



GOVERNMENT GAZETTE

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General Notice

MUNICIPALITY OF OMARURU

No. 143

2016

DOG CONTROL REGULATIONS: LOCAL AUTHORITIES ACT, 1992

The Council of the Municipality of Omaruru has, under section 94(1)(af) of the Local Authorities Act, 1992 (Act No. 23 of 1992) after consultation with the Minister of Regional and Local Government, Housing and Rural Development, made the regulations set out in the Schedule.

H.M. GEBHARDT
CHAIRPERSON OF COUNCIL
BY ORDER OF THE COUNCIL

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Definitions

1. In these regulations, a word or an expression defined in the Act has that meaning and unless the context otherwise indicates -

“agricultural property” means land zoned for agricultural use in terms of the Municipality of Omaruru town planning scheme or any other law;

“authorised official” means a staff member of the Council who has been authorised by the Council to administer, implement or enforce the provisions of these regulations;

“Council” means the Council of the Municipality of Omaruru;

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

“environmental health practitioner” means a person appointed by the Council as an environmental health practitioner;

“fee” means charges, fees or other monies 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 poor sighted person and includes a dog which has been trained to assist a person who is mentally or physically incapacitated;

“health officer” means a person appointed by the Council as a health officer;

“kennels” means premises on which -

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

“licence” means a licence issued in terms of regulation 3;

“municipal area” means the local authority area of the Municipality of Omaruru;

“owner” in relation to a dog, means a person having the possession, charge, custody or control of a dog, or harbouring a dog;

“permit” means the written permission granted by the Council in terms of regulation 5;

“pound” means a building, enclosure or facility, owned or controlled by the Council for the impounding, sale or destruction of dogs, 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 the land on which it is situated and the adjoining land used in connection with it, and land without a building, tent or structure;

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

“veterinary surgeon” means a person acting as a veterinary surgeon designated by the Council.

Licensing of dogs

2. (1) Any person that owns a dog that is kept within the municipal 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.

(3) On payment of the dog tax contemplated in subregulation (1), Council issues a licence in respect of every dog in respect of which the dog tax has been paid, as proof that the tax has been paid.

(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 the fine and imprisonment.

Restriction on number of dogs

3. (1) A person may not, within the municipal area, keep more than -

(a) three dogs or allow more than three dogs to be kept on premises; or

(b) six dogs or allow more than six dogs to be kept on agricultural property,

unless the person holds a permit to keep a greater number of dogs.

(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 fine and imprisonment.

Permit to keep more dogs

4. (1) A person who intends to keep a greater number of dogs, than the number permitted in terms of regulation 3, must apply to the Council for a permit.

(2) A person may not erect, install or keep in the municipal area a kennel unless the person has obtained a permit from Council for the erection, installation or keeping of the kennel.

(3) The person who intends to apply for a permit in terms of subregulation (1) or (2), must 14 days prior to the date of the application display a notice of intention to apply for a permit, which notice must -

- (a) be in the form determined by the Council and be displayed in a place on the premises concerned within one metre of the premises;
- (b) be clearly visible from a public street; and
- (c) invite inhabitants of the area to lodge with the Council during that period, in writing, any objection to the granting of the application.

(4) An application for a permit must be made in form determined by the Council and must be accompanied by -

- (a) the appropriate fee;
- (b) an affidavit by the applicant and other documentary evidence that the applicant has complied with the requirements of subregulation (3); and
- (c) a copy of any objection lodged in terms of subregulation (3).

(5) The Council may require the applicant for a permit to provide any further information which it considers relevant to enable it to make an informed decision.

(6) The Council may refuse to consider an application for a permit, if the application does not comply with the provisions of subregulation (4) and subregulation (5).

(7) When an application for a permit is made in terms of this regulation, an authorised official must prepare and submit to the Council, a written report -

- (a) as to whether the dogs for which the permit is required, are likely to cause a public health hazard or the keeping of such dogs may result in a contravention of regulations 8 and 9;
- (b) that the premises on which the dogs concerned are kept or to be kept, has been inspected, and setting out the results of the inspection;
- (c) as to whether the applicant has previously had a dog removed from his or her care or has or has a previous criminal conviction or civil judgment against him or her in respect of an animal in his or her care; and
- (d) as to whether the applicant is disqualified from holding a permit in terms of regulation 17.

(8) The Council must only consider an application for a permit after receipt of a written report referred to in subregulation (7).

(9) The Council may refuse an application for a permit or may approve an application for a permit subject to any conditions it considers necessary.

(10) A person who has applied for a permit in terms of this regulation, may continue to keep the number of dogs on the premises that are not permitted in terms of regulation 3 in the absence of a permit, until the Council has informed him or her in writing of the outcome of the application.

(11) If an application for a permit is approved the Council must issue a permit to the applicant and the permit must specify any condition imposed by the Council and the period of validity 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.

Keeping of register

5. (1) An authorised official must keep a register of licences and permits issued in terms of these regulations, and the register must contain the name and place of residence of the person taking out the licence or permit, a description of the dog, its sex, number of dogs or kennels which are allowed under a permit and the number of the licence or permit and its period of validity.

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

Exemption

6. A person is exempted from obtaining a dog licence or a permit to keep more than three dogs, if such person -

- (a) has a permit to keep kennels in terms of regulation 4;
- (b) is the owner or manager of a pet shop and who has written proof that all the dogs under the control of such owner or manager have been vaccinated against canine distemper, hepatitis, kennel cough and parvovirus;
- (c) is the owner or is in charge of premises where guide dogs are being kept or trained;
- (d) is the owner or manager of a veterinary clinic; or
- (e) is in charge of dogs owned by the Namibian Police Force or Namibian Defence Force and the dogs are kept for operational or breeding purposes.

Amendment, suspension and cancellation of permit or licence

7. (1) The Council may amend, suspend or cancel a permit or licence, if -

- (a) any condition of the permit or licence is not being complied with; or
 - (b) it is in the public interest that the permit or licence be amended, suspended or cancelled.
- (2) Before amending, suspending or cancelling a permit or licence, the Council must -
- (a) in writing notify the holder of the permit or license of the intended action;
 - (b) give the holder of the permit or licence an opportunity to be heard; and
 - (c) obtain a report and recommendation from an authorised official, an environment health officer or a veterinary surgeon on the intended amendment, suspension or cancellation, if the Council considers it necessary.

(3) Despite subregulation (2), the Council may with immediate effect amend, suspend or cancel a permit or licence if it is immediately necessary to do so to eliminate or reduce a significant risk to the public posed by a public health hazard or potential public health hazard.

Prohibitions relating to keeping of dogs

8. (1) 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 inhabitants of the neighbourhood;
- (b) which suffers from an infectious or contagious disease which in the opinion of a veterinary surgeon is of such nature that such dog cannot be beneficially treated or boarded at a veterinary clinic;
- (c) on premises which are not fenced in such a manner that the dog is at all times confined to the premises, unless the dog is confined to the premises in some other manner; or
- (d) which causes damage to public property.

(2) A person in charge of or who has control over a dog may not allow the dog to be in any place other than that person's premises or the premises of any other person with the consent of that person, unless the person in charge of or who has control over the dog accompanies the dog and keeps it under control.

(3) Subject to any provision to the contrary in these regulations or any other law, a person may not bring or allow a dog into any public place, if the dog -

- (a) is wild, dangerous or ferocious;
- (b) is in the habit of charging at or chasing people or vehicles;
- (c) is an unsterilised female dog on heat;
- (d) suffers from mange or any other infectious or contagious disease; or
- (e) constitutes a hazard to traffic using any public street.

(4) A person may not allow a dog to be in any public street or public place, unless the dog is -

- (i) on a leash and under control; or
- (ii) in an area designated by the Council as a free running area.

(5) A person who contravenes or fails to comply with subregulation (1),(2),(3) or (4) 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 fine and imprisonment.

Prohibited behaviour in respect of dogs

9. (1) A person may not, without reasonable grounds -

- (a) incite a dog against a person or an animal; or

(b) allow a dog in his or her custody, care or control to attack or to put fear into any person or animal.

(2) A person may not -

(a) provoke, harass or tease a dog; or

(b) terrify or cause stress or fear to a dog with fireworks or by any other means.

(3) A person who contravenes or fails to comply with subregulation (1) or (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 fine and imprisonment.

Designation of places as free running areas or as prohibited areas

10. The Council may designate public places with appropriate signs as free running areas for dogs or as areas where dogs are prohibited.

Defecation

11. (1) Where any dog defecates in a public place or on premises other than that occupied by a person in charge of or has control over the dog, that person, except a person assisted by a guide dog, must remove the 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 on conviction, is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

Notices by Council

12. (1) A person may make a complaint to an authorised official if a provision of regulation 8, 9 or 11 is contravened.

(2) If an authorised official is satisfied that there is a contravention of a provision of regulation 8, 9 or 11, the authorised official may within a reasonable time serve a notice on the owner of the dog.

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

(a) the nature of the contravention; and

(b) any action to be taken that the authorised official considers to be necessary to stop the contravention; and

(c) the period within which the action referred to in paragraph (b) must be taken.

(4) A person served with a notice referred to in subregulation (2) must comply with the notice.

(5) A person who contravenes or fails to comply with subregulation (4) 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 fine and imprisonment.

Sterilisation of dogs by Council

13. The Council may sterilise a dog at the request of its owner, on payment of a fee by the owner.

Keeping of pounds

14. The Council may establish and operate a pound or enter into an agreement with a person to establish and operate a pound on its behalf, subject to any conditions or limitations the Council may impose.

Seizure, impounding and destruction of dogs

15. (1) An authorised official may for the purpose of having a dog impounded, take into custody, a dog which -

- (a) the official has reason to believe, suffers from an infectious or contagious disease;
- (b) is found in a public place and is not under a leash and the control of a person;
- (c) is brought into a public place in contravention of a provision of regulation 8 or 9;
- (d) is being kept in contravention of the provisions of regulation 2 or 3;
- (e) enters any premises to escape being impounded; or
- (f) is at large and appears to the authorised official to be ownerless.

(2) A person who finds a dog on premises of which he or she is the owner or occupier, may take such dog into custody for the purpose of having it impounded.

(3) Despite the provisions of subregulations (1) and (2), a person may not take any dog into custody for the purpose of having it impounded 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.

(4) A person who takes a dog into custody for impounding in terms of these regulations -

- (a) must ensure that the dog is not ill-treated; and
- (b) may, when the pound is closed, keep the dog in his or her custody until the pound reopens.

(5) A person may not release a dog which has been taken into custody under subregulation (1) or (2) unless that person obtains the consent of the person who has taken the dog into custody.

(6) A person may claim an impounded dog, if such a person -

- (a) satisfies the poundmaster that he or she is the owner of the dog concerned; and
- (b) pays to the poundmaster the fee and the amount of veterinary expenses, if any, incurred in respect of the impounded dog.

(7) The poundmaster must, if the provisions of subregulation (6) have been complied with, return the dog to the person claiming it.

(8) If an impounded dog is not claimed by a person entitled to it within 10 days after

the dog has been impounded, the poundmaster may sell or destroy such dog or cause the sale or destruction of such dog.

(9) Unless the Council has instructed the poundmaster the contrary, he or she must have any unsterilized dog sterilized before it is sold in terms of subregulation (8) and may recover the costs incurred from the buyer of the dog.

(10) If a dog has been impounded in terms of this regulation and the authorised official is satisfied that the dog is -

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

the poundmaster, a veterinary surgeon or an environmental health practitioner must destroy the dog immediately.

(11) The destruction of a dog must be carried out by means of a painless method approved by a veterinary surgeon and must take place under the supervision of an authorised official.

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

Duties of poundmaster

16. A poundmaster -

- (a) must keep the pound open between 08:00 and 16:30 from Monday to Friday and Saturday between 08:00 and 12:00 unless any such day is a public holiday, but may keep the pound open during such earlier or later hours as he or she considers necessary, subject to displaying an easily legible notice to that effect at the entrance to the pound and on the Council's official notice board;
- (b) must accept, take charge of and impound any dog brought to the pound with the view of impounding it, given the hours when the pound is open and must subject to the further provisions of this regulation, detain that dog in the pound provided that the poundmaster may refuse to receive, or may release any dog if he or she reasonably believes that such dog was not lawfully taken into custody or impounded;
- (c) must keep a register in which the following particulars in respect of every impounded dog are recorded -
 - (i) the name of the authorised official or the name, residential address and telephone number of any other person who brought the dog to be impounded;
 - (ii) the time and date on which the dog was impounded;
 - (iii) the place where the dog was found immediately before it was taken into custody;
 - (iv) the time and date on which the dog was taken into custody before being brought to the pound;
 - (v) the reason for impounding the dog;
 - (vi) description of the dog indicating the estimated age, breed, sex, colour,

- markings and any injury found on the dog when the poundmaster accepted it;
- (vii) whether the dog was released, sold or destroyed and the date and time of such release, sale or destruction;
 - (viii) the amount of money realised in respect of such release or sale;
 - (ix) the amount of veterinary expenses, if any, incurred in respect of the dog;
- (d) must ensure that the pound and all equipment used in connection with impounding dogs are at all times kept in clean and free from flies and other vermin, to the satisfaction of the health officer;
 - (e) must ensure that every dog in the pound is properly fed and cared for;
 - (f) must isolate any female dog on heat;
 - (g) must take all reasonable steps to prevent fighting among dogs in the pound;
 - (h) must isolate any diseased dog from the healthy dogs, have such dog attended to by a veterinary surgeon and take all steps to recover the expenses incurred in this regard from the owner if the identity and the address of the owner is known;
 - (i) must take all necessary steps as contemplated in regulation 15 to have any dog destroyed and recover any expenses incurred in this regard from the owner, if the identity and the address of the owner is known; and
 - (j) must levy the fees for impoundment and daily holding fees in respect of any dog.

Disqualification from holding licence or permit

- 17.** (1) A person is disqualified from keeping a dog, if such person -
- (a) is convicted of an offence relating to an animal in terms of the Animals Protection Act, 1962 (Act No. 71 of 1962);
 - (b) has been ordered by a court of law not to own a dog or an animal in terms of the Animals Protection Act, 1962 (Act No. 71 of 1962) or any other law;
 - (c) has received three or more notices from the Council for a contravention of regulation 8, 9 or 11, and failed to comply with the notices; or
 - (d) is the owner of three more or more dogs that have been impounded in terms of regulation 15, 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 apply to the Council for the removal of the disqualification, which application the Council, may -
- (a) grant, if there are reasonable grounds that the applicable be granted; or
 - (b) refuse to grant.

Notices, documents and orders

18. A notice, order or document required or permitted to be given by the Council in terms of these regulations must be given in terms of section 93 of the Act.

Enforcement

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

General offences and penalties

20. (1) A person commits an offence, if such 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 in the execution of his or her duties under these regulations.

(2) A person convicted of an offence under subregulation (1), 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.
