



EMFULENI
LOCAL MUNICIPALITY

Vaal River City, the Cradle of Human Rights

EMFULENI LOCAL
MUNICIPALITY BY-LAW ON
STREET TRADING

PREAMBLE

WHEREAS the Constitution of the Republic of South Africa, 1996, in section 22, provides that every citizen has a right to choose a trade, occupation and profession freely, it also provides that the practice of trade, occupation and profession may be regulated by law;

WHEREAS municipal council recognizes the key role that street trading plays in poverty alleviation, income generation and entrepreneurial development and, in particular, the positive impact that Street trading has on historically disadvantaged individuals and communities;

WHEREAS the municipal council recognizes the need to adopt a developmental approach to street trading within a well-managed municipal area. This requires that, in managing street trading, consideration must also be given to –

- (a) the promotion of social and economic development;
- (b) the promotion of a safe and healthy environment;
- (c) municipal planning;
- (d) the licensing and control of undertakings that sell food to the public; and
- (e) the management of public places and public roads;

WHEREAS the municipal council has competence in terms of Part B of Schedule 5 of the Constitution relating to such matters as regulating street trading;

AND WHEREAS the municipal council has competence, in terms of the section 156 (2) of the Constitution of the Republic of South Africa, to make and administer by-laws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the municipal council, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

EMFULENI LOCAL MUNICIPALITY

STREET TRADING BY-LAWS

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STREET TRADING BY-LAWS

EMFULENI LOCAL MUNICIPALITY

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000, Act 32 of 2000 read with Section 162 of the Constitution of the Republic of South Africa, 1996 the By-Laws Relating to Street Trading which shall come into operation on the date of publication thereof.

CHAPTER 1

DEFINITIONS, OBJECTIVES AND APPLICATION OF BY-LAW

1. Definitions

In these by-laws, unless the context indicates otherwise

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

"approval" means approval by the Municipality and **"approved"** has a corresponding meaning;

"authorised official" means a person authorised to administer, implement and enforce the provisions of these By-laws, including but not limited to–

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal by-law enforcement officers;

(c) metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995);

- (d) such assistants, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;
- (e) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be; and
- (f) a member of the South African Police Services.

“designated or trading area” means an area in respect of which street trading has been permitted in terms of the permit or consent granted by Municipality;

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

"garden" means a garden to which the public has a right of access;

"goods; means any movable property displayed or kept by a person in a public place or public road used or intended to be used in connection with or for the purpose of carrying on the business of a street trader including any article, movable container, vehicle or movable structure or living thing;

“illegal goods” means –

(a) goods which may not lawfully be sold or bought including, but not limited to, counterfeit goods as defined in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);

(b) goods that are bought or sold in an unlawful manner; or

(c) goods that have been acquired in an unlawful manner.

“impoundment fee” means the applicable tariff charge, as determined by the council from time to time, for the impounding and storing of goods impounded

“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;

“municipality” means-

- (a) the Emfuleni Local Municipality or its successor-in-title; or
- (b) the municipal manager of the Emfuleni Local Municipality in respect of the performance of any action, exercise of any right, duty, obligation or function in terms of these bylaws;
- (c) an authorized agent of the Emfuleni Local Municipality;

“municipal council” means the municipal council as referred to in section 157(1) of the Constitution, 1996;

“municipal manager” means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 54A of the Local Government: Municipal Systems Act, (Act No. 32 of 2000), and includes any person –

- (a) acting in such position; and

(b) to whom the municipal manager has delegated a power, function or duty in respect of such delegated power, function or duty;

“municipal services” means for purposes of these bylaws, services provided by the municipality which among others include the electricity, water and sanitation, refuse removal and other services;

“motor vehicle” means a motor vehicle as defined in the National Road Traffic Act, 1996;

“National Road Traffic Act, 1996” means National Road Traffic Act, 1996 (Act No. 93 of 1996);

" nuisance " includes, but is not limited to, an act or omission which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely affects the public at large;

“once-off event” means an event that occurs only occasionally and not on a daily basis;

“permit” means a written statement of permission given by the Municipality;

“permit holder” means an street trader who has been granted a permit by the Municipality to conduct street trading in a trading area or from a designated site situated in a street trading area on municipal property;

"prescribed" means as determined by resolution of the municipal council from time to time;

" prohibited areas” means any place declared to be an area of in which street trading is prohibited;

"property", in relation to a street trader, means any article, movable container, or structure used or intended to be used in connection with such business, and includes legal goods in which he or she trades;

"public building" means a building belonging to or occupied solely by the State or the Municipality;

"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 road, public parking space and any square, park, recreation ground or open space which is vested in the Municipality or to which the public has the right to use or which 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;

"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;

"service provider" means any person who has entered into a service delivery agreement with the municipality in terms of section 81(2) of the Local Government: Systems Act, 2000 (Act No. 32 of 2000);

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

"special events" may include, but are not limited to, sports events, night markets, cultural events, music festivals, promotional, filming activities and religious events;

"Street furniture" means any furniture installed by the Municipality on the Street for public use;

"Street trader" means a person who is selling goods, rendering a service or carries on the business of street trading and includes a seller, peddler or hawker and any assistant of such person, a person who as principal, agent, assistant or assistant carries on the business of street trading; and a person to whom a stand has been allocated in terms of these by-laws for as long as the person is carrying on the business of a street trader on it:

"Street trading" means the selling of or trading in any legal goods or the supplying or offering to supply any legal service in the street sector for reward, in a public road, or public place, and which includes, but not limited to , the following types of trading:

- (a) trading in pedestrian malls;
- (b) trading at markets or flea markets;
- (c) trading at transport interchanges;
- (d) trading in public places;
- (e) trading in caravans;
- (f) trading from kiosks, stalls or movable containers

- (g) hair dressing;
- (h) shoe repair
- (i) roving traders, including without limitation, trading from trolleys; and
- (m) trading at special events;

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

For the purpose of these By-laws a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.

2. Single act constituting Street trading

For the purpose of these By-laws a single act of selling or offering or rendering of services in a public road or public place shall constitute street trading

3. Objectives of By-law

The objectives of this By-law is to regulate street trading in a manner which –

- (a) ensures that street trading is conducted in an orderly manner;
- (b) enables access to job and entrepreneurial opportunities within the street trading sector;
- (c) harmonises the relationship between the street trading sector and the formal trading sector; and
- (d) ensures the health and safety of the public.

4. Application of By-law

These By-laws applies to all areas which fall under the jurisdiction of the Municipality and is binding on all persons to the extent applicable.

CHAPTER 2
STREET TRADING AREASS AND PERMITS

5. Trading area and trading Sites

(1) The council may, by resolution—

- (a) set apart street trading areas on municipal property within any area designated as a street trading area; and
- (b) demarcate street trading sites within street trading areas.

(2) The council may, by resolution –

- (a) extend, reduce or disestablish any street trading area or street trading site;
- or
- (b) lease any verge or any portion of a verge to the owner or occupier of any contiguous land on condition that the owner or occupier must allow a specified number of street traders to trade from sites on such verge on such terms and conditions as the council may determine.

6. Trading hours and other conditions

(1) The Municipality may, when setting apart street trading areas, or at any time thereafter on reasonable notice, impose-

- (a) trading days and hours; and
- (b) any other conditions.

7. Prohibition of street trading without permit

- (1) No person shall conduct a business as a street trader without first obtaining the necessary consent, authorisation or permit from the Municipality. Any person who conduct street trading without a valid street trading permit or necessary consent or authorisation from the Municipality commits an offence.
- (2) Schools, religious bodies and non-profit organisations are exempted from the requirement of obtaining a street trading permit for a once-off event.

8. Applicant for Street trading permits

- (1) A person may apply for a street trading permit, to conduct street trading on street trading areas, if that person–
 - (a) is a street trader or a person who wants to become a street trader;
 - (b) does not already hold a permit in respect of any other street trading site within the area of jurisdiction of the Municipality;
 - (c) is a South African citizen or, failing which, has valid passport and a valid business permit which includes, but is not limited to, a valid refugee permit;
 - (d) must not be assisted by more than 02 persons;
 - (e) is currently unemployed, and on becoming gainfully employed surrender such permit.

(2) An application for a street trading permit must be on the form prescribed by the Municipality from time to time.

(3) The Municipality must consider any application for a street trading permit and may—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame; or
- (c) reject the application and provide reasons thereof.

9. Street trading fee

(1) The Municipality is entitled to charge:

- (a) any street trading permit-holder, a rental in respect of the street trading site to which the permit relates.
- (b) an additional fee or tariff, which is to be determined by the Municipality in its sole discretion, in respect of additional costs incurred or services provided by the Municipality, including but not limited to circumstances where the permit-holder trades within a market.

10. Application Consideration

(1) The Municipality must take into account, but not limited to, the following factors when considering an application for a street trading permit –

- (a) the applicant's ability to meet the trading hours for the relevant trading area as the Municipality may determine;
- (b) the need to give preference to applicants that are historically disadvantaged individuals;
- (c) the nature of the trading goods which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading area or in its immediate vicinity;
- (d) the need to give preference to unemployed applicants;
- (e) the need to give preference to applicants who do not share a household with an existing permit-holder, unless:
 - (i) the number of available trading sites for the relevant trading area is more than the number of applicants seeking permits for those trading sites; or
 - (ii) the applicant who shares a household with a permit-holder is not a dependent or financially reliant upon such permit-holder.

(2) The Municipality may give preference to an applicant –

- (i) who resides in or close to the trading area for which the permit is applied; or
- (ii) who is a new entrant as an Street trader on the database of the Municipality

(3) the Municipality may allocate only one (1) site per applicant.

(4) The Municipality is entitled to impose such terms and conditions in respect of permits as it deems fit, including but not limited to –

- (i) trading hours during which the permit-holder may trade;
- (ii) nature of the goods or services the permit-holder is permitted to trade;
- (iii) the expiry date for the permit;
- (iv) conditions regarding the type of structure or structures, if any, which may be erected on a street trading site or a street trading area;
- (v) permit-holder's trading site number;

(5) A street trading permit must include, but not limited to, the following –

- (a) refer to a specified trading site, as identified by its allocated number, to which the permit relates; and
- (b) gives only the permit-holder, and his or her assistants, the right to use that trading site subject to the conditions of the permit, the provisions of an applicable street trading policy and any other conditions imposed in terms of this By-law, other applicable municipal By-laws and any legislation.

(6) The Municipality is entitled to:-

- (a) allocate the street trader an alternative site in the same trading area;
- (b) impound trading goods or property in terms of section 23 or in the event of a contravention of any provision of this By-Law or any other By-law or any legislation;

11. Transfer of permits

(1) A Street trading permit is not transferred.

(2) a permit-holder may not transfer a street trading permit to any other person in any manner, including but not limited to, by way of lease or sale.

12. Cancellation of Street trading permits

(1) The Municipality may, on reasonable notice to a street trader and after having given the street trader an opportunity to make written representations, cancel a street trading permit if the street trader has-

- (a) breached any conditions of his or her street trading permit;
- (b) breached the provisions of this By-law or of any other By-laws or any legislation;
- (c) been found or convicted of trading in illegal goods or of providing a service unlawfully; or
- (d) been found to have willfully supplied incorrect information to the Municipality when required to provide that information.

13. Temporary relocation and suspension

(1) The Municipality has the right to, upon reasonable prior notice to the street trader and with no compensation payable by the Municipality to the permit-holder, temporarily:

- (i) relocate a permit-holder;
- (ii) suspend the validity of a permit; or
- (iii) suspend Street trading from a street trading area or a particular trading site or sites,
- (iv) prohibit a permit-holder from trading at the relevant trading site; should it be necessary to do so because of the performance of activities which renders the continuation of trading from the relevant trading site impractical or severely inconvenient.

- (2) If the Municipality is of the opinion that condition exist that necessitates the relocation of a permit-holder or suspend the validity of a permit and steps should forthwith be taken to protect life or property, it may take such steps as it deems necessary, without prior notice on or to the street trader.

14. Returning the Street trading permit

- (1) A permit must immediately be returned to the Municipality should the Municipality cancel such permit in respect of any of the events stated in section 12 and /or in the event of that:-
- (a) the permit-holder failing to resume trading;or
 - (b) no longer wishing to trade as a street trader from the relevant trading site; and/or
 - (c) permit holder becomes employed in the formal sector.

CHAPTER 3 GENERAL PROVISION RESTRICTIONS AND PROHIBITIONS ON STREET TRADING

15. Compliance.

- (1) A street trader who is in an area demarcated as a street trading sites or street trading areas must –
- (a) ensure that any street trading taking place on his or her property complies with these By-laws and any other applicable by-laws and legislation;
 - (b) permit any authorised official access to his or her property for the purpose of ensuring compliance with these By-laws; and any other applicable by-laws and legislation; and
 - (c) ensure, at his or her costs, that sufficient services are provided to maintain acceptable hygienic conditions in respect of the street trading.

16. Prohibited conduct

- (1) No person shall carry on the business of a street trader-
- (a) at a place or in an area declared by the Municipality as a place or area in which street trading is prohibited;
 - (b) in a garden or a park to which the public has a right of access;

- (c) on a verge contiguous to -
 - (i) a building belonging to, or occupied solely by, the State or the Municipality;
 - (ii) a church 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 front of -
 - (i) a fire hydrant;
 - (ii) an entrance to or exit from a building;
- (e) at a place where it could obstruct vehicular traffic;
- (f) at a place where it could substantially obstruct a pedestrian in his or her use of the sidewalk;
- (g) 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 Street trader by an authorised official;
- (h) on a stand, or in any area demarcated by Municipality, if he or she is not in possession of a written proof or valid permit that he or she has hired such stand or area from the Municipality, or that such stand has otherwise been allocated to him or her;
- (i) within 5 (five) meters of any intersection as defined in Regulation of the National Road Traffic Act 1996; and
- (j) on a sidewalk 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 sidewalk by the Street trader, if the goods are sold without the prior consent of such person and an authorised official has informed the Street trader that such consent does not exist.

- (2) A person who has hired a stand from, or been allocated a stand by the Municipality in terms of subsection (1)(h), may not trade in contravention of the terms and conditions of such lease or allocation.

17. Restricted conduct

A person carrying on the business of a street trader -

- (a) may not sleep overnight at the place of such business;
- (b) may not erect any structure, whether movable or immovable, for the purpose of providing shelter or any other purpose, other than a device approved by the Municipality;
- (c) may not place his or her property on a public road or public place, with the exception of his or her caravan or trailer from which trade is conducted, and provided that such caravan or trailer does not obstruct pedestrian and vehicular traffic movement, and complies with the provisions of the National Road Traffic Act, 1996;
- (d) must ensure that his or her property or area of activity does not cover an area of a public road or public place which is greater than six square meters in extent (with a maximum length of three meters) or unless otherwise approved by the Municipality, and which on any sidewalk leaves an unobstructed space for pedestrian traffic, the length of the property or area of activity, and not less than 1,5 meters wide, measured from any contiguous building to the obstructed area, and an unobstructed space, the length of the property or area of activity, and not less than 0,5 meters wide, measured from the kerb of the roadway;
- (e) may not trade on a sidewalk where the width of such sidewalk is less than four meters;
- (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 a 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 and/or health hazard, or health risk, or both.
- (k) may not make an open fire on a public road or public place;
- (l) may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view.
- (m) may not obstruct access to a pedestrian crossing, a parking or loading site or other facility for vehicular or pedestrian traffic;
- (n) may not obstruct access to, or the use of, Street furniture and any other facility designed for the use of the general public;
- (o) may not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of these By-laws;
- (p) may not carry on business, or take up a position, or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the Municipality for the purposes of these By-laws;
- (q) may not, other than in a refuse receptacle approved or supplied by the Municipality, accumulate, dump, store, or deposit, or cause or permit to

be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;

- (r) may not place on a public road or public place, his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;
- (s) must on concluding business for the day remove his or her goods or property, at a street trading site/ area and at a place which is part of a public road or public place, except any structure permitted by the Municipality;
- (t) may not store his or her property in a manhole, storm water drain, public toilet, and bus shelter or in a tree; and
- (u) may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the Municipality in terms of section 6A(2)(a) of the Act.

18. Cleanliness

A street trader must -

- (a) Keep the area or site occupied by him or her for the purposes of such business in a clean and sanitary condition;
- (b) Keep his or her goods or property in a clean, sanitary and well maintained condition;
- (c) Dispose of litter generated by his or her business in whatever receptacle is provided by the Municipality for the public or at a dumping site of the Municipality;
- (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 trade is free of litter or waste;
- (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;

- (g) Ensure that no smoke, fumes or other substance, odours, or noise emanating from his or her activities causes pollution or nuisance of any kind;
- (h) On request by an authorised official of the Municipality, move his or her property so as to permit the cleansing of the space of the area or site where he or she is trading, or the effecting of municipal services.

19. Signs indicating restricted and prohibited areas

- (a) The Municipality may, by resolution, declare any place in its area of jurisdiction to be an area in which Street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating
 - (i) specified hours, places, goods or services in respect of which Street trading is restricted or prohibited;
 - (ii) the locations of boundaries of restricted or prohibited areas;
 - (iii) the boundaries of a stand or area set apart for the purposes of the carrying on of the business of Street trading;
 - (iv) the fact that any such stand or area has been let or otherwise allocated; and
 - (v) any restriction or prohibition against Street trading in terms of these By-laws;
- (b) The Municipality may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and or the location or boundaries of the area or stand concerned;
- (c) Any sign erected in terms of these By-laws or any other bylaws or law, shall serve as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and
- (d) Any sign may be amended from time to time and displayed by the Municipality for the purpose of these By-laws, and shall have the same effect as a road sign in terms of the National Road Traffic Act 1996.

20. Special events

The Municipality may permit or prohibit Street trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any permits issued in respect of the relevant trading area

CHAPTER 4 ENFORCEMENT

21. Vicarious responsibility of persons carrying on business

- (1) When an assistant of a street trader contravenes a provision of these By-laws the employer shall be deemed to have committed such contravention him or herself unless such assistant satisfies the court that
 - (a) he or she neither connived at nor permitted such contravention and;
 - (b) he or she took reasonable steps to prevent such contravention.
- (2) The fact that the employer issued instructions prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

22. Offences and Penalties

Any person who –

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (a) Contravenes any condition on which a permit has been issued to him or her;
- (b) fails to comply with any lawful instruction given in terms of these By-laws; or
- (c) who threatens, resists, interferes with or obstructs or hinders any authorised Official or representative of the Municipality in the execution of his or her duties or functions in terms of or under these By-laws

- (d) deliberately furnishes false or misleading information to an authorized official -

is guilty of an offence and liable on conviction to a fine not exceeding R40 000 or in default of payment, to imprisonment for a period not exceeding six months, and in the case of a continuing offence, to a further fine not exceeding R5000, or in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence, after a written notice has been issued by the Municipality, and served on the person concerned, requesting the discontinuance of such offence.

23. Removal and impoundment

- (1) An authorised official may remove and impound any goods or property of a street trader-
 - (a) which he or she reasonably suspects is being used or which intended to be used or has been used in or in connection with Street trading which is in contravention of these By-laws or any other applicable law; and
 - (b) which he or she finds at a place where Street trading is restricted or prohibited and which, constitutes an infringement of any such restriction or prohibition whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.
- (2) Any authorised official acting in terms of subsection 1 above must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must –
 - (i) itemise the property to be removed and impounded;
 - (ii) provide the address where the impounded property will be kept, and the period thereof;
 - (i) state the terms and conditions which must be met for the release of the impounded goods or property;
 - (ii) states the impoundment fee to be paid to secure release of the impounded goods;
 - (iii) state the terms and conditions relating to the sale of unclaimed property by public auction or otherwise disposed of;; and

- (iv) provide the name and address of a Municipality official to whom any representations regarding the impoundment may be made, and the date and time by which representations must be done.
- (3) If any goods or property about to be impounded is attached to any immovable property or a structure, and such property is under the apparent control of a person present there, any authorised official may order such person to remove the property, and if such person refuses or fails to comply, he or she shall be guilty of an offence.
- (4) When any person fails to comply with an order to remove the goods or property referred to in subsection (3), any authorised official may take such steps as may be necessary to remove such goods or property.
- (3) The Municipality may at any time after the impoundment sell, destroy or otherwise dispose of-
 - (a) impounded perishable goods if the goods represent or might represent a health risk or a nuisance; and
 - (b) foodstuffs which are unfit for human consumption.
- (4) Impounded goods or property other than perishable goods, may be sold by the Municipality if the owner does not, or is unable to, pay the impoundment fee within 1 month from the date of impoundment of those goods.
- (5) If impounded goods are sold by the Municipality and upon the presentation of the receipt contemplated in subsection (2) as proof of ownership, the Municipality must pay to the person presenting the inventory the proceeds of the sale less the impoundment fee.
- (6) If in the reasonable opinion of an authorised official, a street trader is suspected of trading in illegal goods, then those goods may be immediately confiscated and, in the event of such a confiscation, the authorised official must immediately surrender the suspected illegal goods to the possession of the South African Police Service.

24. Recovery of costs

- (1) If a street trader contravenes any provision of these By-laws or his or her permit and fails or refuses to cease the contravention, or to take steps to rectify any contravention, then the Municipality may take those steps itself and recover the costs from the street trader.
- (2) The costs mentioned in subsection (1) are in addition to any fine which may be imposed on the street trader

25. Exemption from liability

The Municipality shall not be liable for damages or compensation arising from anything lawfully done in good faith by it or any authorised official or assistant thereof in terms of these By-laws.

CHAPTER 5 MISCELLANEOUS PROVISIONS

26. Repeal of By-laws

Any provision of any By-Laws relating to Street Trading adopted by the Municipality or any Council of a Municipality now comprising an Administrative Unit of the Municipality are hereby repealed.

27. Short title

These by-laws are called Emfuleni Local Municipality Street trading bylaws.

28. Effective date

These bylaws shall take effect on the date determined by the Municipality in the provincial gazette.