

ANNEXURE "I" CIRCULAR 24 (B) DOGS JAN 2018

AMENDED 08/08/2017

AMENDED RULES OF The Elisenheim OWNERS ASSOCIATION WITH REGARD TO DOGS

Dear Resident,

While the majority of the Residents of Elisenheim who owns dogs are sensitive towards the wellbeing of their fellow residents by controlling the behavior of their Dogs, there are unfortunately a small number of pet owners who just do not take responsibility for the behavior of their animals.

Residents wrongly assume that it is only on Elisenheim that rules regarding Dogs are made: the fact is that there are Laws passed by the Government of Namibia that regulates the keeping of dogs. The City Of Windhoek also has a strict set of rules governing the keeping of dogs; i.e.

- 1. The Local Authority Act, 1992 (Act No. 23 of 1992)**
 - a. Model Regulations for control of dogs in Local Authority Area: Local Authorities Act, 1992 (Government Gazette No. 4077)**
 - b. Regulations relating to prohibition, restriction, control and keeping of dogs Local Authorities Act, 1992. (Government Gazette No. 5309)**
 - c. Dog Control Regulations: Local Authorities Act, 1992 (Government Gazette No. 5718)**
- 2. The Municipal Dog Tax Ordinance (Ordinance No. 13 of 1967)**
- 3. Animals Protection Amendment Act 7 of 1972**
- 4. Criminal Procedure amendment Act, Act 13 of 2010. Admission of guilt fines**

Dealing with the issue of dogs threatening and/or biting residents and dogs causing a nuisance to the neighborhood are hereby dealt with.

The processes of dealing with these incidents and the fine structure for these issues are hereby discussed and are in line with that of the Admission of guilt as promulgated in

the Criminal Procedures Act *“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 neighbors or to the neighborhood 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 neighbors” (Section 94(1)(z)(af) (5.1) of the Local Authorities Act, Act No. 23 of 1992)*

You would agree that one wants to have peace and quiet when one is coming home after work and relax on the terrace but a dog barking incessantly would just disrupt the atmosphere. Likewise, you would understand that no one wants to be chased and or bitten by an animal within their own neighborhood and finally if you choose to have a pet, your pet should most definitely not become another man's problem neither a safety risk for the residents of the Estate.

I really do understand the sentiments of the animal lovers but there should be some common courtesy towards neighbors within the Estate, both between those owning Dogs and those not owning Dogs. Insisting on common courtesy towards fellow residents is clearly visible if one reads the Government's Laws and Regulations with regard to the keeping of Dogs.

Homeowners complaining about animals are without exception afraid to confront the pet owners because they are afraid of their reactions and they do not want bad neighborly feelings to develop. This is ironic, because the resident on the receiving end of another resident's aggressive or noise producing animal should not be the one owning the problem. It is the resident who owns a pet who should own the problem . . .

RULES WITH REGARD TO THE KEEPING OF DOGS

(Please note that all the Rules and Penalties described in this Circular are validated by one or all of the Acts and Regulations mentioned in paragraph 2 above)

1. DOGS AND CATS

- a. Residents may NOT keep more than two dogs of reasonable size AND two cats on their property without the written permission of the ELISENHEIM OWNERS ASSOCIATION. (A total of four animals)
- b. ***Please note that this does not mean three dogs and one cat or four dogs and no cats!***
- c. Only two dogs of reasonable size AND two cats: This speaks for itself . . . the more animals there are, the more noise there is. Overcrowding leads to frustration and fighting amongst the animals and the infestation of parasites on the property as well as a bad odor if the homeowner does not keep the animals themselves as well as the animal's space clean on a regular basis. ***The environmental impact of two dogs of reasonable size and two cats are far less than the environmental impact of four dogs per Erf.***

- i. **Please note that the Office of the Estate Manager Elisenheim gave a special concession to all homeowners owning more than two dogs e.g. for those that owns three or four dogs. According to this concession, the resident is only requested NOT to replace the “extra” animals once it dies in order to get into the rule of not owning more than two dogs and two cats.**
 - ii. According to the Law, it is an offence to keep an animal in a place which affords inadequate space.
- d. Reasonable size: A big dog e.g. German Sheppard Dog, Labrador, Ridgeback, Bullmastiff, Rottweiler, etc needs space to keep it from getting bored and frustrated.
- e. The enclosure should one hundred percent prevent your pet from straying off your property.
- f. All enclosures shall conform to the Architectural and Town Planning Guidelines and Regulations of the CoW. **(You will find these guidelines at the Town Planning Division of the Municipality)**
- g. Your dog should NOT be allowed to roam without supervision within the entire perimeter fence area of the Estate and dogs should **AT ALL TIMES** be on a leash not longer than 1.5 meters in length through which control can be kept and under your personal supervision when taken for its daily exercises.
- h. Taking dogs for a run without a leach, running free outside of your vehicle while you are driving, is not allowed within the entire perimeter fence area of the Estate.
- i. “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 neighbors or to the neighborhood 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 neighbors” **(Section 94(1)(z)(af) (5.1) of the Local Authorities Act, Act No. 23 of 1992)**
- j. Animal excrement deposited in a public area, should immediately be removed by the pet owner.
- k. ***Animal excrement should not be allowed to accumulate in the enclosures on your property and removed every day;***
 - i. ***Treatment of the affected area should receive regular attention to prevent infestation of parasites as well as that your neighbors are not bothered by foul odors.***
- l. Every dog shall wear a collar with a tag indicating the name, telephone number and address of its owner.
- m. Dogs shall be licensed at the CoW as per the Cities’ Regulations.
- n. Dogs roaming within the entire perimeter fence area of the Estate without supervision will be collected by the S P C A and the home owner shall, in addition of a fine, also pay for the cost involved by the S P C A.

2. The ELISENHEIM OWNERS ASSOCIATION reserves the right to instruct a resident to remove a pet from the Estate under the following circumstances; (Details and Procedure are discussed under this heading in the section that deals with Penalties)
 - a. Should it become a nuisance i.e. owner not giving attention to constant barking within the Estate
 - b. Should it become a nuisance i.e. owner not giving attention to animals constantly roaming the streets of the Estate without supervision or chasing residents and cars in the streets
 - c. Should the enclosures of animals not be kept clean and free from parasites regularly allowing it to pile up and the stench or disgusting odor becomes unbearable to neighbors
 - d. Dogs not to be urged to attack. No person shall:
 - i. Set any dog on any person or animal, or
 - ii. Permit or urge any dog owned or kept by him to attack, worry or terrify any person or animal.
 - e. Should a dog bite another dog, cat or resident when the “victim” of such attack did not provoke the attack; in other words, your dog must have been the aggressor.
 - i. ***Actions of self defense where a dog comes into the personal safety area and threatens another person: that shall not be seen as provocation!***
 - ii. ***The principle here is that if an animal is on a leash it would not be able to come within the personal safety area of any other animal or person causing some form of harm***
 - iii. ***The severity of the injury i.e. a small bite or a severe bite will not be cause to negate the severity of the incident***
 - f. If the owner fails or refuses to do so the Association may impose penalties and or procure its removal from Elisenheim and recover any costs from the Homeowner concerned without prejudice to its rights to recover any penalty imposed.
3. In all cases, should dogs cause damage or a mess on common property, the dog’s owner shall immediately remove the mess and or repair the damage as the case may be.
 - a. Digging holes
 - b. Chewing on tree stems and shrubs
 - c. Digging plants out on the side walk

PENALTIES

(Please note that the penalties set here below had been revised to be in line of the penalties prescribed in the Criminal Procedure Amendment Act, Act 13 of 2010)

1. A third dog **more** as specified without prior authority
 - a. A first written warning plus an instruction to immediately comply with the rule

- b. A second written warning plus a N\$250.00 fine plus an instruction to immediately comply with the rule
 - c. A third and final warning plus a N\$500.00 fine plus an instruction to immediately comply with the rule
 - d. Finally, failing to do so the animals shall have to be removed from the Estate
- 2. Animals without prescribed identification on a collar
 - a. A first written warning plus an instruction to Immediate comply with the rule
 - b. Proof thereof must be submitted to the ESTATE MANAGER
 - c. A second written warning plus a N\$250.00 fine plus an instruction to immediately comply with the rule
 - d. A third and final warning plus a N\$500.00 fine plus an instruction to immediately comply with the rule
 - e. Finally failing to do so the animals shall have to be removed from the Estate
- 3. Dogs roaming free without supervision and not on a leash
 - a. A first written warning, a fine of N\$500.00 plus an instruction to immediately comply with the rule
 - b. A final written warning, a fine of N\$2000.00 fine plus an instruction to immediately comply with the rule
 - c. Upon a third transgression, the animal or animals shall be removed from the Estate by the homeowner
 - d. Impounding by the S P C A if the homeowner refuses to remove the animal or animals
 - e. Costs payable to the S P C A by the homeowner
- 4. Domestic animal enclosures not complying to the Architectural and Town Planning Guideline and Regulations
 - a. A first written warning to comply with the rules and an instruction to take immediate corrective action plus
 - i. An invitation to inspect corrections made by the ESTATE MANAGER at completion of the work
 - b. A second written warning plus a fine of N\$250.00 and an instruction to take immediate corrective action plus
 - i. An invitation to inspect corrections made by the ESTATE MANAGER at completion of the work
 - c. A third ignorance of the previous instructions will warrant a final written warning plus a fine of N\$500.00 and an instruction to take immediate corrective action plus
 - i. An invitation to inspect corrections made by the ESTATE MANAGER at completion of the work

- d. Upon the fourth instruction about the same issue, the animal or animals shall be removed from the Estate by the homeowner plus a fine of N\$2000.00 shall be levied
 - i. Impounding by the S P C A if the homeowner refuses to remove the animal or animals
 - ii. Costs payable to the S P C A by the homeowner
- 5. Unattended animal excrement at public areas
 - a. A first written warning to plus an instruction to clean up the excrement
 - b. A second written warning plus a fine of N\$250.00 and an instruction to clean up the excrement
 - c. A third ignorance of the previous instructions will warrant a final written warning plus a fine of N\$500.00 and an instruction to clean up the excrement
 - d. Upon the fourth incident about the same issue, the animal or animals shall be removed from the Estate by the homeowner plus a fine of N\$2000.00 shall be levied
 - i. Impounding by the S P C A if the homeowner refuses to remove the animal or animals
 - ii. Costs payable to the S P C A by the homeowner
- 6. Domestic animals becoming a nuisance within the Estate
 - a. A written warning for the first complaint from another homeowner
 - b. A fine of N\$250.00 for a second complaint and a second written warning
 - c. A fine of N\$500.00 plus a final warning for the third transgression and a final request to correct the situation
 - d. Upon the fourth reported incident of the same matter, a fine of N\$1000.00 plus an instruction to remove the animal from the Estate.
 - i. If the homeowner refuses to remove the animal from the Estate the ELISENHEIM OWNERS ASSOCIATION shall procure its removal from Elisenheim and recover any costs from the Homeowner concerned without prejudice to our rights.
 - d. Dogs shall not be urged to attack another person or animal: No person shall:
 - i. Set any dog on any person or animal, or
 - ii. Permit or urge any dog owned or kept by him to attack, worry or terrify any person or animal.
- 7. Should a dog bite another dog, cat, animal or resident when the “victim” of such attack did not provoke the attack; in other words, your dog must have been the aggressor. (Please refer to 4. e. i & ii)
 - a. For the first transgression an instruction to remove the animal or animals in question from the Estate will be issued.
 - b. The maximum fine of N\$2000.00 will be given.

- c. Upon non compliance the ESTATE MANAGER may procure the removal of the animal/s from the estate and recover any costs from the Homeowner concerned without prejudice to the rights of Estate Management.
- Please note that it is the responsibility of residents to settle issues and disputes over animals amongst themselves first.
 - Dog bite incidents are a civil issue between the “victim” and the owner of the dog and residents are advised to; in all circumstances register a case in connection with the incident at the Police!
 - Separate from the Police case registered, The ELISENHEIM OWNERS ASSOCIATION reserves its right to, in cases of dog bites, follow and implement the penalties prescribed within the Estate Rules
 - Only after the resident can submit proof that his or her attempts to settle issues and disputes were not successful, the ELISENHEIM OWNERS ASSOCIATION will become involved; the following conditions will apply -
 - Written proof of attempts to solve the issue i.e. an absolute truthful report of the communication between the parties sent via e-mail to the Estate Managers office.
 - Estate Management will first act in an advisory capacity to try and solve the matter.
 - Estate Management will first send an e-mail to the pet owner informing the resident of the complaint.
 - Please note that the ESTATE MANAGER shall in normal circumstances not reveal the identity of the complainant to the homeowner whose pet is in violation of the rules. ***It may however in specific circumstances become necessary to reveal the identities of all parties concerned when allegations are investigated.***
 - The ESTATE MANAGER shall do his own investigation to validate the claims of all parties concerned in all matters reported and act according to his discretion.
 - The ESTATE MANAGER shall NOT become involved in domestic disputes between “warring” parties.