7.5 BY-LAW ON INFORMAL TRADE

File number : 1/3/1/10
Report by : Municipal Manager
Compiled by : Director: Strategic and Corporate Services
Delegated Authority : Council

1. PURPOSE OF THIS REPORT

To submit the By-law to Council for consideration.

2. BACKGROUND

The current By-laws addressing the above-mentioned issues are:

<table>
<thead>
<tr>
<th>PROVINCIAL NOTICE</th>
<th>SUBJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>PN No. 12445</td>
<td>By-law for the supervision and control of the carrying on of the business of street vendor, pedlar or hawker</td>
</tr>
</tbody>
</table>

Copies of the By-laws are attached as APPENDIX 1. Find attached a copy of the suggested draft By-law Relating to Informal trade, which is attached hereto as APPENDIX 2.

3. DISCUSSION

The existing By-laws apply to the area of Stellenbosch before the promulgation of WCO24 in terms of the Local Government: Demarcations Act of 1998. Other areas which were incorporated in terms of said legislation is Franschhoek and Pringle, but is not addressed in terms of said by-laws. The approval and later promulgation of the by-law will apply to the whole area of WCO24.

4. COMMENTS BY RELEVANT DEPARTMENTS

The Manager; Corporate Strategy and Compliance is suggesting that the draft By-law attached as APPENDIX 2, will address this shortcoming discussed above.

5. CONCLUSION

That the draft By-law be considered for approval.
AGENDA
15TH MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY
2013-08-29

RECOMMENDED

that the By-law on Informal Trade be advertised for public comment, whereafter same be re-submitted to Council via the Strategic and Corporate Services Committee, for final approval before promulgation.

(DIRECTOR: STRATEGIC AND CORPORATE SERVICES TO ACTION)

MAYORAL COMMITTEE MEETING: 2013-08-21: ITEM 6.1.2

RECOMMENDED BY THE EXECUTIVE MAYOR

that the By-law on Informal Trade be advertised for public comment, whereafter same be re-submitted to Council via the Strategic and Corporate Services Committee, for final approval before promulgation.

(DIRECTOR: STRATEGIC AND CORPORATE SERVICES TO ACTION)
ITEM 7.5

APPENDICES 1-2

BY-LAW ON INFORMAL TRADE

15TH COUNCIL MEETING:
2013-08-29
ITEM 7.5

APPENDIX 1

EXTRACT FROM THE BY-LAWS

15TH COUNCIL MEETING:
2013-08-29
...
geen waarz. raadsmededelingen vereis en plaats van de aanwezigheid van de persoon of persoon die de zaak handhaeft, en
(j) op 't plak werk—
(i) di-metamorphose van de plasselijke, volkstumelijkheid van de vize printer werk, indien de persoon of persoon die de zaak handhaeft, en
(ii) dit aanspraak van de intellectuele werk, indien de persoon of persoon die de zaak handhaeft, en
(iii) dit aanspraak van de intellectuele werk, indien de persoon of persoon die de zaak handhaeft, en
(iv) sluiten op 't voortgaande werk, indien de persoon of persoon die de zaak handhaeft, en
(v) dit aanspraak van de intellectuele werk, indien de persoon of persoon die de zaak handhaeft, en
(vi) di-metamorphose van de plasselijke, volkstumelijkheid van de vize printer werk, indien de persoon of persoon die de zaak handhaeft, en
(vii) dit aanspraak van de intellectuele werk, indien de persoon of persoon die de zaak handhaeft, en
(viii) sluiten op 't voortgaande werk, indien de persoon of persoon die de zaak handhaeft, en
(ix) dit aanspraak van de intellectuele werk, indien de persoon of persoon die de zaak handhaeft, en
(x) di-metamorphose van de plasselijke, volkstumelijkheid van de vize printer werk, indien de persoon of persoon die de zaak handhaeft, en
(xi) dit aanspraak van de intellectuele werk, indien de persoon of persoon die de zaak handhaeft, en
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(XX) sluiten op 't voortgaande werk, indien de persoon of persoon die de zaak handhaeft, en

Bijzonderheden

3. 't Persoon enz. die bestaat van straathandelaar, sloop van openbare

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(c) op de plaats enz. op 't openbarde plek enz. pleit geen.

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(2) "Street vender" means a person who carries on the business of a street vendor, peddler or hawkcr—

(2a) in a vehicle or part of which the public has a right of access;

(2b) on a verge belonging to, or occupied safely by, the State or the local authority;

(2c) in a church or other place of worshipping;

(2d) in a building declared to be a national monument under the National Monuments Act, 1949 (Act 28 of 1949);

(2e) in a space declared under section 64(2A)(b) of the Act to be a place where the carrying on of the business of street vendor, peddler or hawkcr is—

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A person carrying on the business of street vendor, pedlar or hawker shall—

(a) unless proclaimed as such by the town council, remove daily from any public road or public place the net contents of all goods, packaging material, stock and equipment of whatsoever nature which are utilised in connection with such business;

(b) if his or her activities involve the sale of a product, or preparation of food, take steps to ensure that no food, oil or other substance, drops or overflows on the surface of any public road or public place or splashes against a building or other immovable;

(c) ensure that his business is such a manner as not to be a danger to public health or public safety;

(d) at the request of an officer of a duly constabulated employee of the council, move or remove anything from the place of business concerned so that that place may be cleaned, and

(e) carry on business in such a manner that the place of business is always in a clean and neat condition.

The local authority shall—

(a) cause to be displayed which the goods under sale are examined and registered as regulated goods;

(b) provide receptacles at the site in order to facilitate the disposal of litter by the goods traders and

(c) ensure that the receptacles are emptied on a regular basis in order to facilitate the cleaning of the site area.

An officer may remove and impound any goods—

(a) where—

(i) are found at a place where the carrying on of such business is prohibited or restricted as in section 2 and where, in the officer's opinion, conditions have the requirements of such provision are

(ii) in the officer's opinion, are placed in such a manner that they...

A person who shall—

(a) without the permission and order of the person in charge of the place, remove any goods, normally or temporarily stored in any building, shed, or other structure, or on any land or place within the precincts of the place, shall be guilty of an offence under this Act.

The offences under this Act shall be punishable with fine.

A person who shall—

(a) remove any goods, normally or temporarily stored in any building, shed, or other structure, or on any land or place within the precincts of the place, shall be guilty of an offence under this Act.

The offences under this Act shall be punishable with fine.
SCHEDULE OF PRINCIPLES

Applying with the provisions of the Companies Act of 1913, the this project is to be carried out in accordance with the terms and conditions set forth in this document.

1. The project shall provide a framework for the development of the local economy and growth of the Province.

2. The project shall have the freedom to trade in an open economy and create a livelihood for its citizens.

3. The project shall have equal access to market opportunities.

4. The project shall be made up of entrepreneurs engaged in formal sector activity, however, the financial background from which such entrepreneurs emerged and the specific legal problems encountered shall be borne in mind.

5. The project shall have the freedom to associate and amalgamate bodies and organizations of its choice, provided they are formally constituted and have a recognized membership.

6. Any project shall be subject to the control of the provincial government and shall be subject to the control of the national government.

7. These principles shall be consistent within the legal framework and contribute to the development of the Province.

8. These principles shall form the basis of the action of the Province and be subject to the supervision of the national government.

9. These principles shall contribute to the promotion of a clean and healthy environment and the protection of public health and safety.
procedure op appellatiegerichtes

10. Die voorzitter moest de procedure op de vergadering beginnen.

11. (2) De voorzitter moest de procedure op die vergadering begin,

12. (2) De voorzitter moest de procedure op die vergadering begin,

13. (2) De voorzitter moest de procedure op die vergadering begin,

14. (2) De voorzitter moest de procedure op die vergadering begin,
1. (c) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar die toegang tot 'n openbare pad aangrenzend aan 'n publiek woonbuurte, skool, voetwegen, tawane, volwassene of ander plek wat vir die gebruik van die algemene publiek bestem is.

Boete: R150,00

2. (i) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voetgangerstrek of winkels kan brei.

Boete: R150,00

2. (ii) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer kan brei.

Boete: R150,00

2. (iii) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer en voetgangerstrek kan brei.

Boete: R150,00

2. (iv) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer en voetgangerstrek kan brei.

Boete: R150,00

2. (v) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer en voetgangerstrek kan brei.

Boete: R150,00

2. (vi) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer en voetgangerstrek kan brei.

Boete: R150,00

2. (vii) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer en voetgangerstrek kan brei.

Boete: R150,00

2. (viii) van Pk 166 van 20 Maart 1998

Persoon mag nie die besigheid van straathandelaar, venter of smous verkoop of sluit nie op in 'n plek waar dit toegang tot enige voertuigverkeer en voetgangerstrek kan brei.

Boete: R150,00
Artikel 6 (11v) van Wk 166 van 20 Maart 1998

In persoon met die besigheid van straathandelar, venter of smous bedryf, moet die besigheid belang op so 'n wyse bedryf dat dit die plak van besigheid is, alle tye in 'n skoon en netjes toestand is.

Boete: R200,00

Artikel 6 van Wk 166 van 20 Maart 1998

In persoon met die besigheid van straathandelar, venter of smous bedryf, moet wanneer oorval sodanige persoon sodanige besigheid bedryf, wanneer skryflike goedkeuring wat deur in Raad ingevolge hierdie verordeninge aan daardie persoon toegestaan of uitgereik is, op sy of haar persoonlik swa en moet op aanvraag sodanige skryflike goedkeuring aan 'n beamping of behoorlike geneestige werkname van die Raad toon.

Boete: R150,00
ITEM 7.5

APPENDIX 2

COPY OF THE PROPOSED
DRAFT BY-LAW RELATING
TO INFORMAL TRADE

15TH COUNCIL MEETING:
2013-08-29
PREAMBLE

Stellenbosch Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000), has made the By-law set out below.

In this by-law, words used in the masculine gender include the feminine;

All singular meanings shall include the plural interpretation and vice versa;

The English text shall prevail in the event of an inconsistency between the different texts, unless the context otherwise indicates.

WHEREAS it is recognised that there is a need to create an environment in which the carrying on the business of informal trading is permitted in public streets and public places, subject to the rights of all citizens as contained in the Constitution of the Republic of South Africa, 1996, (Act 108 of 1996) and the provisions of the Business Act 1991 (Act 71 of 1991);

AND WHEREAS Stellenbosch Municipal Council recognises the contribution of informal trading in poverty alleviation, income generation and entrepreneurial development and the impact that informal trading has on the historically disadvantaged individuals and communities.

AND WHEREAS Stellenbosch Municipal Council also acknowledges the need to adopt a developmental approach to the informal trading sector in order to create an environment that is conducive to growth of business within the informal trading sector.

NOW THEREFORE this by-law is promulgated to facilitate the carrying on of that business and to provide for matters incidental thereto.

1. DEFINITIONS

"authorised official" means an employee of the municipality authorized by the municipal manager to perform functions and duties in terms of the provisions of this by-law.
"bay" means an area on a street, the boundaries of which are clearly marked out, and allocated with the number which also appears on a trading plan approved by the council.

"council" means the council of the Stellenbosch Municipality as contemplated in section 18 of the Local Government: Municipal Structures Act, 1997 (Act 117 of 1997) and includes any committee or employee of the council exercising powers or performing duties delegated to that committee or employee by the council.

"declaration" means an order published by the council in the Official Gazette, in terms of which an area as defined in such a declaration is restricted for trading.

"goods" includes any receptacle, vehicle or movable structure used for the storage or transportation of goods.

"litter" means any receptacle, container or other object or matter discarded or abandoned by a street trader or his or her customers.

"local authority services" means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal or refuse, sewage or stormwater or for the manufacture, generation, impounding, storage, purification, distribution, conduction, transmission, conveyance provision or supply of water, gas or electricity.

"local authority service works" means all works of whatsoever nature, necessary or desirable for or incidental, supplementary or ancillary to any local authority service and includes anything of whatsoever nature used for or in connection with any such works or service;

"Municipality" means the Municipality of Stellenbosch established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), published in Provincial Notice 5642 dated 4 December 2000 and includes any political structure, political office-bearer, councillor, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, or employees.

"Municipal Manager" means the official appointed by the council in the capacity of the Municipal Manager in terms of section 54 of the Local Government: Municipal Systems Act, 1997 (Act 117 of 1997).

"nuisance" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to a person or the property of a person or which materially interferes with the ordinary comfort, convenience, peace or quiet of a person.

"officer" means -

(a) a traffic officer appointed under section 3 of the National Road Traffic Act, 1996 (Act 93 of 1996);

(b) a member of the Force as defined in section 1(1) of the Police Act, 1958 (Act 29 of 1958);

(c) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

(d) an Environmental Health Officer in the service of the council or the District Municipality,

(e) an official of the council authorised to implement the provisions of this by-law.
"permit" means an official approval issued by the municipal manager or his delegate in terms of which a trader is allowed to trade for a bay in a street situated within a restricted area, subject to such terms and conditions as may be imposed by the council.

"property" in relation to a street trader, means money, goods, receptacle, a vehicle or a movable structure used or intended to be used in connection with the carrying on of his or her business.

"public road" means any road, street, thoroughfare or place (whether a thoroughfare or not) which is commonly used by the public or a section of the public or to which the public has a right of access and includes:

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

"public place" means a square, a park, recreation grounds, sports grounds, a sanitary lane or an open space which has or have for residential purposes;

(a) in connection with a subdivision or lay-out of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of those erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;

(b) at any time been dedicated to the public;

(c) at any time been declared or rendered a public place by the local authority or another competent authority.

"street" means any public road, street, thoroughfare, parking bay, parking area, road and street reserve, sidewalk, verge, bridge or drift.

"street trading" includes the selling of goods or the supplying or offering to supply a service for reward as a street trader in a public road or public place and is not limited to the sale of newspapers only.

"street trader" means a person who carries on the business of a street vendor, pedlar or hawker and includes an employee of such a person for the purposes of this by-law.
"trade" means the carrying on of the business on a street, either by selling wares or by rendering a service to the public.

"trader" means a person who carries on the business of informal trader on a street or public place.


"verge" means that portion of the road, street or thoroughfare which is not the roadway.

2. **FREEDOM TO ENGAGE IN FORMAL TRADING**

Informal trading is permitted in any area, within the geographical area of operation for the Greater Stellenbosch, subject to any trading plans adopted by the council, and subject to the provisions of this by-law and/or other applicable legislation.

3. **ADOPTION OF TRADING PLANS**

3(1) The municipality must, where appropriate, adopt trading plans, to regulate informal trading.

3(2) A trading plan must:

3(2)(1) define the geographical boundary of the trading area;

3(2)(2) demarcate informal trading bays and markets where informal trading is permitted, outside of which informal trading, shall be prohibited in that trading area.

3(3) A trading plan may include any other matters governing informal trading in the relevant trading area, as such:

3(3)(1) prescribing any informal trading conditions, including such terms and such conditions imposed in terms of permits, issued in terms of this by-law;

3(3)(2) the manner in which social and economical development will be promoted through the trading plan;

3(3)(3) the manner in which sensitive heritage and environmental areas, within the proposed trading area will be protected;

3(3)(4) matters relating to a market which may be located within the relevant trading area, including, but not limited to:

3(3)(4)(1) the demarcation of the area within a trading area which constitutes a market;
3(3)(4)(2) where appropriate, the demarcation of trading bays within the market;

3(3)(4)(3) the legal arrangements between the municipality and any third party or organization in respect of obligations relating to the general management of the market in which the third party or organization will be responsible for the following:

3(3)(4)(3)(1) the management and operations of the market;

3(3)(4)(3)(2) the management of informal traders operating within a specific market area;

3(3)(4)(3)(3) ensuring that all relevant persons participate in appropriate decisions, which are relevant to them;

3(3)(4)(3)(4) providing guidance to informal traders operating within the market, with business support and development services;

3(3)(4)(3)(5) any services additional to those municipal services provided by council.

3(4) Any trading plans must comply with section 5, of this by-law and with any other applicable legislation.

3(5) Any person shall be entitled to request that the municipality consider the adoption of a trading plan; provided that the municipality will consider such a request within a reasonable time.

3(6) When considering a request for the adoption of a new trading site the municipality shall have due regard for any existing and proposed trading plans in the vicinity of the proposed trading area in order to determine the desirability of the adoption of said trading plan.

4. PUBLIC PARTICIPATION IN RESPECT TO THE ADOPTION OF A TRADING PLAN

4(1) Before adopting a trading plan the municipality shall:

4(1)(1) consult with interested and affected role players including the informal and formal sectors before compiling a trading plan.

4(1)(2) compile a draft trading plan following a consultation process.

4(1)(3) publish notices in at least 2 (two) local daily newspapers, which are circulated in the area, in which the proposed trading area is situated.
4(2) These notices must at least contain:

4(2)(1) the key aspects of the draft trading plan;

4(2)(2) notification to the public that the draft trading plan is open for inspection at a specified location;

4(2)(3) invite comments and objections from the public in relation to such draft trading plan, to be received by the municipality within 14 days of the date of publication.

4(3) If the municipality so wishes it can apply its discretion to hold a public meeting during which the proposed informal trading area(s) can be discussed.

5. CONSIDERATIONS OF OPTIONS PRIOR TO ADOPTING A TRADING PLAN

5(1) The municipality must consider all objections and comments received regarding the adoption of new trading plans.

5(2) Thereafter council must within a reasonable period from the date of the commencement of the public participation process in respect of the trading plan, consider:

5(2)(1) the adoption of the draft trading plan;

5(2)(2) any amendments to the draft trading plan;

5(2)(3) the rejection of the draft trading plan.

5(3) In the event of the adoption of the draft trading plan by council, a notice must be published in at least 2 (two) local newspapers and the Provincial Gazette, which informs the public that:

5(3)(1) the draft trading plan had been adopted by council, as a trading plan;

5(3)(2) of the key aspects of the trading plan, including the date on which it shall become effective; and

5(3)(3) that the trading plan is available for inspection at a specified location.

6. AMENDMENT, REVOCATION AND REVIEW OF TRADING PLANS

6(1) The municipality may amend, revoke and review the adoption of trading plans, provided that if the amendment deviates materially from the adopted trading plan then the municipality should embark on the public participation process prescribed in section 4 of this by-law.
5(2) If any persons rights are affected negatively the municipality must afford those affected an opportunity to exercise their rights to just administrative action.

6(3) The municipality must review trading areas from time to time as they deem it fit.

7. 

RESTRICTIONS ON STREET TRADING

7(1) No trader may trade in a street contiguous to:

7(1)(1) a building belonging to or occupied by the state or the municipality, without prior written authorisation;

7(1)(2) a church or other place of worship, without relevant consultation and approval;

7(1)(3) a building declared as a monument in terms of legislation, until the trading plan is approved by Council;

7(1)(4) a building in which business is being carried on by any person who sells goods of the same nature or of such similar nature to goods being sold by the trader concerned, unless a public consultation process is followed;

7(1)(5) a building used for residential purposes, unless a public consultation process is followed.

7(2) No person may trade in a street or public place, where:

7(2)(1) a fire hydrant or any other designated facility or area demarcated solely for the use of emergency vehicles and services;

7(2)(2) vehicular and pedestrian traffic is obstructed or a traffic hazard is created;

7(2)(3) any facility, where the use of the general public is obstructed;

7(2)(4) the visibility of a display window at a business premises is obstructed;

7(2)(5) traffic sign, road marking, notices or signs are obstructed;

7(2)(6) access to loading and/or parking bays, vehicular or other facilities for vehicular or pedestrian traffic is limited; or

7(2)(7) free access to municipal service works is obstructed;

7(2)(8) an entrance or an exit to a building is obstructed;

7(2)(9) in a garden or park under the control of the municipality, to which the public has a right of access;

7(2)(10) it obstructs access to street furniture, bus passenger benches or...
safeguards, queuing lines, refuse disposal bins or other facilities intended for the use of the public;

7(2)(11) it interferes in any way with any vehicle that may be parked alongside such place;

7(2)(12) in an area declared under section 6A(2)(a) of the Act as a place where the carrying on of the business of street vendor, pedlar or hawker is prohibited.

7(3) No trader may:

7(3)(1) stay overnight at a place of business or trading area, except if the promulgation of the area, specifies that it is also earmarked for night trading;

7(3)(2) create a nuisance;

7(3)(3) damage or deface the surface of a street or any municipal property;

7(3)(4) erect a structure other than an umbrella, without the written authorisation of the municipality;

7(3)(5) create a hazard to traffic;

7(3)(6) attach any object by any means to a building, street furniture, structure, pavement, tree, lamp pole, electrical pole, telephone facility, post box, traffic sign, parking meter or bench;

7(3)(7) make a fire without the written permission of the municipal manager or his delegate;

7(3)(8) fail to move or remove any goods after having been requested to do so by an authorized official;

7(3)(9) accumulate, dump, store or deposit any refuse or waste materials on any land, street, or premises other than in a refuse receptacle approved and provided by the municipality;

7(3)(10) allow the area or stand where business is carried on to become unclean or in an unsanitary condition;

7(3)(11) keep goods in an unclean or unsanitary condition;

7(3)(12) fail, at the conclusion of trading, to remove daily from the place of business or trading area, all waste, packaging materials, stock or equipment;

7(3)(13) carry on business in a manner that may pose a threat or danger to public health or safety.
7(3)(14) fail to, at all times, carry on his or her person a copy of any permit or written authorization issued in terms of this by-law and must, on request of an authorized official, produce such authorization;

7(3)(15) fail to ensure that any permit or written authorization is available to his assistants, if he is absent from the trading site for any reason;

7(3)(16) fail to ensure that no fat, oil or other substance drops or overflows onto the surface of a public road or public place or splashes against a building or other structure if his activities involves the cooking or other preparation of food;

7(3)(17) carry on business in such a manner that it creates a danger or threat to public health or public safety;

7(3)(18) let his property on a public road or in a public place cover an area which is greater than 3m in length and 2m in width, provided that in areas where adequate space is available the space dimensions may be increased to 4m in length and 2m in width;

7(3)(19) place his property on a public road or public place, except for purposes of commencing and conducting trade.

7(4) Deviations in terms of the provisions of section 7, may be allowed, only after application in terms this by-law, is lodged at the Office of the Municipal Manager, which application should include the following:

7(4)(1) the full particulars of the applicant;

7(4)(2) full particulars of the site applied for;

7(4)(3) reasons why said site is appropriate for informal trading;

7(4)(4) comments from any adjacent land owners of applicable.

8. PERMITS

8(1) No person may conduct the business of informal trading or display his goods for trading in a trading area, without being in possession of a valid permit.

8(2) In order to qualify for a permit, the applicant must:

8(2)(1) be an informal trader;

8(2)(2) may not hold a permit in respect of any other trading area in respect of which the permit is applied;

8(2)(3) must be a South African citizen, failing which, they must be in possession of a valid work permit which includes, but is not limited to a refugee permit;

8(2)(4) must not employ or actively utilize the services of more than 20 persons.
8(3) The municipality must take into account the following factors when considering the application for a permit:

8(3)(1) the applicant's ability to meet the trading hours for the relevant trading area as determined by the municipality;

8(3)(2) the need to give preference to applicants who are regarded as previously disadvantaged individuals;

8(3)(3) where there is a limited number of trading bays available in the trading area, in respect of which the permit is sought, the need to give preference to applicants that would be new entrants to informal trading within the municipal area;

8(3)(4) the nature of the goods which the applicant intends selling or the services the applicant intends rendering, bearing in mind the nature of the specific trading areas as well as the businesses within the immediate facility;

8(3)(5) the need to give preference to unemployed persons;

8(3)(6) the need to give preference to applicants who do not share a household with an existing permit holder, unless;

8(3)(6)(1) the number of trading bays for the relevant trading area is more than the number of applicants seeking permits for those trading bays;

8(3)(6)(2) the applicant who shares a household with a permit holder is not a dependant or financially reliant on the permit holder.

8(3)(7) whether the applicant has, in terms of this by-law, or other relevant legislation been convicted of an offence and/or had a permit revoked or suspended.

8(3)(8) whether the applicant is a suitable person to carry on the lawful business at the allocated site, whether by reason of his character, having regard to any conviction recorded against him, or his previous conduct for any reason.

8(3)(9) where the 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 which the new trading area is adopted.

8(4) Council is entitled to impose 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:
8(4)(1) specify the trading hours during which the trading permit holder may trade;

8(4)(2) the nature of the goods and services the permit holder is permitted to trade;

8(4)(3) the permit holder's trading bay number;

8(4)(4) to allocate the informal trader an alternative bay in the same or other trading area;

8(4)(5) specify the type of structure(s), if any, which may be erected on the trading bay and/or in the trading area;

8(4)(6) impound trading goods in terms of section 11 and section 12 in the event of a contravention of any of the provisions in terms of this by-law and/or any other law;

8(4)(7) suspend a permit for a special event on reasonable prior notice where practicable to the informal trader, with no compensation payable to the informal trader, notwithstanding that informal trading may be permitted by the municipality at a special event in terms of section 10.

8(4)(8) on reasonable prior notice 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:

8(4)(8)(1) breaching any provisions of the permit and/or the by-law or any other law;

8(4)(8)(2) being convicted of trading in illegal goods or providing a service unlawfully, in terms of any legislation;

8(4)(8)(3) wilfully supplying incorrect information when required to provide municipal officials with information;

8(4)(8)(4) being found to be unsuitable as contemplated in section 8(2) and 8(3) to perform trade within a trading area;

8(5) Notwithstanding the content of any trading plan, the municipality has the right to, upon reasonable prior notice to the informal trader and with no compensation payable, temporarily:

8(5)(1) relocate the permit holder to another trading area;

8(5)(2) suspend the validity of a permit;

8(5)(3) prohibit the permit holder from trading in the relevant trading bay.
8(5)(4) Should it be necessary to do so due to any performance activities which renders the continuation of trading from the relevant trading bay impractical or severely inconvenient.

8(6) Activities referred to in section 8(5) may include, but is not limited to maintenance and construction of any infrastructure or buildings performed by the municipality, property developments, alterations, and refurbishment by any entity, or activities by public entities conducted in terms of their powers or functions.

8(7) Council shall fix the charges payable to it in terms of this section for the authorisation to use bays, stands or stalls in trading areas under its control from where the carrying on of the business of street vendor, pedlar or hawker is permissible.

9. APPOINTMENT OF ASSISTANTS

9(1) Any permit holder will be allowed to appoint assistants to trade in terms of a permit, issued by the municipality, but subject to prior notification to the municipality and on terms and conditions prescribed by the municipality.

9(2) All prescriptions in this by-law will be applicable to the assistants appointed by the permit holders, as would be the case of the permit holder.

10. SPECIAL EVENTS

Council 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.

11. REMOVAL AND IMPOUNDMENT

11(1) An authorized official may remove and impound any goods that a trader failed or remove from a place after having been requested to do so by an authorized official, or which had been left there or abandoned:

11(1)(1) Which the authorized official reasonable suspects are used in connection with street trading;

11(1)(2) Which is found at a place where the business of street trading is prohibited or restricted in terms of this by-law and which is likely to constitute a contravention in terms of this by-law;

11(1)(3) Or in the officers opinion are placed that it causes an obstruction to pedestrians or vehicular traffic or any municipal service or service works.

11(2) An authorized official acting in terms of section 11(1), must:

11(2)(1) Except in the case of goods that have been left or abandoned, issue to a trader a receipt for any goods so removed or impounded, and
11(2)(2) Forthwith deliver such goods to a place determined by the municipal Manager or his/her delegated official.

11(3) The owner of goods removed and impounded in terms of section 11(1) shall, subject to the provisions of section 12, be liable for any expense incurred by the municipality, and the municipality may keep such goods until all such expenses have been paid or deal with the goods as contemplated in section 12.

11(4) A certificate issued under the hand of the municipal manager shall be deemed to be proof of any expenses incurred by the municipality.

12. DISPOSAL OF IMPOUNDED GOODS

12(1) Any perishable goods impounded in terms of section 11(1) may at any time be sold or destroyed by the municipal manager, or his/her delegated official and the proceeds of the sale, less any expenses incurred by the municipal manager, shall upon presentation of the receipt contemplated by section 11(2) be paid to the owner, provided that if such proceeds are not claimed within three months of the date on which the goods concerned were sold, the proceeds shall be forfeited to the municipality.

12(2) The owner of goods impounded in terms of section 11(1) may, in the case where the goods were not destroyed or sold in terms of section 12(1), on production of the receipt contemplated by section 11(2), reclaim the goods, provided that if the goods remain unclaimed after three months, the municipal manager of his/her delegated official, shall have the right to sell the goods and the proceeds shall be forfeited to the municipality.

12(3) When goods are reclaimed in terms of section 12(2), any outstanding expenses incurred by the municipality in connection with the removal and impounding, must first be paid before the goods are returned.

12(4) In the event of the proceeds of an sale of goods contemplated by this by-law not being sufficient to defray the expenses incurred by the municipality, the owner of such goods will remain liable for the balance of such expenses that are not defrayed by the proceeds from the sale of such goods.

13. APPEALS

Any person who wants to appeal against a decision made in terms of this by-law, may do so in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

14. OFFENCES

14(1) Any person who;

14(1)(1) contravenes or fails to comply with a provision of this by-law;

14(1)(2) ignores, disregards or disobeys a notice, sign or marking displayed or erected for the purposes of this by-law;
14(1)(3) contravenes or fails to comply with an approval or a condition granted or imposed in terms of this by-law;

14(1)(4) fails to comply with a request to move or remove his property;

14(1)(5) deliberately furnished false or misleading information to an officer or duly authorised employee of the council; or

14(1)(6) threatens, resists, interferes with obstructs an officer or duly authorised employee of the council in the exercise or performance of that officer’s or employee’s power or duties under this by-law;

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand (R1 000) or to imprisonment for a period not exceeding three (3) months.

15. APPLICATION

The by-law set out herein is applicable throughout the geographical area of operation of the Stellenbosch Municipality.

16. SHORT TITLE

This by-law will be called the “Informal Traders by-law.”