

Lesedi, South Africa

Street Trading

Legislation as at 25 July 2001

FRBR URI: /akn/za-gt423/act/by-law/2001/street-trading/eng@2001-07-25

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PDF created on 15 May 2024 at 04:29.

Collection last checked for updates: 4 April 2024.

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Lesedi South Africa

Street Trading By-law, 2001

Published in Gauteng Provincial Gazette 131 on 25 July 2001

Commenced on 25 July 2001

[This is the version of this document from 25 July 2001 and includes any amendments published up to 4 April 2024.]

1. Interpretation

- (1) (a) In these by-laws, unless the context otherwise indicates-
- (i) **"authorised official"** means an official of the Council authorised to implement the provisions of these by-laws and "officer" shall have a corresponding meaning.
 - (ii) **"Council"** means the Lesedi Local Municipality.
 - (iii) **"foodstuff"** means foodstuff as defined in Section 1 of the Foodstuff Cosmetics and Disinfectants Act, 1972 ([Act 54 of 1972](#)).
 - (iv) **"garden or park"** means a garden or park to which the public has a right of access.
 - (v) **"goods"** includes a living thing or any transferable interest.
 - (vi) **"local authority"** means a local authority as defined in the Act.
 - (vii) **"litter"** includes any container or other matter which has been discarded, abandoned or left behind by a person trading or his/her customers.
 - (viii) **"pavement"** means sidewalk as defined in section 1 of the Road Traffic Act of 1989 ([Act 29 of 1989](#)).
 - (ix) **"national monument"** means a building declared to be a national monument under the National Monuments Act, 1969 ([Act 28 of 1969](#)).
 - (x) **"prohibited area"** means any place declared or to be declared under section 6A(2) of the Act by resolution of the Council to be an area in which street trading may be prohibited.
 - (xi) **"property"** in relation to a person carrying on the business of street trading, means any article, receptacle, vehicle or structure used or intended to be used in connection with such business and includes goods in which he/she trades.
 - (xii) **"public building"** means a building occupied solely by the State or the Council.
 - (xiii) **"public place"** means a public place as defined in Section 2 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).
 - (xiv) **"public road"** means a public road as defined in Section 1 of the Road Traffic Act, 1989 ([Act 29 of 1989](#)).
 - (xv) **"restricted area"** means any place declared under Section 6A(2) of the Act by resolution of the Council to be an area in which street trading may be restricted.
 - (xvi) **"sell"** includes supply to and also-
 - exchange or hire;
 - store, expose, offer or prepare for sale;

and "sale" has a corresponding meaning.

- (xvii) "**services**" includes any advantage or gain for consideration or reward.
- (xviii) "**sidewalk**" means a sidewalk as defined in Section 1 of the Road Traffic Act, 1989 ([Act 29 of 1989](#)).
- (xix) "**the Act**" means the Businesses Act, 1991 ([Act 71 of 1991](#))
- (xx) "**trade**" means the lawful sale of goods or services in a public road or public place and "trading" has a corresponding meaning.
- (xxi) "**verge**" means a verge as defined in Section 1 of the Road Traffic Act, 1989 ([Act 29 of 1989](#)) and any word or expression to which a meaning has been assigned in the Businesses Act, 1991 ([Act 71 of 1991](#)).

- (2) For the purposes of these by-laws a single act of selling in a public road or public place shall constitute trading.

2. Right of trade

Subject to the provisions of Section 3 and 4 and any other law, street trading is permitted except in so far as such trading is restricted or prohibited by Section 5 to 13 inclusive.

3. General conduct

A person shall-

- (a) not place his/her property on a verge or public place except for the purpose of commencing to trade;
- (b) ensure that his/her property does not cover an area of a public road or public place which is greater in extent than six square metres (6m²) unless written permission for a greater area is obtained from the local authority;
- (c) not place or stack his/her property in such a manner that it constitutes a danger to any person or property or is likely to injure any person or damage property;
- (d) not erect an unsightly structure from which to conduct business;
- (e) not obstruct access to a fire hydrant;
- (f) on concluding business for the day, remove his/her property, except any structure permitted by the local authority, to a place which is not part of a public road or public place;
- (g) on request by an employee or agent of the Council or any supplier of telecommunication or electricity or other services, move his/her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- (h) not attach any object by any means to any building structure, pavement, tree, parking metre, lamp post, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- (i) not make a fire at a place or in circumstances where it could harm any person or damage a building or vehicle;
- (j) not store his/her property in a manhole or stormwater drain; bus shelter, public toilet or tree.

4. Cleanliness

A person trading shall-

- (a) keep his/her property and the area or site occupied by him/her for the purpose of such business in a clean and sanitary condition;

- (b) dispose of litter generated by his/her business in whatever receptacles provided by the local authority, including recycling and dumping sites, and not dispose of litter in a manhole, stormwater drain or other place not intended for the disposal of litter;
- (c) ensure that on completion of business for the day the area or site occupied by him/her for the purpose of trade is free of litter;
- (d) take such precautions as may be necessary to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his/her business and to prevent any smoke, fumes odours or noise emanating from his/her activities from becoming a nuisance.

5. Obstruction of pedestrians

No person shall trade at a place where such trading-

- (a) obstructs access to or use of street furniture such as a bus passenger bench or shelter or queuing line, refuse disposal bin or other facility intended for the use of the general public;
- (b) obstructs the visibility of a display window in business premises, if the person carrying on business in the premises concerned objects thereto;
- (c) obstructs access to a building, automatic bank teller machine, pedestrian crossing or motor vehicle;
- (d) leaves less than 1,5 metre in width of a sidewalk clear for pedestrian use; or in any other manner substantially obstructs pedestrians in their use of a sidewalk.

6. Obstruction of vehicular traffic

No person shall trade at a place where such trading-

- (a) causes an obstruction on a roadway;
- (b) limits access to parking or loading bays or either facilities for vehicular traffic;
- (c) obscures any road traffic sign or any marking, notice or sign displayed or made in terms of these or any other by-laws; or
- (d) interferes in any way with any vehicle that may be parked alongside such place;
- (e) obscures or impedes the view of any road user to see the road, any traffic sign or any other road user.

7. Trading restricted to specified hours in certain places

No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule A, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act, outside the hours so specified in relation to each such garden, park, verge or area.

8. Trading restricted to specified goods or services in certain places

No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule B, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act other than in the goods or services so specified in relation to each such garden park, verge or area.

9. Trading restricted to demarcated stands or areas in certain places

No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule C, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act, outside a stand or area set apart for trading purposes as contemplated in Section 6A(3)(b) of the Act.

10. No trading in stands or area which have been let except by the lessee

If the Council has let or otherwise allocated any stand or area set apart or otherwise established for street trading purposes, as contemplated in Section 6A(3)(x) of the Act, no person may trade in such area if he/she is not in possession of proof that he/she has hired such stand or area from the Council or that it has otherwise been allocated to him/her.

11. No trading near certain public buildings, places of worship and national monuments

No person shall trade on a verge contiguous to any place of worship, national monument or public building which is specified in Schedule D, compiled according to the consultations process outlined in Section 6A(2)(a) to (j) of the Act, unless he/she obtains written consent from the local authority, which consent shall not be unreasonably withheld.

12. No trading in prohibited areas

No person shall trade in any prohibited area.

13. Trading near residential buildings

No person shall, outside an area specified in Schedule E, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act, trade in that half of a public road contiguous to a building used exclusively for residential purposes if-

- (a) the owner, person in control or occupier of any part of the building facing onto such road has objected thereto; and
- (b) the fact that such objection was made has been made known to the first-mentioned person by an authorised official.

14. Signs indicating restrictions and areas

The Local Authority may-

- (a) by resolution, after consultation, with all interested parties, prescribe signs, markings or other devices approved by the Premier indicating:
 - (i) specified hours, places, goods or services in respect of which street trading is restricted.
 - (ii) the location or boundaries of a restricted area.
 - (iii) the boundaries of a stand or area set apart for the purpose of the carrying on of the business of street trading under Section 6A(3)(b) of the Act.
 - (iv) the fact that any such stand or area has been let or otherwise allocated.
 - (v) any restrictions or prohibition against trading in terms of these by-laws.
 - (vi) the location or boundaries of a prohibited area.

- (b) display any such sign, marking or device in such a position and manner as will indicate the restrictions or the location or boundaries of the area or stand concerned.

15. Removal and impoundment

- (1) An officer may remove and impound any goods, article, receptacle, vehicle or structure-
 - (a) which he/she reasonably suspects is being used or intended to be used or has been used in or in connection with street trading.
 - (b) which he/she finds at a place where street trading is restricted or prohibited in terms of Sections 5 to 13 inclusive and which in his/her opinion, constitutes an infringement of any such section.
 - (c) as referred to in Section 3(d) hereof.
- (2) The disposal of any goods, article, receptacle, vehicle or structure removed and impounded as contemplated in subsection (1) and the liability of any person for the expenses incurred in connection with such removal, impoundment and disposal, shall be in accordance with the regulations prescribed by the Premier under Section 6(1)(b) of the Act.

16. Offences

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

17. Penalties

Any person who is guilty of an offence in terms of these by-laws on conviction be liable to a fine or to imprisonment for a period not exceeding three months.

18. Vicarious responsibility of persons carrying on business

When an employee of a person conducting the business of street trading does or omits to do any act which would be an offence in terms of these by-laws for that person to do or omit to do, that person shall be deemed himself/herself to have done or omitted to do the act, unless he/she satisfies the court that-

- (a) he/she neither connived at nor permitted the act or omission by the employee concerned;
- (b) he/she took all reasonable steps to prevent the act or omission;
- (c) an act or omission, whether, lawful, or unlawful of the nature charged on no condition or under no circumstance fell within the scope of the authority or employment of the employee concerned and the fact that the said person issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he/she took all reasonable steps to prevent the act or omission.

19. Vicarious responsibility of employees

When a person carrying on the business of street trading is by virtue of Section 18 liable for an act or omission by an employee of that person, that employee shall also be liable as if he/she were the person carrying on the business concerned.

20. Repeal of by-laws

Existing by-laws are hereby repealed.

Schedule A

PLACES WITH RESTRICTED TRADING HOURS

PLACES: TRADING HOURS

- (a) Garden and Parks:
- (b) Verges contiguous to the following-places of worship, national monuments and public buildings:
- (c) Restricted areas (with number and date of notice of declaration thereof):

With regard to A, B and C above, the hours determined by the local authority in consultation with all stakeholders after receiving specific applications.

Schedule B

PLACES WHERE GOODS OR SERVICES ARE RESTRICTED

PLACES: PERMITTED GOODS OR SERVICES

- (a) Garden and Parks:
- (b) Verges contiguous to the following-places of worship, national monuments and public buildings:
- (c) Restricted areas (with number and date of notice of declaration thereof):

With regard to A, B and C above, the goods or services determined by Council in consultation from time to time.

Schedule C

PLACES WHERE TRADING IS RESTRICTED TO DEMARCATED STANDS AND AREAS

- (a) Garden and Parks:
- (b) Verges contiguous to the following-places of worship, national monuments and public buildings:
- (c) Restricted areas (with number and date of notice of declaration thereof):

Schedule D

VERGES WHERE TRADING IS PROHIBITED

The verges contiguous to the following:

- (a) Public buildings;
- (b) Places of worship;
- (c) National monuments;

Schedule E

AREAS EXCLUDED FROM RESTRICTION ON TRADING NEAR RESIDENTIAL BUILDINGS

- (a) Townships and portions of townships;
- (b) Public roads and portions of public roads.