



MOSES KOTANE LOCAL MUNICIPALITY

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MKLM INFORMAL TRADERS BYLAW

1. DEFINITIONS

In this By-Law, unless the context otherwise indicates-

- 1.1 “**approval**” means approval by Council and “approved” has a corresponding meaning;
- 1.2 “**authorised official**” means any official of Council who has been authorised by it to administer, implement and enforce the provisions of By-Law;
- 1.3 “**Villages and Townships**” means the Moses Kotane Local Municipal Area;
- 1.4 “**Council**” means -
 - (a) MKLM Council;
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this By-Law has been delegated or subdelegated, or an instruction given, or
 - (d) a service provider fulfilling a responsibility under this By-Law, assigned to it in terms of Section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be;
- 1.5 “**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 electrify Villages and Townships, or municipal services;
- 1.6 “**Council service works**” means all property or works of whatever nature necessary for or incidental to any Council services;
- 1.7 “**foodstuff**” means foodstuff as defined in Section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972), perishable foodstuffs, milk, meat, fish, fruit and vegetables, as noted in the Regulations relating to Perishable Foodstuffs as set in the aforementioned Act;
- 1.8 “**garden or park**” means a garden or park to which the public has a right of access;
- 1.9 “**goods**” means any movable property and includes a living thing;
- 1.10 “**hawker**” means a person who is not registered or incorporated in terms of the corporate laws of South Africa, selling or offering for sale any goods, wares, or merchandise, including any food or beverage and engaged in informal trading and includes any employee of such a person;
- 1.11 “**informal trading**” is defined as the economic activity undertaken by entrepreneurs who sell legal goods and services within a space deemed to be public or private property within the informal sector;
- 1.12 “**intersection**” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);
- 1.13 “**litter**” includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by a street trader or by his or her customers;
- 1.14 “**motor vehicle**” means a motor vehicle as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

- 1.15 “**prescribed**” means determined by resolution of the Council from time to time;
- 1.16 “**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;
- 1.17 “**public building**” means a building belonging to or occupied solely by the State or Council;
- 1.18 “**public monument**” means any one of the “public monuments and memorials” as defined in the National Heritage Resources Act, 1999 (Act 25 of 1999);
- 1.19 “**public place**” means a public place as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- 1.20 “**public road**” means a public road as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- 1.21 “**roadway**” means a roadway as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- 1.22 “**sell**” includes –
- (a) barter, exchange or hire out;
 - (b) display, expose, offer or prepare for sale;
 - (c) store on a public road or public place with a view to sell; or
 - (d) provide a service for reward;
- and “**sale**” or “**selling**” has a corresponding meaning;
- 1.23 “**sidewalk**” means a sidewalk as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- 1.24 “**street furniture**” means any furniture installed by the Council on the street for public use;
- 1.25 “**street trader**” means an authorised person who carries on the business of street trading for a period of one year or more and includes any employee of such person;
- 1.26 “**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 and for the purpose of these By-laws, a single act of selling or offering or rendering of services in a public road or public place shall constitute street trading;
- 1.27 “**street vendor**” means a roving person who offers goods or services for sale to the public without having a permanent built up structure but with a temporary static structure or mobile stall, eg caravans, moving vehicles, bicycles, etc, and includes any employee of such a person;
- 1.28 “**temporary trader**” means any authorised person who carries on the business of street trading for a specific period/event, including seasonal traders and any employee of such a person;
- 1.29 “**trading hours**” means trading hours will be from 08:00 - 20:00, unless prior permission/approval has been granted, eg special events and functions;

- 1.30 “**the Act**” means the Businesses Act, 1991 (Act 71 of 1991) and includes the regulations promulgated thereunder; and
- 1.31 “**verge**” means a verge as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996).

2. PREAMBLE

- 2.1 In terms of Section 151(3) of the Constitution, the municipality has the right to govern and also in terms of Section 152(1) the Council is responsible for “trading regulations” within its area of jurisdiction. One of the Council’s objectives is to promote social and economic development.
- 2.2 The Council recognises the key role that informal trading plays in poverty alleviation, income generation and entrepreneurial development and in particular, the positive impact that informal trading has on historically disadvantaged individuals and communities.
- 2.3 The Council acknowledges the need to adopt a developmental approach to the informal trading sector in order to create an environment that is conducive to the growth of businesses in the informal trading sector. In the case of developmental projects consistent with Council’s strategic objectives, a model based on equitable contribution to the trading environment by Council and the traders should be adopted. The Traders’ Association would manage certain informal trading sites and be the conduit for funding, managing and maintaining the sites. Council would be relieved of certain service obligations in respect of the public places involved, although normal basic minimum services that Council is obliged to render in respect of public places would continue.
- 2.4 The Council further acknowledges the need for a balanced relationship between the informal and formal trading sectors in order to promote social and economic development.
- 2.5 This By-law accordingly aims to -
 - (a) consolidate in a single by-law, the by-laws passed by the predecessors of the MKLM Council; and
 - (b) govern informal trading within its area of jurisdiction.
- 2.6 Council will conduct a public participation process before adopting or amending this by-law.

3. COUNCIL’S APPROACH

The reasons for having an Informal Trading By-Law can be summarised as follows:

- (a) It defines an integrated and holistic approach for all departments within the MKLM Council.
- (b) It clarifies Council’s By-Law to all relevant stakeholders.
- (c) It forms the basis for the By-law that will regulate informal trading in the Villages and Townships.
- (d) It provides a basis for resources allocation decisions.
- (e) It establishes the basis for a monitoring and evaluation process with clearly defined key objectives.

3.1 Principles of Council’s approach

The key principles that govern the Council’s approach to Informal Trading are economic, social and spatial.

3.1.1 Economic principles

Economic growth in the informal trading sector will be facilitated through -

- (a) linking the development and growth of trading areas to commercial zones in order to create viable hubs of business activity that mutually benefit formal and informal businesses;
- (b) providing a range of facilities in Villages and Townships building and business support services that cater for different levels of traders, from the weekly Saturday trader and small survivalist trader to larger traders;
- (c) ensuring that the buildings and property owned by Council are used for the maximum social and economic development of the community within which they are located; and
- (d) targeting highly accessible and visible locations for the promotion of tourist-related trading in order to derive benefit for informal traders from the tourism potential.

3.1.2 Social principles

The promotion of equity within the Council to create a dignified Villages and Townships through -

- (a) spreading public spending in an equitable manner throughout the Villages and Townships with an emphasis on the poorer parts of the Villages and Townships that have not historically benefited from public sector investment;
- (b) viewing the location of public sector investment as an opportunity to integrate communities that have historically been spatially separated;
- (c) using the development of the informal trading infrastructure as an opportunity to improve the general environmental condition of the historically disadvantaged areas of the Villages and Townships; and
- (d) providing basic services such as water and refuse facilities to all areas where public health and/or public safety is at risk.

3.1.3 Spatial Principles

Informal trading contributes to the value of public places as amenities and places of dignity and has the potential to be a catalyst for generating positive public spaces through -

- (a) developing those areas that will have most significant impact on the largest number of people, ie areas with large flows of pedestrian and motorists.
- (b) allocating space for informal trading areas in accordance with the broad Land Use Scheme and other applicable municipal policies of the Municipality and the local area Spatial Development Frameworks; and
- (c) providing minimal infrastructure for informal trading, this would vary depending on the type of activity.

3.2 **Four By-Law levels for change**

The ultimate goal of this By-Law and Management Framework is sustainable urban management, which plans, designs and manages the Villages and Townships that is able to accommodate informal trading in designated streets, public open spaces and markets. The full integration of informal trading into the planning, design and management of the Villages and Townships is therefore necessary in order to enhance the Villages and Townships, promote economic development and expand employment opportunities.

This first point of departure in the By-Law for the informal economy is that local government should promote the creation of job opportunities and diverse economic and trading opportunities.

The four key levers for change are planning, the allocations By-Law, registration process and rental By-Law.

3.2.1 **Planning**

New markets and trading opportunities must be properly planned, bearing in mind the economic needs of traders, the need for more vibrant land use and the need for orderly town, spatial and transport planning, as well as health and safety.

Existing markers should be managed properly and new market developments must be linked to emerging patterns of work in the areas they serve.

3.2.2 **Registration**

The By-Law goal is the registration of all informal traders and the sustained payment of rentals. This action gives permission to operate and provides access to services and support. Simplifying existing registration procedures and moving towards the one-stop centre concept can reduce costs. Data on registration must be kept in the centralised inter-departmental information system, which will link where traders are, the sectors they work in, rent-paying status, environmental health and the enforcement function.

3.2.3 **Allocations By-Law**

The Allocations By-Law in respect of trading (stands, markets, permits, etc.) is central to the entire By-Law for the informal economy as it is the lever through which local government can steer management and support of the informal economy. The aim of the Allocations By-Law is to support growth and provide opportunities for new entrants, in an economically sustainable and socially useful way. It can feed directly into the tourism industry, through achieving the appropriate tenant mix at tourist-related areas. The criteria for allocations will be negotiated locally with stakeholders and the allocation of sites will then be done by officials. The Allocations By-Law could be used as a tool to develop partnerships between established traders and new entrants. Stands to be identified for informal trading must be numbered and marked and a database thereof be kept by the municipality according to which stands can be allocated to informal traders.

3.2.4 **Rental By-Law**

In the same way that built property has a value placed on it, depending on where it is located, so it is important to place value on different informal trading sites, such as pavements. Value is placed on sites through a system of differentiated rentals. A market valued price determined by a credible

Valuer and rentals will be linked to site size, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in some areas.

4. BY-LAW OBJECTIVES

4.1 The By-Law on Informal Trading has the following objectives:

4.1.1 Developmental objectives

In order to encourage economic growth the informal sector has to be encouraged to develop from survivalists to more robust business enterprises. It is generally understood that various levels of trading exists within the informal trading sector, namely -

- (a) Level 1 – Survivalist Trading, which includes informal traders who make sufficient income to sustain their trade and family;
- (b) Level 2 – Informal Trading, which includes informal traders making sufficient income to support personal and family needs but also able to operate on a profit basis; and
- (c) Level 3 – Formal Trading, which includes traders who have a fixed location and run their businesses on formal business principles.

4.1.2 Integration of management and support services to the informal sector

This integrated approach to informal trading combines the management and support services necessary for all levels of informal traders as described by the Developmental Continuum. The objective in this regard shall be to integrate the provision of basic business skills and enterprise development services, economic infrastructure and services with generic business services and specialised business services along the Development Continuum.

4.1.3 Integrated service delivery

The informal trading sector requires basic economic infrastructure and municipal services as well as generic business services. The public environment requires cleaning, security and maintenance and the Villages and Townships needs to make provision for these services. Effective delivery of “basic municipal services” provides an environment in which business can thrive. These may include -

- (a) provision of trading areas and facilities and management thereof;
- (b) provision of cleaning services, water, sewerage services, etc depending on the type of facilities involved; and
- (c) ensuring safety and security in business areas.

Generic business services can assist less sophisticated businesses to run more efficiently and to mature (ie. grow in size, revenue and sophistication). These may include -

- (i) business literacy skills and training development;

- (ii) provision of advice, information and business counselling;
- (iii) provision of management or appropriate technical training, including financial management; and
- (iv) provision of marketing and market development services.

The key service areas within the Villages and Townships that will be impacted upon are utilities services and cleaning. These include water, electricity to Villages and Townships, solid waste (refuse) removal and sewerage. To be consistent with Council's By-Law on the provision of these basic services to historically disadvantaged areas (HDAs), these services would need to be provided to formal market areas in order to ensure a trading environment that is conducive to doing business effectively and efficiently. Specifically, service level agreements need to be established around solid waste removal to ensure that all trading areas are kept hygienic and that refuse is collected on a regular basis, similar to agreements with formal businesses located in the same area.

5. ROLES AND RESPONSIBILITIES

There are basically four key components to informal trading within the Villages and Townships:

- (a) By-Law Formulation and Revision.
- (b) Regulation and Enforcement.
- (c) Developmental Responsibilities.
- (d) Management/Operations.

Control of By-Law formulation and regulation should always reside directly with Council. However, external service providers that are managed directly or indirectly by the MKLM Council can provide development and management services.

6. CONDUCT

6.1 General conduct

A street trader must -

- (a) not place his/her property or goods on a verge or public place except for the purpose of commencing trade;
- (b) ensure that his/her property or goods do not cover an area of a public road or public place in excess of 3m² without the written permission of the Municipality;
- (c) not place or stack his/her property and goods in such a manner that it constitutes a nuisance or danger to any person, or property, or is likely to injure any person or cause damage to property;

- (d) on concluding his/her business activities for the day, remove all his/her property and goods except any structures allowed by the Municipality to a place which is not part of a public place or public road;
- (e) on request by an employee or authorised official of the Municipality or supplier of electrified Villages and Townships, telecommunication or other services, remove his/her property and goods so as to permit the carrying out of any work or service in relation to any maintenance work done by Council or authorised service provider;
- (f) not attach any object by any means to any building, structure, sidewalk, tree, parking meter, lamp-pole, electrified Villages and Townships pole, telephone pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or a public place;
- (g) not make a fire in any place or in circumstances where it could cause injury or loss to a person, building, vehicle or street furniture;
- (h) not store his/her property and goods in a manhole, storm-water drain or a public toilet, bus or taxi shelter or tree;
- (i) not sleep overnight at the place of such business;
- (j) not erect any structure for the purpose of providing shelter, other than a structure approved by Municipality;
- (k) not display his/her property on or in a building without the consent of the owner, lawful occupier or person in control of such building or property; and
- (l) not obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrians.

6.2 Prohibited conduct

6.2.1 No person shall carry on the business of a street trader –

- (a) at a place or in an area declared by Council 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 Council;
 - (ii) a church or other place of worship;
 - (iii) a building declared as a public monument; or
 - (iv) an auto teller bank machine;
- (d) at a place where it causes an obstruction, eg in front of –
 - (i) a fire hydrant; or

- (ii) an entrance to or exit from a building;
- (e) at a place where it could obstruct vehicle traffic;
- (f) at a place where it could substantially obstruct a pedestrian in his or her use of the sidewalk;
- (g) at a place where it will prevent a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- (h) 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 authorised official;
- (i) take up a position or place his or her property on a portion of a sidewalk or public place in contravention of a sign or notice erected or displayed by the Council for the purpose of these By-laws;
- (j) on a stand, or in any area demarcated by Council if he or she is not in possession of a written proof that he or she has hired such stand or area from Council, or that such stand has otherwise been allocated to him or her;
- (k) within 5 (five) metres of any intersection as defined in Regulation 322 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- (l) on a sidewalk contiguous to a building in which business is being carried on by any 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; and
- (m) if not within a reasonable distance from public ablution facilities, unless written proof of permission to make use of nearby private facilities can be produced.

6.2.2 A person who has hired a stand from, or been allocated a stand by Council, may not trade in contravention of the terms and conditions of such lease or allocation.

7. CLEANLINESS

A street trader must -

- (a) keep his/her stand, property and goods for the purposes of street trading in a clean and sanitary condition;
- (b) not dispose of any litter and refuse by placing it in a manhole, storm-water drain or any other place not intended for the disposal of litter;
- (c) ensure that on completion of business for the day the area or stand occupied by him/her is clean and free of litter and refuse;
- (d) take the necessary precautions to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his/her business and must further prevent smoke, fumes and odours emanating from his/her activities;

- (e) on request by an authorised official remove his/her goods and property to permit the cleaning of the stand if necessary; and
- (f) ensure that no smoke, fumes or other substance, odours or noise emanating from his or her activities causes pollution of any kind.

8. SECTOR SUPPORT LEVEL

8.1 Sector support is necessary to help small operators move along the development continuum towards greater growth and independence because each sector -

- (a) is of different economic importance to the Villages and Townships;
- (b) has different prospects for growth for individual operations, ranging from the limited prospects of the survivalists to the better prospects of service providers;
- (c) presents different problems of control (eg hazardous chemicals in drum selling, the seasonality of mielie-cooking); and
- (d) offers the different possibilities for support, based on all of the above.

8.2 External sources can provide this sector support and play a number of creative roles in providing for example -

- (a) economically trained sector specialists for those sectors where large numbers of traders operate or where growth prospects are more positive;
- (b) training in general business skills;
- (c) health education with regard to the handling of food sale;
- (d) legal advice about small business development;
- (e) subsidisation of selected training providers;
- (f) cooperation with formal business;
- (g) facilitation of access to financial services; and
- (h) assistance with infrastructure support for informal traders.

9. DEVELOPMENTAL CONTRIBUTION BY THE MKLM COUNCIL

It is difficult to assess the extent of Council's contribution in general to informal trading due to the various elements of management, policing, cleaning and organisational support that are involved. However, the need for support for and creation of sustainable informal economic activity in certain areas is beyond dispute, in particular in localised community markets.

This scenario would be applicable only in certain areas and would mean providing funds to support

the trading environment that would consist of -

- (a) trading fee (paid by traders in order to trade);
- (b) a clean trading environment; and
- (c) training and development contribution by Council.

10. SCOPE OF INFORMAL TRADING

The different types of informal trading that take place in the MKLM Council municipal area are covered by the By-Law, namely –

- (a) street/ kerbside trading;
- (b) trading in pedestrian malls;
- (c) markets (flea and craft markets as well as special markets, eg sector based);
- (d) trading at transport interchanges;
- (e) trading in public open spaces, rural and urban;
- (f) mobile traders (roving, caravans, LDVs);
- (g) intersection trading;
- (h) special events (including night markets and major events); and
- (i) farmer stall traders as seasonal hawkers.

11. ALLOCATION OF THE STANDS

11.1 Appropriate stands will be identified for informal trading and these stands will be numbered and marked and a database thereof will be kept by the Municipality.

11.2 When applications are considered, the following criteria should be followed:

- (a) Self-employed.
- (b) Valid South African citizenship.
- (c) Preference will be given to local South African citizens and if space is available, foreigners with valid work permits and Asylums will be accommodated.
- (d) Should not be involved in any other business.

- (e) Continuity and period of trading.
- (f) No subletting.
- (g) One month rental payable in advance.
- (h) No children under the age of eighteen may obtain permits.

11.3 The overall monitoring of the industry lies within the Department Public Safety (Law Enforcement Section) during their routine operations and also other trained Law Enforcement Officers of Council.

Council will reserve the right to withdraw summarily the allocation of a stand in the event of evidence proving that –

- (a) a trader has willfully supplied incorrect information related to permit conditions;
- (b) a trader has failed to update the information annually;
- (c) a trader who is allocated a stand has sublet or sold such a stand to a third party without Council's approval;
- (d) a trader does not comply with the MKLM Council By-Law on Informal Trading; and
- (e) if a trader does not pay the prescribed monthly rental amount for a period of ten days after the first day of the month.

11.4 When Council designated special events occur, Council will have the right to summarily cease (without any compensation for loss of earnings), all trading in places which Council deems affected by the special event.

11.5 Only one stand will be issued per trader.

11.6 In the case of foodstuffs, the trader must be in possession of the required Business License and Certificate of Acceptability issued by relevant Department.

11.7 **Special circumstances for allocation of informal business stands:**

Special circumstances that may warrant a variation of the above criteria are -

- (a) death of principal trader – where the inability to trade would place undue hardship on the family of the principal trader, permission may be granted to another family member/assistant trader to continue trading until the end of the trading period as stipulated on the permit for the stands;
- (b) illness of principal trader – where the trader is able to provide proof from a medical practitioner that he/she is incapable of trading. The period of Villages and Townships must be stipulated. A family member or assistant trader may trade in his/her place but for a period that does not extend beyond that which is stipulated on the permit for the bay;

- (c) religious observances of principal trader – where the trader has to be absent in order to fulfil the duties of his/her religion, Council may decide to allow a family member/assistant trader to trade on their behalf for a period not exceeding one month or the period stipulated on the permit for the stand; and
- (d) if the principal trader or his/her family chooses not to make application for special consideration as outlined above, the permit for the stand must be returned to Council to be allocated to the next person meeting the criteria on the waiting-list.

12. PERMIT PROCESS

12.1 Application for a stand

Any person who intends to carry on a business as a street trader in terms of the provisions of the Act may apply to the Municipality in the prescribed manner for the lease or allocation of a stand.

12.2 Permits

No person may conduct Informal trading without a valid permit from the Moses Kotane Local Municipality

The MKLM is entitled to charge a permit holder:

- A trading fee
- An application fee
- An application fee/tariff fee which is to be determined by MKLM.

New applicants will be required to fill in a prescribed application form if they wish to be considered for a trading permit. Permits will be issued on a “first come, first serve” basis from the waiting list, but the number of permits may not exceed the maximum number of sites allowed in any trading area. The issues of permits will be centralized and centrally based.

12.3 Intersection trading

Subject to compliance with the relevant national and provincial traffic legislation, each intersection will have a fixed number of traders permitted at an intersection. This number will be determined by Council from time-to-time. These permits will be granted against the criteria established in the section entitled “Criteria for Allocating Permits”. Permits will be granted for one full year after which application must again be made.

12.4 Special events

Examples of special events: Sporting activities, night markets and major events. These events are by their nature temporary and arrangements will depend upon the type of event and the geographical area in which it is taking place. When deciding on granting permission for a special event, Council has the right to make changes to any other permission given in respect of informal trading stands or trading permits.

12.5 Transport interchanges

Any trading in the vicinity of transport interchanges may not obstruct vehicular or other traffic. The establishment of any trading zones at transport interchanges would require the approval of the interchange management, or relevant committee responsible for management and the Law Enforcement Officer and must comply with the relevant national and/or provincial legislation.

13. PROHIBITED AND RESTRICTED AREAS

13.1 The Municipality may, in terms of its By-law, declare any area within its jurisdiction as an area where the carrying of business as a street trader is restricted or prohibited with reference for trading -

- (a) a specific category or categories of goods or services;
- (b) specific times or days or both; and or
- (c) where street trading is not in the interest of the general public.
- (d) and the applicable municipal policies

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

14. REMOVAL AND IMPOUNDMENT

(1) An authorised official may remove and impound any property of any informal trader and/or roving trader, hawker, street trader, vendor, etc -

- (a) which he or she reasonably suspects is being used or is intended to be used or has been used illegally, in connection with street trading; and
- (b) which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.

(2) Any authorised official acting in terms of subsection 1 above must, 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) itemise 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.
- (3) If any property about to be impounded is attached to any immovable property or a structure and such property is under the apparent control of a person present thereat, any authorised official of the Council 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.
 - (4) When any person fails to comply with an order to remove the property referred to in subsection (3), any authorised official of the Council may take such steps as may be necessary to remove such property.
 - (5) When goods are confiscated, a fine of R300 shall be payable to Council by the informal trader for return of goods and products.
 - (6) A copy of the register indicating goods confiscated, signed by both law enforcement officer and informal trader concerned, shall be forwarded to the Department Economic Development for record purposes.
 - (7) In cases where perishable goods are confiscated, goods shall be donated to a needy institution or person(s) to be identified by the Department Economic Development in conjunction with the Department Community Services.

15. RENTAL STRUCTURE

A trader (or market association) does not hold a right of reserve over any trading site. The Department Economic Development will have the final decision on the allocation of trading space.

The inherent economic value of a space/stand must be accommodated in the allocation of permits and leases and the rent to be charged. This rental must take into account where the trading space is located as well as the balance of value added by informal trading to that area. Rentals will be linked to site size, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in some areas. For street traders, a minimum site rental should be set. Then, differentiated rentals for different levels of service provision should be introduced. Components of a basic package of services are basic shelter, solid waste removal, water, toilets, lighting and storage facilities.

In areas that are managed by parties other than the Council and where services are supplied supplementary to those provided by Council, an alternative rental structure may apply in order to reflect the value of the additional services provided in the area.

17. ENFORCEMENT AND MONITORING

In order to enhance Council's image in the eyes of both its residents and visitors, the conduct to traders will be strictly monitored. Anti-social and other unruly behavior will be viewed as misconduct.

- (a) No trader will be permitted to carry on such business in a manner which creates a nuisance, is a danger or threat to public health and safety, or damages or defaces any Council property.
- (b) Any criminal act will be dealt with through the appropriate criminal procedures.
- (c) Where a trader violates the permit conditions, he/she will be informed in writing of the violation and course of action. Permit fees will not be refunded if the permit is revoked or suspended.
- (d) Punitive measures could include a warning, a suspension for a specified period, or the total withdrawal of such trading permit.
- (e) The trader will have the opportunity to put his/her case forward on inquiry and he/she will be permitted to call any witnesses to testify on his/her behalf. Minutes will be kept of all inquiries and will be available to all interested parties. The Accounting Officer will use his/her discretion in establishing an enquiry committee.
- (f) In the case of a trader being refused a permit or having his/her permit revoked, the complaints procedure will be through the Area Informal Trading Management Committee e.g. Taxi Rank Informal Trading Committee and the Municipality.
- (g) In the event of traders wishing to appeal against a Council official resolution which are deemed to impact on the rights of traders, the appeals will follow the disciplinary and appeal procedure on paragraph 62 in the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

18. OFFENCES

Any person who:

- (a) contravenes any provision of this by-law or fails to comply with my condition imposed in terms hereof;
- (b) threatens, resists, interferes with or obstructs any officer or any employee of the municipality in the performance of officials duties or functions in terms of or under this by-law; or
- (c) deliberately furnishes false or misleading information to an officer or an employee of the municipality;

Is guilty of an offence and liable on conviction to a fine not exceeding R5, 000 (Five thousand Rand) or to imprisonment for a period not exceeding 3 (three) months, subject to the Adjustment of Fines Act, No 101 of 1991.

19. CONCLUSION: A PHASED APPROACH

Currently, informal trading is managed by a variety of different departments within the different administrations, including the Department Public Safety, Business Areas Management, legal services and the Department Economic Development.

In addition to this, each administration has been using its own way of managing informal trading which creates the challenge of establishing one system that will ensure uniformity and consistency throughout the Villages and Townships. While this process is underway, the need for immediate, effective and efficient management of informal trading remains.

In order to ensure a quick and significant progress, it is imperative that the interim management of informal trading ensures cross-functional cooperation and involvement of all Departments, focused on the end result.

This By-Law will be continuously monitored and reviewed every five years.

Ms. G. R. Madikela
HOD: Local Economic Development