



**POLOKWANE LOCAL MUNICIPALITY
STREET TRADING BY-LAW**

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PREAMBLE

Municipal integrated development programs call for joint efforts between spheres of government to uplift local communities in as far as job creation, sustainable rural development and urban renewal are concerned.

Polokwane Municipality is committed to contribute towards economic development of the Municipality by establishing and maintaining a creative environment conducive for growth in all levels of business within its local community.

One of the objects of Municipalities set out in the Constitution RSA, 1996 is to promote social and economic development [Section 152(1)(c)], and also obliges a Municipality to participate in national and provincial development programs [Section 153(b)]

Furthermore the Local Government: Municipal Systems Act, 32 of 2000, stipulates that a Municipality must develop a culture of Municipal governance that promotes and undertakes development within the municipality. The Municipality must for the purpose of this Act, develop local government legislation to create terms and conditions for local communities who participates in economic development and business as a whole.

1. DEFINITIONS

In this by-law, except as otherwise expressly provided:

"Act"- means the Businesses Act 71 of 1991 as amended.

"Approval"- means approval by the Council and “approve” has a corresponding meaning:

"Authorised officer"- means a law enforcement official of Council authorised to implement the provisions of this by-law:

- i. **A traffic officer** appointed under section 3 of the Road Traffic Act, 1989(Act no 29 Of 1989)
- ii. **A peace officer** as contemplated in section 334 of the Criminal Procedure Act 51 of 1977;
- iii. **An Environmental Health Practitioner** means an official appointed by the Council, and who is duly registered as an environmental health practitioner with the Health Professions Council of South Africa in terms of section 33(1) of the medical, Dental and Supplementary Health Services Professions Act, 1974(Act No. 56 of 1974).
- iv. **A Fire Officer** as contemplated in the Fire Brigade Services Act, 99 of 1987.

"Certificate of Acceptability" means a certificate of acceptability referred to in Government Notice No. R.918 of 30 July 1999 as corrected by Government Notice R.723 of 12 July 2002, regulation 3.

"Child" - means a male or female person under the age of 16 years, in terms of the Labour Relations Act.

"Clay or clay soil" is a soft, earthy material made up of a number of minerals rich in alumina, silica and water. Clay can also contain other minerals.

"Council"- means Polokwane Local Municipal Council whose members are

elected in terms of section 22 of the Local Government Municipal Structures Act 1998(Act 117 of 1998).

"Council services"- means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or storm water or for the generation, impounding, storage or purification or supply of water, gas or electricity; or municipal services:

"Event" means an event as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010), namely sporting, entertainment, recreational, religious, cultural, exhibition, organisational or similar activities hosted at a stadium, venue or along a route or within their respective precincts;

"Foodstuff"- means foodstuffs as defined in the Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972:

"Garden or park"- means any garden or park to which the public has a right of access:

"Goods" - means any movable property displayed or kept by a person in a public place or public road for the purpose of carrying on the business of a street trader including any article, container, vehicle or movable structure and further includes a living thing;

"Intersection"- means any intersection as defined in the regulations promulgated in terms of the National Road Traffic 93 of 1996:

"Lease"- means a lease agreement as contemplated in section 9 of this by-law:

"Litter"- includes any receptacle, container or other waste matter that has been discarded or left behind by the person trading or his/her customer.

"Municipality" means Polokwane Local Municipal Council.

“Permit/token” documentary proof of a valid street trading licence as provided for in subsection 9.7 and to be carried on the person of the street trader during trading hours.

"Prescribed"- means determined by Council resolution.

"Prohibited area"- means an area of in which street trading is prohibited:

“Property” in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he or she trades.

"Public amenity" - means:

- i. Any land, square, swimming bath, public resort, recreation site, zoological, botanical or other garden, park or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, as well as any public road, road reserve, reserve street, lake, dam, or river;
- ii. Any building, structure, hall, room or office including any part thereof and any facility or apparatus therein, which is the property of, or possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission fees or not;
- iii. Also any public amenity if it is lawfully controlled and managed in terms of an agreement by a person other than the Municipality;
- iv. Any nature conservation area including -
 - a. Nature reserves
 - b. Protected natural areas
 - c. Nature conservation worthy areas
 - d. Natural open spaces

“Public building” means a building belonging to or occupied solely by the State of the Municipality.

“Public monument” means any one of the public monuments and memorials as defined in the National Heritage Resources Act, 1999 (Act 25 of 1999).

“Public place” - means a public place as defined in section 2 of the Local Government Ordinance 17 of 1939:

“Public road or roadway” means a public road and roadway as defined in section 1 of the National Road Traffic Act 93 of 1996:

“Sell or selling” shall mean to give or hand over (something) in exchange for money and shall also include:

- i. offer to render a service
- ii. barter, exchange or hiring out;
- iii. display, expose, offer or prepare for sale;
- iv. store with a view to sell; or
- v. provide a service for reward

and **“sale”** has a corresponding meaning:

“Services”- includes any advantage or gain for consideration or reward.

“Sidewalk” - means a sidewalk as defined in section 1 of the National Road Traffic Act 93 of 1996.

“Street furniture” - means any furniture installed by the Municipality on the street for public use;

“Street trader”- means a person selling goods or rendering a service and includes a seller, peddler or hawker and also:

- i. A person who as principal, agent, assistant or employee carries on the business of street trading; and
- ii. A person who is a part-time job seeker.

“Street trading” means the selling of any goods or the supplying or offering to

supply any service for reward, in a public road or public place, by a street trader.

“Trader” has the same meaning as “Street trader”.

"Verge" - means a verge as defined in section 1 of the National Road Traffic Act 93 of 1996.

2. INTERPRETATION AND APPLICATION OF BY-LAW

- 2.1 In this by-law any word or expression for which a meaning has been assigned shall have such meaning as assigned in the Businesses Act 71 of 1991, and the street vending policy approved by Council, (resolution no: CR/29/12/07.), unless the context indicates otherwise, in which event the Business Act shall take precedence.
- 2.2 For purpose of this by-law a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.
- 2.3. This By-law shall apply to all areas which fall under the jurisdiction of the Polokwane Municipality and is binding on all persons to the extent applicable.

3. SINGLE ACT CONSTITUTES STREET TRADING

For the purposes of this by-law a single act of selling or offering for sale or rendering of services in a public road, public place or public amenity constitutes street trading.

4. RESTRICTED & PROHIBITED AREAS.

- 4.1 The Municipality may, by resolution and in terms of section A(2) of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating:
- 4.1.1 specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
 - 4.1.2 the locations of boundaries of restricted or prohibited areas;
 - 4.1.3 the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
 - 4.1.4 the fact that any such stand or area has been let or otherwise allocated; and
 - 4.1.5 any restriction or prohibition against street trading in terms of this by-law.

4.2 The Municipality may identify and demarcate any such restricted and/or prohibited trading area in any manner it deems appropriate and fit.

4.3 Any sign erected in terms of this by-law or any other law, shall serve as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and

4.4 Any sign may be amended from time to time and displayed by the Municipality for purpose of this by-law, and shall have the same effect as a road sign in terms of the National Road Traffic Act, 1996.

4.5 Trading in the following streets are strictly prohibited:

- Market Street
- Corner Rissik and Church Streets
- Landdros Marè Street
- Thabo Mbeki Street
- Grobler Street
- Biccard Street from Suid to Thabo Mbeki Street
- Biccard Street from Bodenstein to College Street
- Nelson Mandela Drive
- All streets within residential areas
- Marshall Street
- Suid Street
- Corner Rissik and Paul Kruger Streets

5. PROHIBITED CONDUCT

5.1 No person shall, within the municipal area of the Polokwane Local Municipality, carry on the business of a street trader:

- a. at a place or in any area declared by the Municipality in terms of section 6A(2)(a) of the Act as a place or area in which street trading is prohibited;
- b. in a garden or a park to which the public has a right of access;
- c. on a verge contiguous to-
 - i. a building belonging to, or occupied solely by the State or the Municipality;

- ii. a church or other place of worship;
 - iii. a building declared to be a public monument;
 - iv. an autoteller bank machine;

- d. at a place where it causes an obstruction in front of-
 - i. a fire hydrant;
 - ii. An entrance to or exit from a building excepts where letter of authority provided by building or property owner

- e. at a place where it could obstruct vehicular traffic;

- f. at a place where it could substantially obstruct a pedestrian in his or her use of the sidewalk;

- g. on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control, or any occupier of that building objects thereto and such objection is made known to the street trader by an authorized official;

- h. on a stand, or in any area demarcated by the Municipality in terms of section 6A(3)(b) of the Act, if he or she is not in possession of written proof (permit/token) that he or she has hired such stand or area from the Municipality, or that such stand has otherwise been allocated to him or her;

- i. within 5 (five) meters of any intersection as defined in Regulation 322 of the National Road Traffic Act 1996; and

- j. on a sidewalk contiguous to a building in which business is being carried on, by a person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if the goods are sold without the prior consent of such person and an authorised official has informed the street trader that such consent does not exist.

- 5.2 A person who has hired a stand from, or been allocated a stand by the Municipality in terms of subsection 5.1(h), may not trade in contravention of the terms and conditions of such lease or allocation.

6. RESTRICTED CONDUCT

- 6.1 A person carrying on the business of a street trader-
- a. may not sleep overnight at the place of such business;
 - b. may not erect any structure for the purpose of providing shelter, other than a device approved by the Municipality;
 - c. may not place his or her property on a public road or public place, with the exception of his or her motor vehicle or trailer from which trade is conducted, and provided that such vehicle or trailer does not obstruct pedestrian and vehicular traffic movement, and complies with the provisions of the National Road Traffic Act, 1996;
 - d. must ensure his or her property or area of activity does not cover an area of a public road or public place which is greater in extent than six square metres (with a maximum length of 3 metres) unless otherwise approved by the Municipality, and which on any sidewalk leaves an unobstructed space for pedestrian traffic, the length of the area of the property or area of activity, and not less than 1,5 metres wide, measured from any contiguous building to the obstructed area, and an unobstructed space, the length of the property or area of activity, and not less than 0,5 metres wide, measured from the kerb of the roadway;
 - e. may not trade on a sidewalk where the width of such sidewalk is less than 4 (four) meters;
 - f. may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;

- g. may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- h. must on request by an authorised official of the Municipality, or supplier of telecommunication or electricity or other council services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- i. may not attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- j. may not carry on business in such a manner as to-
 - a. create a nuisance;
 - b. damage or deface the surface of any public road or public place, or any public or private property;
- k. create a traffic and/or health hazard, or health risk or both;
- l. may not make an open fire on a public road or in a public place;
- m. may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
- n. may not obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
- o. may not obstruct access to, or the use of street furniture and any other facility designed for the use of the general public;
- p. may not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of this by-law;

- q. may not carry on business, or take up a position or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the Municipality for the purpose of this by-law;
- r. may not, other than in a refuse receptacle approve or supplied by the Municipality, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
- s. may not place on a public road or in a public place, his or her property that is not capable of being easily removed to a storage place away from such public road or public place at the end of the day's business;
- t. must on concluding business for the day remove his or her property, except any structure permitted by the Municipality, to a place which is not part of a public road or public place;
- u. may not store his or her property in a manhole, storm-water drain, public toilet, bus shelter or tree; and
- v. may not carry on such business in a place or area in contravention of any prohibition or restriction set by the Municipality in terms of section 6A(2)(a).
- w. may not use any inflammable liquids without the necessary approval by the Municipality.
- x. may not make open fires in any other manner than in an approved purpose made stove, fireplace or hearth that forms an integral part of a structure.
- y. may not keep stock in value exceeding R2 500.

6.2 Food will only be handled if a valid certificate of acceptability has been issued by the Local Authority i.e. Community Health Services SBU.

6.3 No trader shall leave a stall vacant for more than thirty (30) days without any formal communication with Municipality regarding the reasons that compels him/her for not being onsite/trading within that period.

7. PRODUCTS AND SERVICES

7.1 PROHIBITED PRODUCTS AND SERVICES

7.1.1 Prohibited services and products are not to be deemed as limited to the listed activities below, which serves as a guideline only, and any activities prohibited by legislation shall be deemed to form part of this section:

Selling and/or offering of the following products and/or services are not allowed.

- a. Sale or any trade of flammable liquids
- b. Trade involving any illegal activities i.e. drugs
- c. Repair of motor vehicles, including washing of motor vehicles
- d. Liquor or any intoxicating substances
- e. Harmful chemicals, poisons and defoliants;
- f. Raw meat, fish, live stock, Mopani worms and all perishable foodstuffs (including raw and boiled eggs) but excluding ice cream and frozen yoghurt;
- g. Fireworks;
- h. Clay and clay soils
- i. Braiding of hair.

7.2 ACCEPTABLE PRODUCTS AND SERVICES

7.2.1 Selling and/or offering of the following products and/or services are allowed to be traded and offered by street traders

- a. Sale of accessories
- b. Sale of Fruits and vegetables
- c. Hair cutting services with special consent (enclosed gazebo, no harmful chemicals, no generators, cleaning up hair clippings daily at end of business.)
- d. Public phones and snacks services
- e. Photography services
- f. Cooking and sale of food
- g. Shoe repair services
- h. Home utensils
- i. Herbal products
- j. Ice cream and nuts
- k. Newspapers & magazines
- l. Trolley services

8. CLEANLINESS AND SANITATION IN DEMARCATED AND ADJACENT AREAS

A street trader must:

- a. Keep the area or site occupied by him or her for the purposes of street trading in a clean and sanitary condition;
- b. Keep his or her property in a clean, sanitary and well maintained condition;
- c. Dispose of litter generated by his or her business in whatever receptacle is provided by the Municipality for the public or at a dumping site of the Municipality;
- d. Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- e. Ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of street trading is free of litter;
- f. Take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road or public place or into a storm water drain, any fat, oil or grease;
- g. Ensure that no smoke, fumes or other substance, odours or noise emanating from his or her activities causes pollution of any kind;
- h. On request by an authorized official of the Municipality, move his or her property so as to permit cleaning or effecting of municipal services of or in the space of the site where he or she is trading.

9. APPLICATION FOR AND ALLOCATION OF LEASE AND PERMIT/TOKEN FOR STREET TRADING STANDS

- 9.1 Any person who intends to carry on a business as a street trader in terms of the provisions of this by-law must apply to the Municipality in the prescribed manner for the allocation of a demarcated stand.
- 9.2 The Municipality will, from time to time and within such periods determined by the Municipal Council, and further upon availability of feasible demarcated stands,

issue application forms to interested members of the public in observation of section 21 of the Local Government Municipal Systems Act (32 Of 2000), free of charge.

9.2.1 The following criteria must be adhered to by an applicant in order for the Municipality to consider and approve applications:

- a. Submission of a properly completed application on the prescribed form accompanied by the relevant required documents.
- b. The stall or area applied for has to be vacant and available.
- c. Applicants have to be older than 16 (sixteen) years of age.
- d. Applicants have to be South African Citizens with valid RSA Identity Documents.
- e. Applicants have to be law abiding citizens and not be guilty of promoting disunity and inhumanity within the community and must not have a criminal record.
- f. Applicants will only be considered for a stall and permit provided that such an applicant is not already in possession of a permit or has not already been allocated a stall.
- g. Applicants may not be from the same family unit such as wife, husband or child.
- h. An Applicant may not be indebted to the Municipality in whatsoever manner.
- i. Applicants must be full time residents within the jurisdiction of Polokwane Municipality and have to provide proof to that effect.

9.3 The Municipality may in its own discretion grant or refuse an application referred to in section 9.2 subject thereto that written reasons for refusal of an application shall be supplied.

9.4 If such application is successful:

9.4.1 The street trader must enter into a lease agreement with the Municipality for the stand allocated to him/her, which lease agreement must be produced at any reasonable time on the request of an authorised officer.

9.4.2 In respect of the allocation, as well as the lease of a stand, a permit/token shall be issued to the street trader as proof of the person's right to occupy a stand for the purpose of carrying on business as contemplated in this by-law.

- 9.4.3 Street traders must, while carrying on business on the stand, retain such permit/token on their person ready for display to any authorised officer who requests it; and
- 9.4.4 The Municipality, may, on the written request of a street trader, issue a token to one bona fide employee of the street trader and the provisions of the lease agreement prescribed in subsection 9.4.1 as well as the terms and conditions of this by-law shall apply to such employee.
- 9.5 A person who carries on the business of a street trader on a demarcated stand and who is unable to produce a valid lease agreement or permit/token, as contemplated in section 9.4, shall be guilty of an offence and liable to a fine under this by-law.
- 9.6 A person who carries on the business of a street trader on a demarcated stand and who fails to comply with the conditions of the lease agreement and the terms and conditions of this by-law shall be guilty of an offence and liable to a fine as prescribed under this by-law.
- 9.7 A valid permit/token shall carry on it a photo; permit number and identity number of the registered street trader, products/service colour code, as well as a stall number issued by the Municipality.
- 9.8 Only the owner of the permit/token in whose name the lease agreement has been entered into may renew a permit/token, including the permit/token issued on written request to a bona fide employee.
- 9.9 Permits/tokens will be renewed monthly on making the required monthly payment. Advance payments to the maximum of 2 months (advanced payment) will be accepted. Where no payment is made the lease agreement and permit/token shall be cancelled with immediate effect.

- 9.10 No monthly renewal payment on a permit/token will be accepted where fines – that have not been paid - have been issued against the permit/token holder. Subsequently a permit/token will only be renewed where all outstanding fines issued against that permit/token holder has been paid in full.
- 9.11 Permit cards and application forms are totally non-transferable and may not be sold, traded or transferred in any way without the written consent of the Municipality.
- 9.12 Stall of street trader are conditionally transferable and may be re-allocated only with the written consent of the Municipality.
- 9.13 Where a permit holder voluntarily withdraws from trading, such a permit holder shall have a preferential discretion in the re-allocation of the stall, which means that he/she will be allowed to nominate to whom the stall must be allocated.
- 9.14 Lease Agreements for street trading stalls shall be entered into for a period of 3 (three) years, which lease period may be renewed based on the good conduct of the trader/permit holder and further within the sole discretion of the Municipality and on such new terms and conditions as the Municipality may set.
- 9.15 A Lease Agreement shall not be renewed and a trading permit shall be withdrawn in totality where the trader/permit holder is in arrears with his/her permit fees or municipal services account.
- 9.16 The following types of trading permits may be issued by the Municipality:
- a) Seasonal permits**
Issued to persons who intended to offer services/business conducted within a certain period, and within specified areas during the year, not operating the entire year but also not exceeding a trading period of 6 (six) months.
 - b) Standard permit**
Issued to persons conducting business as street traders within demarcated areas for a minimum period of three years in terms of renewable Lease Agreements.
 - c) Special permits**
Issued on special request to certain classes of applicants (either being seasonal or standard permit holders) who satisfy certain set criteria for conditional

approval for a trading permit, which approval has to be authorized by LED & Finance Portfolio Committee.

d) Events permits

Permits issued in terms of the Safety at Sport & Recreational Events Act and the Safety at Sport and Recreational Events By-law.

e) Delivery permits

Issued to persons delivering goods to street traders within set periods during a day. These persons are not permitted to trade from their respective delivery vehicles.

10. CONDITIONS FOR TRANSFER OR RE-ALLOCATION OF STALLS

- 10.1 A stall may be permanently or temporarily re-allocated, transferred or terminated, with the written approval of the Municipality.
- 10.2 Such a re-allocation may be made to another new applicant whether related or not to the current permit holder which new applicant may also be an assistant or employee of the current permit holder and who will continue trading until the period remaining in the lease agreement pertaining to the permit runs out.
- 10.3 A transfer or re-allocation as contemplated in 10.2 shall be allowed in the event of The death or incapacitation of the permit-holder, where such event will mean that the loss of income due to death or incapacitation will place the employee/assistant and/or dependents of the trader under undue or severe economic hardship.
- 10.4 Incapacity of a trader to trade shall be regarded as circumstances relating to pregnancy, illness, family responsibility issues, religious or cultural matters, or any other personal matter, for a period determined by the Municipality on consideration of the merit of a case.
- 10.5 Re-allocation under this clause shall only be taken into consideration by the Municipality on receipt of a sworn affidavit stating the nature of incapacity as well as the period for which the permit holder requires the stall to be re-allocated.
- 10.6 The dependant or assistant of the permit holder shall only be permitted to replace the permit-holder as trader for the period stipulated or applied for in the sworn affidavit.
- 10.7 Temporary re-allocation of permits shall only be allowed for a period of 1 (one) calendar month (whereafter the original permit holder has to resume trade under the existing lease agreement) unless the Municipality consents to an extended period of time necessitated by exceptional circumstances, which granting of an extended period shall fall solely within the discretion of the Municipality.

10.8 Should the Municipality revoke a permit for any reason whatsoever, such a permit shall cease to be valid from the date stipulated by the Municipality and such a permit has to be immediately returned to the Municipality. Should the permit not be returned it shall in any event be null and void and it shall be recorded as such by the Municipality and all inspectors alerted to that fact.

11. TERMINATION OF TRADING PERMITS

11.1 A trading Permit shall automatically be terminated in the following circumstances:-

11.1.1 Where a trader voluntarily terminates his permit through written notification to the Municipality.

11.1.2 Where the trader has contravened this By-law and/or any other Municipal Policies.

11.1.3 In the event of termination of the lease agreement without any application of renewal thereof being received.

12. STREET TRADING AND FORMAL BUSINESS

12.1 The following criteria will disqualify a trader from being an informal street trader and render such trader as a formal business:-

12.1.1 Employing more than 5 (five) employees or assistants.

12.1.2 Occupying an area measuring more than 6 (six) square meters, which areas do not necessarily have to be adjacent to each other.

12.1.3 Trading from the same stall for a period exceeding 6 years.

13. PAYMENTS AND SETTLEMENT ARRANGEMENTS

13.1. The Municipality reserves the right to re-assess monthly rental rates/tariffs payable within its discretion.

13.2. Permit holders are obliged to pay rental tariffs and fines levied within a financial year by the end of such a financial year, failing which such an offending permit

holder's lease agreement may be terminated.

- 13.3. Financial arrangements will only be accepted on recommendation of the Municipality's Chief Financial Officer.
- 13.4 Interest and legal costs shall be levied on all outstanding amounts on a monthly basis against a street trader in arrears with payments of tariffs and fines.
- 13.5 The tariff structure of the Municipality for Street trading as reviewed and approved every financial year by the Municipal Council shall apply to Street Trading activities within the Polokwane Municipal Area.

14. IMPOUNDMENT AND REMOVAL

- 14.1 An authorised official may remove and impound any property of a street trader which:-
 - 14.1.1 he/she reasonably suspects is being used or are intended to be used or have been used in or in connection with the business of street trading;
 - 14.1.2 he/she finds at a place where the business of street trading constitutes an offence in terms of this by-law, irrespective of whether such goods or property are in the possession or control of any person at the time of such impoundment and/or removal; and
 - 14.1.3 a person is selling or intends to sell in areas where street trading is prohibited, Whether or not such property is in possession or under control of any person at the time of such removal or impoundment.
- 14.2 Any goods of a perishable nature, including plants and flowers, will be kept for 24 hours after confiscation and if of no value they shall be disposed of, recorded according to Schedule 1, and otherwise sold to the best advantage by the authorised officer or person designated by him/her, the proceeds to accrue to the Municipality to defray costs.
- 14.3 An authorized official acting in terms of subsection 1 & 2 above, except where goods have been left or abandoned, issue to the person carrying on the business

of a street trader, a receipt for any property so removed and impounded, which receipt must-

- i. itemize the property to be removed and impounded;
- ii. Provide the address where the impounded property will be kept, and the period thereof;
- iii. State the conditions for the release of the impounded property;
- iv. State the terms and conditions relating to the sale of unclaimed property by public auction; and
- v. Provide the name and address of a council official to whom any representations regarding the impoundment may be made, and the date and time by which this must be done.
- vi. Contain full details of the law enforcement officer who impounded the goods.

14.4 If any property about to be impounded is attached to any immovable property or a structures, and such property is under the apparent control of a person present at the property, any authorised official of the Municipality may order such person to remove the property, and if such person refuses or fails to comply, he or she shall be guilty of an offence.

14.5 When any person fails to comply with an order to remove the property referred to in subsection 14.3, any authorised official of the Municipality may take such steps as may be necessary to remove such property.

15. VICARIOUS LIABILITY OF PERSONS TRADING

15.1 When an employee/subcontractor/assistant/agent of a street trader performs any act or an omission which constitutes an offence in terms of this by-law, the employer shall be deemed to have committed the act or omission himself/herself unless he/she satisfies the court that:

15.1.1 In committing that act or omission the employee/ subcontractor/ assistant/ agent was acting without his/her permission or knowledge.

15.1.2 He/she took all reasonable steps to prevent the act or the omission; and

15.1.3 It was not within the scope of authority and the course of employment of the

employee to perform such act or omission, of the nature in question.

15.2 The mere fact that such employer issued instructions forbidding the act or omission shall not itself be accepted as sufficient proof that he/she took such reasonable steps.

15.3 When an employer is by virtue of section 15.1, liable for an act or omission by his employee, then that employee shall also be liable for prosecution of the offence.

16. EXEMPTION FROM LIABILITY

The Municipality shall not be liable for damages or compensation arising from anything lawfully done in good faith by it or any authorised official or employee of the Municipality in terms of this By-law.

17. CHILDREN NOT PERMITTED TO TRADE

17.1 No person under the age of 16 in terms of the Labour Relations Act shall be permitted to trade.

17.2 Any person who employs or engages or request such a person referred to in section 17.1 above, to conduct the business of a Street Trader or to assist therewith shall be guilty of an offence under the relevant law.

18. OWNERS OF PRIVATE PROPERTY

18.1 Owners of private shall not allow any person to trade from such a property without the necessary land use right required for such trading.

18.2 Where the necessary land use rights have been obtained from the Municipality for trading on private property, such owner of private property shall ensure that such informal trading taking place on his/her property complies with this By-law.

19. OFFENCES AND PENALTIES

19.1 Any person who-

- i. contravenes or fails to comply with any provision of this By-law;
- ii. Fails to comply with any notice issued in terms of this By-law;
- iii. fails to comply with any lawful instruction given in terms of this By-law;

- iv. Who obstructs or hinders any authorised representative of the Municipality in the execution of his or her duties under this By-law shall be guilty of an offence;
- 19.2 Should any person be found guilty of any action contained in section 19.1 above, such person shall upon conviction be liable to payment of a fine as per Schedule 2.

SCHEDULE 1



Goods/item Confiscation form

Dates	
Personal details	
Names and surnames	
Id number	
Gender	
Citizenship	
Postal address	<p>-----</p> <p>-----</p> <p>-----</p>
Code	
Laws/policies contravened	<p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>
Areas/streets where confiscation persist	<p>-----</p>
Goods/items name confiscated and total number of items confiscated	<p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>
Serial code of Goods/items if applicable	<p>-----</p>

Address where impounded goods/items will be stored	----- -----
Office where impoundment matters maybe addressed to.	----- ----- -----
Signatures of offender in terms of confiscation preconditions below	-----
Names official who impounded goods or Items	Surname and initials Signatures Date

Terms and conditions during confiscations of goods/items

1. The offender must bring along this receipts and ID book for release of impounded goods/items
2. Impoundment fine must be paid in full
3. Should the impounded good/item be perishable, will only be kept for 24 hours and then will be sold, or donated or dumped.
4. No officials will be liable for any damage of the impounded goods/Items
5. Miscalculation and wrong code shall not be municipal responsibilities
6. Providing false information on the form shall further be in contravention and disqualify the release of impounded goods
7. Failure to pay state impoundment fine will lead to disapproval for release
8. The offender must cooperate with official during impoundment and release
9. Should the goods/items need SAPS such proper procedure shall apply
10. In all the circumstances criminal procedure act and related policies will apply

SCHEDULE 2

OFFENCES OR PENALTIES FOR CONTRAVENTION OF STREET TRADING BY-LAW

No:	Activity	Amount of fines
1.	Failure to produce valid permit	R500
2.	Failure to produce valid accreditation/permits during events	Confiscation and R3000 fines
3.	Permit in arrears	R500
4.	Trading in prohibited areas	Confiscation and R3000 fines
5.	Trading in restricted areas	R500/ confiscation
6.	Contravention of the do's and don'ts e.g. <ul style="list-style-type: none">• Sleep overnight• Trading on intersections• Coursing vehicular obstruction• Coursing health hazards	R500
7.	Subletting of permit	Permit confiscation and Termination
8.	unclean stall while trading onsite	R1000
9.	Selling of prohibited products	Confiscations, arrest and R3000
10.	Selling from a vehicle	R1000 (and impoundments and R5000 fines)
11.	Use of open fire	confiscation and 1000 fines
12.	Braiding of hair	R1000
13.	Using gas cylinder of more than 9kg/trading without functional fire extinguishers	R500
14.	Trading without functional fire extinguishers	R500
15.	Trading on stand allocated to another trader/not allocated to you as trader	R500/ confiscation