



GOVERNMENT GAZETTE

OF THE

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General Notice

ONIIPA TOWN COUNCIL

No. 358

2020

ONIIPA INFORMAL TRADING REGULATIONS: LOCAL AUTHORITIES ACT, 1992

Under section 94(1)(aj) of the Local Authorities Act, 1992 (Act No. 23 of 1992), the Town Council of Oniipa, after consultation with the Minister of Urban and Rural Development, has made the regulations set out in the Schedule.

M.U. KAMBONDE
CHAIRPERSON
BY ORDER OF THE COUNCIL

Oniipa, 13 August 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, enforce and implement these regulations;

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

“Council” means the Town Council of Oniipa;

“conducting” in relation to informal trading means operating, carrying on, engaging in, or selling goods or services for gain in a public road or public place within the local authority area and conduct, conducted or conducts has a corresponding meaning;

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

“goods” includes any movable property, foodstuff, clothing, cosmetics, magazines, merchandise or living thing for sale;

“informal trader” means a person selling goods or services for gain in a public road or public place and includes an assistant of that person;

“lease” means a lease agreement referred to in regulation 6;

“litter” includes any container or other waste matter that has been discarded, abandoned or left behind by an informal trader or his or her customers;

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

“public road” means a public road as defined in section 1 of 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” means -

- (a) display, offer, market or prepare for sale;
- (b) barter, exchange or hire out;
- (c) store with a view to sell; or

(d) provide a service for reward;

“sidewalk” means a sidewalk as defined in section 1 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

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

“stand” means a place on a public road or public place approved by the Council as a place at which informal trading may be conducted; and

“verge” means a verge as defined in section 1 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999).

Single act constitutes informal trading

2. For the purpose of these regulations, a single act of selling of goods or services in a public road or public place constitutes informal trading.

Prohibition of informal trading

3. (1) A person may not, within the local authority area, conduct informal trading unless that person has been registered with the Council as an informal trader in terms of these regulations.

(2) A person who is registered as an informal trader in terms of these regulations may not employ any person as an assistant unless the person so employed is registered as an assistant in terms of these regulations.

(3) A person who contravenes or fails to comply with subregulation (1) or (2) 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 registration and issue of registration certificate

4. (1) A person who wishes to be registered as an informal trader or as an assistant to an informal trader must, on a form determined by the Council, apply to the authorised official to be registered as an informal trader or assistant informal trader.

(2) The application form for registration as an informal trader or as an assistant informal trader, together with the documents and information as the Council may require, must be submitted to the authorised official.

(3) On receipt of the application in terms of subregulation (2), the authorised official must consider the application and may -

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

(4) If an application is granted under subregulation (3)(b), the authorised official must, on payment of the appropriate fee, issue to the applicant the registration certificate or assistant registration certificate in the form determined by the Council.

(5) The authorised official must inform the applicant referred to in subregulation (1) of the decision made in terms of subregulation (3) within 30 days of receipt of the application.

Display and validity of certificates

5. (1) A registration certificate must -
- (a) specify the area or place where the informal trading must be conducted;
 - (b) specify the goods, services or the class of goods or services which the holder of the registration certificate is entitled to sell;
 - (c) at all times be kept by the person in whose name it is issued on his or her person or at the area or place where the informal trading is conducted; and
 - (d) contain the period of validity of the certificate.

(2) A registration certificate or an assistant registration certificate issued in terms of regulation 4 is valid for a period of 12 months.

Renewal of registration certificate or assistant registration certificates

6. (1) The holder of the registration certificate or assistant registration certificate may apply for the renewal of the certificate to the authorised official 30 days before the expiry of the certificate.

(2) The provisions of regulations 4 and 5 apply with necessary changes to the renewal of a registration certificate or assistant registration certificate.

Prohibition on transfer of registration certificate or assistant registration certificate

7. A registration certificate or assistant registration certificate is not transferable and only the person in whose name it was issued is entitled to conduct informal trading by means of the certificate.

Temporary informal trading

8. (1) A person who intends to conduct informal trading on a temporary basis or for a special event including but not limited to cultural events, music festivals, promotional events, filming activities, religious events and sports events must apply to the authorised official for a temporary registration certificate.

(2) On receipt of an application in terms of subregulation (1) the authorised official must consider the application and the authorised official may -

- (a) grant the application, with or without conditions, and issue to the applicant a temporary registration certificate;
- (b) request the applicant to provide more information within a specified period; or
- (c) refuse the application and give written reasons.

(3) A person who contravenes or 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.

Change of address

9. If a holder of a registration certificate or assistant registration certificate changes his or her residential address, the holder must provide the authorised official with full particulars of the new address within 14 days after the change.

Production of registration certificate or assistant registration certificate

10. (1) An informal trader must identify himself or herself and produce his or her registration certificate, assistant registration certificate or temporary registration certificate for inspection when required to do so by a member of the Namibian Police Force, an authorised official or any person with whom business is transacted or is sought to be transacted.

(2) A person who contravenes or 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.

General provisions in respect of informal traders

11. (1) If a registration certificate or assistant registration certificate is lost or damaged, the holder of the certificate must apply in writing to the Council for a duplicate of the certificate and the Council must on payment of the appropriate fee issue to the holder a duplicate of the certificate.

(2) Only the type of goods, services or the class of goods or services shown on the registration certificate may be sold or rendered.

(3) A person who contravenes or fails to comply with subregulation (1) or (2) commits an offence and is liable on conviction to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding six months.

Designation of places and times for informal trading

12. (1) The Council may, by resolution -

- (a) set apart and demarcate stands for purposes of informal trading in the local authority area; or
- (b) declare any place or area in the local authority area as an a place or area where informal trading is prohibited.

(2) The Council may, by way of signs or markings, indicate -

- (a) specified places, goods or services in respect of which informal trading is prohibited;
- (b) any restriction against informal trading; and
- (c) times and hours of informal trading.

Application for allocation of stand

13. (1) Any person who wishes to carry on business as an informal trader must, on the form in Annexure A, apply to the Council for the allocation of a stand.

(2) The Council must consider every application submitted to it in terms of subregulation (1) and may having regard to all accompanying documents and information -

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

(3) If an application is granted under subregulation (2)(b) the applicant must, in respect of a stand, enter into a lease agreement with the Council on a form determined by the Council and a rental amount as determined by the Council from time to time is payable in respect of the lease.

(4) A informal trader must at all times, when carrying on business on the stand contemplated in subregulation (3), display the registration certificate issued to him or her in terms of regulation 4 and must on request by an authorised official produce the certificate.

(5) A person who contravenes or fail to comply with a request made under subregulation (4) commits an offence and is liable on conviction to a fine not exceeding N\$2000 or imprisonment not exceeding six months.

Prohibited conduct

14. The holder of a registration certificate or assistant registration certificate may not during the course of his or her informal trading -

- (a) place or stack his or her property in such a manner that it constitute a public nuisance or danger to any person;
- (b) obstruct access to a fire hydrant;
- (c) attach any object by any means on any building, structure, monument, pavement, tree, parking meter, lamppost, telegraph-pole, telephone booth, mail-box, traffic sign, bench or any other similar object in or on a public road or public place;
- (d) light a fire in any area where it may cause a public nuisance;
- (e) sleep overnight at the place where he or she conducts informal trading; or
- (f) display his or her property and goods on or in premises unless he or she is in possession of the written consent of the owner, lawful occupier or person in control of the premises.

(2) The holder of the registration certificate or assistant registration certificate may not trade in a manner so as to -

- (a) obstruct access to any street fixture or any other facility intended for the use of the general public;
- (b) obstruct the visibility of a display window on a business premises;
- (c) obstruct access to an entrance to or an exit from a premises or an automated teller machine;
- (d) obstruct access to a pedestrian crossing;
- (e) obstruct a parking area;

- (f) obstruct a pedestrian using a sidewalk which is a portion of a verge intended for exclusive use by pedestrians;
 - (g) cause an obstruction in or on any street;
 - (h) limit access to parking bays, loading bays or other facilities relating to traffic;
 - (i) obscure any road traffic sign erected in terms of any road traffic laws applicable in the local authority area;
 - (j) in any way interfere with any motor vehicle which may be parked alongside such place where the trading is conducted; or
 - (k) damage or deface the surface of any public road, public place or public or private property.
- (3) A person may not, within the local authority area, carry on the business of an informal trader -
- (a) on a sidewalk or a verge adjacent to -
 - (i) a building belonging to, or occupied solely by, the Council or State unless the Council 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);
 - (b) in an area which the Council has by resolution declared and marked to be an area on which informal trading is prohibited; or
 - (c) in contravention of the conditions of a registration certificate or a lease.
- (4) A person who contravenes or fails to comply with subregulation (1), (2) or (3) 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.

Cleanliness

- 15.** (1) The holder of the registration certificate or assistant registration certificate -
- (a) must keep the area or site occupied for the purpose of carrying on informal trading in a clean and sanitary condition;
 - (b) must keep himself or herself clean at all times;
 - (c) must keep his or her goods and property in a clean and sanitary condition;
 - (e) must properly dispose of litter generated during the informal trading in a refuse container supplied by the Council and may not accumulate, dump, store, or deposit or cause or permit to be accumulated, dumped, stored or deposited, any litter on or in premises, public road or public place;
 - (f) may not dispose of litter in a place not intended for the disposal of litter;

- (g) must in the case of an informal trader trading in foodstuffs take precautions as may be necessary to prevent -
 - (i) the spilling of fat, oil or grease in a manner that it causes a nuisance; and
 - (ii) smoke, fumes or odours emanating from informal trading activities which may constitute a public nuisance; and
- (h) must at the request of an authorised official or member of the Namibia Police Force move his or her goods or property so as to permit the cleaning of the surface of the area where he or she is trading.

(2) A person who contravenes or 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.

Reconsideration of decision

16. (1) A person who is aggrieved by a decision of the authorised official made under these regulations may, within 14 days of receiving that decision -

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

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

(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), the Council must -

- (a) reconsider the application and make a decision in accordance with regulation 4; and
- (b) within a period of 30 days, after the hearing or receipt of the written representations, in writing inform the applicant of the decision of the Council.

Offences and penalties

17. 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, resists, hinders, interferes with or obstructs an authorised official or a member of the Namibia Police Force in the exercise of his or her powers or the performance of functions in terms of these regulations;
- (c) furnishes false or misleading information to an authorised official in respect of an application for a certificate or other authorisation in terms of these regulations;
- (d) furnishes false or misleading information to an authorised official or member of the Namibia Police Force;
- (e) holds or presents himself or herself as an authorised official while not being an authorised official; or

- (f) wilfully makes an alteration, damages or destroys any certificate issued in terms of these regulations,

and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

ANNEXURE A

**ONIPA TOWN COUNCIL
APPLICATION FOR STAND
(Regulation 13)**

FULL NAME AND SURNAME:

IDENTITY NUMBER:

POSTAL ADDRESS:

RESIDENTIAL ADDRESS:

TELEPHONE NUMBER: (.....).....

CELL:

NAME OF BUSINESS:

BUSINESS REGISTRATION NUMBER:

DESCRIPTION OF THE LOCATION WHERE BUSINESS WILL BE CARRIED ON:

SUBURB:

INFORMAL NAMES:

SKETCH PLAN OF LOCATION OF PROPOSED STAND:

NUMBER OF EMPLOYEES AT STAND:

THE FOLLOWING GOODS OR SERVICES WILL BE OFFERED FOR SALE:

1.

2.

3.

4.

SIGNATURE:

DATE:
