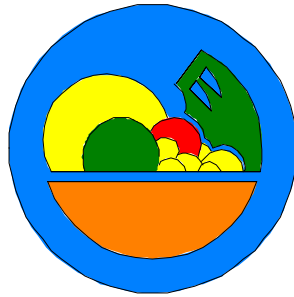


Umnotho Development

STREET TRADING BY-LAW

v June 2004



Greater Tzaneen
Municipality

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CHAPTER 1 DEFINITIONS

1. Definitions

1.1 In these by-laws any word or expression to which a meaning has been assigned in the Businesses Act, 1991 (Act No 71 of 1991), shall have such meaning, unless the context indicates otherwise -

“**Act**” means the Business Act, 1991 (Act No 71 of 1991) as amended;

“**authorized officer**” means –

- (a) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act No 29 of 1989); or
- (b) a member of the force as defined in section 1 (1) of the Police Act, 1958 (Act No 51 of 1958); or
- (c) a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No 51 of 1977);
- (d) an inspector appointed in terms of section 53 of the Health Act.

“**business**” in relation to any garden, park or public road as defined in section 1 of the Road Traffic Act, 1989 (Act No 29 of 1989), means any Act of the selling or supplying or offer for the sale or supply of goods and/or the rendering of any service which in the opinion of the authorized officer constitutes the actual selling, supply or rendering or any attempt to exercise such an activity;

“**carry on business**” means to display goods for sale by inviting others to come and buy the goods so displayed;

“**Council**” means the Council of the Greater Tzaneen Local Municipality, established in terms of section 12 of the Local Government: Municipal Structures Act, no 117 of 1998;

“**goods**” means any movable merchandise or commodity displayed on a street by any person for the purpose of carrying on a business, and this includes any article, receptacle, vehicle or movable structure;

“**kiosk**” means any building or structure erected by the Council on a stand demarcated for the purpose of a street vendor and will include a stand so demarcated without any such building or structure;

“**lease**” means a lease agreement as contemplated in section 3 (2) of these by-laws;

“**officer**” means a member of staff of the Council acting under delegated powers or a law enforcement officer;

“**municipal area**” means the area that falls under the jurisdiction of the Council;

“**park**” includes any square or other open or enclosed space to which the general public has right of access;

“**license**” means official approval obtained from the Council for the sale of prepared foodstuffs only;

“**public road**” means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, side walk and lane vested in the Council;

“**side walk**” means that portion of a verge intended for the exclusive use by pedestrians;

“**stand**” means a stand on a sidewalk or other area set apart and demarcated by the Council as contemplated in section 6A (3) (b) of the Act. A stand could be a single marked module or a combination of modules:

“**street vendor**” means a person carrying on the street vendor, peddler or hawker referred to in section 6 A (1) of the Act business, and includes a person to whom a stand has been leased or allocated in terms of section 3 of these by-laws for as long as the person is carrying on the business of a street vendor on such stand;

“**verge**” means a verge as defined in section 1 of the Road Traffic Act, 1989 (Act No 29 of 1989).

CHAPTER 2

PROHIBITION OF CARRYING ON OF BUSINESS

2. (1) No person shall in the municipal area carry on the business of a street vendor –
 - (a) In a garden or park to which the public has a right of access;
 - (b) On a verge contiguous to –
 - (i) a building belonging to or occupied solely by the state or the Council concerned;
 - (ii) a church or other place of worship; or
 - (iii) a heritage/site in terms of the National Heritage Resources Act, 1999 (Act No 25 of 1999).

- (c) In an area declared by the Council as prohibited area in terms of section 6A (2) of the Act, excluding a kiosk leased by virtue of an agreement as contemplated in section 3;
- (d) At a place where –
 - (i) It causes an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (ii) It causes an obstruction to vehicular traffic; or
 - (iii) It substantially obstructs pedestrians in their use of the sidewalk.
- (e) 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 the building objects to it;
- (f) On a verge so defined contiguous to a building in which business is carried out by any person who sells goods of the same nature as/or similar nature to goods being sold by the street vendor concerned without the consent of that person.

CHAPTER 3

APPLICATION TO LEASE A KIOSK

- 3. (1) Any person who intends to carry on business of a street vendor as contemplated in section 2 (1) (c) above shall annually apply to Council for the lease of a kiosk at the prescribed tariff. Council will consult with the chairperson of the relevant Hawkers Associations on such applications.
- (2) If such application is successful –

- (a) The street vendor must at all time comply with the rules and conditions determined by Council as indicated on the reverse side of the receipt issued to the applicant for the prescribed monthly rental tariff of such kiosk.
 - (b) A certificate will be issued to the street vendor as proof of the person's right to occupy such stand for the purpose of carrying on business as contemplated in section 2 (1) (c);
 - (c) The street vendor must while carrying on business on the stand retain such certificate on his or her person ready to produce same to any authorized officer on request;
 - (d) A street vendor may use the services of an employee subject thereto that the employee must at all times be in possession of the issued certificate, and the provisions of subsection (c) shall with the necessary changes be applicable to such an employee.
- (3) A person who carries on the business of a street vendor from a kiosk and who is unable to produce a certificate as contemplated in subsection 2 (b) or a license as contemplated in subsection 2 (4) of the Act will be guilty of an offence.
- (4) Should a person enter into a lease agreement for the lease of a kiosk referred to in subsection (1) and fail to pay the prescribed rental in part or at all on the due date, the Council shall have the right to cancel such agreement after having given such person three days written notice to make payment and person persist in such non-payment and such person shall thereupon immediately return the certificate meant in subsection (2)(b) to the Council.

CHAPTER 4

OFFENCES

4. (1) A street vendor may not –
- (a) place or stack goods on a stand in such a manner that it constitutes a danger to any other person or is likely to injure any person or damage any other goods or property;
 - (b) attach any goods by any means to any building, structure, pavement, tree, parking meter, lamp pole, electricity pole, telephone booth, post box, traffic sign or bench;
 - (c) light a fire on or near any stand;
 - (d) store goods in a manhole or a storm water drain;
 - (e) dispose of any litter in a manhole, storm water drain or any other place not intended for the disposal thereof; or
 - (f) contravene any provision of these by-laws or fail to comply herewith or with any other condition imposed in terms of these by-laws.
- (2) A street vendor must –
- (a) keep his or her stand, including any goods used by him/her in carrying on a business, in a hygienic and neat condition;
 - (b) take all reasonable necessary precautions to prevent the spilling of any litter, including fat, oil and grease, onto a public road; or
 - (c) arrange or move his/her goods at the request of an authorized officer or a person whose lawful duties include the rendering of, or

is related to, the supply of essential public services, so as to license or facilitate the carrying out of such service.

- (3) A street vendor must –
- (a) ensure that his or her property does not cover an area of a public road or public place, which is greater in extent than three meters long and two meters wide, and if such person is a vendor of newspapers and/or magazines, he or she shall place such newspapers and/or magazines in an orderly pile neatly stacked;
 - (b) on concluding business for the day, remove his or her property to a place which is not part of a public road or public place;
 - (c) not display his or her goods or other property on a building or other private property, without the consent of the owner, occupier or person in control of such building or property;
 - (d) on request by an employee or agent of the Council or any supplier of telecommunication or electricity or other services, move his or her property as to license the carrying out of any work in relation to any such service or to a public road or public place;
 - (e) keep the area or site occupied by him or her for the purpose of such business in a clean and sanitary condition;
 - (f) keep his or her property in a clean and sanitary condition;
 - (g) properly dispose of litter generated by his or her business;
 - (h) not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
 - (i) ensure than on completion of business for the day, the dare or site

occupied by him or her for the purpose of trade, is free of litter;

- (j) in the case of a vendor of foodstuffs, take such precautions as may be necessary to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his or her business and to prevent any smoke, fumes or odours emanating from his or her activities from becoming a nuisance; and
 - (k) on request by an officer of the Council, move his or her property so as to license the cleansing of the surface of the area or site where he or she is trading.
- (4) A street vendor in prepared foodstuffs who fails to comply with the requirements of the license as contemplated in subsection 2 (4) read with subsection 2 (6) of the Act will be guilty of an offence.

CHAPTER 5

OBSTRUCTION OF PEDESTRIANS

5. No person may carry on business at a place where -
- (a) it obstructs access to street furniture, a bus passenger bench or shelter or queuing line, refuse disposal bin or other facility intended for the use of the general public;
 - (b) it obstructs the visibility of a display window in business premises, if the person carrying on business in the premises concerned objects thereto; it obstructs access to an entrance to or exit from a building or automatic bank teller machine;

CHAPTER 6

IMPOUNDMENT AND REMOVAL

6. (1) Any authorized officer may impound and/or remove any goods –
- (a) which on reasonable grounds, he or she suspects are being used or are intended to be used or have already been used in connection with the carrying on of the business of an unauthorized street vendor; or
 - (b) which he or she finds in a park or on a public road and which in his or her opinion, constitutes a infringement of these by-laws whether or not such goods are in the possession of or under the control of any person at the time of such impoundment and/or removal.
- (2) An authorized officer acting by virtue of subsection 5 (1) above shall on request, issue a receipt to the person who appears to be in control of the goods concerned. Any goods contemplated in subsection 5 (1) (a) above shall be marked in a suitable manner and kept in safe custody pending the institution of criminal proceedings.

CHAPTER 7

PENALTIES

7. A street vendor or any other person who contravenes or fails to comply with the provisions of these by-laws shall be guilty of an offence and shall be liable on conviction –
- (a) to a fine not exceeding R1 000-00 or imprisonment for a period not exceeding three months, or to both such fine and such imprisonment;

- (b) to an additional fine not exceeding R10-00 for every day on which the offence continues.

CHAPTER 8

STREET TRADING BY-LAWS

- 8. These by-laws shall be known as the Street Trading By-Laws.