



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

NS\$7.80

WINDHOEK - 3 September 2020

No. 7327

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MINISTRY OF URBAN AND RURAL DEVELOPMENT

No. 222 2020

COMMENCEMENT OF THE URBAN AND REGIONAL PLANNING ACT, 2018

In terms of section 135(1) of the Urban and Regional Planning Act, 2018 (Act No. 5 of 2018), I determine that the Act comes into operation on the date of publication of this notice in the *Gazette*.

E.UUTONI

MINISTER OF URBAN AND RURAL DEVELOPMENT

Windhoek, 14 August 2020

MINISTRY OF URBAN AND RURAL DEVELOPMENT

No. 223 2020

REGULATIONS RELATING TO URBAN AND REGIONAL PLANNING: URBAN AND REGIONAL PLANNING ACT, 2018

In terms of section 131 of the Urban and Regional Planning Act, 2018 (Act No. 5 of 2018), I have -

(a) made the regulations set out in the Schedule; and

- (b) repealed the following regulations -
- (i) the Townships Board regulations published under Government Notice No. 165 of 15 September 1973;
 - (ii) the Town Planning regulations published under Government Notice No. 102 of 1 June 1974;
 - (iii) the regulations relating to fees charged, under the Township and Division of Land Ordinance, 1963 (Ordinance No. 11 of 1963), published under Government Notice No. 10 of 1 February 2008; and
 - (iv) the regulations relating to fees charged, under the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954), published under Government Notice No. 11 of 1 February 2008.

E. UUTONI**MINISTER OF URBAN AND RURAL DEVELOPMENT**

Windhoek, 14 August 2020

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PART 1
INTRODUCTORY PROVISIONS

Definitions

1. In these regulations a word or expression to which a meaning has been assigned in the Urban and Regional Planning Act, 2018 (Act No. 5 of 2018) has that meaning unless the context otherwise indicates -

“registered owner” means a person registered as the owner of the land in the deeds registry as defined in section 1 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“town and regional planner” means a person who is registered or deemed to be registered as a town and regional planner with the Namibia Council for Town Planners in terms of the Town and Regional Planners Act, 1996 (Act No. 9 of 1996); and

“the Act” means the Urban and Regional Planning Act, 2018 (Act No. 5 of 2018).

PART 2
DECLARATION OF AUTHORISED PLANNING AUTHORITIES

Declaration of authorised planning authority

2. (1) For the purposes of section 16(2) of the Act, a local authority is considered to have capacity if it has -

- (a) at least one staff member in its employment who is a town and regional planner with at least three years post registration experience in dealing with matters relating to spatial planning as required to be dealt with by an authorised planning authority in terms of the Act; or
- (b) contracted a town and regional planner with at least three years post registration experience in dealing with matters relating to spatial planning as required to be dealt with by an authorised planning authority in terms of the Act.

(2) A local authority intending to be declared as an authorised planning authority in terms of section 16(1) of the Act must in writing apply to the Minister and the application must be accompanied by -

- (a) proof of approval of the local authority's urban structure plan; and
 - (b) particulars demonstrating that the local authority has the capacity referred to in subregulation (1).
- (3) The Minister must consider an application received in terms of subregulation (2), and may -
- (a) approve the application and in terms of section 16(1) of the Act declare the local authority as an authorised planning authority for the local authority area concerned; or
 - (b) refuse the application and in writing inform the local authority of the decision and the reasons for the decision.

PART 3
PREPARATION OF NATIONAL SPATIAL DEVELOPMENT FRAMEWORK,
REGIONAL STRUCTURE PLAN AND URBAN STRUCTURE PLAN

Notice of preparation of draft national spatial development framework, regional structure plan and urban structure plan

3. (1) In terms of section 22(2)(a) of the Act the Permanent Secretary must give notice, of the preparation of a draft national spatial development framework, once a week for two consecutive weeks in the official language in at least two newspapers circulating widely in Namibia.

(2) In terms of section 28(2)(a) of the Act the regional council or the Permanent Secretary must give notice, of the preparation of a draft regional structure plan, once a week for two consecutive weeks in the official language in at least two newspapers circulating widely in Namibia.

(3) In terms of section 34(2)(a) of the Act the local authority or the Permanent Secretary must give notice, of the preparation of a draft urban structure plan, once a week for two consecutive weeks in the official language in at least two newspapers circulating widely in Namibia.

PART 4
FORM AND CONTENT OF NATIONAL SPATIAL DEVELOPMENT FRAMEWORK,
REGIONAL STRUCTURE PLAN AND URBAN STRUCTURE PLAN

Form and content of national spatial development framework, regional structure plan and urban structure plan

4. For purposes of section 21(c) read with section 22(3)(a), section 27(c) read with section 28(4)(a) and section 33(c) read with section 34(4)(a) of the Act, the national spatial development framework, regional structure plan and urban structure plan must also contain the following information:

- (a) background information, including the following:
 - (i) national setting and geography;
 - (ii) major planning subjects;
 - (iii) planning, implications and conclusions; and
- (b) planning policies and proposals, including the following -
 - (i) purpose and overall strategy;
 - (ii) development proposals; and
 - (iii) implementation of the framework or plan.

PART 5
PUBLIC PARTICIPATION PROCESS
FOR PURPOSES OF NATIONAL SPATIAL DEVELOPMENT FRAMEWORK, REGIONAL
STRUCTURE PLAN AND URBAN STRUCTURE PLAN

Public participation process for purposes of national spatial development framework, regional structure plan and urban structure plan

5. In addition to complying with section 22(2)(a), 28(2)(a) and 34(2)(a) of the Act, the functionary required to give notice in terms of those sections must -

- (a) hold consultations with government offices, ministries and agencies as well as stakeholders identified by the functionary as affected by or likely to be affected by or to have an interest in the preparation of the national development framework, regional structure plan or urban structure plan;
- (b) submit proof, of consultations held and inputs received in respect of the national development framework, regional structure plan or urban structure plan, to the functionary who is authorised by the Act to make recommendations on or to approve the national development framework, regional structure plan or the urban structure plan; and
- (c) keep records of the persons and institutions consulted and the inputs received in respect of the national development framework, regional structure plan or urban structure plan.

PART 6
PROVISIONS RELATING TO ZONING SCHEMES

Contents of zoning scheme

6. In terms of section 42(1)(d) of the Act a zoning scheme must in addition to the matters specified in section 42(1) of the Act contain the following information:

- (a) a set of clauses containing provisions prohibiting and regulating the development of the land under a preliminary draft zoning scheme in the area pertaining to that scheme;
- (b) a scheme map showing the details of the draft zoning scheme;
- (c) any comments and objections received relating to the preparation of the zoning scheme;
- (d) a report motivating the proposals in the zoning scheme; and
- (e) set of clauses containing details of the matters set out in Annexure 1 to these regulations.

Notice of application of draft zoning scheme

7. (1) After the Board has received the application for approval of a zoning scheme as contemplated in section 45(3) of the Act, the Board must give notice, as required by section 45(4) of the Act, once a week for two consecutive weeks in the official language in at least two newspapers circulating widely in Namibia.

(2) The notice referred to in subregulation (1) must indicate the information referred to in section 45(4) and (5) of the Act.

Time for holding hearing and making recommendation to Minister in respect of an application for approval of zoning scheme

- 8.** For the purpose of section 46(8) of the Act the Board must -
- (a) hold a hearing in terms of section 46(1) of the Act within 30 days after the date of expiry of lodging objections under section 45(4) of the Act; and
 - (b) make recommendation to the Minister under section 46(7) of the Act within 30 days after the date of finalisation of the hearing contemplated in regulation 14.

Compensation

9. For purposes of section 59(1) of the Act, if -

- (a) at the coming into operation of a zoning scheme; or
- (b) by the execution of work by a local authority under a zoning scheme which came into operation,

any land or building is increased in value, the local authority responsible for the enforcement of that zoning scheme may within twelve months after the date of coming into operation of that zoning scheme or within twelve months after the completion of the work, recover from the owner whose

land or building is so increased in value an amount not exceeding seventy five percent of the amount of that increase.

PART 7
APPLICATIONS IN TERMS OF CHAPTER 9 OF ACT

Giving notice of application in terms of Chapter 9 of Act

10. (1) For purposes of sections 99(1), 107(1) and 117 of the Act, notification of applications made under section 97(1)(a),(b),(c),(d) and (f), section 104(1)(a), (b), (c), (d) and (f), section 105(1)(a), (b), (c), (d) and (f), section 114(1)(a), (b), (c), (d) and (f) and section 115(1)(a), (b), (c), (d), (e) and (g) of the Act, must be made by notice in the *Gazette*.

(2) For purposes of sections 99(1), 107(1) and 117 of the Act, in addition to the notice referred to in subregulation (1), the notice of applications relating to rezoning land made under section 97(1)(a), section 104(1)(a), section 105(1)(a), section 114(1)(a) and section 115(1)(a) of the Act, must be published once a week for two consecutive weeks in the official language in at least two newspapers circulating widely in Namibia.

(3) For purposes of section 99(1), section 107(1) and section 117 of the Act, in addition to the notice referred to in subregulation (1), the notice of applications relating to establishment of townships made under section 97(1)(b), section 104(1)(b), section 105(1)(b), section 114(1)(b) and section 115(1)(b) of the Act, must be published once a week for two consecutive weeks in the official language in at least two newspapers circulating widely in Namibia.

(4) For purposes of section 99(1), section 107(1) and section 117 of the Act, in addition to the notices referred to in subregulation (1) and (2) a person intending to make an application relating to rezoning of land, subdivision of land or consolidation of land under section 97(1)(a) and (e), section 104(1)(a) and (e), section 105(1)(a) and (e), section 114(1)(a) and (e) and section 115(1)(a) and (f) of the Act, must -

- (a) in writing notify neighbouring land owners of the intention to make that application;
- (b) in writing provide an explanation to the neighbouring land owners of the purpose of the application; and
- (c) provide proof to the relevant functionary that paragraphs (a) and (b) have been complied with, and the proof must, where applicable, include the response of the neighbouring land owners with regard to the application.

Contents of notice of application in terms of Chapter 9 of Act

11. The notice of applications referred to in subregulation 10(1), (2) and (3) must -

- (a) indicate purpose of the application and identify the land concerned;
- (b) indicate the name, postal address, telephone or cellular phone number, fax number and e-mail address of the applicant;
- (c) state where the copy of the application, layout plans, diagrams and other documents required by the relevant functionary in terms of the Act, may be inspected;
- (d) state that a person having objections or comments to the application, may lodge such objections and comments, together with the reasons for the objection, in writing with the relevant functionary and with the applicant within 14 days from the date of the

last publication of the notice in the newspapers or from the date of the publication in the *Gazette*; and

- (e) state the person to whom and the address to which objections and comments may be submitted.

Additional method of giving notice of applications in terms of Chapter 9 of Act

12. In addition to notifying an application in a newspaper, a notice referred to in regulation 10(2) must be displayed for a period of 14 days in the official language -

- (a) in a visible place on the land which is the subject of the application, with the letter size being not less than three centimetre and containing the particulars referred to in regulation 11;
- (b) on the notice board of the relevant functionary or any other place provided for at the offices of the relevant functionary, and the notice must contain the particulars referred to in regulation 11; and
- (c) in any other manner determined by the relevant functionary.

Manner of applications in terms of Chapter 9 of Act

13. (1) The information and documents required in terms of the Act in respect of each application under Chapter 9 of Act must be submitted and be attached to the relevant application.

(2) An application in terms of Chapter 9 of Act must be signed and submitted by the registered owner of the land.

(3) A person authorised by a registered owner to submit a document, which binds or is intended to bind that registered owner, must submit such document with a power of attorney or other documents which empower that person to act in the registered owner's capacity.

Hearings in respect of applications in terms of Chapter 9 of Act

14. (1) For purposes of section 100(1) of the Act the authorised planning authority must within 14 days after the lodging of objections referred to in sections 99(1) and 107(1) of the Act, determine the date, place and time for the hearing of an application for -

- (a) the rezoning of land under sections 97(1)(a) and 104(a) of the Act;
- (b) establishment of a township under sections 97(1)(b) and 104(b) of the Act;
- (c) the alteration of the boundaries of an approved township under sections 97(1)(c) and 104(c) of the Act;
- (d) the disestablishment of an approved township or a portion of an approved township under sections 97(1)(d) and 104(d) of the Act;
- (e) the subdivision or consolidation of land under sections 97(1)(e) and 104(e) of the Act; and
- (f) the alteration, suspension or deletion of conditions relating to land under sections 97(1)(f) and 104(a) of the Act.

(2) For purposes of section 108(1) of the Act the relevant functionary must within 14 days after the lodging of objections referred to in section 107(1) decide to hold a hearing in respect of an application for -

- (a) rezoning of land under sections 105(1)(a) and 114(a) of the Act;
- (b) establishment of a township under sections 105(1)(b) and 114(b) of the Act;
- (c) the alteration of the boundaries of an approved township under sections 105(1)(c) and 114(c) of the Act;
- (d) the disestablishment of an approved township or a portion of an approved township under sections 105(1)(d) and 114(d) of the Act;
- (e) the subdivision or consolidation of land under sections 105(1)(e) and 114(e) of the Act;
- (f) the alteration, suspension or deletion of conditions relating to land under sections 105(1)(a) and 114(a) of the Act,

and if it decides to hold a hearing, must determine the date, place and time for the hearing.

(3) For purposes of sections 112(1) and 118(1) of Act, the Board must within 14 days after the lodging of objections referred to in sections 109(5) and 117(1) of the Act, determine the date, place and time for the hearing of an application for -

- (a) the rezoning of land under sections 105(1)(a) and 114(a) and 115(1)(a) of the Act;
- (b) the establishment of a township under sections 105(1)(b) and 114(b) and 115(1)(b) of the Act;
- (c) the alteration of the boundaries of an approved township under sections 105(1)(c) and 114(c) and 115(1)(c) of the Act;
- (d) the disestablishment of an approved township or a portion of an approved township under sections 105(1)(d) and 114(d) and 115(1)(d) of the Act;
- (e) the subdivision or consolidation of land under sections 105(1)(e) and 114(e) and 115(1)(f) of the Act;
- (f) the alteration, suspension or deletion of conditions relating to land under sections 105(1)(a) and 114(a) and 115(1)(g) of the Act; and
- (g) the change of name of an approved township under section 115(e) of the Act.

Recommendation by to the Board in respect of certain applications

15. For purposes of section 109(1) of the Act, a local authority or an authorised planning authority must make a recommendation on an application contemplated in section 105(1) of the Act within 30 days after conducting a hearing contemplated in regulation 14.

Prescribed time for making decision on applications

16. For purposes of section 101(1) of the Act, an authorised planning authority must decide on an application for -

- (a) the rezoning of land under section 97(1)(a) of the Act;
- (b) the establishment of a township under section 97(1)(b) of the Act;
- (c) the alteration of the boundaries of an approved township under section 97(1)(c) of the Act;
- (d) the disestablishment of an approved township or a portion of an approved township under section 97(1)(d) of the Act;
- (e) the subdivision or consolidation of land under section 97(1)(e) of the Act; and
- (f) the alteration, suspension or deletion of conditions relating to land under section 97(1)(f) of the Act,

within 30 days after receiving an application in terms of in section 97(1) of the Act, or after conducting a hearing on an application as contemplated in regulation 14.

PART 8 ADDITIONAL PROVISIONS RELATING TO SUBDIVISION AND CONSOLIDATION OF LAND

Lodging of deeds, plans, diagrams and other documents with Surveyor-General and Registrar of Deeds

17. An owner contemplated in section 91(1) of the Act must within six months after the date on which the Surveyor-General has approved the general plan and diagram, lodge with the Registrar of Deeds -

- (a) the approved general plan;
- (b) the original subdivision of land certificate;
- (c) the consolidation of land approval; and
- (d) proof of payment of endowment, if applicable.

PART 9 GENERAL PROVISIONS

Appeals

18. For purposes of section 131(1)(f) of the Act and subject to section 129 of the Act an appeal in terms of the Act must be -

- (a) must be made within 21 days from the date on which the action or decision is taken;
- (b) be accompanied by the applicable fee specified in Annexure 2;
- (c) must state the grounds for the appeal.

Fees

19. (1) The fees required to be paid in terms of section 131(1)(g) of the Act are specified in Annexure 2.

(2) The fees specified in Annexure 2 apply until the relevant functionary determines and publishes fees in terms of section 131(2) of the Act.

(3) Any fee payable to the Ministry or the Board in terms of subregulation (1) must be paid at the office of the Receiver of Revenue or the head office of the Ministry responsible for finance and proof of such payment must be submitted together with the approval or the application concerned.

PART 1 OF ANNEXURE 1

MINISTRY OF URBAN AND RURAL DEVELOPMENT

ZONING SCHEME CONTENTS

1. A brief history of the growth of the local authority area with special reference to population, traffic, built-up areas, commercial and industrial areas.
2. Physical characteristics, with particular reference to topography and contours, geology, rainfall, temperature, winds and flood areas.
3. Land utilisation, with maps illustrating usages and different activities of the area, such as residential, commerce, industry, public buildings, open spaces, parks, recreation grounds, conservation, transportation and areas and percentages or usages to be calculated.
4. Land ownership, with maps illustrating the ownership of the land and percentages of ownership.
5. Population and densities, with particular reference to growth of population, various densities, such as number of people per hectare in residential areas, number of people per dwelling unit, number of dwelling units per hectare or square metre.
6. Communications, including the growth of road pattern, increase in number of vehicles, traffic volumes and densities, parking, analysis of junctions, cross roads, stop streets, pedestrian and cycle corridors.
7. Public utilities such as water supply, electricity, telecommunications, sewerage, refuse removal and dump sites and storm water drainage systems.
8. Social services such as nature of facilities and whether sufficient or otherwise, of education facilities, health facilities, clubs, sports and recreation, arts and culture facilities.
9. Height of buildings and plot ratio, calculation of floor space, site areas and ground coverage in commercial areas, and calculation of the ratio between floor space and site areas, urban form and fabric.
10. Buildings of special historic, architectural, urban design value or artistic interest, with a view to their maintenance and preservation in the interests of the public.
11. Age and condition of buildings.
12. Commerce and industry such as growth of commercial and industrial areas, nature of shops, nature of industries, whether heavy or light, employment figures, transport to and from industries and hazardous industries.
13. The provisions of the structure plan that applies to the zoning scheme, where a structure plan has been approved in terms of section 36(1)(a) of the Act.

PART 2 OF ANNEXURE 1

MINISTRY OF URBAN AND RURAL DEVELOPMENT**MATTERS TO BE DEALT WITH BY ZONING SCHEMES**

1. A contour or topographical map of the area.
2. Streets with particular reference to -
 - (a) their grades, widths and intersections with other streets;
 - (b) the function, volume and character of the traffic which it may be expected to carry in the future, and measures to ensure the safety of the travelling public;
 - (c) the closing, deviation or alignment of existing or new streets; and
 - (d) street planting, street furniture, ornamental works intended to improve the appearance and functions of streets.
3. The extinction, variation or establishment of private rights of way and of servitudes generally.
4. Urban design, aesthetics and urban legibility.
5. Lighting and water supply, power supply and telecommunications.
6. Sewerage, storm water drainage and sewage disposal.
7. The prohibition, regulation or control of the deposit or disposal of waste materials and refuse.
8. The reservation of land for new roads or the widening or other improvement of existing roads or for purposes of recreation parks and other open spaces, aerodromes, the parking of vehicles and any other matters generally of a public nature.
9. The reservation of land for the government and the local authority for purposes of a public nature.
10. The demarcation or zoning of areas to be used exclusively or mainly for residential, business, industrial and other specified purposes.
11. The extent of erven to be laid off and the alteration of existing erven with the view to improvement in the design or layout of any portion of the area, redevelopment of a local authority area and densification.
12. Buildings, structures and building operations.
13. The disposal of land acquired by an authorised planning authority or other local authority.
14. Land to be used solely for agricultural and similar purposes and the application of differential rating.
15. The preservation of buildings or other objects of architectural, historic or artistic interest and places of natural interest or beauty.
16. Powers of entry and inspection.

17. Power of the local authority in terms of the Act.
18. Any other matter provided in the Act or reasonably incidental to any matter mentioned in the preceding paragraphs.

ANNEXURE 2

MINISTRY OF URBAN AND RURAL DEVELOPMENT

The following fees will apply -

- (a) if the Minister is the functionary; or
- (b) until the relevant functionary has issued new fees in terms of section 131(2) of the Act.

FEES

	Items	Fee in N\$
1.	Approval of regional structure plan or urban structure plan (Section 25 and 31 of the Act)	500-00 per approval
2.	Application for zoning scheme and draft zoning scheme (Section 44 and 55 of the Act)	3500-00
3.	Alteration, Suspension or deletion of conditions imposed (Section (93 of the Act)	500-00
4.	Subdivision of an erf (Section 97, 105, 114, 115 of the Act):	500-00
	(a) for each new erf created for the subdivision of an erf or land	20-00
5.	Consolidation of an erf (Section 97, 105, 114, 115 of the Act)	500-00
6.	Establishment of a Township (Section 97, 105, 114, 115 of the Act):	500-00
	(a) for each new erf created for the establishment of a township.	20-00
7.	Alteration of boundaries of an approved township (Section 97, 105, 114, 115 of the Act)	500-00
8.	Disestablishment of approved township or a portion of an approved township portion (Section 97, 105, 114, 115 of the Act)	500-00
9.	Cancellation of a general plan or name change (Section 115 of the Act)	500-00
10.	Appeals (Section 102 of the Act)	1000-00