



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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No. 5320

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## General Notice

### TOWN OF ONDANGWA

No. 411

2013

#### OUTDOORS ADVERTISING REGULATIONS: LOCAL AUTHORITIES ACT, 1992

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

**L.S. NEGONGA**  
**CHAIRPERSON OF THE COUNCIL**  
**BY ORDER OF THE COUNCIL**

Ondangwa, 23 September 2013

### SCHEDULE

#### Definitions

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

“advertising sign” means any written, graphic or pictorial representation of information which is displayed outdoors to advertise, announce or identify a person or to communicate information of any kind;

“Council” means the Town Council of Ondangwa constituted under section 6(1)(b) of the Act;

“display of a sign” means the display of an advertising sign and includes any structure that supports, has supported, or is capable of supporting the sign;

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

“owner” in relation to an advertisement means the person who owns the advertising structure, or will own the structure once it has been erected, or any person who has a right to or share in the ownership of the advertising structure;

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

“scheme” means the ondangwa town planning scheme prepared in terms of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954);

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

“town area” means the area of the town of Ondangwa.

### **Prohibition on erection or display of advertising signs**

2. (1) A person may not, in the town area, erect or display an advertising sign, unless that person has obtained the Council’s written authorisation to do so.

(2) Subregulation (1) does not apply to an advertising sign exempted in terms of regulation 8.

(3) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Provisions applicable to all advertisements**

4. Despite the other provisions of these regulations, an advertising sign, may not -
- (a) constitute a danger to persons or property;
  - (b) be so placed as to distract, or contain an element which distracts, the attention of drivers of vehicles in a manner likely to lead to unsafe driving conditions;
  - (c) be illuminated to the extent that it causes discomfort to or inhibits the vision of approaching pedestrians or drivers of vehicles;
  - (d) be attached to traffic signs, combined with traffic signs, unless specifically authorised by the Road Traffic and Transport Act 1999 (Act No. 23 of 1999), obscure traffic signs, create confusion with traffic signs, interfere with the functioning of traffic signs or create road safety hazards;
  - (e) obscure the view of pedestrians or drivers, or obscure road or rail vehicles and road, railway or sidewalk features such as junctions, bends and changes in width;
  - (f) be placed closer than the minimum clearance with regard to overhead power lines as prescribed by any law;

- (g) be erected in the vicinity of a signalised intersections which display the colours red, yellow or green if such colours will constitute a road safety hazard;
- (h) have light sources that are visible to vehicles travelling in either direction;
- (i) be erected without approval where such approval is required by the Act or these regulations or any other law.

### **Application for authorisation to display an advertising sign**

**3.** (1) A person who wishes to erect or display an advertising sign must, on a form determined by the Council, apply to the Council for authorisation to do so.

(2) An application made under subregulation (1) must, unless the Council otherwise determines, be accompanied by -

- (a) a plan -
  - (i) showing the site where the advertising sign is to be erected or displayed, drawn to a scale of not less than 1:500;
  - (ii) showing the position of each surrounding building on the site, if any, to which the advertising sign is to be attached and showing the position of installations of water, sewerage, stormwater, drainage or electricity on the site;
  - (iii) showing the dimensions of the advertising sign in relation to the boundaries of the site;
- (b) a drawing of the advertising sign, which must -
  - (i) show the information that will be displayed on the advertising sign, including the colour of the proposed sign and whether the sign is to be illuminated; and
  - (ii) be drawn to a scale of not less than 1:10;
- (c) a photograph of the site where the advertising sign is to be erected or displayed, which photograph must show the proposed position of the sign;
- (d) in the case of an advertising sign which is to remain on the site for more than 60 days, a certificate from an engineer registered as such in terms of the Engineering Profession Act, 1986 (Act No. 18 of 1986), or from a person approved by the Council, giving details to enable the Council to establish the ability of the proposed means of support of the sign to resist all loads and forces to which the sign may be exposed; and
- (e) the payment of an appropriate tariff specified in Schedule 1.

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

(4) On receipt of a completed application form, documents, information and 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 for authorisation**

**4.** (1) The Council must consider every application submitted to it in terms of regulation 3, and may, having regard to all accompanying documents and information -

- (a) grant the application without imposing any conditions;
- (b) refuse the application and in writing provide the applicant with reasons for the refusal; or
- (c) grant the application and impose conditions, including conditions limiting the period within which the advertising sign may be erected or displayed.

(2) If an application is granted under subregulation (1)(a) or (c), the Council must issue to the applicant a written authorisation to erect or display the advertising sign concerned, subject to the conditions, if any, imposed by the Council and specified in that authorisation.

(3) An advertising sign or its support structure may not in any way be altered, moved or removed, and any alteration may not be made to the electrical wiring system of a sign, without the written authorisation of the Council, but the owner of the sign may alter, move or remove the sign for the purposes of maintaining or renovating it.

(4) An advertising sign, together with its supports, must be properly maintained.

(5) The Council may retain for its record a copy of an application, plan, drawing and other documents submitted to the Council in terms of this regulation, in respect of an application which has been granted.

**Matters to be taken into consideration**

**5.** In considering an application in terms of regulation 4, the Council takes into account the following factors:

- (a) an advertising sign may not be so designed, erected or displayed that, it will -
  - (i) be detrimental to the environment or to the amenity of the residents in the town area by reason of either size, intensity, frequency, illumination, quality of design or materials, or for any other reason;
  - (ii) constitute a danger to any person or property;
  - (iii) display any material which, whether in form, content or both, may reasonably be regarded to be offensive or shown to be offensive to the public or an identifiable class of person;
  - (iv) obscure any other signs authorised in terms of these regulations;
  - (v) impair the visibility of any road traffic sign; or
  - (vi) contravene any law;
  - (vii) be detrimental or otherwise negatively impact on the area in which the proposed sign is to be erected or displayed, or the type of landscape in the area;

- (viii) be detrimental or otherwise negatively impact on the environment, whether artificial or natural, or both; and
- (b) the number of signs erected or displayed or to be erected or displayed on the area or site concerned.

#### **Non-compliance with conditions or instructions**

**6.** (1) Where the person to whom the Council has granted authorisation under regulation 4, fails to properly maintain the advertising sign or fails to comply with a condition imposed by the Council in terms of that regulation, the Council may -

- (a) withdraw or amend the authorisation and in writing inform that person of the withdrawal or amendment; or
- (b) in writing, instruct that person or the owner of the advertising sign to repair or maintain the sign or to comply with any condition which the Council may determine, within a period specified by the Council in the instruction.

(2) Where the person or owner of the advertising sign contemplated in subregulation (1) (b), fails to comply with an instruction given or a condition determined by the Council in terms of that subregulation, the Council may remove the sign to ensure compliance by that person or owner with the instruction or condition, and thereafter the Council may recover from the person or owner the tariff for the removal of the sign.

(3) Where an advertising sign has been removed under subregulation (2), the Council must return the sign to its owner, if the owner or the person to contemplated in that subregulation -

- (a) gives the Council a written undertaking -
  - (i) not to erect or display the sign so returned; or
  - (ii) to comply with the conditions imposed under these regulations by the Council; and
- (b) pays to the Council the tariff for the removal contemplated in that subregulation.

#### **Withdrawal of authorisation**

**7.** Notwithstanding regulation 6, the Council may, when it is reasonable and necessary -

- (a) withdraw an authorisation granted under regulation 4, after giving such written notice as may be reasonable under the circumstances to the person to whom such authorisation has been granted;
- (b) amend or withdraw a condition imposed under regulation 4(1)(c), after giving such written notice as may be reasonable under the circumstances to the person to whom such authorisation has been granted; or
- (c) impose new conditions on an authorisation granted under regulation 4, after giving such written notice as may be reasonable under the circumstances to the person to whom such authorisation has been granted.

**Advertising signs not requiring Council's authorisation**

**8.** (1) For the purpose of this regulation "subdivision" means a subdivision as defined in section 1 of the Townships and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963).

(2) The following signs may be erected or displayed without the Council's authorization, on the condition that the signs satisfy the requirements of these regulations:

- (a) a sign displayed inside a building, on the condition that the sign is not visible from a street;
- (b) a road traffic sign;
- (c) a street address sign or a sign showing the name and address of the owner or occupant of a place, on the condition that the sign does not exceed half a square meter;
- (d) a temporary sign on commercial properties which is painted directly on a window, affixed to the inside of a window, or hung within 12 meters of a window promoting any message, including but not limited to, grand openings and special events (commercial and non-commercial), on the condition that the sign does not exceed 50 percent of each window area;
- (e) a sign affixed to a vehicle or trailer used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer;
- (f) a sign affixed to a vehicle displaying information on the terms of sale for the said vehicle;
- (g) a temporary garage sale sign, on the condition that the sign does not exceed two square meters;
- (h) an informational or directional sign of a public nature, on the condition that the sign does not exceed two square meters;
- (i) a sign displayed in the air by any means, on the condition that the sign does not cause environmental pollution;
- (j) a sign displayed during construction may be displayed for the duration of the construction and 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 meters;
- (k) an estate agent's notice erected or displayed by an estate agent registered in terms of the Estate Agent's Act, 1976 (Act No. 112 of 1976), and indicating that the property on which the sign is located is for sale, rent or lease, on the condition that the sign is erected or displayed in accordance with regulation 9;
- (l) an auctioneer's notice erected or displayed by an auctioneer indicating that the property is for sale by way of auction, on the condition that the sign is erected or displayed in accordance with regulation 9;

- (m) a sign in an area zoned as “residential” in the scheme, showing the name, logo, address and telephone number of -
- (i) a resident occupation referred to the scheme;
  - (ii) a person to whom the Council has given “consent to use” under the scheme;
  - (iii) a person who is giving security services at the place; or
  - (iv) a person who is carrying out an activity which has been authorised by the Council,

may be erected or displayed, on the condition that sign erected or displayed on each erf, farm portion or subdivision does not exceed two square meters, and unless the person concerned is to give security services at the place, only one sign is erected or displayed on each erf, farm portion or subdivision;

- (n) a sign in an area zoned general “residential” or “undetermined” and which is mainly used or is intended to be used for residential purposes under the scheme, showing the name, logo, address and telephone number of -
- (i) a resident occupation referred to the scheme;
  - (ii) a person to whom the Council has given “consent to use” under the scheme;
  - (iii) a person who is giving security services at the place; or
  - (iv) a person who is carrying out an activity which has been authorised by the Council,

may be erected or displayed, on the condition that the sign erected or displayed on each erf, farm portion or subdivision does not exceed two square meters, and unless the person concerned is to give security services at the place, only one sign is erected or displayed on each erf, farm portion or subdivision;

- (o) a sign 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, a sign may be erected or displayed, on the condition that the height of that sign does not exceed five meters above the ground level and the sign does not go above the roof level of any building which is situated in that area;
- (p) in an area zoned as “office” or “special” under the scheme, and where business is not the primary in terms of the scheme, a sign may be erected or displayed, on the condition that the height of the sign does not go above the roof level of any building which is situated in that area and the area of that sign does not exceed two square meters;
- (q) a sign in an area reserved as “private open space” under the scheme, any sign can be erected or displayed subject to the condition that the height of the sign does not go above the roof level of any building which situated in that area and the sign does not exceed ten square meters;
- (r) a sign in an area zoned “institutional”, “undetermined”, “municipal” or “reserved for government”, “cemetery,” “transportation” or “communication” under the scheme, on the condition that the sign complies with the requirements of the Council;

- (s) a sign erected or displayed by a candidate for presidential, local or regional authority elections, on the condition that the sign -
  - (i) is displayed at the residence or office of the candidate or at any other place authorised by the Council;
  - (ii) is displayed for the duration of the election;
  - (iii) does not exceed ten square meters;
- (t) a sign contained in a book, newspaper or pamphlet or similar items, on the condition that the distributor does not litter any place within the town area; or
- (u) a painted sign or decal affixed to a body of a vehicle or person, on the condition that the sign does not cause public nuisance.

### **Special requirements for certain signs**

**9.** (1) An estate agent's notice and an auctioneer's notice must comply with the following requirements:

- (a) an-
  - (i) estate agent's notice may only contain the words "for sale", "to let" or "on show" or "show house" and the name, logo and contact details of the estate agent erecting or displaying the notice;
  - (ii) an auctioneer's notice may only contain 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 erecting or displaying the notice;
- (b) an estate agent or an auctioneer may not erect or display more than four notices in respect of an immovable property or an auction, as the case may be, and the notice erected or displayed may not be further than a radius of 1 kilometer or more than 3 kilometers from the property so advertised or the place of auction;
- (c) an auctioneer's notice or an "on show" or "show house" notice may not be erected or displayed more than 48 hours before the beginning of the showing or the auction, as the case may be;
- (d) an estate agent's notice or an auctioneer's notice must be removed not later than 48 hours after the letting, sale or showing of the immovable property or the auction to which they relate;
- (e) an estate agent's notice or an auctioneer's notice may not -
  - (i) be more than one meter in height, measured from the ground level immediately below the length of the notice;
  - (ii) obscure motorists sight lines;
  - (iii) be displayed less than ten meters from the midpoint of the outside curve of a corner measured from the midpoint of such corner;
  - (iv) be made with a material which is not strong and durable;

- (v) have one notice above the other;
- (vi) be displayed against a transformer casing, illuminated advertising signs, traffic lights or signs, structure walls, pillars or fences, excluding a fence of the immovable property advertised, shelters, trees, refuse bins, bus shelters or lamp posts;
- (vii) have supports which are driven through a tarred or paved surface;
- (viii) be displayed in such a way as to damage any service which the Council is providing in that area;
- (ix) be within 1,5 meters from the driving surface of an adjoining street;
- (x) obstruct vehicular or pedestrian traffic; or
- (xi) be displayed adjacent to any street determined by the Council From Time to Time.

(2) An estate agent's notice or an auctioneer's notice erected or displayed in contravention of this regulation may be removed by any person authorised by the Council.

(3) The cost of removal of a notice in terms of subregulation (2), may be recovered from the estate agent or the auctioneer who has erected or displayed or who has caused to be erected or displayed, any such notice.

#### **Conditions applicable advertising signs**

**10.** (1) A person who, under these regulations, erects or displays an advertising sign or causes such sign to be erected or displayed must -

- (a) ensure that the sign is securely erected or displayed so as not to cause damage to property, plant, animal or person;
- (b) take measures to prevent damage which may be caused to the sign or its supporting structure;
- (c) ensure that electrical cables or conduct pipes which are connected to that sign are safe and covered in such a manner that they do not cause danger to property, plant, animal or person;
- (d) comply with the law that governs the supply of electricity or electrical wiring of premises in the town area;
- (e) before connecting an advertising sign to any electricity supply point of the Council, obtain the written authorisation of the Council; and
- (f) comply with any law that governs the construction of buildings in the town area.

(2) The owner of the property on which the advertising sign is erected or displayed and the owner of the advertising sign are both responsible for the installation, maintenance, controlling and removal of the advertising sign.

### Other powers of Council

**11.** (1) Where an advertising may be, or is a danger to persons or property, the Council may, in accordance with section 93 of the Act, serve a written notice on the owner of the advertising sign, if known, or on the owner or occupier of the erf or property on or from which the advertising sign is erected or displayed (hereinafter referred to as the recipient).

- (2) A notice referred to in subregulation (1) must -
- (a) inform the recipient about the nature of the complaint;
  - (b) instruct the recipient to remove or maintain the outdoor advertising sign within a period specified in the notice; and
  - (c) inform the recipient that -
    - (i) if the recipient fails to remove or maintain the advertising within the period specified in the notice, the Council may remove the sign to ensure compliance with the instruction given under paragraph (b), and may thereafter recover from the recipient costs incurred by the Council in connection with any action so taken; and
    - (ii) where any sign is removed as contemplated in paragraph (c), that the sign may be returned to the owner only if the owner or the recipient -
      - (aa) gives the Council a written undertaking -
        - (A) not to erect or display the advertising sign after the sign is so returned; or
        - (B) to comply with the conditions imposed under these regulations by the Council; and
      - (bb) pays to the Council the costs, if any, contemplated in paragraph (c) (1).

(3) Where a person displays or erects an advertising sign in contravention of these regulations subregulations (1) and (2), apply with the necessary changes.

### Reconsideration of Council's decision

**12.** (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 a committee constituted for this purpose, for the reconsideration of the 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 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 committee must, within 60 days of receiving an application made under subregulation (1), notify the applicant in writing of the decision the committee has made under subregulation (3).

### **Tariff**

**13.** Unless, the Council otherwise determines under section 30(1)(u) of the Act, the tariffs payable for advertising signs are approved by the Council From Time to Time.

### **Service of notices, instructions or documents**

**14.** 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.

### **Enforcement**

**15.** For the purpose of enforcing these regulations a staff member of the Council may perform the duties or exercise the powers given or conferred in terms of section 91 of the Act.

### **Offences, penalties and presumptions**

**16.** (1) A person commits an offence if that person -

- (a) in the town area, erects or displays or causes to be erected or displayed an advertising sign 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 any 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.

(3) In a prosecution for an offence under these regulations, unless evidence to the contrary is adduced -

- (a) the owner of land or a premises from which the advertising sign was or is erected or displayed is deemed to have erected or displayed that sign or to have caused it to be erected or displayed;
- (b) any person who alone or together with any other person was responsible for organising or was in control of any meeting, function or event to which a sign relates, is deemed to have erected or displayed in connection with such meeting function or event or to have caused it to be so erected or displayed; or

- (c) any person whose name appears on an advertising sign is deemed to have erected or displayed that advertising sign or to have caused it to be erected or displayed.

**Non-conforming signs**

**17.** An advertising sign which lawfully existed at the date of commencement of these regulations, but which does not conform to these regulations must be removed or be made to conform within 12 months from the date of commencement of these regulations.

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