



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$2.00

WINDHOEK - 17 September 2008

No. 4122

CONTENTS

Page

GENERAL NOTICE

No. 324 Street Trading Regulations: Rundu Town Council: Local Authorities Act, 1992 1

General Notice

RUNDU TOWN COUNCIL

No. 324

2008

STREET TRADING REGULATIONS: RUNDU TOWN COUNCIL: LOCAL AUTHORITIES ACT, 1992

The Town Council of Rundu, 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.

J. MUKOJA
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

Rundu, 12 August 2008

SCHEDULE

Definitions

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

“approval” means approval by the Council;

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

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

“Council” means the Town Council of Rundu;

“fee” means a fee determined by the Council in terms of section 30(1)(u) of the Act;

“goods” means any movable property including a living thing;

“litter” includes any container or other waste matter discarded, abandoned or left behind by a street trader or by his or her customers;

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

“registration certificate” means a registration certificate issued in terms of regulation 4;

“sell” includes -

- (a) barter, exchange or hire out;
 - (b) display, expose, offer or prepare for sale; or
 - (c) store with a view to sell,
- and ‘sale’ and ‘selling’ have a corresponding meaning;

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

“street trader” means a hawker or peddler, or vendor, as the case may be, or any other person conducting a business on a public road or public place and includes a registered assistant of that person;

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

“town area” means the local authority area of Rundu;

“token” means a token issued in terms of regulation 6;

“trading stand” means an approved and demarcated area on a public road or in a public place at which a vendor may offer his or her goods for sale;

“vendor” means a person selling goods from a trading stand; and

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

Single act constitutes street trading

2. For the purpose of these regulations a single act of selling of goods or services on a public road or public place for gain constitutes street trading.

Prohibition on street trading

3. (1) A person may not, within the town area, carry on a business of a street trader, unless that person has been registered with the Council as such in terms of these regulations.

(2) A registered street trader may only employ a person as his or her assistant if such person is registered as an assistant in terms of these regulations.

Application for registration and issue of registration certificate

4. (1) A person who wishes to be registered as a street trader or as an assistant street trader must -

- (a) complete the relevant parts of the application form, determined by the Council for that purpose, and indicate the category of street trader for which he or she intends to be registered; and
- (b) if he or she is applying for registration as a vendor, indicate whether he or she requires a trading stand to be allocated to him or her.

(2) The completed application form together with such documents and further information as the Council may require must be submitted, together with the applicable application fee, to the Council for consideration.

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

- (a) grant the application, with such conditions as the Council may impose; or
- (b) refuse the application and in writing provide the applicant with reasons for the refusal.

(4) The Council must, if an application is granted under subregulation (3)(a), upon payment of the appropriate fee issue to the applicant the registration certificate in the form determined by the Council and, subject to regulation 6, allocate a demarcated trading stand to such person, if applicable.

General provisions in respect of registered persons

5. (1) The holder of a registration certificate must notify the Council of any change of residential address within fourteen days of such change having occurred.

(2) If a registration certificate is lost or damaged the holder of the certificate must apply in writing, within 14 days from the date upon which such loss or damage became known to him or her, to the Council for a duplicate of the certificate and the Council must issue to the holder, upon payment of the appropriate fee, a duplicate of that certificate, at which point the lost certificate ceases to be of effect.

(3) A registration certificate is not transferable and only the person to whom it was originally issued may carry on business in terms of that certificate.

(4) The holder of a registration certificate must when requested to do so by a member of the Namibian Police, a health inspector or such other authorised official, produce such certificate for inspection.

(5) A registered street trader may only offer for sale those types of goods and services indicated on his or her registration certificate.

(6) The holder of a registration certification must display, when carrying on business as a street trader -

- (a) a certified copy of such registration certificate, which must at all times be in a good and legible state; or
- (b) where the holder is a registered vendor, a clearly visible identification tag, determined by the Council for that purpose, indicating that he or she is a registered vendor.

Trading stand, tokens and lease agreement

6. (1) If an application for a trading stand was made to the Council and such application was granted in terms of regulation 4(3)(a), the successful applicant must in respect of that stand enter into a lease agreement with the Council, which lease agreement must be entered into on the form determined by the Council for that purpose.

(2) The Council must issue a token to the person referred to in subregulation (1) as proof of the person's right to occupy the stand for the purpose of carrying on business on that stand and must upon request by a member of the Namibian Police, a health inspector or any other authorised official, produce that token as such proof.

(3) The Council may, upon the written request of the person referred to in subregulation (1), issue another token to such person's registered assistant and such assistant must upon request by an authorised official produce that token.

(4) Where a registered street trader loses the token issued to him or her, in terms of subregulation (2) or (3), such street trader must, within 14 days from the date upon which such loss became known to him or her, apply in writing to the Council for a replacement thereof and the Council must issue to such street trader, upon payment of the appropriate fee, such replacement, at which point the lost token ceases to be of effect.

Prohibited conduct

- 7.** A person carrying on the business of a street trader may not -
- (a) in any way obstruct access to any services provided by the Council or on behalf of the Council;
 - (b) stay overnight at such place of business;
 - (c) erect any structure at such place of business, except a structure for which approval has been obtained from the Council;
 - (d) carry on such business in a manner so as to -
 - (i) create a nuisance;
 - (ii) damage or deface the surface of any public road or public place or any property belonging to the Council; or
 - (iii) create a traffic or health hazard.
 - (e) attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp-pole, electricity-pole, telephone booth, post box, traffic sign, bench or other street equipment in or on a public road or public place; or
 - (f) make a fire at a place or in circumstances where it could harm any person or damage a building or motor vehicle or any street equipment contemplated in subregulation (e).

General prohibitions

8. A person may not, within the town area, carry on the business of a street trader -
- (a) in a public place, unless such area has been set apart and demarcated by the Council for that purpose;
 - (b) on a sidewalk or a verge contiguous to -
 - (i) a building belonging to, or occupied solely by, the Council or State, unless the Council or State has granted its approval;
 - (ii) a church or other place of worship; or
 - (iii) a national monument declared as such under the National Heritage Act, 2004 (Act No. 27 of 2004);
 - (c) in an area which the Council has by resolution declared to be an area on which street trading is prohibited;
 - (d) in a manner that -
 - (i) obstructs access to a fire hydrant;
 - (ii) obstructs access to any entrance to or exit from a building;
 - (iii) prevents pedestrians from using, or substantially obstructs them in their use of, a sidewalk;
 - (iv) causes an obstruction on a roadway; or
 - (v) limits access to parking or loading bays or other facilities for vehicular traffic;
 - (e) on a sidewalk or verge contiguous to a building used for residential purposes if the owner, occupier or person in control of the building objects to it;
 - (f) in a manner that, and at a place where -
 - (i) it obstructs access to street equipment contemplated in regulation 7(e), bus passenger benches or shelters, queuing lines, refuse disposal bins or other facilities intended for the use by the general public;
 - (ii) it obstructs the visibility of a display window of a business premises, if the person carrying on business in the business premises concerned objects to it;
 - (iii) it obstructs access to a pedestrian crossing;
 - (iv) it obstructs access to any motor vehicle;
 - (v) it obscures any road traffic sign or any road traffic marking, or a notice or sign displayed in terms of these regulations;
 - (vi) it limits access to parking or loading bays or other facilities for vehicular traffic; or

- (vii) it obstructs access to, or in, a pedestrian arcade or mall; or
- (g) in contravention of the conditions, if any, of a registration certificate or a lease agreement referred to in regulation 6.

General duties of street traders

- 9.** A street trader -
- (a) may not dispose of any litter by placing it in a manhole, stormwater drain or on a public road or in a public place, except in a refuse receptacle approved by the Council for that purpose;
 - (b) must ensure that the area or site occupied by him or her, for the purpose of conducting business, is maintained in a clean and sanitary condition;
 - (c) must ensure that his or her goods are kept in a clean and sanitary condition;
 - (d) must ensure that all litter used or produced in the course of conducting the business is removed, upon close of business, from such area or site occupied by him or her for purposes of conducting business;
 - (e) may not carry on his or her business in such a manner as to endanger or pose a threat to public health or public safety;
 - (f) must ensure that during the course of conducting his or her business no fat, oil or grease is spilled onto a public road or public place; and
 - (g) must comply with such reasonable and necessary instructions, by an authorised official, made for purposes of ensuring compliance with these regulations.

Reconsideration of Council's decision

10. (1) A person who is aggrieved by a decision of the Council made under these regulations may apply, within 14 days of receiving that decision, to the Council for reconsideration of that decision.

(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 Council must reconsider its decision, and may -

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

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

Offences and penalties

- 11.** (1) A person commits an offence if that person -
- (a) contravenes any of these regulations;
 - (b) fails to comply with an order or request made by an authorised official or 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; or
 - (d) threatens, resists, hinders or obstructs any authorised official in the performance of his or her functions under these regulations.
- (2) A person convicted of an offence under subregulation (1), is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.
- (3) A person who has been convicted of an offence for a contravention of subregulation (1)(b) and who after such conviction persists in the conduct or failure in respect of which he or she has been found guilty commits a continuing offence and is liable on conviction to an additional fine not exceeding N\$100-00 or imprisonment for a period not exceeding 30 days in respect of every day or part of a day which elapses between the date of such conviction and the date on which the instruction in the notice concerned is executed.

Registers

- 12.** The Council must keep and maintain a street trading register, which contains the particulars of every -
- (a) registration certificate issued, including any conditions imposed thereupon, and must endorse opposite such entry whether any duplicate certificate has been issued;
 - (b) token issued, and must endorse opposite such entry whether any replacement of such token has been issued;
 - (c) allocation of a demarcated trading stand; and
 - (d) offence committed by a registered street trader, in terms of these regulations.

Exemption

- 13.** The Council may, subject to such conditions as it may impose and if it considers it desirable to do so, in exceptional circumstances authorise a departure or exemption from any provision of these regulations, provided that such departure or exemption does not conflict with the Act.
-