



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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No. 6612

### CONTENTS

*Page*

#### GENERAL NOTICE

No. 193 Oniipa town council Animal Pound Regulations: Local Authorities Act, 1992 ..... 1

## General Notice

### ONIIPA TOWN

No. 193

2018

#### ONIIPA TOWN COUNCIL ANIMAL POUND REGULATIONS: LOCAL AUTHORITIES ACT, 1992

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

**I.T. KAMBONDE**  
**CHAIRPERSON**  
**BY ORDER OF THE COUNCIL**

### SCHEDULE

#### ARRANGEMENT OF REGULATIONS

1. Definitions
2. Establishment of pound
3. Impounding of trespassing and straying animals
4. Duties of persons towards seized or impounded animals
5. Duties of pound-master
6. Dealing with injured, ill or vicious animals

7. Care of impounded animals
8. Separating impounded animals
9. Recovery of costs
10. Notice to owner of animals
11. Claiming of compensation for damages
12. Release of impounded animals
13. Proof of ownership
14. Notice of intention to sell impounded animals
15. Sale of impounded animals
16. Apportionment of proceeds of sale
17. Claim of proceeds
18. 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 horses, donkeys, mules, cattle, sheep, goats or pigs;

“Council” means the Town Council of Oniipa;

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

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

“owner” in relation to any animal, means an owner who is known or whose identity can be ascertained including the representative of the owner or other person having the lawful custody or possession of the animal;

“pound” means a pound established under regulation 2;

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

“property” means an erf or premises 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) to practise 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 and operate a pound on behalf of the Council.
- (2) 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 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 on the next business day.

(3) A person may not, in the local authority area, seize a trespassing or straying animal unless the seizing of the animal is for the purpose of impounding the animal.

**Duties of persons towards seized or impounded animals**

4. (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.

(2) A person may not release an animal -

- (a) seized in terms of regulation 3 (1)(a) and (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) and (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**

5. (1) The pound-master must -

- (a) receive all animals delivered to the pound in terms of regulation 3(1)(b) and (2)(b); and

- (b) keep the animals contemplated in paragraph (a) impounded until the animals are -
  - (i) released in terms of regulation 12; or
  - (ii) sold in terms of regulation 15.

(2) The pound-master must keep the pound open -

- (a) between 08:00 and 16:30, from Monday to Friday except on public holidays; and
- (b) between 08:00 and 12:00, on Saturday except on public holidays.

(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 dates on which the animal was impounded and 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 a form substantially corresponding to the form set out in the Annexure.

**Dealing with injured, ill or vicious animals**

6. (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 wild or vicious and its impounding is likely to be dangerous to any other animal in 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 5(4); and

(c) if the owner is known, in writing notify the owner of the death, injury or destruction of the animal.

**Care of impounded animals**

7. (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 an impounded animal or allow any other person to use, harness or ill-treat an impounded animal.

**Separating impounded animals**

8. 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.

**Recovery of costs**

9. 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 -

(a) from the owner of that animal; or

(b) from the proceeds of the sale of the animal if the animal is sold in terms of regulation 15.

**Notice to owner of animals**

10. (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, 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 had been 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 (3) are recoverable from the owner of the animal concerned or from the proceeds of the sale of the animal.

### **Claiming of compensation for damages**

11. If the Council intends to claim compensation in a court of law for damages to its property or if an owner whose property is damaged intends to claim compensation for damages in a court of law, the Council or owner 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**

12. (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 10(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, if the animal is not released as contemplated in subregulation (1), within -

- (a) seven days from the date of notifying the owner as contemplated in regulation 10(1); or
- (b) 30 days from the date of publication of the advertisement contemplated regulation 10(3).

### **Proof of ownership**

13. The pound-master may, before he or she releases an animal under regulation 12,

require the person claiming the release of the animal to provide prove 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**

**14.** (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 morning 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 at the office of the Council.

(4) The date of the sale of an impounded animal may not be less than -

- (a) four days after the date which the animal was impounded; and
- (b) seven days after -
  - (i) the publication of the notice in the *Gazette*; and
  - (ii) the second publication in the newspaper in terms of subregulation (1).

#### **Sale of impounded animal**

**15.** (1) Subject to regulations 12(2) and 14, an auctioneer designated by the Council must sell an impounded animal -

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

between the hours of 08:00 and 12:00 each day excluding Sundays and public holidays.

(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**

- 16.** (1) The Council is entitled to a commission of five percent on the gross proceeds of every animal which is sold in terms of regulation 15.
- (2) The proceeds from a sale contemplated in regulation 15, must be used for -
    - (a) the payment of all fees and expenses incurred before and during the sale; and
    - (b) the settlement of any claim for damages and in respect of which no dispute is existing between the owner of the animal and the claimants concerned.
  - (3) If two or more competing claims are to be considered for settlement in terms of subregulation (2) 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.
  - (4) Any surplus that remains after the settlements referred to in subregulation (2) must be deposited in the bank account of the Council.
  - (5) If a notice contemplated in regulation 14 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 (6), in equal parts from the proceeds of each animal sold.
  - (6) If an animal to which a notice contemplated in regulation 14 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**

- 17.** (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 16(4), the Council must pay the surplus to the 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 16(4) becomes the property of the Council upon expiry of the period contemplated in subregulation (2).

### **Ownership and branding of sold animals**

**18.** (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.

ANNEXURE

CERTIFICATE WITH DETAILS OF IMPOUNDED ANIMALS

Description of animal:

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Number of animals:

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Name and address of person who sent animals:

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.....  
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Place where animals were found:

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.....  
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Name and address of person who delivers animals:

.....  
.....  
.....  
.....

Signature of person who delivers animal:

.....

Poundmaster

.....

Date

Place: .....

