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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 24

The Council of Pixley Ka Seme Local Municipality has in terms of section 156 of the constitution, 1996 (Act No. 108 of 1996), read in conjunction with section 11 of the Local Government: Municipal Systems Act 2 000 (Act No. 32 of 2 000) read together with section 7 (1)(a) of the Mpumalanga Business Act, 1996 (Act 2 of 1996) made the following By-Laws which By-Laws shall come into operation on the date of publication of this notice.

**PIXLEY KA SEME LOCAL MUNICIPALITY
STREET TRADING BY-LAWS
INTERPRETATION / DEFINITIONS**

1.(1) In these by-laws, unless the context otherwise indicates –

- (i) "The Act", means the Mpumalanga Business Act, 1996 (Act 2 of 1996).
- (ii) "authorized official" means an official of Council authorized to implement the provisions of these by-laws" – Peace Officers, Traffic Officers and the South African Police Services.
- (iii) "Council" means Pixley Ka Seme Local Municipality.
- (iv) "Demarcated Stand" means a demarcated stand as declared under Section 7 (3) (b) (i) of the Act.
- (v) "garden or park" means a garden or park to which the public has a right of access;
- (vi) "goods" included livestock, poultry or any movable commodity;
- (vii) "Intersection" means an intersection as defined in section 1 of the National Road Traffic Act, 1996, Act 93 of 1996.

- (viii) "litter" includes any container waste material or other matter which has been discarded, abandoned or left behind by a person trading or his customers;
- (ix) "national monument" means a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969)
- (x) "Perishable foodstuffs" as defined by the MEC in terms of the Mpumalanga Business Act, 1996 (Act No. 2 of 1996).
- (xi) "Prohibited area" means any place declared under section 7 (2) (a) of the Act in which street trading is prohibited;
- (xii) "Property" in relation to a person carrying on the business of street trading, means any article, receptacle, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he trades;
- (xiii) "Public building" means a building belonging to or occupied solely by the State of the Council;
- (xiv) "Public place" means a public place as defined in section 2 of the Local Government ordinance 1939 (Ordinance 17 of 1939)
- (xv) "Public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- (xvi) "Restricted area" means any place declared under section 7(2)(a) of the Act in which street trading is restricted;
- (xvii) "Roadway" means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);
- (xviii) "Sell" includes supply and also:
 - (a) exchange or hire;
 - (b) store, process, expose, offer or prepare for sale, and "sale" has a corresponding meaning;
- (xix) "Services" includes any lawful advantage or gain for consideration or reward offered in restricted area;
- (xx) "Sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996;
- (xxi) "Tariff" means the charges as determined by the Council from time to time by resolution;
- (xxii) "Town Planning Scheme" means the Town Planning Scheme of Pixley Ka Seme Local Municipality;
- (xxiii) "Trade" Means sell goods or services in a public road or public place and "trading has a corresponding meaning;
- (xxiv) "Verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996 and any word or expression to which a meaning has been assigned in the Mpumalanga Business Act, 1996 shall have that meaning;

- (2) For the purpose of these By-Laws a single act of selling or offering services in a public place shall constitute trading.

FREEDOM TO TRADE

2. Subject to the provision of sections 3 and 4 and any other relevant law, street trading is freely permitted except in so far as such trading is restricted or prohibited by sections 5 to 12 inclusive and section 14 and 15 of these By-Laws.

GENERAL CONDUCT

3. A person trading shall:
- (a) be in possession of a permit issued by Council;
 - (b) not place his property on the roadway;
 - (c) ensure that his property does not cover an area of the sidewalk which is greater in extent than 1m x 2m and which on any sidewalk does not leave a space less than 2m for pedestrian traffic measured over the width thereof and any other public place not to an extent of twelve meters; and
 - (d) not place or stack his property in such a manner that it constitutes a danger to any person or is likely to injure any person;
 - (e) not obstruct access to a fire hydrant.
 - (f) on concluding business for the day remove his property, except any temporary structure permitted by the Council, to a place which is not part of a public road or public place;
 - (g) not display his goods or other property on a building or private property, without the written consent of the owner, occupier or person in control of such building or property;
 - (h) on request by an employee or agent of the Council or any supplier of telecommunication or electricity or other services, move his property so as to permit the carrying out of any work in relation to a Public Road, public place or any such service;
 - (i) not attach any object by any means to any building, structure, pavement, tree, parking meter, lamp pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
 - (j) not make a fire at a place or in circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in paragraph (i) or any Council property;
 - (k) Not trade nearer than 10m from a Bank or an automated teller machine;
 - (l) Not store his / her property in a manhole or storm water drain;,

CLEANLINESS

4. A person trading shall:-
- (a) keep the area site occupied by him for the purpose of such business in a clean and sanitary condition;
 - (b) keep his property in a clean and sanitary condition;
 - (c) dispose of litter generated by his business in whatever receptacles provided by the Council for the public or at the Council's dumping sites;
 - (d) not dispose of litter in a manhole, stormwater drain or other place not intended for the disposal of litter;
 - (e) ensure that on completion of business for the day, the area or site occupied by him for the purposes of trade is free of litter;
 - (f) in the case of a vendor of foodstuffs take such precautions as may be necessary to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his business and to prevent any smoke, fumes or odours emanating from his activities from becoming a nuisance;
 - (g) on request by an employee or agent of the Council, move his property so as to permit the cleansing of the surface of the area or site where he is trading;
 - (h) ensure food preparation, handling and selling is in accordance with the relevant Acts, Sections and Regulations.

OBSTRUCTION OF PEDESTRIANS

5. No person shall trade at a place where such trading substantially:
- (a) obstructs access to or the use of street furniture such as a bus passenger bench or shelter, a refuse disposal bin or other facility including a queuing line intended for the use of the general public;
 - (b) obstructs the visibility of a display window in business premises, if the person carrying on business in the business premises concerned objects thereto;
 - (c) obstructs access to an entrance to or exit from a premise or an automatic bank teller machine;
 - (d) obstructs access to a pedestrian crossing, if in the middle of a block a clear distance of 5m from the crossing must be obeyed;
 - (e) obstructs access to any vehicle; or
 - (f) in any other manner obstructs pedestrians in their use of a sidewalk.

OBSTRUCTING OF VEHICULAR TRAFFIC

6. No person shall trade at a place where such trading:
- (a) causes an obstruction on a roadway;
 - (b) limits vehicular access to parking or loading bays or other facilities;
 - (c) obscures any road traffic sign or any marking, notice or sign displayed or made in terms of these by-laws; or
 - (d) interferes in any way with any vehicle that may be parked alongside such place;
 - (e) contravenes the provision of Section 116 of the National Road Traffic Act (Act 93/2006).

TRADING RESTRICTED TO SPECIFIED HOURS IN CERTAIN PLACES

7. No person shall trade:-
- (a) on a verge contiguous to any place of worship, national monument or public building; or
 - (b) in a restricted area which is specified by Council resolution outside the hours so specified in relation to each such verge or area.

TRADING RESTRICTED TO SPECIFIED GOODS OR SERVICES IN CERTAIN PLACES

8. No person shall trade:-
- (a) on a verge contiguous to any place of worship, national monument or public building, financial institutions; or
 - (b) in a restricted area which is specified by Council resolution other than in the goods or services so specified in relation to each such verge or area;
 - (c) as a barber or hair dressing salon in a public place, unless the barber or hairdressing stand is:-
 - (i) at least 15 metres from the nearest stand which sells perishable foodstuff, fruit or vegetables;
 - (ii) not contradictory to the Amended National Health Act (Act 61 of 2003) read in conjunction with the previous National health Act, 63 of 1977 and regulations;
 - (iii) supplied with an electrical connection, provided by the Council, according to the electrical by-laws and specifications or any other act;

TRADING RESTRICTED TO DEMARCATED STANDS OR AREAS IN CERTAIN PLACES

9. No person shall trade:-
- (a) on a verge contiguous to any place of worship, national monument or public building; or
 - (b) in a restricted area which is specified by Council resolution outside a stand or area set apart for trading purposes as contemplated in section 7(3) (b) of the Act.

NO TRADING IN STANDS OR AREAS WHICH HAVE BEEN LET EXCEPT BY THE LESSEE

10. If the Council has let or otherwise allocated any stand or area set apart or otherwise established for street trading purposes, as contemplated in section 7(3) (c) of the Act, no person may trade on such stand or in such area if he is not in possession of proof that he has hired such stand or area from the Council or that it has otherwise been allocated to him.

NO TRADING NEAR CERTAIN PUBLIC BUILDINGS, PLACES OF WORSHIP AND NATIONAL MONUMENTS

11. no person shall trade on a verge contiguous to any place of worship, national monument or public building; which is specified by Council resolution.

NO TRADING IN PROHIBITED AREA

12. No person shall trade in any prohibited area. No person shall trade in any area which has not been approved and indicated by the Council.

SIGNS INDICATING RESTRICTIONS AND AREAS

13. The Council shall:
- (a) by resolution, prescribed signs, markings or other devices indicating:
 - (i) specified hours, places, goods or services in respect of which street trading is restricted;
 - (ii) the location or boundaries of a restricted area;

- (iii) the boundaries of a stand or area set apart for the purpose of the carrying on of the business of street trading under section 7 (3) (b) of the Act;
 - (iv) the fact that any such stand or area has been let or otherwise allocated;
 - (v) any restriction or prohibition against trading in terms of these by-laws;
- (b) display any such sign marking or device in such a position and manner as will indicate the restrictions or the location or boundaries of the area of stand concerned.

TRADING NEAR RESIDENTIAL BUILDINGS

14. No person shall, outside an area referred to in sections 7 to 12 inclusive, trade in that half of a public road contiguous to a building used for residential purposes within the demarcated areas of trading as specified in terms of these By-Laws, if the owner, person in control or any occupier of any part of the building facing onto such road has objected hereto, provided that in a township or portion thereof mentioned in a resolution of the Council, this section shall not apply to a building used for residential purposes if such buildings is used for business purposes at ground level.

TRADING NEAR CERTAIN BUSINESS PREMISES

15. No person shall, outside an area referred to in sections 7 to 12 inclusive, trade on a verge contiguous to that part of 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 first mentioned person, other than a department store or supermarket without the consent of the second mentioned person.

REMOVAL AND IMPOUNDMENT

16. (1) An authorized official may after serving a person with a written warning, within reasonable time remove and impound any goods, articles, receptacles, vehicles or structures-
- (a) which he reasonably suspects is being used or is intended to be used or has been used in or in connection with street trading; and
 - (b) which he finds at a place where street trading is restricted or prohibited in terms of Section 5 to 12 inclusive and sections 14 and 15 and which in his opinion constitutes an infringement of any such section.
- (2) (a) The Council shall publish a notice in at least one newspaper circulating in Pixley Ka Seme Local Municipality, containing the following information relating to objects removed in terms of subsection (1);
- (i) a description of the object, the address where the object is stored and, if known, the name of the owner;
 - (ii) that such objects may be claimed by the owners there on production of proof of ownership to the satisfaction of the Council;
 - (iii) that any object which has not been claimed within a period of three months from the date of publication of such notice will be destroyed or sold by public auction and the proceeds of such auction retained by the Council to defray its costs;
 - (iv) impoundment of "perishable foodstuffs" will be handled and disposed of in terms of the Health Act;
 - (v) pound fees will be charged as laid down from time to time by the Council.

- (b) The Council may sell by public auction any object unclaimed from it more than three months after a notice contemplated in subparagraph (a) (iii) has been published in respect of such object, and may retain the proceeds of such auction or may destroy such object.
- (c) The Council shall not be liable for compensation to any person for damages arising out of the damage to or the loss or any object removed in terms of subsection (1) or the sale thereof by public auction, and the owner of such object shall have no claim or right of redress against the Council.
- (d) (i) If any object is attached to any movable property or a fixture contemplated in subsection (1) and such object is under the apparent control of a person present threat any authorized official of the Council may order such person to remove the object and if such person refuses or fails to remove the object, he shall be guilty of an offence.
(ii) When any person fails to comply with an order to remove an object referred to in subparagraph (i) any officer of the Council may take such steps as may be necessary to remove the object.

TARIFFS

17. (1) The Council may impose tariffs or fees for street trading or hawking.
(2) Tariffs or fees may be amended by resolution by the Council.

OFFENCES

18. Any person who contravenes a provision of these by-laws shall be guilty of an offence.

PRESUMPTION

19. (1) In any prosecution for an offence under these by-laws, an allegation in the charge concerned that-
- (a) any goods with which a business was carried on were or were not of a particular kind, class, type of description or as it may be described by Resolution of the Council;
 - (b) any goods or services were sold or offered for sale;
 - (c) any place was situated in a public road or public place or within a particular area;
 - (d) any person carried on the business of street trading and in a manner and place alleged;
- (2) In any criminal proceedings for a contravention of these by-laws, where it is shown that-
- (a) any goods were displayed in a public place, such goods shall be presumed to have been offered for sale;
 - (b) any property used in the provision of any service was available in a public place, such services shall be deemed to have been offered or supplied.

PENALTIES

20. Any person who is guilty of an offence in terms of these by-laws shall on conviction be liable to a fine, not exceeding R2 000-00 (two thousand rand) or to imprisonment for a period not exceeding three months.

L DE JAGER

MUNICIPAL MANAGER

Pixley Ka Seme Local Municipal Offices, Private Bag X9011, **VOLKSRUST**, 2470
Notice No. 09/2009