



Informal Economy



And Street Trading



Bylaw

INFORMAL ECONOMY AND STREET TRADING BY-LAW

The Municipal Manager of MKHAMBATHINI Local Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Informal Economy and Street Trading (Hawkers) By-Law for the MKHAMBATHINI Local Municipality, to be approved by the Council, as set out hereunder.

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DEFINITIONS

1. In this By-Law, unless the context otherwise indicates-

“Approval” means approval by the Council and “approved” has a corresponding meaning;

“Authorized Official” means any official of the Council who has been authorised by it to administer, implement and enforce the provisions of this By-Law;

“Council” means -

(a) the Municipality established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or

(b) its successor in title; or

(c) a structure or person 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); or

(d) a service provider fulfilling a responsibility under this By-Law, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, as the case may be.

“Council Services” means any system conducted by or on behalf of a local authority, for the collection, conveyance, treatment or disposal of refuse, sewage, or storm water, or for the generation, impounding, storage or purification, or supply of water, gas or electricity, or municipal services;

“Council Service Works” means all property or works of whatever nature necessary for or incidental to any Council services;

“Demarcated stand” means a stand demarcated by Council for the purposes of street trading in terms of section 6(a)(3)(b) of the Act;

“Foodstuff” means foodstuff as defined in section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

“Garden or Park” means a garden or park to which the public has a right of access;

“Goods” means any movable property used in connection with street trading and, without limiting the generality of the foregoing, includes products for sale, display tables, stands, receptacles, vehicles, structures or animals;

“Informal Economy” means activities as defined in the KZN Policy on Informal Economy, 2010.

“Intersection” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“Litter” includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by a street trader or by his or her customers;

“Motor Vehicle” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996;

“Prescribed” means determined by resolution of the Council from time to time;

“Property”, in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he or she trades;

“Public Building” means a building belonging to or occupied solely by the State or the Council;

“public monument” means any one of the “public monuments and memorials” as defined in the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

“Public Place” means a public place as defined in section 2 of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

“Public Road” means a public road as defined in section 1 of the National Road Traffic Act, 1996;

“Roadway” means a roadway as defined in section 1 of the National Road Traffic Act, 1996;

“Sell” includes

(a) barter, exchange or hire out;

(b) display, expose, offer or prepare for sale;

(c) store on a public road or public place with a view to sell; or

(d) provide a service for reward; and “sale” or

“Selling” has a corresponding meaning;

“Sidewalk” means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996;

“Street Furniture” means any furniture installed by the Council on the street for public use;

“Street Trader” means a person who carries on the business of street trading and includes any employee of such person;

“Street Trading” means the selling of any goods or the supplying or offering to supply any service for reward, in a public road, or public place, by a street trader;

“the Act” means the Businesses Act, 1991 (Act No. 71 of 1991) and includes the regulations promulgated thereunder; and

“Verge” means a verge as defined in section 1 of the National Road Traffic Act, 1996;

1.ALLOCATION OF MARKET STALLS (INFORMAL TRADING)

PURPOSE

The provision of a street trading facility by Council is to enhance economic opportunities and job creation. This takes into consideration the broad principles of previously disadvantaged communities, gender, youth and the disabled. Citizens residing within the boundaries of Mkhambathini Municipality, add to the preference points for the allocation of a stall.

The policy is based on prescriptions of Section 152 and 156 of the Constitution of the Republic of South Africa (Act 108 of 1996) and Section 11 of the Municipal Systems Act (Act 32 of 2000).

The policy aims to provide both business and job creation opportunities by ensuring support for both new entrants and existing traders in the economy. Implementation is without prejudice and is done in a manner that ensures harmony, growth and builds linkages among traders and between traders and their customers as well with the community at large and between traders and formal business.

Council through its relevant functionaries will always ensure adherence to this policy.

GUIDING CONDITIONS FOR ALLOCATION OF STALLS

Each stall shall be allocated its distinct number and will be allocated under the following conditions:

- One site per trader per household, and each trader must be in a position of a valid permit issued by the relevant Permits issuing Authorities, (refer to paragraph 5.1).
- Commitment to pay for stall rentals as per Annexure B (fees may escalate in terms of Council's Tariffs of Charges);
- One-year non-transferable permit containing details of the street trader, products sold and the number of the market stall;
- The trader must be 18 years or older.
- The trader must operate within the structure allocated to him or her without putting any extensions to the original structure.

- The trader must not have any formal business or formal employment
- Permit will be renewed, thirty days before the expiry date of the existing permit.
- Failure to renew permit on time will result in penalties
- Only traders with a valid permit obtained from the Council shall be allowed to trade.
- No formal business will be allowed to operate as an informal trader i.e. even taking out staff member to apply for a trading permit.
- The Municipality will ensure that allocation of sites for Informal Economy does not infringe on the formal business sector.
- The municipality also has to ensure that allocation of sites needs to address viability of businesses per street and cater for diversified trade.
- No open fires are allowed on the streets unless so demarcated for.

Permits will only be issued if the following requirements are met:

- Two passport photos plus two of an alternate.
 - Copy of certified ID book / valid Home Affairs permit.
 - Proof of residence
 - Type of goods to trade
 - Applicant must be prepared to attend training offered by Council Officials.
 - Proof of unemployment issued by the department of Labour/Affidavit.
- The LED Unit will promote management and control of the facility.
 - Contravention of any legal provisions including Council's Bylaws constitutes an offence.
 - An officer or designated official may remove and impound any goods, articles or receptacles which he/she reasonably suspects are being used or are intended to be used or have been used in contravention of Council's Street Trading Policy and Bylaws.

2.GENERAL RULES OF CONDUCT

When trading, a person shall:

- Not place or stack his/her property in such a manner that it constitutes a danger to any person or

- is likely to injure any person;
- Conduct his/her business in such a manner that it is not a danger or threat to public health or safety;
- Not display his/her goods in another person's stall without consent of the occupier of that stall;
- Not carry business in such a manner which will create a nuisance or damage/deface the facility or attach any object to the facility;
- comply with a reasonable request by an employee or agent of the Council or any supplier of telecommunication, electricity or other services, to move his/her property for the purposes of carrying out any work (including cleansing);
- Not make fire within the facility under any circumstances; not sleep overnight in any of the trading stalls;
- Keep the area occupied by him/her in a clean and sanitary condition;
- Not dispose litter in a manhole, storm water drain or any other place than in a place intended for the disposal of litter;
- Remove his/her property from the facility on conclusion of the business at the end of the day;
- Not cook nor permit cooking to be done within the structure without the approval of Councils traffic and health units;
- Not sublet or permit rental of whatever nature;
- Not conduct hairdressing nor permit hairdressing to be conducted unless so demarcated.
- Not to be used as a front for any other person or business.

3.Prohibition

No street trader shall carry or undertake street trading on a verge contiguous to:

- a building declared to be a national monument in terms owner in the central business district;
- a church or other place of worship, or
- of the National Monuments Act No. 28 of 1969;
- on any verge contiguous to a building in which business is being carried on.
- on that half of a public road contiguous to a building used for residential purposes.

- at any place where the carrying on of such business causes an obstruction to-
- the entrance to or exit from a building, or
- a fire hydrant;
- on a pedestrian side-walk unless so designated.
- in any declared area identified as such in terms of section 6a (2) of the act in respect of which the carrying on of the business of street trader has been prohibited by the Council, or
- restricted by the Council, unless such business is carried on in accordance with such restrictions at any place which has been set apart and demarcated as stands or areas by the Council in terms of section 6a (3) (b) of the act for the purposes of the carrying on of the business of street trader, unless such business is carried on in accordance with an agreement with the Council, or the allocation by the Council to the street trader of any area or stand; and in any public garden or park except with prior written consent of the Council

4.Restrictions

No person engaging in street trading shall:-

- sleep overnight at the business site;
- erect any permanent structure in a public place or public road for the purpose of providing shelter, other than that which was approved by the municipality; or
- place or store any goods in such a manner or position as to constitute a danger to any person.
- carry on such business in such a manner as to-
- create a nuisance.
- damage or deface any public road or public place or any public or private property; or
- create a traffic hazard.
- obstruct access to a service or to service works of the Council or of the state or any statutory body.
- interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view.
- obstruct access to a pedestrian arcade or mall;
- 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;

- place or store his or her goods on or in a building, without the consent of the owner, lawful occupier, or
- person in control of such building make an open fire on a public road or public place interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop displayed window, or obscure such goods from view;
- obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; and
- Obstruct or inhibit the use of street furniture and any other facility designed for the use of the general public.

5.Cleanliness

Every street trader shall-

- Keep the area used by him or her for the purposes of street trading, as well as any goods used by him or her, in a clean and sanitary condition.
- At the request of any authorized official of the Council, move or remove his or her goods so as to permit the cleansing of the area where he or she is trading, or for the purpose of effecting Council Services;
- 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; and
- Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter

6.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:-
 - is maintained in a good state of repair and in a clean and sanitary condition; and
- is not so placed or stored so as to constitute a danger to any person

7.RENTALS POLICY

ANNEXURE "B") Informal Economy Po

In the same way that built property has a value placed on it, depending on where it is located, so it is important to place value on different informal trading sites, such as pavements. Value is placed on sites through a system of differentiated rentals. Rentals will be linked to site size, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility bearing in mind the need to subsidize new opportunities in some areas. The tariff structure will allow for transparent subsidies in order to ensure cross-subsidization and equity.

7.1. PROPOSED RENTAL FOR THE INFORMAL TRADING FACILITIES

The proposed is the monthly rentals

STALL TYPE	STALL DESCRIPTION	PROPOSED TARRIF INCL VAT
A	<p>Are well equipped, with electricity, water and fixed structures. They are usually established where there is heavy pedestrian traffic.</p> <p>These markets provide all the advantages of a formal retail outlet, but at a more affordable price and with facilities appropriate to the purchasing patterns and choices of their main consumers</p>	R100.00 per month
B	<p>This type includes traders whose businesses, while not lucrative, are still reasonably viable. These markets have awnings and shelters and individual storage facilities.</p>	R60.00
C	<p>Are linear markets that have a good basic structure on which traders can place their goods These markets operate from business nodes, mostly along streets.</p>	R50.00
D	<p>Are those merely demarcated with a painted out line to indicate trading spaces and have no physical features.</p>	R25.00

E	Are those that are mobile whether by car or By foot, roving /mobile traders.	R40.00
F	Are those that are trading as tuck shop/ spaza shop	R45.00

ITEM	DETAILS	PROPOSED TARRIF INCL VAT
1	Lost permit	R30.00

7.2 PROCESS

In the event of a stall becoming vacant for any reason that may include disqualification, the following process will be followed:

A circular will be issued to find a trader for the vacant stall\stalls; No waiting list will be drawn up.

Applicants will have to fulfil the guiding conditions and targets set through broad principles outlined below. The following points may be used to allocate a market stall:

- Anyone from the disadvantaged group before 1994 = 2 points
- Youth, female = 2 points
- Disabled = 2 points
- Value added product or skill =2points
- Applicant is a resident of the Mkhambathini Municipal Area = 2 points

The following proof of residence is required:

- Rates statement / Water/ Electricity
- Letter from iNkosi
- Letter from the Councillor

NB: The Traders would be offered an opportunity to trade free for six (6) consecutive months from the date of permit and allocation of site\stall, and therefore the rental rates would apply.

8. TERMINATION OF TRADING BAYS

Council reserves the rights to withdraw or terminate the license\ permit if:

- The licensee\ permit holder contravenes any Law of the Country or its Bylaws.
- The licensee\ permit holder is found in possession or trading legally prohibited goods\services.
- The permit holder is not utilizing the trading stall for six weeks and more.
- The permit holder is found in possession or trading drugs or intoxicating substance.
- A trader has wilfully supplied incorrect information related to permit conditions.
- A trader, who is allocated a stall has sub-let or sold such a stall to a third party; and
- A trader does not comply with Municipal By-laws.
- If the trader is permanently employed elsewhere.
- If he/she operates in the formal business environment.

9. Goods Removal and impoundment Policy

- An authorized officer may remove and impound any goods
- Which he reasonably suspects are being used or intended to be used or have been used in or connection with the carrying on of the business of a street trader, and
- which he finds at a place where the carrying on of such business is prohibited or restricted in
- Terms of this policy, whether such goods are in the possessions or under the control of any person at the time of such removal and impoundment.
- An authorized officer removing and impounding any goods shall -
- except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof and stating-
- the place where the goods shall be kept.
- the amount payable in respect of expenses incurred by the Council in impounding and removing the goods; and
- The date on or after which the goods will be sold or destroyed unless claimed and forthwith place such goods in safe custody.

NB: Neither the Council nor any authorized officer, or employee of the Council shall be liable for any loss or theft of nor damage to any goods removed and impounded in terms of this policy.

10. Disposal of Impounded goods

Any good impounded in terms of these by-laws shall be dealt with as follows

- if the goods are claimed, the street trader shall pay the expenses incurred by the Council for impoundment; and
- if the goods are not claimed within the period specified on the receipt issued in terms of this policy, the goods shall be sold to defray expenses incurred by Council in impounding and removing
- The goods.
- If the goods-
- are not capable of being sold, they shall be destroyed after the period specified on the receipt issued in terms of these by-laws.
- Any perishable goods may be sold or destroyed as soon as may be necessary.
- If the proceeds contemplated by this section are insufficient to pay expenses incurred by Council, the owner shall be liable for any excess.

ANNEXURE “D” Informal Economy Policy

11. Site demarcation plan

As per GIS method and zoning principles including specifications for trading stall as per types of markets above.

ANNEXURE “E” Informal Economy Policy

12. Penal provisions:

Amount that you will fine offenders; as per below **(schedule of fines)**

OFFENCE	PENALTY
Failure to produce a trading permit upon request	R 50
Dealing in illegal/counterfeit goods	R5000.00 plus 3 months imprisonment
Failure to clean up site after trading	R20 each offence

