STANDARD CONTROL OF STREET PEDDLERS OR HAWKERS BY- LAW

LETSEMENG LOCAL MUNICIPALITY

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NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CONTROL OF STREET VENDORS, PEDDLERS OR HAWKERS BY-LAW

In terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE CONTROL OF STREET VENDORS, PEDDLERS OR HAWKERS BY-LAW Definitions

1. In this by-law, unless the context indicates otherwise, any expression to which a meaning has been assigned in the Business Act, 1991 (Act No. 71 of 1991) and the Road Traffic Act, 1989 (Act No. 29 of 1989) is, when used in these Bylaws, have the meaning thus assigned and – **"council"** means the …….Council.

"Street vendor, peddler or hawker" means any person carrying on business, whether as principal, employee or agent, by selling any goods or services -

(i) which is conveyed from place to place, whether by vehicle or otherwise;
(ii) on a public road or at any other place accessible to the public;
(iii) in, on or from a movable structure or stationary vehicle;

"nuisance" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a health risk or a sources or danger to human lives or property or which interferes with persons ordinary comfort, convenience, peace or quiet; **"officer"** means -

(i) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act No. 29 of 1989);
(ii) A member of the Force as defined in section 1(1) of the South African Police Services Act, 1995 (Act No. 68 of 1995).
(iii) A peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act. No. 51 of 1977); "public place" includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds' registry or surveyor-general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in a local authority or to which the owners of erven in the township have a common right;

"Public road" means any road, street, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof has a right of access and includes -

(i) the verge of any such road, street or thoroughfare;
(ii) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
(iii) any other work or object forming part of or connected with or belong to such road, street or thoroughfare, "sell" includes to prepare, process, store, offer or display for sale; "sidewalk" means that portion of a verge intended for the exclusive use of pedestrians;

"The Act" means the Business Act, 1991 (Act No. 71 of 1991);

"Verge" means that portion of the road, street or thoroughfare which is not the roadway.

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Carrying on of business

2. Subject to the provisions of this by-law and other applicable legislation, a street vendor, peddler or hawker may carry on his or her business within the municipal area of the Council.

Prohibited business areas

3. Subject to the provisions of sections 2 and 4 no person shall carry on business as street vendor, peddler or hawker -

(1) in a garden or park to which the public has a right of access;
(2) on a verge contiguous to -
  (a) a building belonging to or occupied solely by the State or the Council;
  (b) a church or other place of worship;
(3) in a building declared to be a national monument in terms of the National Monuments Act, 1969 (Act No. 28 of 1969);
(4) in an area declared by the Council as a prohibited business area in terms of section 6A(2) of the Act or an area to be declared as such;
(5) at a place where -
  (a) It causes an obstruction in front of a fire hydrant or an entrance to or exit from a building;
  (b) it substantially obstructs pedestrians in their use of a sidewalk.
(6) on a verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street vendor, peddler or hawker concerned, without the consent of that person;
(7) On that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto.

Restricted business areas

4. (1) The Council may by resolution, after compliance, with the provisions of section 6A (2) (b) up to (h) of the Act, declare any place within the municipal area of the Council to be an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted.

(2) The Council may within the areas contemplated in sub section 4(1), restrict the carrying on of the business of street vendor, peddler or hawker to specified hours, specified places and specified goods or services.

(3) The Council may within the areas contemplated in sub section 4(1), by means of resolution -
  (a) set apart and demarcate stands or areas for the purposes of street vendors, peddlers or hawkers on any public road whereof the management or ownership is vested in the Council, or on any other property occupied and controlled by the Council;
  (b) Extend, reduce or disestablish the stand or areas set apart and demarcated as such; (c) let or otherwise allocate stands or areas set apart and demarcated as such, by agreement.

(4) The Council may within the areas contemplated in sub section 4(1), by means of resolution, after compliance with the provisions of section 6A (2) (b) up to (h) of the Act, lease any verge or any portion thereof to the owner or occupier of the contiguous land on the condition that such owner or occupier shall admit a specified number of street vendors, peddlers or hawkers on stands or places designated by such owner or occupier on such verge.

(5) A person must carry on the business of street vendor, peddler or hawker on stands or areas contemplated in sub sections 4(3) and 4(4), only if he or she is in possession of proof that he or she is hiring such stand or area or that it has otherwise been allocated to him or her.

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(6) A person must within the areas as contemplated in sub section 4(1), carry on the business of street vendor, peddler or hawker only during the hours, on the places and with the goods or services as contemplated in sub section 4(2).

Control measures

5. (1) No street vendor, peddler or hawker must -

(a) sleep overnight at his or her place of business or erect any structure for the purpose of providing shelter, without the prior written approval of the Council;

(b) carry on his or her 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 other property of the Council;

(iii) create a traffic hazard;

(c) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place, other than in a refuse receptacle approved by the Council.

(2) Every street vendor, peddler or hawker must -

(a) remove from any public road or public place at the conclusion of trading, all waste, packaging material, stock and equipment of whatever nature which are utilised in connection with such business, unless prior written approval exempting him or her from this provision, has been given by the Council;

(b) carry on his or her business in such a manner as not to be a danger or threat to public health or public safety;

(c) At the request of an officer or an employee of the council, move or remove any goods, receptacle, vehicle or movable structure used for his or her business.

Removal and impoundment

6. (1) An officer may remove and impound any goods, receptacle, vehicle or movable structure which he or she reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of a business of a street vendor, peddler or hawker -

(a) Which he or she finds at a place where -

(i) the carrying on of the business of a street vendor, peddler or hawker is prohibited in terms of section 3;

(ii) The business of a street vendor, peddler or hawker is being carried on contrary to the provisions of section 4.

(b) which a street vendor, peddler or hawker has failed or refused to remove from the place after having been requested to do so by an officer or any employee of the Council, or which have been left there or abandoned.

(2) An officer acting in terms of sub regulation 6.1, must -

(a) issue to a street vendor, peddler or hawker a written proof for any goods, receptacle, vehicle or movable structure so removed and impounded;

(b) forthwith deliver any such goods, receptacle, vehicle or movable structure to the Council;

(3) An officer, the Council or an employee of the Council is not liable for any loss or theft of or damage to any goods, receptacle, vehicle or movable structure removed and impounded in terms of these regulations.

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Display of approval

7. A street vendor, peddler or hawker must carry on his or her person a written approval granted or issued to him or her by the Council in terms of these regulations and must on demand show such written approval to an officer or an employee of the Council.

Delegation

8. With the exception of the powers mentioned in sections 2, 3 and 4, the Council may delegate or assign in writing any power, duty or function imposed by or under these regulations upon the Council, to any person in its employ subject to such conditions as it may deem necessary.

Offences and penalties

9. (1) A person who -

(a) contravenes any provision of these Bylaws or fails to comply therewith or with any condition imposed in terms thereof;

(b) threatens, resists, interferes with or obstructs any officer or any employee of the Council in the performance of his or her duties or functions in terms of or under these Bylaws, or

(c) Deliberately furnishes false or misleading information to an officer or an employee of the Council, is guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding three months.

(2) Any person who, after conviction in terms of these Bylaws, persists in the conduct or neglect which caused the offence, is guilty of a continuing offence and liable to a fine in respect of every day that he or she so persists.

(3) Any expense incurred by the Council as a result of a contravention of these regulations or in the doing of anything which a person was directed to do under these regulations and which he or she failed to do, may be recovered by the council from the person who committed the contravention or who failed to do such thing.

Repeal

10. Any by-laws relating to Street Vendors, Peddlers and Hawkers adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws

Short title

11. This By-law shall be called the Control of Street Vendors, Peddlers and Hawkers By-law, 2011.