

NKOMAZI LOCAL MUNICIPALITY -STREET TRADING BY-LAW



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PURPOSE OF BY-LAW

The Municipal Manager of the Nkomazi Local Municipality hereby in terms is section 13(a) Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), presents this Trading By-Laws for the Nkomazi Local Municipality as set out hereunder

1. The Purpose of By-Law:

- a) The Municipality recognises the objective of its existence in terms of the Constitution, which includes-
 - I. To promotes social and economic development.
 - II. To promote a safe and healthy environment; and
 - III. Municipal planning, trading regulations, licensing and control of undertakings that conduct trading to the public, markets, public places, municipal roads and street trading.
- b) The Municipality therefore recognizes the need to adopt a developmental approach to enable access to job and entrepreneurial opportunities as envisaged by the local Economic Development Strategy within the Trading sector, to harmonise the relationship between the Informal Trading sector and the formal trading sector and to facilitate the migration of Informal Trading into the formal trading sector.
- c) In order to achieve and fulfil the above mentioned constitutional objective and C) responsibility in terms of the Vision and the Mission statement of the Municipality, and after an extensive consultation process with the relevant stakeholders. The municipality has an obligation to develop and adopt a Trading by-law, which aims at creating opportunities for the both Formal and Informal Trading sector to share in the benefits of, and further contribute to, the Municipality's local economic growth.
- d) The purpose of this By-Law is therefore to regulate both Fomal and Informal Trading within the jurisdictional area of the Municipality in a manner that recognizes and enhances the municipality's Vision and Mission statement and other statutory obligations.

1. INTERPRETATION AND DEFINITIONS

Interpretation

- a) Meaning of words and expressions in the Act incorporated in this ByLaw, unless the context otherwise indicates, any words or expressions to which a meaning has been assigned in the Act shall have a corresponding meaning in this By-law.
- b) Single act constitutes Informal Trading — For the purposes of this By law a single act of selling or offering of services in a public road or public place or residential zone shall constitute Informal Trading thereof.
- c) Reference to legislation includes regulations made thereunder — For the purposes of this By-Law a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.
- d) Assigning responsibilities of a Council employee of a service provider, where a service provider has been appointed — If any provision in this By-Law imposes any responsibility of the Council in or on an employee of the Council and such responsibility has, in terms of Section 76(b) of the Municipal Systems Act or any other law, been assigned to a service provider, then the reference in such a provision to such employee must be read as a reference to the service provider or a duty authorized employee of the service provider.

Definitions

In this By-Law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates-

- **"The Act"** means the Mpumalanga Businesses Act, 1996 (Act No. 2 of 1996) and includes the regulations promulgated thereunder;
- **"Authorized official"** means an official of the municipality authorized to implement the provisions of these Bylaws- Peace officers, Traffic Officers, the South African Police Services and any Municipal Health Official designated by Ehlanzeni District Municipality.
- **"Business"** for the purpose of this by-law, means any business referred to in Schedule a) 1 and Schedule 2 of the Mpumalanga Business Act, 1996
- **"Business Premises"** in relation to a business referred to in term 1(1) or 2 of schedule 1 and 2, means the premises upon, in or from which the business is or to be carried on.
- **"Authorised Official"** means-
 - a) An official of Council who has been authorised by it to administer, implement and enforce the provisions of the Mpumalanga Business Act No.2 of 1996 and this by-law;
 - b) A traffic officer appointed in terms of Section 3A of the National Road Traffic Act 1996[Act No.93 of 1996]
 - c) A member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995[Act No. 68 of
 - d) Peace Officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977[Act No.51 of 1977] "Municipality" means the Bushbuckridge Local Municipality
- **"Council"** means:
 - a) a) The Municipal Council of the Municipality, which exercises its legislative and executive authority; or
 - b) Its successor in title; or
 - c) A structure or exercising a delegated power or carrying out an instruction, where any power in this by-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) ("the Municipal System Act"); or
 - d) A service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81 (2) of the Municipal Systems Act or any other law, as the case may be.

- **"Designated Area"** means an area Prescribed by the Council in terms of this By-Law, subject to the Act, as the area in which Trading can be conducted;
- **"Demarcated Stand"** means a demarcated stand as envisaged in terms of section 7 (3) (b) (i) of the Act, as the area in which trading can be conducted.
- **"Foodstuff"** means any article or substance, except drugs as defined in the Drugs and Drug Trafficking Act, 1992 Act No. 140 of 1992 , ordinary eaten or drunk by person or Purporting to be suitable or manufactured or sold for human consumption and includes 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, as defined in section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972).
- **"Garden or Parks"** means a garden or park to which the public has a right of access;
- **"Goods"** means any movable property and includes a living thing (shall include livestock, poultry or any movable commodity);
- **"Impoundment Costs"** means all those costs incurred by the municipality in respect of impounding and storing of impounded Goods and Property and, where applicable, costs incurred in respect of disposal of impounded Goods;
- **"Intersection"** means an intersection as defined in section 1 of the National Road Traffic Act, 1996, Act No. 93 of 1996
- **"Litter"** includes any container waste material or other matter which has been discarded, abandoned or left behind by a person trading or his customers.
- **"Linear Market"** means a Designated Area located in a pedestrianized environment.
- **"Litter"** includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by an Informal Trader or by his or her customers;
- **"Intersection"** means an intersection as defined in the regulations promulgated in terms of the Traffic Act;
- **"Kerb Line"** means, as defined in Section 1 of the Traffic Act, the boundary between C) the Shoulders and the Verge or, in the absence of a Shoulder, the part between the edge of the Roadway and the Verge;
- **"Municipality"** means Nkomazi Local Municipality as described in section 2 of the Local Government: Municipal Systems Act (Act No. 32 of 2000), read with Section 155(6) of the RSA Constitution and its area as determined from time to time in terms of Local Government: Municipal Demarcation Act (Act No. 27 of 1969).

- **“National Monument”** means a building declared to be a national monument under the National Monument Act, 1969 (Act No. 28 of 1969).
- **“Perishable food stuffs”** as defined by the MEC in terms of the Mpumalanga Business Act, 1996 (Act No. 2 of 1996).
- **“Prohibited area”** means any place declared under section 7 (2) (a) of the Act in which street trading is prohibited.
- **“Property”** in relation to a person carrying on the business of street trading, means any title, receptacle, vehicle or structure used or intended to be used in connection with such business, and includes good in which he trades.
- **“Public building”** means a building dedicated for use by the public in the Municipality.
- **“Public road”** means a public Road as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996). "Motor Vehicle" means any self-propelled vehicle as more fully defined in Section 1 of the Traffic Act;
- **"Periodic Markets"** means sale of legal goods and /or services by individuals and/or groups, in locations designated for Informal Trading for a period no longer than 5 days
- **"Prescribed"** means as determined by resolution of the Council from time to time;
- **"Property"**, in relation to an Informal Trader, includes any article, Goods container, Motor Vehicle or structure used or intended to be used in connection with informal Trading;
- **"Shop"** means —
 - a) Any building or portion of a building
 - b) Any structure, room, stall, tent booth or any other place or premise;
or
 - c) Any vehicle Which is utilized for the sale or supply of any goods or services or for the packing or storage of any goods for sale or supply in' on or from a place or vehicle contemplated in paragraph (a) to (c) inclusive.
- **"Public Building"** means a building belonging to or occupied solely by any sphere of the government, including the Council;
- **"Public Monument"** means any one of the "public monuments and memorials" as defined in terms of Section 2 of the National Heritage Resources Act, 1999[Act No. 25 of 1999];
- **"Public Place"** means any square, park, recreation ground or open space which is vested in the Council or to the which the public has the right to used or is shown on a general plan of a township filed in the deeds registry or a Surveyor- General's office

and has been provided for the use of the public or the owners of erven in such township or stand in such a Tribal Area;

- **"Public Road"** mean, as more fully defined in Section 1 of the Traffic Act, any road, street or through fare or any other place commonly used by the public or any section thereof or to which the public or any section therefor has a right of access;
- **"Rental"** means an amount payable by the Informal Trader for the allocated trading pace in the Designated Area as agreed between the Council and an Informal Trader; means as defined in Section 1 of the Traffic Act that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic, which is between the edges of the roadway;
- **"Restricted area"** means any place declared under section 7 (2) (a) of the act in which street trading is restricted.
- **"Roadway"** means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996).
- **"Trader"** means a person who engages in Trading;
- **"Trading"** means the selling of goods and/or services by an Informal Trader in the designated area, which includes, without any limitation, the forms of trading more fully set out in Section 3 of the Mpumalanga Business Act, No. 2 of 1996;
- **"Trading/Business Licence"** mean a licence issued to the trader in terms of regulation o of the Mpumalanga Business Regulations, Section 6 of schedule 2 of the Mpuma(anga Business Act No. 2 of 1996
- **"Trading Hours"** means the hours of trading as determined by Council in terms of Mpumalanga Trading Hours Act, No. 5 of 1999
- **"Sell"** includes-
 - a) Barter, exchange or hire out;
 - b) Display, expose, offer or prepare for sale;
 - c) Store on Public Road or Public Place with a view to sell; or
 - d) Provide Exchange or hire
 - e) Store, process, expose, offer or prepare
 - f) service for reward, and "Sale" or "Selling" has a corresponding meaning;
- **"Services"** includes any lawful advantage or gain for consideration or reward offered in restricted area.

- **"Sidewalk"** means, as defined in the Section 1 of the Traffic Act, that portion of a Verge intended for the exclusive use of pedestrians;
- **"Shoulder"** means, as defined in the Traffic Act, that portion of the road, street or thoroughfare between the edge of the Roadway and the Kerb Line;
- **"Special Events"** means any special events that occur from time to time, including, without limitation, sports events, religious events, social, culture or political gatherings and musical festivals;
- **"Street Furniture"** means any furniture installed by the Council on the street for public use
- **"Tariff"** means the charges as determined by the Municipality from time to time by resolution
- **"The Traffic Act"** means the National Road Traffic Act, (Act No. 93 of 1996); and
- **"Town Planning Scheme"** means the Town planning Scheme of Nkomazi Local Municipality.
- **"Trade"** means sell goods or services in a public road or public place and "trading" has a corresponding meaning.
- **"Verge"** means, as defined in Section 1 of the Traffic Road Act, that portion of a road, street or thoroughfare, including the Sidewalk, which is not the Roadway on the Shoulder.

2. FORMS OF TRADING

Trading may include any of the following forms of trading —

- a) Street trading, which comprises the selling of goods or supply of services for reward in a Public Road;
- b) Selling of Goods in Linear Market;
- c) Sale of Goods or services in a Public Place including residential zones;
- d) Mobile trading such as from caravans, and light Motor Vehicles;
- e) Selling of Goods in stalls or kiosks; and
- f) Selling of Goods at Special Events;

3. FREEDOM TO ENGAGE IN TRADING

Subject to compliance with the provisions of this By-Laws, the Act and any other applicable in trading law, any activities member of the Community of the Municipality may be permitted to engage in trading activities.

4. DESIGNATED AREAS

- a) The Council may, by resolution in terms of Section 6A(3)(b) of the Act, set apart and demarcate stands or areas for the purposes of Informal Trading on any Public Road, the ownership or management of which is vested in the Council, or on any other Property in the occupation and under the control of the Council.
- b) Any such stands or areas demarcated for Trading may be extended, reduced or disestablished by resolution of the Council.
- c) The Council may, by resolution in terms of Section 6(3)(a) of the Act, lease any Verge or any portion thereof the owner or occupier of the contiguous land on condition that such owner or occupier shall admit a specified number of Traders in stands or places on such Verge designated by such owner or occupier.

5. LEASE AND ALLOCATION OF STANDS.

- a) Any person who intends to carry on a business as Formal and or Informal Trader in terms of the provisions of this By-Law may apply to the Council in the Prescribed manner for a lease or allocation of a stand in terms of Section 4A(3)(c) of the Act.
- b) The Council may grant subject to conditions, or refuse, an application referred to in subsection (1)

- c) If such application is successful —
 - i. A permitted Trader must enter into an agreement/lease agreement with Council in respect of such stand, which such agreement/lease agreement must be produced at the request of an Authorised Official;
 - ii. In respect of the allocation, as well as the lease of the stand a permit shall be issued to a Trader as proof of a Trader's right to occupy the stand for the
 - iii. A Trader must, at all times while carrying on business on the stand or public space, retain such permit on his/her person ready for display to an Authorised Official, if requested; and
 - iv. The Council may, on the written request of a Trader, issue a permit/licence to a bona fide employee of the Trader.
- d) Any person who carries on Trading on a stand or Public Place and who, without a reasonable explanation, is unable to produce a valid permit/lease agreement or permit/licence as envisaged in subsection (3) above, shall be guilty of an offence.
- e) Any person who carries on an illegal Trading on a stand or Public Place and who, without a reasonable explanation, fails to comply with the terms and conditions of the agreement/lease agreement shall be guilty of an offence.

7. ENVIRONMENTAL HEALTH AND SAFETY (CLEANLINESS)

(1) An Informal Trader must-

- a) Keep the area or site occupied by him or her for the purposes of conducting Trading in a clean sanitary condition;
- b) Keep his or her Property in a clean, sanitary and well maintained condition;
- c) Dispose of Litter generated by his or her business in whatever refuse receptacle is provided by the Council for the public or at a dumping site of the Council;
- d) Not dispose of Litter in a manhole, storm water drain or other place not intended for the disposal of Litter;
- e) Ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of conducting Trading is free of Litter;
- f) Take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a Public Road, or Public PLACE, or into a storm water drain, of any fat, oil or grease (including vendors of food stuff);

- g) Ensure that no smoke, fumes or other substances, odour, or noise, emanating from his or her activities associated with Informal Trading, causes pollution of any kind;
- h) On request by an Authorised Official, move his or her property so as to permit the cleansing of the space or the area or site where he or she is conducting Informal Trading, or the effecting of Municipal Services.
- i) Ensure food preparation, handling and selling is in accordance with the council's health By-law, relevant legislation, Sections and Regulations.

1. SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS

(1) The Council may, by resolution in term of Section 6A (2) of the Act, declare any place in its area of jurisdiction to be an area in which Trading is restricted or prohibited, and must, to enable compliance therewith, Prescribe or make signs, markings or other devices indicating-

- a) Specified places, goods or services in respect of which Trading is restricted or prohibited;
- b) The location of boundaries of restricted or prohibited areas;
- c) The boundaries of a stand or area set apart for the purposes of the carrying on of the business of informal Trading;
- d) The fact that any such stand or area has been let or otherwise allocated; and
- e) Any restricted or prohibition against any Trading in terms of this By-Law.

(2) The Council may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area or stand concerned.

(3) Any sign erected in terms of this By-Law or any other law, shall serve as sufficient notice to a Trader of the prohibition or restriction in respect of the area concerned.

(4) The resolution of the Council shall be subject to the provisions of section 6A (2)(b) to (j), which require, inter alia, the Council first consider the effect its resolution will have on the existing Trader in the Designated Area in question.

(5) Any sign may be amended from time to time and displayed by the Council for the purpose of this By-Law and shall have the same effect as a road sign in terms of the Traffic Act.

2. PROHIBITED CONDUCT

(1) No person shall carry on the business/Trading

- a) At a place or in area declared by the Council in terms of Section 6A (2) of The Act as a place or area in which Trading is prohibited;
- b) In a Garden to which the public has a right of access;
- c) Directly alongside —
 - i. A building belonging to the South African Police and or a Police Station;
 - ii. A church, mosque, synagogue or other place of worship
 - iii. A building declared to be a public monument;
 - iv. An auto teller bank machine;
- d) At a place where it causes an obstruction in respect of —
 - i. A fire hydrant; or
 - ii. Any entrance to or exit from a building;
- e) At a place where it is likely to obstruct vehicular traffic;
- f) 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 Trader by an Authorised Official;
- g) On a stand or in any area demarcated by the Council in terms of Section 6A (3) (b) of the Act, if he or she is not in possession of written proof that he or she has hired such stand or area from the Council or that such stand has otherwise been allocated to him or her by the Council;
- h) Within 5[five] metres of any Intersection; and
- i) On a Side-Walk 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 Side-Walk by the Trader, if the Goods are sold by the Trader without the prior consents of such person and an Authorised Official has informed the informal Trader that such consent does not exist.

2. A person who has leased a stand from or who has been allocated a stand by the Council in terms of Section 9(1) (h) of this By-Law may not trade in contravention of the terms and conditions of such lease or allocation.

3. Obstruction of pedestrians

No person shall trade at a place where such trading substantially

- a) Obstruct access to or the use of street furniture such as a bus passenger bench or shelter, a refuse disposal bin or other facility including a queuing line intended for the use of the general public;
- b) Obstruct the visibility of a display window in business premises, if the person carrying on business in the business premises concerned objects thereto;
- c) Obstruct access to an entrance to or exit from a premises or an automatic bank teller machine.
- d) Obstruct access to a pedestrian crossing, if in the middle of a block a clear distance of 5 m from the crossing must be obeyed;
- e) Obstruct access to any vehicle; or
- f) In any other manner obstruct pedestrians in their use of a sidewalk.

4. Obstructing of vehicular traffic

No person shall trade at a place where such trading causes-

- a) Causes an obstruction on a roadway;
- b) Limits vehicular access to parking or loading bays or other facilities;
- c) Obstruct any road traffic sign or any marking, notice or sign displayed or made in terms of these By-laws; or
- d) Interferes in any way with any vehicle that may be parked alongside such place;
- e) Contravenes the provision of section 116 of the National Traffic Act (Act No 93 of 2006).

3. RESTRICTED CONDUCT

(1) A Trader

- (a) May not sleep overnight at the place where he or she carries on Trading activities;
- (b) May not erect any structure for the purpose of providing shelter, other than a device approved by the Council;
- (c) May not place his or her Property on a Public Road or Public Place, with the exception of his or her Motor Vehicle or trailer from which Trading is conducted,

provided that such Motor Vehicle, stalls or trailer does not obstruct pedestrian or Vehicular Traffic movement and complies the provisions of the Traffic Act;

- (d) Must ensure that his or her Property or area of activity; -
- i. Does not cover an area of a Public Road or a Public Place which is greater than 6 (six) square metres (with a maximum length of 3 (three) metres in extent, unless otherwise approved by the Council; or the approved Land Use Management Scheme and,
 - ii. in respect of any Side-Walk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5 (one and a half) metres wide when measured from any contiguous building to the Property or area of activity and not less than 0.5 (one half) metres wide when measured from the Kerb Line to the Property or area of activity;
- (e) May not trade on a Side-Walk where the width of such Side-Walk is less than 3 (three) metres;
- (f) May not place or stack his or her Property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;
- (g) May not display his or her Goods or other Property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (h) Must, on request by an Authorised Official or supplier of telecommunication or electricity or other Municipal Services, move his or her Property so as to permit the carrying out of any work in relation to a Public Road, Public Place or any such service;
- (i) May not attach any of his or her Property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other Street Furniture in or on a Public Road or Public Place;
- (j) May not carry on such business in such a manner as to-
- i. Create a nuisance;
 - ii. Damage or deface the surface of any Public Road or Public Place, or any public or private property; or
 - iii. Create a traffic or health hazard, or health risk, or both;
 - iv. May not make an open fire on a Public Road or Public Place;

- v. May not interfere with the ability of a person using a Side-Walk to view the View the goods displayed behind a shop display window or obscure such goods from;
- vi. May not be obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; vii) May not be obstruct access to, or the use of, Street Furniture and any other facility designed for the use of the general public;
- vii. May not obscure any road traffic sign displayed in terms of the Traffic Act,
- viii. Or any marking, notice or sign displayed or made in terms of this By-Laws;
- (k) May not carry on business, or take up a position, or place his or her Property on a portion of a Side-Walk or Public Place, in contravention of a notice or sign erected or displayed by the Council for the purposes of this By-Law;
- (l) May not, other than in a refuse receptacle approved or supplied by the Council, accumulated, dump, store, or deposited, ant Litter on any land or premises or any Public Road or Public Place or on any Public property;
- (m) May not place, on a Public Road or Public Place, such of his or her Property that is not capable of being easily removed to a storage place away from such Public Road or Public Place;
- (n) Must, on concluding business for the day, remove his or her Property, except any structure permitted by the Council, to a place which is not part of a Public Road or Public Place;
- (o) May not store his or her Property in a manhole, storm water drain, public toilet, bus shelter or in a tree; and,
- (p) May not carry on Trading in a place or area in contravention of any prohibition or restriction approved by the Council in terms of Section 6A (2) OF THE Act.

(2) Trading restricted to specified goods or services in certain places.

No person shall trade-

- (a) On a verge contiguous to any place of worship, national monument or public building, financial institutions; or
- (b) In a restricted area which is specified by the Municipality resolution other than in the goods or services so specified in relation to each such verge or area;

(c) As a barber or hair dressing salon in a public place, unless the barber or hairdressing stand is-

- i. At least 15 metres from the nearest stand which sells perishable foodstuff, fruit or vegetables;
- ii. Not contradictory to the Amended National Health Act (Act No. 61 of 2003) read in conjunction with the previous National Health Act, No. 63 of 1977 and regulations;
- iii. Supplied with an electrical connection, provided by the Municipality, according to the electrical By-laws and specifications or any other act.

(3) Trading restricted to demarcated stands or areas in certain place

No person shall trade-

- (a) On a verge contiguous to any place of worship, national monument or public building; or
- (b) In a restricted area which is specified by the Municipality resolution outside a stand area set apart for trading purposes as contemplated in section 7 (3) (b) of the Act.

(4) No trading in stands or areas which have been let except by the lessee

If the Municipality has let or otherwise allocated any stand or area set apart or otherwise established for the street trading purposes, as contemplated in section 7 (3) (c) of the Act, no person may trade on such stand or in such area if he is not in possession of proof that he has hired such stand or area from the municipality or that it has otherwise been allocated to him.

(5) No trading near certain public buildings, places of worship and national monuments

(1) No person shall trade –

- (a) on a verge contiguous to any place of worship, national monument or public building; which specified by Municipality resolution.
- (b) directly alongside a building belonging to the South African Police Services and or a police station.
- (c) Directly alongside a building declared to be a public monument,

- (d) Directly alongside an automatic teller machine.
- (e) At a place where it causes an obstruction in respect of a fire hydrant, or and entrance to and or exit from a building.

(6) No trading in prohibited area

- (a) No person shall trade in any prohibited area, nor area which has not been approved and indicated by the Municipality.
- (b) A street trader who conduct his/ her business from a vehicle may not park the vehicle or trailer in such a manner as to obstruct pedestrian or vehicular traffic and must ensure that he/ she complies with the National Road Traffic Act.

(7) Signs indicating restrictions and areas

The Municipality shall-

- (a) By the resolution of council, prescribed signs, markings or other devices indicating-
 - i. Specific hours, places. Goods or services in respect of which trading is restricted;
 - ii. The location or boundaries of a restricted area;
 - iii. The boundaries of a stand or area are set apart for the purpose of the caring on of the business of street trading under section 7 (3) (b) of the Act;
 - iv. The fact that any such stand or area has been let or otherwise allocated;
 - v. Any restricted or prohibition against trading in terms of these By-laws;
- (b) Display any such sign marking or device in such a position and manner as will indicate the restrictions or the location or boundaries of the area of stand concerned.

(8) Trading near residential buildings

No person shall, outside the area referred to in section 7 to 12 inclusive, trade in that half of a public road contiguous to a building used for residential purposes within the demarcated areas of trading as specified in terms of these By-laws, if the owner, person in control or any part of the building facing onto such road has objected hereto, provided that in a township or portion thereof mentioned in in a resolution of the

Municipality, this section shall not comply to a building used for residential purposes if such building is used for nosiness purpose at ground level.

(9) Trading near certain business premises

No person shall, outside an area referred to in section 7 to 12 inclusive, trade on a verge contiguous to that part of a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods sold by the first mentioned person, other than a department store or supermarket without the consent of the second mentioned person.

(10) Children not permitted to trade

(a) No person under the age of 16 shall be found trading in or near a public road or place.

(b) Any person who appoints a child to trade shall be found guilty of an offence and upon conviction be liable of a fine or imprisonment for a period not exceeding 3 months.

(11) Vending of Ice cream

(a) Street vendors trading ice cream are permitted to trade from either a self-propelled motor vehicle, a bicycle or on foot in any street within residential areas and adjacent to school premises provided that the free-flow of traffic should not be interfered with.

4. REMOVAL AND IMPOUNDMENT

- (1) An Authorised Official may remove and or impound any Property of a Trader which —
 - (a) He or she reasonably suspects is being used or which is intended to be or has been used for or in connection with Informal Trading; and
 - (b) Is found at a place where Informal Trading is restricted or prohibited.
- (2) The removal and impoundment of property in terms of subsection (1) may be effected irrespective of whether or not such Property is in the possession or under the control of any third party at the time.
- (3) Any Authorised Official acting in terms of subsection (1) must, except where Goods have been left or abandoned, issue to the person carrying on Trading, a receipt for any Property so removed and impounded, which receipt must-
 - (a) Itemise in detail the Property to be removed and impounded;

- (b) Provide the address where the impounded Property will be kept and the period of such impoundment;
 - (c) State the terms and conditions for the release of the impounded Property;
 - (d) State the Impoundment Costs to be paid by the Trader concerned;
 - (e) State the terms and conditions relating to the sale of unclaimed Property by Public auction: and
 - (f) .(f) Provide the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which this must **be done**.
- (4) The Municipality may sell by public auction any object unclaimed from it more than three months after a notice contemplated in sub-paragraph (a) (iii) has been published in respect of such object, and may retain the proceeds of such auction or may destroy such object.
- (5) The municipality shall not be liable for compensation to any person for damages arising out of the damage to or the loss or any object removed in terms of subsection (1) or the sale thereof by public auction, and the owner of such object shall have no claim or right of redress against the municipality.
- (6) (a) if any object is attached to any movable property or a fixture contemplated subsection (1) and such object is under the apparent control of a person present threat any authorized official of the municipality may order such person to remove the object and if such person refuses or fails to remove the object, he shall be guilty of an offence.
- (b) When any person fails to comply with an order to remove an object referred to sub-paragraph (l) an officer of the municipality may take such steps as may be necessary to remove the object.

5. VICARIOUS LIABILITY

- (1) When an employee or agent of an Informal Trader contravenes a provision of this By-Law, the Informal Trader shall be deemed to have committed such contravention unless such Trader satisfies the court that he or she took reasonable steps to prevent such contravention.
- (2) The fact that the Trader issued instructions to the employee or agent, prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

- (3) Where a manager, representative, agent, employee or member of the family of a shopkeeper performs or omits to perform any act, and it would be an offence under this By-law as contemplated in the Mpuma'anga Trading Hours Act, 1999 or any regulation made thereunder, for the shopkeeper to perform or omit to perform such act himself or herself, the shopkeeper shall reasonably be deemed himself or herself to have performed or omitted to perform such act, unless he or she satisfies the court that —
- (a) he or she neither connived at nor permitted the act or omission by the manager, representative, agent, employee or member of his or her family concerned.
 - (b) an act or omission, whether lawful or unlawful, of the nature charged, on no condition or under no circumstances came within the scope of the authority or employment of the manager, representative, agent, employee or member of his or her family concerned; or
 - (c) he or she took all reasonable steps to prevent his or her manager, agent, representative, employee or member of his or her family to perform such an act, shall not in itself constitute such reasonable steps.

6. OFFENCES AND PENALTIES

- (1) Any person who-
- (a) Contravenes or fails to comply any provision of this By-Law;
 - (b) Fails to comply with any notice issued in terms of this By-Law;
 - (c) Fails to comply with any lawful instruction given in terms of this By-Law;
 - (d) Who obstructs or hinders any authorised representative in the execution of his or her duties under this By-law, is guilty of an offence and liable on conviction to a fine not exceeding R1500. 00 or, in default of payment, to imprisonment for a period not exceeding 3 (three) months and in the case of a continuing offence, to a further fine not exceeding R2000. 00 or, in default of payment, to imprisonment not exceeding six months, for every day during the continuation of such offence, after written notice has been issued by the Council and served on the person concerned, requesting the discontinuation of such offence;
 - (e) When requested in terms of section 5(1)(a)(iii) of the Mpumalanga Trading Hours Act, 1999, to produce any document, licence, book or record, refuses or fails to do so, or who when requested in terms of section 5(1)(b) gives a false or

incorrect reply or who, when required to furnish information in terms of section refuses or furnishes false or incorrect information; or

(f) Opens or keep open a shop contrary to the designated special opening and closing hours,

i. Shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one (1) year or to both a fine and such imprisonment.

ii. Where a shopkeeper is convicted of an offence referred to in subsection (1) of the Mpumalanga Trading Hours Act, 1999, the court may, in addition to any penalty imposed in terms of that subsection, prohibit the shopkeeper or any successor to the shopkeeper from trading in, on or from the shop concerned outside trading hours

(12) Offences and penalties.

(1) Any person who-

(a) Contravenes or fails to comply with provision of these by-laws or a direction issued by the municipality in terms of these by-laws, or a condition or an instruction under these by-laws.

(b) Obstruct or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these by-laws; or

(c) Furnishes false, incorrect or misleading information when applying for permission from the municipality in terms of the provision of these by-laws, is guilty of an offence.

(13) Presumption

(1) In any prosecution for an offence under these by-laws, an allegation in charge concerned that-

(a) Any goods with which a business was carried on were not of a particular kind, class, type of description or as it may be described by resolution of the Municipality;

(b) Any goods or services were sold or offered for sale;

(c) Any place was situated in a public road or public place within a particular area;

(d) Any person carried on the business of street trading and in a manner and place alleged.

(2) In any criminal proceedings for a contravening By-laws, where it is shown that-

(a) Any goods were displayed in a public place, such goods shall be presumed to have been offered for sale;

(b) Any property used in the provision of any service was available in a public place, such services shall be deemed to have been offered or supplied.

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7. REGULATIONS

(1) The Council may make regulations regarding-

(a) The declaration of any place to be an area in which Trading is restricted or prohibited and the prescription or making of signs, markings or other devices, as contemplated in terms of section 9;

(b) The setting apart and demarcation of stands or areas for the purposes of street trading and the extension, reduction or disestablishment thereof, as contemplated in terms of Section 10;

(c) (l) The disposal of any Property which has been removed and impounded, as contemplated in terms of Section 1 1; an

(d) The liability of any person for any reasonable expenses incurred in connection with such removal, Impoundment and disposal

(e) Any matter which may prescribed in terms of this By-Law and any matter which may facilitate the application of this By-Law.

(2) The Council shall, not less than 1 (one) month before promulgating a regulation in tens of Section 1 , cause a draft of the regulation to be communicated to the Local government: Municipal Systems Act, 2000[Act No. 320f 2000], together with a notice declaring the intention of the Council to issue such a regulation and inviting comments or representations from members of the community.

8. MISCELLANEOUS

This By-Law shall be called Nkomazi Trading By-Law as approved by Municipal Council and effected thereof on promulgation.

9. REPEAL OF EXISTING BY-LAWS

All previous by-laws are hereby repealed, provided that such shall not affect the continued validity of any charges determined by the Municipality under those by-laws.

SCHEDULE A**TRADING HOURS IN TERMS OF PROVISIONS OF THE MPUMALANGA TRADING HOURS****ACT 1999**

CATEGORY	OPEN ING TIME S	CL OSING TI MES
Wholesalers	08:00	17: 00
Supermarket	07:00	19: 00
General Dealer	07:00	19: 00
Hardware	08:00	18: 00
Café /restaurant	06:00	21: 00
Tuck t shop/spaza shop	06:00	20: 00
Motor Spares/workshop related	08:00	17: 00
Butchery	08:00	17: 00
Street hawkers/Market Stalt	06:00	17: 00

PLACES WITH RESTRICTED TRADING HOURS**PLACES**

- A. Gardens and Parks:
- B. Verges contiguous to the following -
 - i. Places of worship, national Monuments; and
 - ii. Public buildings:
- C. Restricted areas:

(With number and date of notice of Declaration thereof)

With regard to A, B, and C above, the hours determined by Council after receiving specific applications.

SCHEDULE B**PLACES WHERE GOODS OR SERVICES ARE RESTRICTED PLACES**

A. Gardens and Parks:

B. Verges contiguous to the following-

- i. Places of worship, national Monuments; and
- ii. Public buildings:

C. Restricted areas:

(With number and date of notice of Declaration thereof)

With regard to A, B, and C above, the goods or services determined by Council from time to time.

SCHEDULE C**PLACES WHERE TRADING IS RESTRICTED TO DERMACATED STANDS AND AREAS**

- A. Gardens and Parks:
- B. Verges contiguous to the following:
 - i. Places of worship,
 - ii. national Monuments;
 - iii. And public buildings:
- C. Restricted areas: (With number and date of notice of declaration thereof)

SCHEDULE D**VERGES WHERE TRADING IS PROHIBITED**

The Verges Contiguous to the Following:

- A. Public Buildings
- B. Places of Worship
- C. National Monuments

SCHEDULE E**AREAS EXCLUDED FROM RESTRICTION ON TRADING NEAR RESIDENTIAL BUILDINGS**

- A. Townships and portions of townships.
- B. Public roads and portions of public roads

SCHEDULE F

GENERAL CONDUCT

A person trading shall-

- (a) Be in a position of a permit issued by the Municipality;
- (b) Not place his property on the roadway
- (c) Ensure that his property does not cover an area of the sidewalk which is greater in extent than 1m x 2m and which on any sidewalk does not leave a space less than 2 for pedestrian traffic measured over the width thereof and any other public space not to an extent of twelve meters; and
- (d) Not place or stack his property in such manner that it constitutes a danger to any person or is likely to injure any person;
- (e) Not obstruct access to a fire hydrant.
- (f) On concluding business for the day remove his property, except any temporal structure permitted by the Municipality, to a place which is not part of a public road or public place;
- (g) Not display his goods or other property, except any temporal structure permitted by the Municipality, to a place which is not part of a road or a public road or public place;
- (h) No person shall be permitted to hawk outside demarcated stalls.
- (i) Not sleep overnight at a place of such business.
- (j) Not erect any structure for the purpose of providing shelter without prior written approval from council.
- (k) On request by an employee or agent of the Municipality or any supplier of telecommunication or electricity or other services, move his property so as to permit the carrying out of any work in relation to a Public Road, public place or any such services;
- (l) Not attach any object by any means to any building, structure, pavement, tree, parking meter, lamp hole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;
- (m) Not make a fire at a place or in circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in paragraph (i) or any Municipality property;
- (n) Not trade nearer than 10 meter from a bank or an automated teller machine;
- (o) Not store his/her property in a manhole or storm water drain.

BUSINESS LICENSING 2018/19

NEW APPLICATIONS		TARIFF
Wholesalers		R 1 590.00
Supermarket		R 1 060.00
General Dealer		R 1 060.00
Hardware		R 1 272.00
Café/Restaurant		R 837.40
Tuck Shop/Spaza Shop		R 837.40
Motor Spares/workshop Related		R 1 060.00
Butchery		R 837.40
Street Hawkers/Market Stalls		R320.00
Car wash		R320.00
Accommodation and Lodging	Grading: (0-1 star)	
	(2 star)	
	(3 star)	
	(4 star)	
	(5 star)	R 1 060.00
RENEWALS		
Wholesalers		R 1 060.00
Supermarket		R 689.00
General Dealer		R 689.00
Hardware		R 583.00
Café/Restaurant		R 371.00
Tuck Shop/Spaza Shop		R318.00
Motor Spares/workshop Related		R477.00
Butchery		R265.00
Street Hawkers/Market Stalls		R159.00
Car wash		R159.00
Accommodation and Lodging		R700.00
Endorsement		R 1 007.00
Compliance		R 1 590.00
Extension		R 1 007.00
Transfer of Business ownership		R2 650.00
Duplicate Trading Licence		R2 650.00
Penalty (Non-Compliance)		R 1 590.00
<i>All stipulated includes Vat</i>		