

Karibib Town Council

ADVERTISING REGULATIONS

The Karibib Town Council, after consultation with the Minister of Regional, Local Government and Housing, has under section 94(1)(ae) of the Local Authorities Act, 1992 (Act 23 of 1992) and in relation to the Outdoor Advertising Regulations, made the Outdoor Advertising Regulation set out in the schedule.

D. Ipinge
BY ORDER OF THE COUNCIL
CHAIRPERSON OF THE COUNCIL

SCHEDULE

OUTDOOR ADVERTISING REGULATIONS

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Definitions

1. In these regulations a word or expression to which a meaning has been given in the Local Authorities Act, 1992 (Act 23 of 1992) shall bear that meaning and, unless the context otherwise indicates -

"Act" means the Local Authorities Act, 1992 (Act 23 of 1992);

"advertisement" means any written, graphic or pictorial representation of information which is erected, or displayed at any place for the purpose of conveying information about the existence of a product, service, event, place or anything of interest to any person but does not include a road traffic sign;

"advertisement hoarding" means any structure which is used or is intended to be used for the purpose of posting, exhibiting or displaying an advertisement;

"aerial advertisement" means any advertisement which is exhibited, displayed or performed in the air by any means;

"Council" means the Karibib Town Council which is constituted under section 6 of the Act and includes any officer or employee of the Council on whom the Council has delegated or assigned any power, function or duty which is to be exercised or performed under these regulations;

"Council area" means the local authority area of the Town Council of Karibib

"erf " means an erf as defined in section 1 of the Townships and Division of Land Ordinance 1963 (Ordinance 11 of 1963);

"estate agent" means an estate agent entitled to practice as such in terms of the Estate Agent's Act, No 112 of 1976 or a legal person entitled to do business as an estate agent in terms of that Act.

Definition inserted by G/N 84 of 2/4/2001

"estate agent's notice" means any written, graphic or pictorial representation of information which is temporarily displayed at any place for the purpose of conveying the fact that a residential property is for sale or to let or is being shown for promotion purposes and which notice does not exceed 0,5 m² when displayed on Council property.

Definition inserted by G/N 84 of 2/4/2001

"auctioneer's notice" means any written, graphic or pictorial representation of information which is temporarily displayed at any place for the purpose of conveying the fact that immovable or immovable property, or both, is for sale by public auction and which notice does not exceed 0,5 m² when displayed on Council property;

Definition inserted by G/N 84 of 2/4/2001

"horizontal banner" means an advertisement erected in air space over Council property which can take the form of, but is not limited to, a banner erected in air space over a public street;

Definition inserted by G/N 84 of 2/4/2001

"residential property" means any land zoned as "residential" in the scheme whether vacant or with a building on it;

Definition inserted by G/N 84 of 2/4/2001

"road traffic sign" means a road traffic sign as defined in section 1 of the Road Traffic Ordinance, 1967 (Ordinance 30 of 1967);

"scheme" means the Karibib Town Planning Scheme prepared under section 16 of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954); and

"subdivision" means a subdivisions as defined in section 1 of the Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963).

Advertisements on Council property, streets and public places

2. (1) Subject to the provisions of regulations 2A and 2B no person shall erect or display an advertisement on Council property, a street or a public place situated in the local authority area of the Council, unless, he or she has been given written authority to do so by the Council.

Subsection (1) subst by G/N 84 of 2/4/2001

(2) A person who wishes apply for authority to erect or display an advertisement on Council property, a street or a public place situated in the Council area shall complete the form approved by the Council and submit it to the Council.

(3) An application under subregulation (2) shall, unless the Council otherwise determines, be accompanied by -

- (a) a plan of the site on which the advertisement is to be erected or displayed and the plan must -
 - (i) be drawn to a scale of not less than 1:500;
 - (ii) show the position of each surrounding building on the site and the position of any Council water, sewerage, stormwater drainage, electricity installation or any other installation situated on the site; and
 - (iii) the dimensional position of the advertisement in relation to the boundaries of the site;
- (b) a drawing of the proposed advertisement and the drawing must -
 - (i) show the information which will be displayed on the advertisement as well as the colour of the proposed advertisement; and
 - (ii) be drawn to a scale of not less than 1:10;
- (c) a photograph of the site where the advertisement is to be erected or displayed and the proposed position of the advertisement must be shown on the photograph;
- (d) in the case of an advertisement which is to remain on the site for more than 60 days, a certificate from a person registered under the Engineering Profession Act, 1986 (Act 18 of 1986) and the certificate must indicate that the proposed advertisement when erected or displayed, will not be dangerous to any person or property; and
- (e) payment of the appropriate tariff set out in Schedule 1

Paragraph (e) subst by G/N 84 of 2/4/2001.

(4) On receipt of an application made under subregulation (2) the Council may -

- (a) allow the application without imposing any condition;
- (b) refuse the application and supply to the applicant written reasons for the refusal; or
- (c) allow the application and impose conditions, including conditions which restrict the period within which the advertisement can be erected or displayed, which are necessary and reasonable in the circumstances.

(5) Unless an application has been refused under subregulation (4)(b), the Council may retain any document which is submitted to it by a person making an application under this regulation.

(6) Unless authorised by the Council, no person shall move, remove or alter an advertisement which was erected or displayed under this regulation, but the owner of that advertisement or a person authorised by him or her, may, for the purpose of maintaining or renovating that advertisement, move, remove or alter it.

(7) Subject to the provisions of subregulation (6) of regulations 2A and 2B an advertisement erected or displayed under this regulation which advertisement is in a state of disrepair, is not being properly maintained or is erected or displayed in contravention of a condition imposed under this regulation, the Council may -

- (a) withdraw or amend the authority to erect or display that advertisement and advise the owner of that advertisement about the withdrawal or amendment in writing;
- (b) in writing, instruct the owner of that advertisement to repair or maintain that advertisement or to comply with any condition within a specified period; or
- (c) if the owner of the advertisement fails to comply with an instruction given under paragraph (b), remove the advertisement or do any act to ensure compliance with the condition and thereafter recover the actual costs incurred plus an administrative levy of 15% (fifteen per centum) from the owner of the advertisement; or
- (d) cause any advertisement removed in terms of paragraph (c) to be destroyed if not claimed within 30 (thirty) days of such removal by or on behalf of the owner thereof.

Subsection (7) subst by G/N 84 of 2/4/2001

(8) Notwithstanding subregulation (7), and when it is reasonable and necessary, the Council may in respect of an advertisement erected or displayed under this regulation-

- (a) after giving 30 days written notice to the owner of that advertisement, withdraw the authority to erect or display that advertisement;
- (b) after giving 30 days written notice to the owner of that advertisement, amend or remove a condition which was imposed when the authority to erect or display was granted; or
- (c) after giving 30 days written notice to the owner of that advertisement, impose a new condition for the erection or display of that advertisement.

Estate agents' notice

- 2A.(1)(a) An estate agent may display an estate agents' notice, subject to payment of the tariff contained in Schedule 1 hereto and to the provisions of these regulations, on sidewalks belonging to the Council without the prior approval of the Council.
- (2) An estate agents' notice may not contain information other than the words "for sale", "to let" or "on show" or "show house" and the name, logo and contact details of the estate agent displaying the notice.
- (3) No estate agent shall display more than four estate agents' notices in respect of a single residential property, which notices shall not be further than a radius of 1 kilometre from the property advertised.
- (4) An "on show" or "show house" notice may not be displayed more than 48 hours prior to commencement of the showing and all estate agents' notices must be removed not later than 48 hours after letting, sale, or end time of the showing of the residential property, as the case may be.
- (5) No estate agents' notice may:
 - (a) either be more than 1 metre in height measured from the mean ground level immediately below the length of the notice or obscure motorists sight lines;
 - (b) be displayed less than ten metres from the mid point of the outside curve of a corner measured from the mid point of such corner;
 - (c) be made with a material which is not strong and durable;
 - (d) have one notice above the other;
 - (e) be displayed against a transformer casing, illuminated advertising signs, traffic lights or signs, structure walls, pillars or fences, excluding a fence of the residential property advertised, shelters, trees, refuse bins, bus shelters or lamp posts;

- (f) have supports which are driven through a tarred or paved surface;
 - (g) be displayed in such a way as to damage any service whether belonging to the Council or not;
 - (h) be within 1,5 metres from the driving surface of an adjoining street;
 - (i) in the opinion of a Traffic Officer endanger or obstruct vehicular or pedestrian traffic; or
 - (j) be displayed adjacent to any street mentioned in Schedule 2 hereto.
- (6) (a) Any estate agents' notice displayed in conflict with the provisions of these Regulations may be removed by any person instructed thereto by the Council.
- (b) The cost of removal of any notice in terms of paragraph (a) shall be the actual cost of removal plus an administrative levy of 15% (fifteen per cent) and may be recovered from the estate agent displaying, or causing to be displayed, any such notice.
- (7) In this regulation the meaning of the words "display", "displayed" and "displaying" in relation to an estate agents' notice shall include:
- (a) the driving of the supports of such notice into the ground;
 - (b) the affixing of such notice to any structure in any way; and
 - (c) the supporting of such notice by the ground, any artificial surface or any structure.

Auctioneer's notice

2B. (1) An auctioneer may display an auctioneer's notice, subject to payment of the tariff contained in Schedule 1 hereto and to the provisions of these regulations, on sidewalks belonging to the Council without the prior approval of the Council.

(2) An auctioneer's notice may not contain information other than the words "public auction", or in the case of a sale in execution by order of Court the words "sale in execution", the date, time and place of the auction and the name, logo and contact details of the auctioneer agent displaying the notice.

(3) No auctioneer shall display more than four auctioneer's notices in respect of any single auction, which notices shall not be further than a radius of 1 kilometre or more than 2 kilometres from the place where the auction will take place.

(4) An auctioneer's notice may not be displayed more than 48 hours prior to commencement of the auction and all auctioneer's notices must be removed not later than 48 hours after the auction to which they relate.

- (5) No auctioneer's notice may:
- (a) either be more than 1 metre in height measured from the mean ground level immediately below the length of the notice or obscure motorists sight lines;
 - (b) be displayed less than ten metres from the mid point of the outside curve of a corner measured from the mid point of such corner;
 - (c) be made with a material which is not strong and durable;
 - (d) have one notice above the other;
 - (e) be displayed against a transformer casing, illuminated advertising signs, traffic lights or signs, structure walls, pillars or fences, excluding a fence of the residential property advertised, shelters, trees, refuse bins, bus shelters or lamp posts;
 - (f) have supports which arc driven through a tarred or paved surface;
 - (g) be displayed in such a way as to damage any service whether belonging to the Council or not;
 - (h) be within 1,5 metres from the driving surface of an adjoining street;
 - (i) in the opinion of a Traffic Officer endanger or obstruct vehicular or pedestrian traffic; or
 - (j) be displayed adjacent to any street mentioned in Schedule 2 hereto.
- (6) (a) Any auctioneer's notice displayed in conflict with the provisions of these Regulations may be removed by any person instructed thereto by the Council.
- (b) The cost of removal of any notice in terms of paragraph (a) shall be the actual cost of removal plus an administrative levy of 15% (fifteen per cent) and may be recovered from the estate agent displaying, or causing to be displayed, any such notice.

(7) In this regulation the meaning of the words "display", "displayed" and "displaying" in relation to an auctioneer's notice shall include:

- (a) the driving of the supports of such notice into the ground;
- (b) the affixing of such notice to any structure in any way; and
- (c) the supporting of such notice by the ground, any artificial surface or any structure.

Advertisements on other property

3. (1) Subject to regulation 2, 2A, 2B and 4, no person shall, in the local authority area or the Council, erect or display an advertisement in or on any place, unless he or she has been authorised thereto in writing by the Council.

Subregulation (1) subst by G/N 84 of 2/4/2001

(2) A person who wishes to obtain the written authority contemplated in subregulation (1) shall, subject to necessary changes, comply with the procedures laid down in regulation 2 and any authority granted by the Council shall be granted and used in accordance with that regulation.

Authorised advertisements

4. (1) Notwithstanding regulation 3, a person may erect or display an advertisement at any place other than the places referred to in regulations 2 if -

- (a) that advertisement falls under subregulation (2);
- (b) that advertisement is not prohibited by regulation 5;
- (c) that advertisement complies with regulation 6; and
- (d) the owner of the property on which that advertisement is to be erected or displayed has consented in writing to the erection or display of that advertisement.

(2) Subject to subregulation (1), a person does not require the Council's authority before he or she can erect or display any of the following advertisements -

- (a) an aerial advertisement as long as the advertisement does not cause environmental pollution or produce excessive noise;
- (b) an advertisement showing the street number of a place or an advertisement showing the name and address of the occupant or owner of a place as long as that advertisement does not exceed half a square metre in area;
- (c) in an area zoned as residential under the scheme, an advertisement showing the name, logo, address and telephone number of -
 - (i) a resident occupation referred to in the scheme;
 - (ii) a person to whom under the scheme, consent use has been given by the Council,

- (iii) a person who has been engaged to give security services at the place or a neighbourhood watch body; or
- (iv) a person who at the place, is doing an activity which has been approved in writing by the Council,

can be erected or displayed as long as the advertisement does not exceed one square metre in area and only one advertisement is erected or displayed on each erf, farm portion or subdivision;

- (d) in an area zoned general residential or undetermined and which is predominately used or is intended to be used for residential purposes under the scheme, an advertisement showing the name, logo, address and telephone number of -

- (i) a resident occupation referred to in the scheme;
- (ii) a person to whom, under the scheme, consent has been given by the Council;
- (iii) a person who has been engaged to give security services at the place, or a neighbourhood watch body; or
- (iv) a person who at the place, is doing an activity which has been approved in writing by the Council,

can be erected or displayed as long as the advertisement erected or displayed on each erf, farm portion or subdivision does not exceed two square metre in area, and unless the person concerned is engaged to give security services at the place or is a neighbourhood watch body, only one advertisement is erected or displayed on each erf, farm portion or subdivision;

- (e) 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, any advertisement can be erected or displayed as long as the height of that advertisement does not exceed five metres above the natural ground level and the advertisement does not go above the roof level of any building which is situated in that area;
- (f) in an area zoned as office or special under the scheme, and where business is not the primary use as defined in the scheme, any advertisement can be erected or displayed as long as the height of that advertisement does not go above the roof level of any building which is situated in that area and the area of that advertisement does not exceed two square metres;
- (g) in an area zoned as institutional, undetermined, municipal or reserved for government, cemetery or transport and communication under the

scheme, any advertisement can be erected or displayed as long as it complies with the requirements of paragraph (d);

- (h) in an area reserved as private open space under the scheme, any advertisement can be erected or displayed as long as the height of that advertisement does not go above the roof level of any building which is situated in that area and the area of that advertisement does not exceed ten square metres;
- (i) where construction is taking place, an advertisement can be erected or displayed for the duration of the construction and that advertisement shall -
 - (i) show the name and particulars of the person carrying out the construction;
 - (ii) show the name and particulars of the person on whose behalf the construction is being carried out; and
 - (iii) not exceed ten square metres in area;
- (j) an advertisement can be erected or displayed by a candidate during Presidential, parliamentary, regional council or local authority elections as long as that advertisement -
 - (i) is erected or displayed at the residence or office of the candidate;
 - (ii) is erected or displayed for the duration of the election; and
 - (iii) does not exceed ten square metres in area;
- (k) an advertisement which is erected or displayed in the interior of a building as long as that advertisement is not visible from a street or public place;
- (l) a handbill, leaflet or an advertisement which is contained in a book, newspaper or pamphlet as long as the distributor does not litter any place which is situated within the Council area; or
- (m) an advertisement which is affixed to a person or vehicle, excluding a vehicle which is used exclusively for the purposes of advertising or erecting or displaying an advertisement, as long as that advertisement does not disrupt the movement of people or traffic.

Prohibited advertisements

- 5. No person, shall in the Council area, erect or display an advertisement -
 - (a) which obscures a road traffic sign;
 - (b) which contravenes any law which is applicable to Namibia;

- (c) which obstructs the flow of light or air into or out of a building or obstructs the movement of people into, within or out of a building unless the person concerned has obtained the consent of the owner or occupant of that building;
- (d) which obscures an advertisement which was lawfully erected or displayed by another person, unless that other person consents to the erection or display of that advertisement;
- (e) which is dangerous to any, person or property;
- (f) which interferes with the enjoyment of the environment or obscures viewing of a place or thing which the Council may determine;
- (g) which obscures the viewing of a thing or place which has been declared a national monument in terms of section 10 of the National Monuments Act, 1969 (Act 28 of 1969) unless permission to erect or display that advertisement has been obtained from the National Monuments Council established under that Act; and
- (h) by affixing it to, or by placing it onto, a vehicle unless the owner of that vehicle consents to the erection or display of that advertisement onto the vehicle.

Conditions applicable to advertisements

- 6. (1) A person who, under these regulations, erects or displays an advertisement or causes an advertisement to be erected or displayed shall -
 - (a) ensure that the advertisement is securely erected or displayed and that it does not cause damage to any property, animal, or plant;
 - (b) not, on any place other than an advertisement hoarding or a structure approved by the Council, use water soluble adhesive, adhesive tape or other similar material to secure the advertisement;
 - (c) take measures to prevent damage to that advertisement or its supporting structure by water;
 - (d) ensure that electrical cables or conduit pipes which are connected to that advertisement are safe, and covered in such a manner that they do not pose danger to any property, plant, animal or person;
 - (e) comply with any law which governs the supply of electricity or the electrical wiring of premises in the Council area;
 - (f) prior to connecting the advertisement to any electricity supply point, obtain the written permission of the Council; and

- (g) comply with any law which governs the construction of buildings in the Council area;
- (2) The owner of property on which an advertisement is erected or displayed and the owner of any advertisement are both jointly and severally responsible for the maintenance and repair of that advertisement.
- (3) A person who, whilst erecting, displaying or removing an advertisement, intentionally causes damage to any plant, animal, property or Council service commits a crime and is liable on conviction to the penalties provided for in regulation 9.

Powers of Council

- 7. (1) Where an advertisement is not repaired or is not being properly maintained or poses a danger to any person or property, the Council may serve a written notice on the owner of that advertisement if known, or on the owner or occupier of the place or premises on which the advertisement is erected or displayed.
- (2) A notice referred to in subregulation (1) shall -
 - (a) advise the recipient about the nature of the complaint;
 - (b) request the recipient to repair or maintain the advertisement within a specified period;
 - (c) inform the recipient that if he or she fails to repair or maintain the advertisement within the specified period, the Council may repair or maintain that advertisement, and thereafter recover the cost of doing so from the recipient.
- (3) If at the end of the period specified in subregulation (2), the recipient fails to repair or maintain the advertisement, the Council may repair or maintain that advertisement and thereafter recover the cost from the person on whom the notice under subregulation (1) was served.
- (4) Where a person erects or displays an advertisement in contravention of these regulations or conditions, including conditions relating to time limits, imposed by the Council, or where a person erects or displays an advertisement which is prohibited by regulation 5 the Council may -
 - (a) in the case of a prohibited advertisement, serve a written notice on the person who erected or displayed that advertisement if known, the owner of that advertisement and the owner of the property where that advertisement is situated; or

- (b) in any other case serve a notice on the owner of that advertisement.
- (5) A notice referred to in subregulation (4) shall -
 - (a) advise the person concerned to comply with these regulations or a condition, including a condition relating to time limits, imposed by the Council within a specified period; or
 - (b) in the case of a prohibited advertisement, order the person concerned to remove the advertisement immediately.
- (6) If a person fails to comply with a notice given under subregulation (4), the Council may remove, deface, obliterate or destroy the advertisement or take any other remedial action which is necessary and reasonable in the circumstances and thereafter recover any costs incurred from the person who failed to comply with that notice.
- (7) Any action taken by the Council under this regulation shall be in addition to any penalty imposed under regulation 9 for contravening these regulations.
- (8) For the purposes of enforcing these regulations any officer or employee of the Council may exercise the powers conferred by section 91 of the Act.
- (9) A notice required to be served under these regulations shall be served in compliance with section 93 of the Act.

Reconsideration of decision

- 8. (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) shall be in writing and shall contain the grounds on which the decision should be reconsidered.
- (3) On receipt of an application made under this regulation, the Council shall reconsider its decision and may -
 - (a) reverse the earlier decision;
 - (b) reverse the earlier decision and impose conditions, including conditions relating to time limits, which are necessary and reasonable in the circumstances; or
 - (c) confirm the earlier decision.

- (4) The Council shall, within 60 days of receiving an application under this regulation, notify the applicant in writing of the decision made under subregulation (3).

Offences and penalties

9. (1) A person who -
- (a) in the Council area, erects, displays or uses an advertisement or causes an advertisement to be erected, displayed or used contrary to these regulations;
 - (b) in the Council area, erects, displays or uses a prohibited advertisement or causes a prohibited advertisement to be erected, displayed or used;
 - (c) contravenes or fails to comply with a requirement set out in a notice issued and served on him or her under these regulations;
 - (d) intentionally makes a false statement when making an application under these regulations; or
 - (e) contravenes or fails to comply with any provision of these regulations or a condition, including a condition relating to time limits, imposed under these regulations,
- 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 or to both the fine and imprisonment.
- (2) In a prosecution for an offence under these regulations -
- (a) the owner of land or a building on which an advertisement was erected or displayed is deemed to have erected or displayed that advertisement or caused it to be erected or displayed;
 - (b) any person who was, either alone or jointly with any other person, responsible for organising, or was in control of, any meeting, function or event to which an advertisement relates, is deemed to have erected or displayed any advertisement erected or displayed in connection with that meeting, function or event or to have caused or allowed that advertisement to be erected or displayed; and
 - (c) any person whose name appears on an advertisement is deemed to have erected or displayed that advertisement or to have caused or allowed that advertisement to be erected or displayed;
- unless the contrary is proved.

Savings

10. (1) Anything which was done under the repealed regulations and prior to the commencement of these regulations is deemed to have been done under these regulations and is valid for all purposes.
- (2) An application which was made to the Council under the repealed regulations and prior to the commencement of these regulations shall be determined in accordance with the repealed regulations.
- (3) The owner of an advertisement which, with the authorisation of the Council, was erected or displayed before the commencement of these regulations and the owner of the property on which an advertisement was, with the authorisation of the Council, erected or displayed before the commencement of these regulations shall, within 12 months after the commencement of these regulations, remove that advertisement, if that advertisement is prohibited by these regulations, or alter that advertisement to comply with these regulations, if it does not comply with these regulations.

SCHEDULE 1

Type of advertisement	Period	Tariff
Air space signs	Indefinite	N\$1 500.00 per sign
Auctioneer's notice	Twelve months	N\$2 500.00
Estate agent's notice	Twelve months	N\$2 500.00 /m2
Flags on Council Property	Per event	N\$ 225.00
Handbills, leaflets and pamphlets	Not applicable	Nil
Horizontal banners	Per event	N\$ 225.00
Mobile A Frame adv/crts	Per day	N\$ 225.00
Posters	Per event	N\$ 225.00
Vertical Banners on lamp poles	Per event	N\$ 2250.00 per month/per lamp Poles