



uMHLATHUZE MUNICIPALITY INFORMAL TRADING BY-LAW

uMHLATHUZE MUNICIPALITY

The Council of the uMhlathuze Municipality in terms of Section 156 of the Constitution, 1996 (Act 108 of 1996), read in conjunction with section 11 of the Municipal System with Act, 2000 (Act No 32 of 2000), Criminal Procedure Act, 1977 (Act 57 of 1977) and National Road Traffic Act, 1996 (Act 93 of 1996) hereby makes the following By-Laws :

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INFORMAL TRADING BYLAW

1. Definitions

In this bylaw the following expressions bear the meaning set out in this part, unless the context indicates otherwise –

"Adequate": means the standard or manner that, in the opinion of an Environmental Health Practitioner, is sufficient to safeguard public health,

"Authorised official" means a person lawfully authorised to implement the provisions of this By-Law, including but not limited to:

- Peace officer as contemplated in section 334 of the Criminal Procedure Act, 1997 (Act No. 51 of 1997);
- Traffic Officer as contemplated in the Road Traffic Act 29 of 1989;
- such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace or an enforcement officer, such person must be accompanied by a peace officer;

"Beach" means the portion of land above and contiguous to the seashore and includes any grass verge (where such verge exists);

"Beach Trading" means Informal Trading that takes place on a beach and includes trading on a parking area adjacent to the beach;

"Black person" as per the broad-based black economic empowerment act 53 of 2003 is a generic term which means Africans, Chinese, Coloureds, and Indians who are citizens of the Republic of South Africa by birth or descent; or are citizens of the Republic of South Africa by naturalisation before the commencement date of the Constitution of the Republic of South Africa Act of 1993; or became citizens of the Republic of South Africa after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, but for the Apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalisation prior to that date;

"Council" means the duly constituted council of uMhlathuze or official to whom the relevant duty, function or power has been delegated;

"Demarcated stand" means a public place marked out in the prescribed manner by the Municipality for the purpose of informal trading and not exceeding 3 sq metres;

"Enforcement officer" means any traffic officer appointed under section 3 of the Road Traffic Act 29 of 1989; or any member of the Force appointed under section 5 of the South African Police Service Act 68 of 1995; Law enforcement officer or any official employed by the Municipality of uMhlathuze to whom power to exercise any duty or function in writing under this bylaw has been delegated;

"Environmental Health Practitioner" means an official appointed by the Council, and who is duly registered as an environmental health practitioner or environmental health officer with the Health Professions Council of South Africa in terms of section 33(1) of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974);

"Foodstuff" means foodstuff intended for human consumption as defined in section 1 of the foodstuff, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"Goods" means any movable property displayed or kept by a person in a public place or public road used or intended to be used in connection with carrying on the business of an informal trader and includes any article, container, vehicle, movable structure or living thing;

"Historically disadvantaged individual" means a South African citizen who is a black person and or is a woman and or has a disability;

"Illegal goods" means –

- Goods which may not lawfully be sold or bought including, but not limited to, counterfeit goods as defined in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);
- Goods that are bought or sold in an unlawful manner; or
- Goods that have been acquired in an unlawful manner.

"Impoundment costs" means all cost incurred by the municipality in impounding and storing property / goods and where applicable, the costs incurred as a result of the impounded property / goods;

"Informal trader" means a person who carries on the business of informal trading;

"Informal trading" means the trading in goods and services in the informal sector by an informal trader in a public road or public place

"Litter" includes any receptacle, container or other object or matter which has been discarded, abandoned or left behind by a person trading or his or her customers;

"Management zone" means any number of demarcated stands grouped together to ensure good and effective management of informal trading in a particular area;

"Market" means a demarcated area for the purpose of carrying out informal trading.

"Nuisance" means any conduct that unreasonably interferes with the physical comfort, health and safety the public is entitled to expect in a public place;

"Permit" means the document issued to an informal trader by the Municipality containing the terms and conditions that apply to a particular trading stand;

"Public building" means a building occupied solely by the national or provincial government of the Council;

"public health hazard" means any actual threat to public health, and without limitation, includes:

- (a) unsanitary conditions;
- (b) circumstances which make it easier for a communicable disease to spread;
- (c) circumstances which make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and
- (d) circumstances which allow pests to infest any place where they may affect public health;

“Public place” means any place that is owned by or vests in the Council for the access, use, enjoyment and benefit of the public;

“Prohibited area” means any place in the municipal area which has been or may be declared by resolution of the Council to be an area in which informal trading may be prohibited;

“Street trader” means a person who has been issued with a permit entitling him or her to carry on informal trading on a demarcated stand, or within a specified management zone in the case of a mobile street trader.

“Trade” means sell goods or services in a public road or public place, and “trading” has a corresponding meaning;

“Trading opportunity” refers to an existing, or the creation of a new, economic prospect that is capable of being exploited by a street trader.

“Special events” May include but not limited to, sports events, night markets, bazaars, traditional events, music festivals and beach trading during the festive season.

“Verge” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway on the shoulder, as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996).

2. PREAMBLE

The Constitution of the Republic of South Africa, 1996 provides that local government is responsible for “trading regulations” and “informal trading” within its area of jurisdiction and a local government objective is to promote social and economic development.

The municipality acknowledges the high level of unemployment in KZN generally and within the uMhlatuze municipal area of jurisdiction in particular.

The Municipality acknowledges that the formal economy cannot adequately provide a sufficient number of economic opportunities to those who seek such access.

The Municipality notes the duty to give priority to promoting economic development and social justice in the community.

The Municipality further acknowledges that the informal economy is a viable means of providing a significant number of economic opportunities for those wanting to pursue a livelihood and that the informal economy is here to stay.

The Municipality seeks to regulate and encourage the growth and development of the informal economy for the mutual benefit of all concerned.

The Municipality recognises that it is the duty of local government to administer and regulate the control of public places and hence ensure that informal trading occurs in a safe, hygienic and orderly environment.

The Municipality further recognises the need for a balanced relationship between the Informal economy and the formal economy sectors in order to promote social and economic development.

3. TYPES OF INFORMAL TRADING

- 3.1 Street trading
- 3.2 Trading in pedestrian malls
- 3.3 Trading at markets or flea markets
- 3.4 Trading at transport interchanges or public transport nodes
- 3.5 Trading in public places
- 3.6 Mobile trading such as bicycles, caravans, or any other vehicle
- 3.7 Trading by foot from one place to another (Roving traders)
- 3.8 Trading at special events
- 3.9 Trading occurring on weekends (flea markets)
- 3.10 Trading from a lockable stall (Kiosks)

- 3.12 Beach trading includes:
 - 3.12.1 Trading from fixed trading bays
 - 3.12.2 Mobile trading such as bicycles, caravans, or any other vehicle
 - 3.12.3 Roving traders
 - 3.12.4 Trading from a lockable stall (Kiosks)

4. OBJECTIVES

This Bylaw, accordingly aims to:

- 4.1 Govern informal trading within the uMhlathuze area of jurisdiction
- 4.2 It aims to repeal the trading Bylaw passed by the predecessors in law of the uMhlathuze Municipality.

5. FREEDOM TO ENGAGE IN INFORMAL TRADING

Informal trading is permitted in any area within the jurisdiction of the Municipality of uMhlathuze, subject to any trading plans adopted by the Municipality, the provisions of this By-Law and any other applicable law.

6. DETERMINATION OF TRADING OPPORTUNITIES

- 6.1. Subject to the provision of these Bylaws, Informal trading is only permissible in demarcated areas.
- 6.2 The Municipality must identify all public places and compile a list and a map depicting all the areas considered viable and appropriate for informal trading.
- 6.3 In deciding whether any public place is viable and appropriate the following factors must be considered by the municipality:
 - 6.3.1 The land use scheme of the public place.
 - 6.3.2 The existing land uses in the vicinity of the public place.
 - 6.3.3 The nature and volume of pedestrian and vehicular traffic adjoining such public place especially during peak periods;

- 6.3.4 Introduction of measures to minimise disruption of such traffic.
- 6.3.5 The existence of appropriate provision for the collection and disposal of litter.
- 6.3.6 The existence of adequate toilet facilities and potable water.
- 6.3.7 Existing street furniture and municipal services.
- 6.3.8 The nature of the proposed informal trading and its likely impact on the public place and adjoining businesses or residences;
- 6.3.9 The dimensions of the public place and its capacity to carry the proposed informal trading.
- 6.3.10 Whether informal trading will unduly affect the free passage, convenience and safety of pedestrians especially children, the disabled, and elderly.

6.4 Adoption of Trading plans and demarcation of trading areas

- 6.4.1 The Municipality must demarcate particularly in areas where there is or is likely to be significant for Informal Trading.
- 6.4.2 Demarcation may be carried out on non-Municipal property in order to regulate informal trading, subject to the rights and the written consent of the owner of such property.
- 6.4.3 Such consent and any conditions agreed upon between such owner and the Municipality governing the inclusion of such non-Municipal land must be recorded in a written agreement between such owner and the Municipality.

6.5 A trading plan as a tool used to determine trading areas and boundaries of such trading areas.

- 6.5.1 A trading plan must:
 - 6.5.1.1 Define the geographic boundary of a trading plan area to which the trading plan shall apply.
 - 6.5.1.2 Demarcate trading bays and markets where trading is permitted within such trading plan area.
 - 6.5.1.3 Define the tenure right or conditions of allocation which will apply to a trader who is allocated a trading bay or permitted to trade in any market.
 - 6.5.1.4 Describe the criteria to be applied for the allocation of trading bays and access to and occupation of markets.
 - 6.5.1.5 Determine a quota system to be used in order to determine the number of traders allowed in each area.

6.5.2 A trading plan may include matters relating to governing Informal Trading in the market which may be located within the relevant trading area, including, but not limited to:

6.5.2.1 The demarcation of the area within the trading area which constitutes a market.

6.5.2.2 Where appropriate, the demarcation of trading bays within the market.

6.5.2.3 The legal arrangements between Council and any third party in respect of the obligations relating to the general management of the market in terms of which the third party is responsible for at least the following:

6.5.2.3.1 The management of the operations of the market.

6.5.2.3.2 The management of Informal traders operating within the market.

6.5.2.3.3 Ensuring that all relevant persons participate in appropriate decisions.

6.5.2.3.4 Providing guidance to the informal traders operating within the market with Business Support Markets and Tourism.

6.5.2.3.4 Any service which is in addition to the services provided by the Municipality.

6.2.2.4 Describe the criteria to be applied to the allocation of trading bays and access to and occupation of markets.

6.2.2.5 Determine a quota system to be used in order to determine the number of traders allowed in each area.

6.6 Public participation in respect of the adoption of a trading plan

6.6.1 Before adopting a trading plan, Council is obliged to:

6.6.1 Consult with interested and affected role players including the Informal and formal sectors with the view to compiling a draft trading plan

6.6.2 Compile a draft trading plan following the consultation process in terms of section 6.6.1 above.

6.6.3 Publish notices in Two (2) local newspapers one being a community newspaper which is free to the public.

6.6.4 In the notice referred to in section 6.3.3 the Municipality must invite interested and affected parties to a public meeting.

6.6.5 The public meeting must be held within the vicinity of the proposed trading area; and after Seven (7) days but not later than Sixty (60) days from the date of publication of the notice in terms of section 6.3.3

6.6.6 During the public meeting Council must reasonably respond to any queries related to the draft trading plan which may be posed by the public and give interested and affected parties an opportunity to make comments and objections, and such comments and objections must be recorded.

6.6.7 Council must consider all objections or comments that were received pursuant to the process outlined in this section.

6.6.8 Council must, after having considered the comments and objections within a reasonable period of time from the commencement of the public participation process in respect of the relevant draft trading plan, notwithstanding the provisions of any other law, including but not limited to laws pertaining to municipal planning and at a meeting of the Council:

6.6.8.1 Adopt the draft trading plan

6.6.8.2 Amend and adopt the draft trading plan

6.6.8.3 Reject the draft trading plan

6.6.9 Notwithstanding the provisions of section 59 of the System Act, the Council may not delegate the decision-making powers referred to in section 6.3.8

6.6.10 Council may publish a notice in the local newspaper, notice boards and council website notifying all interested parties of the Council decision regarding the trading plan.

6.6.11 Council may amend, revoke and review an adopted trading plan, provided it complies with this section and that all affected persons are afforded their administrative justice rights.

7 APPLICATION FOR AND ALLOCATION OF TRADING BAYS

7.1 Guidelines for application and allocation of trading bays

7.1.1 A permit is issued only in demarcated areas proclaimed by the Municipality from time to time.

7.1.2 If an area is included in a trading plan all informal traders trading there must be given fourteen (14) days' notice to obtain permits, failing which they will be deemed to be trading unlawfully, and the sanctions provided in the bylaw will take effect.

7.1.3 During the time that trading bays are occupied, a waiting list will be drawn up and all those wishing to trade will be put on that database.

7.1.4 Trading bays must be allocated in a transparent manner, provided that each applicant satisfies the criteria for allocation of trading bays set out in the allocation policy.

7.1.5 A trading bay may be allocated to more than one person on a timeshare basis, provided that each such person shall be entitled to engage in informal trading only during the period or periods indicated in the permit issued to him or her.

7.1.6 Informal traders who have been allocated trading bays must attend a workshop at which all aspects of informal trading are dealt with in detail, those trading in foodstuff must further attend a health education workshop during which health education attendance certificate will be issued Environmental Health Practitioners. Traders trading from mobile kitchens will be required to obtain a "certificate of

acceptability” issued in terms of Reg. 918 of the Health Act 63 of 1977, failing which the permit shall not be approved.

7.1.7 Preference in the allocation of trading bays must be given to a person who is a member of the following groups and who has dependants to support:

7.1.7.1 Previously disadvantaged individuals;

7.1.7.2 Unemployed persons;

7.1.7.3 Women;

7.1.7.4 Disabled persons;

7.1.7.5 Permanent residence of uMhlathuze; and

7.1.7.6 Youth

7.1.8 Council must provide application forms in the isiZulu and English languages. The application form must contain an explanation of the documents to be brought by an aspirant street trader, and he or she must be assisted with the completion of the form in case of difficulty. Each application form must be accompanied by a certified copy of the identity document of the applicant together with two passport size photographs of the applicant, valid proof of residence and valid proof of unemployment obtainable from the Department of Labour.

7.1.9 Council must consider the application and within a reasonable period give its decision to the applicant. In the case of a refusal of the application, Council must give reasons for the decision in writing and advise the applicant of his or her right to appeal against the decision

7.1.10 Informal trading may only be commenced after the applicant has been issued with a permit containing the terms and conditions to ensure that it is carried in an orderly and effective manner.

7.1.11 Apart from the Environmental Health training all informal traders must prior to permits being granted attend a One day Health and Safety training which will be organised by Council. During this training all issues pertaining to the health and safety of the informal traders as well as the public at large will be discussed.

7.1.12

7.2. Specific terms and conditions may relate to:

7.2.1 The charges and fees payable.

7.2.2 The address of the demarcated stand, if the street trader is stationary, or the boundaries of the management zone within which informal trading may be carried on by a mobile trader.

7.2.3 Specifying whether the merchandise and services traded relate to a food or non-food related activity. If trading is carried on in a food related activity then the informal trader must, in addition, attend a Health education workshop conducted by Environmental Health Practitioners and will then be issued with a Health education attendance certificate, failing which the permit shall not be approved.

7.2.3.1 Informal traders who trade on mobile kitchens must be in possession of a “certificate of acceptability” issued in terms of Regulations Governing General Hygiene Requirements for Food Premises and the Transport of

Food in terms of the Foodstuffs, Cosmetics And Disinfectants Act, 1972 (Act 54 of 1972), failing which the permit shall not be approved.

7.2.4 Specifying the period of validity of a permit. All permits are valid for a period of 12 months.

7.2.5 Permits are non-transferable, should an informal trader cease to operate he or she should surrender the stand back to Council who will in turn allocate the stand to another beneficiary.

7.2.6 Trading hours will be from 04h00 to 19h00 Monday to Sunday.

7.3 General terms and conditions may relate to the duty of the informal trader

7.3.1 All Informal Traders must attend a compulsory Health and Safety training where all issues pertaining to their safety and public safety will be discussed.

7.3.1.1 In the case of a stationary street trader to place his or her merchandise or equipment strictly within the boundary of the demarcated allocated to him or her.

7.3.1.2 In the case of a mobile trader, to trade within the boundary of the Management zone assigned to him or her, and from a trailer or receptacle the characteristics and dimensions of which may be specified in this bylaw.

7.3.1.3 To ensure that the merchandise, equipment or any other things used on the trading bay does not pose a danger to the health and safety of any person;

7.3.1.4 To ensure that the stand or equipment used is constructed in a sturdy manner, and that umbrellas do not obstruct unreasonably the sight of pedestrians in the public place.

7.3.1.5 To carry on the informal trading in such a manner that it does not cause a nuisance.

7.3.1.6 To ensure that all refuse and litter produced in the course of informal trading is placed in refuse bins provided by the Council and not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter.

7.3.1.7 On reasonable request by an employee or agent of the Council, move his or her property so as to permit any work of the surface of the area or site where he or she is trading.

7.3.1.8 To ensure, if the informal trading activity involves the cooking or preparation of food that any food or oil or other thing that drops onto the surface of the trading bay is promptly removed.

7.3.1.9 To ensure that any assistant employed by the street trader is properly supervised and is aware of all the terms and conditions of this bylaw. In the temporary absence of the street trader any non-compliance by an assistant shall be deemed to be non-compliance by the street trader.

7.3.1.10 To remove all merchandise and equipment from the trading bay at the end of each business day.

- 7.3.1.11 To report or cause to be reported to Council in writing, of his or her absence from informal trading due to illness, death in the family or any other pressing cause.
- 7.3.1.12 Council must issue to every informal trader a distinctive card containing his or her photograph and other particulars as are necessary. In the event that the trader has an assistant, then a further distinctive card must be issued free of charge to such assistant. The trader and his or her assistants must during the hours of trade display such cards on their persons so as to enable an enforcement officer to inspect such card.
- 7.3.1.13 To carry on the informal trading in such a manner that it does not cause a public health hazard.

7.4. Transfer of permits

- 7.4.1 A permit may be permanently transferred, with the written approval of the Municipality, to a dependant or an assistant acting on behalf of the dependant, who will continue trading until the permit is no longer valid, in the event of:
- 7.4.1.1 The death of the permit holder; and
 - 7.4.1.2 If the loss of income generated by the informal trading would place the dependant under undue or severe economic hardship.
- 7.4.2 A permit may be temporarily transferred, with the written approval of the Municipality, to a dependant or where there is no dependant, to an individual nominated by the permit-holder, where the permit holder:
- 7.4.2.1 Is incapable of trading because of an illness, provided that:
 - 7.4.2.1.1 Proof from a medical practitioner is provided to Council which certifies that the permit holder is unable to trade and,
 - 7.4.2.1.2 The dependant or assistant is only permitted to replace the permit-holder for the period stipulated by the medical practitioner in the certificate for which the permit-holder will be incapable of trading.

8. TERMINATION OF PERMIT

- 8.1 Council may at any time terminate a permit if, it is satisfied that:
- 8.1.1 Owing to circumstances that have arisen since the issue of the permit it is deemed not viable or appropriate for further informal trading to take place at any trading bay or management zone as the case may be.
 - 8.1.2 The informal trader has, without reasonable excuse, and without having reported his or her absence failed to engage in actual informal trading for a period of three consecutive months.
 - 8.1.3 The informal trader or his or her assistant is not in possession of the permit card issued to him or her.

- 8.1.4 The informal trader made a false statement in respect of a material particular on his or her application.
 - 8.1.5 The informal trader has failed to pay the fees or charges for three consecutive months.
 - 8.1.6 The informal trader fails to maintain his or her trading bay and its vicinity, free of refuse and litter after two written warnings by an authorised official.
 - 8.1.7. The conduct of the informal trader constitutes a nuisance.
 - 8.1.8 The informal trader to have consumed alcohol or to be intoxicated on the trading premises.
 - 8.1.9 The informal trader sells alcohol or any illegal substances or illegal merchandise from the trading bay.
 - 8.1.10 The informal trader has failed to comply with any Municipal Bylaw, or a material term and condition of the permit on three separate occasions, and after having received a written warning in respect of the first and second failures.
 - 8.1.11 The conduct of the informal trader constitutes a public health hazard
- 8.2 In enquiring whether the conduct complained of constitutes a nuisance the following factors must be taken into consideration:
- 8.2.1 The nature of the informal trading.
 - 8.2.2 The motive and purpose of the street trader.
 - 8.2.3 The locality of the informal trading.
 - 8.2.4 The practicality of preventing the harm from recurring.
- 8.3 The Council may not terminate the permit unless it has given the trader or his assistant (which service shall be deemed to be service on the informal trader) two written warnings within a period of three months in English or isiZulu of:
- 8.3.1 The conduct or omission on his, her or the assistant's part, that constitutes non-compliance with the Bylaw, or a material term and condition of the permit.
 - 8.3.2 Calling upon him or her to comply within seven days from the date of receipt of warning.
 - 8.3.3 The penalties that attach to such non-compliance.
 - 8.3.4 Notwithstanding anything to the contrary in this Bylaw, Council may at any time suspend any permit without notice if the informal trading being conducted poses a public health hazard and a risk to the health or safety of any person.
- 8.4 A permit terminates when its holder dies and shall not be capable of being transferred to any heirs or legatees. Any such permit shall then be reallocated by the Council.

8.5 In the event that an informal trader gives notice of his or her intention to cease operating or the permit is terminated by the Council, then that trading bay must be re-allocated.

8.6 Informal trader who wishes to terminate his or her permit must do so in writing.

9. GENERAL POWERS OF COUNCIL

9.1 The Council must –

9.1.1 Provide refuse bins at or near all demarcated areas and within all management zones and ensure that such areas are kept clean and such refuse bins are emptied regularly.

9.1.2 Ensure that the demarcated areas are cleaned and refuse bins emptied on a regular basis.

9.1.3 Demarcate specific areas where perishable foodstuffs may be cooked and sold and in those instances establish suitable facilities for such activities to take place having regard to health and safety.

9.1.4 Maintain a database of informal traders who hold permits. The database must show information relating to the street trader, the name and home address of the informal trader his or her identity number; the location of the stand or area of trade and any other detail.

9.1.5 Re-allocate trading bays that become vacant, or where mobile informal trader ceases trading in any management zone.

9.1.6 Prescribe the manner in which a demarcated stand is to be marked out.

9.2 Council may:

9.2.1 Rescind or alter any decision made after consultation with affected parties;

9.2.2 Propose a new or revised policy in relation to any aspect of informal trading.

9.2.3 Erect tables or other facilities for use and hire by the street traders.

9.2.4 Remove any receptacle or merchandise belonging to a street trader insofar as it is not removed to a place of storage at the end of the trading day; of which impounding will be paid for by the street trader.

9.2.5 Remove any receptacle, containers, and other merchandise that are a danger to the health and safety of the trader or the general public insofar as they are toxic, hazardous, corrosive or explosive.

9.2.6 Terminate any permit where the street trader is in breach of any term or condition, or this bylaw.

9.2.7 Remove any illegal structure erected on Municipal land without consent of Council.

9.2.8 Remove any unsightly structures used by the informal traders for the purpose of carrying on informal trading.

9.2.9 Use services of a third party in order to achieve section 9.2.4, 9.2.5, 9.2.7 and 9.2.8

9.3 Provision of Storage Facilities

9.3.1 There is no duty on Council to provide a storage facility to any street trader. However Council must take all reasonable steps to acquire or erect such facilities or adapt existing and disused buildings for this purpose.

9.3.2 In the event that storage facilities are provided, Council may make reasonable charges to recoup the costs of maintaining such service.

9.4 Special events

9.4.1 Council may permit or prohibit informal trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading area.

9.4.2 Permits issued for a special event will be for the duration of the special event.

9.4.3 If the special event is organised by a third party such third party must consent to informal trading taking place during the event.

10. FEES AND CHARGES

10.1 Council may levy a fee or charge on any Informal trader, as it may determine and as may be sufficient to recoup the costs in connection with Informal trading including:

10.1.1 The collection, removal and disposal of refuse and litter, or other services rendered to Informal traders

10.1.2 The provision of storage facilities

10.1.3 The hire of tables or other equipment;

10.1.4 The cleaning of the trading area in which Informal trading takes place insofar as such cleaning is necessitated by informal trading.

10.1.5 The reasonable administrative or other costs in connection with administering informal trading

10.2 Council may levy different charges and fees in respect of different areas of trade depending on the profitability of such areas.

10.3 Nothing contained herein prevents Council from subsidising any aspect of informal trading.

11. GENERAL PROHIBITIONS ON INFORMAL TRADING

- 11.1 No trading in certain gardens and parks, except if it falls within the informal trading plan.
- 11.2 No person shall trade on a verge contiguous to any public building, place of worship or national monument.
- 11.3 No person shall trade in any prohibited or restricted area.
- 11.4 No person shall trade at a place where -
 - 11.4.1 It causes an obstruction on a roadway;
 - 11.4.2 It limits access to parking or loading bays or other facilities for vehicular traffic;
 - 11.4.3 It obscures any road traffic sign or any marking, notice or sign displayed or made in terms of these bylaws; or
 - 11.4.4 It interferes in any way with any vehicle that may be parked alongside such place.
 - 11.4.5 It is on or alongside a public road inside an urban area, within 180 metres of a railway level crossing or any road traffic sign denoting a blind corner or rise thereon or within five metres from any intersection thereon, provided that this subsection does not prohibit the trade inside an urban area on a roadway within five metres from any intersection of the goods or services.

12. APPEALS PROCEDURE

- 12.1 A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

13. ENFORCEMENT

- 13.1 An officer may issue a person with a written warning if, in the opinion of the officer, that person has traded in goods or provided services in contravention of this By-Law or that person has contravened this By-Law in any other manner, including but not limited to, in violation of a permit condition, or any other applicable law.
- 13.2 In the event of a person continuing or repeating a contravention in respect of which two (2) written warnings have already been issued to that person, then an authorised official shall impound, any property used by the informal trader in conducting the informal trade, any property, including but not limited to, goods, equipment, structures and motor vehicles, in which case an authorised official shall –
 - 13.2.1 Complete a full inventory of all the property that has been impounded and such inventory must include information on the consequences of such

impoundment should the person fail to pay the impoundment costs and collect the goods;.

13.2.2 Provide the person with a copy of the inventory; and

13.2.3 Immediately store the impounded property in an area designated by the Municipality for the storage of impounded property.

13.3 Property which has been impounded from a person may be released after the presentation by the person of the inventory contemplated in section 13.2 and the payment of the impoundment costs, provided that the Municipality is reasonably satisfied that the relevant person will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded; provided further that, where the Municipality is not so satisfied, it may withhold the goods for up to 30 (thirty) days after payment of any fine and/or impoundment costs.

13.4 Perishable goods that have been impounded may, at any time after the impoundment, be sold or otherwise disposed of by the Municipality. The Municipality may destroy the goods if the condition of those goods renders them unfit for human consumption.

13.5 Impounded property other than perishable goods, may be sold by the Municipality if the owner does not, or is unable to, pay the impoundment costs within 1 (one) month from the date of impoundment of that property.

13.6 In the event of the impounded property being sold by the Municipality in terms of sections 13.4 or 13.5, and upon the presentation of the inventory as contemplated in section 13.2.2 by the owner, the Municipality must pay to that owner -

13.6.1 The proceeds of the sale less the impoundment costs; or

13.6.1 If the owner has previously paid the impoundment costs, the proceeds must be paid to the owner free of any such deduction.

13.7 If the owner does not claim the proceeds derived from the sale of the impounded goods within 3 (three) months from the date of impoundment, then the proceeds will be forfeited to the Municipality.

13.8 If in the reasonable opinion of an officer, an informal trader is suspected of trading in illegal goods, then such goods may be immediately confiscated. In the event of such a confiscation, the officer must:

13.8.1 Complete a full inventory of all the property that has been confiscated;

13.8.2 Provide the informal trader with a copy of the inventory; and

13.8.3 Immediately surrender the suspected illegal goods to the possession of the South African Police Service.

14. OFFENCES

14.1 A person is guilty of an offence if he or she—

- 14.1.1 Trades without an informal trading permit;
- 14.1.2 Contravenes any provision of this By-law;
- 14.1.3 Contravenes any condition on which a permit has been issued to him or her;
- 14.1.4 Contravenes any provision of an applicable informal trading policy;
- 14.1.5 Fails to comply with any lawful instruction given in terms of this By-law;
- 14.1.6 Threatens, resists, interferes with or obstructs any authorised official in the performance of official duties or functions in terms of or under this By-law; or
- 14.1.5 Deliberately furnishes false or misleading information to an authorised official.

14.2 A person is guilty of an offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence, or after he or she has been convicted of such offence.

15. PENALTIES

Any person who is guilty of an offence in terms of these Bylaws shall on conviction be liable to a fine not exceeding R5 000,00, or to imprisonment for a period not exceeding three months.

16. REPEAL OF THE BY-LAW

Any by-laws promulgated by the Council pertaining to any matter regulated in this By-Law shall be repealed from the date of promulgation of this By-Law.

17. SHORT TITLE

This By-Law is called the Informal Trading By-laws, and takes effect on a date determined by the Council by proclamation in the Provincial Gazette.

ANNEXURE A



PRIVATE BAG X1004

INFORMAL TRADING BY-LAW

RICHARDS BAY

NOTICE

3900

SERIAL NO:

DATE:.....

Name of trader:.....

Trading at:

Is hereby notified that he/she has contravened sectionof the Informal Trading By-Law by.....

.....
.....
.....
.....
.....

You are hereby called upon to rectify the said matter within.....

Days from date hereof

by:.....
.....
.....

Failure to comply with this notice may result in your goods being confiscated and or a fine not exceeding:

R.....

Telephone:.....

Signature of authorised official:.....

Date:.....

ANNEXURE B



IMPOUNDMENT FORM (RECEIPT No.) NIP NUMBER.....

A. PARTICULARS OF AN OFFICER

Surname & Initials..... Rank / Inspector Number.....

SignatureDateTime.....

B. PARTICULARS OF AN OFFENDER

SurnameForenames.....

I.D Number.....Age.....

Residential AddressCode.....

Telephone NumberAlternative.....

Business Address.....Code.....

MaleFemale.....Area of Trade.....

Type of Trade.....

LIST OF CONFISCATED ITEMS

1	9
2	10
3	11
4	12
5	13
6	14
7	15
8	16
17	18
19	20
21	22
23	24
25	26
27	28
29	30
31	32
33	34
35	36
37	38
39	40
41	42
43	44
45	46
47	48
49	50

GOODS RELEASING INSTRUCTION

Any person whom /which her /his goods were confiscated is abided by these following rules

1. Must pay his /her fine first before his/her goods will be released, fines are to be paid at Empangeni Civic Center traffic section or at Richards Bay Civic Center
2. Must not send anyone to collect his/her goods.
3. If the goods confiscated are perishable , they must be collected within 24hours ,if not so the Municipality will demolish those goods
4. If the goods confiscated is non-perishable ,they must be collected within the maximum of 3 months from the date of confiscation
5. Confiscated goods must be collected in Richards Bay at Alton by the Service Station for Municipal vehicles, on **Wednesday from 09h00 to 12h00**
6. **STORAGE FEES PER DAY**

R 55.65 before vat

R 64.00 incl. vat

Contact Number: 035 -9075761/ 035 9075760