

MANGAUNG LOCAL MUNICIPALITY BY-LAWS RELATING TO STREET TRADING

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SCHEDULE

BY-LAWS RELATING TO STREET TRADING

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CHAPTER 1 INTERPRETATION

1. **Definitions**

- (1) In these by-laws, unless the context indicates otherwise –

“Approval” means a written consent issued by the Council

“Authorized Person: a delegated official of the Council

Business area means those areas in Bloemfontein, Botshabelo and Thaba Nchu where most of the businesses are situated, including those areas where businesses are situated in residential areas as indicated in Annexure AA@;

"Council" means the municipal council of the Mangaung Local Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates;

Foodstuffs mean any foodstuffs as described in terms of the Foodstuffs, Cosmetics and Disinfectants Act 1972 and the National Health Act: Regulations Governing Food Premises and Transport for Food (R.918) 1999. This may be foodstuffs which are prepared elsewhere or at the street trading site and which are sold as meals or snacks and excludes all fresh fruits and vegetables;

“Endangered species” biological diversity heritage as defined in terms of the Convention on Illegal Trade on Endangered Species (CITES) 1963 and NEMA Biodiversity Act 2008

“Goods” mean any item or stock displayed or kept by a street trader for the purpose of selling, including animals and birds as defined by the Animal Protection Act 1962

“Hawker” means street trader as defined in this by laws

“Intersection” means any intersection as defined in the regulations promulgated in terms of the National Road Traffic Act 1996

"Municipality" means the Mangaung Local Municipality and its legal successors, and when referred to as-

- (a) A legal entity, means Mangaung Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Mangaung Metropolitan Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

"nuisance" means any conduct or condition which brings about or may bring about a state of affairs or condition which is obnoxious and, or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons

"Officer" means -

- (a) A traffic officer appointed under section 3 of the National Road Traffic Act, 1996 (Act No.93 of 1996);
- (b) A member of the South-African Police Services as defined in the South African Police Service Act (Act No. 68 of 1995);
- (c) A peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or
- (d) Law enforcement officer employed by the municipality;
- (e) Environmental health officer employed by the municipality
- (f) Environmental management inspector employed by the Free State Department of Conservation and Environmental affairs
- (h) Immigration officer employed by the Department of Home Affairs
- (i) Customs and duties officer employed by the South African Revenue Services (SARS)
- (j) Labour inspector employed by the Dept of Labour

Prescribed fees mean the fees as determined from time to time by the Council by means of resolution;

"public place" includes any public road, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds' registry or surveyor-general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in the municipality or to which the owners of erven in the township have a common right, and all property belonging to an organ of state;

"Public road" means any road, street, sidewalk, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof or to which the public or any section thereof has a right of access and includes -

- (a) the sidewalk of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) any other work or object forming part of or connected with or belong to such road, street or thoroughfare

residential area@ means those areas in Bloemfontein, Botshabelo and Thaba Nchu used mainly for residential purposes;
“restricted Areas” means any area including public property, designated as such by the municipality for the purpose of street trading during competition subject to such specific conditions and restrictions as the municipality deem fit

Arural area@ means all areas in the municipality excluding the business and residential areas;

"sell" includes to exchange, barter or hire out by a street trader and includes the preparing, processing, storing, offering and, or displaying for sale any goods or services by a street trader and **Aselling@** has a corresponding meaning;

"sidewalk" means that portion of a public road intended for the use of pedestrians;

“special event” means a parade, celebration, commemoration procession, recreational activity, festival, show, exhibition and other nature of event which require exclusive use

"street trader@ means any person carrying on business, whether as principal, employee or agent, by selling, supplying or offering any goods or the supplying or offering to supply any service for reward, in or from a public road or public place in the municipality;

Astreet trading@ means conducting of the business of a street trader;

Astreet trading identity card@ means a card issued by the Council to a street trader selling in the business area, identifying him and the street trading site from where he may conduct street trading;

“street trading furniture” means any furniture installed by the council or a street trader

Astreet trading site@ means a site in a public place, determined and approved by the Council, from where street trading may be conducted;

- (2) In these by-laws, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

CHAPTER 2 PURPOSE AND APPLICATION OF STREET TRADING BY LAWS

Purpose of the these by laws

Regulation of street trading in the business and rural areas and the special conditions connected to prohibited trading areas and activities

Application of these by laws

These by laws will be enforced by the relevant officers as defined in these by laws

These by laws will be applied to complement other municipal by laws applicable to land use, environmental health building and traffic.

Application of these by laws shall not conflict any provincial and national legislation connected hereto

CHAPTER 3

STREET TRADING IN THE BUSINESS AREA

2. Street Trading

(1) Street trading is allowed within the business area, subject to the provisions of these by-laws and other applicable legislation. .

(2) The Council or delegated authority has powers to determine trading and restricted areas within the business area.

Application Procedure for Street Trading Card/Permit

Requirements and criteria for obtaining a street trading card

Applicants should meet the following requirements

1. South African Citizens must have ID Document
2. Be a residence (Bloemfontein , Botshabelo and Thaba Nchu), only three month old statements and or accounts
3. Non South African Citizens must an Original copy of asylum documents/temporary resident permit issued by the Dept of Home Affairs in terms of applicable legislations
4. Must not be employed by the municipality , its entities and any organ of state
5. Be Unemployed
6. Proof of income
7. Be 18 years and older
8. Completed a prescribed form and signed declaration.

Types of street trading permits

(a) street trading card permit – valid for 1 year calendar street trading card /permit .applications will be processed on Tuesdays and Thursdays between 08h00-12h00

(b) Special Events Street Trading Card /permit – valid for 1 day special street trading card /permit issued for specials events. Application will be processed on Thursdays and Fridays before 11h00.

(c) Mobile Street Trading Cards/permit –valid for 1 year calendar

(d) Seasonal permit – valid for 3 months

All applicants for above must meet all the requirements as stated in these by laws

Delegation of authority of Approval of application for street trading card

(a) Application for Street trading site within designated street trading zones and all other than these sites are subjected to approval by the City Manager or delegate person in terms of system of delegation of authority.

(b) Special events trading permit/card will be approved by designated officials

Reasons for declining applications for Street Trading Card

The application will be declined for the following reasons

- (1) Failure to submit completed prescribed form
- (2) If the site applied for is located at a prohibited area
- (3) If the applicant is employed fulltime and or is an employee of the municipality and or organ of state
- (4) Applicant not residing within the municipal jurisdiction
- (5) Applicant does not have ID Document
- (6) Any legal immigrant in South Africa
- (7) Those aged less than 18 years old will not be considered in terms of UN Age Convention.
- (8) Applicant has committed numerous offences of which notices and fines were issued
- (9) Misinformation and false documents as listed under requirements for application for trading card/permit
- (10) Applicant found guilty of criminal offence related to drugs and human trafficking, xenophobic attacks and bribery
- (11) If the applicant has formal business or has already been granted site at another area
- (12) If the applicant consistently fails to pay prescribed fees as determined by the Council

The right to appeal

The affected applicant has the right to appeal to the decision within 21 days upon receipt of the correspondence from the municipality and such appeals should be lodged with the City Manager or a delegated authority who shall respond within 14 days and the matter may be referred to the Council where necessary.

Street Trading Hours and Days

Days

Monday- Friday 07h00 – 18h00

Saturday – 17h00

Sunday- 12h00

4. Street Trading Site and Identity Card

- (3) No person may conduct the business of a street trader in the business area without being in possession of a valid street trading identity card issued by the Council. The street trading site and card /permit remains the property of the Council and cannot be transferred unless sanctioned by the Council in terms of its Informal Economic Policy. Street trading sites cannot be regarded as part of the households therefore cannot be subjected to execution
 - (i) If a street trader get divorced in terms in terms of Matrimonial Property Act 2007
 - (ii) if a street trader is deceased in terms of Masters of Court Act
- (2) A person who wants to do street trading in the business area must apply to the Council on a prescribed form for the allocation of a street trading site to him.
 - (1) A street trader must comply with all labour legislation if he/she employs a person. In this regard labour inspectors should be furnished with all relevant information as required by applicable legislation.
 - (2) On allocation of such a site to the applicant, a street trading identity card will be issued to him, after payments of the prescribed fees, if any.
 - (3) The Council is under no obligation to approve any trading site even if the applicant feels it is entitled to such space.
 - (4) All street trading sites will be leased to the street traders at a fee as determined by the Council from time to time;
 - (5) All Street Trading Sites including those located within the private property are subjected to provisions of these by laws
 - (6) No Street trading identity card will be issued to a street trader selling foodstuffs before he obtained a license therefore from the Environmental Health-sub-directorate of the Municipality.
 - (7) Mobile street traders utilizing trolleys and bicycles shall be granted a permit provided they furnish details of routine street trading areas
 - (8) Large business and shops are not allowed to collapse their sale outlets into a street trading site unless granted such a permission by the Council
 - (4) Such street trading identity card issued by the Council must on demand be provided to an officer or an employee of the municipality. Original documents are only permissible
 - (5) A street trader must report to the SAPS any loss of card/permit within 24 hrs after such incident thereafter inform the Council. He/she shall furnish all the relevant information including the Police Case Number. The Council may reissue another card /permit once all information has been confirmed.
 - (6) The report as stated on (6) however cannot be a street trading card/permit. It is view merely as a proof of report.
 - (9) The Council may reduce, extend and or disestablish any street trading site. At least 30 days written notice will be given to a street trader to vacate a site that will be disestablished and the Council is not obliged to offer any alternative site where a site is disestablished.
 - (10) No street trader is allowed to have more than one (1) street trading site.
 - (11) The Council may give notice to temporarily suspend any trading site during special events as may be determined by the Council and other organs of state in terms of the Disaster Management Act 2003 and the National Recreation and Events Safety Act 2010
 - (12) The council may change street trading card/permit and develop a temporary street trading permit as such all affected parties will be noticed accordingly. Street traders will be given a reason time to convert to the new card/permit.

4. Cancellation of Street Trading Identity Card

- (1) The Council may withdraw and cancel a street trading identity card if:
- (a) A street trader fails to pay any prescribed fees as determined in these by-laws to the Municipality within a period of 60 days, and
 - (b) A street trader is found guilty of a contravention of any of these by-laws **and any other provincial and national government**

5. Street Trading Structures

- (1) The Council may erect structures on street trading sites in the business area, which structures shall be leased on a monthly basis to the street trader to whom the site have been allocated in terms of section 3.
- (2) Any street trading furniture, fittings and building structures and containers must comply with the provisions of the Municipality Building Control by laws, NBRA regulations and SABS specifications.
- (3) No street trader is allowed to expand any site allocated unless granted permission by the Council. If a street trader is found guilty, the Council reserves the rights to demolish such structures at the costs of the street trader
- (4) All mobile street trading furniture must be removed daily at the end of the trading hours
- (5) A street trader shall on demand, produce a proof of payment of the lease for the structure to an officer or an employee of the municipality

6 Health and Safety

A street trader shall ensure that the following

- (a) Street trading site furniture and other equipments fitted complies with SABS and Occupational Health and Safety Act 1993
- (b) Shall not sell liquids and fluids not complying with the Liquid Products Act 1989
- (c) Shall not sell and display goods at a place which create unpleasant environment for the blind, aged and disabled persons
- (d) activities does not pose any public health and safety risk to the public and other street traders
- (e) Shall not sell medicine and concoctions prohibited in terms of Medicine Control Act 2002
- (f) Shall not sell cosmetics not complying with the Foodstuffs and Cosmetics Act 1972
- (g) shall not sell any hazardous and poisonous products as defined in terms Hazardous Substance Control Act 1973
- (h) all perishable goods and products must be sold with 7 days
- (i) Sale of second hand goods which include jewellery, aluminium and wood work and furniture should be done in accordance with the Second Hand Goods Act 1955. Law Enforcement Officers and SAPS may require proof of ownership and purchase of certain goods.
- (j) Street shall not hang any object at or close to a traffic sign or traffic signalled pole.
- (k) Storm water drainage and channels may not be used for storage
- (l) No sale of goods under trees, electrical poles and high transmission power lines
- (m) all perishable goods must be kept in good and fresh conditions and in case these good perish and attract flies, mosquitoes and bees the Council will fumigate the place at the cost of the street traders/s
- (n) in case (h) does not apply the Council shall reserve the right to impound all goods and the
- (o) In case a street trader sell food he/she shall utilise liquid gas only for cooking and will ensure that its safety is handled as required by the Fire Brigade Services Act 1989 and SABS 2008 regulations and specifications.
- (p) A street trader may be required to provide fire fighting equipment within a site in terms of the applicable legislation.
- (q) Shall not tamper with municipal services provided within a street trading site and or in the neighbourhood or in the surroundings.
- (r) shall comply with the provisions of the FICA 2005, Electronic Communication and Transactions Act 2002 and Regulation of Interception of Communication Act (RICA) 2005 where debit/ credit cards and SIM Cards transactions and facilities are used
- (s) Shall not keep sharp and dangerous objects and weapons at a site unless kept in compliant with Firearms Control Act 2000

- (t) The Council is not liable for the providing storage nor safety and security of goods at the trading site the onus liaise with the street traders
- (u) A street trader is not allowed to cook own food at the street trading site.
- (v) Shall obtain certificate of competency for selling foodstuffs and perishable goods as required in terms of the Foodstuffs, Cosmetics and Disinfectants Act 1972 and the National Health Act Regulations Governing General Hygiene Requirements for Food Premises and Transport for Food (R.918) 1999

Environment

- (1) No street trading card may be issued to street trader selling flora and fauna for traditional medicinal purpose before obtaining a license in terms of NEMA Biodiversity 2004 and NEMA CITES 2007 Regulations and the CITES 1963 from the Provincial Department Environmental Affairs and Conservation

7. Exemption

The municipality may exempt any person, organisation, group or committee from obtaining a street trading identity card for a specific event or function and for a specific period. Such exemption must be in writing, and must on demand be provided to an officer or employee of the municipality.

8. Prohibited Goods

- (1) The following goods may not be sold by street traders in the business area:
 - (a) live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry except with the prior written approval of the Council;
 - (b) Raw meat or raw fish;
 - (c) Milk and yoghurt;
 - (d) Any form of alcohol or alcoholic drinks;
 - (e) Vehicles, trailers or caravans;
 - (f) Any noxious or smelly substance or article that may cause a nuisance;
 - (g) Pesticides, insecticides, poisonous and, or hazardous substances;
 - (h) Any counterfeit goods or articles and any goods prohibited by legislation;
 - (i) Shall not sell any goods on embargo in terms of DTI regulations.

9. Prohibited Areas

- (1) Street trading in the business area may only be conducted from a street trading site allocated by the Council in terms of section 3, and it is prohibited to sell from any site:
- (a) in any garden or park which is zoned as a public or private open space and to which the public has a right of access;
 - (b) in place declared a conservation open public space
 - (c) **in any graveyard**
 - (d) On a sidewalk adjacent to:
 - (i) A building belonging to or occupied solely by the Council or an organ of state;
 - (ii) A church or other place of worship;
 - (iii) A building declared to be a national heritage resource in terms of the National Heritage Resources Act, 1999 (Act No 25 of 1999);
 - (iv) An automated teller machine or at any entrance to any bank or other financial institutions;
 - (e) At a place where:
 - (i) It causes or may cause an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (ii) It causes an obstruction to vehicle traffic;
 - (iii) It substantially obstructs or may obstruct pedestrians or persons in wheelchairs or other disabled persons in their use of and access to a sidewalk;
 - (iv) **Construction and earth work is undertaken**
 - (f) on a sidewalk adjacent to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street trader concerned, without the consent of that person;
 - (g) on that half of a public road adjacent to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
 - (h) within 5 (five) metres of any signalized intersection of two or more streets, measured from the nearest end of the curve in the kerb line, with no part of any structure nearer than 2 (two) metres from the edge of the road and not within 20 (twenty) metres from any priority controlled (unsignalised) intersection of two or more streets, measured from the nearest end of the curve in the kerb line and with no part of any structure nearer than 2 (two) metres from the edge of the road;
 - (i) At any place where the selling of goods limits or may limit access to parking- or loading-bays or any other facilities for vehicular traffic;
 - (j) within the reserve of any road **unless granted permission by the Council;**

CHAPTER 3 STREET TRADING IN THE RESIDENTIAL AREA

9. Street Trading

Street trading is allowed within the residential area, subject to the provisions of these by-laws and other applicable legislation.

10. Prohibited Goods

(1) The following goods may not be sold by street traders in the residential area:

- (a) live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry, except with the prior written approval of the Council as required by the provisions of the Animal Protection Act 71 1972;
- (b) the street trader should also obtain a clearance permit obtainable from the SAPS in terms of Stock Theft Control Act
- (c) if approval is granted in terms of (1) , live-stock, pets, reptiles, birds, rabbits, wild animals and, or poultry must be kept in kept in a kraal and the street traders must ensure all animals on sale are regularly diagnosed in terms of the applicable legislation.
- (d) A street trader should remove all animal at the end of trading hours.
- (e) all animals mentioned on (a) should be isolated in terms of the Animal Diseases Control Act and should not be for sale until a veterinary technician diagnose all of them .
- (f) a street trader shall be fined for the contravention of (a)(b)(c)(d)(e) in accordance with the provisions of the by laws and relevant legislations.
- (b) Raw meat or raw fish;
- (c) Milk and yoghurt
- (d) Any form of alcohol or alcoholic drinks;
- (e) Vehicles, trailers or caravans;
- (f) Any noxious or smelly substance or article that may cause a nuisance;
- (g) Pesticides, insecticides, poisonous and, or hazardous substances;
- (h) Any counterfeit goods or articles and any goods prohibited by legislation;
- (i) drugs
- (ii) medicine and drugs as may be determined in terms of application legislations
- (j) guns and other weapons
- (k) cosmetics
- (l) clay soil
- (m) endangered Species

11 Prohibited Persons

The following persons are not allowed at a street trading site

- (a) Children under the age of 16 in terms of Children are Act and the UN Convention of Age.
 - (i) Any person found guilty of engaging in activities as stated on (a) shall be found guilty of offence as defined by the relevant legislation
- (b) illegal immigrants not in possession of relevant documents as determined by the Immigration Act and the Refugee Act
- (c) any person classified as a security risk in terms of the applicable legislation
- (d) sex workers

11. Prohibited Areas

(1) Street trading in the residential area may not be conducted:

- (a) in any garden or park which is zoned as a public or private open space and to which the public has a right of access;
- (b) at a graveyard
- (d) On a sidewalk adjacent to:
 - (i) A building belonging to or occupied solely by the Council or an organ of state;

- (ii) A church or other place of worship;
- (iii) a building declared to be a national heritage resource in terms of the National Heritage Resources Act, 1999 (Act No 25 of 1999);
 - (iii) An automated teller machine or at any entrance to any bank or other financial institutions;
- (c) At a place where:
 - (i) It causes or may cause an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (ii) It causes an obstruction to vehicle traffic especially at road intersections and parking bays
 - (iv) it substantially obstructs or may obstruct pedestrians or persons in wheelchairs or other disabled persons in their use of and access to a sidewalk;
 - (v) At a place that may be reserved as an evacuation area during special events as may be determined by the Council and other organs of state in terms of the Disaster Management Act 2003 and the National Recreation and Events Safety Act 2010 .
- (c) on that half of a public road adjacent to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (e) within 5 (five) metres of any signalised intersection of two or more streets, measured from the nearest end of the curve in the kerb line, with no part of any structure nearer than 2 (two) metres from the edge of the road and not within 20 (twenty) metres from any priority controlled (unsignalised) intersection of two or more streets, measured from the nearest end of the curve in the kerb line and with no part of any structure nearer than 2 (two) metres from the edge of the road;
- (f) At any place where the selling of goods limits or may limit access to parking- or loading-bays or any other facilities for vehicular traffic;
- (h) Within the reserve of any road in terms of applicable provincial and national road and traffic legislations.
- (i) Within a residential /business site of which approval was not granted for street trading purpose.

Prohibited activities at a site

Drinking beer

Playing music with high sound volume

Gambling

Money laundering

Reproduction of materials where copyright and intellectual rights were not obtained

Sleeping overnight

Drugs and human trafficking

Sexual intercourse

Sex work

Distribution of false and malicious information about the council and its officials

False marketing

Any other activities not complying with other municipal by laws

Design and manufacture clothes, steel and work on site unless granted permission only for limited demonstration purposes.

CHAPTER 4 STREET TRADING IN THE RURAL AREA

12. Street Trading

Street trading is allowed within the rural area, subject to the provisions of these by-laws and other applicable legislation.

13. Prohibited Goods

- (1) The following goods may not be sold by street traders in the rural area,
- (a) Raw meat or raw fish;
 - (b) Milk and yoghurt
 - (c) Any form of alcohol or alcoholic drinks;
 - (d) Vehicles, trailers or caravans
 - (e) Any noxious or smelly substance or article that may cause a nuisance;
 - (f) Pesticides, insecticides, poisonous and, or hazardous substances;
 - (g) Any counterfeit goods or articles and any goods prohibited by legislation;
 - (vi) drugs
 - (vii) medicine and drugs as may be determined in terms of applicable legislations
 - (n) guns and other weapons
 - (o) cosmetics
 - (p) clay soil
 - (q) endangered Species
 - (r) protected ornaments and artwork pieces

14. Prohibited Areas

Street trading in the rural area may not be conducted from any place where it causes any traffic hazard or an obstruction to a vehicular entrance.

**CHAPTER 5
STREET TRADING DURING SPECIAL EVENTS**

- (a) a street trader must apply for a special events trading permit on Thursdays from 08h00-14h00 and before 11h00 on Fridays
- (b) Requirements for application of a street trading card/permit apply.
- (c) a street trading site will not be allocated should all applicants fail to pay prescribed fees
- (d) certain groups and organization may be granted exemption to obtain special permits in term of chapter 2
- (e)
- (f) A place that may be reserved as a special event venue is subjected to comply with the National Recreation and Events Safety Act 2010 and the Disaster Management Act 2003
- (g) Upon the request from the event organisers, a street trader may be removed indefinitely if he/she does not comply with these by laws and other applicable legislations.
- (h) The Council may temporarily disestablish any site for evacuation and VIP parking during special events as may be determined by the Council and other organs of state in terms of the Disaster Management Act 2003 and the National Recreation and Events Safety Act 2010. The Council reserves the right to give 7 days notice to the affected street traders.
- (i) Street traders selling foods must obtain a Certificate Of Acceptability (COA) in terms of the National Health Act : Gazette Governing the General Hygiene Requirements for Food Premises and Transport for Food (R.918) 1999

- (j) All merchandise goods sold during special events must comply with Merchandise Amendment Act and Trade Marks Acts
- (d) Any street trader that does not comply with (a)(b)(c)(d) will be fined or his/her goods will be Impounded by the relevant delegated officers.

CHAPTER 6

CODE OF CONDUCT OF THE STREET TRADERS

- (a) Always abide by the provisions of these by laws
- (b) Must pay monthly prescribed fees and fines
- (c) Must be on the street trading site daily
- (d) Must keep street trading site and surrounding clean
- (e) Must not sell any goods prohibited by legislation
- (f) Must promote decent and fair trading standards
- (g) Must promote health and safety
- (h) Must not destroy any property meant for street trading
- (i) Must always observe trading hours
- (j) Not offer bribery and favours to the officers and employees of the municipality
- (k) Always produce document whenever required to do so by the officers
- (l) Spread false rumours and lies about other fellow street traders
- (m) Must not destroy Council property
- (n) Must not sell cigarettes to children under the age of 18 and close to schools and youth centres

CHAPTER 5 MISCELLANEOUS

15. Control Measures

- (1) A street trader shall not:
 - (a) Sleep overnight at his place of selling;
 - (b) Erect any structure at his place of selling, except a device or structure for which written approval has been obtained from the Council on the prescribed form;
 - (c) Carry on his business in such a manner as to -
 - (i) create a nuisance;
 - (ii) Damage or deface the surface of any public road or public place or any other property of the Council;
 - (iii) Create a traffic hazard;

- (d) litter, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place or waterway, other than in a refuse receptacle approved by the Council.
 - (e) Burn any goods, materials or refuse or start a fire for any reason other than preparing foodstuffs for which the street trader has the necessary approval;
 - (f) Permit or cause any goods, receptacles or refuse to be placed outside the demarcated confines of the approved street trading-stand;
 - (g) Sell his goods or services in or at a building or property without the consent of the owner, lawful occupier or person in control of such building or property;
 - (h) Take up position or place his goods or property on a public place in contravention of a notice or sign erected or displayed by the Council for purposes of these by-laws;
 - (i) commence selling before 07h00 or **sell after 19h00**
- (2) A street trader shall:
- (a) remove every day from any public road or public place at the conclusion of selling, all waste, packaging material, stock and equipment of whatever nature which are utilised in connection with such business, unless prior written approval exempting him from this provision, has been given by the Council;
 - (b) Conduct street trading in such a manner as not to be a danger or threat to public health or public safety **in terms of both the Occupational Injuries and Diseases Act 1997 and the Occupational Health and Safety Act 1997 respectively**
 - (c) at the instruction of an officer or an employee of the Council, move or remove any goods, receptacle, vehicle or structure used for his business, or any litter and refuse on or adjacent to his stand .

16. Removal and impoundment

- (1) An officer may remove and impound any goods, receptacle, vehicle or structure which he reasonably suspects are being used or are intended to be used or have been used in or in connection with street trading -
- (a) Which are prohibited goods in terms of sections 7, 10 or 13?
 - (b) Which he finds at a place where street trading is prohibited;
 - (c) which a street trader has failed or refused to remove from the place after having been instructed to do so by an officer or an employee of the Council, or which have been left there or abandoned.
- (2) An officer acting in terms of subsection (1),
- (a) shall issue to a street trader a written proof of impoundment for any goods, receptacle, vehicle or structure so removed and impounded: Provided that the officer may attach the written proof to an approved structure if no person is available to receive the written proof and where no structure is available the written proof of impoundment shall be kept in the Municipality=s records;
 - (b) Shall forthwith deliver any such goods, receptacle, vehicle or structure to the Council;
 - (c) May, and shall on instruction of an Environmental Health Officer destroy all perishable and prohibited goods after 24 hours after impounding the said goods.

- (2) Goods, excluding prohibited goods, receptacles, vehicles or structures can be returned to a street trader after payment of the determined fines and prescribed fees levied for impounding and storing, except if a magistrate makes another ruling in this regard.
- (4) The Council may discard with, sell or give away any goods, receptacles, vehicles or structures that have not been collected from the Council in terms of subsection (3), within **7 days** after the date of impoundment.
- (5) An officer, the Council or an employee of the Council shall not be liable for any loss or theft of or damage to any goods, receptacle, vehicle or structure removed and impounded and, or destroyed in terms of these by-laws.

17. Display of approval

A street trader shall carry on his person a valid street trading identity card or any other written approval issued to him by the Council in terms of these by-laws and shall on demand show such identity card or written approval to an officer or an employee of the Council.

18. Delegation

Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty or function imposed by or under these by-laws, to any person in its employ subject further to such conditions as it may deem necessary.

19. Offences and penalties

- (1) A person who -
 - (a) Contravenes any provision of these by-laws or fails to comply therewith or with any condition imposed in terms thereof;
 - (b) Threatens, resists, interferes with or obstructs any officer or any employee of the Council in the performance of his duties or functions in terms of or under these by-laws, or
 - (c) Deliberately furnishes false or misleading information to an officer or an employee of the Council;
 - (d) Fails to comply with an instruction from an officer to move or remove his or her goods, receptacles structures, litter or refuse;
 - (e) Fails to comply with any condition granted or imposed in terms of these by-laws;
 - (f) Ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these by-laws,

shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R 10 000-00, or imprisonment for a period not exceeding one year or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate=s Courts Act, 1944 (Act No 32 of 1944)

(g) The Council has the right to indefinitely terminate the Street Trading Card/Permit if street was found guilty for selling prohibited goods and other activities as stated on 19(1) (b).

- (2) Any person who, after conviction in terms of these by-laws, persists in the conduct or neglect which caused the offence shall be guilty of a continuing offence and liable to a fine of at least **R100 per** day for each ensuing day that the contravention persists.
- (3).** Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

Serious offences

- (a) Offering a bribe to officers as defined in terms of these by laws
- (b) Selling at (i) intersection
 - (ii) close to a bank and other financial institution
 - (iii) close to a building owned by organ of state
- (c) Transferring a permit to another person
- (d) Fronting
- (e) Sub letting
- (f) Sale of prohibited goods (i) drugs
 - (ii) Counterfeit goods
 - (iii) Endangered species

20. Repeal

The Regulations relating to the Supervision and Control of the carrying on of the business of Street vendors, Pedlars or Hawkers as promulgated by Local Government Notice No. 75 of 19 May 1995 are hereby repealed.

21. Short title and commencement

These by-laws are called the by-laws relating to Street Trading and shall come into operation on the date of publication in the *Provincial Gazette*.