



# RESIDENT OCCUPATION POLICY

in terms of the Windhoek Planning Scheme

**Department of Urban and Transport Planning**

**June 2021**

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## **1. Definitions**

**“Resident Occupation”** means an occupation carried out by a person in his or her own home and may, with the consent of Council, include the employment of other persons not resident in the home; the nature of the activities shall be such that they do not adversely interfere with the amenities of the neighbourhood nor alter the essential residential character of the erf or area involved. Resident Occupation consent is granted with such conditions as the Council may determine, which consent is non-transferable;

**“City”** means the City of Windhoek, a municipality established in terms of the Local Authorities Act, Act No. 23 of 1992, or any structure or employee of the City acting in terms of delegated authority;

**“Council”** means the Municipal Council of Windhoek established in terms of the Local Authorities Act, Act No. 23 of 1992; and includes any committee or official carrying out any duty or function, or exercising any power in terms of an applicable By-law;

## **2. Policy Statement**

Offering Windhoek residents the opportunity to work from home without conflicting the Windhoek Planning Scheme while at the same time protecting the interests of neighbours who might be adversely affected by any of the proposed non-residential activities (fumes, noise, health hazards, etc.).

A Resident Occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the character of the neighbourhood of which it is a part.

## **3. Policy Objective**

The purpose of the Resident Occupation Policy is to provide opportunities for limited professional or job-related activities in residential neighbourhoods that are compatible with and do not detract from, the peace, quiet, character, and quality of residential areas.

The policy aims to establish standards and procedures for the accommodation of “Resident Occupations” in terms of the Windhoek Planning Scheme as promulgated.

Conditions imposed by the Council are intended to protect immediate neighbours and the local community in a general sense and to ensure that all provisions of the Windhoek Planning Scheme are maintained.

## **4. Allowances under the Resident Occupation Policy**

Non-invasive, small-scale (in terms of area and number of employees) professional and or job related activities, which would not potentially injuriously and / or adversely affect the neighbours or neighbourhood, may be considered.

The following activities can be considered as Resident Occupations on residential erven:

- Small offices;
- professional practices;
- Accommodation establishment with number of bedrooms permissible limited to half of the existing bedrooms to a maximum of three (3) bedrooms. No more than 6 paying guests or lodgers shall be supplied with lodging or meals at any time

No alcoholic beverages shall be sold except to resident guests for consumption on the premises with meals;

Guest rooms shall not be converted to, or used as, separate self-catering dwelling units;

Meals and/or drinks may only be supplied to guests or lodgers who have lodging on the property, employees, and the family residing in the dwelling

Weddings, receptions, conferences, training or any similar activities are not permitted from such an accommodation establishment;

- Day-care/childcare to a maximum of 15 children. All such facilities shall meet the minimum requirements for Day Care Registration as determined by the Early Childhood Development Section of the Economic Development and Community Services Department.

Indoor and outdoor space and associated amenities shall be provided in accordance with the requirements put forward by the Department of Urban and Transport Planning or successor from time to time, and outdoor play space shall be fenced off from any public street;

- Tutoring (underage -18 years or younger) limited to 10 pupils at all times. Adults limited to 5 persons at any given time;

The following activities **will not** be allowed as a Resident Occupation:

- Funeral homes and mortuary establishments;
- Animal hospitals, kennels, and breeding of any domesticated or non-domesticated animal, bird, fowl, or poultry;
- Beauty salon or barbershop containing more than two chairs;
- Office or related professional vocational uses where more than one customer, client, or paying entity is served at one time.
- Woodwork, joinery or carpentry;

- Welding; grinding of metal; spray-painting, tyre repair; mechanical / car repairs; scrap yard;
- No Resident Occupation activity shall cause any odour, dust, smoke, vibration, noise, heat glare or electromagnetic interference, which can be detected at, or beyond, the property boundary;
- Any activity that require combustibile or melting processes;
- Selling of paraffin/ gasoline or gas bottles;
- Storage rooms for distribution;
- Any activity relating to the storage and or sale of any alcohol product;
- Restaurants/coffee shops;
- Car wash;
- Butchery and bakery activities are not supported on residential premises due to the specific requirements as stipulated in the General Health Regulations 121 of 1969. This includes storage rooms for wholesale distribution, offal industries and selling of prepacked meat.

## **5. Standard Conditions for a Resident Occupation**

1. The applicant / owner of the applied for Resident Occupation must reside (live) on the premises and the approval will cease to be valid should the applicant cease to reside on the premises. In the event that a property is leased the written consent of the owner is required. In addition to the person(s) living in the house, no more than two additional persons may be employed on site;
2. A Resident Occupation Consent is a prerequisite for the renewal of a fitness certificate and must be applied for on an annual basis or as specified in the approval letter.
3. The Resident Occupation shall be conducted completely indoors and may be within a principal or accessory residential building. No internal or external addition, alteration or remodelling of the dwelling is permitted in connection with the Resident Occupation.
4. No more than 25% of the built floor area up to a maximum of 70m<sup>2</sup> of the house may be used;
5. The applicant must clearly state any current usage of the property as well as the future intended activity.
6. There shall be no outdoors operations or outdoors storage of materials, products or equipment.
7. In the case of an Accommodation Establishment activity, the number of rooms may not exceed half of the existing number of bedrooms to a maximum of three (3);

8. Approval is only granted to a natural person for a particular activity and may be fixed to a certain period of time. Approvals are not granted on a permanent basis.
9. Application for a Resident Occupation must be applied for at least a month before expiration of prior approval.
10. Permission for a Resident Occupation is not transferable when you sell your property or change the nature of your Resident Occupation. Resident Occupation cannot be leased/ rented out. Should a new owner desire to continue with a previous Resident Occupation, a new application must be submitted for re-evaluation. This means that any public consultation or other requirements shall be re-launched. The applicant is advised to inform the City of Windhoek in writing once they wish to cancel a Resident Occupation.
11. Two commercial residential occupations on the same property can only be considered in the case of an administrative office together with another Resident Occupation use as long as it remains within the overall restrictions in terms of use (space -25% / 70m<sup>2</sup>) and other requirements.
12. A Resident Occupation is subject to the approval and issuing of a Fitness Certificate. Should the fitness certificate not be approved and issued for any reason, the Resident Occupation will cease with immediate effect.
13. If found that any information on the Application Form is not correct or false, the Resident Occupation will be withdrawn with immediate effect.
14. The consent can be withdrawn at any time should complaints be received, or the imposed conditions not complied with, or if the Resident Occupation is becoming a public nuisance.
15. Any Resident Occupation resulting in customers or clients coming to the home shall be conducted by appointment only;
16. The exterior of any building specifically and the property in general shall not be changed in such a way as to decrease its residential appearance, except for any permitted parking spaces and the permitted sign.
17. No advertising. Only one (1) non-illuminated sign with a maximum sign area of 0.6 square meters on each of two sides, at a maximum height of 2.5m. Such sign shall not be located within the existing right-of-way of a street, and shall only include the name and profession or occupation of the resident. There shall be no use of show windows, business displays or advertising visible anywhere on the premises.
18. No goods may be openly displayed outdoors.
19. All and any environmental requirements shall be adhered to at all times;
20. The hours of operation shall not extend beyond 08:00 to 17:30 on Mondays to Fridays, and from 08:00 to 13:00 on Saturdays, and shall not include public holidays or Sundays;

21. The loading and unloading of goods to and from vehicles with a gross vehicular mass exceeding 3 500 kg is not permitted at any time;
22. The use of a building or portion of a building for Resident Occupational purposes must be correctly indicated on building plans and approved by the Strategic Executive: Urban and Transport Planning or nominee before the activity commences.
23. A Resident Occupation Consent can be cancelled due to continuous non-payment, defaulting on the municipal account of the property for a period of six (6) months or more.
24. The location of the Resident Occupation within the building and the area of floor space used shall not be such as to alter the essential residential nature of the property.
25. The Resident Occupation is also subject to all applicable laws and regulations of Namibia,
26. The conduct of the Resident Occupation shall not create excessive pedestrian, automobile, or truck traffic in the vicinity.
27. Council reserve the right to, at any stage, call for a cessation of the Resident Occupation activity or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public
28. Subject to the discretion of the Strategic Executive: Urban and Transport Planning, the following shall be accepted as parking guidelines for Resident Occupations.
  - a. Existing parking (usually two for a dwelling house) is not to be included in the requirements;
  - b. If the existing garage accommodates the Resident Occupation, the parking requirements will be adjusted upwards accordingly;
  - c. In all cases, one parking bay will be required per employee;
  - d. In the case of medical practitioners and related activities an additional four parking bays are required per doctor or specialist, in the case of a beauty salon and hairdresser etc., an additional two parking bays are required per salon;
  - e. All applications for which additional parking bays are required must be accompanied by a site plan which shows existing as well as the required parking and access point to the street;
  - f. The right is retained to increase the parking requirement should it be deemed necessary (or the consent may be withdrawn);
  - g. Parking may be provided on the sidewalk only after the applicant successfully applied to lease such sidewalk for parking purposes from the Council.

## **6. Application requirements for a Resident Occupation**

Application must be made in writing to the City of Windhoek. A Resident Occupation Application Form is obtainable from the Urban Policy Division or from City of Windhoek Website - [http://www.windhoekcc.org.na/depa\\_urbanisation.php](http://www.windhoekcc.org.na/depa_urbanisation.php).

Applicants are advised to provide all required information and to be precise and correct with information given.

The burden of proof shall be upon the applicant to prove that the standards of this Policy will be met, especially regarding any possible nuisances.

If found that any information on the Application Form is not correct or false, the Resident Occupation will be withdrawn with immediate effect.

The following should be noted when completing the Application Form:

- (a) Proof of ownership / consent of the owner of the erf must be attached to the Application Form.
- (b) A certified copy of the ID of the applicant must be attached to the Application Form.
- (c) All neighbouring property owners/legal tenants must sign the Application Form.
- (d) In the case of the Resident Occupation being in a complex / homeowner's association or any other legal entity where rules and constitutions applies, the application must include an approval letter from the Body Corporate and or Homeowners Association or association dealing with the matters of the property.
- (e) If the applicant is leasing the property, the certified copy of the ID of the owner and consent letter from the owner of property should be attached to the Application Form.
- (f) For the first application a copy of the approved building plan/ house plan must be attached to the Application Form on which the following should be indicated:
  - i. The area to be used for the Resident Occupation;
  - ii. The number & location of parking bays that will be provided on the premises, calculated according to requirements as set out;
  - iii. Access to the street.
- (g) For any renewals (for the same previously approved Resident Occupation) an affidavit confirming the space, size and parking remained the same as for the first application must be attached to the Application.
- (h) Proof of submission fee payment must be attached to the Application Form.
- (i) A credit clearance, issued by the CoW Debt Management, on the municipal account of the property.

All applications made pursuant to this policy must undertake all forms and stages of public notification and consultation identified below and in accordance with the specifications identified.

## 7. Public Consultation

When applications are received for approval, the City assesses the effect of the activity on the neighbours and may propose protective measures within which the activity may operate.

As part of the application the applicant is required to obtain and submit the comments of the immediate neighbours for the proposed activity.

Immediate neighbours include owners of properties that share borders (including corners) or abutting the property under consideration or are separated by pan-handle accesses or small watercourses (any erf boundary within 30 meters across the watercourse) and those directly opposite across the street.

In cases where any required neighbour is not available for signature, the following procedure will be required:

1. The applicant must send out a letter via registered mail to all neighbours; OR
  - 1.1. The applicant may hand deliver the letter to all neighbours. Proof of such delivery and receipt thereof needs to be submitted to the City of Windhoek
2. The applicant must place a notice on site. The notice to be posted on the erf shall be of a size not less than 600 mm x 450 mm and no letter size thereon shall be less than 5 mm in height.

Notice Signs will be located in a manner which does not interfere with pedestrian or vehicular traffic or obstruct visibility from streets, lanes or driveways and must be installed in a safe, sturdy manner capable of adequately withstanding wind and weather. One Notice Sign is required for each road frontage provided that no more than three (3) signs are required for any one property.

Notice Signs will be posted timeously for a minimum period of 14 days prior to submission of the application to the City of Windhoek until official Notice of the approval / decline of the application is received from the City of Windhoek.

Such notice must specify the deadline for comments, which comments (if any) shall be submitted by the applicant together with the application.

The Notice must set out the following:

- Detailed description of the nature of the Resident Occupation;
- Visual rendering and/or site plan with parking provision;
- Contact information for the applicant or authorized agent;
- Contact information for the appropriate Council Department;
- Clear presentation of the deadline (14 days after last placement of notice) and explanation of required feedback method.

In some cases, the City may require the comments of more neighbours, depending on the proposed activity. Occasionally an advertisement in the press or a notice on the street boundary may be requested. In this way the most likely affected members of the public are given the opportunity to express themselves.

Unless explicitly indicated otherwise, all costs associated with the Notification and Consultation required under this policy are the sole responsibility of the applicant.

## **8. Financial Implications**

There is a processing fee payable prior to submission as gazetted by the Windhoek Municipal Council annually as part of their tariff statement.

The applicant should further take note that Value Added Tax (VAT) of 15% on his monthly water and electricity account will be charged. In addition, the tariffs for water applicable to Resident Occupation consents are equivalent to business rates.

## **9. Legislative Framework**

The Policy is supported by the following legislation:

The Windhoek Town Planning Scheme as amended;

Any other policy and /or regulation of the Windhoek Municipal Council as may be relevant

## **10. Implementation of Policy**

When the policy has been formally approved by the Council, it will be published as a formal Council Policy and be implemented as such.

## **11. Monitoring and Review Procedure of Policy**

The policy is drafted within the current context of legal and related requirements for planning applications. As is the case with any policy, the City will have to test the policy on an ongoing basis so as to ensure that the objectives and principles that had initially been set as the common goal, are still relevant and are being achieved.