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General Notice

ORANJEMUND TOWN COUNCIL

No. 44

2017

ORANJEMUND OUTDOORS ADVERTISING REGULATIONS: LOCAL AUTHORITIES ACT, 1992

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

H.E. COETZEE
CHAIRPERSON
BY ORDER OF THE COUNCIL

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Definitions

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

“advertising sign” means a written, graphic or pictorial representation of information which is displayed outdoors to advertise, announce or identify a person or to communicate information of any kind;

“Council” means the town council for the town of Oranjemund;

“subdivision” means subdivision as defined in section 1 of the Townships and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963);

“erf” means an erf as defined in section 1 of the Townships and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963), and includes a farm portion;

“owner” in relation to an advertisement means the person who -

- (a) owns the advertising structure;
- (b) will own the structure once it has been erected; or
- (c) has a right to or share in the ownership of the advertising structure;

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

“scheme” means the Oranjemund Town Planning Scheme approved under section 26(1) of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954) read with section 27(2) of that Ordinance;

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

“town area” means the area of the town of Oranjemund.

Prohibition on erection or display of advertising signs

2. (1) A person may not, in the town area, erect or display an advertising sign unless that person has obtained the written authorisation of the Council to do so.

(2) A person may not erect or display an advertising sign, if the advertising sign may -

- (a) constitute a danger to persons or property;
- (b) distract the attention of drivers of vehicles in a manner likely to lead to unsafe driving conditions;

- (c) be illuminated to the extent that it causes discomfort to or inhibits the vision of approaching pedestrians or drivers of vehicles;
 - (d) be attached to traffic signs or combined with traffic signs unless the attaching or combining is specifically authorised by the Road Traffic and Transport Act, 1999 (Act No. 23 of 1999);
 - (e) obscure traffic signs, create confusion with traffic signs, interfere with the functioning of traffic signs or create road safety hazards; or
 - (f) obscure the view of pedestrians or drivers, or obscure road or rail vehicles and road, railway or sidewalk features such as junctions, bends and changes in width.
- (3) A person may not -
- (a) place an advertising sign closer than the minimum clearance with regard to overhead power lines as prescribed by any law;
 - (b) erect an advertising sign which displays the colour red, yellow or green in the vicinity of a signalised intersection if the colour will constitute a road safety hazard;
 - (c) erect or display an advertising sign which has light sources which are visible to vehicles travelling in either direction; or
 - (d) erect an advertising sign without approval, if the approval is required by the Act, these regulations or any other law.

(4) A person who contravenes or fails to comply with subregulation (1), (2) or (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.

Application for authorisation to display advertising sign

3. (1) A person who intends to erect or display an advertising sign must, on a form determined by the Council, apply to the Council for authorisation to do so.

(2) A person who makes an application under subregulation (1) must ensure that the application is accompanied by -

- (a) a plan showing -
 - (i) the site where the advertising sign is to be erected or displayed and drawn to a scale of not less than 1:500;
 - (ii) the position of each building, if any, surrounding the site contemplated in subparagraph (i);
 - (iii) the position of installations of water, sewerage, storm water, drainage or electricity on the site contemplated in subparagraph (i); and
 - (iv) the dimensions of the advertising sign in relation to the boundaries of the site contemplated in subparagraph (i);
- (b) a drawing of the advertising sign which -

- (i) shows the information that will be displayed on the advertising sign, including the colour of the proposed sign and whether the sign is to be illuminated; and
 - (ii) is drawn to a scale of not less than 1:10;
- (c) a photograph showing the site where the advertising sign is to be erected or displayed and the proposed position of the sign;
- (d) a certificate, if an advertising sign is to remain on the site for more than 60 days, which certificate must -
- (i) be obtained from an engineer registered under the Engineering Profession Act, 1986 (Act No. 18 of 1986) or a person approved by the Council; and
 - (ii) give details to enable the Council to establish the ability of the proposed means of support of the sign to resist all loads and forces to which the sign may be exposed; and
- (e) the payment of a tariff determined by the Council under section 30(1)(u) of the Act.

(3) On receipt of the application contemplated in subregulation (1), the Council may request the applicant to submit to the Council any information which is reasonable and necessary in respect of the application.

Consideration of application for authorisation

4. (1) The Council must consider every application submitted to it in terms of regulation 3, and may, having regard to all accompanying documents and information -

- (a) grant the application without imposing any conditions;
- (b) refuse the application and in writing provide the applicant with reasons for the refusal; or
- (c) grant the application and impose conditions, including conditions limiting the period within which the advertising sign may be erected or displayed.

(2) If an application is granted under subregulation (1)(a) or (c), the Council must issue to the applicant a written authorisation to erect or display the advertising sign concerned, subject to the conditions, if any, imposed by the Council and specified in the written authorisation.

(3) A person may not -

- (a) alter, move or remove an advertising sign or its support structure without the written authorisation of the Council, but the owner of the sign may alter, move or remove the sign for the purposes of maintaining or renovating it; or
- (b) alter the electrical wiring system of an advertising sign without the written authorisation of the Council.

(4) The owner of an advertising sign must properly maintain the advertising sign together with its supports.

(5) The Council may retain for its record a copy of an application, plan, drawing and other documents submitted to the Council in respect of an application which has been granted.

Factors taken into consideration

5. In considering an application in terms of regulation 4, the Council takes into account the following factors:

- (a) the design, erection or display of an advertising sign must not -
 - (i) be detrimental to the environment or to the amenity of the residents in the town area by reason of either size, intensity, frequency, illumination, quality of design or materials or for any other reason;
 - (ii) constitute a danger to any person or property;
 - (iii) display any material which may reasonably be regarded as offensive or shown to be offensive to the public or an identifiable class of person;
 - (iv) obscure any other signs authorised in terms of these regulations;
 - (v) impair the visibility of any traffic sign;
 - (vi) contravene any law;
 - (vii) be detrimental or otherwise negatively impact on the area in which the proposed sign is to be erected or displayed, or the type of landscape in the area; or
 - (viii) be detrimental or otherwise negatively impact on the environment, whether artificial or natural or both; and
- (b) the number of advertising signs erected or displayed or to be erected or displayed on the area or site concerned.

Special requirements for certain signs

6. (1) An estate agent may only erect or display a notice containing -
- (a) the words “for sale”, “to let”, “on show” or “show house”; and
 - (b) the name, logo and contact details of the estate agent erecting or displaying the notice.
- (2) An auctioneer may only erect or display a notice containing -
- (a) the words “public auction” or, in the case of a sale in execution by order of court, the words “sale in execution”; and
 - (b) the date, time and place of the auction and the name, logo and contact details of the auctioneer erecting or displaying the notice.
- (3) An estate agent may not erect or display more than four notices in respect of an immovable property and the notice erected or displayed may not be further than a radius of one kilometre or more than three kilometres from the property so advertised.
- (4) An auctioneer may not erect or display more than four notices in respect of an auction and the notice erected or displayed may not be further than a radius of one kilometre or more than three kilometres from the place of auction.

(5) An estate agent may not erect or display a notice containing the words “on show” or “show house” more than 48 hours before the beginning of the show.

(6) An auctioneer may not erect or display a notice containing the words “public auction” or “sale in execution” more than 48 hours before the beginning of the auction.

(7) An estate agent must remove the notice contemplated in subregulation (1) not later than 48 hours after the sale, letting or showing of the immovable property.

(8) An auctioneer must remove the notice contemplated in subregulation (2) not later than 48 hours after the auction.

(9) A notice contemplated in subregulation (1) or (2) may not -

(a) be more than 1 metre in height, measured from the ground level immediately below the length of the notice;

(b) obscure motorists sight lines;

(c) be displayed less than 10 metres from the middle point of the outside curve of a corner measured from the middle point of that corner;

(d) be made with a material which is not strong and durable;

(e) have one notice above the other;

(f) be displayed against a transformer casing, illuminated advertising signs, traffic lights or signs, structure walls, pillars or fences, excluding a fence of the immovable property advertised, shelters, trees, refuse bins, bus shelters or lamp posts;

(g) have supports which are driven through a tarred or paved surface;

(h) be erected or displayed in a way which is likely to cause damage to any service which the Council is providing in that area;

(i) be within 1,5 metres from the driving surface of an adjoining street;

(j) obstruct vehicular or pedestrian traffic; or

(k) be displayed adjacent to any street determined by the Council from time to time.

(10) A notice erected or displayed in contravention of subregulations (1) to (9) inclusive, may be removed by any person authorised to do so by the Council.

(11) The cost of the removal pursuant to subregulation (10), may be recovered from the estate agent or the auctioneer who has erected or displayed the notice or has caused the notice to be erected or displayed.

Conditions applicable to advertising signs

7. (1) A person who erects or displays an advertising sign or causes an advertising sign to be erected or displayed must -

(a) ensure that the sign is securely erected or displayed so as not to cause damage to any property, plant, animal or person;

- (b) take measures to prevent damage which may be caused to the sign or its supporting structure;
- (c) ensure that electrical cables or conduct pipes which are connected to that sign are safe and covered in such a manner that they do not cause danger to any property, plant, animal or person;
- (d) comply with the law that governs the supply of electricity or electrical wiring of premises in the town area;
- (e) before connecting the advertising sign to any electricity supply point of the Council, obtain the written authorisation of the Council to connect the advertising sign; and
- (f) comply with any law that governs the construction of buildings in the town area.

(2) The owner of the property on which the advertising sign is erected or displayed and the owner of the advertising sign are both responsible for the installation, maintenance, controlling and removal of the advertising sign.

(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.

Non-compliance with conditions or instructions

8. (1) If a person who has been granted authorisation under regulation 4 fails to properly maintain the advertising sign or fails to comply with a condition imposed by the Council pursuant to regulation 4(1)(c), the Council may -

- (a) withdraw or amend the authorisation and in writing inform the person of the withdrawal or amendment; or
- (b) in writing, instruct the person or owner to repair or maintain the sign or to comply with any condition which the Council may determine, within a period specified by the Council in the instruction.

(2) If a person or an owner contemplated in subregulation (1)(b) fails to comply with an instruction or condition under that subregulation, the Council may -

- (a) remove the advertising sign to ensure compliance by the person or owner with the instruction or condition; and
- (b) recover from the person the tariff for the removal of the sign.

(3) Where an advertising sign has been removed pursuant to subregulation (2), the Council must return the advertising sign to the owner, if the owner or person whose advertising sign has been so removed -

- (a) gives a written undertaking, to the Council -
 - (i) not to erect or display the advertising sign; and
 - (ii) to comply with the conditions imposed pursuant to regulation 4(1)(c); and
- (b) pays to the Council the tariff for the removal contemplated in that regulation.

Withdrawal of authorisation

9. Despite regulation 8, the Council may in writing -
- (a) withdraw an authorisation granted to a person under regulation 4 after giving the person a prior written notice of the withdrawal and the reasons for the withdrawal;
 - (b) amend or withdraw a condition imposed under regulation 4(1)(c), after giving the person a prior written notice of the amendment or withdrawal and the reasons for the amendment or withdrawal; or
 - (c) impose new conditions on an authorisation granted under regulation 4, after giving the person a prior written notice of the new conditions and the reasons for the new conditions.

Reconsideration of decision of Council

10. (1) A person who is aggrieved by a decision of the Council made under these regulations may, within 30 days of receiving the decision, apply to a committee established by the Council pursuant to section 30(1)(w) of the Act for the reconsideration of the 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 committee contemplated in that subregulation -

- (a) must reconsider the decision of the Council; and
- (b) may -
 - (i) confirm the decision contemplated in paragraph (a);
 - (ii) rescind the decision contemplated in paragraph (a); or
 - (iii) rescind the decision contemplated in paragraph (a) and impose conditions which are necessary and reasonable in the circumstances.

(4) The chairman of the committee contemplated in subregulation (1) must, within 60 days of receiving an application made under subregulation (1), notify the applicant in writing of the decision the committee has made under subregulation (3)(b).

Advertising signs not requiring authorisation of Council

11. Despite regulation 2(1), the following advertising signs may be erected or displayed without the authorisation of the Council but the signs must satisfy the requirements of these regulations -

- (a) a sign displayed inside a building if the sign is not visible from a street;
- (b) a traffic sign;
- (c) a street address sign or a sign showing the name and address of the owner or occupant of a place but the sign may not exceed half a square metre in size;

- (d) a temporary sign on commercial properties which is painted directly on a window, affixed to the inside of a window, or hung within 12 metres of a window, promoting any message including but not limited to grand openings and special events whether commercial, non-commercial or both, but the size of the sign may not exceed 50 percent of each window area;
- (e) a sign affixed to a vehicle or trailer used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer;
- (f) a sign affixed to a vehicle displaying information on the terms of sale for the said vehicle;
- (g) a temporary garage sale sign but the size of the sign may not exceed two square metres;
- (h) an informational or directional sign of a public nature but the size of the sign may not exceed two squares metres;
- (i) a sign displayed in the air by any means if the sign does not cause environmental pollution;
- (j) a sign displayed during construction and for the duration of the construction, which -
 - (i) shows the name and particulars of the person carrying out the construction;
 - (ii) shows the name and particulars of the person on whose behalf the construction is being carried out; and
 - (iii) does not exceed 10 square metres;
- (k) a notice erected or displayed by -
 - (i) an estate agent, registered in terms of the Estate Agents Act, 1976 (Act No. 112 of 1976), and indicating that the property on which the notice is located is for sale, rent or lease; or
 - (ii) an auctioneer indicating that the property is for sale by way of auction, but the notice must be erected or displayed in accordance with regulation 6;
- (l) a sign, in an area zoned as “residential” in the scheme, showing the name, logo, address and telephone number of -
 - (i) a “resident occupation” referred to in the scheme;
 - (ii) a person to whom the Council has given “consent to use” under the scheme;
 - (iii) a person who is giving security services at the place; or
 - (iv) a person who is carrying out an activity which has been authorised by the Council,

but the size of the sign may not exceed two square metres and unless the person concerned is to give security services at the area, only one sign may be erected or displayed on each erf, farm portion or subdivision of the area;

- (m) a sign, in an area zoned as “general residential” or “undetermined” and which is mainly used or is intended to be used for residential purposes under the scheme, showing the name, logo, address and telephone number of -
- (i) a resident occupation referred to in the scheme;
 - (ii) a person to whom the Council has given consent to use under the scheme;
 - (iii) a person who is giving security services at the place; or
 - (iv) a person who is carrying out an activity which has been authorised by the Council,
- but the sign erected or displayed on each erf, farm portion or subdivision may not exceed two square metres and, unless the person concerned is to give security services at the area, only one sign may be erected or displayed on each erf, farm portion or subdivision;
- (n) a sign erected or displayed in an area zoned as “business”, “restricted business”, “garage”, “industrial” or “special” under the scheme and where business is the primary use as defined in the scheme but the height of the sign may not exceed five metres above the ground level and the sign may not go above the roof level of any building which is situated in that area;
- (o) a sign erected or displayed in an area zoned as “office” or “special” under the scheme and where business is not the primary use in terms of the scheme but the height of the sign may not go above the roof level of any building which is situated in the area and the area of the sign may not exceed two square metres;
- (p) a sign erected or displayed in an area reserved as “private open space” under the scheme but the height of the sign may not go above the roof level of any building which is situated in that area and the sign may not exceed 10 square metres;
- (q) a sign in an area zoned “institutional”, “undetermined”, “municipal” or “reserved for government”, “cemetery”, “transportation” or “communication” under the scheme but the sign must comply with the requirements of the Council;
- (r) a sign erected or, displayed by a candidate for presidential, parliamentary, local or regional authority elections -
- (i) at the residence or office of the candidate or at any other place authorised by the Council;
 - (ii) for the duration of the elections; and
 - (iii) not exceeding 10 square metres;
- (s) a sign contained in a book, newspaper, pamphlet or similar items but the distributor of the sign may not litter any place within the town area with the book, newspaper, pamphlet or items containing the sign; or
- (t) a painted sign or decal affixed to a body of a vehicle or person if the sign does not cause public nuisance.

Offences and penalties

- 12.** (1) A person commits an offence if that person -
- (a) contravenes or fails to comply with an instruction or requirement set out in a notice issued under these regulations and served on the person in accordance with section 93 of the Act;
 - (b) intentionally makes a false statement when making an application under these regulations;
 - (c) contravenes or fails to comply with these regulations other than a condition imposed pursuant to regulations 4(1)(c) or 9(b) or (c); or
 - (d) threatens, resists, hinders or obstructs a staff member of the Council while the staff member, pursuant to section 91 of the Act, performs a function under these regulations.
- (2) A person convicted of an offence under subregulation (1), is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

Presumptions

- 13.** In a prosecution for an offence under these regulations, unless evidence to the contrary is adduced -
- (a) the owner of land or premises from which the advertising sign was or is erected or displayed is considered to have erected or displayed that sign or to have caused it to be erected or displayed;
 - (b) a person who is responsible for the organising or control of a meeting, function or event to which an erected or displayed advertising sign relates is considered to have -
 - (i) erected or displayed the advertising sign; or
 - (ii) caused the advertising sign to be so erected or displayed; or
 - (c) a person whose name appears on an advertising sign is considered to have erected or displayed the advertising sign or to have caused the advertising sign to be erected or displayed.

Transition

- 14.** An advertising sign which lawfully existed at the date of commencement of these regulations, but which does not conform to these regulations must be removed or made to conform within 12 months from the date of commencement of these regulations.
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