



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notice

### GOBABIS MUNICIPALITY

No. 401

2019

#### BUSINESS REGULATIONS: LOCAL AUTHORITIES ACT 1992

Under section 94 of the Local Authorities Act (Act No. 23 of 1992), the Municipality of Gobabis, after consultation with the Minister of Urban and Rural Development, has made the regulations set out in the Schedule.

**L. KALILI**  
**CHAIRPERSON**  
**BY ORDER OF THE COUNCIL**

Gobabis, 13 September 2019

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## Definitions

1. In these regulations a word or expression to which a meaning has been assigned in the Act has that meaning and unless the context indicates otherwise -

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

“business” means any profession, occupation, trade, undertaking, service or activity conducted for gain;

“business premises” means a premises used or intended to be used for purposes of conducting a business;

“business registration certificate” means a business registration certificate issued in terms of regulation 7;

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

“Council” means the Municipal Council of Gobabis;

“environmental health practitioner” means a staff member of the Council acting as environmental health practitioner;

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

“inspector” means a staff member of the Council authorised by the Council to conduct inspections;

“local authority area” means the local authority area of Gobabis;

“noxious business” means -

- (a) a trade or business determined to be a noxious trade or offensive trade or business in terms of the applicable town planning scheme; or
- (b) a business determined by the Council to be a noxious business in terms of regulation 2(2)(b);

“premises” means a building, structure or land, or part of a building structure or land, or a motor vehicle, vessel, aircraft or conveyance;

“temporary certificate of fitness and business registration” means a temporary certificate of fitness and business registration certificate issued in terms of regulation 8; and

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

### **Prohibition on conducting of business without authorisation**

2. (1) A person may not conduct a business within the local authority area, unless a -

(a) certificate of fitness has been issued to that person; and

(b) business registration certificate has been issued to that person.

(2) The Council may, for the purpose of these regulations, by resolution determine -

(a) certain areas to be areas upon which the conducting of a business is prohibited; and

(b) certain businesses to be noxious businesses.

(3) The Council must give notice to the public regarding the areas in respect of which conducting a business is prohibited in terms of subregulation (2)(a) and what business constitutes a noxious business in terms of subregulation (2)(b).

(4) A person may not conduct business in an area declared as a prohibited area in terms of subregulation (2)(a).

(5) A person who contravenes subregulation (1) or (4) 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.

### **Application for certificate of fitness**

3. (1) A person who intends to conduct a business within the local authority area must apply to the environmental health practitioner for a certificate of fitness in respect of each business premises upon which that business is to be conducted.

(2) An application for a certificate of fitness must -

(a) be made on the form determined by the Council;

(b) be submitted to the environmental health practitioner;

(c) be accompanied by the applicable fee;

(d) be accompanied by any other information the environmental health practitioner considers necessary for purposes of making a decision in terms of regulation 5; and

(e) where an application for a certificate of fitness is made for the conducting of a noxious business, be accompanied by -

(i) a statement stating the nature of the noxious business to be conducted;

(ii) particulars relating to the nature of materials to be used for the conducting of the business;

(iii) particulars relating to goods or materials which are to be processed on the business premises;

- (iv) particulars relating to the equipment to be installed or used on the business premises;
- (v) particulars relating to the measures to be taken for purposes of minimising public nuisance and for the disposal of waste;
- (vi) an environmental impact assessment undertaken in respect to the noxious business to be conducted on the business premises; and
- (vii) proof of publication of the notice referred to in regulation 4.

#### **Publication of notice in respect of noxious business**

4. (1) A person who intends to conduct a noxious business within the local authority area must, in addition to the application for a certificate of fitness referred to in regulation 3, publish a notice in a daily newspaper circulating widely in Namibia -

- (a) stating that the application in terms of regulation 3 has been made to the environmental health practitioner;
- (b) stating the particulars of the noxious business indicated in subregulation 3(2)(e);
- (c) indicating the place at which and the times and dates during which the application and supporting documentation may be inspected; and
- (d) calling upon persons to lodge written objections or make representations to the environmental health practitioner not less than 14 days from the date of publication of the notice.

(2) Where an objection is lodged in terms of subregulation (1) the environmental health practitioner must -

- (a) within seven days from the date referred to in paragraph (d) of subregulation (1) give notice to the applicant of the objections lodged; and
- (b) call upon the applicant or his or her representative to make, within seven days from the date of the notice referred to in paragraph (a) written submissions regarding objections.

#### **Issuing and validity of certificate of fitness**

5. (1) The environmental health practitioner must consider the application made in terms of regulation 3 and any objections made in terms of regulation 4 and may -

- (a) grant the application and issue the certificate of fitness to the applicant; or
- (b) refuse the application and within seven days provide the applicant with the decision and written reasons for the refusal.

(2) When considering an application for a certificate of fitness, the environmental health practitioner must take into account -

- (a) applicable laws relating to public health and safety applicable to the premises;
- (b) the applicable town planning scheme or conditions of establishment applicable to the business premises;

- (c) objections made in terms of a notice published under regulation 4; and
- (d) representations made in support of the application.

(3) A certificate of fitness issued in terms of this regulation is valid for a period of 12 months from the date of issue.

(4) The holder of a certificate of fitness may, 30 days before the date of expiry of the certificate, apply to the environmental health practitioner for the renewal of the certificate and regulation 3 and 4 and this regulation applies with necessary changes to that application.

#### **Application for business registration certificate**

6. (1) The holder of a fitness certificate may apply to the authorised official for a business registration certificate in accordance with this regulation.

- (2) An application for a business registration certificate must -
  - (a) be made on the form provided by the Council;
  - (b) be submitted to the authorised official;
  - (c) be accompanied by the applicable fee;
  - (d) be accompanied by a certified copy of a valid certificate of fitness issued in terms of regulations 5; and
  - (e) be accompanied by any other information the authorised official considers necessary for purposes of making a decision in terms of regulation 7.

#### **Issuing and validity of business registration certificate**

7. (1) When considering an application for a business registration certificate, the authorised official must -

- (a) satisfy himself or herself that the conditions imposed in respect of the certificate of fitness have been complied with; and
  - (b) ensure that the business premises complies with the applicable building regulations and conditions.
- (2) The authorised official must consider the application made in terms of regulation 6 and may -
- (a) grant the application and issue the business registration certificate to the applicant; or
  - (b) refuse the application and within seven days provide the applicant with the decision and written reasons for the refusal.

(3) A business registration certificate issued in terms of this regulation is valid for a period of 12 months from the date of issue.

(4) The holder of a business registration certificate may, 30 days before the date of expiry of the certificate, apply to the authorised official for the renewal of the certificate and regulation 6 and this regulation applies with necessary changes to that application.

### **Temporary certificate of fitness and business registration**

8. (1) A person who intends to conduct a business for a limited period may, on the form determined by the Council and upon payment of the applicable fee, apply for a temporary certificate of fitness and business registration.

(2) The provisions of regulations 3, 4, 5(1) and (2), 6 and 7(1) and (2) apply with the necessary changes to an application for a temporary certificate of fitness and business registration.

(3) The environmental health practitioner or the authorised official must endorse upon the temporary certificate of fitness and business registration issued in terms of these regulations the period for which that certificate is valid.

### **Display of certificates**

9. (1) The holder of a certificate of fitness, business registration certificate or temporary certificate of fitness and business registration issued in terms of these regulations must ensure that the certificate is prominently and conspicuously posted on the business premises at all times.

(2) Where a certificate of fitness, business registration certificate or temporary certificate of fitness and business registration is issued to a person who goes from place to place or to a particular place for the purpose of conducting business, the holder of the certificate must keep the certificate with him or her at all times while carrying out his or her business and must on request exhibit the certificate to an authorised official, and environmental health practitioner, an inspector or a member of the Namibia Police Force.

### **Report of lost or stolen certificates and duplicate certificates**

10. (1) Where a certificate issued in terms of these regulations is lost or stolen or is damaged beyond legibility, the holder of the certificate must as soon as is reasonably possible after becoming aware of the loss, theft or damage -

- (a) report such loss, theft or damage to the environmental health practitioner or the authorised official; and
- (b) apply to the environmental health practitioner or the authorised official for a duplicate of the certificate.

(2) An application referred to in subregulation (1) must be made on the form determined by the Council and be accompanied by the applicable fee.

(3) After considering an application referred to in subregulation (1), the environmental health practitioner or authorised official may -

- (a) grant the application, with or without conditions and issue to the applicant a duplicate certificate;
- (b) request the applicant to provide more information within a specified time; or
- (c) refuse the application and provide the applicant with the decision and written reasons for the refusal.

### **Prohibition on transfer of certificates**

**11.** (1) Unless authorised in terms of subregulation (2), a certificate granted in terms of these regulations or rights granted under a certificate, may not be transferred to another business premises, another person or another business than what is detailed on the certificate.

(2) The holder of a business registration certificate may apply to the environmental health practitioner or the authorised official to have the -

- (a) certificate of fitness and business registration certificate transferred into the name of another person; or
- (b) name of the business indicated on the applicable certificate of fitness or business registration certificate changed.

(3) The application in terms of subregulation (2) must be made on the form determined by the Council and must be accompanied by the applicable fees.

(4) On receipt of an application in terms of subregulation (2) the environmental health practitioner or authorised official may -

- (a) grant the application, with or without conditions, and issue to the applicant the certificate of fitness or business registration certificate;
- (b) request the applicant to provide more information within a specified time; or
- (c) refuse the application and provide the applicant with the decision and written reasons for the refusal.

### **Change of ownership**

**12.** Every holder of a business registration certificate must upon change of ownership of the business in respect of which the certificate has been issued in terms of these regulations return the certificate of registration and certificate of fitness to the authorised official and environmental health practitioner.

### **Cessation of business**

**13.** (1) If the holder of a business registration certificate issued in terms of these regulations ceases to conduct the business for which the certificate is issued the holder must inform the authorised official or environmental health practitioner of such cessation and must return the certificate to the authorised official or environmental health practitioner for cancellation within 30 days from the date of ceasing to conduct such business.

(2) The authorised official or environmental health practitioner must, on receipt of information of the cessation in terms of subregulation (1), cancel the certificate.

### **Inspections**

**14.** (1) An inspector may at any reasonable time in terms of section 91 of the Act enter business premises or premises where business is conducted, for the purpose of inspecting the business premises or premises where business is conducted and any work or process carried out on the business premises or premises where business is conducted to ensure compliance with these regulations.

- (2) For purposes of inspections in terms of these regulations, an inspector must -
  - (a) carry upon his or her person an identification card issued by the Council indicating authorisation to carry out inspections; and
  - (b) when requested to do so, give the identification card to the holder of a business registration certificate or to the person found at or in charge of the business premises or premises contemplated in subregulation (1).
- (3) For the purpose of ensuring compliance with these regulations an inspector may -
  - (a) require a person in possession or in custody of or who has control over documentation required for the purpose of these regulations, or which may serve as evidence of non-compliance with a provision of these regulations, to produce the documents;
  - (b) inspect and remove the documents, referred to in paragraph (a) for the purpose of making copies or extracts; and
  - (c) require a person referred to in paragraph (a) to furnish his or her full name and address and produce his or her identification document.
- (4) Where an inspector removes any document for the purpose of subregulation (3)(b), the inspector must issue a receipt for the removed documents and must return the documents within 14 days.
- (5) If the inspector finds that a holder of a business registration certificate has contravened these regulations, the inspector must -
  - (a) give notice of the contravention to the holder of the certificate of registration or certificate of fitness of the failure; and
  - (b) request the holder to correct the contravention within the time specified in the notice.

#### **Duties of holders of certificates**

- 15. The holder of a business registration certificate issued in terms of these regulations must -
  - (a) maintain the business premises in respect of which the business registration certificate is issued in a clean and sanitary condition; and
  - (b) comply with the applicable laws relating to buildings, public health and safety, as well as the provisions of the applicable town planning scheme and conditions of establishment.

#### **Notices**

- 16. A notice required or permitted to be given in terms of these regulations must be given in accordance with section 93 of the Act.

#### **Business register**

- 17. The authorised official must keep a register in which he or she must enter particulars relating to every certificate issued in terms of these regulations.



**Reconsideration of applications**

**18.** (1) If an application for certificate of fitness or business registration certificate or temporary certificate of fitness or business registration is refused in terms of these regulations, the applicant may, within 60 days of receipt of the notice referred to in regulation 5(1) or 7(2) -

- (a) appear before a authorised official to present his or her case either in person or through a representative; or
- (b) make representations in writing to the authorised official,

to show cause why his or her application must be granted.

(2) After hearing the applicant or the applicant's representative or after receipt of the written representations made by the applicant in terms of subregulation (1)(b), the authorised official must -

- (a) reconsider the application and make a decision in accordance with regulation 5 or 7 and
- (b) within a period of 30 days, after the hearing or receipt of the written representations, in writing inform the applicant of his or her decision.

(3) The authorised official must provide the applicant with written reasons for the decision made under subregulation (3) within seven days from the date of the making of the decision.

**Offences and penalties**

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

- (a) contravenes or fails to comply with a condition imposed in respect of a certificate issued in terms of these regulations;
- (b) threatens, interferes with or obstructs an environmental health practitioner, an authorised official, an inspector in the exercise of his or her powers or the performance of his or her functions in terms of these regulations;
- (c) furnishes false or misleading information in respect of an application in terms of these regulations to an environmental health practitioner or an authorised official;
- (d) holds or presents himself or herself as an authorised official, environmental health practitioner or an inspector while not being an authorised official, environmental health practitioner or inspector; or
- (e) wilfully makes an alteration, damages or destroys any certificate issued in terms of these regulations.

(2) A person convicted of an offence in terms of subregulation (1) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

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