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LIMPOPO PROVINSIE  
XIFUNDZANKULU XA LIMPOPO  
PROFENSE YA LIMPOPO  
VUNDU LA LIMPOPO  
IPHROVINSI YELIMPOPO

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**LOCAL AUTHORITY NOTICE**

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**LOCAL AUTHORITY NOTICE 94****MOPANI DISTRICT  
MUNICIPALITY**

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**FOOD VENDING BY-LAW**

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**The Municipal Manager of Mopani District Municipality hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) read together with section 162 of the Constitution of the Republic of South Africa, publishes the Food Vending By-law for Mopani District Municipality, as approved by its Council, as set out hereunder.**

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## DEFINITIONS

1. For the purpose of these by-laws, unless the context indicates otherwise:

**"adequate"** means when used to describe a standard or manner in which anything

required by these by-laws must be done, means the standard or manner that, in the opinion

of a health officer, is sufficient to safeguard public health, and to achieve the purpose and

apply the principles of these By-laws and "adequately" has a corresponding meaning;

**"approved"** means when used to describe a particular object, measure or material, means

an object, measure or material which has been approved in terms of section 12 as being

adequate in specified circumstances to prevent, to reduce to a level acceptable to the

Council, the risk of any public health hazard or public health nuisance occurring, continuing

or recurring;

**"Council"** means:

(a) Mopani District Municipal Council and local municipal council established in terms of Section 12 of the Local Government Municipal Structures Act 1998 (Act no.117 of 1998) as amended;

(b) a structure or person exercising a delegated power or carrying out an instruction where any power in these By-laws

has been delegated, or an instruction given as contemplated in Section 59 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000); or

..

(c) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of Section 1 81 (2) of the Local Government Municipal Systems Act or any other law, as the case may be;

**"controller"** means the person or group of persons who exercise the actual control over the supply of foodstuffs or refreshments from a food dispensing machine or a mechanical cooler;

**"factory packed foodstuffs"** means any foodstuff which was prepared, manufactured and packed on premises licensed for the applicable commodity in terms of the License Ordinance No. 19 of 1974;

**"food"** means a foodstuff intended for human consumption as defined in Section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), excluding food referred to in regulation 14;

**"food dispensing machine"** means any coin-operated or other automatic machine or device from which food is delivered or made available directly to the consumer;

**"food vendor"** means a person who is approved by the Council and is in possession of a token issued by the Council in terms of the Street Trading By-laws to sell or supply or offer or exposes for sale any article of food, as well as any hawker or peddler or any other person who, whether as principal, agent or employee, sells or supplies or offer or exposes for sale any article of food elsewhere than on a fixed premises;

**"frozen sugar confectionary"** means and includes water ices, water suckers and any similar commodity mad of water, sweetening ingredients, stabilisers, flavouring substances and coloring matter with or without the addition of fruit or fruit juices;

**"health officer"** means an official appointed by the Council, and who is duly registered as a health officer or environmental health practitioner with the

Health Professions Council of South Africa in terms of Section 33 (1) of the Medical Dental and Supplementary Health Services Professions Act, 1974 (Act No. 56 of 1974)

**"hot dog"** means a sandwich consisting of a sausage in a split, sliced or pierced bread roll;

**"ice cream" and "sherbet"** shall bear the respective meanings assigned to them in the regulations made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);

**"police official"** means a member of the South African Police Services as defined by section 1 of the South African Police Services Act 1995 (Act N0 68 of 1995)

**"premises"** means premises as defined in the Food-handling By-laws but shall not include a vehicle, structure, tray or receptacle or any other means by which a vendor may vend in terms of these by-laws;

**"required"** means required in the opinion of the health officer regard being had to the reasonable public health requirements of the particular case;

**"sandwich"** means one or more slices of bread or a split bread roll, whether toasted or otherwise, with a layer of other food placed on or between them;

**"vehicle or movable structure"** means any vehicle or conveyance, whether mechanically driven or not, on or in which foodstuffs are conveyed.

#### **APPLICATION OF BY-LAWS**

2. Notwithstanding anything to the contrary in the Food-Handling By-laws, food may be stored and dispensed by a food-dispensing machine, and stored and sold by a vendor, as the case may be.

The provisions of these by-laws are to be considered as supplementary to the Food-Handling By-laws and Public Health By-laws without derogating any part thereof.

**CHAPTER 1**  
**FOOD VENDORS**  
**CATEGORIES OF FOODSTUFFS**

3. (1) For the purpose of this part, food vendor shall be divided into the following

categories:

(a) **Category A**

Fruit and Vegetables

(b) **Category B**

Ice cream sorbet, frozen sugar confection nary, milk and milk products, fruit juices and other beverages that require refrigeration and are manufactured and packed on an approved premises.

(c) **Category C**

Food or article of food manufactured and pre-packed on an approved premise which can be stored at room temperature without deterioration, including factory packed sweets, nuts, biltong, sweet-and salty snacks, and dainties, beverages which can be stored at room temperature, candy floss and pop corn.

(d) **Category D**

Precooked sausages, ready for consumption at the time of sale without further preparation: Provided that such sausages may be further prepared only by immersion in hot water. Wrapped precooked meat pies, ready for immediate consumption. Wrapped porridge/pap, wrapped bread rolls, hot dogs and sandwiches, boiled eggs in their shells, tea, coffee and pre-packed beverages.

(2) No person shall hawk any other food than specified in subsection (1) unless approved by the Council.



## **GENERAL REQUIREMENTS FOR VEHICLES AND MOVABLE STRUCTURES**

4. (1) No person shall hawk food from any vehicle or movable structure unless such

vehicle or movable structure is specifically approved for the hawking of such food.

(2) A vehicle or movable structure shall not be used for any purpose other than for which

it was approved, with the exception that category A type foodstuffs be excluded .

(3) Each vehicle or movable structure shall be so constructed and maintained that no

liquid can drain there from onto the road or ground surface.

(4) All equipment, accessories, utensils and appliances used for or in connection with

hawking of food shall be of an approved type and construction.

(5) Each vehicle or movable structure used for or in connection with the hawking of food

shall be maintained in a clean and sanitary condition.

(6) The trade name of the food hawker in whose name is hawked and the address of

his licensed premises shall be displayed in clearly legible non-erasable letters in a

conspicuous place on the vehicle, tray or other container

(7) The Council may require that the hawking of food from a vehicle, or movable

structure shall only take place in an area

## **GENERAL REQUIREMENTS FOR PREMISES**

5. (1) The Council may for the hawking of any category of food require the food vendor to provide fixed premises on which all utensils, equipment, food or related goods are prepared, kept or cleaned and in which event such premises shall comply with the provision of section 5 of the

**Council's Food Handling By-laws.**

- (2) For each vehicle approved for the vending of food excluding cycles and containers which can be carried or pushed, the food vendor shall provide a fixed parking area where such vehicle can be parked.
- (3) Approved facilities for the storage and cleaning of trays or any other containers used in the vending of food shall be provided.
- (4) Every food vendor shall at all times have under his or her sale and absolute control an approved store room with a floor area of 7 square metres with a horizontal dimension of not less than 2 metres: Provided that the Council may require or permit a larger or smaller store room.
  - (a) a wash hand basin with a potable supply of running water laid on thereto shall be provided in the store room.
  - (b) the provision of section 4(7) shall apply *mutatis mutandis* to such store room.
  - (c) in the case of category D the following additional facilities shall be provided
    - (i) a wash hand basin with a potable supply of hot and cold running water laid on thereto shall be provided in the store room.
    - (ii) paper towels and germicidal liquid soap in approved dispensers shall be provided at such wash hand basins.
    - (iii) separate approved metal lockers shall be provided for each employee.

**GENERAL REQUIREMENTS CONCERNING FOODSTUFFS**

6. (1) food vendor shall only vend food prepared on licensed or premises approved by the

Council: Provided that this requirement shall not apply to the vending of eggs, fruits and vegetables or such other foodstuffs as may specifically

be approved by the Council on application

(2) No food vendor shall vend food which is required to be packed or wrapped in terms of

the provisions of Section 3(1) unless:

(a) such food is completely and separately wrapped by the manufacturer or prepared in the proportions in which it is to be sold.

(b) such wrapping is intact; and

(c) the name and address of the manufacturer or preparer thereof is stated clearly on such wrapping. The requirement shall not be applicable where food is prepared and wrapped in front of the consumer.

(3) All perishable food that requires refrigeration shall be maintained at a temperature not exceeding 10 degrees Celsius, or such lower temperatures as may be required, and not less than 65 degrees Celsius in the case of food to be heated.

(4) Every vendor and person engaged in the handling of foodstuffs shall at all times wear approved clean and sound protective clothing.

(5) In addition to the foregoing requirements, every person vending food shall:

(a) at all times provide an approved refuse receptacle at any place where he or she conducts his or her business and including his storage facilities;

(b) maintain the area immediately surrounding and within a reasonable distance of his or her vehicle, clean and free from litter and ensure that such area is clean when he or she departs there from.

#### **ADDITIONAL REQUIREMENTS: FOOD CATEGORY A**

7. (1) Notwithstanding any other provision contained in these by-laws no person shall vend food as described in subsection 3 (1) (a) Food Category A, other than from an approved vehicle and shall further

comply with the following additional requirements:

- (a) the loading area shall be manufactured from metal or other approved durable material; and
  - (b) all display shelves shall be manufactured of metal or other impermeable material and shall be so installed or arranged as to allow adequate access thereto for cleaning purposes.
- (2) No product shall be displayed elsewhere than in the loading area of the vehicle: Provided that door to door sales from a vehicle may, with approval, be exempted from this requirement.

**ADDITIONAL REQUIREMENTS: FOOD CATEGORY B**

8. (1) Notwithstanding any other provisions contained in these by-laws, no person shall vend food as described in subsection 3 (1) (b) Food Category B, other than from an approved vehicle and shall further comply with the following additional requirements:

(a) Vehicle.

The internal walls, floor and roof of the loading area shall be of approved impervious, washable and durable material.

(b) Containers and Equipment:

- i. all containers shall be manufactured of a dustproof impervious material and shall be of an approved type and construction; and
  - ii. the internal surfaces of each container shall have a smooth and durable finish. All joints shall be properly sealed and smoothly finished.
- (2) Only factory wrapped and packed food in the intact wrapping, or container in which it was enclosed by the manufacturer shall be offered for sale.
- (3) All ice cream, sherbet, frozen sugar confectionary and similar food

stuffs shall, once it has defrosted, be destroyed and shall not be refrozen or offered for sale.

- (4) Each food vendor vending food in category B at all times have an approved business premises which complies with the following:
- (a) section 5 of the Council's Food Handling By-laws and Regulation R723 dated 30 July 2002 promulgated in terms of the Health Act, 1977 (Act 63 of 1977).
  - b) adequate approved refrigeration and freezing facilities shall be provided.
  - (c) Should the Council so require, a separate approved workshop and storage facility for bicycles and spares shall be provided.

#### **ADDITIONAL REQUIREMENTS: FOOD CATEGORY C**

9. (1) notwithstanding any other provision contained in these By-laws, no person shall vend food as described in section 3 (1) (c) Food Category C other than from an approved vehicle or an approved structure.
- (2) Only food in the intact wrapping or container in which it was packed by the manufacturer, shall be supplied, offered for sale or sold to the consumer.
- (3) The vending of pop corn and candy floss shall be subject to the approval of the Council

#### **ADDITIONAL REQUIREMENTS: FOOD CATEGORY D**

10. (1) Notwithstanding any other provisions contained in these by-laws, no person shall vend food as described in section 3(1) (d) Food Category D, other than from an approved vehicle and shall further comply with the following additional requirements:
- (a) the driver's cab shall be separated from the loading area in an approved manner;
  - (b) the internal walls, floors and ceiling of the loading area shall be of an approved impervious, smoothly finished and washable material;

(c) all surfaces with which food, whether wrapped or unwrapped, may come in contact with, shall be of stainless steel or other similar approved durable material.

(d) all seams and joints shall be properly sealed and smoothly finished; and

(e) the interior of the loading area shall be so designed and all

equipment so installed that all surfaces may be easily cleaned.

## **CHAPTER 2**

### **FOOD DISPENSING MACHINES: APPROVAL**

11. No person shall operate a food dispensing machine unless:

- (a) It is approved and dustproof; and
- (b) it is positioned in an approved location.

### **STORAGE AND HANDLING OF FOODSTUFFS**

12. The controller of a food dispensing machine shall ensure that:

(a) all containers provided for the consumption of foodstuffs shall prior to their use be:

iii. stored inside the machine and automatically discharged there from on demand or

iv. stored inside a dust-and vermin proof dispensing container to which only the controller has access.

(b) only clean unused containers are inserted in the food dispensing machine or dispensing container;

(c) an approved refuse receptacle is provided next to each food dispensing machine

(d) no food other than food manufactured or prepared and packed in approved premises is inserted in or sold from a food

dispensing machine;

- (e) all perishable food is maintained inside and dispensed from the food dispensing machine at a temperature not exceeding 10 degrees Celsius or such lower temperature as may be required in the case of food intended to be sold cold and not less than 65 degrees Celsius in the case of food intended to be sold hot;
- (f) each food dispensing machine is fitted with an apparatus which indicates the prevailing temperature and records such temperature inside the compartment containing the foodstuffs;
- (g) each container or package in which food is dispensed from a food dispensing machine:
  - i. is properly sealed by the manufacturer and delivered in such sealed form to the consumer;
  - (ii) the name and address of the manufacturer or supplier as well as details of the contents thereof must be in clear, legible lettering on the container or wrapping;
- (h) the food dispensing machine bears his or her name and address in a conspicuous place exterior, inscribed with durable material in clearly legible letters;
- (i) all food inserted in the food-dispensing machine is inserted in such a manner that it can be delivered or made available therefrom only after the stock already therein has been exhausted; and
- (j) whenever the cooling mechanism of the food-dispensing machine has remained inoperative for a continuous period of four hours or longer all perishable food stored therein, during such period, is removed therefrom, and destroyed.

## **INSPECTION OF FOOD DISPENSING MACHINE**

14 The controller shall at the request of the health officer open the food dispensing machine for inspection and sampling purposes.

The controller of a food dispensing machine of which the use has been prohibited in terms of subsection (1) shall not use such machine until the health officer has been satisfied that the food supplied therefrom will be fit for human consumption and that such machine is in proper working condition.

## **CLEANING**

15. The controller of a food dispensing machine or ice cream machine shall ensure that:

- (a) it is maintained in a clean and vermin free condition;
- (b) it is cleaned only by means of approved methods and equipment;
- (c) no unauthorized person may open, adjust, repair, service, or in any way tamper with it; and
- (d) the ice cream dispensing machine is thoroughly cleaned prior to every filling thereof.

## **SALE OF BEVERAGES IN SEALED CONTAINERS FROM MECHANICAL COOLERS**

16. The controller of a cooler from which beverages in sealed containers are sold, shall ensure that:

- (a) such cooler is of an approved type; and
- (b) an approved refuse receptacle is provided adjacent to each cooling machine.



### **CHAPTER 3**

#### **NON-FOOD VENDORS**

17. Every hawker shall provide approved fixed storage premises, provided with:

- ii. adequate toilet facilities;
- iii. a wash hand basin provided with an adequate and wholesome supply of running water;
- iv. adequate lighting and ventilation; and
- v. an approved refuse removal service.

18. All goods must be stored in an approved manner at a height of at least 250 mm above the floor surface.

19. Every hawker must provide an approved vehicle or movable structure provided with:

- vi. the trade name of the hawker and the physical address of his or her fixed storage premises displayed in clearly legible non-erasable letters of at least 50mm in height in a conspicuous place;
- vii. an approved refuse receptacle is required by the Council.

(20) Goods shall only be hawked from the vehicle or movable structure mentioned in section 18.

(21) No person shall hawk livestock or pets or birds or any other animals, reptiles or insects.

## **CHAPTER 4**

### **GENERAL PROVISION AND PENALTIES**

#### **TIME, PLACE AND RENTAL**

22. The Council determines from time to time periods and places where vending may take place as well as the rental payable for such stalls or space and such rental are determined in terms of the tariff of charges of the Council. Every vendor who has been issued with a token in terms of the Street Trading By-laws shall produce such token on demand by the Health Officer.
23. The availability of stands will be on a first come first served basis and such availability cannot be guaranteed by the Council or any other person.
24. (1) Every hawker shall keep the stand from which he or she is operating, clean and free from litter and shall ensure that such stand is clean whenever he or she vacates it.
- (2) No person shall on or at any stall or stand misbehave himself, damage stalls or goods or interfere therewith, hinder or disturb anyone, wash or clean goods, or cause any nuisance.
- (3) No hawker shall keep or display any article of food on the ground for the purpose of disposing thereof.

#### **INSPECTION**

25. Any duly authorized officer of the Council may for any purpose connected with the carrying out the provisions of these by-laws, at all reasonable times and without prior notice enter any premises, vehicle or structure in or upon which food is handled or in or upon which such officer has reasonable grounds for suspecting that food is handled and make such examination, enquiry, inspection and test in connection therewith and take such samples as he or she deems necessary.

#### **OBSTRUCTION**

26. Any person who fails to give or refuse access to any officer of the Council duly authorized by these by-laws or by the Council to enter

upon and inspect premises, vehicles or structure if he or she requests entrance to such premises or obstructs or hinders such officer in the execution of his or her duties in terms of these by-laws, or who gives to such officer false or misleading information knowing it to be false or misleading, or who unlawfully prevents any other person from entering upon such premises, vehicle or structure, shall be guilty of an offence.

**OFFENCES AND PENALTIES**

27. Any person who contravenes or fails to comply with or who causes, permits or suffers any other person to contravene or to fail to comply with any provision of these by-laws, shall be guilty of an offence and liable on conviction to a penalty as per **scheduled 2** or, in default of payment, to imprisonment for a period not exceeding 3 months, or to both such fine and such imprisonment and in the event of a continuing offence, shall be deemed to be guilty of a separate offence for every 24 hours or part of such period during which the offence continues and shall be liable in respect of such offence to a fine not exceeding R100.

**SHORT TITLE**

28. These By-laws are called the **Food Vending By-laws, 2012.**

**REPEAL**

29. The By – laws listed in schedule 1 are hereby repealed

**SCHEDULE 1**

**REPEALED BY-LAWS**

	<b>NO. AND YEAR</b>	<b>TITLE</b>	<b>EXTENT OF REPEAL</b>
1.	Town Clerk's Notice No. 4/ 1992 dated 24 February 1992	Food Vending By-laws	The whole

**SCHEDULE 2****PENALTIES**

<b>COLUMN A: SECTION CONTRAVENED</b>	<b>COLUMN B: ADMINISTRATIVE PENALTY</b>
Section 3 (2)	R100
Section 4 (1)	R200
Section 4 (2)	R200
Section 4 (3)	R100
Section 4 (4)	R100
Section 4 (5)	R100
Section 4 (6)	R200
Section 4 (7)	R100
Section 5 (1)	R200
Section 5 (2)	R100
Section 5 (3)	R200
Section 5 (4)	R200
Section 6 (1)	R200
Section 6 (2)	R200
Section 6 (3)	R100
Section 6 (4)	R200
Section 6 (5)	R200
Section 7 (1 & 2)	R200
Section 8 (1)	R200
Section 8 (3)	R200
Section 8 (4)	R100
Section 9 (1)	R100
Section 9 (2)	R100
Section 9 (3)	R100
Section 10 (1)	R200
Section 12	R200
Section 13	R200
Section 16	R200
Section 17	R200
Section 18	R200
Section 19	R200
Section 20	R200
Section 21	R200
Section 24	R200
Section 26	R500