



GOVERNMENT GAZETTE

OF THE

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General Notice

MUNICIPAL COUNCIL OF KEETMANSHOOP

No. 241

2020

BUSINESS REGISTRATION REGULATIONS: LOCAL AUTHORITIES ACT, 1992.

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

BY ORDER OF THE COUNCIL

CHAIRPERSON OF COUNCIL

Keetmanshoop, 8 June 2020

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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;

“certificate of fitness” means a certificate of fitness issued by the environmental health officer in terms of regulation 3;

“certificate of registration” means a certificate of registration issued by the authorised official in terms of regulation 6;

“conducting” in relation to a business, means operating, carrying on, engaging in, doing or pursuing a business within the municipal area;

“Council” means the Municipal Council of Keetmanshoop;

“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;

“municipal area” means the local authority area of Keetmanshoop;

“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 municipal area, unless a -
 - (a) certificate of fitness has been issued to that person; and
 - (b) certificate of registration 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 municipal 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.

(3) For the purposes of this regulation “waste” means any undesirable or superfluous by-product, emission or residue, regardless of its form, and which results from any process or activity in the conducting of a business.

Publication of notice in respect of noxious business

4. (1) A person who intends to conduct a noxious business within the municipal 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;
- (d) stating whether any environmental impact assessment has been undertaken in relation to the noxious business to be conducted on the business premises and the outcome, if any, of the assessment; and
- (e) 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 or until such time that -

- (a) the certificate of fitness issued, in terms of sub-regulation (1), becomes invalid; or
- (b) the nature of the business for which a certificate of registration is issued changes in any way,

whichever occurs first.

(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 regulations 3 and 4 and this regulation apply with necessary changes to that application.

Application for certificate of registration

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

(2) An application for a certificate of registration must be -

- (a) made on the form provided by the Council;
- (b) submitted to the authorised official;
- (c) accompanied by the applicable fee;
- (d) accompanied by a certified copy of a valid certificate of fitness issued in terms of regulation 5; and
- (e) 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 certificate of registration

7. (1) When considering an application for a certificate of registration, 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 certificate of registration 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 certificate of registration 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 registration 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 apply with necessary changes to that application.

Temporary certificate of fitness and certificate of 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 certificate of 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 certificate of registration.

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

Prohibition on transfer of certificates

9. (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 certificate of registration may apply to the environmental health practitioner or the authorised official to have the -

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

Display of certificates

10. (1) The holder of a certificate of fitness, certificate of registration or temporary certificate of fitness and certificate of 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, certificate of registration or temporary certificate of fitness and certificate of 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 –

- (a) keep the certificate with him or her at all times while carrying out his or her business; and
- (b) on request exhibit the certificate to an authorised official, environmental health practitioner, an inspector or a member of the Namibia Police Force.

Application for approval to make structural alterations

11. (1) Structural alterations to business premises in respect of which a certificate of registration is issued may only be made with the prior written approval obtained from the environmental health practitioner.

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

- (a) a detailed plan of the business premises, showing the existing business premises and the intended structural alterations;
- (b) particulars relating to the construction, lay-out, furnishing, fixtures, fittings and floor coverings to be undertaken or used in the intended structural alterations;
- (c) a certified copy of the certificate of fitness and the business registration certificate issued in respect of the business premises;
- (d) written representations in support of the application; and
- (e) any further particulars as the environmental health practitioner may consider necessary.

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

- (a) grant the application, with or without conditions and in writing inform the applicant accordingly;
- (b) request the applicant to provide more information within a specified time; or
- (c) refuse the application and give written reasons within seven days of the refusal.

(4) A person who fails to comply with subregulation (1) 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 or both.

Business registers

12. 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 decision

13. (1) If an application for a certificate of fitness or certificate of registration or temporary certificate of fitness or certificate of registration is refused in terms of these regulations or the applicant does not agree with conditions imposed by the environmental health practitioner or authorised official, the applicant may, within 60 days of receipt of the notice referred to in regulation 5(1) or 7(2) -

- (a) appear before the management committee of the Council to present his or her case either in person or through a representative; or
- (b) make representations in writing to the management committee of the Council, 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 management committee of the Council 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 its decision.

(3) The management committee of the Council 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.

Change of ownership

14. Every holder of a certificate of registration 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 to the authorised official and certificate of fitness to the environmental health practitioner.

Report of lost or stolen certificates and issuing of duplicates

15. (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 within seven days of the refusal.

Cessation of business

- 16.** (1) If the holder of a certificate of registration issued in terms of these regulations ceases to conduct the business for which the certificate is issued the holder must -
- (a) inform the authorised official and environmental health practitioner of such cessation; and
 - (b) return the certificate of registration to the authorised official and certificate of fitness to the environmental health practitioner within 30 days from the date of ceasing to conduct such business for cancellation.
- (2) The authorised official or environmental health practitioner must, on receipt of information of the cessation in terms of subregulation (1), cancel the certificates.

Duties of holders of certificates

- 17.** The holder of a certificate of registration issued in terms of these regulations must -
- (a) maintain the business premises in respect of which the certificate of registration 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.

Inspections

- 18.** (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 certificate of registration 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.

Withdrawal or suspension of certificate of fitness or certificate of registration

- 19.** (1) The Council may withdraw or, for such period of time as it may determine, suspend a certificate of fitness or a certificate of registration if the holder of that certificate -
- (a) carries out or causes to carry out or permits to be carried out any unapproved alterations; or
 - (b) does or causes anything to be done or permits anything to be done on such business premises which is in contravention of any provision of these regulations.
- (2) Before the Council withdraws or suspends a certificate of fitness or a certificate of registration the Council must -
- (a) give the holder of a certificate 21 days notice in writing of its proposed action and of the reasons for the action; and
 - (b) invite the holder to lodge with the Council in writing any representation, which he or she wishes to make in connection with the Council's proposed action.
- (3) The Council must, where a certificate of fitness or a certificate of registration is cancelled or suspended, cause such cancellation or suspension to be indicated in the business register.

Offences and penalties

- 20.** (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, or 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 or both.

Notices

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