the Council in the exercise or performance of his or her power or functions under these regulations.

(2) A person convicted of an offence under subregulation (1) on conviction is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.
