



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GOVERNMENT NOTICE

No. 229 Ondangwa Informal Trading regulations: Local Authorities Act, 1992 1

Government Notice

ONDANGWA TOWN

No. 229

2023

ONDANGWA 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 Ondangwa, after consultation with the Minister of Urban and Rural Development, has made the regulations set out in the Schedule.

P. AMWELE
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

Ondangwa, 4 July 2023

SCHEDULE**ARRANGEMENT OF REGULATIONS****PART 1
PRELIMINARY PROVISIONS**

1. Definitions

**PART 2
REGISTRATION OF INFORMAL TRADERS**

2. Informal traders and assistant informal traders to be registered
3. Application for registration as informal trader or assistant informal trader
4. Issue and validity of registration certificate
5. Renewal of registration certificate
6. Prohibition of transfer
7. Temporary informal trading
8. Duplicate registration certificate
9. Change of address

**PART 3
INFORMAL TRADING**

10. Production of informal registration certificate
11. General rules of conduct for informal traders
12. Cleanliness
13. Obstruction
14. Areas for trading, and signs indicating such areas

**PART 4
IMPOUNDING OF GOODS**

15. Removal and impounding
16. Disposal of impounded perishable goods
17. Disposal of non-perishable goods
18. Sale of impounded goods
19. Forfeiture of proceeds

**PART 5
GENERAL PROVISIONS**

20. Cessation of informal trading
21. Reconsideration of decision
22. Offences and penalties

PART 1
PRELIMINARY

Definitions

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

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

“Council” means the Town Council of Ondangwa;

“foodstuff” means foodstuff as defined in section 1 of the Foodstuffs, Cosmetics and Disinfectants Ordinance, 1979 (Ordinance No. 18 of 1979);

“goods” includes any movable property, foodstuff, clothing, cosmetics, magazines, merchandise, vehicle, or a living thing for sale or used in connection with informal trading;

“informal structure” means any corrugated iron structure, container, trailer or temporary lapa or structure made of wood, iron, plastic or make-shift materials;

“informal trader” means a person conducting informal trading in the local authority area, and who is issued with a registration certificate registered under regulation 3 as an informal trader or as an assistant informal trader;

“informal trading” means the selling of goods and services for a reward in or alongside a street, public road or a public place;

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

“public place” means a public place as defined in section 1 of the Act;

“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 by the Council under regulation 4 or a temporary registration certificate issued under regulation 7;

“sell” means –

- (a) barter, exchange or hire out;
- (b) display, expose, offer or prepare for sale;
- (c) store on a public road or public place with a view to sell; or
- (d) provide a service for reward;

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

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

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

PART 2
REGISTRATION OF INFORMAL TRADERS

Informal traders and assistant informal traders to be registered

2. (1) A person may not conduct informal trading, unless that person is registered under regulation 3.

(2) An informal trader may not for the purposes of his or her trade, employ a person as an assistant informal trader, unless such person is registered as an assistant informal trader under regulation 3.

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

Application for registration as informal trader or assistant informal trader

3. (1) A person who intends to be registered as an informal trader or an assistant informal trader must apply to the Council for registration as an informal trader or an assistant informal trader on an application form determined by the Council.

(2) An application in terms of subregulation (1) must be accompanied by a non-refundable application fee determined by the Council under section 30(1)(u) of the Act.

(3) On receipt of an application, the Council must consider the application and the Council may –

- (a) request the applicant to provide more information within a specified time;
- (b) grant the application, with or without imposing conditions and register the applicant as an informal trader or as an assistant informal trader; or
- (c) refuse the application and give written reasons for the refusal to the applicant.

Issue and validity of registration certificate

4. (1) On registering a person as an informal trader in terms of regulation 3, the Council must issue to the person a registration certificate in a form determined by the Council.

(2) A registration certificate must –

- (a) specify the area or place where the trade concerned must be conducted;
- (b) specify the goods or services, which the informal trader is entitled to sell;
- (c) at all times, be kept by the person in whose name the registration certificate is issued in his or her immediate proximity; and
- (d) contain the period of validity of the registration certificate.

(3) A registration certificate issued under subsection (1) is valid for a period of 12 months.

Renewal of registration certificate

5. (1) An informal trader issued with a registration certificate may before the expiry of the registration certificate apply to the authorised official for the renewal of the registration certificate in accordance with regulation 3.

(2) The fees payable for the renewal of a registration certificate are as determined by the Council under section 30(1)(u) of the Act.

(3) If the informal trader who is renewing a registration certificate must attach the original or certified copy of the previous registration certificate.

Prohibition of transfer

6. A 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 registration certificate.

Temporary informal trading

7. (1) A person who intends to carry out informal trading on a temporary basis must apply to the Council for the issue of a temporary registration certificate.

(2) A person referred to in subregulation (1) must apply for a temporary registration certificate in the form determined by the Council and the application must be accompanied by an application fee determined by the Council under section 30(1)(u) of the Act.

(3) On receipt of an application referred to in subregulation (1), the Council must consider the application and the Council may –

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

(4) The temporary registration certificate must specify the period of validity as determined by the Council.

(5) A person who carries on informal trading on a temporary basis without a temporary registration certificate issued under subregulation (3) 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 or to both such fine and imprisonment.

Duplicate registration certificate

8. (1) If a registration certificate issued to a person is lost, that person must, within seven days from the date on which the loss became known to him or her –

- (a) notify the Council in writing of such loss; and
- (b) in the form determined by the Council apply to the Council for the issue of a duplicate registration certificate.

(2) The fees payable for in respect of the issuing of a duplicate registration certificate are as determined by the Council in terms of section 30(1)(u) of the Act.

(3) On receipt of an application referred to in subregulation (1) and payment of the fees referred to in subregulation (2), the Council must issue to the applicant concerned a duplicate registration certificate.

Change of address

9. If an informal trader changes his or her residential address, he or she must furnish the Council with full particulars of his or her new address, within 14 days after such change occurred.

PART 3 INFORMAL TRADING

Production of informal registration certificate

10. (1) An informal trader must identify himself or herself and produce his or her 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 informal trading is being conducted.

(2) An informal trader who fails to produce his or her registration certificate as contemplated for in subregulation (1) commits an offence and is on conviction liable to fine a not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

General rules of conduct for informal traders

11. (1) An informal trader may not during the course of conducting informal trading –

- (a) place or stack his or her goods and property in such a manner that it constitutes a public nuisance, danger to any person or is likely to injure any person or cause damage to property;
- (b) obstruct access to a fire hydrant;
- (c) attach any object by any means on any building, structure, monument, pavement, tree, parking meter, lamppost, power standard, telegraph-pole, telephone booth, mail-box, traffic sign, bench or any other similar object in or on a street, public road or public place;
- (d) light a fire in any area where it may cause a public nuisance; or
- (e) sleep overnight at the place where he or she conducts informal trading.

(2) An informal trader must –

- (a) at the request of an authorised official or person acting on behalf of the Council or of any supplier of telecommunication, electricity or other services, move his goods, so as to permit the carrying out of any work in relation to a street, public place or public road; and
- (b) on concluding informal trading for the day, remove his or her goods and property from the informal trading area.

(3) A person who contravenes subregulation (1) or (2) 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 or to both such fine and imprisonment.

Cleanliness

- 12.** (1) An informal trader –
- (a) may not create any public nuisance through his or her trade;
 - (b) must comply with the conditions of the registration certificate,
 - (c) must keep the area or site occupied by him or her for the purpose of carrying out his or her informal trading in a clean condition;
 - (d) must properly dispose of litter generated by his or her informal trading in a refuse receptacle approved or supplied by the Council and may not –
 - (i) accumulate, dump, store or deposit; or
 - (ii) permit to be accumulated, dumped, stored or deposited,any litter on premises, a public road or public place;
 - (e) may not dispose of litter in a street or a place not intended for the disposal of litter;
 - (f) in the case of an informal trader dealing in foodstuffs and cosmetics, must –
 - (i) take such precautions as may be necessary to prevent the spilling of any fat, oil or grease in the course of conducting his or her informal trading; and
 - (ii) prevent any smoke, fumes or odours emanating from his or her activities which may constitute a public nuisance;
 - (g) must at the request of an authorised official or person acting on behalf of the Council, move his or her goods and property so as to permit cleaning by the authorised official of the site where he or she is trading; and
 - (h) must ensure that on conclusion of informal trading for the day the area or site occupied by him or her for the purpose of trade is free of litter.

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

Obstruction

- 13.** (1) An informal trader may not conduct informal trading at a place or in such a manner so as to cause an obstruction of or interference with –
- (a) access to any street fixture or any other facility intended for the use of the general public;

- (b) access to any entrance to or any exit from a premises or any automated teller machine;
- (c) access to or from a pedestrian crossing;
- (d) access to or from any legally parked vehicle; or
- (e) any pedestrian using a sidewalk.

(2) An informal trader may not trade at such a place or in such a manner so as to –

- (a) cause an obstruction in or on a street;
- (b) limit access to parking, loading bays or other facilities relating to traffic;
- (c) obscure any road traffic sign erected in terms of any traffic regulations applicable in the local authority area, or any marking, notice or sign displayed or made in terms of these regulations;
- (d) in any way interfere with any vehicle which may be parked alongside such place where the trading is conducted;
- (e) damage the surface of any public road, public place, any public or private property; or
- (f) pack or store any goods or property, outside the area or place of trading specified in his or her registration certificate.

(3) A person who contravenes subregulation (1) or (2) 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 or to both such fine and imprisonment.

Areas for trading and signs indicating such areas

14. (1) The Council may by resolution –

- (a) determine areas and hours of trading and other restrictions relating to informal trading;
- (b) place or erect signs, markings or other devices indicating –
 - (i) specified hours, places, goods or services in respect of which informal trading is restricted or is allowed;
 - (ii) the boundaries of a stand or area set aside for the purpose of informal trading, and
- (c) determine areas or locations where informal trading may be prohibited.

(2) The Council must in an appropriate manner inform the public of resolutions made in terms of subregulation (1).

PART 4
IMPOUNDING OF GOODS

Removal and impounding

15. (1) An authorised official may –
- (a) give 24 hours written notice to an informal trader to vacate the trading at a place not authorised for informal trading;
 - (b) take the necessary reasonable steps to prevent informal trading from a place that is not authorised for purposes of conducting informal trading, if an informal trader refuses to vacate the area; and
 - (c) take reasonable steps to remove or cause the removal of an informal trader from a place that is not authorised for purposes of conducting informal trading.
- (2) An authorised official may remove and impound goods –
- (a) which he or she reasonably suspects are being used or are intended to be used in connection with the conducting of informal trading by a person who is not registered as an informal trader;
 - (b) which he or she finds at a place where the conducting of the informal trading concerned is prohibited by the Council;
 - (c) which in his or her opinion are placed in such manner as to prevent pedestrians from walking on the sidewalk;
 - (d) which may cause an obstruction to traffic;
 - (e) which are in front of a fire hydrant or an entrance to or exit from a building; or
 - (f) which in his or her opinion are left behind or abandoned.
- (3) An authorised official acting in terms of subregulation (2) must, except where goods have been left or abandoned –
- (a) issue to the person conducting the informal trading, a receipt in respect of goods the authorised official removes and impounds, of which the receipt must specify the goods in detail and must be signed by the authorised official;
 - (b) take proper care of goods so removed and impounded; and
 - (c) deliver any goods referred to in subregulation (2) to a place determined by the Council.
- (4) An informal trader whose goods have been removed and impounded under subregulation (2) is, liable for any reasonable expenses incurred by the Council in respect of the removal and impounding of such goods.
- (5) The Council may keep the goods referred to in subregulation (2) in its possession for –
- (a) 30 days if its non-perishable goods;

- (b) two days if it is perishable goods; and
- (c) one day if its cooked goods,

until all such expenses have been paid or may deal with such goods as contemplated in that regulation.

(6) A receipt issued by an authorised official constitutes sufficient proof of any expenses incurred by the Council in respect of the removal and impounding of any goods under regulation 15.

Disposal of impounded perishable goods

16. (1) The informal trader whose perishable goods are impounded in terms of regulation 15 may, within a period of 24 hours from the time the goods are being impounded, apply in writing or in person to the Council for the return of such goods and present the relevant receipt issued to him or her in terms of regulation 15.

(2) Where the informal trader fails to claim his or her perishable goods within 24 hours from the date of impounding, the Council may sell such goods in terms of regulation 18.

Disposal of non-perishable goods

17. (1) The informal trader whose goods are impounded under regulation 15(3), excluding perishables goods, may within 30 days from the date of impoundment, apply in writing to the Council for the return of such goods and must attach to the application the relevant receipt issued in terms of regulation 15(2)(a) and (b).

(2) If the informal trader whose goods are impounded fails to claim his or her goods within 30 days from the date of impoundment, the Council may sell such goods in terms of regulation 18 or deal with such goods as provided for under any other law.

Sale of impounded goods

18. (1) If the impounded goods have not been claimed the Council may sell the impounded goods by public auction or other means approved by the Council.

(2) If there is a sale of any impounded goods by the Council in terms of regulation 15(2) or 16(2) or 17(2), the proceeds of such goods sold less the expenses incurred by the Council in respect of the removal and impounding of such goods must, on presentation of the relevant receipt issued in terms of regulation 15(3)(a), be paid to the informal trader when such goods were impounded or if the informal trader is unknown to the person who had lawful possession of the goods when they were impounded.

(3) If the proceeds of any sale of goods contemplated by this regulation are not sufficient to defray the expenses incurred by the Council in respect of the removal and impoundment of such goods, the informal trader remains liable to the Council for payment of so much of such expenses as are not defrayed by such proceeds.

Forfeiture of proceeds

19. If the informal trader whose goods are impounded in terms of regulation 15 fails to claim the proceeds of the goods sold in accordance with regulation 18 within a period of three months after the date that such goods were sold, the proceeds are forfeited to the Council.

PART 5
GENERAL PROVISIONS

Cessation of informal trading

20. (1) If the informal trader ceases to conduct the informal trading for which the registration certificate is issued, the informal trader must within 30 days from the date of ceasing to conduct such informal trading –

- (a) inform the authorised official of such cessation; and
- (b) submit the registration certificate to the authorised official.

(2) The authorised official must, after he or she is informed of the cessation contemplated to in subregulation (1) and on receipt of the registration certificate, cancel the registration certificate.

Reconsideration of decision

21. (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 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 its decision; or
- (b) withdraw its decision.

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

Offences and penalties

22. (1) A person commits an offence if that person –

- (a) contravenes or fails to comply with a condition imposed in respect of a registration certificate;
- (b) threatens, resists, hinders, interferes with or obstructs an authorised official or a member of the Namibian Police force in the exercise of his or her powers or the performance of his or her duties or functions in terms of these regulations;
- (c) in an application for registration as an informal trader, furnishes any false or misleading information or makes any false statement to an authorised official;
- (d) furnishes false or misleading information to the Council, an authorised official or a member of the Namibian Police force;

- (e) impersonates or presents himself or herself as an authorised official whilst not being an authorised official; or
- (f) makes any alterations to a registration certificate,

and is on conviction liable to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.
