



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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N\$2.00

WINDHOEK - 14 September 2007

No. 3904

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### General Notice

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#### TOWN COUNCIL OF OPUWO

No. 268

2007

#### REGULATIONS ON STREET TRADING: LOCAL AUTHORITIES ACT, 1992

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

**P. DE VILLIERS**  
**CHAIRPERSON OF THE COUNCIL**  
**BY ORDER OF THE COUNCIL**

Opuwo, 3 August 2007

## SCHEDULE

### Definitions

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

“authorised staff member” means a staff member authorised in writing by the Council to implement the provisions of these regulations;

“business” means any activity operated or conducted for the benefit of any person, and includes any profession, occupation or trade;

“CEO” means the chief executive officer of the Council;

“Council” means the Town Council of Opuwo;

“goods” means any movable merchandise displayed in a street by any person for the purpose of selling, and includes any article, receptacle, vehicle or moveable structure;

“hawker or peddler” means a person who travels and trades on foot and goes from place to place selling or exposing for sale any goods or merchandise or procure orders for goods, wares, or merchandise immediately to be delivered or selling or offering for sale his or her skill in handicraft;

“lease” means a lease agreement contemplated in regulation 4(a);

“litter” includes any article, container or other matter which has been discarded, abandoned or left behind by a person trading or by his or her assistant or customers;

“national monument” means a building or structure declared to be a national monument under the National Monuments Act, 1969 (Act No. 28 of 1969);

“park or garden” means a park or garden to which the public has a right of access;

“prohibited area” means any place declared by the Council by resolution as an area in which street trading is prohibited;

“public building” means a building occupied by the Government, regional or local authority council;

“registration certificate” means a registration certificate referred to in regulation 3(c)(ii);

“selling” means to display goods for sale by inviting members of the public to buy the goods so displayed;

“service” means the performance of any act by a person on a public open space, garden or in a park for gain or reward;

“sidewalk” means that portion of a verge intended for the exclusive use of pedestrians;

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

“trading,” includes a single act of selling or offering or rendering of services for payment on or in a public road or public place;



“verge” means that portion of the road, street or thoroughfare, which is not the roadway;

“vendor” means a person selling goods from a fixed stand allocated to him or her under regulation 5;

### **General conduct**

2. No person carrying on or assisting to carry on the business of a vendor, pedlar or hawker may at any time -

- (a) in any way obstruct access to any local authority service or local authority works;
- (b) at any public road or public place -
  - (i) stay overnight at the place of such business; or
  - (ii) erect any structure, other than a device, which operates in the same manner as, and is shaped like an umbrella, for the purposes of providing shelter,

without the prior written approval of the Council;

- (c) carry on such business in a manner which -
  - (i) creates a nuisance;
  - (ii) damages or defaces the surface of any public road or public place or any property of the Council; or
  - (iii) creates traffic hazard;
- (d) attach any object by any means to any building, structure, pavement, tree, parking meter, lamp-pole, electricity pole, telephone booth, post box, traffic sign, bench or any street furniture on a public road or public place;
- (e) make a fire at a place or in circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in subregulation (d);
- (f) fail or refuse to move or remove any goods, after having been requested to do so by the supplier of a telecommunication service who requires access to such service, or by an authorised staff member of the Council or an officer acting in terms of regulation 5 or 6.

### **Registration and identification of vendors, hawkers and pedlars**

- 3. (a) A person may not within the area of the local authority carry on or assist another person in carrying on the trade of vendor, hawker or pedlar, unless he or she has been registered in terms of subregulation (c)(ii) as a vendor, hawker or pedlar, or as an assistant to a vendor, hawker or pedlar.
- (b) No person registered as a vendor, hawker or pedlar may employ, for the purposes of his or her trade, any person as assistant to him or her unless

- such person is registered as such in terms of subregulation (c)(ii).
- (c) (i) A person who wishes to be registered as a vendor, hawker or pedlar or, as an assistant to a vendor, hawker or pedlar may apply to be registered as such to the CEO in the form determined by the Council.
- (ii) Upon approval of an application made in terms of subregulation (a), and payment of the prescribed fee the CEO must issue to the person concerned the appropriate registration certificate determined by the Council.
- (iii) A registration certificate must specify the class of goods which the hawker, vendor or pedlar or assistant to a vendor, hawker or pedlar is entitled to sell, as well as the conditions or restrictions the Council wishes to impose.
- (iv) Where an application in terms of subregulation (a) hereof is refused, the CEO must if so required by the applicant, give reasons to such refusal and the applicant has the right to appeal to the Council against such decision.
- (d) A person registered in terms of subregulation (c)(ii) must notify the CEO of any change of his or her residential address within 14 days of such change.
- (e) If a person registered in terms of subregulation (c)(ii) loses his or her registration certificate, he or she must give notice thereof to the CEO within 14 days from the date of which such loss became known to him or her and apply to the CEO for a duplicate registration certificate and is liable to pay the fee by the Council.
- (f) A registration certificate is not transferable and no person other than the person to whom it was originally issued is entitled to conduct any business with such certificate.
- (g) A person issued with a registration certificate must when required to produce such certificate for purposes of inspection by a member of the Namibian Police, the CEO, a health inspector or any staff member authorized by the Council to do so, produce such registration certificate.
- (h) No hawker, vendor or pedlar or assistant to a hawker, vendor or pedlar may sell goods which he or she is not authorized to sell by virtue of his or her registration certificate.
- (i) Registered street vendors must at all times, while doing business, wear a clearly visible identification mark as vendor, hawker or pedlar registered by the Town Council of Opuwo.

#### **Application to lease a stand**

4. (1) Any person who intends to carry on the business of a vendor, hawker or pedlar notwithstanding the provisions of regulation 3, may on a form prescribed by the Council apply to the Council for the lease or allocation of a stand.

(2) If the applicant referred to in subregulation (1) is successful -

- (a) the applicant must in respect of such stand enter into a lease agreement with the Council at such rental by the Council from time to time;



- (b) a token must be issued to the applicant as proof of his or her right to occupy such stand for the purpose of carrying on business on such stand;
- (c) a street vendor must while selling on the stand retain such token on their person for purposes of producing such token to any authorized staff member of the Council who demands the production of such token;
- (d) the Council may, at the written request of the street vendor, hawker or pedlar, issue a token to one *bona fide* employee of the street vendor, hawker or pedlar and the provisions of subsection (iii) are applicable to such employee.

(3) A person who carries on the business of a street vendor, hawker or pedlar on a stand and who fails to produce a token, as provided for in subregulation (2)(c) is guilty of an offence.

#### **Prohibition of and restriction on the carrying on of business**

5. No person may carry on the business of street vendor, hawker or pedlar or assist a person to carry on the business of a street vendor, hawker or pedlar without authorisation by the Council -

- (a) in the central business area of Opuwo;
- (b) in a garden or park unless such area has been set aside and demarcated for such purpose by the Council;
- (c) on a sidewalk or a verge contiguous to -
  - (i) a building belonging to, or occupied solely by the Council or State unless the Council grant its approval in writing;
  - (ii) a church or other place of worship; or
  - (iii) a national monument;
- (d) in a prohibited area or in a manner that, or a place where-
  - (i) it obstructs access to a fire hydrant;
  - (ii) it obstructs access to any entrance to or exits from a building;
  - (iii) it prevents pedestrians from using, or substantially obstructs them in their use of, a sidewalk;
  - (iv) it causes an obstruction on a roadway;
  - (v) it limits access to parking or loading bays or other facilities for motor vehicles; or
  - (vi) in any manner or at a place where such presence may constitute an offence in terms of any other law;
- (e) on a sidewalk or verge contiguous to a building used for residential purposes if the owner, occupier or person in control of the building objects

- thereto, in a manner that, or at a place where -
- (i) it obstructs access to street furniture, bus passenger benches or shelters, queuing lines, refuse disposal bins or other facilities intended for the use of the general public;
  - (ii) it obstructs the visibility of a display window of a business premises, if the person carrying on business in the business premises concerned objects thereto;
  - (iii) it obstructs access to a pedestrian crossing;
  - (iv) it obstructs access to any vehicle;
  - (v) it obscures any road traffic sign or any marking, notice or sign displayed in terms of these regulations;
  - (vi) it limits access to parking or loading bays or other facilities for vehicular traffic; or
  - (vii) it obstructs access to or in a pedestrian arcade or mall;
- (f) A person who contravenes the terms and conditions of a lease or allocation to him or her of a stand or area for purposes of conducting the business of a street vendor, hawker or pedlar or of the terms and conditions of the registration certificate issued in terms of regulation 3 commits an offence.

#### **Cleanliness of a place of business and protection of public health**

6. A person carrying on or assisting to carry on the business of street vendor, hawker or pedlar may not -

- (a) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises, in any manhole, stormwater drain or on any public road or public place, other than in a refuse receptacle approved by the Council;
- (b) keep the area or site occupied by him or her for the purpose of such business in an unclean or unsanitary condition;
- (c) keep his goods in an unclean or unsanitary condition;
- (d) fail to remove daily from any public road or public place at the conclusion of trading all waste, packaging material, stock and equipment of whatsoever nature which are utilized in connection with such business, unless prior written approval exempting him or her from the provisions of this paragraph has been given by the Council;
- (e) carry on his business in such a manner as to be a danger or threat to public health or public safety;
- (f) spill any fat, oil or grease onto a public road or public place in the course of conducting his or her business;
- (g) if requested by an authorized staff member of the Council, fail to move or remove anything so that the area or site is free from any litter, fat, oil or

grease.

### **Penalties**

7. (1) A person who contravenes or fails to comply with any notice made under these regulations commits an offence and is liable -

- (a) to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine of N\$200 or additional imprisonment for a period not exceeding 10 days.

(2) A person who continues to commit an offence after notice has been served on him or her to cease committing such offence or after he or she has been convicted of such offence commits a continuing offence.

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