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OF THE

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General Notices

MUNICIPALITY OF OMARURU

No. 51 2009

OUTDOOR ADVERTISING REGULATIONS

The Council of Omaruru after consultation with the Minister responsible for Regional and Local Government and Housing, makes under section 94(1)(ae) of the Local Authorities Act, 1992 (Act No. 23 of 1992) the regulations set out in the Schedule.

U.M. TJIRARE
CHAIRPERSON OF THE COUNCIL

BY ORDER OF THE COUNCIL

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates, a word or expression defined in the Local Authorities Act, 1992 (Act No. 23 of 1992) has that meaning -

“advertisement” means any written, graphic or pictorial representation of information which is erected, or displayed at any place for the purpose of conveying information about the existence of a product, service, event, place or anything of interest to any person but does not include a road traffic sign;

“advertisement hoarding” means any structure which is used or is intended to be used for the purpose of posting, exhibiting or displaying an advertisement;

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

“auctioneer’s notice” means an advertisement which is temporarily displayed at any place for the purpose of conveying the fact that movable or immovable property, or both, is for sale by public auction;

“Council” means the Municipal Council of Omaruru or any committee of that Council on whom that Council has delegated or assigned any power, function or duty which is to be exercised or performed under these regulations;

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

“Council property” means and includes a street or public place situated in the Council area;

“erf “ means an erf as defined in section 1 of the Townships and Division of Land Ordinance 1963 (Ordinance No. 11 of 1963);

“estate agent” means an estate agent entitled to practice as such in terms of the Estate Agent’s Act, 1976 (Act No. 112 of 1976);

“estate agent’s notice” means an advertisement which is temporarily displayed at any place for the purpose of conveying the fact that an immovable property is for sale or to let or is being shown for promotion purposes.

“horizontal banner” means an advertisement erected in air space over Council property which can take the form of, but is not limited to, a banner erected in air space over a public street;

“road traffic sign” means a road traffic sign referred to in section 73 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“scheme” means the approved Omaruru Town Planning Scheme and any amendments made to such scheme prepared under section 16 of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954); and

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

Advertisements on Council property, streets and public places

2. (1) Subject to regulations 3 and 4 a person may not erect or display an advertisement on Council property, unless he or she has been given written authority to do so by the Council.

(2) A person who wishes to apply for authority to erect or display an advertisement on Council property must complete the form approved by the Council and submit it 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 the plan must -
 - (i) be drawn to a scale of not less than 1:500;
 - (ii) show the position of each surrounding building on the site and the position of any water, sewerage, stormwater drainage, electricity installation or any other installation by the Council situated on the site; and
 - (iii) 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 a 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 the certificate must indicate that the proposed advertisement when erected or displayed, will not be dangerous to any person or property; and
 - (e) payment of the appropriate tariff under regulation 13.
- (4) On receipt of an application made under subregulation (2) the Council may -
- (a) allow the application with conditions, if any; or
 - (b) refuse the application and supply to the applicant written reasons for the refusal.
- (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) Unless authorised by the Council, a person may not move, remove or alter an advertisement which was erected or displayed under this regulation, but the owner of that advertisement or a person authorised by him or her, may, for the purpose of maintaining or renovating that advertisement, move, remove or alter it.
- (7) Subject to regulations 3(6) and 4(6), the Council may, if an advertisement erected or displayed under this regulation which advertisement is in a state of disrepair, is not being properly maintained or is erected or displayed in contravention of a condition imposed under this regulation, the Council may -
- (a) by written notice to the owner of that advertisement, withdraw or amend the authority to erect or display that advertisement and advise the owner of that advertisement about the withdrawal or amendment in writing;
 - (b) in writing, instruct the owner of that advertisement to repair or maintain that advertisement or to comply with any condition, as the Council may determine, within a specified period; or

- (c) if the owner of the advertisement fails to comply with an instruction given under paragraph (b), remove the advertisement or do any act to ensure compliance with the condition and thereafter recover the actual costs incurred plus an administrative levy of 15% from the owner of the advertisement; or
- (d) cause any advertisement removed in terms of paragraph (c) to be destroyed if not claimed within 30 days of such removal by or on behalf of the owner thereof.

(8) Notwithstanding subregulation (7), the Council may, if it is reasonably necessary, and after giving 30 days written notice to the owner, in respect of an advertisement erected or displayed under this regulation -

- (a) withdraw the authority to erect or display that advertisement;
- (b) amend or remove a condition which was imposed when the authority to erect or display was granted; or
- (c) impose a new condition for the erection or display of that advertisement.

Estate agents notice

3. (1) An estate agent may display an estate agents' notice, subject to payment of the tariff under regulation 13 and to the provisions of these regulations.

(2) An estate agents notice may not contain information other than 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.

(3) An estate agent may not display more than four estate agents' notices in respect of a single residential property, which notices must not be further than a radius of 1 kilometre or more than 3 kilometres from the property advertised.

(4) An "on show" or "show house" notice may not be displayed more than 48 hours prior to commencement of the showing and all estate agents' notices must be removed not later than 48 hours after letting, sale, or end time of the showing of the residential property, or whichever occurs first.

- (5) (a) Any estate agents' notice displayed in conflict with the provisions of these Regulations may be removed by any person instructed by the Council to do so.
- (b) The cost of removal of any notice in terms of paragraph (a) must be the actual cost of removal plus an administrative levy of 15% and may be recovered from the estate agent displaying, or causing to be displayed, any such notice.

(6) In this regulation the meaning of the words "display", "displayed" and "displaying" in relation to an estate agents' notice includes:

- (a) the driving of the supports of such notice into the ground;
- (b) the affixing of such notice to any structure in any way; and
- (c) the supporting of such notice by the ground, any artificial surface or any structure.

Auctioneer's notice

4. (1) An auctioneer may display an auctioneer's notice, subject to payment of the tariff as determined by the Council and to the provisions of these regulations, on sidewalks belonging to the Council without the prior approval of the Council.

(2) An auctioneer's notice may not contain information other than the words "public auction", or in the case of a sale in execution by order of Court the words "sale in execution", the date, time and place of the auction and the name, logo and contact details of the auctioneer or his or her agent displaying the notice.

(3) An auctioneer may not display more than four auctioneer's notices in respect of any single auction, which notices must not be further than 1 kilometre or more than 3 kilometres from the place where the auction will take place.

Advertisements on other property

5. (1) Subject to regulation 2, 3, 4 and 6, a person may not, in the local authority area or the Council, erect or display an advertisement in or on any place, unless he or she has been authorised thereto in writing by the Council.

(2) A person who wishes to obtain the written authority contemplated in subregulation (1) must, subject to necessary changes, comply with the procedures laid down in regulation 2 and any authority granted by the Council must be granted and used in accordance with that regulation.

Authorised advertisements

6. (1) Notwithstanding regulation 5, a person may erect or display an advertisement at any place other than the places referred to in regulations 2 if -

- (a) that advertisement falls under subregulation (2) of this regulation;
- (b) that advertisement is not prohibited by regulation 7;
- (c) that advertisement complies with regulation 8; and
- (d) in an area zoned general residential or undetermined and which is predominately used or is intended to be used for residential purposes under the scheme, an advertisement showing the name, logo, address and telephone number of -
 - (i) a resident occupation referred to in the scheme;
 - (ii) a person to whom, under the scheme, consent has been given by the Council;
 - (iii) a person who has been engaged to give security services at the place, or a neighbourhood watch body; or
 - (iv) a person who at the place, is doing an activity which has been approved in writing by the Council, can be erected or displayed as long as the advertisement erected or displayed on each erf, farm portion or subdivision does not exceed two square metre in area, and unless the person concerned is engaged to give security services at the place or is a neighbourhood watch body, only one advertisement is erected or displayed on each erf, farm portion or subdivision;

- (e) in an area zoned as business, restricted business, garage, industrial or special under the scheme, and where business is the primary use as defined in the scheme, any advertisement may be erected or displayed as long as the height of that advertisement does not exceed five metres above the natural ground level and the advertisement does not go above the roof level of any building which is situated in that area;
- (f) in an area zoned as office or special under the scheme, and where business is not the primary use as defined in the scheme, any advertisement may be erected or displayed as long as the height of that advertisement does not go above the roof level of any building which is situated in that area and the area of that advertisement does not exceed two square metres;
- (g) in an area zoned as institutional, undetermined, municipal or reserved for government, cemetery or transport and communication under the scheme, any advertisement may be erected or displayed as long as it complies with the requirements of paragraph (d);
- (h) in an area reserved as private open space under the scheme, any advertisement may be erected or displayed as long as the height of that advertisement does not go above the roof level of any building which is situated in that area and the area of that advertisement does not exceed ten square metres;
- (i) where construction is taking place, an advertisement may be erected or displayed for the duration of the construction and that advertisement must
 - (i) show the name and particulars of the person carrying out the construction;
 - (ii) show the name and particulars of the person on whose behalf the construction is being carried out; and
 - (iii) not exceed ten square metres in area;
- (j) an advertisement may be erected or displayed by a candidate during Presidential, parliamentary, regional council or local authority elections as long as that advertisement -
 - (i) is erected or displayed at the residence or office of the candidate;
 - (ii) is erected or displayed for the duration of the election; and
 - (iii) does not exceed ten square metres in area;
- (k) an advertisement which is erected or displayed in the interior of a building as long as that advertisement is not visible from a street or public place;
- (l) a handbill, leaflet or an advertisement which is contained in a book, newspaper or pamphlet as long as the distributor does not litter any place which is situated within the Council area; or
- (m) an advertisement which is affixed to a person or vehicle, excluding a vehicle which is used exclusively for the purposes of advertising or erecting or displaying an advertisement, as long as that advertisement does not disrupt the movement of people or traffic.

Prohibited advertisements

7. A person may not, in the Council area, erect or display an advertisement -
- (a) which obscures a road traffic sign;
 - (b) 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;
 - (c) which obscures an advertisement which was lawfully erected or displayed by another person, unless that other person consents to the erection or display of such obscuring of that advertisement;
 - (d) which is dangerous to any, person or property;
 - (e) which interferes with the enjoyment of the environment or obscures viewing of a place or thing which the Council may determine;
 - (f) which obscures the viewing of a thing or place which has been declared a national monument under the National Heritage Act, 2004 (Act No. 27 of 2004) unless permission to erect or display that advertisement has been obtained from the National Heritage Council established under that Act; and
 - (g) by affixing it to, or by placing it onto, a vehicle unless the owner of that vehicle consents to the erection or display of that advertisement onto that vehicle.

Conditions applicable to advertisements

8. (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, animal, or plant;
- (b) not, on any place other than an advertisement boarding or 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 damage to that advertisement or its supporting structure by water;
- (d) ensure that electrical cables or conduit 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 which governs the supply of electricity or the electrical wiring of premises in the Council area;
- (f) prior to connecting the advertisement to any electricity supply point, obtain the written permission of the Council; and
- (g) comply with any law which governs the construction of buildings in the Council

area;

(2) The owner of property on which an advertisement is erected or displayed and the owner of any advertisement are both jointly and severally responsible for the maintenance and repair of that advertisement.

(3) A person who, whilst erecting, displaying or removing an advertisement, intentionally causes damage to any plant, animal, property or Council service commits a crime and is liable on conviction to the penalties provided for in regulation 11.

Powers of Council

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

(2) A notice referred to in subregulation (1) must -

- (a) advise the recipient about the nature of the complaint;
- (b) request the recipient to repair or maintain the advertisement within a specified period;
- (c) inform the recipient 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 of doing so from the recipient.

(3) If at the end of the period specified in subregulation (2), the recipient fails to repair or maintain the advertisement, 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.

(4) Where a person erects or displays an advertisement in contravention of these regulations or conditions, including conditions relating to time limits, imposed by the Council, or where a person erects or displays an advertisement which is prohibited by regulation 7, the Council may -

- (a) in the case of a prohibited advertisement, serve a written notice on the person who erected or displayed that advertisement if known, and the owner of the property where that advertisement is situated; or
- (b) in any other case serve a notice on the owner of that advertisement.

(5) a notice referred to in subregulation (4) must -

- (a) advise the person concerned to comply with these regulations or a condition, including a condition relating to time limits, imposed by the Council within a specified period; or
- (b) in the case of a prohibited advertisement, order the person concerned to remove the advertisement immediately.

(6) If a person fails to comply with a notice given under subregulation (4), the Council may remove, deface, obliterate or destroy the advertisement or take any other remedial action which is necessary and reasonable in the circumstances and thereafter recover any costs incurred from the person who failed to comply with that notice.

(7) Any action taken by the Council under this regulation must be in addition to any penalty imposed under regulation 11 for contravening these regulations.

(8) For the purposes of enforcing these regulations any officer or employee of the Council may exercise the powers conferred by section 91 of the Act.

(9) A notice required to be served under these regulations must be served in compliance with section 93 of the Act.

Reconsideration of decision

10. (1) A person who is aggrieved by a decision of the Council made under these regulations may, 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 must reconsider its decision and may -

- (a) reverse the earlier decision;
- (b) reverse the earlier decision and impose conditions, including conditions relating to time limits, which are necessary and reasonable in the circumstances; or
- (c) confirm the earlier decision.

(4) The Council must, within 60 days of receiving an application under this regulation, notify the applicant in writing of the decision made under subregulation (3).

Offences and penalties

11. (1) A person who -

- (a) in the Council area, erects, displays or uses an advertisement or causes an advertisement to be erected, displayed or used contrary to these regulations;
- (b) in the Council area, erects, displays or uses a prohibited advertisement or causes a prohibited advertisement to be erected, displayed or used;
- (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, including a condition relating to time limits, imposed under these regulations,

commits an offence and is liable on conviction 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.

(2) In a prosecution for an offence under these regulations -

- (a) the owner of land or a building on which an advertisement was erected or displayed is deemed to have erected or displayed that advertisement or caused it to be erected or displayed;
- (b) any person who was, either alone or jointly with any other person, responsible for organising, or was in control of, any meeting, function or event to which an advertisement relates, is deemed to have erected or displayed any advertisement erected or displayed in connection with that meeting, function or event or to have caused or allowed that advertisement to be erected or displayed; and
- (c) any person whose name appears on an advertisement is deemed to have erected or displayed that advertisement or to have caused or allowed that advertisement to be erected or displayed;

unless the contrary is proved.

Tarriff

12. The tarriffs are approved by the Council from time to time in terms of section 30(u) of the Act.

MUNICIPALITY OF OMARURU

No. 52

2009

REGULATIONS ON INFORMAL TRADING: LOCAL AUTHORITIES ACT, 1992

The Municipality of Omaruru, after consultation with the Minister responsible for Regional and Local Government and Housing, makes under section 94(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), makes the regulations set out in the Schedule.

U.M. TJIRARE
CHAIRPERSON OF THE COUNCIL

BY ORDER OF THE COUNCIL

SCHEDULE

Definitions

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

“assistant informal trader” means a person registered as an assistant informal trader under regulation 4;

“authorised official” means a staff member of the Council authorised to administer, implement and enforce these regulations;

“business” means to conduct any trade, occupation or other activity for gain;

“Council” means the local authority, council of Omaruru;

“fee” means the applicable fee or charge determined by the Council in terms of section 30(1)(u) of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“food” includes any product in any form, state or stage of preparation which is intended for human consumption, or which is capable of being so consumed;

“food premises” means any building, shed, stand, vehicle or other structure used in that capacity;

“goods” means any movable property, foodstuffs, clothing, or any merchandise for sale, and for the purposes of regulation 22 and 23 it also includes any receptacle, vehicle or movable structure used in the business of informal trading;

“health officer” means a staff member appointed in the capacity of a health officer by the Council, and includes a health officer practitioner appointed in such capacity;

“informal trader” means a person registered as an informal trader under regulation 4 and includes an assistant informal trader;

“informal trading” means the selling of goods or services in a street, a public place or outside or inside any building in terms of a registration certificate, but excludes the conducting of a business registered and approved in terms of Government Notice No. 121 of 14 October 1969, and “trade” has the same meaning;

“litter” includes any container or other waste matter or object which has been discarded, abandoned or left behind by any trader or his or her customers;

“local authority area” means the local authority area of Omaruru as declared by the Minister of Regional and Local Government and Housing under section 3 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“public road” means a public road as defined in section 1 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“prohibited area” means any place declared by the Council to be an area in which any form of trading is prohibited;

“property” in relation to a person conducting the business of trading, includes any article, receptacle, vehicle or structure used or intended to be used in connection with such business, or goods in which such person trades;

“registration certificate” means a registration certificate issued in terms of regulation 6;

“sell” includes -

- (a) barter, exchange or hire out;
- (b) display, expose, offer or prepare for sale;
- (c) store with a view to sell; or
- (d) supply,

and “sale” has the corresponding meaning;

“sidewalk” means a sidewalk as defined in section 1 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“services”, includes any work performed for advantage, gain, consideration or reward;

“street”, includes -

- (a) a public road;
- (b) the shoulder of any street;
- (c) any bridge, ferry, ford or drift traversed by any street; and
- (d) any other object or thing forming part of or connected with or belonged to a street; and

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

Informal traders and assistant informal traders to be registered

2. (1) A person may not conduct a trade, or assist another person in conducting a trade, within the local authority area, unless such person is registered as an informal trader or as an assistant informal trader under regulation 4 and is in the possession of a registration certificate.

(2) An informal trader may not for the purposes of his or her trade, employ a person as his or her assistant, unless such person is registered as an assistant informal trader under regulation 4 and is in possession of a registration certificate to that effect.

Application for registration and issue of registration certificate

3. (1) A person who wishes to be registered as an informal trader or an assistant informal trader must, subject to regulation 4, apply to the Council for registration as an informal trader or assistant informal trader in the form and manner determined by the Council.

(2) The completed application form, together with any documents and information as the Council may require, must be submitted to the Council.

(3) The Council must consider every application submitted to it in terms of subregulation (2) and may, having regard to all accompanying documents and information -

- (a) grant the application and register the applicant subject to such conditions as the Council may consider appropriate if any; or
- (b) refuse the application and in writing notify the applicant of such refusal and provide the applicant with reasons for such refusal.

(4) If an application is granted under subregulation (3)(b), the Council must issue upon payment of the appropriate fee, the registration certificate.

(5) If an application for registration as an informal trader or assistant informal trader is refused, the applicant may, within 60 days of receipt of the notice referred to in subregulation (3)(b)-

- (a) appear before the Council either in person or through a legal practitioner, registered under the Legal Practitioner’s Act, 1995 (Act No. 15 of 1995), to make representations; or
- (b) make representations in writing to the Council,

to show cause why his or her application should not be refused.

- (6) After hearing the applicant or the applicant's legal practitioner, or receipt of the written representations made by the applicant, under subregulation (5), the Council must -
- (a) reconsider the application and make a decision in accordance with subregulation (3); and
 - (b) in writing inform the applicant of its decision within 30 days after the hearing or receipt of the written representations.

Application and registration fees

4. (1) An application for registration as an informal trader or an assistant informal trader or for renewal made in terms of regulation 3 or 5, must be accompanied by a non-refundable application fee.
- (2) Subject to subregulation (3) no fee is payable for the issuance of a registration certificate.
- (3) The fee payable in respect of the issue of a duplicate registration certificate under regulation 7(2) is determined by the Council.

Issue, display or renewal of registration certificate

5. (1) Upon registering the applicant as an informal trader or an assistant informal trader under regulation 3, the Council must issue to the applicant a registration certificate in a form determined by the Council.
- (2) A registration certificate must -
- (a) specify -
 - (i) the area or place at or where the informal trade concerned is conducted;
 - (ii) the article or articles, or the class or kind of articles, which the holder of the registration certificate is entitled to sell; and
 - (iii) the date of expiry.
 - (b) at all times, during the conducting of his or her business as an informal trader or an assistant informal trader, be kept by the person in whose name the certificate is issued on his or her person or in his or her immediate proximity.
- (3) A registration certificate is valid for a period of 12 months from the date of issue thereof, or for such shorter period as the Council may determine at the time of issue.
- (4) A registration certificate may be renewed on application by the holder thereof in accordance with regulation 3, and subject to the payment of a fee referred to in regulation 4.
- (5) An application for renewal of a registration certificate must be lodged with the Council not less than 14 days and not more than 30 days before the date of expiry of the certificate.

Change of address

6. If a holder of a registration certificate changes his or her residential address, such holder must furnish the Council with full particulars of his or her new address within 14 days after the change.

Duplicate registration certificate and nontransferable of registration certificate

7. (1) If a registration certificate issued to any person is lost, such person may, within 14 days from the date on which such loss became known to him or her -

- (a) notify the Council in writing of such loss; and
- (b) in the form determined by the Council, apply to the Council for the issue of a duplicate registration certificate, if he or she so requires.

(2) Upon receipt of an application referred to in subregulation (1) and payment of the fees referred to in regulation 4, the Council must issue to the holder concerned a duplicate of that certificate.

(3) A registration certificate is not transferable, and no person other than the person in whose name it was issued is entitled to conduct any business by virtue of such certificate.

Control over registered business

8. (1) The holder of a registration certificate must identify himself or herself and produce such registration certificate for inspection when required to do so by a member of the Namibian Police, a health officer or any authorised official, or any person with whom business is transacted or sought to be transacted.

(2) An informal trader or assistant informal trader may not sell anything which he or she is not authorised to sell by virtue of his or her registration certificate.

Conditions of trading

9. (1) An informal trader or assistant informal trader conducting business in any kind of food must keep all such food in or on a vehicle, cart, handcart, barrow, display-stand or receptacle, and may not allow any food to come in direct contact with the ground or the surface of any sidewalk, street or any place of his business area.

(2) A person may not trade in food or second hand clothing, unless he or she has at his or her disposal the use of a container approved in writing by a health officer, to store his goods during trading.

(3) An informal trader dealing in foodstuffs or second hand clothing may not store any food or clothing forming part of his or her stock-in-trade in any place other than in a container approved in writing by a health officer.

(4) An informal trader may not convey any goods for the purposes of his or her trade in or on any vehicle, wagon, cart, handcart, barrow or other conveyance, unless such means of conveyance has been approved in writing by a health officer for the purposes of conveying of such goods.

Requirements relating to domestic occupations and home-made food products

10. (1) A person may not in any building, including a private dwelling, handle, prepare, serve or pre-pack any food for human consumption, except for own domestic use, unless such person is a holder of a certificate of fitness issued by the Council in respect of such building or dwelling and any activity conducted therein.

(2) A certificate of fitness referred to in subregulation (1) must be applied for in the form and manner, and be issued in the form, determined by the Council.

Temporary registration certificate and exemption relating to registration

11. (1) A person in charge of a food stall or of a vehicle which is used for the transport of food, if such food is sold on behalf or for the benefit of a church, or of a political, cultural, educational, charity, amateur sport or agricultural organization, may apply to the Council for the issue of a temporary registration certificate.

(2) A temporary registration certificate referred to in subregulation (1), must -

- (a) be applied for in the form and manner;
- (b) be issued in the form approved by the Council;
- (c) be valid for such period of time; and
- (d) be accompanied by an appropriate fee,

as the Council may determine.

(3) A person to whom a temporary registration certificate is issued under this regulation is exempted from the requirements of registering as an informal trader or assistant informal trader in terms of regulation 2 and the payment of registration fees payable in terms of regulation 4.

General rules of conduct for informal traders.

12. (1) An informal trader may not -

- (a) place or stack his or her property in such a manner that it constitutes a danger to any person or is likely to injure any person;
- (b) obstruct access to a fire hydrant;
- (c) attach any object by any means on any building, structure, pavement, tree, parking metre, lamppost, power standard, telegraph-pole, telephone booth, mail-box, traffic sign, bench or any other similar object in or on a street or public place; or
- (d) light a fire in any area where it may cause a public nuisance.

(2) An informal trader must -

- (a) on concluding business for the day, remove his or her property from the trading area to a place which does not form part of a street or public place; or
- (b) at the request of an authorised staff member or of a person acting on behalf of the Council or any supplier of telecommunication or electricity or other services, move his or her property, or any property under his or her control or in his or her care, so as to permit the carrying out of any work in relation to a street, public place or any such service.

Cleanliness

13. An informal trader must, to the satisfaction of the Council -

- (a) keep the area or site occupied by him or her for the purposes of his or her business in a clean and sanitary condition as well as his or her property and ensure that the area is free of litter;

- (b) properly dispose of litter generated by his or her business;
- (c) in the case of an informal trader dealing in foodstuffs, take such precautions as may be necessary to prevent the spilling of any fat, oil or grease in the course of conducting his or her business and to prevent any smoke, fumes or odour emanating from his or her activities which may constitute public nuisance; and
- (d) at the request of an authorised staff member or person acting on behalf of the Council, move his or her property, or any property in his care or under his or her control so as to permit the cleansing of the area or site where he or she conducts business.

Obstruction of pedestrians

14. A person may not trade at such a place or in such a manner so as to cause any obstruction of, or any interference with -

- (a) access to any street fixture or any other facility intended for the use of the general public;
- (b) the visibility of a display window on any business premises, if the person conducting business in the business premises concerned objects thereto;
- (c) access to any entrance to or any exit from a building;
- (d) the safe and secure usage of any automatic bank teller machine;
- (e) access to or from a pedestrian crossing;
- (f) access to or from any legally parked vehicle; or
- (g) any pedestrian using a sidewalk.

Obstruction of traffic

15. A person may not trade at such place or in such manner so as to -

- (a) cause an obstruction in or on any street;
- (b) limit access to parking or loading bays or other facilities relating to traffic;
- (c) obscure any road traffic sign erected in terms of any traffic regulations applicable in the municipal area, or any marking, notice or sign displayed or made in terms of these regulations; or
- (d) in any way interfere with any vehicle which may be parked alongside such place where the trading is conducted.

Trading restricted to approved trading areas

16. A person may not trade or place, pack or store any goods, including goods referred to in regulation 22(1), outside the area or place of trading specified in his or her registration certificate.

No trading on or in stand or area not leased

17. Despite anything to the contrary contained in these regulations, a person may not trade on any stand or in any area unless he or she has leased such stand or area from the Council or such stand or area is allocated to him or her by the Council and such person is in the possession of written proof of such lease or allocation.

No trading near place of worship, national monument or public building

18. A person may not trade within a distance of 10 meters from any place of worship, any national monument or any public building.

Areas for trading and signs indicating such areas.

19. The Council may -

- (a) determine areas for and hours of trading, and other restrictions relating to trading;
- (b) prescribe signs, marking or other devices indicating -
 - (i) specified hours, places, goods or services in respect of which trading may be restricted or allowed; or
 - (ii) the boundaries of a stand or area set aside for the purpose of trading.

Trading near residential premises

20. A person may not, for the purposes of trading, display his or her goods or other property on any residential premises.

Trading near certain business premises

21. A person may not conduct a business in or on any place adjacent to or forming part of a building in which any business registered in terms of Government Notice No. 121 of 14 October 1969 is conducted and where goods of the same nature as or of a nature similar to goods offered for sale by such person are on sale, unless such person conducts such business with the written consent of the owner of such registered business.

Removal and impounding

22. (1) An authorised official may remove and impound any goods -
- (a) which he or she reasonably suspects are being used or are intended to be used or have been used in or in connection with the conducting of an informal trade; and
 - (b) which goods he or she finds at any place where -
 - (i) the conducting of the trade concerned is prohibited; or
 - (ii) in his or her opinion such goods are placed in such a manner so as to -
 - (aa) prevent pedestrians from passing on the sidewalk;
 - (bb) cause an obstruction to traffic; or

- (cc) are in front of a fire hydrant or an entrance to or exit from a building,

and which the person conducting a trade has failed to remove from such place after having been requested to do so by the authorised official, or which have been left at such place or have been abandoned.

- (2) An authorized official acting in terms of subregulation (1) must -
 - (a) issue to the person conducting an informal trade a receipt in respect of any goods the authorised official removes and impounds, which receipt must specify such goods in detail and be signed by such official;
 - (b) take proper care of goods so removed and impounded; and
 - (c) forthwith deliver any goods so removed and impounded to the Council at a place determined by the Council for that purpose.

(3) The owner of any goods which have been removed and impounded under subregulation (2) is, subject to regulation 23, liable for any reasonable expenses incurred by the Council in respect of the removal and impounding of such goods, and the Council may keep such goods in its possession until all such expenses have been paid or may deal with such goods as contemplated in regulation 23.

(4) A certificate issued by the treasurer of the Council or any person authorized thereto by him or her is prima facie proof of any expenses incurred by the Council in respect of the removal and impounding of any goods under this regulation.

(5) The Council, authorized official or employee of the Council is not liable for any loss of or damage to any goods removed and impounded in good faith under this regulation.

Disposal of impounded goods

23. (1) The owner of perishables goods that have been impounded in terms of regulation 22(1) may, within 24 hours from the time such goods were impounded, apply in writing to the Council for the return of such goods and must present the relevant receipt issued to him or her in terms of regulation 22(2)(a).

(2) If the Council removes and impounds any perishable goods under regulation 22(2), and 24 hours from the time the goods were impounded has expired without such goods being collected, the Council may destroy or sell the perishable goods so impounded.

(3) The owner of any goods, impounded under regulation 22(2), excluding perishable goods, may, within 30 days from the date of the impoundment, apply in writing to the Council for the return of such goods and must attach to the application the relevant receipt issued in terms of regulation 22(2)(a), failing which the Council may sell such goods.

(4) If the owner of any goods impounded by the Council under regulation 22(2) claims the return of such goods from the Council under subregulation (1) or (3), and such owner refuses or fails to refund in full the expenses incurred by the Council in respect of the removal and impoundment of such goods, the Council may decline to return such goods or part thereof to the owner, and may sell such goods or part thereof by public auction, or other means determined by the Council.

(5) In the event of the sale of any impounded goods by the Council in terms of this regulation, the proceeds of such goods so sold, less the expenses incurred by the Council in respect of

the removal and impoundment of such goods, must, upon presentation of the relevant receipt issued in terms of regulation 22(2)(a) to the owner of such goods, be paid to the person who was the owner of such goods when such goods were impounded.

(6) In the event of the proceeds of any sale of goods under this regulation not being sufficient to defray the expenses incurred by the Council in respect of regulation 22(4) the informal trader remains liable to the Council for payment of so much expenses as is not defrayed by such proceeds.

(7) If the owner of any goods impounded under this regulation fails to claim the proceeds of the goods sold in accordance with this regulation within a period of three months after the date such goods being sold, the proceeds will be forfeited.

Offences and penalties

24. (1) A person commits an offence if he or she -

- (a) contravenes or fails to comply with any provision of these regulations or any condition imposed in respect of any registration certificate;
- (b) threatens, resist, hinders, interferes with or obstruct any authorised official in the exercise of his or her powers or the performance of his or her duties or functions in terms of or under these regulations;
- (c) in an application for registration as an informal trader or an assistant informal trader, furnishes any false or misleading information, or makes any false statement;
- (d) furnishes false or misleading information to any authorised official;
- (e) not being an authorised official, holds himself or herself out to be, or presents himself or herself as, an authorised official; or
- (f) willfully damages any registration certificate, or without the prior written approval of the Council, makes any alteration to, or destroys, such certificate.

(2) A person who commits an offence referred to in subregulation (1) is liable upon conviction 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.

(3) If an informal trader or an assistant informal trader is charged with an offence under subregulation (1), and he or she alleges that he or she committed the offence -

- (a) in the normal course of his or her employment; and
 - (b) on the instruction of or with the connivance of such informal trader, such informal trader also commits that offence.
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