

METSIMAHOLO LOCAL MUNICIPALITY (SASOLBURG TRANSITIONAL LOCAL COUNCIL)

REGULATIONS FOR REGULATING STREET TRADING

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The Sasolburg Transitional Local Council (“the Council”) has, in terms of the provisions of Section 156(2) and 160 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), Section 148 and 149 of the Local Government Ordinance, 1962 (No. 8 of 1962), as amended and Section 6A of the Businesses Act, 1991 (No. 71 of 1991), as amended, approved the adoption of the Regulations as set out in die Schedule.

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1. Definitions

- (1) In these Regulations, except as otherwise expressly provided or unless the context indicates otherwise:-

“**approval**” means approval by the authorised official and “**approve**” has a corresponding meaning;

“**authorised official**” means an official of the Council to whom it has delegated a duty, function or power under these Regulations, in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

“**employee**” means also “**principal**” and “**agent**”;

“**Council**” means the Sasolburg Transitional Local Council of the town and includes, in relation to a duty, function or power under these Regulations, a committee or official of the Council to whom it has delegated that duty, function or power;

“**litter**” includes any receptacle, container or other object or matter discarded or abandoned by a trader or his or her customers or left behind by him or her or them;

“**local authority service**” means any system conducted by or on behalf of a local authority

for the collection, conveyance, treatment or disposal of refuse, sewage or stormwater or for the generation, impounding, storage, purification or supply of water, gas or electricity;

“local authority service works” means all property or works of whatsoever nature necessary or desirable for or incidental to any local authority service;

“nuisance” means, in addition to the definitions as stated in the Health Act 63/1977 or the Health Regulations of the Council, any noise caused by the use of loudspeakers or any apparatus for increasing or amplifying the volume of sound produce by wireless sets, gramophones or other similar contrivances which constitutes an annoyance or disturbance to any person;

“Ordinance” means the Local Government Ordinance, 1962 (No. 8 of 1962);

“prescribed” means prescribed by the Council by resolution;

“property” in relation to a street trader, means any goods receptacle, vehicle or movable structure used or intended to be used in connection with the carrying on of his or her business as such;

“public place” means a public place as defined in the Ordinance;

“public road” means a public road as defined in Section 1 of the Road Traffic Act, 1989, (Act No. 29 of 1989);

“roadway” means a roadway as defined in Section 1 of the Road Traffic Act, 1989, (Act No. 29 of 1989);

“sell” includes:-

- (a) barter, exchange or hire out;
- (b) display, expose, offer or prepare for sale;
- (c) store with a view to sell; or
- (d) provided a service for reward;

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

“sidewalk” means a sidewalk as defined in Section 1 of the Road Traffic Act, 1989 (Act 29 of 1989);

“street trader” means a person who carries on the business of street trading and **“street vendor”**, **“pedlar”**, **“street hawker”** and **“hawker”** have a corresponding meaning;

“street trading” means the selling of any goods (including a living thing) or the supplying or offering to supply any service for reward, as a street trader in a public road or public place but does not include the sale of newspapers only;

“the Act” means the Businesses Act, 1991 (Act No. 71 of 1991) and includes the Regulations

made thereunder;

“town” means the town of Sasolburg;

“vehicle” includes:-

- (a) a self-propelled vehicle;
- (b) a trailer;
- (c) a hand-drawn or propelled vehicle; and

“verge” means a verge as defined in Section 1 of the Road Traffic Act, 1989 (Act 29 of 1989).

(2) For the purpose of these Regulations:-

- (a) unless the context indicates otherwise, any word or expression defined in the Act shall bear the meaning so given to it;
- (b) a single act of offering for sale or of selling goods or services in or from a public road or public place constitutes the carrying on of the business of a street trader;
- (c) a reference to a person carrying on the business of street trader shall include any employee of any such person.

2. Declaration in terms of Section 6A of the Businesses Act

In terms of Section 6A of the Act the Council resolved that steps be taken to declare, in terms of Section 6A of the Act, that the areas hereinafter referred to, are areas in which the carrying on of the business of street trader is prohibited, or is restricted in the manner and to the extent indicated below:-

(1) The Central Business District Core

- (a) No-one shall conduct any trade whatsoever from any position in the town which has not been approved and demarcated for such purpose by the Council, which shall include in particular the area bordered by John Vorster Street to the west, JB le Roux Street to the north, Eric Louw Road to the east and President Brand Road to the south in the town.
- (b) In the interests of free pedestrian movement and public safety, the carrying on of business, (other than as an itinerant trade) on side-walks and pedestrian malls and access ways be prohibited except on those portions thereof which are demarcated for the purpose by notices, signs and/or markings.
- (c) No street trader shall allow any apparatus, equipment, goods, structure, vehicle, conveyance or other article or portion thereof used or produced by him or her in the course of business to be, or to remain on a sidewalk or pedestrian access way, other than a portion thereof referred to in paragraph (b) above.
- (d) No street trader shall carry on the business as such, (other than an itinerant trader)

except from a stand or area which has been let or otherwise allocated to him or her by the Council in writing in terms of Section 6A(3)(c) of the Act and in accordance with the terms and conditions of such lease or allocation.

- (e) A street trader shall carry on the business of street trader on a stand or area contemplated in paragraph (a) to (d) above only if he or she is in possession of written proof granted or issued to him or her by the Council that he or she is hiring such stand or area or that it has been allocated to him or her.
 - (f) A street trader shall carry on his or her person the written proof as contemplated in (e) above and shall on demand show such written proof to the authorised official or employee of the Council.
- (2) The rest of the municipal area of the Council
- (a) The carrying on of the business of street trader shall be restricted or prohibited in the manner as indicated below.
 - (b) No one shall conduct any trade or erect any structures for such purposes in any position which has not been approved by the Council in writing and then such trade shall be conducted subject to the conditions of approval.
 - (c) By reason of the recreational amenity, and in the interests of free pedestrian movement and public safety, the carrying on of business (other than as an itinerant trader) on sidewalks and pedestrian malls and access ways shall be prohibited except on those portions thereof which are demarcated for the purpose by notices, signs and/or markings.
 - (d) No street trader shall allow any apparatus, equipment, goods, structure, vehicle, conveyance or other article or portion thereof used or produced by him or her in the course of business to be, or to remain on a sidewalk or pedestrian access way, other than a portion thereof referred to in paragraph (c) above.
 - (e) No street trader shall carry on the business as such, (other than an itinerant trade) except from a stand or area which has been let or otherwise allocated to him by the Council in terms of Section 6A(3)(c) of the Act and in accordance with the terms and conditions of such lease or allocation.
 - (f) A street trader shall carry on the business of street trader on a stand or area contemplated in paragraphs (a) to (e) above only if he or she is in possession of written proof granted or issued to him or her by the Council that he or she is hiring such stand or area or that it has been allocated to him or her.
 - (g) A street trader shall carry on his or her person the written proof as contemplated in (f) above and shall on demand show such written proof to the authorised official or employee of the Council.

3. Prohibitions

No person shall carry on the business of a street trader:-

- (1) at a place or in an area declared under Section 6A(2)(a) of the Act as a place or area in which the carrying on of street trading is prohibited;
- (2) on a verge, contiguous to:-
 - (a) a building belonging to, or occupied solely by, the State or the Council;
 - (b) a church or other place of worship; or
 - (c) a building declared or to be declared a national monument under the National Monuments Act (Act No. 28 of 1969), except to the extent that the carrying on of such business is permitted by a notice or sign erected or displayed by the Council;
- (3) on a verge contiguous to a building in which business is being carried on by any person who solely or mainly sells goods of the same or similar nature as goods being sold by the street trader concerned, without the consent of that person;
- (4) 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 thereto;
- (5) at a place where it substantially obstructs pedestrians in the use of a sidewalk or take up a position or deposit his or her property on a sidewalk so as to do so;
- (6) at a place where it causes an obstruction to vehicular traffic;
- (7) at a place where it substantially obstructs in front of:-
 - (a) an entrance to or exit from a building;
 - (b) a fire hydrant;
- (8) on a stand or in any area contemplated in Section 6A(3)(b) of the Act if he or she is not in possession of proof that he or she has hired such stand or area from the Council or that it has otherwise been allocated to him or her;
- (9) in contravention of the terms and conditions of the lease or allocation to him or her of a stand or area contemplated in Section 6A(3)(b) and (c) of the Act.

4. Restrictions

No person carrying on the business of a street trader shall:-

- (1) if such business is carried on, on any public road or public place:-
 - (a) sleep overnight at the place of such business; or
 - (b) erect any structure (other than a device which operates in the same manner as, and is shaped like, an umbrella) for the purpose of providing shelter;

without prior written approval of the Council;

- (2) carry on such business in such a manner as to:-
 - (a) create a nuisance;
 - (b) damage or deface the surface of any public road or public place or any public or private property; or
 - (c) create a traffic hazard;
 - (d) occupy an area larger than 6 m²;
- (3) other than in a refuse receptacle approved or provided by the Council, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any litter on any land or premises or on any public road or public place;
- (4) obstruct access to a service or to service works of the Council or of the State or any statutory body;
- (5) interfere with the ability of person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- (6) obstruct access to a pedestrian arcade or mall;
- (7) carry on business or take up a position or place his or her property on a portion of a sidewalk or public place in contravention of a notice or sign erected or displayed by the Council for the purposes of these Regulations;
- (8) carry on such business in a place or area in contravention of any restriction imposed by Council resolution in terms of Section 6A(2)(a) of the Act;
- (9) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
- (10) obstruct access to or the use of street furniture such as bus passenger benches or shelters and queuing lines, refuse disposal bins, and other facilities designed for the use of the general public; or
- (11) obscure any road traffic sign displayed in terms of the Road Traffic Act, 1989, and Regulations made thereunder or any marking, notice or sign displayed or made in terms of these Regulations.

5. Cleanliness of place of business and protection of public health

Every street trader shall:-

- (1) unless prior written approval exempting him or her from the provision of this paragraph has been given by the Council, daily remove from any public road or public place at the end of each trading day or at the conclusion of trading all goods, moveable structures, waste, packaging material, stock and equipment of whatsoever nature which are utilized in connection with such trading;

- (2) carry on his or her business in such a manner as not to be a danger or threat to public health or public safety;
- (3) at the request of an officer or an employee of the Council move or remove anything so that the place of business may be cleaned;
- (4) keep the area or stand occupied by him or her for the purpose of his or her business as well as his or her property in a clean and sanitary condition and free of litter;
- (5) if his or her activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure; or
- (6) not create a nuisance.

6. Trading in parks and gardens

No street trader shall carry on business in a garden or park to which the public has the right of access except with the prior written approval of the Council's Head of Parks and Recreation or other authorised official and in compliance with any conditions imposed by him or her when granting such consent.

7. Objects used for display of goods

A street trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods:-

- (1) is maintained in a good state of repair and in a clean and sanitary condition; and
- (2) is not so placed or stacked so as to constitute a danger to any person or so as to be likely to injure any person.

8. Removal and impoundment

- (1) For the purpose of this Regulations "goods" includes any receptacle, vehicle or movable structure.
- (2) An officer may remove and impound any goods:-
 - (a) which he or she reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of any business of a street trader; and
 - (b) which he or she finds at a place where the carrying on of such business is restricted in terms of Regulation 4(8) or Regulation 6 or prohibited in terms of Regulation 3(1) to (7) and which in his or her opinion constitutes an infringement of such provision whether or not such goods are in the possession or under the control of any person at the time of such removal or impoundment.
- (3) Any officer acting in terms of sub-regulation (2) shall:-
 - (a) except in the case of goods which have been left or abandoned, issue to the person

carrying on the business of street trader a receipt for any goods so removed and impoundment; and

- (b) forthwith deliver any such goods to the authorised official.
- (4) Neither the Council nor a councillor, official, officer or employee of the Council shall be liable for any loss of or damage to any goods removed and impounded in terms of this paragraph.

9. Presumptions

In any prosecution of a street trader for a contravention of these Regulations, the accused shall be deemed to know the provisions of these Regulations and to know that the offence with which he or she is charged is a contravention thereof.

10. Continuing offence

Any person who, after conviction in terms of these Regulations, persists in the conduct or neglect which caused the offence, shall be guilty of a continuing offence.

11. General offences and penalties

- (1) Any person who:-
 - (a) contravenes or fails to comply with any provision of these Regulations;
 - (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these Regulations;
 - (c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these Regulations;
 - (d) makes a false statement knowing it to be false or deliberately furnishes misleading information to an authorised official or officer; or
 - (e) threatens, resists, interferes with or obstructs an authorised official, officer or employee of the Council in the performance of his or her powers, duties or functions under these Regulations, shall be guilty of an offence and on conviction be liable to a fine not exceeding R 1 000,00 or imprisonment for a period not exceeding 6 (six) months or both such fine and such imprisonment.
- (2) When an employee of a street trader performs any act or is guilty of any omission which constitutes an offence under the Regulations the employer shall be deemed to have performed the act or to be guilty of the omission himself or herself and he or she shall be liable on conviction to the penalties mentioned in sub-regulation (1) unless he or she proves to the satisfaction of the Court that:-
 - (a) in performing the act or being guilty of the omission the employee was acting without his or her knowledge or permission;
 - (b) all reasonable steps were taken by him or her to prevent the act or omission in question;

and

- (c) it was not within the scope of the authority in the course of the employment of the employee to perform an act of the kind in question.
- (3) The fact that an employer is issued instructions forbidding any act or omission referred to in sub-regulation (2) shall not of itself be accepted as sufficient proof that he or she took all steps referred to in paragraph (b) of that sub-regulation.
- (4) When an employer is by virtue of the provisions of sub-regulation (2) liable for anything done or omitted by his or her employee, then that employee shall also be liable to prosecution for the offence.

(Notice 29/1997)