



GOVERNMENT GAZETTE

OF THE

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CONTENTS

Page

GENERAL NOTICE

No. 130	Municipality of Walvis Bay: Regulations Relating to Control and Keeping of Dogs: Local Authorities Act, 1992	1
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General Notice

MUNICIPALITY OF WALVIS BAY

No. 130

2020

REGULATIONS RELATING TO CONTROL AND KEEPING OF DOGS: LOCAL AUTHORITIES ACT, 1992

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 Municipal Council of Walvis Bay -

- (a) makes the regulations set out in the Schedule;
- (b) repeals the By-Law Relating to the Control and Keeping of Dogs, published under Provisional Notice No. 491 of 29 July 1983; and
- (c) repeals the Regulations on the Control over the Keeping of Dogs Within the Area of Jurisdiction of the Community Council of Kuisebmond, published under Government Notice No. R. 685 of 8 April 1982.

I. WILFRIED
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

Walvis Bay, 23 March 2020

SCHEDULE**ARRANGEMENT OF REGULATIONS**

1. Definitions
2. Licensing of dogs
3. Restriction on number of dogs to be kept
4. Permit to keep more dogs
5. Disqualification from holding licence or permit
6. Suspension and cancellation of permit
7. Keeping of register
8. Prohibitions relating to keeping of dogs
9. Defecation
10. Complaints to Council
11. Sterilisation of dogs by Council
12. Keeping of pound
13. Seizure, impounding and destruction of dogs
14. Duties of poundmaster
15. Notices, documents and orders
16. Enforcement
17. Offences and penalties

Definitions

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

“agricultural property” means a land zoned for agricultural use in terms of the Walvis Bay 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 Council of the Municipality of Walvis Bay;

“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;
- (c) dogs are kept for the purposes of being trained or hired with or without handlers; or
- (d) dogs kept for commercial security purposes;

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

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

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

“permit” means a permit issued in terms of 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 by the owner of the dog to the Council during the period between January and March each year.

(3) Despite subregulation (2), when a person acquires a dog as his or her dog, the person must pay the dog tax within 21 days of acquiring such dog.

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

- (a) licence on a 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.

(5) If the owner of a dog fails to pay the dog tax within the period contemplated in subregulation (2) or (3), the Council must charge 10 percent penalty per month or part of the month on the amount of the dog tax that is due.

(6) 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 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 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.

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 subregulation (2) must -

- (a) be in the form determined by the Council;
- (b) be displayed within one meter of the premises where the dogs are to be kept and on the notice board of the Council;
- (c) be clearly visible to the members of the public; and
- (d) invite any person, in the area where premises referred to in paragraph (b) are situated, who wishes to object to the granting of the permit to lodge such objection in writing within 21 days from the date the notice is displayed.

(4) The person making an objection under subregulation (3)(d) must submit the objection to the Council and must serve a copy of the objection on the person intending to apply 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;
- (b) a copy of the notice of intention to apply for a permit contemplated in subregulation (2); and
- (c) a copy of any objection submitted in terms of subregulation (4).

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

(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 an authorised officer or an employee to inspect the premises where the dogs are to be kept and the authorised officer or the 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; or
- (b) keeping of such dogs may result in contravention of regulation 8.

(9) The Council may 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.

(11) 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 under subregulation (10) and the validity period of the permit.

(12) If the application for a permit is refused, the Council must notify the applicant of its decision and furnish the applicant with reasons for the refusal of the permit.

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

(14) 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.

(15) A person who contravenes or fails to comply with subregulation (14) 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.

Disqualification from holding licence or permit

5. (1) A person is disqualified from being issued with a licence or 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 regulation 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) from being issued with a licence or permit may in writing apply to the Council for the Council to consider and remove the disqualification and the Council, after considering the application, may -

- (a) grant the application if there are reasonable grounds to do so; or
- (b) refuse the application and give the applicant reasons for the refusal.

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 and the grounds for the intended suspension as well as the period of suspension;
- (b) give the holder of the permit an opportunity to make representations to the Council within a period specified in the notice; and
- (c) obtain a report with recommendations from an authorised officer, an employee, an environment health officer or a veterinarian on the intended suspension, if the Council considers it necessary.

(4) When the Council finally considers the suspension of the permit must take into account any representation made by a holder of the permit and any report referred to in subregulation (3)(c).

(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 subregulations (3) and (4), the Council may with immediate effect suspend or cancel a permit if the Council considers it necessary in order to eliminate or reduce a significant risk to the public posed by a public health hazard.

(7) If the Council has suspended or cancel a permit under this regulation, the Council may make an order for the safeguarding of dogs that have been kept by the permit holder.

Keeping of register

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

- (a) the full names of the licence or permit holder;
- (b) place of residence of licence or permit holder;
- (c) a description of the dog, including its sex;
- (d) the licence or permit number; and
- (e) 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 the dog to be at large at 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 causes, or has a habit of causing, 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 is not fenced or in a manner that the dog is outside the 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 on 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 any public property.

(4) A person may not 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 a dog or cause stress or fear to a dog.

(6) A person who contravenes or fails to comply with this regulation 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.

Defecation

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

(2) 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.

Complaints to Council

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

(2) If the chief executive officer is satisfied that there is a contravention of any of the regulations 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) specify the nature of the alleged 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 further contravention;
- (c) specify the period within which the action referred to in paragraph (b) must 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 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.

Sterilisation of dogs by Council

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

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 not on under control of a person; or
- (d) is being kept in contravention of regulation 2 or 3.

(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) If a dog is impounded, the Council must cause a notice to be displayed on the notice board of the Council or in any other manner and the notice must -

- (a) specify that the dog has been impounded;
- (b) give a full description of the dog; and
- (c) specify the reason for the impounding of the dog.

(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) If the provisions of subregulation (4) have been complied with, the poundmaster must 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 three days from the date of issue of the notice contemplated in subregulation (3), and if the owner of the dog has not claimed the impounded dog within the three days, the Council may sell, donate or destroy such dog or cause such dog to be sold, donated or destroyed.

(7) Unless the Council has instructed the poundmaster to the contrary, the poundmaster must sterilise the impounded 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 -

- (a) suffers from any incurable, infectious or contagious disease;

- (b) is badly injured; or
- (c) is 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 to the dog and by means of a method approved by a veterinarian.

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

- (11) A person who -
 - (a) forcibly or otherwise takes away or attempts to take away a dog which is lawfully impounded; or
 - (b) frees or attempts to free a dog lawfully impounded in terms of this regulations,

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.

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 has been 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, any 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 on 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.** A person who -
- (a) fails to comply with any notice issued in terms of these regulations; or
 - (b) obstructs or hinders an authorised official or an employee of the Council in the exercise or performance of his or her powers or functions in terms of these regulations,

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.
