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PROVINCE OF THE EASTERN CAPE
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PROVINCE OF THE EASTERN CAPE

The MEC for Economic Affairs, Environment and Tourism, acting in terms of section 6A of the Businesses Act, 1991 (Act No. 71 of 1991), and the MEC for Housing and Local Government, acting in terms of section 190 of the Municipal Ordinance, 1974 (Ordinance No. 20 of 1974), have approved of the following by-laws framed by the East London Transitional Local Council:

EAST LONDON INFORMAL STREET TRADING BY-LAW

Interpretation

1. (1) In this by-law, unless the context otherwise indicates—
 - (i) "authorised official" means an official or employee of the Council authorised to implement the provision of these by-laws;
 - (ii) "Council" means the East London City Council;
 - (iii) "Code of Practice" means the specific requirements deemed by Council to be necessary for the safe and hygienic preparation, handling, sale and storage of foodstuffs;

- (iv) "Foodstuffs" means foodstuffs defined in section 1 of the Foodstuffs Cosmetic and Disinfectants Act, 1972 (Act No. 54 of 1972), as amended;
- (v) "garden or park" means a garden or park to which the public has a right of access;
- (vi) "goods" includes a living thing and any transferable interest;
- (vii) "litter" includes any container or other matter which has been discarded, abandoned or left behind by a person trading or his customers;
- (viii) "Mobile Vendor" means any person with or without a vehicle going from place to place for the purpose of preparing, serving displaying, distributing or delivering any goods, including foodstuffs;
- (ix) "national monument" means any place declared or to be declared a national monument under the National Monument Act, 1969 (Act No. 28 of 1969), as amended;
- (x) "prohibited area" means any area declared to be an area in which street trading is prohibited under section 6A (2) of the Act;
- (xi) "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 or she trades;
- (xii) "public building" means a building occupied solely by the State or the Council;
- (xiii) "public place" means a public place as defined in the Municipal Ordinance; 1976 (Ordinance No. 20 of 1976);
- (xiv) "public road" means a public road as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), as amended;
- (xv) "restricted area" means any area declared by the Council to be an area in which street trading is restricted under section 6A (2) of the Act;
- (xvi) "roadway" means a roadway as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), as amended;
- (xvii) "sell" includes supply exchange hire, store, expose offer and prepare for sale and "sale" has a corresponding meaning;
- (xviii) "service" includes any advantage or gain for consideration or reward;
- (xix) "sidewalk" means a sidewalk as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), as amended;
- (xx) "Static Vendor" means any person setting up a stall for the purpose of selling or preparing any goods, including foodstuffs, from a static location;
- (xxi) "the Act" means the Business Act, 1991 (Act No. 71 of 1991), as amended, and any word or expression to which a meaning has been assigned in the Business Act, 1991 (Act No. 71 of 1991), as amended, shall have that meaning;
- (xxii) "trade" means sell goods or services and "trading" has a corresponding meaning;
- (xxiii) "verge" means a verge as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), as amended;

(2) For the purposes of these by-laws a single act of selling shall constitute trading.

General Conduct

2. No person who trades shall—

- (a) place his or her property on a verge or public place except for the purpose of trade;
- (b) allow his or her property to cover an area of a public road or public place which is greater in extent than 2 metres long and one metre wide;
- (c) place or stack his or her in such a manner that it constitutes a danger to any person or is likely to injure any person;
- (d) allow his or her property to exceed 1,5 metres in height;
- (e) obstruct access to a fire hydrant or any water reticulation facilities;
- (f) on concluding business for the day leave his or her property on a public road or in public place;
- (g) damage or deface any public road, public place or public property;
- (h) refuse or fail to remove his or her property upon request by an employee or agent of the Council or any supplier of Telecommunications, electrical or other services where it is necessary to carry out any work on a public road, in a public place or in connection with such services;
- (i) attach any object by any means to any building, structure, pavement, tree, parking meter, lamp pole, electricity pole, telephone booth, post box, traffic sign, road name, sign board, traffic signal, bench or any other street furniture in or on a public road or public place;

- (j) store his or her property in or on any municipal facility or property; including dust bins, bus benches or shelters;
- (k) make a fire at a place or in circumstances where it could harm any person or damage a building, vehicle or equipment or any street furniture referred to in paragraph (j);
- (l) trade in food commodities unless licensed therein in terms of the Businesses Act, 1991 (Act No. 71 of 1991), as amended, and the Health Act, 1977 (Act No. 63 of 1977), as amended;
- (m) fail to display a licence contemplated in paragraph (1) conspicuously at all times; or
- (n) display any item which transmits red, yellow or green light within 10 metres of a traffic light.

Cleanliness of place of business and protection of public health

3. Any person who trades shall—

- (a) remove daily, from any public road or public place, at the end of each trading day or at the conclusion of trading, all goods, foodstuffs, movable structures, litter, packaging material, stock and equipment of whatsoever nature which are utilised in connection with or result from such business;
- (b) carry on his or her business in such a manner as not to endanger or cause a threat to public health or public safety and shall conform with the Council's "Code of Practice" pertaining to the preparation, handling, sale and storage of foodstuffs;
- (c) at the request of an authorised official of the Council move or remove anything so that the place of business may be cleaned;
- (d) keep the area or stand occupied by him or her for the purpose of his or her business and his or her property in a clean, sanitary condition and free of litter at all times;
- (e) take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure;
- (f) be charged a hiring fee and avail him/herself to a refuse collection service as determined by the Director of Community Services or his authorised representative and the applicable tariff be charged as determined by Council.

Obstruction of pedestrians

4. (1) No person shall whilst trading—

- (a) obstruct access to public amenities such as a bus passenger bench, shelter or queuing line, a refuse disposal bin, parking meter or other facility intended for the use of the general public;
- (b) obstruct the view of a display business window;
- (c) obstruct access to an entrance to or exit from a building, pedestrian arcade or mall;
- (d) obstruct access to a pedestrian crossing;
- (e) obstruct access to or egress from any vehicle;
- (f) obstruct pedestrians in their use of a sidewalk.

(2) No continuous trading space may be longer than 4 metres.

(3) There shall be at least 1,5 metres between such continuous trading spaces.

Obstruction of vehicular traffic

5. No person shall trade at a place which—

- (a) is within 5 metres of an intersection;
- (b) causes an obstruction on the roadway;
- (c) limits access to parking or loading bays or other facilities for vehicular traffic;
- (d) obscures any road traffic markings, signals, signs, notice or sign displayed or made in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), as amended;
- (e) interferes in any way with any vehicle that may be parked alongside such place;
- (f) prevents free access to parking meters, or a demarcated parking bay; or
- (g) is in the opinion of the director of Engineering Services or his authorised representative considered to be undesirable.

Restriction of trading in certain places

6. No person shall trade—

- (a) in a prohibited area as determined by the Council in terms of section 6 (A) (1) (a) (iii) (cc) of the Act;
- (b) on a verge contiguous to any place of worship, national monument or public building;
- (c) next to a public road in front of a building used for residential purposes if the owner or person in control or any occupier of any part of the building facing onto such road has objected thereto; and
- (d) in any part of a restricted area declared under section 6A (2) (a) of the Act where such trading is prohibited.

Proof of lease or allocation

7. 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 6A (3) (c) of the Act, no person may trade on such stand or in such area if he or she is not in possession of proof that he or she has hired such stand or area from the Council or that it has otherwise been allocated to him/her.

Declaration of prohibited and restricted areas

8. The Council may by resolution prescribe—

- (a) the location and boundaries of a prohibited area;
- (b) the location and boundaries of a restricted area; and
- (c) the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading under section 6A (3) (b) of the Act.

Removal and impoundment

9. (1) An officer or any authorised employee of the council may remove and impound any goods he or she reasonably suspects are being used or are intended to be used or have been used in connection with the carrying on of any business of street vendor, pedlar or hawker if—

- (a) the carrying on of such business is prohibited in that area or at that place in terms of section 2; or
- (b) the carrying of such business in contravention of a restriction imposed by Council in respect of that area or place,

and the person carrying such business has failed or refused to remove such goods from that place after having been requested to do so by an officer or an authorised employee of the Council or such goods have been abandoned.

(2) Any expenses relative to the impoundment, or removal of any foodstuffs, goods, article, receptacle, foodstuffs, vehicle or structure as contemplated in subsection (1) shall be borne by the trader concerned.

(3) The disposal of any foodstuffs, goods, article, receptacle, vehicles or structure removed or impounded as contemplated in subsection (1), and the liability of any person for the expenses incurred in connection with such removal, impoundment and disposal, shall be in accordance with the regulations issued in terms of section 6 (1) (b) of the Act.

(4) The Council and official concerned shall be indemnified against any loss or damage to any articles impounded or removed.

Penalties

10. Any person who contravenes any provision of this By-law shall be guilty of an offence and liable to a fine or imprisonment for a period not exceeding three months.

Prohibition of trading in restricted areas

11. In any area declared to be a restricted area under section 6A (2) (a) of the Act, no person shall trade in or on the—

- (a) pavement in front of residential buildings;
- (b) pavement in front of ATMs;
- (c) pavement in front of banks;
- (d) area alongside buildings with street level windows;
- (e) pavement in front of shop and office doors;
- (f) verge in front of public buildings;
- (g) verge in front of churches; or
- (h) area within 5 metres of an intersection.

PROVINCE OF THE EASTERN CAPE

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GRAHAMSTOWN TRANSITIONAL LOCAL COUNCIL: BY-LAW FOR THE SUPERVISION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER

Definitions

1. Unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Business Act, 1991 (Act No. 71 of 1991), shall, when used in this by-law, have the meaning thus assigned, and—

“Council” means the Council of the municipality of the City of Grahamstown and includes any committee or employee of the council exercising powers or performing duties or functions delegated to it or him by the Council;