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General Notice

SWAKOPMUND MUNICIPAL COUNCIL

No. 402

2023

PARKING REGULATIONS: SWAKOPMUND MUNICIPAL COUNCIL: LOCAL AUTHORITIES ACT, 1992

Under section 94(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), read with section 92(1) of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) and with the approval of the Minister of Works and Transport, the Municipal Council of Swakopmund has made the Regulations set out in the Schedule.

D. NAMUBES
CHAIRPERSON
BY ORDER OF THE COUNCIL

Swakopmund, 4 July 2023

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Definitions

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

“authorised officer” means a traffic officer or traffic warden, appointed in terms of section 11 of the Road Traffic and Transport Act, including a member of the Namibian Police Force and a traffic officer duly appointed by the Council;

“Council” means the council of the municipality of Swakopmund;

“handheld device” means a portable multiple parking meter operated by a parking marshal, which when activated, issues a receipt that registers the particulars reflected on that meter;

“owner”, in relation to a vehicle, means -

- (a) a person having the right to the use and enjoyment of the vehicle in terms of the common law;
- (b) a person having the right to the use and enjoyment of the vehicle under a contract with the title holder, including for any period during which such person fails to return the vehicle to the title holder when required to do so in terms of any condition of such contract; or
- (c) a motor vehicle dealer who is in possession of a vehicle for the purpose of sale, and who is indicated as the owner of the vehicle in any document of registration issued in accordance with the Road Traffic and Transport Act;

“park”, in relation to a vehicle, means to keep a vehicle, whether occupied or not, stationary for a period of time greater than is reasonably necessary for the actual loading or unloading of persons or goods, except if such vehicle is stationary for a reason beyond the control of the person in charge of the vehicle;

“parking area” means any area of land demarcated by Council for use of parking of vehicles by members of the public, whether or not charges are prescribed by these regulations;

“parking bay” means an area off the road surface of a public road or within a parking area demarcated by the Council with an appropriate road traffic sign or road markings within which a vehicle is to be parked;

“parking fees” means the fees in Annexure 1 determined by the Council in terms of regulation 2(b) as fees payable to Council or a service provider for a specified period by a person parking any vehicle or causing any vehicle to be parked in any parking bay or parking area;

“parking hours” means the hours when parking fees are payable for parking in a demarcated parking bay;

“parking marshal” means a person employed by the Council or a service provider for the purpose of rendering parking services in terms of these regulations;

“parking period” means the maximum continuous period of time during which a vehicle is permitted to park in a parking bay or a parking area, as indicated by a road traffic sign or road marking, or, in respect of a parking bay, the period indicated on the parking receipt;

“parking receipt” means the printed receipt issued for parking fees payable in respect of a particular vehicle’s parking for a specified parking period on a parking bay;

“Road Traffic and Transport Act” means the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“service provider” means a person or legally constituted entity which on behalf of the Council, collects parking fees under a contract with the Council;

“vehicle” means a vehicle as defined in the Road Traffic and Transport Act;

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

Control of parking

2. (1) The Council may -
 - (a) in terms of section 30(1)(m) of the Act establish and maintain parking bays and parking areas for the parking of vehicles in its area of jurisdiction;
 - (b) from time to time determine in terms of section 30(1)(u) of the Act parking fees payable in respect of vehicles parking in parking bays or parking areas referred to in paragraph (a);
 - (c) collect and receive parking fees for vehicles parked in parking bays or parking areas referred to in paragraph (a); and
 - (d) appoint a service provider on contract to manage parking and to collect and receive any parking fees on its behalf.
- (2) An authorised officer may -
 - (a) in a case of an emergency; or
 - (b) in the public interest,

direct and regulate traffic on an area of land used as a parking area by the public or a number of persons who are or allowed to use such land.

Parking fees and payment of parking fees

3. (1) The Council may by road traffic signs or road markings contemplated in Annexure 1, indicate the parking hours during which parking fees are payable in respect of vehicles parked in a parking bay or parking area referred to in regulation 2(1).

(2) The Council may determine parking fees in relation to -

- (a) the period of time a vehicle is parked;
- (b) the type and size of the vehicle parked;
- (c) the location of the parking bay or parking area;
- (d) the different days and times of the day when the vehicles are to be parked; and
- (e) any other matter which the Council may consider as relevant to achieve the purpose of these regulations.

(3) The parking fees may differ among parking bays and parking areas located in separate locations within the area of jurisdiction of the Council.

(4) The driver of a vehicle must, at the commencement of the parking period and before he or she departs from his or her vehicle, pay to the parking marshal responsible for the parking bay the parking fee for the selected period which a vehicle is parked on a parking bay.

(5) If a driver referred to in subregulation (4) fails to make such payment, the owner of such vehicle must pay the parking fees for parking in that parking bay.

(6) The driver of a vehicle referred to in subregulation (4) must make payment of the fees relevant to the vehicle in respect of parking in accordance with regulation 5(1) in cash and in the Namibian currency.

(7) The Council may introduce systems for the pre-payment of parking fees by means of a periodical parking fee.

(8) The Council must determine and resolve on the periodical parking fees referred to in subregulation (7).

(9) Despite subregulation (4) and regulation 4(4) the driver, owner or person causing a vehicle to be parked in a parking bay or parking area in respect of the following vehicles may not pay parking fees -

- (a) an ambulance;
- (b) a fire-fighting vehicle;
- (c) a rescue vehicle, being a motor vehicle constructed or adapted for use primarily for rescue work owned or controlled by the State, a local authority council, a regional council or any organization approved by the Minister responsible for transport and which is registered as a rescue vehicle;

- (d) a civil defence vehicle, being a motor vehicle used by a person while engaged in civil defence as contemplated in the Civil Defence Ordinance, 1979 (Ordinance 3 of 1979);
- (e) a security service vehicle;
- (f) any other vehicle determined by the Minister responsible for transport by notice in the *Gazette*, and bearing such marks and fitted with such sounding devices and identification lamps as are prescribed;
- (g) any vehicle of the Namibian Police Force;
- (h) a vehicle driven by an on-duty authorised officer;
- (i) a vehicle that is the property of the Council, provided it displays the official code or arms or other appropriate marking approved of by the Council;
- (j) a vehicle which displays a valid periodical parking disc to which the parking fees have been pre-paid; and
- (k) a vehicle driven by a person who is exempted under the Road Traffic and Transport Act.

(10) A person may not, by virtue of the payment of parking fees or possession of a periodical parking disc, park a vehicle in contravention of the of these regulations or any other law or road traffic sign or road marking regulating or prohibiting, including parking of -

- (a) vehicles between specified hours;
- (b) specific categories of vehicles;
- (c) vehicles for periods in excess of specified time periods; or
- (d) any vehicle, where the parking or stopping of such vehicle would otherwise be in contravention of any provision of the Road Traffic and Transport Act.

(11) The Council, its employees or the service provider or its employees may not by virtue of the payment of parking fees or possession of a periodical parking disc be held liable for -

- (a) injuries to any person who is on or near a parking bay or parking area; or
- (b) any loss or damage caused to a vehicle, accessories or content of a vehicle parked in a parking bay or parked on or near a parking bay or parking area.

Parking hours

4. (1) The Council may in accordance with section 30(1)(u) of the Act determine the parking hours for which parking fees referred to in regulation 2(1) are payable.

- (2) The Council may determine the parking hours in relation to -
 - (a) specific parking bay, a group of parking bays or parking areas;
 - (b) the type and size of the vehicles to be parked;

- (c) the location of the parking bays or parking areas;
- (d) the different days and times of day when the vehicles are to be parked; and
- (e) any other consideration which the Council may regard as relevant to achieve the purpose of these regulations.

(3) The parking hours may differ among parking bays and parking areas located in separate locations within the Council's area of jurisdiction.

(4) A person may not park or cause or permit a vehicle to be parked in a parking bay in excess of the parking period reflected on the parking receipt.

(5) A person who parks or causes or permits a vehicle to be parked in a parking bay must pay the applicable parking fees for the time that such vehicle is parked on a parking bay.

(6) A person who contravenes subregulation (4) and (5) commits an offence and is on conviction liable to fine of N\$500 or imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Parking marshals

5. (1) A person who parks or causes or permits a vehicle to be parked in any parking bay for any period within the parking hours must, at the same time of parking, submit to the parking marshal to insert into the hand held device the vehicle's registration number and the anticipated period of parking which will activate the parking period.

(2) A parking marshal is responsible for 10 to 15 parking bays in a parking area.

(3) If the driver exceeds the anticipated period contemplated in subregulation (1), the driver must pay to the parking marshal the parking fees still due for any unpaid parking period.

(4) The parking marshal must in respect of each vehicle parking on a parking bay -

- (a) enter the vehicle's registration number and the anticipated parked period into the hand held device;
- (b) upon receipt of the parking fees, print or cause to be printed a parking receipt and hand that over to the driver or person parking the vehicle;
- (c) take all reasonable steps to ensure the handheld device is correctly operated and ensure the correct data of a vehicle parked in a parking bay is recorded; and
- (d) charge parking fees to a vehicle until the expiry of the parking hours on the specific day, if the vehicle remains parked despite the expiry of the parking period for which parking fees were paid.

(5) The obligation to pay a parking fee to a parking marshal as contemplated subregulation (1) applies only during such hours as the Council may determine.

(6) A parking marshal must once a vehicle is driven off from the parking bay remove that vehicle's information on the quick pack terminal.

(7) Despite subregulation (1), a person may park a vehicle in a parking bay without payment of the parking fee, if a hand held device is out of order or is unable to issue a receipt and the parking marshal in charge at that parking bay must issue a certificate, confirming that device is out of order, to that person and that person must place that certificate on the dashboard of that vehicle in such a way that it is clearly visible from outside.

Parking specifications

6. (1) If by reason of the length of any vehicle, such vehicle cannot be parked only within a demarcated parking bay, such a vehicle may be parked in a manner which is intruding upon an adjoining parking bay, and a person parking in such a manner is liable for payment of parking fees in respect of all the parking bays occupied by his or her vehicle.

(2) The Council may, when it becomes necessary or expedient to do so in the interest of the managing parking or the control and regulation of traffic, place or erect road traffic signs prohibiting parking at any parking bays or parking areas.

(3) A person may not park, cause or permit a vehicle to be parked in a parking bay or parking area in contravention of the traffic signs referred to in subregulation (2).

Service provider

7. (1) The Council may by agreement appoint a service provider who must on behalf of the Council manage parking in parking areas and collect parking fees on behalf of the Council in respect of a particular parking bay.

(2) The -

(a) appointment of a service provider; and

(b) acceptance of the appointment by the service provider

must be in writing and indicate the terms and conditions agreed upon between the Council and the service provider.

(3) An appointed service provider must -

(a) employ sufficiently trained parking marshals to effectively perform their duties in the management of parking in parking bays, including their interaction with the public and the collection of parking fees; and

(b) implement operating systems to effectively manage, collect and account for parking fees payable for vehicles parked in parking bays and parking areas.

(4) A person who parks or causes or permits a vehicle to be parked in any parking bay or parking area established in terms of regulation 2(1)(a) must pay the parking fees determined under regulation 2(1)(b) to the parking marshal appointed by the Council or a service provider appointed as contemplated in subregulation (1).

(5) An appointed service provider must issue each person employed and appointed as a parking marshal an appointment identity card which -

(a) displays the full names, identity number and a current passport-type photograph of the person; and

- (c) display such other information as the Council may determine.
- (6) A person appointed as a parking marshal must at all times when performing his or her duties -
 - (a) keep his or her appointment card in his or her possession and display it in a manner visible to the public; and
 - (b) produce the appointment card to a member of the public whom he or she engages in pursuance of these regulations and to any authorised officer upon request.

Removal and impoundment of vehicle

- 8.** (1) If a vehicle -
- (a) has been parked in a parking bay, a parking area or on a public road in contravention of these regulations and that conduct has not been restored at the direction of an authorised officer; or
 - (b) is considered to be abandoned in terms of these regulations,

that vehicle may be removed or caused to be removed or impounded and kept by the Council.

- (2) If a vehicle has been parked in the commission of a crime the owner bears the costs -
- (a) of removal;
 - (b) of impoundment;
 - (c) for storage;
 - (d) incurred by the Council to trace that owner; and
 - (e) parking fees,

incurred by such vehicle for a period not exceeding six months.

(3) Council may retain a vehicle referred to in subregulation (1) until such time as the expenses and the parking fees referred to in subregulation (2) have been paid.

(4) The Council may deal with a vehicle that has been removed and impounded as contemplated in subregulation (1) as provided for in regulation 355 under the Road Traffic and Transport Act, which regulations apply with the necessary changes required in the context of these regulations.

Refusal of admission to parking bay

9. (1) An authorised officer or a parking marshal may refuse to admit a vehicle to a parking bay or area.

(2) After the refusal referred to in subregulation (1) a person may not park or cause or permit a vehicle to be parked in a parking bay or parking area if such vehicle -

- (a) with or without any load is by reason of its length, width, height or weight likely to cause damage to persons or property or to cause an obstruction or undue inconvenience within the parking bay or parking area; or
- (b) has accumulated unpaid parking fees in terms of these regulations.

Periodical parking discs

10. (1) The Council or the service provider may in respect of a demarcated parking bay within a parking area issue, on payment of a fee, a parking disc entitling the holder of that disc to park the vehicle specified in that disc in any available parking lot or parking bay under the control of that service provider for the period indicated on that parking disc.

(2) The service provider referred to in subregulation (1) or Council may issue a parking disc which is valid for a period of one, three, six, nine or 12 months.

(3) The parking disc contemplated in subregulation (1) is not transferable to another person or another vehicle.

(4) An owner of a vehicle who intends to acquire a parking disc as contemplated in subregulation (1) must apply in writing to the service provider or the Council.

(5) The holder of a parking disc issued in terms of subregulation (1) must affix that disc to the windscreen of the vehicle in respect of which it is issued in such manner and place that its written or printed text is legible from the outside of that vehicle and the parking disc must be visible to a person standing in front or to the left of that vehicle.

(6) The holder of a parking disc contemplated in subregulation (1) must before the date of expiry appearing on that disc, but not more than 30 days before that date, apply to the service provider for the renewal of that disc.

(7) If the holder of a parking disc contemplated in subregulation (1) fails to comply with subregulation (5) the disc expires.

(8) The service provider may withdraw a periodical parking disc issued in the event of -

- (a) any misrepresentation, dishonesty or other misconduct being made in the application referred to in subregulation (1);
- (b) the misuse of the periodical parking disc; or
- (c) conduct by the holder of the periodical parking disc which amounts to a repeated or disregard for these regulations or the non-compliance with traffic laws in general.

(9) If a periodical parking disc is withdrawn in terms of subregulation (5), the holder is entitled to a refund of a pro-rated parking fees paid for the periodical parking disc.

(10) The display of a valid periodical parking disc on a vehicle exempts the person parking such vehicle from the payment of parking fees, provided that the vehicle is parked in terms of the conditions on which the parking disc has been issued and in compliance with these regulations.

Offences, penalties and general provisions

- 11.** (1) A person or driver in charge of a vehicle commits an offence if that person or driver -
- (a) parks a vehicle in contravention of regulation 3(10);
 - (b) intimidates, prevents, interferes with or harasses a parking marshal or an authorised officer in the exercise of his or her duties in terms the parking management system or under these regulations;
 - (c) jerks, knocks, shakes, damages or in any way interferes with a road traffic sign relating to a parking bay or parking area;
 - (d) defaces, soils, obliterates or renders less visible or interferes with any road traffic sign, notice board, road markings, other marks painted on the roadway, or any legend, sign, or notice affixed or erected in pursuance of the purposes of these regulations;
 - (e) parks, causes or permits a vehicle to be parked in a parking bay across any painted road surface markings of the confines of the parking bay or in such a position that the vehicle is not be entirely within the area demarcated for the parking bay;
 - (f) parks, causes or permits a vehicle which is not intended for commercial loading and unloading purposes to be parked in an area or parking bay demarcated for commercial loading purposes;
 - (g) parks, causes or permits a vehicle which is out of order or which is for any reason incapable of movement, to be parked in a parking bay or parking area;
 - (h) parks, causes or permits a vehicle to be parked in a parking bay, a parking area or elsewhere on a public road in such a manner that it obstructs or is likely to obstruct or cause a danger to the vehicular or pedestrian traffic flow at or near the vehicle;
 - (i) parks, causes or permits a vehicle to be parked in a parking bay or a parking area for an uninterrupted period of more than seven days in the same place without a valid licence number affixed or a valid licence disc displayed on the vehicle or with a licence number or licence disc which in the opinion of an authorised officer is false;
 - (j) parks, causes or permits a vehicle to be parked in any parking bay without paying the parking fees applicable to such parking bay;
 - (k) fails to submit or causes to be inserted by a parking marshal his or her vehicle's details into a hand held device;
 - (l) fails to place the parking receipt for the parking fees on the vehicle's dashboard to be visible from the outside;
 - (m) fails to pay parking fees after being requested by the marshal to pay such fees;
 - (n) disregards an instruction of an authorised officer; or
 - (o) proceeds to drive a vehicle into a parking bay or parking area after having been refused excess of such parking bay or parking area by an authorised officer.

(2) A person who contravenes subregulation (1) commits an offence and is on conviction liable to fine of N\$500 or imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(3) Despite subregulation (1)(j) a person may park a vehicle in excess of the period referred to in subregulation (1)(1)(i), if such vehicle after having been parked in a parking bay, develops a mechanical defect which immobilizes it and if the person in control of the vehicle has actively taken reasonable steps to have the vehicle repaired or removed as soon as possible.

(4) If a person parks a vehicle in excess of the period contemplated in subregulation (1)(1)(i) such a vehicle is deemed to be abandoned by the owner and the vehicle may be dealt with as an abandoned vehicle and be removed by or on behalf of the Council.

Annexure 1

Regulation 3(1)

