

By-Law Control and Keeping of Dogs



By-law relating to the Control and Keeping of Dogs

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BY-LAW RELATING TO THE CONTROL AND KEEPING OF DOGS

Notice is hereby given in terms of Section 94(1)(z)(af) of the Local Authorities Act, Act No. 23 of 1992 as amended, that the Municipal Council of Swakopmund has, in substitution of Government Notice No. 131 of 1968, adopted the following new regulations in respect of the Control and Keeping of Dogs.

Definitions

1. In this by-law, unless the context otherwise indicates-

"authorized officer" means any person appointed as such by council or any member of the Namibian Police."

"breeder" shall mean only breeders of proven thoroughbred and registered dogs and the holder of a valid license, issued by the Council;

"council" means the Municipal Council of Swakopmund;

"dog" means a dog over the age of six months;

"owner" in relation to a dog means any person who keeps a dog;

"Chief Executive Officer" means the person occupying or acting in the post of Chief Executive Officer of the Swakopmund Municipality and includes any person duly authorized by him to exercise the powers or perform the functions granted or imposed on him in terms of this by-law, and

"veterinarian" means a person who is qualified as such in accordance with the provisions of the Veterinary Act, 1933 (Act 16 of 1933).

And any other word or expressions defined in the Local Authorities Act, Act 23 of 1992 (as amended), or the Municipal Dog Tax Ordinance, 1967(Ordinance 13 of 1967), as the case may be, shall, when used in this by-law, have the meaning assigned thereto in such Ordinance.

2. Restriction on keeping of dogs

2.1 Unless the council in any particular case determines otherwise, not more than four(4) dogs may be kept on any single erf irrespective as to whether such dogs have been licensed or not: provided that this provision shall not apply to -

- (a) a breeder;
- (b) the litter of a bitch when such a litter is younger than six months;
- (c) dogs kept in a veterinary surgeon's clinic for treatment; or
- (d) dogs kept on premises occupied by any Animal Welfare Society within the area of jurisdiction of the council.

2.2 Notwithstanding the provisions of subsection (1), a person who keeps dog/s on the date of promulgation of this by-law shall be liable to pay the registration fees as prescribed by Council from time to time.

3. *Dogs to be under control*

No person shall allow any dog owned or kept by him to be at large in a public street or place other than the premises on which it is kept unless such dog is on a leash and under control.

4. *Vicious, dangerous and stray dogs and bitches on heat*

4.1 If a written complaint is made to the Chief Executive Officer that a dog:

- (a) is ferocious, vicious or dangerous or is a bitch on heat and is not kept under proper control;
- (b) is constituting a hazard to traffic along any public street or a source of danger or injury to any person outside the premises on which such dog is kept, or
- (c) strays beyond the boundaries of its owner's property or trespasses on any other property

such officer may cause a notice to be served on the owner of the dog requiring such owner to take such steps as will effectively abate such nuisance and to establish to the satisfaction of the Chief Executive Officer that such dog is being kept under proper control. Such steps may include the fencing of any land or portion on which dogs are kept, in such a way that the fencing shall prevent the dogs from leaving such land.

4.2 In the event of an owner failing to comply with any requirement of a notice contemplated in subsection (1), the Chief Executive Officer may order such owner in writing to remove such dog from the municipal area of Swakopmund and the owner shall thus remove such dog within 96 hours from 12h00 noon on the day such order was served.

5. *Dogs causing nuisance*

5.1 No person shall allow any dog owned or kept by him to be a source of annoyance or discomfort or to create a disturbance or nuisance to the neighbours or to the neighbourhood by constant or excessive barking, howling or whining or to behave in any other manner so as to interfere materially with the ordinary comfort, convenience, peace or quiet of neighbours.

5.2 In the event of the Chief Executive Officer being of the opinion that a dog is a dog contemplated in subsection (1), he may cause a notice to be served on the owner of the dog requiring such owner to take such steps as will effectively abate such nuisance and to establish to the satisfaction of the Chief Executive Officer that such dog is being kept under proper control. In the event of an owner failing to comply with any requirement of such notice, the Chief Executive Officer may order such owner in writing to remove such dog from the municipal area of Swakopmund and the owner shall thus remove such dog within 96 hours from 12h00 noon on the day of serving of such notice.

5.3 No person shall keep a dog that suffers from mange or some other infectious or contagious disease, provided that this provision does not prohibit such dog from being kept in a veterinary surgeon's clinic for treatment.

- 5.4 In the event of the Chief Executive Officer being of the opinion that a dog is a dog contemplated in subsection (3), he may cause a notice to be served on the owner of the dog requiring such owner to deliver such dog forthwith to a veterinary surgeon for examination and such treatment as the veterinary surgeon may prescribe. Such costs for examination and treatment, shall be for the account of the owner of the dog concerned.
- 5.5 Any dog suffering from mange or some other infectious or contagious disease, found in any public street or public place may be seized by an authorised officer and on the recommendation of the General Manager: Health Services or a veterinarian, be destroyed.

6. *Dogs not to be urged to attack*

No person shall:

- (a) set any dog on any person or animal, or
- (b) permit or urge any dog owned or kept by him to attack, worry or terrify any person or animal except where necessary for the defense of such first-mentioned person or his property or that of any other person.

7. *Destruction of dogs*

Notwithstanding any other provision of this by-law any authorized official of the council or a qualifying police officer, may destroy a dog if any of the circumstances in sections 3, 4, 5 and 6 occur, and only after consultation with either a qualified Municipal officer, a qualified SPCA official or a Veterinarian.

- 7.1 Notwithstanding the conditions of this section, nothing prohibits the council or anybody else who suffered any loss or damage through the action of such dog, to institute legal action against the owner of such dog after such dog has been destroyed.

8. *Impoundment of dogs*

- 8.1 Any authorised official of the Council, a qualified Police Officer, a qualified SPCA official or any other person may take any dog which is at large and apparently ownerless to the pound where such dog shall be detained until the person claiming it produces to the Council or any authorised officer or any employee of the Council or an official of the SPCA a tax receipt in respect thereof and pays the pound fees fixed by the Council by special resolution.
- 8.2 In the event of any dog not being claimed by any person entitled to it within a period of 3 days from the posting of such notice on the Notice Board, the day of impoundment being the first day of notice or the day immediately following, Council may cause such dog to be sold in such manner as the council may deem fit and if such dog is not sold, cause such dog to be destroyed.
- 8.3 The Council shall obtain from the SPCA a monthly register showing the date, on which any dog has been impounded, sold or destroyed and reimburse the SPCA for all dogs impounded and or euthanased or not collected or sold, and at a rate as decided by Council from time to time.

- 8.4 The Council shall not be liable for any damages which the owner or any other person who is entitled to the dog, or any purchaser of such dog, may claim in respect of any action taken under this section.
- 8.5 Any person who forcibly or otherwise takes away or attempts to take away any dog being lawfully brought to the pound from the person or persons in whose charge it is or who frees or attempts to free any dog which has been lawfully impounded by the Council or any authorised officer or any employee of the Council, shall be guilty of an offence.

Liability

9. Neither the Council nor any authorised officer or any employee of the Council shall be liable for any damage caused to any dog or loss suffered by the owner thereof as a result of or during the exercise of their duties in terms of the Ordinance or this by-law.

Offences and penalties

- 10.1 Any person who contravenes or fails to comply with any provision of this by-law or any order, direction, prohibition, condition, requirement or notice made, given, imposed or issued thereunder, shall be guilty of an offence.
- 10.2 Any person who continues to commit an offence after notice has been served on him to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.
- 10.3 Any person convicted of an offence under this by-law shall be liable to a fine not exceeding N\$300,00 or imprisonment for a period not exceeding 6 months or, to such imprisonment without the option of a fine or, to both such fine and such imprisonment or, to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine not exceeding N\$10,00 or additional imprisonment not exceeding 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued.

Any court convicting any person of keeping any dog which is not kept under control in accordance with the provisions of this by-law may, in addition to the penalty referred to in subsection (3), call for the destruction of the dog concerned, and thereupon a veterinarian may destroy such dog.

EFFECTIVE DATE

These regulations shall become effective on 1 January 2004.
