



GOVERNMENT GAZETTE

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General Notice

MALTAHÖHE VILLAGE

No. 151

2009

REGULATIONS RELATING TO OUTDOOR ADVERTISING: LOCAL AUTHORITIES ACT, 1992

The Village Council of Maltahöhe Village, after consultation with the Minister of Regional and Local Government, Housing and Rural Development, under section 94(1)(ae) of the Local Authorities Act, 1992 (Act No. 23 of 1992), has made the regulations set out in the Schedule.

A. GAWASES
CHAIRPERSON

BY ORDER OF THE COUNCIL

SCHEDULE

Definitions

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

“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;

“Council” means the Maltahöhe Village Council 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;

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

“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 Maltahöhe 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);

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

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

“village” means the Maltahöhe Village declared as such under section 3 of the Act and “village area” has a corresponding meaning; and

“village property” includes a street or public place situated in the village area.

Advertisements on village property, streets and public places

2. (1) Subject to regulations 3 and 4 a person may not erect or display an advertisement on village 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 village 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 as determined by the Council.
- (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 and 4, 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) Despite sub regulation (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.

Advertisements on other property

3. (1) Subject to regulation 2 and 4 a person may not in the village area erect or display an advertisement in or on any place unless he or she has been authorised 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

4. (1) Despite regulation 3 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 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) Subject to subregulation (1), a person does not require the Council's authority before he or she can erect or display any of the following advertisements -

- (a) an aerial advertisement as long as 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 occupant or owner of a place as long as that advertisement does not exceed half a square metre in area;
- (c) in an area zoned as residential 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 may be erected or displayed as long as the advertisement does not exceed one square metre in display area and only one advertisement is erected or displayed on each erf, farm portion or subdivision;

- (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 metres 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 offices 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 subparagraph (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 village 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

- 5.** A person may not, in the village 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

- 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, 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 the advertisement are safe, and covered in such a manner that they do not pose a 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 village 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 village 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 village service commits a crime and is liable on conviction to the penalties provided for in regulation 9.

Powers of Council

7. (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 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 5, 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 9 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 a decision

8. (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

9. (1) A person who -

- (a) in the village area, erects, displays or uses an advertisement or causes an advertisement to be erected, displayed or used contrary to these regulations;
- (b) in the village 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 such 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.

Tarrifs

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

Savings

11. The owner of an advertisement which was erected or displayed before the commencement of these regulations, with the authorization of the Council, must within 12 months after the commencement of these regulations remove that advertisement if that advertisement is prohibited by these regulations or cause that advertisement to comply with these regulations if it does not comply with these regulations.
