



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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N\$2.00

WINDHOEK - 27 October 2006

No. 3728

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### CONTENTS

<b>GENERAL NOTICE</b>	<i>Page</i>
No. 328 Town Council of Helao Nafidi: Advertising Control Regulations .....	1

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## General Notice

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### TOWN COUNCIL OF HELAO NAFIDI

No. 328 2006

### ADVERTISING CONTROL REGULATIONS

The Town Council of Helao Nafidi has under section 94(1)(ae) of the Local Authorities Act, 1992 (Act No. 23 of 1992), made the regulations set out in the Schedule.

### SCHEDULE

#### Definitions

1. In these regulations, unless the context otherwise indicates, any word or expression which is defined in the Act has a corresponding meaning and -

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

“advertisement” means any written, graphic or pictorial Public notice which is erected or displayed at any place to draw public attention to a product, service, event, place or anything of interest to any person;

“aerial advertisement” means an advertisement which is exhibited, displayed or performed in the air, by any means;

“Council” means the Town Council of Helao Nafidi;

“erf” means any piece of land in an approved Township;

“scheme” means the Helao Nafidi Town Planning Scheme prepared under section 16 of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954);

“subdivision” means a subdivision as defined in section 1 of the Townships and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963); and

“Town” means Helao Nafidi Town;

“road traffic sign” means a road traffic sign within the meaning of section 73 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999).

### **Prohibition of Advertisement**

2. (1) A person may not erect or display an advertisement at any place in the Town, unless he or she has been given written permission to do so by the Council.

(2) A person who wishes to apply for permission to display an advertisement at any place in the Town must complete an application form approved by the Council and must submit that application form to the Council.

(3) An application under subregulation (2) must, unless the Council otherwise determines, be accompanied by -

- (a) a plan of the site on which the advertisement is to be erected or displayed and that plan must -
  - (i) be drawn to a scale of not less than 1:500;
  - (ii) show the position of each surrounding on the site and the position of any installation of water, sewerage drainage, electricity or any other installation situated on that site; and
  - (iii) show the dimensional position of the advertisement in relation to the boundaries of the site;
- (b) a drawing of the proposed advertisement and the drawing must -
  - (i) show the information which will be displayed on the advertisement as well as the colour of the proposed advertisement; and
  - (ii) be drawn to scale of not less than 1:10;
- (c) a photograph of the site where the advertisement is to be erected or displayed, and the proposed position of the advertisement must be shown on the photograph;
- (d) a certificate from a person registered under the Engineering Profession Act, 1986 (Act No. 18 of 1986), and that certificate must indicate that the proposed advertisement when erected or displayed for more than 60 days will not be dangerous to any property, plant, animal or person;

- (4) On receipt of an application made under subregulation (2) the Council may -
- (a) allow the application without imposing any condition;
  - (b) refuse the application and give the applicant written reasons for the refusal;  
or
  - (c) allow the application and impose conditions.

(5) Unless an application has been refused under subregulation (4)(b), the Council may retain any document which is submitted to it by a person making an application under this regulation.

(6) A person may not move, remove or alter an advertisement erected or displayed under these regulations, unless he or she is permitted by the owner or the Council to do so for the purposes of maintenance and renovation.

(7) Where an advertisement erected or displayed under this regulation is in a state of disrepair, not properly maintained or erected or displayed in contravention of a condition imposed under this regulation, the Council may -

- (a) withdraw the permission to erect or display that advertisement and inform the owner of that advertisement about the withdrawal in writing;
- (b) in writing instruct the owner of that advertisement to repair or maintain that advertisement or instruct the owner to comply with any condition within a specified period; or
- (c) if the owner of the advertisement fails to comply with an instruction given under paragraph (b), repair or maintain the advertisement or do any act to ensure compliance with the condition and thereafter recover any costs incurred from the owner of the advertisement;
- (d) amend any condition which it has imposed in respect of an application to erect or display that advertisement.

(8) The Council may in respect of an advertisement erected or displayed under this regulation -

- (a) after giving 30 days written notice to the owner of that advertisement, withdraw the permission to erect or display that advertisement;
- (b) after giving 30 days written notice to the owner of that advertisement, amend or remove a condition which was imposed when the permission to erect or display was granted; or
- (c) after giving 30 days written notice to the owner of that advertisement, impose a new condition for the erection or display of that advertisement.

### **Authorized advertisements**

**3.** (1) A person may erect or display an advertisement at any place in the Town if -

- (a) the Town Council's permission is not required for that advertisement in terms of these regulations;

- (b) that advertisement is not prohibited by regulation 5;
  - (c) that advertisement complies with regulation 6; and
  - (d) the owner of the property on which that advertisement is to be erected or displayed has consented in writing to the erection or display of that advertisement.
- (2) A person does not need to obtain the permission of the Council to erect or display -
- (a) an aerial advertisement, provided the advertisement does not cause environmental pollution or produce excessive noise;
  - (b) an advertisement showing the street number of a place or an advertisement showing the name and address of the owner or occupant of that place, provided the advertisement does not exceed half a square meter.
- (3) A person may erect or display in an area zoned as residential 1 an advertisement of not more than one square metre on each erf, a farm portion or a subdivision to show the name, logo, address and telephone number of -
- (a) a resident occupation referred to in the scheme;
  - (b) a person who is under the scheme permitted by the Council to use the erf, farm portion or subdivision;
  - (c) a person who is rendering security services or neighbourhood watch service; or
  - (d) a person who at a erf, farm portion or subdivision is, carrying on an activity which is approved by the Town Council in writing.
- (4) A person may erect or display one advertisement of not more than two square metres on each farm portion, subdivision or erf in an area zoned residential 2, residential 3 or undetermined under the scheme to show the name, logo, address and telephone number of -
- (a) a resident occupation referred to in the scheme;
  - (b) a person who is under the scheme permitted by the Council to use the farm portion, erf or subdivision;
  - (c) a person who is engaged to give security services or neighbourhood watch services; or
  - (d) a person who at a erf, farm portion or subdivision is carrying on an activity which is approved by the Council in writing.
- (5) A person may erect or display any advertisement in an area zoned as business, restricted business, garage, industrial or special under the scheme, provided -
- (a) the height of that advertisement does not exceed five meters above the natural ground level; and

- (b) the advertisement does not exceed the roof of any building which is situated in that area.
- (6) A person may erect or display any advertisement in an area zoned as office or special under the scheme, provided -
- (a) the advertisement does not exceed the roof level of any building which is situated in that area; and
  - (b) the advertisement does not exceed two square meters.
- (7) A person may erect or display any advertisement in an area reserved as private open space under the scheme, provided -
- (a) the height of that advertisement does not exceed the roof of any building which is situated in that area; and
  - (b) the advertisement does not exceed ten square meters.
- (8) A person may erected or display an advertisement for the duration of a construction, where construction is taking place, and that advertisement must -
- (a) show the name and particulars of the person carrying out the construction;
  - (b) show the name and particulars of the person on whose behalf the construction is being carried out;
  - (c) not exceed ten square meters.
- (9) A person may erected or display an advertisement for the duration of an election and that advertisement must -
- (a) be erected or displayed at the residence or office of the candidate;
  - (b) be erected or displayed for the duration of the election; and
  - (c) not exceed ten square meters.
- (10) A person may erect or display the following advertisements in the interior of a building without the permission of the Council, provided the advertisement is not visible from a street or public place.
- (11) (a) A handbill;
  - (b) leaflet;
  - (c) an advertisement which is contained in a book;
  - (d) newspaper;
  - (e) pamphlet;
  - (f) graphics; or
  - (g) pictures.

(12) A person may affix an advertisement to a person or vehicle, provided the advertisement does not disrupt the movement of people or traffic.

#### **Prohibited advertisement**

5. A person may not erect or display in the Town an advertisement -
- (a) which obscures a road traffic sign;
  - (b) which contravenes any law which is applicable to Namibia;
  - (c) which obstructs the flow of light or air, into or out of a building or obstructs the movement of people into, within or out of a building, unless the person concerned has obtained the consent of the owner or occupant of that building;
  - (d) which obstruct the view of an advertisement which was lawfully erected or displayed by another person, unless that other person consents to the erection or display of that advertisement;
  - (e) which is dangerous or detrimental to any property, plant, animal, person or environment;
  - (f) which obstruct the view of a national monument, unless permission to erect or display the advertisement has been obtained from the National Monuments Council; and
  - (g) by affixing it to, or by placing it onto a vehicle, unless the owner of that vehicle consents.
  - (h) which is directly or indirectly offensive to the general public.

#### **Conditions applicable to advertisements**

6. (1) A person who under these regulations erects or displays an advertisement or causes an advertisement to be erected or displayed must -
- (a) ensure that the advertisement is securely erected or displayed and that it does not cause damage to any property, plant, animal, person or environment;
  - (b) not, on any place other than a structure approved by the Council, use water soluble adhesive, adhesive tape or other similar material to secure the advertisement;
  - (c) take measures to prevent water from causing damage to the advertisement or its supporting structure;
  - (d) ensure that electrical cables or conduct pipes which are connected to that advertisement are safe and covered in such a manner that they do not pose danger to any property, plant, animal or person;
  - (e) comply with any law that governs the supply of electricity or electrical wiring or premises in the Town;
  - (f) prior to connecting an advertisement to any electricity supply point, obtain a written permission of the Council; and

(g) comply with any law that governs the construction of buildings in the Town.

(2) The Council may hold the owner or the occupier of the property on which the advertisement is erected or displayed and the owner of the advertisement, jointly or severally responsible for the maintenance, repair or renovation of the advertisement.

(3) An estate agent's notice or an auctioneer's notice must comply with the following requirements:

(a) an -

(i) estate agent's notice must only contain the words "for sale", "to let" or "on show" or "show house" and the name, logo and contact details of the estate agent displaying the notice;

(ii) auctioneer's notice must only contain the words "public auction", or in the case of a sale in execution by order of a court the words "sale in execution", the date, time and place of the auction and the name, logo and contact details of the auctioneer displaying the notice;

(b) an estate agent must not display more than four notices in respect of an immovable property which is for sale;

(c) an auctioneer must not display more than four notices in respect of an auction to be held;

(d) a notice in respect of an auction to be held or a notice in respect of an immovable property which is for sale must -

(i) be erected or displayed within 3 kilometers from the place of the auction or sale.

(ii) be erected or displayed within 48 hours before the start of the auction or sale;

(iii) be removed after 48 hours, starting from the time of the finalization of the auction or sale.

(e) an estate agent's notice or an auctioneer's notice must not -

(i) exceed one meter in height above the natural ground level;

(ii) obstruct motorists sight lines;

(iii) be displayed below ten meters from the midpoint of the outside curve of a corner measured from the midpoint of such corner;

(iv) be made with a material which is not strong and durable;

(v) have one notice above the other;

(vi) be displayed against a transformer casing, illuminated advertising signs, traffic lights or signs, structure walls, pillars or fences, excluding a fence of the residential property advertised, shelters, trees, refuse bins, bus shelters or lamp posts;

- (vii) damage any service which the Council is providing in that area;
- (viii) be within 1,5 meters from the driving surface of an adjoining street.

### **Powers of the Council**

7. (1) Where an advertisement is not repaired or is not being properly maintained or poses a danger to any property, plant, animal or person, the Council may serve a written notice on the owner of that advertisement or on the owner or occupier of the place or premises on which the advertisement is erected or displayed to -

- (a) request the repair or maintenance of that advertisement within a specified period;
- (b) inform the owner of that advertisement or the owner or occupier of the place or premises on which the advertisement is erected or displayed that if he or she fails to repair or maintain the advertisement within the specified period, the Council may repair or maintain that advertisement, and thereafter recover the cost for doing so in terms of these regulations.

(2) If the recipient fails to repair or maintain the advertisement within a period specified under subregulation (1)(a) the Council may repair or maintain that advertisement and thereafter recover the cost from the person on whom the notice under subregulation (1) was served.

(3) Where a person erects or displays an advertisement in contravention of these regulations or conditions imposed by the Council or where a person erects or displays an advertisement which is prohibited by regulation 5, the Council may serve a written notice on the person who erected or displayed that advertisement or on the owner of that advertisement or on the owner or occupier of the property or premises on which the advertisement is erected or displayed.

(4) A notice referred to in subregulation (3) must -

- (a) advise the person concerned to comply with these regulations or a condition imposed by the Council; or
- (b) in the case of a prohibited advertisement order the person concerned to remove the advertisement immediately.

(5) If a person fails to comply with a notice given under subregulation (3), the Council may remove, deface, obliterate or destroy the advertisement and the cost must be born by the person who failed to comply with the notice.

(6) An officer or employee of the Council may exercise the powers under section 91 of the Act, to exercise or perform any duty or function conferred or imposed by these regulations.

(7) A notice to be served under these regulations shall be served in accordance with section 93 of the Local Authorities Act, 1992 (Act No. 23 of 1992).

### **Reconsideration of decision**

8. (1) A person who is aggrieved by a decision of the Council made under these regulations must within 30 days of receiving that decision, apply to the Council for reconsideration of that decision.



(2) An application made under subregulation (1) must be in writing and must contain the grounds on which the decision should be reconsidered.

(3) On receipt of an application made under this regulation, the Council shall reconsider its decision and may -

- (a) reserve the earlier decision;
- (b) reverse the earlier decision and impose conditions; or
- (c) confirm the earlier decision.

### **Tariff**

**9.** Unless the Council otherwise determines under section 30 (1) (u) of the Act, the following fee may be charged in respect of

- |                                     |                        |
|-------------------------------------|------------------------|
| (a) posters                         | N\$ 200.00 (per event) |
| (b) vertical banners on lamp poles  | N\$ 200.00 (per event) |
| (c) horizontal banners              | N\$ 200.00 (per event) |
| (d) mobile "A" frame advertisements | N\$ 50.00 (per day)    |
| (e) flags on council property       | N\$ 200.00 (per event) |
| (f) air space notice                | N\$ 50.00 (per sign)   |
| (g) an estate agent's notice        | N\$ 1000.00 (per sign) |
| (h) an auctioneer's notice          | N\$ 1000.00 (per sign) |

### **Offences and penalties**

- 10.** (1) Any person who -
- (a) erects or displays an advertisement or causes an advertisement to be erected or displayed in Town, contrary to these regulations;
  - (b) erects, displays a prohibited advertisement or causes a prohibited advertisement to be erected or displayed;
  - (c) contravenes or fails to comply with a requirement set out in a notice issued and served on him or her under these regulations;
  - (d) intentionally makes a false statement when making an application under these regulations; or
  - (e) contravenes or fails to comply with any provision of these regulations or a condition, imposed under these conditions,

commits an offence and is liable to a fine not exceeding N\$2 000.00 or imprisonment for a period not exceeding a period of six months or to both such fine and such imprisonment.

- (2) Unless the contrary is proven -
- (a) the owner or occupier of land or building on which an advertisement was erected or displayed is deemed to have erected or displayed that advertisement;
  - (b) any person who severally or jointly organizes or control any meeting, function or event to which an advertisement relate, is deemed to have erected or displayed any advertisement which is connected to that meeting, function or event;
  - (c) any person whose name appears on an advertisement is deemed to have erected or displayed that advertisement.

### **Savings**

**11.** A person who erected or displayed -

- (a) an advertisement before the commencement of these regulations, is deemed to have erected or displayed that advertisement in terms of these regulations.
  - (b) an advertisement which does not comply with these regulations must remove that advertisement within 12 months after the commencement of these regulations or ensure that the advertisement complies with these regulations.
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