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PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

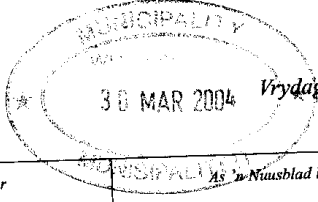
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WITZENBERG MUNICIPALITY:

Notice is hereby given in terms of Section 13 of the Municipal Systems Act, 32/2000, that the Municipal Council of Witzenberg adopted the following by-law for its area of jurisdiction.

STREET TRADING BY-LAW

in terms of

Section 6A(1) of the Business Act, 1991
(Act No. 71 of 1991) and
Section 80A of the National Road Traffic Act, 1996
(Act No. 93 of 1996), as well as
Section 11(3)(m) of the Municipal Systems Act, 32/2000

CHAPTER I

INTERPRETATION AND FREEDOM OF TRADE

Definitions

1. (1) In this bylaw, unless the context otherwise indicates any word or expression to which a meaning has been assigned in the Businesses Act, 1991, shall have that meaning, and—
- (i) "authorised official" means an official of the Council who is authorised to implement the provisions of this bylaw;
 - (ii) "Council" means the municipal council of Witzenberg;
 - (iii) "foodstuff" means a foodstuff as defined in section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);
 - (iv) "garden or park" means a garden or park to which the public has a right of access;
 - (v) "goods" includes a living thing and any transferable interest;
 - (vi) "intersection" means an intersection as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
 - (vii) "litter" includes any container or other matter which has been discarded, abandoned or left behind by a person trading or his/her customers;
 - (viii) "local authority" means the municipality of Witzenberg;
 - (ix) "municipal area" means the municipal area of Witzenberg;
 - (x) "national heritage site" means a place declared to be a national heritage site under the National Heritage Resources Act, 1999 (Act 25 of 1999);
 - (xi) "nuisance" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to the person or property of others or which materially interferes with their ordinary comfort, convenience, piece or quiet;
 - (xii) "prohibited area" means any place declared or to be declared under section 6A(2) of the Act by resolution of the Council to be an area in which street trading may be prohibited;
 - (xiii) "property" in relation to a person carrying on the business of street trading, means any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel, aircraft, article or receptacle used or intended to be used in connection with such business, and includes goods in which he/she trades;
 - (xiv) "public building" means a building occupied solely by the State or the Council;
 - (xv) "public place" means any square, park, recreation ground or open space which:
 - (a) is vested in the Municipality;
 - (b) the public has the right to use, or
 - (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;
 - (xvi) "public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996, but excludes a public place;
 - (xvii) "restricted area" means any place in the municipal area which has been declared under section 6A(2) of the Act by resolution

MUNISIPALITEIT WITZENBERG:

Kennis geskied hiermee in terme van Artikel 13 van die Munisipale Stelselwet, 32/2000, dat die Munisipale Raad van Witzenberg die onderstaande verordening vir sy regsgebied aanvaar het.

VERORDENING VIR STRAATHANDEL

kragtens

Artikel 6A(1) van die Wet op Besighede, 1991
(Wet Nr. 71 van 1991) en
Artikel 80A van die Nasionale Padverkeerswet, 1996
(Wet Nr. 73 van 1996), asook
Artikel 11(3)(m) van die Munisipale Stelselwet, 32/2000

HOOFSTUK I

INTERPRETASIE EN HANDELSVRYHEID

Woordomskrywing

1. (1) In die verordening, tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan 'n betekenis in die Wet op Besighede, 1991, geheg word, dieselfde betekenis en beteken—
- (i) "beperkte gebied" enige plek wat ingevolge artikel 6A(2) van die Wet deur 'n besluit van die munisipale raad as 'n gebied waar straathandel beperk kan word, verklaar is of nog verklaar moet word;
 - (ii) "dienste" ook enige wins of voordeel teen vergoeding of beloning;
 - (iii) "die Wet" die Wet op Besighede, 1991 (Wet 71 van 1991) soos gewysig, insluitende die regulasies;
 - (iv) "eiendom", met betrekking tot 'n persoon wat die besigheid van straathandel bedryf, enige grond, geboue, bouwerk, gedeelte van 'n gebou of van 'n bouwerk, of enige voertuig, vervoermiddel, vaartuig, lugvaartuig, artikel of houer wat gebruik word of bestem is om gebruik te word in verband met sodanige besigheid en sluit goedere waarmee by handeldryf, in;
 - (v) "gemagtigde beampte" enige beampte in diens van die Raad en wat gemagtig is om die bepalinge van hierdie verordening toe te pas;
 - (vi) "goedere" ook enige lewendige dier of oordraagbare belang;
 - (vii) "handel" beteken die verkoop van goedere of dienste op 'n openbare pad of openbare plek en het "handeldryf" 'n ooreenstemmende betekenis;
 - (viii) "kruising" 'n kruising soos omskryf in artikel 1 van die Nasionale Padverkeerswet, (Wet 93 van 1996);
 - (ix) "munisipale gebied" die munisipale gebied van Witzenberg;
 - (x) "erfenis terrein" 'n plek wat kragtens die Wet op Nasionale Erfenishulpbronne, (Wet 25 van 1999) tot 'n erfenis terrein verklaar is;
 - (xi) "oorlas" enige gedrag wat 'n stand van sake of toestand meebring of kan meebring wat 'n bron van gevaar vir die persoon of eiendom van 'n ander inhoud of wat wesenlik inmeng met hulle gewone gerief, gemak, rus of vrede;
 - (xii) "openbare gebou" 'n gebou wat slegs deur die Staat of Raad geokkupeer word;
 - (xiii) "openbare pad" 'n openbare pad soos omskryf in artikel 1 van die Nasionale Padverkeerswet, (Wet 93 van 1996);
 - (xiv) "openbare plek" enige plein, park, ontspanningsoord of oop terrain wat—
 - (a) by die Munisipaliteit berus;
 - (b) die publiek die reg het om te gebruik; of
 - (c) getoon word op 'n algemene plan van 'n dorpsgebied in 'n akteregistrasiekantoor van 'n landmeter-generaal en wat verskaf is vir of gereserveer is vir die gebruik van die publiek of die eienaars van erwe in sodanige dorpsgebied;
 - (xv) "plaaslike owerheid" die munisipaliteit van Witzenberg;
 - (xvi) "Raad" die munisipale raad van Witzenberg;
 - (xvii) "ryvlak" 'n ryvlak soos omskryf in artikel 1 van die Nasionale Padverkeerswet, (Wet 93 van 1996);

- of the Council to be an area in which street trading may be restricted;
- (xviii) "roadway" means a roadway as defined in section 1 of the National Road Traffic Act, 1996;
- (xix) "sell" includes supply and also—
- exchange or hire
 - store, expose, offer or prepare for sale, process or display for sale, and "sale" has a corresponding meaning
- (xx) "services" includes any advantage or gain for consideration or reward;
- (xxi) "sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996;
- (xxii) "the Act" means the Businesses Act, 1991 (Act 71 of 1991), as amended, and includes the regulations; (xxiii) "street trade" means to sell goods or services in a public road or public place, and "street trading" has a corresponding meaning;
- (xxiv) "street trader" means a person who carries on the business of a street trader, peddler or hawker and includes an employee of such person and shall, for the purposes of this by-law, include a person who trades in a public road or place;
- (xxv) "trade" means to sell goods or services in a public road or public place, and "trading" has a corresponding meaning;
- (xxvi) "urban area" means any place in the municipal area which is an urban area as defined in section 1 of the National Road Traffic Act, 1996, and
- (xxvii) "verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996.

(2) For the purposes of this by-law, a single act of selling in a public road or public place shall constitute street trading.

Freedom of trade

2. Street trading is freely permitted in all public streets and public places in the municipal area, subject to the provisions of this bylaw.

CHAPTER II GENERAL SUPERVISION AND CONTROL

General conduct

3. A person trading shall—
- not place his/her property on a verge or public place except for the purpose of commencing to trade;
 - ensure that his/her property does not cover an area of a public road or public place which is greater in extent than three metres long or three metres in width;
 - 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;
 - not obstruct access to a fire hydrant;
 - on concluding business for the day, remove his/her property to a place which is not part of a public road or public place;
 - not display his/her goods or other property on a building or other private property, without the consent of the owner, occupier or person in control of such building or property;
 - at the request of an employee or the agent of the Council or any supplier of telecommunication or electricity or other services, move his/her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;

- (xviii) "soom" 'n soom soos omskryf in artikel 1 van die Nasionale Padverkeerswet, (Wet 93 van 1996);
- (xix) "stedelike gebied" enige plek in die munisipale gebied van Witzenberg wat 'n stedelike gebied is soos omskryf in artikel 1 van die Nasionale Padverkeerswet, (Wet 93 van 1996);
- (xx) "straathandel" verkoop van goedere of dienste in 'n openbare pad of openbare plek en het "straathandeldryf" 'n ooreenstemmende betekenis;
- (xxi) "straathandelaar" 'n persoon wat die besigheid van straathandelaar, venter of smous bedryf en sluit 'n werknemer van sodanige persoon in, en vir die toepassing van hierdie verordening sluit dit 'n persoon in wat in 'n openbare pad of openbare plek handeldryf;
- (xxii) "sypaadjie" 'n sypaadjie soos omskryf in artikel 1 van die Nasionale Padverkeerswet, (Wet 93 van 1996);
- (xxiii) "tuin of park" 'n tuin of park waartoe die publiek die reg tot toegang het;
- (xxiv) "verbode gebied" enige plek wat ingevolge artikel 6A(2) van die Wet deur 'n Raadsbesluit as 'n gebied waarin straathandel verbied word, verklaar is of nog verklaar moet word;
- (xxv) "verkoop" ook die voorsiening en
- uitruil of huur
 - stoor, vertoon, aanbied of voorberei vir verkope, verwerk of uitstal en het "te koop aangebied" dieselfde betekenis
- (xxvi) "voedingsmiddel" 'n voedingsmiddel soos omskryf in artikel 1 van die Wet op Voedingsmiddels, Skoonheidsmiddels en Onsmettingsmiddels, 1972 (Wet 54 van 1972);
- (xxvii) "vuilis" ook enige houer of ander voorwerp wat weggegooi, vergeet of agtergelaat is deur 'n persoon wat handeldryf of deur sy/haar kliënte.

(2) Vir die doeleindes van hierdie verordening word 'n enkele handelings van verkoop in 'n openbare pad of openbare plek as handeldryf geag.

Vryheid van handel

2. Straathandel word vryelik toegelaat in alle openbare paaie en openbare plekke van die munisipale gebied, onderworpe aan die bepalings van hierdie verordening.

HOOFSTUK II ALGEMENE TOESIG EN BEHEER

Algemene gedrag

3. 'n Straathandelaar—
- mag nie sy/haar eiendom plaas op 'n soom of openbare plek nie, behalwe met die doel om handel te dryf;
 - moet verseker dat sy/haar eiendom nie 'n oppervlak van 'n openbare pad of openbare plek beslaan wat groter is as drie meter lank en drie meter breed nie;
 - mag nie sy/haar eiendom op so 'n wyse plaas of stapel dat dit gevaar inhou vir enige persoon of waarskynlik enige persoon kan beseer nie;
 - mag nie toegang tot 'n brandkraan versper nie;
 - moet daagliks na affloop van sy/haar besigheid sy/haar eiendom verwyder na 'n plek wat nie deel is van 'n openbare pad of openbare plek nie;
 - mag nie sy/haar goedere of ander eiendom uitstal in 'n gebou of op ander private eiendom nie, tensy die eienaar, inwoner of persoon in beheer van so 'n gebou of eiendom sy/haar toestemming daartoe verleen het;
 - moet op versoek van 'n werknemer of agent van die Raad of enige ander voorsiener van telekommunikasie of elektrisiteit of enige ander diens, sy/haar eiendom skuif sodat enige werk in verband met 'n openbare pad, openbare plek of enige ander diens verrig kan word;

- (h) not attach any object 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;
- (i) 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 (h);
- (j) not store his/her property in a manhole or stormwater drain.

Cleanliness

4. A street trader shall—

- (a) keep the area or site occupied by him/her for the purpose of such business in a clean and sanitary condition;
- (b) keep his/her property in a clean and sanitary condition;
- (c) properly dispose of litter generated by his/her business;
- (d) not dispose of litter in a manhole, stormwater 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/her for the purposes of trade is free of litter;
- (f) in the case of street trading with foodstuffs, take such precautions as may be necessary to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his/her business and prevent any smoke, fumes or odours emanating from his/her activities from becoming a nuisance;
- (g) on request by an employee or agent of the Council, move his/her property so as to permit the cleansing of the surface of the area or site where he/she is trading.

Obstruction of pedestrians, display windows street furniture, etc.

5. No person shall trade at a place where—

- (a) it obstructs access to street furniture such as a bus passenger bench or shelter or queuing line, a refuse disposal bin or other facility intended for the use of the general public;
- (b) it obstructs the visibility of a display window on business premises, if the person carrying on business in the business premises concerned objects thereto;
- (c) it obstructs access to an entrance to or exit from a building or an automatic bank teller machine;
- (d) it obstructs access to a pedestrian crossing;
- (e) it obstructs access to any vehicle;
- (f) it leaves less than two metres in width of a sidewalk clear for pedestrian use;
- (g) it in any other manner substantially obstructs pedestrians in their use of a sidewalk.

No street trading in stands or areas which have been let except by the lessee

6. If the Council has let or otherwise allocated any stand or an area set apart or otherwise established for street trading purposes, as contemplated in section 6A(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 Council or that it has otherwise been allocated to him.

- (h) mag geen voorwerp op enige wyse aan enige gebou, struktuur, sypaadjie, boom, parkeermeteer, lamppaal, elektrisiteitspaal, telefoonhokkie, posbus, verkeersteken, bank of enige ander straat toebehore in of op 'n openbare pad of openbare plek heg nie;
- (i) mag nie 'n vuur maak op 'n plek of in omstandighede waar dit 'n persoon kan benadeel nie of in 'n plek waar dit 'n gebou of voertuig of enige ander straat toebehore waarna in paragraaf (h) verwys word, kan beskadig nie;
- (j) mag nie sy/haar eiendom in 'n mangat of stormwater riool bêre nie.

Sindelikeid

4. 'n Straathandelaar moet—

- (a) die gebied of plek wat deur hom of haar geokkupeer word vir die doel van so 'n besigheid in 'n skoon en higiëniese toestand laat;
- (b) sy/haar of haar eiendom in 'n skoon en higiëniese toestand hou;
- (c) vullis wat deur sy/haar of haar besigheid gegenereer is na behore verwyder;
- (d) nie sy/haar of haar vullis in 'n mangat, stormwater riool of ander plek wat nie vir die wegdoening van vullis bedoel is, stort nie;
- (e) daagliks verseker dat na die afloop van besigheid, alle vullis vanaf die gebied deur hom of haar gebruik, verwyder is;
- (f) in die geval van 'n straathandelaar, venter of smous in voedingsmiddels, die nodige voorsorgmaatreëls tref wat nodig mag wees om te verhoed dat enige vet, olie of ghries op 'n openbare pad of openbare plek gemors word gedurende die bedryf van sy/haar besigheid en verhoed dat enige rook, vlamme of reuke wat afkomstig is vanaf sy/haar bedrywighede 'n oorlas veroorsaak;
- (g) op versoek van 'n werknemer of agent van die Raad, sy/haar eiendom verskuif sodat die oppervlakte van die gebied of staanplek waar handel gedryf word, skoongemaak kan word.

Obstruksie van voetgangers, uitstalvensters, straattoebehore ens.

5. Geen persoon mag handeldryf op 'n plek waar—

- (a) dit toegang tot straat toebehore, soos 'n buspassasiersbank of skuiling of toustaanplek of vullishouer of ander geriewe wat bedoel is vir die gebruik deur die algemene publiek belemmer nie;
- (b) dit die sigbaarheid van 'n vertoonvenster van 'n sakeperseel versper nie, indien die persoon wat besigheid op die betrokke sakeperseel bedryf, daarteen beswaar maak;
- (c) dit die ingang tot of uitgang van 'n gebou of 'n outomatiese banktellermasjien versper nie;
- (d) dit toegang tot 'n voetganger versper nie;
- (e) dit toegang tot enige voertuig versper nie;
- (f) dit minder as twee meter in breedte van 'n sypaadjie vir voetganger gebruik laat nie of;
- (g) dit op enige ander wyse voetgangers se gebruik van sypaadjies wesenslik belemmer nie.

Geen straathandeldryf in staanplekke of gebiede wat verhuur word nie, behalwe deur die huurder

6. Indien die raad enige staanplek of gebied wat opsy gesit is of wat andersins bepaal is vir doeleindes van straathandel soos beoog in artikel 6A(3)(c) van die Wet verhuur of andersins toeken, mag geen persoon handeldryf op so 'n staanplek of in so 'n gebied nie, tensy hy in besit is van bewys dat hy so 'n staanplek of gebied by die raad huur of dat dit andersins aan hom toegewys is.

CHAPTER III

TRADING NEAR CERTAIN RESIDENTIAL AND BUSINESS PREMISES

No trading near residential buildings in certain circumstances

7. No person shall, outside an area specified in Schedule A, trade in that half of a public road adjacent to a building used for residential purposes if—

- (a) the owner, person in control or any occupier of any part of the building facing onto such road has objected thereto; and
- (b) such objection has been made known to the street trader by an authorised official.

No trading near certain business premises

8. No person shall trade on a verge adjacent to any part of a building in which business is being carried on by a person (other than a department store or supermarket or other supplier of many different lines of goods) who as one of his/her principal lines sell goods of the same nature as or of a similar nature to goods being sold by the street trader, without the consent of that person.

CHAPTER IV

RESTRICTIONS RELATING TO VEHICULAR TRAFFIC

Obstruction of vehicular traffic

9. No person shall trade at a place where—

- (a) it causes an obstruction on a roadway;
- (b) it limits access to parking or loading bays or other facilities for vehicular traffic;
- (c) it obscures any road traffic sign or any marking, notice of sign displayed or made in terms of this bylaw; or
- (d) it interferes in any way with any vehicle that may be parked alongside such place.

Restrictions on dimensions and mass of vehicles contemplated in regulation 305(2) of the regulations promulgated under the National Road Traffic Act, 1996 (Act 93 of 1996)

10. No person shall, for the purpose of trading in a public place, park on a sidewalk any cart, trolley, trailer or similar vehicle which exceeds—

- (a) 1,5 metres in height, 2 metres in length or 1 metre in width;
- (b) 200 kg in mass.

Restrictions affecting public roads contemplated in regulation 322 of the regulations promulgated under the National Road Traffic Act, 1996 (Act 93 of 1996)

11. (1) Subject to the provisions of subsection (2), no person shall trade on a roadway.

(2) A person may trade inside an urban area on a roadway within five metres from any intersection thereon in the goods or services specified in Schedule B.

(3) No person shall trade in goods or services other than those specified in Schedule B—

- (a) on a verge in an urban area within five metres from any intersection thereon; or
- (b) on a verge outside an urban area,

outside a stand or area set apart for trading purposes as contemplated in section 6A(3)(b) of the Act.

HOOFSTUK III

HANDELDRYF NABY SEKERE WOON- EN SAKEPERSELE

Geen handeldryf naby residensiële geboue in sekere omstandighede nie

7. Geen persoon mag, buite 'n gebied soos in Bylae A gespesifiseer, handeldryf op daardie helfte van 'n openbare pad wat aangrensend is aan 'n gebou wat gebruik word vir residensiële doeleindes nie, indien—

- (a) die eienaar, persoon in beheer of enige bewoner van enige deel van die gebou wat aan so 'n pad front, daarteen beswaar maak; en
- (b) die beswaar wat teen die handeldryf gemaak is deur 'n gemagtigde beampte aan die straathandelaar bekend gemaak is.

Geen handeldryf naby sekere besigheidspersele

8. Geen persoon mag handeldryf op 'n soom aangrensend tot enige deel van 'n gebou waarin besigheid bedryf word deur 'n persoon (anders as 'n kettingswinkel of supermark of enige ander verskaffer van 'n verskeidenheid goedere) wat as een van sy/haar hoof items goedere verkoop van dieselfde aard of soortgelyke aard as die goedere wat verkoop word deur die straathandelaar, venter of smous, sonder die goedkeuring van daardie persoon nie.

HOOFSTUK IV

BEPERKINGS TEN OPSIGTE VAN VOERTUIG- VERKEER

Obstruksie van voertuigverkeer

9. Geen persoon mag handeldryf op 'n plek waar—

- (a) dit 'n obstruksie op 'n ryvlak veroorsaak nie;
- (b) dit toegang tot parkeer- of laaiplekke of ander geriewe vir voertuigverkeer beperk nie;
- (c) dit enige padverkeersteken of enige merk, kennisgewing of teken wat ingevolge hierdie verordening vertoon word, versper nie; of
- (d) dit op enige wyse met enige voertuig wat langs sodanige plek parkeer is, inmeng nie.

Beperking op grootte en massa van voertuie ingevolge regulasie 305(2) van die Regulasies ingevolge die Nasionale Padverkeerswet, Wet 93 van 1996

10. Vir die doeleindes van handeldryf in 'n openbare plek mag geen persoon enige karretjie, trollie, sleepwaentjie of soortgelyke vervoermiddel wat die volgende parkeer afmetings oorskry op 'n sypaadje parkeer nie—

- (a) 1,5 meter in hoogte, 2 meter in lengte of 1 meter in breedte;
- (b) 200 kg in massa.

Beperkings rakende openbare paaie ingevolge regulasie 322 van die Nasionale Padverkeerswet, 1966 (Wet 93 van 1996)

11. (1) Behoudens die bepalings van subartikel (2) mag geen persoon handeldryf op 'n ryvlak nie.

(2) 'n Persoon mag handeldryf binne 'n stedelike gebied op 'n ryvlak binne vyf meter van enige kruising in goedere en dienste soos in Bylae B gespesifiseer.

(3) Geen persoon mag handeldryf in ander goedere of dienste as wat in Bylae B gespesifiseer word nie—

- (a) op 'n soom in 'n stedelike gebied binne vyf meter van enige kruising daarop; of
- (b) op 'n soom buite 'n stedelike gebied,

buite 'n staanplek of gebied opsy gesit vir doeleindes om handel te dryf ingevolge artikel 6A(3)(b) van die Wet.

CHAPTER V
GARDENS AND PARKS, AND VERGES NEXT TO
CERTAIN BUILDINGS

No trading in certain gardens and parks, except where and as specified

12. No person may trade in a garden or park which is specified in—
- (a) Part 1 of Schedule C, outside a stand or area set apart for trading purposes as contemplated in section 6A(3) of the Act;
 - (b) Part 2 of that Schedule, outside the hours so specified in relation to each such garden or park;
 - (c) Part 3 of that Schedule, other than in goods or services so specified in relation to each such garden or park;
 - (d) Part 4 of that Schedule, in any circumstances.

No trading on verges next to certain public buildings, places of worship and national heritage sites, except where and as specified

13. No person shall trade on a verge adjacent to any public building, place of worship or national heritage site which is specified in Schedule D, outside the hours specified to each such verge.

CHAPTER VI
RESTRICTED AREAS AND PROHIBITED AREAS

Restricted areas

14. No person shall trade in a restricted area which is specified in—
- (a) Part 1 of Schedule E, outside a stand or area set apart for trading purposes as contemplated in section 6A(3) of the Act;
 - (b) Part 2 of that Schedule, outside the hours so specified in relation to each such restricted area;
 - (c) Part 3 of that Schedule, other than in goods or services so specified in relation to each such restricted area.

Prohibited areas

15. No person shall trade in any prohibited area. (See Schedule A).

CHAPTER VII
ENFORCEMENT AND PENAL PROVISIONS

Signs indicating restrictions and areas

16. The Council shall—
- (a) by resolution prescribe signs, markings or other devices indicating—
 - (i) specified hours, places, goods or services in respect of which street trading is restricted;
 - (ii) the boundaries of a stand or area set apart for trading purposes under section 6A(3)(b) of the Act;
 - (iii) that any such stand or area has been let or otherwise allocated; and
 - (iv) the location or boundaries of places where street trading is prohibited; and
 - (b) display any such sign, marking or device in such a position and manner as will indicate the restrictions, prohibition, location or boundary concerned.

HOOFSTUK V
TUINE, PARKE EN SOME LANGS
SEKERE GEBOUE

Geen handeldryf in sekere tuine en parke, behalwe waar en soos gespesifiseer

12. Geen persoon mag handeldryf in 'n tuin wat gespesifiseer is in—
- (a) Deel 1 van Bylae C, buite 'n staanplek of gebied wat opsy gesit is vir die doeleindes van handeldryf ingevolge artikel 6A(3) van die Wet nie;
 - (b) Deel 2 van daardie Bylae, buite die ure soos gespesifiseer vir elke sodanige tuin of park nie;
 - (c) Deel 3 van daardie Bylae, in ander goedere en dienste as wat vir elke sodanige tuin of park gespesifiseer is nie;
 - (d) Deel 4 van daardie Bylae, in enige omstandighede nie.

Geen handeldryf op some langs sekere openbare geboue, plekke van aanbidding of nasionale erfenis terreine, behalwe waar en soos gespesifiseer

13. Geen persoon mag handeldryf op 'n soom aangrensend tot enige openbare gebou, plek van aanbidding of nasionale erfenis terrein wat gespesifiseer is in bylae D, buite die ure gespesifiseer vir elke sodanige soom nie.

HOOFSTUK VI
BEPERKTE GEBIEDE EN VERBODE GEBIEDE

Beperkte gebiede

14. Geen persoon mag handeldryf in 'n beperkte gebied wat gespesifiseer is in—
- (a) Deel 1 van Bylae E, buite 'n staanplek of gebied wat opsy gesit is vir doeleindes van handeldryf ingevolge artikel 6A(3) van die Wet nie;
 - (b) Deel 2 van daardie Bylae, buite die ure soos in elke sodanige beperkte gebied gespesifiseer nie;
 - (c) Deel 3 van daardie Bylae, in ander goedere en dienste as wat vir elke sodanige beperkte gebied gespesifiseer is nie.

Verbode gebiede

15. Geen persoon mag in 'n verbode gebied handeldryf nie. (Sien Bylae A)

HOOFSTUK VII
HANDHAWING EN STRAFBEPALINGS

Tekens wat beperkings en gebiede aandui

16. Die Raad—
- (a) skryf deur 'n besluit tekens, merke of ander apparaat voor wat aandui—
 - (i) gespesifiseerde ure, plekke, goedere of dienste ten opsigte waarvan straathandel beperk is,
 - (ii) die grense van 'n staanplek of gebied wat opsy gesit is vir doeleindes van handeldryf ingevolge artikel 6A(3)(b) van die Wet,
 - (iii) dat enige sodanige staanplek of gebied verhuur is of andersins toegewys is; en
 - (iv) die ligging of grense van plekke waar straathandel verbode is; en
 - (b) vertoon enige sodanige teken, merk of apparaat in sodanige posisie of wyse dat dit die betrokke beperkings, verbod, ligging of grens duidelik aandui.

Removal and impoundment

17. (1) An authorised official may remove and impound any goods, article, receptacle, vehicle or structure which he/she reasonably suspects is being used or intended to be used or has been used in or in connection with street trading, and which he/she finds at a place where street trading is restricted or prohibited in terms of sections 5 to 13 inclusive and section 15 and 16, and which, in his/her opinion, constitutes an infringement of any such section, whether or not such goods, article, receptacle, vehicle or structure is in the possession or under the control of any person at the time of such removal or impoundment.

(2) The disposal of any goods, article, receptacle vehicle or structure removed and impounded as contemplated in subsection (1), and the liability of any person for the expenses incurred in connection with such removal, impoundment and disposal, shall be in accordance with the regulations prescribed by the Premier under section 6(1)(b) of the Act.

Appeals

18. (1) Any person who feels himself aggrieved by a decision of the local authority may appeal against the decision to an Appeal Committee in accordance with the provisions set out herein.

(2) Any person who feels himself aggrieved by a decision of the local authority shall notify the local authority of his/her intention to appeal against the decision in writing within 10 days of having received notification of the local authority's decision.

(3) The Chairperson shall notify the aggrieved person of the date, time and place of the meeting of the Appeal Committee at which his/her presence is required within 10 days of receipt of notice of appeal.

(4) The aggrieved person who has received notice in terms of clause 18(3) shall personally appear at the meeting or appoint a legal representative or any other person to appear on his/her behalf.

Constitution of Appeal Committee

19. (1) The Member of the Executive Council responsible for Economic Affairs may, with the concurrence of the local authority, representatives of the street traders and any other interested person, designate persons as members of the Appeal Committee.

(2) The Appeal Committee shall consist of a maximum of six members with at least two members from the relevant sector.

(3) The members of the Appeal Committee shall appoint members to act as a chairperson and deputy chairperson respectively.

(4) When the chairperson is unable to perform the function of chairperson, the deputy chairperson shall perform the function of chairperson.

(5) If the chairperson is of the opinion that a particular person is able to assist the Appeal Committee, he/she may co-opt that person for that purpose.

(6) A person so co-opted shall not be entitled to vote at any meeting of the Committee.

Procedure at Appeal Meetings

20. (1) The chairperson shall determine the procedure at the meeting.

(2) All members shall be present at the meeting of the Appeal Committee.

(3) Any person present at the meeting may—

- (a) be called upon by the chairperson to give evidence,
- (b) be called upon by the chairperson to produce to the Committee any document or any other property which is in his/her possession or under his/her control, or
- (c) be questioned by the committee on the matter before it.

Verwydering en skut

17. (1) 'n Beampte kan enige goedere, artikels, houer, voertuig of struktuur verwyder en skut wat hy/sy redelikerwys vermoed gebruik word of bestem is om gebruik te word of gebruik is by of in verband met die bedryf van enige besigheid van straathandel, en wat hy/sy by 'n plek vind waar straathandel beperk of verbied is ingevolge artikels 5 tot 13 en artikels 15 en 16, en wat na sy/haar mening 'n oortreding is van enige sodanige artikel, ongeag of sodanige goedere, artikel, houer, voertuig of struktuur in besit of onder beheer is van enige persoon op die tydstop van sodanige verwydering of skut.

(2) Die vernietiging van enige goedere, artikel, houer, voertuig of struktuur wat ingevolge subartikel (1) verwyder en geskut is en die verantwoordelikheid vir die uitgawe wat aangegaan is in verband met sodanige verwydering, skut en vernietiging moet ooreenkomstig die bepalings van die regulasies ingevolge artikel 6(1)(b) van die Wet, soos deur die Administrateur voorgeskryf, wees.

Appèlle

18. (1) Enige persoon wat verontreg voel deur 'n besluit van die plaaslike owerheid mag appèl aanteken teen so 'n besluit by 'n appèl komitee in ooreenstemming met die voorskrifte hierin uiteengesit.

(2) Enige persoon wat verontreg voel deur 'n besluit van die plaaslike owerheid moet die plaaslike owerheid skriftelik en binne 10 dae na ontvangs van 'n kennisgewing van die plaaslike owerheid se besluit, in kennis stel van sy/haar voorneme om teen die besluit te appelleer.

(3) Die Voorsitter sal binne 10 dae na ontvangs van die Kennisgewing van appèl kennis gee aan die gegriefde persoon van die datum, tyd en plek van die sitting van die appèl komitee waartydens sy/haar teenwoordigheid verlang word.

(4) Die gegriefde persoon wat kennis ontvang het ingevolge Klousule 18(3) verskyn persoonlik by die sitting of stel 'n regsvertegenwoordiger aan of enige ander persoon om namens hom/haar te verskyn.

Samstelling van appèl komitee

19. (1) Die Lid van die Uitvoerende Raad van Ekonomiese Sake mag, in samewerking met die plaaslike owerheid, verteenwoordigers van die straathandelaars en enige ander belangstellende persoon of persone as lede van die appèl komitee aanstel.

(2) Die appèl komitee bestaan uit hoogstens ses lede met minstens twee lede van die betrokke sektor.

(3) Die lede van die appèl komitee stel lede aan om onderskeidelik op te tree as Voorsitter en Ondervoorsitter.

(4) Wanneer die voorsitter nie in staat is om sy/haar funksie te verrig nie, sal die ondervoorsitter die funksie van die voorsitter verrig.

(5) Indien die voorsitter van mening is dat 'n spesifieke persoon bevoeg is om die appèl komitee by te staan, mag hy/sy sodanige persoon vir daardie doel koöpteer.

(6) Sodanige gekoöpteerde persoon sal nie geregtig wees om te stem by enige sitting van die komitee nie.

Procedure by appèl sittings

20. (1) Die voorsitter stel die prosedure by die sitting vas.

(2) Al die lede moet by 'n sitting van die appèl komitee teenwoordig wees.

(3) Enige persoon wat by enige sitting teenwoordig is, mag—

- (a) deur die voorsitter opgeroep word om getuienis te lewer;
- (b) deur die voorsitter opgeroep word om enige dokument of ander eiendom wat in sy/haar besit is, of onder sy/haar beheer is, aan die komitee te toon; en
- (c) deur die komitee ondervra word ten opsigte van die aangeleentheid wat ter tafel gelê is.

(4) The Appeal Committee shall review the decision of the local authority and make a finding having regard to the following considerations—

- (a) whether the decision of the local authority was fair and equitable in the circumstances;
- (b) the effect of the decision on the ability of the aggrieved person to trade, and
- (c) whether alternative measures may be adopted to facilitate the continued business of the aggrieved person.

(5) A decision of the Committee shall be taken by a majority of votes of the members present at the meeting and in the event of an equality of votes, the chairperson shall have a casting vote in addition to his/her deliberate vote.

(6) The Appeal Committee may after consideration by it of the evidence presented—

- (a) refuse the Appeal;
- (b) uphold the Appeal, or
- (c) take such other steps as it may think fit.

(7) The Appeal Committee shall as soon as it is practicable—

- (a) notify the aggrieved person of its decision in writing, and
- (b) furnish the aggrieved person with written reasons for its decision.

Offences

21. Any person who—

- (a) contravenes any provision contained in Chapter II, III of IV of this by-law; or
- (b) fails to comply with any direction conveyed by a sign, marking or device—
 - (i) which indicates a restriction or prohibition in terms of any provision contained in Chapter V of VI of this by-law; and
 - (ii) which has been displayed in the manner prescribed in section 16(b), shall be guilty of an offence.

Presumptions

22. In any prosecution of an offence under this by-law, an allegation in the charge concerned that—

- (a) any goods with which a business was carried on were or were not of a particular kind, class, type or description;
- (b) any goods or services were sold;
- (c) any place is situated in a public road or public place or within a particular area;
- (d) any person carried on the business of street trading and in a manner and place alleged;
- (e) any sign, marking or device which indicates a restriction or prohibition contained in any relevant provision contained in Chapter V of VI of this by-law was displayed in the manner prescribed in section 16(b),

shall be presumed to be correct unless the contrary is proved.

Penalties

23. (a) Any person convicted under of an offence under section 21 is liable to a fine or imprisonment for a period not exceeding six months, or to both a fine and such imprisonment;

(4) Die appèl komitee hersien die besluit van die plaaslike owerheid en maak 'n beslissing met inagneming van die volgende oorwegings—

- (a) of die besluit van die plaaslike owerheid in die omstandighede billik en regverdig was;
- (b) die uitwerking van die besluit op die gegriefde persoon se vermoë om handel te dryf;
- (c) of alternatiewe stappe gedoen kan word om die voortgesette bedryf van die gegriefde persoon se besigheid te vergemaklik.

(5) Die Komitee neem 'n besluit deur 'n meerderheid van stemme van die lede wat by die siting teenwoordig en in die geval van 'n staking van stemme, het die voorsitter 'n beslissende stem bo en behalwe sy/haar gewone stem.

(6) Die appèl komitee mag na oorweging van die voorgelegde getuienis—

- (a) die appèl weier;
- (b) die appèl handhaaf, of
- (c) sodanige ander stappe neem as wat dit goed ag.

(7) Die appèl komitee moet so spoedig as wat prakties moontlik is—

- (a) die gegriefde persoon skriftelik in kennis stel van sy/haar beslissing; en
- (b) die benadeelde persoon skriftelik van die redes vir die beslissing voorsien.

Misdrywe

21. Enige persoon wat—

- (a) enige bepaling vervat in Hoofstuk II, III, IV van hierdie verordening oortree; of
- (b) nalaat om te voldoen aan die voorskrifte wat aangedui word deur 'n teken, merk of apparaat—
 - (i) wat 'n beperking of verbod aandui in terme van enige bepaling vervat in hoofstuk V of VI van hierdie verordening; en
 - (ii) wat vertoon is op die wyse voorgeskryf in artikel 16(b), is skuldig aan 'n oortreding.

Vermoedens

22. (1) By 'n vervolging weens enige misdryf ingevolge hierdie verordening, sal 'n bewering in die betrokke aanklag dat:

- (a) enige goedere waarmee 'n besigheid bedryf is of wat in verband met die besigheid gebruik is, van 'n bepaalde soort, klas, tipe of beskrywing was of dit nie was nie;
- (b) enige goedere verkoop of te koop aangebied is;
- (c) enige plek geleë is in 'n openbare pad of openbare plek binne 'n spesifieke gebied;
- (d) enige persoon die besigheid van straathandel bedryf en op so 'n wyse en plek wat beweer word;
- (e) enige teken, merk of apparaat wat 'n beperking of verbod aandui wat vervat is in enige relevante bepaling soos vervat in Hoofstuk V of VI van hierdie verordening vertoon is op die wyse soos voorgeskryf in artikel 16(b).

vermoed word korrek te wees tensy die teendeel bewys kan word.

Strafbepalings

23.(a) Enigeen wat skuldig bevind word aan 'n oortreding genoem in artikel 21 is strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande, of beide 'n boete en sodanige gevangenisstraf;

(b) In the case of a continuing offence, an additional fine or an additional period of imprisonment of 30 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and

(c) a further amount equal to any costs and expenses found by the court to have been incurred by the local authority as a result of such contravention of failure.

Vicarious liability of persons carrying on business

24. When an employee of a person conducting the business of street trading performs or omits to perform any act which would be an offence in terms of this by-law for that person to perform or omit to perform, that person shall be deemed himself to have performed or omitted to perform the act, unless he satisfies the court that—

- (a) he or she neither connived at nor permitted the act or omission by the employee concerned,
- (b) he/she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition or under no circumstances fell within the scope of the authority or employment of the employee concerned,

and the fact that the said person issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he took all reasonable steps to prevent the act or omission.

Vicarious responsibility of employees

25. When a person carrying on the business of street trading is by virtue of section 21 liable for an act or omission by an employee of that person, that employee shall also be liable therefore as if he were the person carrying on the business concerned.

SCHEDULE A

PROHIBITED AREAS

[section 7 and 15]

A. Townships and portions of townships, except as specified in Schedules A and C.

B. Public road and portions of public roads, except as specified in Schedules C and E.

SCHEDULE B

GOODS OR SERVICES WHICH MAY BE TRADED AT INTERSECTIONS

[section 11(2) and (3)]

Newspapers
Flowers

SCHEDULE C

GARDENS AND PARKS

[section 12]

Part 1

Gardens and parks where trading is restricted to demarcated stands and areas

**Town
Garden or Park**

Ceres
Pine Forest Holiday Resort

(b) In die geval van 'n voortdurende misdryf met 'n addisionele boete of 'n addisionele tydperk van gevangenisstraf van 30 dae, of óf sodanige addisionele boete of sodanige addisionele gevangenisstraf, of beide sodanige addisionele boete en gevangenisstraf vir elke dag wat sodanige misdryf voortduur; en

(c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat na bevinding van die hof deur die plaaslike owerheid aangegaan is as gevolg van sodanige oortreding of versuim.

Middellike aanspreeklikheid van persone wat besigheid bedryf

24. Wanneer 'n werknemer van 'n persoon wat die besigheid van straathandel bedryf 'n handeling verrig of versuim om te verrig wat ingevolge hierdie verordening 'n misdryf sou wees vir daardie persoon om te verrig of versuim om te verrig, word daardie persoon geag self sodanige handeling te verrig het of versuim het om te verrig, behalwe indien hy tot bevrediging van die hof kan aandui dat—

- (a) hy/sy nóg toegestem het, nóg toegelaat het dat die betrokke werknemer die handeling verrig of versuim om te verrig;
- (b) hy/sy alle redelike stappe gedoen het om sodanige handeling of versuim te verhoed; en
- (c) enige handeling of versuim, hetsy wettig of onwettig, van die aard waarvoor hy aangekla word, in geen omstandighede binne die begreeptheid of werksverband van die betrokke werknemer geval het nie,

en die feit dat so 'n straathandelaar opdrag gegee het ingevolge waarvan 'n handeling of versuim van daardie aard verbied word, sal nie opsigself voldoende bewys wees dat hy/sy alle redelike stappe gedoen het om die handeling of versuim te voorkom nie.

Middellike aanspreeklikheid van werknemers

25. Wanneer 'n persoon wat die besigheid van straathandelaar bedryf ingevolge artikel 21 aanspreeklik is vir enige handeling of versuim om te handel deur een van sy/haar werknemers sal die werknemer ook aanspreeklik wees asof hy self die betrokke besigheid bedryf het.

BYLAE A

VERBODE GEBIEDE

[artikels 7 en 15]

A. Dorpsgebied en dele van dorpsgebiede, behalwe soos bepaal in bylaes C en E.

B. Openbare pad en dele van openbare paaië, behalwe soos bepaal in bylaes C en E.

BYLAE B

GOEDERE OF DIENSTE WAARMEE HANDEL GEDRYF MAG WORD BY KRUISINGS

[artikel 11(2) en (3)]

Koerante
Blomme

BYLAE C

TUINE EN PARKE

[artikel 12]

Deel 1

Tuine en parke waar handel dryf beperk is tot afgebakende staanplekke en gebiede

**Dorp
Tuin of Park**

Ceres
Dennebos Vakansieoord

Ceres Market Square (c/o Voortrekker- and Owen Streets)
Stofberg Park (adjacent to Lyell Street)

Tulbagh
Klip River Holiday Resort (the parking area in front of and adjacent to the Town Hall up to and including 50 metres from the main entrance to the resort during caravan rallies, holidays and long weekends)

Op-die-Berg
None

Wolseley
Public open space west of Montana Community Hall

Prince Alfred's Hamlet
None

Part 2

Gardens and parks where trading is restricted to certain hours

**Town
Garden or Park
Trading Hours**

Ceres
None
N/a

Tulbagh
Municipal Gardens — Ptn. Erf 267
08:00 — 18:00

Wolseley
None
N/a

Op-Die-Berg
None
N/a

Prince Alfred's Hamlet
None
N/a

Part 3

Gardens and parks where trading is restricted to certain goods or services

None

Part 4

Gardens and parks where trading is prohibited

**Town
Garden or Park**

Ceres
Parks adjacent to the Dwaars River
Ceres Nature Reserve

Tulbagh
Klip River Park — Van Der Stel Street
Lions Garden — Van Der Stel Street
Danie Theron Garden — Church Street
Van Riebeeck Park — Church Street
Triangular Garden opposite DR Church
Cemetery Garden — Wolseley entrance
Succulent Garden — Station Road entrance
Park adjacent to 6th Ave., Zāhan Street and Holzaphal Rd.

Wolseley
All public parks and gardens except public park west of community hall

Op-Die-Berg
All public parks and gardens

Prince Alfred's Hamlet
All public parks and gardens

Ceres Markplein (h/v Voortrekker- en Owenstraat)
Stofberg Park (aangrensend Lyellstraat)

Tulbagh
Kliprivier Vakansieoord (area aangrensend aan en parkeerarea voor stadsaal tot en met 50 meter vanaf die hoofingang tot die oord tydens karavaan saamtrekke, vakansies en langnaweke

Op-die-Berg
Geen

Wolseley
Publieke oopruimte wes van Montana Gemeenskapsaal

Prince Alfred's Hamlet
Geen

Deel 2

Tuine en parke waar handeldryf beperk is tot vasgestelde ure

**Dorp
Tuin of Park
Handelsure**

Ceres
Geen
Nvt

Tulbagh
Munisipale Tuine — Ged. Erf 267
08:00 — 18:00

Wolseley
Geen
Nvt

Op-Die-Berg
Geen
Nvt

Prince Alfred's Hamlet
Geen
Nvt

Deel 3

Tuine en parke waar handeldryf beperk is tot vasgestelde goedere of dienste

Geen

Deel 4

Tuine en parke waar handeldryf verbied word

**Dorp
Tuin of Park**

Ceres
Parke aangrensend tot die Dwaarsrivier
Ceres Natuurreservaat

Tulbagh
Kliprivier Park — Van Der Stelstraat
Lions Tuin — Van Der Stelstraat
Danie Theron Tuin — Kerkstraat
Van Riebeeck Park — Kerkstraat
Driehoek tuin regoor NG Kerk
Begraafplaas tuin — Wolseley ingang
Tuin — Dorpsingang Stasieweg
Park aangrensend 6de Laan, Zānustraat en Holzaphalweg

Wolseley
Alle openbare parke en tuine behalwe openbare park wes van gemeenskapsaal

Op-Die-Berg
Alle openbare parke en tuine

Prince Alfred's Hamlet
Alle openbare parke en tuine

SCHEDULE D**VERGES ADJACENT TO CERTAIN
PUBLIC BUILDINGS, PLACES OF WORSHIP OR
NATIONAL HERITAGE SITES**

[section 13]

Part 1*Verges where trading is limited to demarcated stands or areas*

None

Part 2*Verges where trading is restricted to certain hours***Verges
Trading Hours**All Churches
08:00 — 18:00, excluding Sundays and religious public holidays, when
trading is prohibited**Part 3***Verges where trading is restricted to certain goods or services*

None

Part 4*Verges where trading is prohibited*

None

**SCHEDULE E
RESTRICTED AREAS**

[section 14]

Part 1*Restricted areas where trading is restricted to
demarcated stands and areas***Town
Area**Ceres
Voortrekker Street
Munnik Street
Vos Street
Oranje Street
Fabriek Street
Pretorius Street
Public Parking Areas at community halls in Nduli and Bella Vista
Erf 1052, Voortrekker StreetTulbagh
Piet Retief Street — western sidewalk between Market- and Waterkant
Streets
Sidewalks — western and northern boundary of Erf 267, at Piet Retief-
and Market Streets respectively
Public Parking Area at community hallWolseley
Public parking area in front of municipal buildingsOp-Die-Berg
Bergsig Street
Kort StreetPrince Alfred's Hamlet
Voortrekker Street**BYLAE D****SOME AANGRENSEND TOT SEKERE
OPENBARE GEBOUE, PLEKKE VAN AANBITTING OF
NASIONALE ERFENIS TERREINE**

[artikel 13]

Deel 1*Some waar handeldryf beperk is tot afgebakende plekke of gebiede*

Geen

Deel 2*Some waar handeldryf beperk is tot vasgestelde ure***Some
Handelsure**Alle Kerke
08:00 — 18:00, uitsluitend Sondag en godsdienstige openbare
vakansiedae, wanneer handeldryf verbode is**Deel 3***Some waar handeldryf beperk is tot vasgestelde goedere of dienste*

Geen

Deel 4*Some waar handeldryf verbied word*

Geen

**BYLAE E
BEPERKTE GEBIEDE**

[artikel 14]

Deel 1*Beperkte gebiede waar handeldryf beperk word tot
afgebakende staanplekke en gebiede***Dorp
Gebied**Ceres
Voortrekkerstraat
Munnikstraat
Vosstraat
Oranjestraat
Fabriekstraat
Pretoriusstraat
Publieke Parkeerareas by gemeenskapsale in Nduli en Bella Vista
Erf 1052, VoortrekkerstraatTulbagh
Piet Retiefstraat — westelike sypaadje tussen Mark- en Waterkant-
straat
Sypaadjies — westelike en noordelike grens van erf 267, te Piet Retief-
en Markstraat respektiewelik
Publieke Parkeerarea by gemeenskapsaalWolseley
Publieke parkeerruimte voor munisipale kantoreOp-Die-Berg
Bergsigstraat
KortstraatPrince Alfred Hamlet
Voortrekkerstraat

*Part 2**Restricted areas where trading is restricted to certain hours*

None

*Part 3**Restricted areas where trading is restricted to certain goods or services*

None

EXPLANATORY MEMORANDUM**Introduction**

Trading Regulations is a function allocated to Category B Municipalities in terms of Part B of Schedule 4 of the Constitution of South Africa. At the same time the Constitution specifically calls on all local authorities to promote social and economic development in their communities.

In recognising this role, municipalities over the last decade had to reconsider those by-laws that were regarded as barriers to growth and investment. It therefore became necessary to create an enabling environment for growth and development by establishing an efficient regulatory framework to govern trading conditions.

The powers of municipalities to govern street trading by means of by-laws was created by Section 6A of the Businesses Act, 71 of 1991 which also allows for the declaration of certain areas within the municipal area prohibited or restricted for street trading purposes.

Before amalgamation of the former municipalities of Ceres, Wolseley, Tulbagh and Prince Alfred's Hamlet, only Ceres and Tulbagh had promulgated by-laws. It is therefore necessary to promulgate a street trading by-law for the new municipal area of Witzenberg.

Purpose

The purpose of the Street Trading By-Law for Witzenberg Municipality is sevenfold:

- To regulate street trading in the Witzenberg Municipal area;
- To promote local economic development;
- To recognise the needs of street traders;
- To recognise the rights of owners of residential- and business properties;
- To recognise the rights of pedestrians and other road users;
- To recognise the rights of worshippers;
- To recognise the rights of the public with regard to the use of parks, gardens, public buildings and national heritage sites;

Contents

Chapter I provides definitions of key words and outlines who the by-law applies to and allows for freedom of trade;

Chapter II deals with general supervision and control over the activities of street traders. It prescribes the general conduct of street traders with regard to the displaying of their goods in relation to traffic obstruction and the safety of other road users. It also refers to cleanliness of their trading areas and the disposal of litter as well as the obstruction of pedestrians, street furniture, display windows, etc. The unauthorised trading in areas which have been let is also addressed;

Chapter III the prohibition of trading as specified in Schedule A near residential and business premises where the owner of such property objects thereto is dealt with. It also prohibits trading on the verge adjacent to a business which sells goods of the same nature unless the shop owner consents thereto;

Chapter IV sets out the restrictions on trading in roadways or where it obstructs vehicular traffic in any way. Interference with parking and traffic signs as well as the size of carts, trolleys and trailers and conditional trading at intersections is addressed;

Chapter V rules out trading in gardens and parks, verges next to public buildings, places of worship and national heritage sites where and as specified in Schedules C and D of the by-law;

*Deel 2**Beperkte gebiede waar handel beperk word tot vasgestelde ure*

Geen

*Deel 3**Beperkte gebiede waar handel beperk is tot vasgestelde goedere of dienste*

Geen

VERKLARENDE MEMORANDUM**Inleiding**

Handelsregulasies is 'n funksie wat deur Deel B van Bylae 4 tot die Grondwet aan kategorie B munisipaliteite opgedra is. Sodanige regulasies sluit verordeninge vir die bestuur en beheer oor straathandel in. Terselfdertyd vereis die Grondwet dat alle munisipaliteite sosiale en ekonomiese ontwikkeling sal bevorder.

Ter uitvoering daarvan was dit oor die afgelope dekade nodig dat munisipaliteite verordeninge wat in die pad van ekonomiese ontwikkeling en groei gestaan het, hersien en aanpas om deur 'n effektiewe regulatoriese raamwerk 'n klimaat te skep vir groei en ontwikkeling.

Artikel 6A van die Wet op Besighede, 71 van 1991, verleen aan munisipaliteite die bevoegdheid om straathandel te reguleer en te bestuur deur middel van verordeninge wat, onder andere, voorsiening maak vir die verklaring van beperkte en verbode gebiede vir straathandel.

Voor die amalgamasie van die voormalige munisipaliteite van Ceres, Wolseley, Tulbagh en Prince Alfred's Hamlet, het slegs Ceres en Tulbagh verordeninge vir straathandel afgekondig en is 'n verordening nou nodig vir die nuutgestelde munisipale gebied van Witzenberg.

Doel

Die doel van die Verordening Insake Straathandel vir Witzenberg Munisipaliteit is sewevoudig:

- Om straathandel in die munisipale gebied van Witzenberg te reguleer;
- Om plaaslike ekonomiese ontwikkeling te bevorder;
- Om die behoeftes van straathandelaars te erken;
- Om die regte van eienaars van residensiële- en sakepersele te erken;
- Om die regte van voetgangers en ander padverbruikers te erken;
- Om die regte van kerkgangers te erken;
- Om die regte van die publiek op die gebruik van parke, tuine, openbare geboue en nasionale erfenisterreine te erken;

Inhoud

Hoofstuk I verskaf definisies van sleutelwoorde en uitklaring oor op wie die verordening van toepassing is. Dit verwys ook na vryheid van handel;

Hoofstuk II handel oor die algemene toesig en beheer oor die aktiwiteite van straathandelaars. Dit skryf die algemene gedrag van 'n straathandelaar voor met betrekking tot die uitstal en plasing van sy/haar goedere of ware vir sover dit verkeer mag belemmer of 'n gevaar mag skep vir ander padgebruikers. Dit verwys ook na die sindelikeheid van handelsareas en die wegdoening van vuilis asook die obstruksie van voetgangers, straattoebehore, uitstalvensters, ens. Die ongematigde handel in verhuurde staanplekke word ook aangespreek.

Hoofstuk III die verbod op handeldryf naby residensiële en sakepersele soos gespesifiseer in Bylae A, waar die eienaars beswaar aanteken, word aangespreek. Dit verbied ook handel op die soom aangrensend 'n gebou waar besigheid gedryf word met dieselfde goedere of produk tensy die gebou eienaar daartoe toestem;

Hoofstuk IV plaas beperkings op straathandel op ryvlakke of waar dit voertuigverkeer belemmer. Versperring van verkeerstekens asook die grootte van trollies, karretjies en sleepwaentjies en die voorwaardelike handel by straatkruisings word aangespreek;

Hoofstuk V laat geen handel toe in tuine, parke of some aangrensend openbare geboue, plekke van aanbidding of nasionale erfenisterreine nie, behalwe soos gespesifiseer in Bylae C en D van die verordening;

Chapter VI provides for areas where trading is restricted to stands or areas, hours and the goods as specified in Schedules B, C and E of the by-law. It also prohibits trading in any prohibited areas. The declaration of restricted and prohibited areas shall be dealt with separately in terms of Section 6A(2) of the Businesses Act, 1991;

Chapter VII deals with a variety of aspects such as enforcement of the provisions of the different chapters and penal provisions. It outlines the procedure for removal, impoundment and disposal of a street trader's goods, articles etc. where such trader acts in contravention of the provisions of the by-law. The procedure for appealing against any decision by the local authority is dealt with as well as certain presumptions in cases of prosecution and the vicarious liability of traders and their employees.

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Hoofstuk VI maak voorsiening vir gebiede waar handel beperk word tot staanplekke, ure asook die goedere soos gespesifiseer in Bylaes B, C en E van die verordening. Dit verbied ook handel in enige verbode gebiede. Die verklaring van beperkte en verbode gebiede sal afsonderlik hanteer word in terme van Artikel 6A(2) van die Wet op Besighede, 1991;

Hoofstuk VII behandel 'n verskeidenheid aspekte soos die handhawing van die bepalinge van die onderskeie hoofstukke asook strafbepalinge. Dit skryf die prosedure voor vir die verwydering en skut van 'n straathandelaar se goedere waar sodanige straathandelaar in stryd met die verordening optree. Dit skep ook 'n prosedure vir appell teen enige beslissing van die plaaslike owerheid en verwys na die vermoedens by vervolgings en die middellike aanspreeklikheid van straathandelaars en hulle werknemers.

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