

LOCAL AUTHORITY NOTICE 215

**LEPHALALE LOCAL MUNICIPALITY
STREET TRADING BY-LAW**

The Municipal Manager of Lephalale Local Municipality hereby in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) publishes the Street Trading By-Law for the Municipality as approved by its Council, as set out hereunder.

TABLE OF CONTENTS

**CHAPTER 1
DEFINITIONS AND FUNDAMENTAL PRINCIPLES**

1. Definitions
2. Purpose of the by-law
3. Application
4. Forms of street trading

**CHAPTER 2
GENERAL PROVISIONS APPLICABLE TO STREET TRADING**

5. Restricted and prohibited areas
6. Places where street trading is prohibited
7. Duties of street trader
8. Prohibited conduct
9. Removal and impoundment

**CHAPTER 3
SPECIFIC PROVISIONS APPLICABLE TO STREET TRADING IN MEALS OR
PERISHABLE FOODSTUFFS**

10. Applicable provisions
11. Hawker's licence
12. Certificate of acceptability, application and exemptions

**CHAPTER 4
MISCELLANEOUS PROVISIONS**

13. Vicarious liability of persons carrying on street trading
14. Exemptions
15. Offences and Penalty
16. Repeal
17. Short title and commencement

1. Definitions

In this by-law, unless the context otherwise indicates –

“**approval**” means approval by the municipality and “**approve**” has a corresponding meaning;

“**Council**” means the Lephhalale Municipal Council;

“**garden**” means a garden to which the public has a right to access;

“**goods**” means any movable property;

“**intersection**” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**licence holder**” means a person who is the holder of a hawker’s licence;

“**Linear Market**” means a Designated Area located in pedestrianised environments

“**litter**” means any object or matter which is discarded, abandoned or left behind by a person trading of his or her customers.

“**motor vehicle**” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**municipality**” means the Lephhalale Local Municipality and includes any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated by the Council in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), or a service provider in respect of any power, function or duty of the Council assigned by it for the purposes of this by-law to that service provider in terms of Section 81(2) of the Local Government: Municipal Systems Act, 2000;

“**Municipal Manager**” means municipal manager of Lephhalale Local Municipality;

“**official**” means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

“**park**” means a park to which the public has a right to access;

“**premises**” means any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

“**prescribed**” means prescribed by the municipality by resolution;

“**property**”, in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

“**public road**” means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**regulations**” means regulations made in term of the National Health Act, 2004;

“**roadway**” means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**sell**” includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and “**sale**” or “**selling**” has a corresponding meaning;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"street furniture" means any furniture installed by the municipality on the street for public use;

"street trader" means a person who, as hawker, vendor or pedlar as contemplated in the Businesses Act, 1991 (Act 71 of 1991), carries on the business of the selling of any goods or the supplying of or offering to supply any service for reward in a public road or public place;

"street trading" means the carrying on of the business as a street trader;

"the Act" means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;

"trade" means sell goods or services in a public road or public place;

"verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and any word or expression to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) has a corresponding meaning in this by-law.

2. Purpose of the By-law

The purpose of this By-law is to regulate Street Trading within the jurisdictional area of the Lephalale Municipality.

3. Application

This by-law apply to all persons who carry on the business of street trading within the area of jurisdiction of the Lephalale Local Municipality.

4. Forms of street trading

- (1) Street trading include any of the following forms:
- (a) the selling of goods and supply of services for reward in public road;
 - (b) selling of goods in linear places;
 - (c) sale of goods or services in public places;
 - (d) mobile trading such as caravans and light mobile vehicles;
 - (e) selling of stalls or kiosks; and
 - (f) selling of goods at special events.

CHAPTER 2 GENERAL PROVISIONS APPLICABLE TO STREET TRADING

5. Restricted and prohibited areas

- (1) The municipality may, in terms of section 6A(2)(a) of the Act and subject to the provisions of paragraphs (b) - (j) of the act, by resolution declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.

- (2) The municipality must by erected sign in the area indicate such area, and the sign must indicate –
- (a) the restriction of prohibition against street trading;
 - (b) if street trading is restricted –
 - (i) the boundaries of the area or stand set aside for restricted street trading;
 - (ii) the hours when street trading is restricted or prohibited; and
 - (iii) the goods or services in respect of which street trading is restricted or prohibited; and
 - (c) that the area has been let or otherwise allocated.
- (3) The sign serves as sufficient notice to a street trader that street trading is restricted or prohibited in the area concerned.

6. Places where street trading is prohibited

- (1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:
- (a) in a garden or a park to which the public has a right of access; or
 - (b) 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; or
 - (iii) a building declared to be a public monument under the National Heritage Resources Act, 1999.
- (2) No person may carry on the business of a street trader in any of the following places:
- (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
 - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of persons using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view;
 - (c) within 5 metres of an intersection as defined in National Road Traffic Act, 1996 Regulations;
 - (d) at a place where street trading obstructs –
 - (i) a fire hydrant;
 - (ii) the entrance to or exit from a building;
 - (iii) vehicular traffic;
 - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;

- (v) access to or the use of street furniture or any other facility designed for the use of the general public;
 - (vi) or obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996; or
 - (vii) obscures a marking, notice or sign displayed or made in terms of this by-law;
 - (e) that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto; or
 - (f) 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 this by-law.
- (3) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act must –
- (a) comply with conditions of the lease or allocation; and
 - (b) be in possession of written proof that municipality has let or allocated the area or stand to him or her.

7. Duties of street trader

- (1) A street trader must –
- (a) when he or she concludes business for the day, remove his or her property, except any structure permitted by the municipality, to a place which is not part of a public road or public place;
 - (b) when requested by an official of the municipality or a by a person who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public place or service;
 - (c) keep the area or stand occupied by him or her in a clean and sanitary condition;
 - (d) ensure that the area is free of litter and must, when he or she concludes business for the day, dispose of litter generated by his or her business –
 - (i) at the dumping sites of the municipality; or
 - (ii) in receptacles provided by the municipality for the public;
 - (e) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
 - (f) regarding the size and location of the area or stand occupied by him or her –
 - (i) ensure that the area which he or she uses does not exceed 6 m² in size and not exceed 3 metres in length;
 - (ii) ensure that a space of not less than 1,5 metres is left between the wall of the shop (contiguous to which he or she conducts his or her business) and himself or herself; and
 - (iii) leave a space of not less than 0,5 metre from the kerb of the roadway.

8. Prohibited conduct

(1) A street trader may not:

- (a) sleep overnight at the area where he or she is trading or at the area where another street trader is trading;
- (b) place or stack his or her property in such a manner that it –
 - (i) constitutes a danger to any person or property; or
 - (ii) is likely to injure any person or cause damage to any property;
- (c) dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- (d) release onto a public road or public place or into a storm water drain fat, oil or grease in the course of conducting his or her business;
- (e) allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
- (f) erect a structure for the purpose of providing shelter;
- (g) place his or her property in a public road or public place;
- (h) park the vehicle or trailer in such a manner as to obstruct pedestrians or vehicular traffic and must ensure that he or she complies with the provisions of the National Road Traffic Act, 1996; if he conducts his or her business from a vehicle.
- (i) place on a public road or public place, his or her property that cannot be easily removed to a place of safety, which may not be a public road or public place, at the end of the day's business;
- (j) 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;
- (k) attach an object by any means to a building, structure, sidewalk, 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;
- (l) carry on his or her business in such a manner as to –
 - (i) create a nuisance;
 - (ii) damage or deface the surface of a public road or public place or public or private property; or
 - (iii) create a traffic or health hazard;
- (m) make an open fire that poses a health or environment hazard to any person or property or to street furniture;

- (n) other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store or deposit (or cause or permit this to be done) any litter on –
 - (i) any land or premises;
 - (ii) any public road or public place or;
 - (iii) any public or private property;
- (o) store his or her property in a manhole, storm water drain, public toilet, bus shelter or in a tree; and
- (p) 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.

9. Removal and impoundment

- (1) An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property 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.
- (2) An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:
 - (a) the address where the impounded property will be kept and the period it will be kept;
 - (b) the conditions for the release of the impounded property; and
 - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.
- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (5) The municipality is not liable for any loss of or damage to any property lawfully removed and impounded in terms of this by-law.

CHAPTER 3

SPECIFIC PROVISIONS APPLICABLE TO STREET TRADING OF MEALS OR PERISHABLE FOODSTUFFS

10. Applicable provisions

The provisions in this Chapter apply to a street traders who sells meals or perishable foodstuffs, in addition to the provisions in Chapters 1 and 2 of this by-law and the provisions of the Businesses Act, 1991, the National Health Act, 2004, and the Regulations.

11. Hawker's licence

- (1) No person without a hawker's licence issued by the municipality may, whether as principal, employee or agent, carry on the business of selling any foodstuff in the form of meals or any perishable foodstuff –
 - (a) which is conveyed from place to place, whether by vehicle or otherwise;
 - (b) on a public road or at a public place; or
 - (c) in, or from a movable structure or stationary vehicle.
- (2) A person who wishes to obtain a hawker's licence must apply on an application form contained in Schedule 1, and submit the completed form to the office of the Municipal Manager.
- (3) After consideration of an application for a licence, the municipality may –
 - (a) grant the licence if any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs comply with the requirements of sections 2 to 5 inclusive of the Foodstuffs, Cosmetics and Disinfectants Act, 1972, and the regulations, National Health Act, 2004; and
 - (b) issue the licence subject to any condition specified in the licence in terms of which the licence holder must, in connection with the business premises or any such apparatus, equipment, storage, space, working surface, structure, vehicle, conveyance, article or place comply, or within a specified period comply, with a specific requirement relating to town planning or the safety or health of the public of a law contemplated in paragraph (a) which apply to those premises.
- (4) Subject to section 2(10) of the Act, the municipality may refuse to issue a licence if –
 - (a) any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, does not comply with a requirement of a law contemplated in subsection (3)(a) relating to the health of the public;
 - (b) any foodstuff sold by the licence holder does not comply with a requirement of a law contemplated in subsection (3)(a) relating to the health of the public; or
 - (c) a licence of which the applicant was the holder, was at any time during the preceding 12 months, withdrawn due to non-compliance with a requirement contemplated in subsection (3).
- (5) The municipality may at any time, after giving the licence holder a reasonable opportunity to be heard –
 - (a) withdraw or suspend a licence on the ground that –
 - (i) any apparatus, equipment, storage space, working surface, structure, vehicle, conveyance or any other article or place used for or in connection with the preparation, handling or sale of foodstuffs, does not comply with a requirement of a law contemplated in subsection (3)(a) relating to the health of the public;
 - (ii) any foodstuff sold by the licence holder does not comply with a requirement of a law contemplated in subsection (3)(a) relating to the health of the public; or
 - (iii) the person did not comply with a condition imposed by the municipality in terms of subsection (3)(b).

- (b) if it considers it necessary on the ground of changed circumstances in relation to a business or the premises, by way of endorsement on the licence amend a condition or impose a condition, and –
 - (i) may for these purposes require a licence holder in writing to produce his or her licence; and
 - (ii) must act in terms of section 2(10) of the Act.

12. Certificate of acceptability, application and exemptions

- (1) No person may carry on the business of street trader in foodstuffs without being in possession of a certificate of acceptability issued by the municipality in terms of regulation 3 of the Regulations.
- (2) A person who wishes to apply for a certificate of acceptability in respect of food premises of a street trader, must apply therefore in writing to the municipality on the application form contained in Schedule 2.
- (3) The completed application form must be submitted to office of the Municipal Manager.
- (4) Should a person, in terms of regulation 15(1) of the Regulations, wish to be exempted from any of the regulations contained in the Regulations, he or she must, in the application form, specify the particulars of the exemption being applied for.
- (5) Should the municipality decide to grant the certificate of acceptability to the person, it must issue to the person a certificate in a form contained in Schedule 3.

CHAPTER 3

MISCELLANEOUS PROVISIONS

13. Vicarious liability of persons carrying on street trading

- (1) When an employee of a person who trades ("the employer") performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention himself or herself, unless he or she proves to the satisfaction of the court that –
 - (a) he or she did not permit such act;
 - (b) he or she took all reasonable steps to prevent the performance of the act, however the fact that he or she issued instructions forbidding an act, is not sufficient proof that he took all reasonable steps to prevent the performance of the act; and
 - (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

14. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.

- (2) The municipality may –
- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2)(a), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

15. Offences and Penalty

Any person who contravenes the provisions of this by-law shall be guilty of an offence and liable to fine.

16. Repeal

This by-law repeals the street trading by-law published under Local Authority notice 26 gazette number 130 dated 26 January 1996 and its amendments.

17. Short title and commencement

This by-law is called Lephalele Street Trading By-law, and commence on the date of publication in the Provincial Gazette.

SCHEDULE 1

APPLICATION: HAWKER'S LICENCE FOR STREET TRADING IN MEALS AND PERISHABLE FOODSTUFFS

A person who wants to obtain a hawker's licence to hawk, sell or pedal meals or foodstuffs as a street trader, must supply the following information:

Name:

ID:

Address:

.....

Contact numbers (e.g. telephone):

Area/s in which you want to trade:

.....

Description of the food that you want to trade in:

.....

Description of all equipment that you are going to use:

.....

Description of the shelter, structure or vehicle in or from which you are going to

trade:

.....

.....
MUNICIPAL MANAGER

.....
DATE

SCHEDULE 2

APPLICATION FORM FOR A CERTIFICATE OF ACCEPTABILITY FOR FOOD PREMISES OF STREET TRADER

A. PERSON IN CHARGE

Surname and first names of person in whose name the certificate of acceptability must be issued

.....

I.D. Number

Address: Postal address:

.....

.....

Residential address:

.....

.....

Telephone number: Business Residential

B. PARTICULARS OF FOOD PREMISES

Name of food premises (if any)

Erf No. (if applicable)

Type of food premises, (e.g. building, vehicle, stall)

Location address or address where the food premises can be inspected

.....

.....

If the following are not situated on the food premises, note the address or describe the location of each:

- | | Erf No. | Address |
|------------------------------------------------------------|---------|---------|
| (a) Sanitary (latrine) facilities | | |
| (b) Cleaning facilities (wash-basins for facilities) | | |
| (c) Hand-washing facilities | | |
| (d) Storage facilities for food/facilities | | |
| (e) Preparation premises | | |

C. FOOD CATEGORY

List and describe the food items or the nature or type of food involved

.....

.....

D. NATURE OF HANDLING

List and describe what your activities will entail (e.g. preparation or packing and processing)

.....

.....

E. STAFF

Number of persons employed or to be employed Men..... Women



F. PARTICULARS OF EXEMPTION BEING APPLIED FOR

.....
.....
.....

G. PARTICULARS OF APPLICANT

Name:
Capacity (e.g. owner, managing director, secretary, manager)
Postal address
Telephone number
Date of application
Signature

SCHEDULE 3

CERTIFICATE OF ACCEPTABILITY FOR FOOD PREMISES OF STREET TRADER

A. ISSUING LOCAL AUTHORITY:
CERTIFICATE NUMBER:

NAME **Telephone number**

OFFICIAL
DATE
STAMP

B. FOOD PREMISES

Name (if any)

Address (Location or trading area, erf no. or vehicle registration no.)
.....

Address where food is processed:
.....

C. PERSON IN CHARGE

Name:

I.D. Number:

D. CERTIFICATION AND RESTRICTION

Restrictions, conditions or stipulations in terms of regulation 3(1)(b);

.....
.....
.....

E. SIGNATURE OF INSPECTOR DATE

.....

Name of inspector:

Official designation:

F. ENDORSEMENTS/EXEMPTIONS

.....
.....
.....

.....
DATE

.....
SIGNATURE OF INSPECTOR



LOCAL AUTHORITY NOTICE 216

**LEPHALALE LOCAL MUNICIPALITY
WASTE MANAGEMENT BY-LAW**

The Municipal Manager of Lephale Local Municipality hereby in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) publishes the Waste Management By-Law for the Municipality as approved by its Council, as set out hereunder.

TABLE OF CONTENTS

CHAPTER 1

DEFINITIONS AND FUNDAMENTAL PRINCIPLES

1. Definitions
2. Objectives of by-law
3. Application of by-law

CHAPTER 2

WASTE MANAGEMENT PLANNING

4. Development of waste management plan
5. Contents of waste management plan

CHAPTER 3

WASTE INFORMATION SYSTEM

6. Establishment of waste information system
7. Purpose of waste information system

CHAPTER 4

PROVISION OF SERVICES

8. Duties and powers of municipality
9. Charges and fees