



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$2.00

WINDHOEK - 4 January 2007

No. 3766

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General Notice

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REGULATIONS RELATING TO CHILD DAY CARE FACILITIES: LOCAL AUTHORITIES ACT, 1992

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

F. CLOETE
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

Arandis, 30 November 2006

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PART I
DEFINITIONS

Definitions

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

“approved” means approved by the Council;

“certificate of fitness” means a certificate of fitness issued in terms of regulation 5;

“certificate of registration” means a certificate of registration issued in terms of regulation 5;

“child” means a child who is three months old or older and under six years of age;

“Council” means the Town Council of Arandis;

“child day care facility” means a facility in which day care services are provided for children;

“day care services” means the care and supervision of a child for a period of less than twenty-four hours in a child day care facility;

“operator” means the person issued with the certificate of registration in respect of a child day care facility;

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

“town area” means the area of jurisdiction of the Council.

PART II REGISTRATION OF CHILD DAY CARE FACILITY

Prohibition on operating a child day care facility

2. A person may not operate a child day care facility in the town area, unless the -

- (a) child day care facility is registered with the Council; and
- (b) the Council has issued a certificate of fitness in respect of the facility in which day care services are to be provided.

Application for authorisation to operate a child day care facility

3. (1) A person who intends to operate a child day care facility in the town area must, on a form determined by the Council, apply to the Council -

- (a) for the registration of the child day care facility; and
- (b) for the issuing of the certificate of fitness in respect of the facility in which the day care services are to be provided.

(2) An application made under subregulation (1) must, be accompanied by -

- (a) the documents and information which may be required in terms of regulation 5; and
- (b) the appropriate fee, determined by the Council under section 30(1)(u) of the Act.

(3) The completed application form, together with the documents, information and the appropriate fee contemplated in subregulation (2), must be submitted to the Council.

(4) On receipt of a completed application form, documents, information and the fee contemplated in subregulation (3), the Council may request the applicant to submit to the Council such further information as may be reasonable and necessary in respect of the application.

Consideration of application

4. (1) The Council must consider every application submitted to it in terms of regulation 3, having regard to -

- (a) the provision of these regulations; and
- (b) the accompanying documents and information.

(2) If the Council is satisfied that the child day care facility complies with the requirements of these regulations, the Council may -

- (a) grant the application with or without imposing conditions, the Council may consider necessary; or
 - (b) refuse the application and in writing provide the applicant with reasons for the refusal.
- (3) If an application is granted under subregulation (2), the Council must -
- (a) issue to the applicant a certificate of fitness, in the form determined by the Council; and
 - (b) register the child day care facility, and issue to the applicant a certificate of registration, in the form determined by the Council.

Matters to be taken into account

5. When considering an application in terms of regulation 4, the Council -

- (a) may require the applicant to provide the Council with -
 - (i) a report from the Council's health officer, on the sanitation, lighting, ventilation and the general health and safety standards of the child day care facility;
 - (ii) zoning information on the property where the child day care facility is located; and
 - (iii) a detailed floor plan of the child day care facility, showing the measurements of the facility and the location of any fixed equipment;
- (b) may instruct its health officer to carry out an inspection in loco of the child day care facility to which the application relates, and the applicant must pay to the Council an inspection fee determined by the Council, in respect of the inspection; and
- (c) must have regard to the provisions of public health and safety, the zoning and the township conditions applicable to the child day care facility.

Validity of certificate of registration and structural alterations to child day care facility

6. (1) A certificate of registration is valid for a period of one year from the date of issue, and the operator may apply for the renewal of the certificate in accordance with regulation 3.

- (2) A certificate of registration becomes invalid if -
 - (a) the facility in which child day care services are provided is altered, except for alterations made for purpose of maintaining the facility; or
 - (b) the nature of business, for which the certificate is issued, changes in any way.
- (3) If the operator intends to make structural alterations to the child day care facility, the operator must apply to the Council for authorisation to do so.
- (4) On receipt of an application in terms of subregulation (3), the Council may request the applicant to submit to the Council such further information as may be reasonable and necessary in respect of the application.
- (5) If the application made in terms of subregulation (3) is granted, the Council must issue to the applicant a written authorisation for the undertaking of structural alterations to the child day care facility.

Failure to comply with applicable requirements

7. (1) If, after inspecting the child day care facility in accordance with section 91 of the Act, the inspecting officer finds that the facility or the operator does not comply with any provision of these regulations or any provision relating to public health and safety or relating to the Arandis town planning scheme or the township conditions applicable to that facility, the inspecting officer must -
- (a) give notice to the operator, informing the operator of the non-compliance; and
 - (b) call upon operator to comply with the requirements of the notice within the period specified in the notice.
- (2) An operator commits an offence if the operator fails to comply with the requirements stipulated in the notice referred to in subregulation (1).

Withdrawal or suspension of certificate of registration

8. (1) The Council may cancel or, for such period of time as it may consider necessary, suspend a certificate of registration if the operator carries out or causes to be carried out any unapproved alterations or causes anything to be done on the facility which is in contravention of any provision of these regulations.
- (2) The Council may not cancel or suspend a certificate of registration, unless the Council -
- (a) gives the operator at least 21 days notice in writing of its proposed action and of the reasons for its action; and
 - (b) in the notice, invites the operator to lodge with the Council in writing any representation, which the operator intends to make in connection with the Council's proposed action.

PART III
GENERAL DUTIES OF OPERATOR

General duties of operator

9. (1) The operator must keep or cause to be kept records, at the child day care facility, of -

- (a) the number of children enrolled at the facility;
- (b) the child's full name;
- (c) the child's date of birth;
- (d) the sex of child;
- (e) the name and address of the parent or guardian of the child;
- (f) the child's residential address;
- (g) important medical information relating to the child;
- (h) immunization records of the child; and
- (i) the name and address of a contact person in the case of an emergency.

(2) Every operator must ensure that a child day care facility operated by the operator complies with the requirements and standards established by these regulations.

PART IV
PHYSICAL REQUIREMENTS FOR CHILD DAY CARE FACILITY

Interior requirements

10. A child day care facility must meet the following requirements -

- (a) it must be kept in good repair and must be suitable for the provision of child day care services;
- (b) cutlery, crockery, utensils, vessels, containers, receptacles, appliances and equipment used for the storage, preparation and serving of foodstuffs must be kept in a clean and sanitary condition;
- (c) measures must be provided at the facility, for the prevention of flies, cockroaches, rodents, mosquitoes and other vermin;
- (d) measures must be provided at the facility, for protecting foodstuffs from contamination by dust, dirt, flies or any other matter;
- (e) there must be an adequate supply of soap and clean towels at wash-hand basins;
- (f) persons engaged in the child day care facility must be clean in person and clothing at all times;

- (g) overalls or coats and suitable head-coverings for use by persons engaged in the handling, preparation and serving of food, must be provided at the facility and be worn at all times that such activities are engaged in;
- (h) children must at all times be under the direct supervision of at least one adult;
- (i) each child must use his or her own personal toilet equipment;
- (j) sufficient space must be provided on the inside of the facility for the children to play and move around freely;
- (k) a playroom for playing activities, serving of meals and for sleeping purposes must be provided, and each child must have a small bed, mattress, blanket or mat;
- (l) the facility must be well ventilated to ensure sufficient cross ventilation; and
- (m) the facility must have sufficient lighting.

Exterior requirements

11. (1) Every operator must provide a safe outdoor play space at the child day care facility.

(2) The boundaries of a child day care facility must have a suitable fence and lockable gate with a height of at least 1.5 metres.

PART V SANITATION AND HEALTH REQUIREMENTS

Sanitation requirements

12. (1) A child day care facility must have flushable toilets and washing areas that are satisfactory, in the opinion of the Council's health officer, for the maximum number of children enrolled at the facility.

(2) The toilet and washing areas of the child day care facility must have an adequate supply of soap and hot and cold running water.

(3) Single service disposable washcloths and towels must be provided for use in the child day care facility.

(4) Potable water from an approved source, used for drinking, cooking, washing and cleaning purposes, must be available at the child day care facility at all times.

(5) Sufficient and approved sanitary facilities must be provided at the child day care facility and must be accessible to all children.

(6) Potties must be provided to children who have not attained 2 years of age.

(7) Floors and walls of the toilets at the child day care facility must be kept in a clean condition.

(8) Knives, kitchen tools and cleaning supplies must be stored in an area that is inaccessible to children.

(9) Cupboards, shelves and other equipment for the storage of kitchen utensils and equipment must be of approved materials and must be kept in a clean condition, so as not to attract or harbour insects, rodents and other vermin.

(10) Sufficient number of bins with covers for the temporary storage of refuse must be provided at the child day care facility.

(11) Refuse must be removed weekly from the storage area to an area established for the disposal of refuse, but the Council's health officer may require refuse to be removed more frequently.

(12) Approved fire extinguishers must be located in the child day care facility and the operator must comply with any building or fire regulation in force in the area in which the facility is located.

Health requirements

13. Every operator of a child day care facility must ensure that -

- (a) health clinics visit the facility once every two months;
- (b) the parent or guardian of a child presents the child's immunization record when the child is enrolled at the facility;
- (c) every child enrolled at the facility is immunized and has received all the necessary immunizations;
- (d) a child registered at the facility is not abused verbally, emotionally, sexually or physically;
- (e) any child with a contagious disease such as flu, chicken pox, or conjunctivitis is kept at home until the child has completely recovered;
- (f) where a child attending a child day care facility is ill, that -
 - (i) the child receives medical assistance;
 - (ii) the child's parent or guardian is notified; and
 - (iii) the child is provided with supervised care in an area separate from other children until the parent or guardian takes the child home;
- (g) where an operator is aware that a child enrolled at the child day care facility or a staff person of the facility has infectious or communicable disease, within the meaning of the Public Health Act, 1919 (Act No. 36 of 1919), that, as soon as possible -
 - (i) the Council's health officer is notified; and
 - (ii) in the case of a child, the parent or guardian of the child is notified.

Staff persons of child day care facility

14. Every operator must ensure that staff persons employed at the child day care facility -

- (a) attend first-aid training and refresher courses on a continuous basis; and
- (b) are competent to -
 - (i) care and supervise children, and
 - (ii) fulfil the functions described in the staff person's job description.

**PART VI
GENERAL MATTERS**

Existing child day care facilities

15. Despite any provision to the contrary contained in these regulations, a child day care facility, which is in existence when this regulations commences, and which is registered with the Council -

- (a) is deemed to have been registered in terms of these regulations; and
- (b) which facility does not meet the requirements of these regulations, must within twelve months from the date of commencement of this regulations, conform to these regulations.

Appeals

16. (1) A person who is aggrieved by a decision of the Council made under these regulations may, within 30 days of receiving that decision, appeal against the decision to the management committee of the Council.

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

(3) On receipt of an application made under subregulation (1), the committee must reconsider the Council's decision and may -

- (a) confirm the decision;
- (b) rescind the decision; or
- (c) rescind the decision and impose conditions which are necessary and reasonable in the circumstances.

(4) The chairman of the management committee must, within 30 days of receiving an application made under subregulation (1), notify the applicant in writing of the decision the committee has made under subregulation (3).

Service of notices, instructions or documents

17. Any notice, instruction or document to be served or given in terms of these regulations must be served or given in accordance with section 93 of the Act.

Offences and penalties

- 18.** (1) A person commits an offence if that person -
- (a) in the town area, operates a child day care facility in contravention of these regulations;
 - (b) contravenes or fails to comply with an instruction or requirement set out in a notice issued under these regulations and served on him or her in accordance with section 93 of the Act;
 - (c) intentionally makes a false statement when making an application under these regulations;
 - (d) contravenes or fails to comply with any provision of these regulations, other than a provision contemplated in paragraph (a), or a condition, imposed under these regulations; or
 - (e) threatens, resists, hinders or obstructs a staff member of the Council in the performance of his or her functions under these regulations.
- (2) A person convicted of an offence under subregulation (1), is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

Exemption

19. If, due to exceptional circumstances, the Council considers it desirable to authorise a departure or exemption from any provision of these regulations the Council may, subject to such conditions as it may impose, authorise such departure or exemption if the departure or exemption is not in conflict with the Act.
