



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GENERAL NOTICE

No. 266 Gobabis Municipality: Animal Pound Regulations: Local Authorities Act, 1992 1

General Notice

MUNICIPAL COUNCIL OF GOBABIS

No. 266

2020

GOBABIS MUNICIPALITY: ANIMAL POUND REGULATIONS: LOCAL AUTHORITIES ACT, 1992

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

L. S. KALILI
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

Gobabis, 4 February 2020

SCHEDULE

ARRANGEMENT OF REGULATIONS

1. Definitions
2. Establishment of pound
3. Impounding of trespassing and straying animals
4. Fencing of area
5. Duties of persons towards seized or impounded animals

6. Duties of pound-master
7. Dealing with injured, ill or vicious animals
8. Care of impounded animals
9. Separating of impounded animals, infected animals and wild animals
10. Recovery of costs
11. Notice to owner of animals
12. Claiming of compensation for damages
13. Release of impounded animals
14. Proof of ownership
15. Notice of intention to sell impounded animals
16. Sale of impounded animals
17. Apportionment of proceeds of sale
18. Claim of proceeds
19. Ownership and branding of sold animals

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 -

“animal” means any cat, cattle, dog, donkey, goat, horse, monkey, mule, poultry or other domestic animal;

“Council” means the Municipal Council of Gobabis;

“fee” means a fee determined by the Council in terms of section 30(1)(u) of the Act;

“impounded animal” means an animal which is impounded in terms of these regulations;

“local authority area” means the local authority area of Gobabis;

“owner” in relation to an animal, includes a person -

- (a) who is known to own that animal; or
- (b) whose identity, as the person who owns that animal, with the exercise of reasonable diligence, can be ascertained,

including the agent of that person or a person having the lawful custody or possession of that animal;

“pound” means a pound established under regulation 2;

“pound-master” means a person appointed by the Council as a pound-master;

“property” means premises or a structure situated in the local authority area;

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

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

Establishment of pound

2. (1) For the purpose of impounding animals in the local authority area, the Council may -

- (a) establish and operate a pound; or
 - (b) enter into an agreement with a person to establish or operate a pound on behalf of the Council.
- (2) The pound must be divided into enclosures as may be necessary for the isolation of an animal if that animal -
- (a) is sick; or
 - (b) is of a different species.
- (3) The Council must appoint a pound-master to manage and control the pound.

Impounding of trespassing and straying animals

3. (1) An owner of property within the local authority area, who finds an animal trespassing on that property -

- (a) may seize the animal or cause the animal to be seized; and
- (b) must deliver the animal to the pound within 24 hours of seizing the animal or if the pound is closed, at the earliest convenience, on the next business day.

(2) A member of the Namibian Police or a staff member of the Council authorised by the Council -

- (a) may seize an animal found straying on a public place or a street; and
- (b) must deliver the animal to the pound within 24 hours of seizing the animal or if the pound is closed, at the earliest convenience, on the next business day.

(3) A person may not, in the local authority area -

- (a) seize a trespassing or straying animal unless the seizing of the animal is for the purpose of impounding the animal; or
- (b) cause an animal to be impounded contrary to the provisions of these regulations.

(4) A person who contravenes subregulation (3) commits an offence and is on -

- (a) first conviction, liable to a fine not exceeding N\$1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment; or
- (b) second or subsequent 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.

Fencing of area

4. (1) Subject to regulation 3, a person may not seize an animal which has trespassed on his or her property or cause that animal to be seized, if that property is not adequately fenced as contemplated in subregulation (2).

(2) For purposes of these regulations, property is considered adequately fenced if it is enclosed with a fence -

- (a) which is not less than 1.25 metres high;
- (b) which consists of at least five horizontal strands of wire, if the fence is a wire fence; and
- (c) with gates that can be closed properly.

Duties of persons towards seized or impounded animals

- 5.** (1) A person who seizes an animal as contemplated in regulation 3 -
- (a) may not use, harness or ill-treat the animal or allow any other person to use, harness or ill-treat the animal; and
 - (b) must, if the person keeps the animal for more than six hours, provide the animal with sufficient food and water.
- (2) A person may not release an animal -
- (a) seized in terms of regulation 3(1)(a) or 3(2)(a), unless the person obtains the consent of a person who seized the animal; and
 - (b) delivered to the pound in terms of regulation 3(1)(b) or 3(2)(b), unless the person obtains the consent of the pound-master.
- (3) A person who contravenes subregulation (1) or (2) commits an offence and is on -
- (a) first conviction, liable to a fine not exceeding N\$500 or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment; or
 - (b) second or subsequent conviction, liable to a fine not exceeding N\$1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Duties of pound-master

- 6.** (1) The pound-master must -
- (a) receive all animals delivered to the pound in terms of regulation 3(1)(b) or 3(2)(b); and
 - (b) keep the animals contemplated in paragraph (a) impounded until the animals are -
 - (i) released under regulation 13; or
 - (ii) sold in terms of regulation 16.
- (2) The pound-master must keep the pound open -
- (a) between 08:00 and 16:30, from Monday to Friday except on a public holiday; and
 - (b) between 08:00 and 12:00, on Saturday except on a public holiday.
- (3) Despite subregulation (2), the pound-master may open the pound earlier or later than 08:00 on any day contemplated in paragraphs (a) and (b) of that subregulation but the pound-master

must display an easily legible notice to that effect at the entrance to the pound and on the official notice board of the Council.

- (4) Despite subregulation (2), the pound-master may keep the pound open later than -
 - (a) 16:30 on a day contemplated in paragraph (a) of that subregulation; or
 - (b) 12:00 on Saturday,

but the pound-master must display an easily legible notice to that effect at the entrance to the pound and on the official notice board of the Council.

(5) The pound-master must keep a pound register and must make the pound register available for inspection by any person during office hours.

(6) The pound-master must record, in the pound register contemplated in subregulation (5), the following information in respect of every animal impounded in the pound -

- (a) the type of animal and its estimated age;
- (b) the distinguishing colours and marks the animal bears;
- (c) the name and address, if known, of the person who delivered the animal for impounding;
- (d) the address or description of the property on which the animal trespassed or has been found;
- (e) the name and address, if known, of the owner of the animal;
- (f) if the animal is sold, the name and address of the buyer and the sum realised by the sale;
- (g) the date on which the animal was impounded and the date on which the animal was released or sold; and
- (h) all fees and expenses accumulated in respect of animals impounded in terms of these regulations.

(7) The pound-master must issue a certificate, to the person who delivers an animal for impounding, in the form substantially corresponding to the form set out in the Annexure.

- (8) A person who -
 - (a) neglects or refuses to comply with subregulation (5);
 - (b) knowingly makes a false entry in the pound register;
 - (c) fraudulently destroys or erases any entry in the pound register; or
 - (d) intentionally makes available a false or misleading copy of, or extract from, the pound register to any person,

commits an offence and on conviction is liable to a fine not exceeding N\$2 000 or imprisonment not exceeding six months or to both such fine and imprisonment.

Dealing with injured, ill or vicious animals

7. (1) If the pound-master is of the opinion that an impounded animal is ill or injured or is in a poor physical condition, the pound-master must request a veterinarian designated by the Council to examine and treat the animal.

(2) If the pound-master finds that an impounded animal is vicious and its impounding is likely to be dangerous to any other animal or person working at the pound, the pound-master must immediately notify the Council and isolate the animal.

(3) If an impounded animal dies, is injured or is destroyed the pound-master must -

- (a) dispose of the carcass in such manner as the Council directs;
- (b) record the cause of death or the injury in the pound register contemplated in regulation 6(5); and
- (c) if the owner is known, in writing notify the owner of the death, injury or destruction of the animal.

(4) A pound-master who neglects or refuses to comply with subregulations (1),(2) or (3) commits an offence and on conviction is liable to a fine not exceeding N\$2 000 or imprisonment for six months or both such fine and such imprisonment.

Care of impounded animals

8. (1) The pound-master must take proper care of all impounded animals and must ensure that the animals are at all times provided with sufficient food and water.

(2) The pound-master may not use, harness or ill-treat any impounded animal or allow any other person to use, harness or ill-treat that animal.

(3) A pound-master who contravenes subregulation (1) or (2) commits an offence and on conviction is liable to a fine not exceeding N\$2 000 or imprisonment for six months or both such fine and such imprisonment.

Separating of impounded animals, infected animals and wild animals

9. (1) The pound-master must keep all stallions and bulls above the age of two years and all he-goats and rams above the age of six months in a separate camp or kraal or isolate them from other animals in the pound.

(2) If the pound-master finds that an impounded animal is so wild that its detention might be dangerous to other animals in the pound, he or she must immediately notify the Council and isolate the animal.

(3) If an animal -

- (a) delivered to the pound in terms of regulation 3(1)(b) or 3(2)(b); or
- (b) impounded in terms of these regulations,

is visibly infected or becomes infected with a disease which is contagious or which is likely to be dangerous to human life or to other impounded animals or if the pound-master has reasonable grounds to believe that it is so infected, the pound-master must -

- (i) immediately place that animal in another camp or kraal so as to separate it from the other impounded animals; or
 - (ii) in any effective manner isolate that animal from the other animals in the pound.
- (4) The pound-master must, immediately after he or she has isolated an animal as contemplated in subregulation (3) -
- (a) request the veterinarian as contemplated in regulation 7(1); and
 - (b) notify the Council, in writing, about the isolation of the animal and the reasons for isolating it.
- (5) The Council must, upon receiving the notice contemplated in subregulation (2) or (4) immediately cause an investigation to be conducted into the condition of the animal reported to be wild and give instructions to the pound-master, as to the disposal of that animal, as the Council considers appropriate.
- (6) The pound-master must strictly carry out all instructions that are given to him or her in terms of subregulation (5).
- (7) If a veterinarian contemplated in regulation 7(1) certifies that an isolated impounded animal has fully recovered, the pound-master may send the animal back to the same camp or kraal as the other impounded animals.

Recovery of costs

- 10.** The Council must recover any costs incurred by it in respect of the services of a veterinarian or in connection with treatment given to an impounded animal from -
- (a) the owner of that animal; or
 - (b) the proceeds of the sale of the animal if the animal is sold in terms of regulation 16.

Notice to owner of animals

- 11.** (1) If the name and address of the owner of an impounded animal is known to the pound-master the pound-master must, in accordance with section 93 of the Act and in any other manner the Council considers appropriate, notify the owner about the impounding of the animal.
- (2) The pound-master must, in the notification contemplated in subregulation (1), state the amount which is payable for the release of the animal as well as any fees that are payable in respect of the animal.
- (3) If an animal is impounded and the name of the owner is not known the pound-master must immediately cause an advertisement to be published in at least two newspapers, circulating in the local authority area, setting out the following information:
- (a) a short description of the animal;
 - (b) the estimated value of the animal;
 - (c) the date on which the animal was impounded;
 - (d) the name and address of the person who delivered the animal for impounding; and

- (e) that the animal will be sold if it is not reclaimed by its owner within 30 days from the date of publication of the advertisement.

(4) The costs incurred in respect of publishing the advertisement contemplated in subregulation (2) are recoverable from the owner of the animal concerned or from the proceeds of the sale of the animal.

Claiming of compensation for damages

12. If -

- (a) the Council intends to claim compensation in a court of law for damage to its property; or
- (b) a person intends to claim compensation in a court of law for damage to the property of that person,

caused by a straying or trespassing animal, the Council or owner, as the case may be, must when delivering the animal to the pound or within 24 hours after the animal has been impounded, give the pound-master a notice of intention to lodge the claim.

Release of impounded animals

13. (1) The pound-master may not release an impounded animal unless -

- (a) the owner of the animal has paid the amount and fees contemplated in regulation 11(2);
- (b) an out of court settlement is reached by the Council or owner of damaged property with the owner of the impounded animal;
- (c) a settlement amount awarded by a court of law in respect of damages sustained has been paid; or
- (d) ordered to do so by a court of law.

(2) The pound-master must cause an animal to be sold in accordance with regulation 15 or 16, if the animal is not released as contemplated in subregulation (1).

Proof of ownership

14. The pound-master may, before he or she releases an animal under regulation 13, require the person claiming the release of the animal to provide proof by affidavit or otherwise to the satisfaction of the pound-master, that he or she is the owner of the animal or has been authorised by the owner to claim its release.

Notice of intention to sell impounded animals

15. (1) Before the sale of an impounded animal the pound-master must publish a notice, that the animal is to be sold at the first market or by public auction -

- (a) once in the *Gazette*; and
- (b) once a week for two consecutive weeks, in two newspapers circulating in the local authority area.

- (2) The notice under subregulation (1) must set out the following information -
 - (a) the place, date and time for the sale;
 - (b) a description of the animal to be sold;
 - (c) the date of impounding; and
 - (d) the name and address of the person in respect of whom the animal is impounded.

(3) The pound-master must, not later than the date on which the notice contemplated in subregulation (1) is published for the first time in the *Gazette* or a newspaper, cause a copy of that notice to be affixed in a conspicuous place at the pound and the office of the Council.

Sale of impounded animal

16. (1) Subject to regulations 13(2) and 15, an auctioneer designated by the Council must sell an impounded animal -

- (a) at the first market; or
- (b) by public auction,

between the hours of 08:00 and 12:00 each day excluding a Sunday and a public holiday.

- (2) Impounded animals must be sold individually, but -
 - (a) offspring of an animal which still depend on that animal for livelihood must be sold together with that animal; and
 - (b) sheep or goats may be sold together in lots of not more than 10.
- (3) If an impounded animal is to be sold as contemplated in subregulation (1)(b) -
 - (a) the sale must be held at a public place which is centrally situated in the local authority area; and
 - (b) the animal must be sold individually, but -
 - (i) offspring of the animal which still depend on the animal for livelihood must be sold together with the animal; and
 - (ii) sheep or goats may be sold together in lots of not more than 10.

(4) The pound-master may not personally or through any other person buy any animal sold in terms of these regulations.

Apportionment of proceeds of sale

17. (1) The Council may use the proceeds from a sale contemplated in regulation 16 to -

- (a) pay for all fees and expenses incurred by the Council before and during the sale; and
- (b) settle any claim for damages in respect of which no dispute exists between the owner of the animal and the claimants concerned.

(2) If two or more competing claims are to be considered for settlement in terms of subregulation 1(b) any surplus that is available but which is insufficient to settle all the claims concerned in full must be distributed on a *pro rata* basis amongst the claimants.

(3) Any surplus that remains after the settlements referred to in subregulation (1) must be deposited in the bank account of the Council.

(4) If a notice contemplated in regulation 15 relates to more than one animal, the expenses incurred in connection with the publication of the notice must be recovered, subject to the provisions of subregulation (5), in equal parts from the proceeds of each animal sold.

(5) If an animal to which a notice contemplated in regulation 15 relates is released in terms of these regulations at any time before it is sold, the pound-master must recover from the person redeeming the animal an equal part of such costs which would have been recovered in respect of that animal had it been sold.

Claim of proceeds

18. (1) If at any time within six months after the sale of an animal in terms of these regulations a person lays claim to the surplus contemplated in regulation 17(3), the Council must pay the surplus to that person if the Council is satisfied that -

- (a) the animal sold did belong to that person or the person is on any ground entitled to the animal; and
- (b) there is no pending claim for damages against the owner of the sold animal of which notice has been given to the pound-master in terms of these regulations.

(2) The right to claim payment of the surplus or any portion from the Council under the subregulation (1) expires after a period of three years from the date of sale of the animal concerned but if the animal concerned at the time of the sale has been the subject of a claim for damages in terms of these regulations and such claim was at that stage still disputed such right expires after a period of three years from the date of the settlement of the claim or three years from the date of the sale of the animal.

(3) The Council may refuse to pay out any claim in terms of this regulation unless an agreement of settlement or a court order is submitted as proof that the person who claims the money is entitled to it.

(4) The surplus contemplated in regulation 17(3) becomes the property of the Council upon expiry of the right to claim payment in terms of this regulation or any other applicable law of Namibia.

Ownership and branding of sold animals

19. (1) Ownership of an animal sold in terms of these regulations passes to the buyer upon payment of the price at which the animal is sold.

(2) A person authorised by the Council must brand an animal sold in terms of these regulations with the registered brand of the Council before delivering the animal to the buyer.

