



Midvaal Local Municipality

BY-LAW ON INFORMAL TRADING

JULY 2019



"I am proud to announce that through Sebenza Imbokodo initiative, we managed to award over R50,000 in financial assistance to women in informal trading around Midvaal."

-Executive Mayor, Councillor Bongani Baloyi

Contents

.....	4
CHAPTER 1 INTRODUCTORY PROVISIONS.....	4
1.1 PREAMBLE	4
1.2 DEFINITIONS	4
1.3 APPLICATION OF THIS BY-LAW AND FREEDOM TO ENGAGE IN INFORMAL TRADING	10
CHAPTER 2 TYPES OF INFORMAL TRADING	12
2.1 TYPES OF INFORMAL TRADING	12
2.2 SPECIAL EVENTS	12
CHAPTER 3: TRADING SPACES, DESIGNATED AREAS AND SIGNS.....	13
3.1 TRADING SPACES.....	13
3.2 DESIGNATED AREAS	13
3.3 SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS OR APPROVED DESIGNATED AREAS	14
CHAPTER 4: TRADING PLANS	16
4.1 ADOPTION OF TRADING PLANS.....	16
4.2 PUBLIC PARTICIPATION IN RESPECT OF THE ADOPTION OF A TRADING PLAN	17
4.3 AMENDMENT, REVOCATION AND REVIEW OF TRADING PLANS.....	19
CHAPTER 5: PERMITS	20
5.1 PERMITS.....	20
5.2. TRANSFER OF PERMITS	22
CHAPTER 6: OBLIGATIONS OF OWNERS OF NON-MUNICIPAL PROPERTY	24
6.1 OBLIGATIONS OF OWNERS OF NON-MUNICIPAL PROPERTY	24
CHAPTER 7: GENERAL PROHIBITIONS AND RESTRICTIONS.....	25
7.1 GENERAL PROHIBITION ON INFORMAL TRADING	25
7.2 RESTRICTIONS ON INFORMAL TRADING.....	26
7.3 GENERAL CONDUCT	27
CHAPTER 8: MANAGEMENT OF INFORMAL TRADING	29
8.1 LEASE AND ALLOCATION OF TRADING BAYS.....	29
8.2 MANAGEMENT	29
CHAPTER 9: CLEANLINESS	31
WASTE REMOVAL, CLEANSING, HYGIENE AND SAFETY.....	31
CHAPTER 10 POLICIES AND GUIDELINES	33
10.1. POLICIES	33
10.2 GUIDELINES.....	33
CHAPTER 11 REGULATIONS	34

11.1 REGULATIONS.....	34
CHAPTER 12 AUTHORISED OFFICIALS.....	35
12.1 APPOINTMENT OF AUTHORISED OFFICIALS.....	35
12.2 IDENTIFICATION OF AUTHORISED OFFICIALS.....	35
12.3 ENTRY AND INSPECTION BY AUTHORISED OFFICIALS.....	35
CHAPTER 13: NOTICES TO COMPLY, SERVICE OF NOTICES AND ENFORCEMENT.....	36
13.1 NOTICE TO COMPLY	36
13.2 SERVICE OF NOTICE	36
13.3 ENFORCEMENT	36
13.4 VICARIOUS LIABILITY OF PERSONS TRADING.....	38
CHAPTER 14 GENERAL.....	40
14.1 TRANSITIONAL PROVISIONS	40
14.2 OFFENCES AND PENALTIES	40
14.3 REPEAL OF BY-LAWS	41
14.4 SHORT TITLE	41
14.5. COMMENCEMENT	41
SCHEDULE.....	42

CHAPTER 1 INTRODUCTORY PROVISIONS

1.1 PREAMBLE

Whereas in terms of Section 156 (1) and (2) of the Constitution the Municipality has the **executive authority** in respect of and the right to make and administer By-Laws for the effective administration of the matters which it has the right to administer, including *inter alia* informal trading.

And whereas:

- 1) The Municipality's objects in terms of the Constitution are *inter alia* to promote:
 - a. social and economic development;
 - b. a safe and healthy environment.
- 2) The Municipality recognises the key role that informal trading plays in **poverty alleviation, economic and entrepreneurial development** and, in particular, the positive impact that informal trading has on SMME's and historically disadvantaged individuals and communities;
- 3) The Municipality acknowledges the need to adopt a **developmental approach** to the informal trading sector in order to create an environment that is conducive to the growth of businesses in the informal trading sector and to facilitate the migration of informal trading into the formal trading sector;
- 4) The Municipality further acknowledges the need for a **balanced relationship** between the informal and formal trading sectors in order to promote social and economic development within a well-managed municipal area;
- 5) The purpose of this By-Law is to **consolidate the Policies and By-Laws** passed by its predecessors in law, to create opportunities for the informal trading sector to share in the benefits of, and further contribute to, the Municipality's economic growth, and to govern informal trading within its area of jurisdiction in a manner that recognises and enhances the Municipality's constitutional and other statutory obligations.

Now therefore, be it enacted by the Council of the Midvaal Local Municipality as follows:

1.2 DEFINITIONS

In this By-Law, unless the context otherwise indicates –

- 1) Reference to:
 - a. either gender shall include the other;
 - b. the singular shall include the plural;
 - c. natural persons shall include juristic persons;

- 2) **“Act”** means the Business Act, Act No. 71 of 1991 (as amended from time to time), including all Regulations promulgated thereunder;
- 3) **“approval”** means approval by the Municipality and “approve” has a corresponding meaning;
- 4) **“area of jurisdiction”** means the area under the control of the Municipality according to the legally determined and declared boundaries of the Municipality.
- 5) **“authorised official”** means:
 - a. an employee, agent, representative and/or service provider of the Municipality who are specifically authorised by the Municipality or by any delegated official of the Municipality to administer, implement and enforce the provisions of this By-Law; or
 - b. a member of the South African Police Service contemplated in Section 1 of the Police Services Act; or
 - c. a municipal police officer of the municipal police service, which has been established in terms of Section 64A of the Police Services Act; or
 - d. a peace officer contemplated in Section 334 of the Criminal Procedure Act; or
 - e. a traffic officer appointed in terms of Section 3A of the National Road Traffic Act.
- 6) **“bus stop and linear market”** means, subject to the National Road Traffic Act, a designated facility or area located within the road reserve along the sidewalk, near a bus or taxi stop or at strategic transport nodes and or interchanges;
- 7) **“child”** means a person under the age of 16 (sixteen) years;
- 8) **“Constitution”** means the Constitution of the Republic of South Africa, 1996;
- 9) **“Council”** means the Council of the Municipality as contemplated in Section 18 of the Structures Act; and includes any committee or official carrying on any duty or function, or exercising any power in terms of this By-Law;
- 10) **“Criminal Procedure Act”** means the Criminal Procedure Act, Act No. 51 of 1977 (as amended from time to time) including all Regulations promulgated thereunder;
- 11) **“delegation”** in relation to a duty, includes an instruction to perform the duty, and “delegate” has a corresponding meaning;
- 12) **“designated area”** means an area prescribed by the Municipality in terms of this By-Law, subject to the Act, as the area in which informal trading can be conducted;
- 13) **“fixed trading bays”** mean structures erected by the Municipality for purpose of informal trading;
- 14) **“flood line”** means a line indicating the maximum level likely to be reached by floodwaters on average once in every 100 (one hundred) years;

- 15) **“foodstuff”** means foodstuff as defined in Section 1 of the Foodstuffs, Cosmetics and Disinfectants Act, Act No. 54 of 1972 (as amended from time to time) including all Regulations promulgated thereunder.
- 16) **“formal business”** means a business which is registered with the national business registration authority as a business and with the tax authority in terms of tax;
- 17) **“formalisation”** means the process of becoming a formal business, including additional registration imposed by provincial or local government legislation or membership with legal entities;
- 18) **“garden”** means a garden to which the public has a right of access;
- 19) **“gateway sites”** mean strategically located sites, initially allocated to accommodate gatehouse and access control features at the entrance of neighbourhoods;
- 20) **“goods”** mean any movable property and includes any living being;
- 21) **“historically disadvantaged individuals”** mean South African citizens who are defined as black people in the Employment Equity Act, Act No 55 of 1998 (as amended from time to time) including all Regulations promulgated thereunder, is a woman and/or has a disability;
- 22) **“illegal goods”** mean goods that are:
- a. illegal to sell or buy (including but not limited to counterfeit goods as defined in the Counterfeit Goods Act, Act No. 37 of 1997 (as amended from time to time) including all Regulations promulgated thereunder; or
 - b. bought or sold in a manner which contravenes any law promulgated in the Republic of South Africa;
- 23) **“impoundment costs”** means all costs incurred by the Municipality in impounding and storing property in terms of this By-Law and, where applicable, the costs incurred as a result of the disposal or releasing of the impounded property and any other associated costs;
- 24) **“indigenous individual”** means an individual who resides within the area of jurisdiction of the Municipality;
- 25) **“indigent”** means an individual who qualifies in terms of the Municipality's policies and criteria as having indigent status;
- 26) **“informal trading sector”** means, in relation to employers, own-account workers who are not registered for either income tax or value added tax, and/or persons helping without compensation in their family business; or small scale operations; and in relation to employees, persons working in establishments that employ less than five employees, who do not deduct income tax from their salaries or wages;
- 27) **“informal trader”** means a person, or an enterprise which is not registered or incorporated in terms of the laws of the Republic of South Africa as a legal entity; or small scale business operators, engaging in informal trading, whether as employer or employee;

- 28) **“informal trading”** means the trading in and/or offering of goods and services in the informal sector by an informal trader in the designated area, which includes, without any limitation, the types of trading set out in this By-Law;
- 29) **“integrated transport market sites”** mean modal facilities built for purposes of informal trading located within or in close proximity to transportation;
- 30) **“intersection”** means an intersection as defined in the Regulations promulgated in terms of the National Road Traffic Act;
- 31) **“kerb line”** means, as defined in Section 1 of the National Road Traffic Act, the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;
- 32) **“kiosk”** means a small, self-standing structure, whether manned or unattended self- service booths;
- 33) **“linear market”** means a designated area in an area intended to be used by pedestrians;
- 34) **“litter”** includes any receptacle, container or other matter, that has been discarded, abandoned or left behind by an informal trader or by his or her customers in or near the place where such person trades;
- 35) **“market”** means a demarcated area within a trading area which is designated as such in a trading plan and which is managed in a coordinated manner;
- 36) **“mobile trading”** includes, without limiting, trading from caravans, bakkies, light motor vehicles, bicycles, mobile containers, trolleys and pulleys as permitted by the Municipality in line with applicable legislation and policies;
- 37) **“Municipality”** means the Midvaal Local Municipality established in terms of the Structures Act:
- a. exercising its legislative and executive authority through its municipal council; or
 - b. its successors in title or assigns; or
 - c. the Executive Committee of the Municipality; or
 - d. the Mayoral Committee of the Municipality; or
 - e. any officer employed by the Municipality, acting by virtue of any power vested in the Municipality in connection with this By-Law to him/her by the Municipality in connection with this By-Law; or
 - f. any structure or person exercising a delegated power or carrying out an instruction, where any power in this By-Law has been delegated or sub-delegated, or an instruction given, as contemplated in Section 59 of the Systems Act; or
 - g. a service provider fulfilling a responsibility under this By-Law, assigned to it in terms of Section 81 of the Systems Act or any other law;
- as the case may be.

- 38) **“municipal property”** means property owned, leased by, or under the management control of the Municipality;
- 39) **“municipal service works”** mean the supply of water, electricity, sanitation, general municipal infrastructure and related services;
- 40) **“National Road Traffic Act”** means the National Road Traffic Act, Act No. 93 of 1996 (as amended from time to time) including all Regulations promulgated thereunder;
- 41) **“non-municipal property”** mean property that is situated within the jurisdictional area of the Municipality but which is not owned, leased by, or under the management control of the Municipality;
- 42) **“nuisance”** includes, but is not limited to, an act or omission which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, convenience, peace of quiet of the public or which adversely affects the public at large;
- 43) **“own-account workers”** mean workers who, working on their own account or with one or more partners, hold the type of job defined as a self-employed job, and have not engaged on a continuous basis any employees to work for them during the reference period.
- 44) **“park”** means a park or other open or enclosed space to which the public has a right of access;
- 45) **“pedestrian malls”** are streets lined with storefronts and closed off to most automobile traffic;
- 46) **“periodic markets”** mean sale of legal goods and/or services by individuals and/or groups, in locations designated for informal trading for a period no longer than 5 (five) days;
- 47) **“permit holder”** means an informal trader who has been granted a permit by the Municipality to conduct informal trading in a trading area;
- 48) **“Police Services Act”** means the South African Police Services Act, Act No 68 of 1995 (as amended from time to time) inclusive of all Regulations promulgated thereunder;
- 49) **“prescribed”** means as determined by resolution of the Municipality from time to time;
- 50) **“prohibited area”** means a place declared in in terms of Section 6A(2) of the Act to be an area of which street trading is prohibited;
- 51) **“property of informal trader”** means any article, receptacle, goods container, motor vehicle or structure used or intended to be used in connection with informal trading and includes the goods of such a business;
- 52) **“property”** means any piece of land registered as a separate entity of land in a deeds registry as an erf, lot, plot, farm, stand or agricultural holding and includes any unit and land contemplated in the Sectional Title Act, Act 95 of 1986 (as amended from time to time, including Regulations promulgated thereunder) and any public place depicted on the

general plan of a township or any piece of land used as if registered as a separate entity of land in a deeds registry as an erf, lot, plot, farm, stand or agricultural holding and includes any unit and land contemplated in the Sectional Title Act, Act 95 of 1986 (as amended from time to time, including Regulations promulgated thereunder) or used for a similar purpose, and includes any public road, park, private road or any piece of land of whatever nature.

53) **“public place”** includes,:

- a. a public road, parking area, square, park, recreation ground, sports ground, service lane, open space, shopping centre on municipal land, unused or vacant municipal land or cemetery or any other place which has
 - i. been provided, reserved or set apart for use by the public; or
 - ii. been dedicated to the public; or
 - iii. is shown on a general plan of a township filed in the deeds registry or a Surveyor General's office and has been provided for the use of the public or the owner of erven in such township;whether by payment of admission fee or not and irrespective of whether the property is privately owned or not;
- b. public transportation and transport facilities operated by service providers for the Municipality,
- c. but does not include public land that has been leased by the Municipality.

54) **“public road”** means a public road and roadway as defined in Section 1 of the National Road Traffic Act;

55) **“rental”** means an amount payable by the informal trader for the allocated trading space in terms of the approved tariffs by the Municipality;

56) **“restricted area”** means any trading area where informal trading will be subject to specific conditions and restrictions as the Municipality may deem fit;

57) **“roadway”** means a roadway as defined in Section 1 of the National Road Traffic Act;

58) **“roving traders”** mean traders who move around selling their goods or offering their services;

59) **“seasonal traders”** mean traders who respond to seasonal or once-off or short term trading opportunities;

60) **“sell”** includes:

- a. barter, exchange or hire out or offering to barter, exchange or hire out;
- b. display, expose, offer or prepare for sale;
- c. store with a view to sell;
- d. provide or offer to provide a service for reward;

e. and “sale” and “selling” has a corresponding meaning.

- 61) **“services”** includes any actions taken or proposed to be taken by an informal trader, for consideration or reward;
- 62) **“sidewalk”** means a sidewalk as defined in Section 1 of the National Road Traffic Act and any area adjacent to such sidewalk, including the area between the outer wall of a building facing a public road, and a public road to which the public has a right of access;
- 63) **“shoulder”** means a shoulder as defined in Section 1 of the National Road Traffic Act;
- 64) **“special events”** mean special events that occur from time to time including, without limitation, sports events, agricultural events, night markets, social, cultural or political gatherings, music festivals, promotional, filming activities and religious events;
- 65) **“special small business site”** means a site identified by the Municipality along the public transport corridors in the residential areas of the Municipality, providing for direct pedestrian access through the site, subject to the provisions contained in the prevalent land use scheme and/or amendment thereof;
- 66) **“street furniture”** mean any furniture installed by the Municipality on the street for public use;
- 67) **“street trading”** constitutes a single act of selling or offering for sale or rendering of services in a public road or roadway;
- 68) **“Structures Act”** means the Local Government: Municipal Structures Act, Act No 117 of 1998 (as amended from time to time) including all Regulations promulgated thereunder;
- 69) **“Systems Act”** means the Local Government: Municipal Systems Act, Act no 32 of 2000 (as amended from time to time) including all Regulations promulgated thereunder;
- 70) **“trade”** means to sell goods or services and “trading” has a corresponding meaning;
- 71) **“trading area”** means an area in respect of which a trading plan has been adopted in terms of this By-Law and which is governed by a trading plan;
- 72) **“trading plan”** means a plan adopted by the Municipality to govern informal trading within a trading area;
- 73) **“transport interchanges”** mean places where passengers and goods are exchanged between vehicles or between transport modes, such as train stations, taxi ranks, rapid transit stations, bus stops, airports and similar places;
- 74) **“verge”** means a verge as defined in Section 1 of the National Road Traffic Act.

1.3 APPLICATION OF THIS BY-LAW AND FREEDOM TO ENGAGE IN INFORMAL TRADING

- (1) This By-Law apply to informal trading in the area of jurisdiction of the Municipality.

- (2) Any member of the community of the Municipality is permitted to engage in informal trading in any area within the jurisdiction of the Municipality, subject to compliance with the provisions of this By-Law, trading plans adopted thereunder, the Act and any other applicable law.

CHAPTER 2 TYPES OF INFORMAL TRADING

2.1 TYPES OF INFORMAL TRADING

Informal trading includes, without limitation, the following:

- | | |
|--|--|
| 1. Street Trading  | 8. Trading in public places  |
| 2. Seasonal Trading  | 9. Mobile Trading  |
| 3. Trading in livestock  | 10. Roving Trading  |
| 4. Trading on non-municipal property in front of shops or other buildings | 11. Trading at special events  |
| 5. Trading in pedestrian malls  | 12. Trading from fixed trading bays  |
| 6. Trading at markets  | 13. Mobile and Removable kiosks  |
| 7. Trading at transport modal interchanges  | |

2.2 SPECIAL EVENTS

The Municipality may permit or prohibit informal trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading area.

CHAPTER 3: TRADING SPACES, DESIGNATED AREAS AND SIGNS

3.1 TRADING SPACES

In terms of this By-Law, trading spaces include, without limitation, the following:

1. Bus stop and linear market;
2. Special small business sites;
3. Gateway sites;
4. Integrated transport market sites;
5. Municipal markets;
6. Weekend markets;
7. Special events;
8. Trading in front of shops or other buildings;
9. Trading within road reserves;
10. Modal transfer areas or facilities.

3.2 DESIGNATED AREAS

- (1) The Municipality may, by resolution in terms of Section 6A(3)(b) of the Act, set apart and **demarcate sites** or areas for the purposes of informal trading on any public road, the ownership or management whereof is vested in the Municipality, or on any other property in the occupation of under the control of the Municipality.

- (2) Any such sites or areas demarcated for informal trading may be **extended, reduced or disestablished** by resolutions by the Municipality.
- (3) The Municipality may, by resolution in terms of Section 6A(3)(a) of the Act, lease any verge or any portion thereof to the owner or occupier of the contiguous land on condition that such owner or occupier shall admit a specified number of informal traders in sites or places on such verge designated by such owner or occupier.

3.3 SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS OR APPROVED DESIGNATED AREAS

- (1) The Council may, by resolution in terms of Section 6A(2) of the Act, declare any place in its area of jurisdiction to be an area in which informal trading is **restricted or prohibited**, and may, to enable compliance therewith, prescribe or make signs, markings or other devices indicating:
 - (a) specified places, goods or services in respect of which informal trading is **restricted or prohibited**;
 - (b) the location of **boundaries** in respect of restricted or prohibited areas;
 - (c) the boundaries of a site or area set apart for the purposes of the carrying on of the business of informal trading;
 - (d) the fact that any such site or area has been let or otherwise allocated; and
 - (e) any restrictive or prohibition against informal trading in terms of this By-Law.
- (2) The Council may, by resolution, declare any place in its area of jurisdiction to be an area in which informal trading is permitted in terms of an approved trading plan, and may, to enable compliance therewith, **prescribe or make signs, markings or other devices** indicating such place to be an area in which informal trading is permitted
- (3) The resolution of the Council shall be subject to the provisions of Section 6A(2)(b) to (j), which require, *inter alia*, that the Council first considers the effect its resolution will have on the existing informal traders in the designated area in question.
- (4) The Municipality may display any such **sign, marking or device** in such a position and manner as will indicate: any restriction or prohibition and the location or boundaries of the area or site concerned; or
 - (a) the location or boundaries of the area or site concerned where informal trading is permitted.
- (5) Any sign erected in terms of this By-Law or any other law, shall serve as sufficient notice to an informal trader of the prohibition or restriction in respect of the area

concerned.

- (6) Any sign may be amended from time to time and displayed by the Municipality for the purpose of this By-Law and shall have the same effect as a road sign in terms of the National Road Traffic Act.

9.

Municipal by-laws governing informal trade should distinguish between more and less serious contraventions of the by-law, and should provide for a variety of measures to encourage informal traders to comply with the by-laws*

[Image Source: SALGA Towards Recommendations on the REGULATION OF INFORMAL TRADE AT LOCAL GOVERNMENT LEVEL:

<http://www.salga.org.za/Documents/Knowledge%20Hub/Publications/Research%20Projects%20and%20Results/SERIS%20SALGA%20Recommendations%20on%20the%20Regulation%20of%20Informal%20Trade.pdf>]

CHAPTER 4: TRADING PLANS

4.1 ADOPTION OF TRADING PLANS

- (1) The Municipality must, where appropriate, **adopt trading plans** subject to the provisions of this By-Law, in areas where there is a significant overlap between formal and informal trading.
- (2) A trading plan may **allow and regulate informal trading** on non-municipal property, subject to the rights of the owners and occupiers of such property.
- (3) A trading plan must set the **geographical boundary** for the trading area and allocate bays and markets, as contemplated in the Act, where informal trading is permissible. Any informal trading outside of these bays and markets is prohibited.
- (4) A trading plan may include any matter governing informal trading in the particular trading area, including, without limitation, the following:
 - (a) prescribing specific trading conditions and criteria, including **terms and conditions** which the Municipality shall impose when issuing permits;
 - (b) setting out **development priorities** in terms whereof social and economic development will be promoted through the trading plan, including trader and employee development;
 - (c) providing for the manner in which sensitive **heritage and environmental areas** within the proposed trading area will be protected;
 - (d) the provision for markets and high demand zones within the trading area;
 - (e) stipulation of **legal arrangements** between the Municipality and any third party in respect of the responsibilities for managing trade in the area by the third party, including but not limited to the following:
 - (i) the management of the operations of the market;
 - (ii) the management of informal traders operating within the market;
 - (iii) ensuring that all relevant persons participate in appropriate decision making;
 - (iv) providing guidance to the informal traders operating within the market with business support and development services; and
 - (v) any service which is in addition to the services provided by the Municipality.
 - (f) providing guidelines for the regularity in which the stakeholders will meet to discuss matters pertaining to the trading area.

- (5) Any person shall be entitled to request the Municipality to consider the **adoption** of a trading plan; provided that where a proposed trading plan contemplates trading taking place on non-municipal property, the request is accompanied by the **written consent of the owner of such non-municipal property**. The Municipality must consider and decide upon the request within a reasonable period.
- (6) When considering a request for the adoption of a trading plan, the Municipality shall take into consideration all or any existing and proposed trading plans in the vicinity of the proposed trading area in order to determine the desirability of the adoption or not of the trading plan.
- (7) The Municipality may erect signs in designated areas for trading as provided for in approved Trading Plans.
- (8) A trading plan must include:
 - (a) Access to clean and safe drinking water;
 - (b) Access to ablution facilities;
 - (c) Access to proper waste disposal facilities.

4.2 PUBLIC PARTICIPATION IN RESPECT OF THE ADOPTION OF A TRADING PLAN

- (1) Before adopting or amending a trading plan the Municipality shall:
 - (a) Consult with the respective **Ward Councilor** and **Ward Committees**, as well as **all interested and affected parties** including the informal and formal sectors;
 - (b) Compile a draft trading plan in line with the consultations held with the respective Ward Councilor and Ward Committees, as well as all interested and affected parties;
- (2) The draft trading plan adopted and/or amended in terms of this By-Law shall be subject to a public participation process as follows:
 - (a) By giving notice to the public in a local newspaper;
 - (b) By placing a notice on the notice boards of the Municipality at libraries and the head and satellite offices;
 - (c) By placing a notice on the website of the Municipality;
 - (d) By forwarding the proposed new trading plan or amendment to the Ward Councilor, who will call a meeting of his or her Ward Committee, including the informal sector, to discuss the proposed new trading plan or amendment.
- (3) The notice referred to in Subsection (2)(a) to (2)(c) must:
 - (a) Contain the key aspects of the draft trading plan and which notifies the public that the draft trading plan is available for inspection at a specified

- location; and
- (b) Invite comments and objections from the public in relation to such draft trading plan, to be received by the Municipality within 30 (thirty) days from the date of publication of the notice; and
 - (c) Invite interest parties to a public meeting.
- (4) When the Municipality publishes a notice in terms of Subsections (2)(a) to (2)(c) it may, where applicable, convey the contents of the notice by radio that broadcasts in the area concerned.
- (5) The **public meeting** referred to in Subsection (3)(c) must be held:
- (a) Within the vicinity of the proposed trading area, as far as it is possible to do so; and
 - (b) After 7 (seven) days but not later than 60 (sixty) days from the dates of the publication referred to in Subsection (2).
- (6) During the public meeting referred to in Subsection (3)(c), the Municipality must:
- (a) Be represented by a person duly authorised by the Municipality who must make a presentation to the public present at the meeting in which the draft trading plan is explained;
 - (b) Reasonably respond to any queries related to the draft trading plan which may be posed by the public during the meeting;
 - (c) Give interested and affected parties an opportunity to make comments and objections, which may be recorded.
- (7) The Municipality must consider all **objections** and or **comments** that the Municipality may receive pursuant to the process outlined in Subsections (1) to (6).
- (8) After having considered the comments and/or objections, the Council must, within a reasonable period from the commencement of the public participation process in respect of the relevant draft trading plan and at a meeting of the Council:
- (a) Adopt the draft trading plan; or
 - (b) Amend and adopt the amended draft trading plan; or
 - (c) Reject the draft trading plan.
- (9) The Council may not delegate the decision-making powers referred to in this Section.
- (10) In the event that the Council adopts a draft trading plan as set out in Subsection (8)(a) or Subsection (8)(b), a notice must be displayed on the website of the Municipality and may be published in at least 1 (one) local newspaper that is circulated in the area in which the proposed trading area is situated, for 2 (two) consecutive weeks, unless a community newspaper that is free to the public is

circulated in such area in which event the notice must be published in such community newspaper, which informs the public:

- (a) That the draft trading plan has been adopted as a trading plan;
- (b) Of the key aspects of the trading plan including the date upon which it shall become effective; and
- (c) That the trading plan is available for inspection at a specified location.

4.3 AMENDMENT, REVOCATION AND REVIEW OF TRADING PLANS

- (1) The Council may amend or revoke an adopted trading plan provided that:
 - (a) If the amendment deviates materially from the trading plan, the Council must comply with Section 10 with the necessary changes required by the context, provided further that where persons are adversely affected by a proposed amendment that does not require compliance with Section 10, such persons will be afforded their just administrative rights; or;
 - (b) In the case of a revocation the Council shall afford all affected persons their administrative justice rights.
- (2) The Council must review trading plans from time to time as the Council may deem fit.



Executive Mayor of Midvaal Local Municipality, Cllr Bongani Baloyi, addresses informal traders about the "Sebenza Imbokodo" initiative, which provides financial assistance to female traders within the municipality

CHAPTER 5: PERMITS

5.1 PERMITS

- (1) No person may conduct informal trading on Municipal property in a trading area without a valid permit from the Municipality;
- (2) The Municipality is entitled to charge a permit holder:
 - (a) A **trading fee**;
 - (b) An **application fee**;
 - (c) An **additional fee or tariff**, which is to be determined by the Municipality in its sole discretion, in respect of additional costs incurred or services provided by the Municipality, including but not limited to circumstances where the permit-holder trades within a market;
- (3) In the event that a person qualifies for a permit, but has motivated in writing the inability to pay the fee contemplated in Subsection (2) and has provided sufficient proof thereof to the reasonable satisfaction of the Municipality, the Municipality may determine a payment system in terms of which the person may pay the fee over a stipulated period by way of **instalments**;
- (4) In order to qualify for a permit, the applicant:
 - (a) Must be an informal trader, or desire to become an informal trader;
 - (b) May not already hold a permit in respect of the trading area in respect of which the permit is being applied;
 - (c) May not be a child;
 - (d) Must be a South African citizen or a person who qualifies and is in possession of the required permit in terms of the Immigration Act, Act No 13 of 2002 (as amended from time to time, including all Regulations promulgated thereunder); and
 - (e) Must not employ or actively utilise the services of more than 5 (five) persons in total, irrespective of whether the persons are employed on the same premises or at different locations.
- (5) The Municipality must take into account the following factors when considering an application for a permit:
 - (a) The applicant's ability to meet the trading hours for the relevant trading area as the Municipality may determine;

- (b) The need to give preference to applicants that are historically disadvantaged individuals;
 - (c) The need to give preference to applicants that are **indigenous** individuals;
 - (d) The need to give preference to applicants that are **indigent** individuals;
 - (e) The **nature of the trading goods** which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading area or in its immediate vicinity;
 - (f) Where trading plans are adopted in areas previously not subject to such plans, the need to give preference to applicants who have an established informal trading operation in the location for the new trading area is adopted.
- (6) Notwithstanding the provisions of the preceding Subsections, the Municipality may give preference to an applicant:
- (a) Who resides in or close to the trading area for which the permit is applied; or
 - (b) Who is a new entrant as an informal trader on the database of the Municipality.
- (7) The Municipality may only allocate **1 (one) trading bay per applicant**.
- (8) The Municipality is entitled to impose such **terms and conditions** in respect of permits as it deems fit, subject to the provisions of the applicable trading plan, including but not limited to the right to:
- (a) specify the:
 - (i) trading hours during which the permit-holder may trade;
 - (ii) nature of goods or services the permit-holder is permitted to trade; and
 - (iii) permit-holder's trading bay number.
 - (b) allocate the informal trader an alternative bay in the same trading area;
 - (c) specify the type of structure(s), if any, which may be erected on a trading bay and/or in a trading area;
 - (d) impound trading goods in terms of Section 29 or in the event of the contravention of any provision of this By-Law or any other law
 - (e) suspend a permit for a special event on reasonable prior notice with no compensation payable to the informal trader, notwithstanding that informal trading may be permitted by the Municipality at the special event.
 - (f) provided that 2 (two) written warnings have been issued to the informal trader and after affording the relevant informal trader an opportunity to make written representations, revoke or suspend a permit in the event of an informal trader:

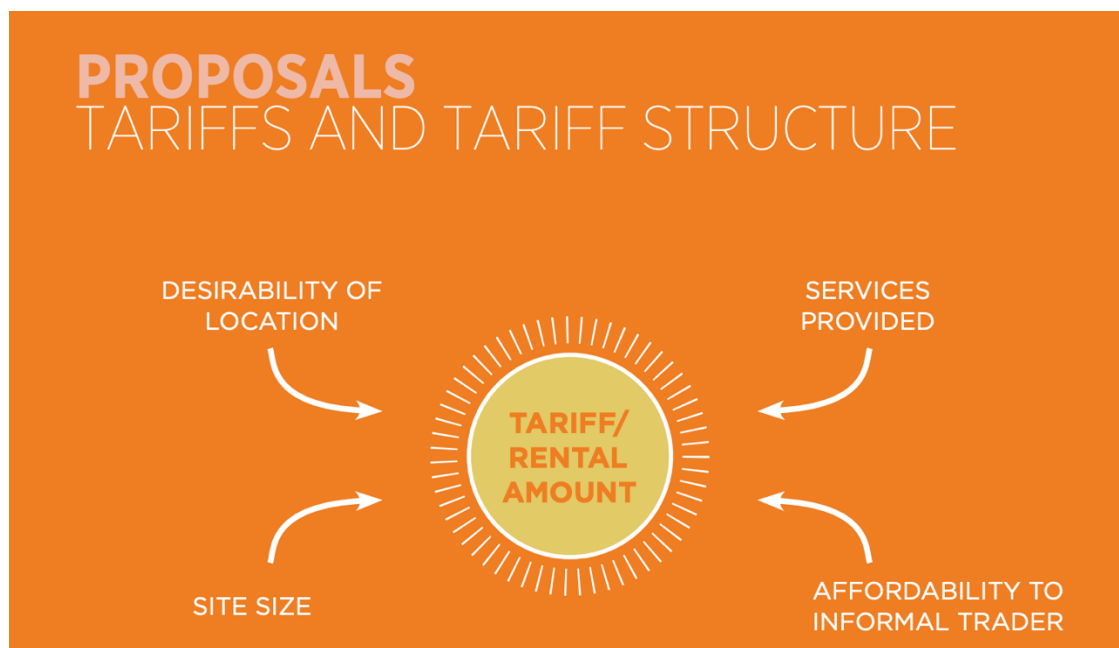
- (i) Breaching any provisions of the permit and/or the By-Law or any other law;
 - (ii) Being convicted of trading in illegal goods or providing a service unlawfully; or
 - (iii) Willfully supplying incorrect information when required to provide the Municipality with information.
- (9) Notwithstanding the contents of the relevant trading plan, the Municipality has the right to, upon reasonable prior notice to the informal trader and with no compensation payable by the Municipality to the permit-holder, temporarily:
 - (a) Relocate a permit-holder to an available trading area as provided for in an approved Trading Plan;
 - (b) Suspend the validity of a permit; or
 - (c) Prohibit a permit-holder from trading at the relevant trading bay;

should it be necessary to do so because of the performance of activities which renders the continuation of trading from the relevant trading bay impractical or severely inconvenient.
- (10) Activities referred to in Subsection (9) shall include, but without limitation, maintenance or construction of infrastructure or buildings performed by the Municipality, property developments, alterations or refurbishments by any entity or activities by public entities conducted in terms of their powers and functions.

5.2. TRANSFER OF PERMITS

- (1) A permit may be permanently transferred, with the written approval of the Municipality, upon written application supported by an affidavit, to a dependent, or an assistant acting on behalf of the dependent, who will continue trading until the permit is no longer valid, in the event of:
 - (a) The death of the permit-holder; and
 - (b) If the loss of income generated by the informal trading would place the dependent under undue or severe economic hardship.
- (2) A permit may be temporarily transferred, with the written approval of the Municipality, to a dependent or, where there is not dependent, to an individual nominated by the permit-holder, where the permit-holder is incapable based on personal reasons such as illness, pregnancy, family responsibility, religious or cultural matter, for a period no longer than 6 (six) months, provided that:
 - (a) A written affidavit is provided to the Municipality stating the nature and

- period for which the permit-holder requires the permit transfer;
- (b) The dependent or assistant is only permitted to replace the permit-holder for the period stipulated in the affidavit.
- (3) Subject to Subsection (2), a permit-holder may not transfer a permit to any other person in any manner, including but not limited to, by way of lease or sale.
- (4) A permit must immediately be returned to the Municipality should the Municipality revoke such permit in the event of the permit-holder:
- (a) Being refused permission to transfer the permit and the permit-holder failing to resume trading; and
 - (b) No longer wishing to trade as an informal trader from the relevant trading bay.



[Image Source: SALGA Towards Recommendations on the REGULATION OF INFORMAL TRADE AT LOCAL GOVERNMENT LEVEL:

<http://www.salga.org.za/Documents/Knowledge%20Hub/Publications/Research%20Projects%20and%20Results/SERI-SALGA%20Recommendations%20on%20the%20Regulation%20of%20Informal%20Trade.pdf>]

CHAPTER 6: OBLIGATIONS OF OWNERS OF NON-MUNICIPAL PROPERTY

6.1 OBLIGATIONS OF OWNERS OF NON-MUNICIPAL PROPERTY

An owner of non-municipal property which has been demarcated in a trading plan as land where informal trading is permitted, must:

- (1) Ensure that all informal trading that takes place on the owner's property **complies with the applicable trading plan, this By-Law and all other applicable legislation and policies**;
- (2) Permit **authorised officials access** to the owner's property to enforce the provisions of this By-Law;
- (3) Ensure, at the owner's cost, that sufficient services are provided to maintain acceptable **hygienic conditions** in respect of the informal trading;
- (4) Ensure that trading from formal business premises do not encroach upon the property of another property owner.

CHAPTER 7: GENERAL PROHIBITIONS AND RESTRICTIONS

7.1 GENERAL PROHIBITION ON INFORMAL TRADING

Informal trading may not be conducted:

- (1) By a child;
- (2) In a garden or park under the control of the Municipality and to which the public has the right of access, unless such area has been declared by the Municipality as a trading area;
- (3) On a verge or sidewalk next to:
 - (a) a building belonging to or occupied solely by the State or the Municipality, unless the Municipality has given its prior written consent after it has:
 - (i) duly considered any relevant trading plan; and
 - (ii) consulted with the relevant property owner and, where relevant, the tenant of such property;
 - (b) a place of worship such as a church, synagogue or mosque unless a trading plan permits informal trading at that area; or
 - (c) a national monument as determined in accordance with the provision of the National Heritage Resources Act, Act No. 25 of 1999 (as amended from time to time) including all regulations promulgated thereunder, unless such area has been declared by the Municipality as a trading area.
- (4) At a place where it:
 - (a) obstructs access to fire-fighting equipment;
 - (b) obstructs any entry to or exit from a building;
 - (c) substantially obstructs pedestrians in their use of a sidewalk;
 - (d) obstruct vehicular traffic;
 - (e) creates a traffic hazard;
 - (f) obstructs access to street furniture, bus passenger benches and shelters, queuing lines, refuse disposal bins or other facilities intended for the use by the general public;
 - (g) obstructs the visibility of a display in a window of business premises, and if the person carrying on business in that business objects thereto;
 - (h) obstructs access to a pedestrian crossing;
 - (i) obstructs access to a vehicle;
 - (j) obscures any road traffic sign;
 - (k) obstructs access to an automatic teller machine and/or a financial institution;

- (l) limits access to parking or loading bays or other facilities for vehicular traffic;
 - (m) obstructs access to a pedestrian arcade or mall;
 - (n) obstructs the view of CCTV cameras; or
 - (o) falls below the flood line, unless a trading plan expressly provides for informal trading in that area;
 - (p) is not designated for trading.
- (5) On the portion of a public road which is next to a building that is being used for residential purposes, if the owner or occupier of that building objects to the informal trading taking place at that location and such objection is made known to the informal trader by an authorised official.
 - (6) On that portion of a public road contiguous to a shop or that part of a building in which business is being carried on by a person who sells goods of the same nature as, or of a similar nature to, goods being sold by the informal trader, if that person objects to it and an authorised official has informed the informal trader of such objection.
 - (7) On a site or in any area demarcated by the Council in terms of Section 6A(3)(b) of the Act if he/she is not in possession of written proof that he/she has rented such site or area from the Municipality or that such site has been allocated to him/her; nor shall he/she trade in contravention of the terms and conditions of such lease or allocation;
 - (8) In an area declared by the Council as a prohibited or restricted area in terms of Section 6A(2) of the Act.
 - (9) Within 10 (ten) meters of any intersection, or any other area in the vicinity of an intersection that is unsafe to trade from.

7.2 RESTRICTIONS ON INFORMAL TRADING

- (1) No informal trader shall:
 - (a) Obstruct access to any service of the Municipality or municipal service works;
 - (b) Trade on a sidewalk where the width of such sidewalk is less than 3 (three) meters;
 - (c) Unless prior written approval is granted by the Municipality:
 - (i) Stay overnight at the place where informal trading is conducted or leave the place where informal trading is conducted, later than 18:00; or
 - (ii) Erect any structure, other than as stipulated in the relevant trading area plan and/or permit conditions, for the purpose of providing shelter;

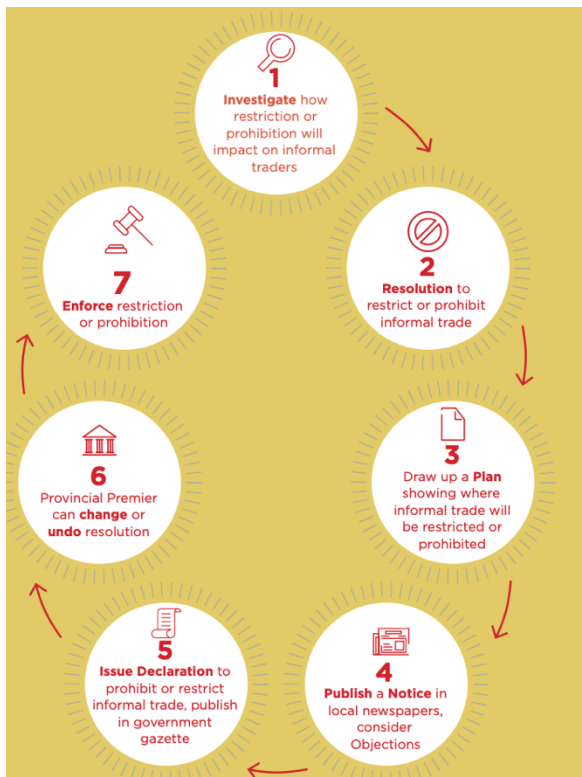
- (d) Carry on business as an informal trader in a manner which:
 - (i) Creates a nuisance;
 - (ii) Damages or defaces the surface of any public road or public place or any other property belonging to the Municipality, or non-municipal property; or
 - (iii) Creates a traffic and/or health hazard, or both.
- (e) Attach an object to any building, structure, pavement, footway, tree, lamp pole, electricity pole, telephone booth, postbox or traffic sign, bench or any other street furniture or device in or on a public road or public place that is generally intended for public use;
- (f) Make a fire at any place or in any circumstances;
- (g) Sell or promote alcoholic products;
- (h) Use bells, hooters, amplified equipment or similar devices, which emit sound, in order to attract customers; or
- (i) Use any electrical supply or power generator, unless expressly approved and provided for in the permit. No person shall deliver or provide goods or equipment to an informal trader if that trader trades in contravention of this By-Law;

7.3 GENERAL CONDUCT

An informal trader shall:

- (1) not place the property of the informal trader or goods on a verge or public place with the exception of his or her motor vehicle or trailer from which informal trading is conducted: provided that such motor vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and complies with the provisions of the National Road Traffic Act;
- (2) ensure that the property of the informal trader or goods do not cover an area of a public road or public place in excess of the area as approved by the Municipality in terms of the trading plans;
- (3) not place or stack the property of the informal trader and goods in such a manner that it constitutes a nuisance or danger to any person, or property, or is likely to injure any person or cause damage to property;
- (4) on concluding his/her business activities for the day, remove all the property of the informal trader, except any structures allowed by the Municipality, to a place which is not part of a public place or public road;

- (5) not store any of the property of the informal trader in a manhole, storm water drain or a public toilet, bus or taxi shelter or tree or any in similar place;
- (6) not display the property of the informal trader on or in a building or property, without the consent of the Municipality, owner, lawful occupier or person in control of such building or property;
- (7) not obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicles or pedestrians;
- (8) in respect of any sidewalk, leave an unobstructed space for pedestrian traffic, being not less than 1,5 (one comma five) meters wide when measuring from any contiguous building to the area of activity or the property of the informal trader, and not less than 1 (one) meter wide when measured from the kerb line to the area of activity or the property of the informal trader;
- (9) not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
- (10) not carry on business, or take up a position, or place the property of the informal trader on a portion of a sidewalk or public place, in contravention of a sign or notice erected or displayed by the Municipality for the purpose of this By-Law on in terms of the National Road Traffic Act;
- (11) not obstruct any road traffic sign displayed in terms of the National Road Traffic Act, or any marking, notice of sign displayed or made in terms of this By-Law.



[Image Source: SALGA Towards Recommendations on the REGULATION OF INFORMAL TRADE AT LOCAL GOVERNMENT LEVEL:

<http://www.salga.org.za/Documents/Knowledge%20Hub/Publications/Research%20Projects%20and%20Results/SERISALGA%20Recommendations%20on%20the%20Regulation%20of%20Informal%20Trade.pdf>]

CHAPTER 8: MANAGEMENT OF INFORMAL TRADING

8.1 LEASE AND ALLOCATION OF TRADING BAYS

- (1) Any person who intends to carry on a business as informal trader in terms of the provisions of this By-Law shall apply to the Municipality in the prescribed manner for a lease or allocation of a site in terms of Section 6A(3)(c) of the Act.
- (2) The Municipality may grant, subject to conditions, or refuse, an application referred to in Subsection (1).
- (3) If such application is successful:
 - (a) The informal trader must enter into a **lease agreement** for a maximum period of a year with the Municipality in respect of such site, which lease agreement must be produced at the request of an authorised official;
 - (b) In respect of the allocation on a public place, as well as the lease of a trading bay, a **permit** shall be issued to an informal trader as proof of an informal trader's rights to occupy the site or public place for the purpose of conducting informal trading;
 - (c) An informal trader must, at all times while carrying on business on the site or public place, retain such permit on his/her person ready for display to an authorised official, if requested; and
 - (d) The Municipality may, on the written request of an informal trader, issue a permit to a
 - (e) *bona fide* employee of the informal trader
- (4) Any person who carries on informal trading on a site or public place and who:
 - (a) is unable to produce a valid lease or permit as required by this By-Law; or
 - (b) fails to comply with the terms and conditions of the lease agreement or permit,shall immediately upon instruction of the authorised official, **close the site and remove the property of the informal trader** therefrom. An authorised official may remove the property of the informal trader, if such trader refuses to do so himself or herself.

8.2 MANAGEMENT

The Municipality shall adopt trading plans, guidelines or policies as contemplated in

Section 9, 10, 11, 21 and 22 hereof in terms whereof inter alia the management and signage of the informal trading within its area of jurisdiction shall be arranged.



CHAPTER 9: CLEANLINESS

WASTE REMOVAL, CLEANSING, HYGIENE AND SAFETY

- (1) An informal trader must-
 - (a) maintain the informal trader's allocated informal trading site in a clean and **sanitary** condition;
 - (b) keep the property of the informal trader in a clean, sanitary and well maintained condition;
 - (c) dispose of litter or refuse generated by his or her business in whatever refuse receptacle is provided by the Municipality for the public or at a waste disposal facility of the Municipality;
 - (d) not dispose of litter or refuse in a manhole, storm water 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 or her for the purposes of conducting informal trading is **free of litter** or refuse;
 - (f) on a daily basis and at the conclusion of trading, collect and remove from any public road or public place all waste, packaging material, stock and equipment that are utilised in connection with or produced by the informal trader's business, unless the Municipality grants a written exemption in this regard;
 - (g) carry on business in a manner which **does not cause a threat to public or public safety**;
 - (h) take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road, or public place, or into a storm water drain, or related place, of any fat, oil or grease;
 - (i) ensure that **no smoke, fumes or other substance, odours, or noise, emanating from his or her activities associated with informal trading, causes pollution of any kind**; and
 - (j) at the request of an authorised official, move or remove any object so that the area or site from which informal trading is conducted may be cleaned, or for effecting of municipal services.
- (2) Failure to comply with the provisions of subsections (1) and (3) or the lawful request

of an authorised official in terms of subsections (1) and (3), will be regarded as a contravention of the By-Law and the informal trader shall be subject to the enforcement provisions of this By-Law.

(3) In the event of the sale of foodstuffs prepared in the trading bay, the informal trader:

- (a) Must comply with the Midvaal Environmental Health Regulations Governing General Hygiene Requirements for Food premises, the transport of food and related matters, Government Notice R638 of 22 June 2018 by obtaining written consent from the Environmental Health Department of the Municipality; and
- (b) Obtain written consent from the Fire Safety Department of the Municipality.

CHAPTER 10 POLICIES AND GUIDELINES

10.1. POLICIES

- (1) The Council may at any time adopt or amend policies in respect of informal trading in the area of jurisdiction of the Municipality.
- (2) The policies adopted as contemplated in Subsection (1) may be amended from time to time as provided for in this By-Law and in the policies.
- (3) The policies adopted and/or amended in terms of this By-Law shall be subject to a public participation process as follows –
 - (a) By giving notice to the public in a local newspaper of the proposed new policy or amendment thereof and inviting the public to comment thereon within 30 (thirty) days from date of publication;
 - (b) By placing a notice of the proposed new policy or amendment on the notice boards of the Municipality at libraries and the head and satellite offices;
 - (c) By placing a notice of the proposed new policy or amendment on the website of the Municipality;
 - (d) By forwarding the proposed new policy or amendment to the Ward Councilor, who will call a meeting of his or her Ward Committee and informal trading sector representatives to discuss the proposed new policy or amendment.

10.2 GUIDELINES

The Municipality may at any time adopt or amend guidelines in respect of informal trading in its area of jurisdiction.

CHAPTER 11 REGULATIONS

11.1 REGULATIONS

- 1) The Council may make regulations regarding –
 - (a) The declaration of any place to be an area in which informal trading is restricted or prohibited and the prescription or making of signs, markings or other devices, as contemplated in terms of Section 8 of this By-Law;
 - (b) The setting apart and demarcation of sites or areas for the purposes of informal trading and the extension, reduction or disestablishment thereof, as contemplated in terms of Section 7 of this By-Law;
 - (c) The disposal of any property of the informal trader which has been removed and impounded as contemplated in terms of Section 28 of this By-Law;
 - (d) The liability of any person for any reasonable expenses incurred by the Municipality in connection with the removal, impoundment and disposal contemplated in terms of Section 29 of this By-Law;
 - (e) The prescription of spot fines as contemplated in terms of Section 29 of this By-Law;
 - (f) The amendment of spot fines as contemplated in terms of Section 29 of this By-Law;
 - (g) The prescription of penalties for the offences contemplated in terms of Section 32 of this By-Law;
 - (h) The amendment of penalties as contemplated in terms of Section 32 of this By-Law;
 - (i) Any matter which may be prescribed in terms of this By-Law and any matter which may facilitate the application of this By-Law.
- 2) The Council shall, not less than 1 (one) month before promulgating a regulation in terms of Subsection (1), cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Systems Act, together with a notice declaring the intention of the Council to issue such regulation and inviting comments and representations.

- 3) If the Council decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

CHAPTER 12 AUTHORISED OFFICIALS

12.1 APPOINTMENT OF AUTHORISED OFFICIALS

The Municipality shall appoint authorised officials it may deem necessary to implement and enforce the provisions of this By-Law.

12.2 IDENTIFICATION OF AUTHORISED OFFICIALS

An authorised official shall at all times identify him/her to the informal trader with a form of identification as provided to him/her for this purpose at the time of his/her appointment.

12.3 ENTRY AND INSPECTION BY AUTHORISED OFFICIALS

Any authorised official shall be entitled to enter into and upon any building, structure, property or site, at any reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of this By-Law.

CHAPTER 13: NOTICES TO COMPLY, SERVICE OF NOTICES AND ENFORCEMENT

13.1 NOTICE TO COMPLY

An authorised official may issue a person with a **written warning** if, in the opinion of the authorised official, that person has traded or offered to trade in goods or provided or offered to provide services in contravention of the By-Law or that person has contravened this By-Law in any other manner, including but not limited to, in violation of a permit condition, or any other applicable law.

13.2 SERVICE OF NOTICE

Any notice that is required to be served, delivered or given in terms of, or for the purposes of this By-Law, must be served in any of the following ways:

- (1) By handing a copy of the notice to the person concerned;
- (2) By leaving a copy of the notice at the person's place of residence, business or employment with any other person who is not a child;
- (3) By leaving a copy of the notice on a conspicuous place at the building, structure, property or site;
- (4) By handing a copy of the notice to any representative authorised in writing to accept service on behalf of the person;
- (5) If the person has chosen an address for service, by handing a copy of the notice to a person who is not a child, at the address so chosen;
- (6) By sending a copy of the notice by registered mail to the last-known address of the person concerned, and, unless the contrary is proved, it is deemed that service was effected on the 7th (seventh) day following the day on which the notice was posted.

13.3 ENFORCEMENT

- (1) In the event of a person:
 - (a) continuing or repeating a contravention in respect of which a written warning has already been issued to that person, then an authorised official may issue a spot fine to the informal trader or other person contemplated in

Section 16(2), or impound, in the case of an informal trader, any property used by the informal trader in conducting the informal trade, and in the case of any other person, any property, including but not limited to, goods, equipment, structures and motor vehicles; or

- (b) is reasonably suspected of being an informal trader and the property of that person is found at a place where informal trading is restricted and prohibited, then an authorised official may issue a spot fine to the informal trader, or impound such property;

and in the case of impoundment, the authorised official must:

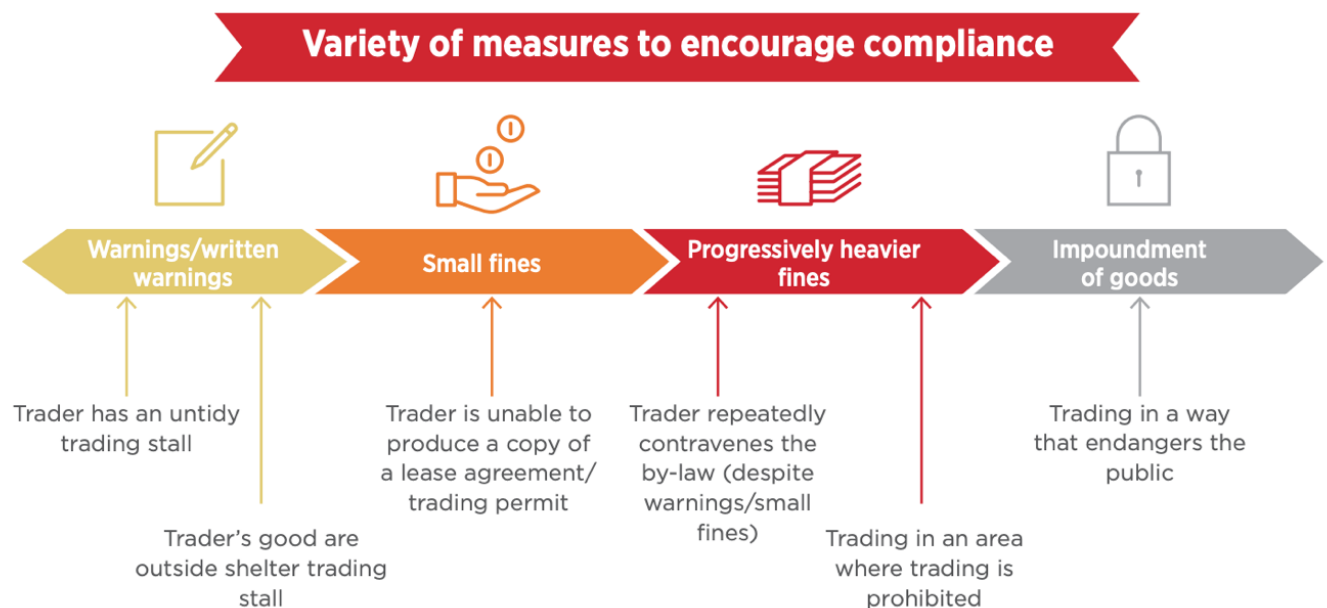
- (i) Complete a full inventory of all the property that has been impounded and such inventory must include:
 - (aa) information of the consequences of such impoundment should the person fail to pay the impoundment costs and collect the goods;
 - (bb) the address where the impounded property will be kept and the period of such impoundment;
 - (cc) the terms and conditions for the release of the impounded goods; (dd) the impoundment costs to be paid by the informal trader;
 - (ee) the terms and conditions relating to the sale of unclaimed goods.
 - (ii) Provide the person with a copy of the inventory, except where the property have been left or abandoned;
 - (iii) Immediately store the impounded property in an area designated by the Municipality for the storage of impounded property.
- (2) The removal and impoundment of property in terms of Subsection (1) may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
 - (3) Property which has been impounded from a person may be released after the presentation by the person of the inventory contemplated in Subsection (1) and the payment of the impoundment costs, provided that the Municipality is reasonably satisfied that the relevant person will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded; provided further that, where the Municipality is not so satisfied, it may withhold the goods for up to 48 (forty eight) hours after payment of any fine and/or impoundment costs.
 - (4) Perishable goods, including plants and flowers, that have been impounded may, at

- any time after the impoundment, be sold or otherwise disposed of by the Municipality. The Municipality may destroy the goods if the condition of those goods render them unfit for human consumption or is unhealthy or dangerous.
- (5) Impounded property other than perishable goods, may be sold by the Municipality if the owner does not, or is unable to, pay the impoundment costs within 48 (forty eight) hours from the date of impoundment of that property.
- (6) In the event of the impounded property being sold by the Municipality in terms of Subsection (4) or (5), and upon the presentation of the inventory as contemplated in Subsection (1) by the owner, the Municipality must pay to that owner:
- (a) The proceeds of the sale less the impoundment costs; or
 - (b) If the owner has previously paid the impoundment costs, the proceeds must be paid to the owner free of any such deduction.
- (7) If the owner does not claim the proceeds derived from the sale of the impounded goods within 3 (three) months from the date of impoundment, then the proceeds will be forfeited to the Municipality.
- (8) If in the reasonable opinion of an authorised official, an informal trader is suspected of trading in illegal, unhealthy or dangerous goods or that a supplier as contemplated in Section 16(2) is supplying the informal trader with illegal, unhealthy or dangerous goods, then the authorised official may request proof of where such goods were obtained from and in the absence of providing such proof, it is deemed to be illegal good. Such goods may be immediately confiscated. In the event of such a confiscation, the authorised official must:
- (a) Complete a full inventory of all the property that has been confiscated;
 - (b) Provide the informal trader or person contemplated in Section 16(2) with a copy of the inventory; and
 - (c) Immediately surrender the suspected illegal goods to the possession of the South African Police Service.

13.4 VICARIOUS LIABILITY OF PERSONS TRADING

- (1) When an employee or agent of an informal trader performs any act or omission which constitutes an offence in terms of this By-Law, the employer shall be deemed to have committed the act or omission himself/herself, unless:
- (a) In committing the act or omission the employee was acting without the employers' permission or knowledge;
 - (b) The employer took all reasonable steps to prevent the act or omission; and

- (c) It was not within the scope of the authority and the course of employment of the employee to perform such act or omission, of the nature in question, and the mere fact that such employer issued instructions forbidding the act or omission shall not itself be accepted as sufficient proof that the employer took the action referred to in Subsubsection (b).
- (2) When an employer is by virtue of Subsubsection (a), liable for an act or omission by his/her employee, then that employee shall also be liable for prosecution of the offence.



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<http://www.salga.org.za/Documents/Knowledge%20Hub/Publications/Research%20Projects%20and%20Results/SERI-SALGA%20Recommendations%20on%20the%20Regulation%20of%20Informal%20Trade.pdf>

CHAPTER 14 GENERAL

14.1 TRANSITIONAL PROVISIONS

Notwithstanding the enactment of this By-Law-

- (1) Any declaration in terms of the Act of an area within the jurisdiction of the Municipality as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the Municipality adopts a trading plan in respect of such area in terms of this By-Law;
- (2) Where an informal trader had been issued with a lease or permit prior to the enactment of this By-Law which permits trading from a particular trading bay, such lease or permit shall remain valid until an integrated permit system is adopted by the Municipality which complies with permit system as contemplated in this By-Law.

14.2 OFFENCES AND PENALTIES

Any person who-

- (1) contravenes any provision of this By-Law or fails to comply with any condition or restriction imposed under this By-Law, or by an authorised official;
- (2) fails to comply with any notice issued in terms of this By-Law;
- (3) fails to comply with any lawful instruction given in terms of this By-Law;
- (4) threatens, resists, interferes with or obstructs any authorised official or any employee of the Municipality in the performance of official duties or functions in terms of this By-Law; or
- (5) deliberately furnishes false or misleading information to an authorised official or an employee of the Municipality;

shall be guilty of an offence and liable on conviction to a fine not exceeding R5 000 (five thousand rand) or to imprisonment for a period not exceeding 3 (three) months or such other amount or period as approved by the Council from time to time in terms of the Regulations promulgated hereunder, and in the case of a continuing offence, to a further fine not exceeding R50 (fifty rand) per day, or, in default of payment, to imprisonment not exceeding one day, for every day during the continuance of such offence or such other amount or period as

approved by the Council from time to time in terms of the Regulations promulgated hereunder, after written notice has been issued by the Municipality and served on the person concerned, requesting the discontinuation of such offence.

14.3 REPEAL OF BY-LAWS

Any By-Law promulgated by the Council or any erstwhile municipality now comprising an administrative unit of the Council and pertaining to any matter regulated in this By-Law shall be repealed from the date of promulgation of this By-Law.

14.4 SHORT TITLE

This By-Law is called the Midvaal By-Law on Informal Trading.

14.5. COMMENCEMENT

This By-Law shall take effect on a date determined by the Council by proclamation in the Provincial Gazette.

APPLICATION FORM: INFORMAL TRADERS

No.: _____

1. APPLICANT (OCCUPIER OF SITE)

FULL NAMES AND SURNAME: _____

IDENTITY NUMBER:

--	--	--	--	--	--	--	--	--	--	--	--	--

APPLICANT'S PHYSICAL ADDRESS: _____

APPLICANT'S TELEPHONE NUMBER: _____

2. LANDOWNER'S DETAILS

FULL NAMES AND SURNAME: _____

IDENTITY NUMBER:

--	--	--	--	--	--	--	--	--	--	--	--	--

LANDOWNER'S PHYSICAL ADDRESS: _____

LANDOWNER'S TELEPHONE NUMBER: _____

3. SPECIFY TYPE OF GOODS OR SERVICES IN WHICH BUSINESS IS TO BE CARRIED ON

(In the event of foodstuffs, please submit consent from the following departments)

HEALTH	
WASTE MANAGEMENT	

(In the event of cooking of foods, please submit consent from the following departments)

FIRE	
HEALTH	
WASTE MANAGEMENT	

4. ADDRESS WHERE GOODS WILL BE SOLD FROM (If you are not the owner of this address, please attach consent from the owner that you may trade therefrom) (please attach plan for ease of identification of trading site.)

5. FREQUENCY OF TRADING

DAILY		WEEKLY	
MONTHLY		WEEK-ENDS	

6. VEHICLE AND TRAILER

VEHICLE DESCRIPTION:

MAKE: _____

MODEL: _____

REGISTRATION NUMBER: _____

ENGINE NUMBER: _____

CHASIS NUMBER: _____

TRAILER DESCRIPTION:

MAKE: _____

MODEL: _____

REGISTRATION NUMBER: _____

(In the event of the selling of goods or provision of services taking place from a vehicle or trailer, please attach consent by the following departments)

TRAFFIC	
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7. PERIOD FOR WHICH APPLICATION IS MADE _____

I hereby declare that the above information is true and correct.

SIGNATURE OF APPLICANT

DATE

FOR OFFICIAL USE:

WARD NO: _____

AMOUNT PAYABLE	R
PERIOD OF PERMIT	
COPY OF IDENTITY DOCUMENT	
APPLICATION APPROVED	YES/NO
SIGNATURE OF LICENCING OFFICER	

OFFICIAL STAMP

IDENTITY PHOTO
OF APPLICANT

1. AREA: _____
2. GOODS APPROVED: _____
3. VEHICLE/TRAILER APPROVED: _____

COMMENTS:

1. FIRE: _____
2. SOCIAL SERVICES: _____
3. HEALTH: _____
4. WASTE MANAGEMENT: _____
5. TRAFFIC: _____
6. D & P: _____
7. ENGINEERING: _____
8. SAVANNA CITY (IF APPLICABLE):/ _____