



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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WINDHOEK - 27 December 2009

No. 4400

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General Notice

MUNICIPALITY OF WINDHOEK

No.338

2009

PARK REGULATIONS: LOCAL AUTHORITIES ACT, 1992

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

M.K. SHIKONO
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

Windhoek, 3 December 2009

SCHEDULE

Definitions

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

“authorized staff member” means any staff member in the service of the Council who is authorized to administer these regulations;

“Council” means the Municipal Council of Windhoek;

“park” means any public recreational area situated in the Municipal area of Windhoek, and includes any garden square, playground, sport-field, cultivated traffic island, and open space established by the Council for public benefit;

“open space” includes any street, road, lane, avenue, thoroughfare, sanitary passage square and other open space -

- (a) which is shown as such on a general plan of an approved urban area, as filed in the deeds registry or the office of the Surveyor-General;
- (b) which is represented by a diagram annexed to a deed conveying it as a public place to a local authority in pursuance of any subdivision of land;
- (c) to which the public have acquired or at any time may acquire a common right; or
- (d) as defined by a zoning scheme, and which is vested or registered in the name of the Council;

“protected plant” means every species of plant mentioned in Schedule 9 of the Nature Conservation Ordinance, 1975 (Ordinance No. 4 of 1975);

“indigenous plant” means any plant species occurring naturally in the Municipal area of Windhoek; “cultivated tree” means any tree or shrub which has been planted and maintained;

“exotic tree” means any tree or shrub not found naturally within the boundaries of the Municipal area of Windhoek, whether planted or occurring through invasion or naturalisation.

Access

2. (1) A person may not enter or remain in any park during any period during which such park is closed to the public by virtue of a notice clearly displayed by the Council.

(2) A person may not enter any park by climbing over or through any fence or hedge or over any wall, or in any way other than through an access gate.

(3) The Council may determine the maximum number of visitors who may enter a park at a given time as set out by means of a notice affixed at a conspicuous place at access gates of such park.

(4) Where applicable, a person or vehicle entering a park must pay the entrance fee set out by means of a notice.

(5) In respect of every fee paid, a receipt or ticket must be issued which must be preserved by the person to whom it was issued and must upon request, be produced to an authorized staff member.

Damage to property

3. A person in any park may not -

- (a) take out, gather, disfigure, damage or destroy or tamper with any tree, shrub, plant, flower, fruit or any other object of zoological, geological, archeological, historical or other scientific interest;
- (b) walk, run or ride in any flower bed;

- (c) climb up any tree or hang from any branches;
- (d) damage, remove or interfere with any part of the irrigation systems belonging to the Council, or remove water in any container;
- (e) disfigure, damage, destroy or tamper with any property of the Council;
- (f) remove or concern oneself with any sand, gravel, stone, sods, soils or other materials;
- (g) gather any firewood;
- (h) climb on, disfigure or interfere with any statue, memorial or commemorative plaque; or
- (i) write, paint, spray-paint or scratch graffiti on any walls, fence, playing surface or equipment.

Pollution

- 4.** A person in any park may not -
- (a) at any place throw away, discard or leave any refuse or rubbish, except in a refuse bin provided by the Council;
 - (b) pollute drinking water in any manner whatsoever or tamper with or damage any water installation;
 - (c) pollute the water of any dam, fishpond, river or other expanse of water by throwing soap, oil, rubbish, refuse or any offensive object, material or liquid into such water, or causing or allowing it to fall or flow into such water;
 - (d) wash oneself, any animal, clothes or other objects in the water of a dam, fish pond, river or other expanse of water;
 - (e) affix to any tree, pole, fence, building and any other object, or leave behind in any place any notice, pamphlet, handbill or other printed or written document or any paper;
 - (f) relieve oneself except in a sanitary convenience provided for that purpose;
 - (g) enter, invade or use in a sanitary convenience set apart for members of the opposite sex by means of a notice or symbol affixed in a conspicuous position; or
 - (h) spit or evacuate any body fluids or matter.

Conduct

- 5.** A person in any park may not -
- (a) be under the influence of any intoxicating or narcotic substance;
 - (b) gamble or beg;
 - (c) camp or overnight, except at a camp site;

- (d) lie on any seat or bench or use it in such manner so as to prevent others from using it;
- (e) behave or act in an indecent, immoral, unseemly, offensive or insulting manner;
- (f) behave in any manner which will endanger the safety of others;
- (g) disturb, harass, hinder or obstruct another person in the proper use of the park;
- (h) make excessive noise by playing a musical instrument, shouting, arguing, singing, or use a loudspeaker, sound system, radio, television set or similar device, so as to cause annoyance, a nuisance or disturbance to the comfort and convenience of others;
- (i) use indecent or insulting language;
- (j) be indecently clothed;
- (k) be in possession of a fire-arm or discharge a fire-arm, bow and arrow, catapult or air gun;
- (l) roll or throw stones or rocks from any mountain or rise;
- (m) throw or break glass bottles or containers;
- (n) drive or park in a manner or place, which may present a danger to other persons or cause an obstruction or nuisance;
- (o) swim or bathe in any dam, fish pond, river or other expanse of water;
- (p) enter any area without permission where entry is prohibited by means of a notice of the Council displayed in a conspicuous position;
- (q) travel in excess of the speed limit indicated on an appropriate traffic sign at the entrance gate;
- (r) wash, polish, or repair a vehicle in or at a park, except where an emergency requires the immediate repair of the vehicle; or
- (s) hang out clothes or laundry between plants or over fences or any other park structure.

Animals

- 6.** A person in any park may not -
 - (a) capture, pursue, injure, kill or disturb any wild animal, bird, fish or their nesting sites;
 - (b) use or set any trap, net or other device or instrument with which an animal, bird or fish may be caught, injured or killed;
 - (c) bring a dog contrary to a notice prohibiting the entry of dogs, into such a park;
 - (d) instigate or allow any dog to attack, chase or disturb any person, animal or bird;

- (e) allow any dog to be unrestrained by a leash, chain or by the owner or person having supervision of such a dog;
- (f) leave any dog excrement lying exposed without properly disposing of such; or
- (g) allow any dog of which he or she is the owner or which is under his or her control to enter into the water of any dam, fish pond, river or other expanse of water.

Fires

- 7.** A person in any park may not -
- (a) make a fire in any other place except in a fireplace provided by the Council; or
 - (b) set fire to an object, throw away or leave behind any burning or smoldering object in a place where it may set fire to another object.

Playing apparatus and games

8. (1) A person over the age of sixteen years may not use any swing or any other playground apparatus.

(2) Any person must vacate any swing or other playground apparatus on request of an authorized staff member.

(3) A person or group may not willfully or negligently use any of the playground apparatus or play in such a manner so as to endanger the safety of another person.

(4) A person or group may not play any game, which may cause damage to property or nuisance or disturbance to the comfort and convenience of any other person.

Public meetings and trading

9. A person in a park may not, without prior permission of the Chief Executive Officer or his or her delegate -

- (a) organize, present or participate in an orchestral recital or any other public entertainment;
- (b) organize, present or participate in any sermon, lecture or any other public meeting or gathering;
- (c) trade in any article or material, take orders thereof, offer it for hire or carry on any occupation; or
- (d) collect money from the public.

Angling

10. (1) No angling is permitted in any of the Council's parks without the permission of the Chief Executive Officer or his or her delegate.

(2) Angling clubs may apply in writing to the Chief Executive Officer or his or her delegate for permission to fish at the Goreangab Recreational Park for the duration of specific events or competitions.

- (3) Only rod and tackle may be used for angling, but unsupervised or overnight traps and lines are not permitted.
- (4) Tangled line, hooks and other discarded items must be correctly disposed of in a litter bin.
- (5) A person under the age of fourteen years may not angle in any dam, river or other expanse of water in any recreational ground, except under the supervision of an adult.

Reservations

- 11.** (1) Requests for permission to reserve any park, or portion thereof for any sort of function must be directed in writing to the Chief Executive Officer or his or her delegate.
- (2) The following details must accompany written application referred to in subregulation (1) -
 - (a) the name of the individual, organization or charity;
 - (b) the reason and agenda of the function;
 - (c) the dates and times over which the function is to be held; and
 - (d) the estimated number of visitors; and
 - (e) a contact person's name and telephone number of such person.
- (3) The Chief Executive Officer or his or her delegate must respond in writing, indicating whether permission is granted or denied and has the authority to stipulate certain conditions relating to the use of the particular park.
- (4) Vehicles are not allowed in the parks without prior permission of the Chief Executive Officer or his or her delegate and then only for the preparation and setting up of equipment for the function.
- (5) Tents may not be erected in any park without prior permission of the Chief Executive Officer or his or her delegate.
- (6) Any damage to the underground services within the park due to unauthorized tent positioning or movement of vehicles will be repaired at the expense of the function's organizers.
- (7) No fires or any form of electric or gas grills are permitted in any park without prior permission of the Chief Executive Officer or his or her delegate.
- (8) Repeated disregard for the restrictions as stated in the reply from the Chief Executive Officer or his or her delegate may lead to future rejection of such applications from the particular individual, organization or charity.
- (9) The park must be kept in a clean condition after the function.
- (10) Approval by the Chief Executive Officer or his or her delegate may be refused or withdrawn if the event would give rise to public rioting, disturbance of the peace, the committing of an offence or that it would be detrimental to the park.

Structures

12. (1) A person may not, except with the approval of the Chief Executive Officer or his or her delegate, erect or establish in a park any structure or shelter.

(2) An application for approval to erect or establish a structure or shelter in a park must be made in writing to the Chief Executive Officer or his or her delegate.

(3) Except for camping sites, caravans or tents may be temporarily erected or parked in a park only with the written permission of the Chief Executive Officer or his or her delegate, and only at a site specifically set aside for that purpose.

Bush control

13. (1) The Council may conduct bush control operations on public open spaces as well as on undeveloped, vegetated and municipal owned land regardless of the zoning.

(2) The Council is not responsible for vegetation on private properties or those owned by institutions, the State, regional council or parastatals.

(3) Protected species may be pruned when required, and may not be removed.

(4) Private individuals, neighborhood groups or organizations may not interfere with the Council's bush control operations, or conduct their own clearing operations on municipal open spaces, as it amounts to trespassing and damage to municipal property.

Weed control

14. (1) The maintenance of vegetation on a sidewalk fronting a property, whether cultivated or invasive, remains the responsibility of that property owner or tenant.

(2) The Council is responsible for vegetation along road shoulders, municipal parking areas, municipal traffic islands, street intersections and sidewalks adjoining municipal property.

(3) The vegetation growing on the property of a municipal house (trees, plants, lawns, shrubs, potted plants or weeds) are the sole responsibility of the tenant thereof.

(4) The Council is not responsible for the weeding of privately owned undeveloped erf, such weeding is the responsibility of the owner of the erf.

(5) The maintenance of vegetation at the electrical substations is the responsibility of the Department of Electricity of the Council or the entity responsible for the distribution of electricity in the area.

Firebreaks

15. (1) The Council is not responsible for the provision or maintenance of firebreaks between any open space and adjoining properties.

(2) The Council is not liable for any damage to boundary walls, fences, thatched structures or any other private property damaged due to veld-fires occurring on adjacent open spaces.

(3) Residents are permitted to maintain a narrow strip (up to 3 meters) of land clear of wild grasses and shrubs, for the purpose of a firebreak, provided that no indigenous tree may be removed.

Invader species

16. (1) No tree of the *Prosopis* species may be propagated or cultivated within the Council as provided by section 29(1) of the Town Planning Scheme, approved by virtue of Proclamation No. 16 of 1 July 1976.

(2) The Council may chemically treat *Prosopis* trees on private property with the permission of the owner, whereafter the removal of such treated tree remains the responsibility of the owner.

(3) The planting of alien cacti species outside the perimeter fences, on open spaces, to secure boundaries is not permitted, and plants must be cleared during the subsequent bush control operations by the Council.

(4) The Council must comply with all legislation regarding alien invasive species, protected plant species and prohibited plant species.

Trees

17. (1) Trees may be planted on sidewalks fronting private properties with the permission of the Chief Executive Officer or his or her delegate once it has been ascertained that no underground services will be affected.

(2) Any indigenous tree occurring naturally on a sidewalk, especially protected species, may not be severely pruned or removed without the prior permission of the Council. (Tree species on the official list of protected trees occurring most commonly in the Council are: *Acacia erioloba*, *Albizia anthelminthica*, *Boscia albitrunca*, *Euclea pseudebenus*, *Marua schizii*, *Olea europaea* subsp *Africana*, *Rhus lancea* and all *Aloe* species).

(3) The Council reserves the right to refuse permission for indigenous tree removal if the reason for removal is not adequately founded and does not warrant the destruction of the specimen.

(4) Any cultivated tree which has been planted on a sidewalk by the adjoining tenant or owner is to be maintained by the tenant or owner, and may be pruned or felled as deemed necessary by that tenant or owner at his or her own cost.

(5) Any exotic tree, which has germinated and established itself on a sidewalk adjacent to a property with no human assistance or cultivation, remains the responsibility of the tenant or owner of that property.

(6) The Council reserves the right to prune any portion of a tree or shrub protruding over the boundary line into adjoining municipal land, including sidewalks, without the prior permission of the tenant or owner of the property from which the plant originates, especially where such protrusions interfere with pedestrians and vehicular traffic-flow, services and traffic signs.

(7) The Council reserves the right to decide on the fate of any tree whether exotic or indigenous, growing on its properties without consulting neighborhoods, communities or organizations.

(8) Branches interfering with overhead lines are to be controlled or pruned by the Council.

(9) A list of preferred tree species for planting on sidewalks, including a list of outlawed or unsuitable tree species, must be drawn up and maintained by the Council.

Camping site

18. (1) In respect of every camping site, the fees as approved by the Council in respect of the specific site must be paid.

(2) In respect of every fee paid in terms of sub regulation 1, a receipt or ticket must be issued which must be preserved by the person to whom it was issued and must, upon request, be produced to an authorized staff member.

Powers of staff members

19. (1) Any authorized staff member may at any time request any person in a park who, is in his or her opinion in contravention of any of these regulations to leave the park.
