



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 19 August 2011

No. 4779

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## General Notice

### MUNICIPALITY OF WINDHOEK

No. 271

2011

#### AMENDMENT TO THE MUNICIPALITY OF WINDHOEK BUILDING REGULATIONS: LOCAL AUTHORITIES ACT, 1992

The Council of the Municipality of Windhoek, after consultation with the Minister of Regional and Local Government, Housing and Rural Development, under section 94(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), further amends the Building Regulations published under General Notice No. 57 of 28 April 1969 as set out in the Schedule.

#### BY ORDER OF THE COUNCIL

**E. TREPPER**  
CHAIRPERSON OF THE COUNCIL

Windhoek, 3 August 2011

### SCHEDULE

#### Definitions

1. In these regulations, "the Regulations" means the Municipality of Windhoek Building Regulations published under General Notice No. 57 of 28 April 1969 as amended.

**Amendment of regulation 1**

2. Regulation 1 of the Regulations is amended by -
- (a) the insertion before the definition of “ordinance” of the following definitions:
    - “ “authorised inspector” in relation to the Council, means the chief building inspector, building inspector, peace officer or member of the municipal police”;
    - “ “building compliance certificate” means the building compliance certificate required under subregulation 3(2)”;
    - “ “chief executive officer” means the chief executive officer of the Council”;
  - (b) the insertion after the definition of “ordinance” of the following definition:
    - “ “the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992)”;
  - (c) the deletion of the definition of “ordinance”;
  - (d) the deletion of the definition of “town clerk”;
  - (e) the deletion of the definition of “town engineer”; and
  - (f) the insertion after the definition of “town engineer” of the following definition:
    - “ “town planning scheme” means the Municipality of Windhoek town planning scheme prepared in terms of the Planning Ordinance, 1954 (Ordinance No. 18 of 1954);”.

**General amendment of the Regulations**

3. The Regulations are amendment by -
- (a) the deletion of the roman numbering in regulation 1;
  - (b) the substitution for the word “ordinance” wherever it occurs of the words “the Act”;
  - (c) the substitution for the word “town clerk” wherever it occurs of the word “chief executive officer”; and
  - (d) the substitution for the word “town engineer” wherever it occurs of the word “authorised inspector”.

**Substitution of regulation 3**

4. The following regulation is substituted for regulation 3 of the Regulations:

“RESPONSIBILITY.

3. (1) Neither the granting of approval by the Council to erect a building or other structure, nor any inspections made by the Council prior to, or during, or after the erection of a building or other structure, nor anything done or omitted to be done by the Council or any employee thereof in the execution of his or her duties or the exercise of his or her powers under these regulations shall relieve

the owner of such building or structure from full responsibility for ensuring that such building or other structure is safe and in accordance with these regulations and all other laws applicable thereto.

(2) Subject to the provisions of subregulation (1) the owner of any building or structure must, against payment of the tariff prescribed under section 30(1)(u) of the Act, apply in writing and obtain a building compliance certificate from Council, before -

- (a) any transfer of an immovable property is effected under section 78 of the Act and before a certificate is issued under that section;
- (b) a development scheme is approved or registered or a transfer of a sectional title deed for a sectional title unit, as defined under the Sectional Titles Act, 1971 (Act No. 66 of 1971), is effected;
- (c) any name change or any transfer of rights in such building, structure or immovable property in the Registrar of Deeds Office under the Deeds Registries Act, 1937 (Act No. 47 of 1937) or under the Sectional Titles Act, 1971 (Act No. 66 of 1971), is effected; or
- (d) a member share in a close corporation as defined in the Close Corporations Act, 1988 (Act No. 26 of 1988) or a majority shareholding in a company registered under the Companies Act, 2004 (Act No. 28 of 2004) is sold and endorsed in the office of the Ministry dealing with trade and industry.

(3) Upon an application received under subregulation (2) the authorised inspector must inspect the immovable property and inspect if any building or structure erected or the use of the building or structure or the land on which the structure or building is erected, complies with the provisions of the Act, the establishment, subdivision or consolidation conditions imposed in terms of the town planning scheme and these regulations, and if compliance is found, issue a compliance certificate.

(4) If the authorised inspector under subregulation (3) finds that the building or structure or land use is not in compliance with the Act, establishment, subdivision or consolidation conditions imposed in terms of the town planning scheme and these regulations, the inspector must instruct the owner of the building or structure or immovable property to rectify the non-compliance under the relevant provisions of the Act or the establishment, subdivision or consolidation conditions or the regulations and on proof of compliance, issue the compliance certificate.

(5) Throughout these regulations “S.A.B.S.”, “S.A.S.S.” or “B.S.” followed by a number and title or a number only means the specification (including the amendments to such specification) of the indicated number published by -

- (a) in the case of “S.A.B.S.”, the Council of the South African Bureau of Standards;
- (b) in the case of “S.A.S.S.”, the Council of the South African Standards Institution; and
- (c) in the case of “B.S.”, the British Standards Institution,

and deposited in the office of the authorised inspector and made available to the public during office hours.

(6) Any person who contravenes subregulation (2) (a), (b), (c) or (d) or fails to adhere to an instruction under subregulation (4) commits an offence.”.

#### **Amendment of regulation 7**

**5.** Regulation 7 of the Regulations is amended by the addition of the following subregulations:

“(4) **COMPLIANCE CERTIFICATE:**

Inspections for the first inspection under regulation 3 shall be at a tariff of:

- (a) N\$100.00 per inspection in areas designated for low income housing;
- (b) N\$500.00 per inspection in other areas; and
- (c) N\$500.00 per inspection, in respect of each subsequent inspection until a compliance certificate is issued.

(5) **COPIES AND INSPECTION OF BUILDING PLANS:**

- (a) An owner or his authorised agent may in writing apply for inspection of plans or for a reproduction of copies of approved plans, to be made against payment of the following fees:

	<b>RATE NS</b>	<b>VAT N\$</b>	<b>TOTAL COST N\$</b>
A4	2.00	0.30	2.30
A3	5.00	0.75	5.75
A2	15.00	2.25	17.25
A1	20.00	3.00	23.00
A0	25.00	3.75	28.75

- (b) On approval of the application referred to in subregulation (5)(a) the authorised inspector shall make and provide to the owner or his authorised agent a full set of reproduced copies of plans for collection for the owner’s record.
- (c) Copies requested under subregulation (5)(a) must be collected within two working days from the date of the application, and if copies are not collected or not paid for by the owner, the amount of reproducing the copies is added to the municipal rates and taxes account of the owner of the property.”.

#### **Amendment of regulation 31**

**6.** Regulation 31 of the Regulations is amended by the substitution for subregulation (b) of the following subregulation:

- “(b) Any person who contravenes or fails to comply with a provision of these regulations commits an offence and is on conviction liable to

a fine not exceeding N\$2000 or to imprisonment for a period not exceeding 6 months or to both the fine and imprisonment.”.

**Amendment of regulation 112**

7. Regulation 112 of the Regulations is amended by the substitution for subregulation (c) of the following subregulation:

- “(c) Any person who contravenes or fails to comply with a provision of these regulations commits an offence and is on conviction liable to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding 6 months or to both the fine and imprisonment.”.
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