

**APPROVED 23 DECEMBER 2020**

**ELIAS MOTSOLEDI LOCAL MUNICIPALITY**

**STREET VENDING BY – LAWS**

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## CHAPTER 1

### 1. DEFINITIONS

In these By-laws any word or expression to which a meaning has been assigned in the Business 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;

“**Authorised officer**” means –

- (a) a Traffic officer appointed under section 3 of the Road Traffic Act, 1996 (Act No.93 of 1996); or
- (b) a Member of the force as defined in section 1 (1) of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (c) a Peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

“**Business**” means any act of selling or supplying of goods, animals or livestock and/or the rendering of any service;

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

“**Council**” means Elias Motsoaledi Local Municipal Council whose members are elected in terms of section 22 of Act 1998 (Act 117 of 1998);

“**Foodstuff**” means any article or substance ordinarily eaten or drunk by man or purporting to be suitable, or manufactured or sold, for human consumption and include

any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance.

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

“**Lease**” means a lease agreement as contemplated in section 3 (2) of this By-Law;

“**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;

“**Permit**” means official written approval obtained from the Elias Motsoaledi Local Municipality for the sale of goods and or foodstuffs;

“**Public road**” means any road. Street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, side walk, lane vested in the Council and any other place where members of the public has access.

“**Premises**” means land or any building or other structure and includes any train, boat, ship, aircraft, caravan, tent, or other vehicle;

“**Sell**” includes to offer, keep, display, transmit, consign, convey or deliver for sale or to exchange, or to dispose of to any person in any manner whether, for a consideration or otherwise, and ‘**sold**’ ‘**selling**’ and ‘**sale**’ have corresponding meanings.

“**Sidewalk**” means that portion of verge intended for the exclusive use of 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 single marked module or a combination of modules;

“**Street vendor**” means a person carrying on business, and includes a person to whom a Demarcated area has been leased or allocated in terms of section 3 of this By-Law 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 National Road Traffic Act 93 of 1996.

“**financial institution**” is an intermediary between consumers and the capital or the debt markets providing banking and investment services

“**kiosk**” a small open-fronted hut or cubicle from which newspapers, refreshments, tickets, etc. are sold.

## **CHAPTER 2**

### **2. PROHIBITATION ON CARRYING ON OF BUSINESS**

2.1 No person shall, in the municipal area of the Council carry on the business of a street vendor-

- (a) in a garden or park;
- (b) on a verge contiguous to
  - (i) a building belonging to or occupied by the State or the Council;
  - (ii) any place of worship, or

- (iii) a building declared a national monument in terms of the National Monuments Act, 1969 (Act No. 28 of 1969);
  - (iv) It obscures traffic lights, traffic signatory and advertising boards
- (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 of this by - laws;
- (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 the 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 or pavement contiguous to a building in which business is carried out by any person who sells goods of the same or of a similar nature to goods being sold by the street vendor or hawker without the approval of the municipality.

- 2.2 No person shall in the municipal area carry on the business of a street vendor in prepared foodstuffs unless such street vendor is in possession of a valid permit issued by the Council.

### **CHAPTER 3**

#### **3. APPLICATION TO LEASE A KIOSK**

- 3.1 Any person who intends carrying on business must apply to Council for the lease or allocation of a kiosk. Council shall consult with any organized business or other association whose interests may be affected thereby.
- 3.2 If such application is successful
- (a) the applicant shall at all times comply with the rules laid down by Council,
  - (b) a permit shall be issued to the applicant (hereinafter referred to as the street vendor) as proof of the person's right to occupy such stand for the purpose of carrying on the business,
  - (c) a street vendor shall, while carrying on business on the stand, retain such token on his person to produce same to any authorised officer on request, and

- 3.3 Any person who carries on the business of a street vendor on a stand and who is unable to produce a permit upon request by the authorised officer shall be guilty of an offence.
- 3.4 (i) Should the applicant be unsuccessful the reasons thereof shall be furnished in writing to the applicant upon the applicant's request.
- (ii) The request for the written reasons shall be made within the period of 10 days from the date upon which the decision by the Council was made.

## **CHAPTER 4**

### **4. OFFENCES**

- 4.1 A street vendor who
- (a) places or stacks goods on a stand in a manner that constitutes a danger to any other person or is likely to injure any person or damage any property,
  - (b) attaches any goods by any means to any building structure, pavement, tree, parking meter, lamp pole, electricity pole, telephone pole, post box, traffic sign or bench,
  - (c) lights a fire on or near any stand,
  - (d) stores goods in a manhole or storm water drain,

- (e) disposes of any litter or spill any oil, fat and grease in a manhole, stormwater drain or any other place not intended for the disposal thereof,
- (f) sells and slaughter animal or livestock without a permit, or
- (g) contravenes any provision of these By – laws or fails to comply herewith or with any other condition imposed in terms of these By–Laws, shall be guilty of an offence.

4.2 a street vendor who fails to

- (a). keep his/her stand including any goods used by him/her in carrying on a business in a good and neat condition,
- (b) take all necessary precautions to prevent spilling any litter including fat, oil and grease onto a public place, or any other place which the public has access, or
- (c) arrange or move his/her goods at the request of an authorised officer or a person whose lawful duties include the rendering of, or is related to the supply of essential public services so as to permit or facilitate the carrying out of such services, shall be guilty of an offence.

4.3 A street vendor in prepared foodstuffs who fails to comply with the requirements of the permit as contemplated in section 2 subsection 2.2 shall be guilty of an offence.

## CHAPTER 5

### 5. IMPOUNDING AND REMOVAL

5.1 Any authorised officer may impound and/or remove any goods-

(a) which on reasonable grounds, he/she suspects is being used or is intended to be used or has been used in connection with the carrying on of the business of an unauthorised street vendor ;

(b) which he/she finds in a park or on a public road in which in his/her opinion constitutes infringement of these By-Laws whether or not such goods are in the possession of or under control of any person at the time of such impoundment and removal.

5.2 (a) An authorised officer acting by virtue of subsection 5 (1) shall issue a receipt to the person who appears to be in control of the goods concerned;

(b) Any goods contemplated in subsection 5 (1) (a) shall be marked in a suitable manner and kept in safe custody pending the institution of criminal proceedings. A register of these goods shall be kept by the authorized officer.

- (c) Should it be necessary to destroy the goods contemplated in subsection 5.1 (a), the owner of the goods must be informed that he/she has the right to witness the process.
- (d) Proper record should be kept of attempts made to contact the owner of the goods contemplated in subsection 5.1 (a) and the relevant response.

## **CHAPTER 6**

### **6. PENALTIES**

A person who fails to comply with the provisions of these By-Laws shall be guilty of an offence and shall be liable on conviction to-

- (i) a fine not exceeding R1000.00 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment;
- (ii) an additional fine not exceeding R10.00 for every day on which the offence continues.
- (iii) any goods impounded are eligible for pound fee of R100

## **CHAPTER 7**

### **7. APPLICATION REQUIREMENTS**

- a) A signed application form
- b) Certified ID copy
- c) Proof of payment
- d) Proof of residence