

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Blue Crane Route Municipality, enact as follows:-

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### 1. Definitions

(1) In this by-laws, unless the context indicates otherwise-

“**Act**” means Business Act, 1991 (Act 71 of 1991), and includes the regulations promulgated in the Act;

“**Approval**” means approval by the municipality and “approve” have corresponding meaning

“**business site**” means any site at which the business of street trader is carried on;

“**Council**” means the Blue Crane Route Municipality and in relation to the exercise of a power, the performance of a duty or the carrying out of a function includes any committee or official of the Council to whom such power, duty or function has been delegated;

“**garden**” means a garden to which public has no right to access;

“**goods**” means any movable property;

“**inspector**” means an inspector appointed in terms of the Business Regulations published on 24 February 1994 under Provincial Notice 24;

“**intersection**” means the intersection as defined in the regulations promulgated in terms of the National Road Traffic;

“**litter**” means any object or matter which is discarded by a person;

“motor vehicle” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**municipality**” means the Municipality of Blue Crane Route established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee 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, agent or employee,."

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns execution of those powers, functions or duties.

“**official**” means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

“**park**” means a park to which the public has a right to access;

“**premises**” includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

“**prescribed**” means prescribed by the municipality resolution;

“**property**” in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

“**public amenity**” means –

(a) any land, square, camping site, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;

“**public place**” means a roadway as defined in Section 1 of the Local Authorities Ordinance 25 of 1975.

“**public road**” means a public road as defined in Section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**roadway**” means a roadway as defined in Section 1 of the Road Traffic Act of 1989;

“**sell**” includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and “sale” or “selling” has a corresponding meaning;

“**sidewalk**” means a roadway as defined in Section 1 of the Road Traffic Act of 1989;

“**street furniture**” means any furniture installed by the municipality on the street for public use;

“**street trader**” means a person who sells, barter, exchange, hire out, displays, exposes, offers or prepares for sale, barter exchange or hire any goods or who provides or offers any service for reward as a street vendor, hawker or pedlar but does not include any person who sells newspaper only;

"**the Act**" means the Business Act 71 of 1991 and includes the regulations made in terms thereof;

"**vehicle**" means any device designed or adapted to travel or move on wheels.

"**verge**" means a verge as defined in Section 1 of the Road Traffic Act 29 of 1989;

(2) Any reference to a street trader shall include any employee of such street trader.

(3) A reference to a person carrying on the business of street trader includes the employee of the person.

## **2. Principles and objectives**

The municipality, acting in terms of section 6A(1)(a)(i) of the Business Act, 1991 (Act 71 of 1991), and -

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in the economic activities; and
- (c) taking into consideration the need to maintain a clean and healthy environment, this by-law provides mechanisms, procedures and rules to manage street trading.

## **3. Application**

This by-law applies to all persons who carry on the business of street trading with the area of jurisdiction of the Blue Crane Route Municipality.

# **CHAPTER 1 GENERAL PROVISIONSONS APPLICABLE TO STREET TRADING**

## **4. Restricted and prohibited areas**

(1) The municipality may, in terms of section 6A(2)(a) of the

No street trader shall carry on business:-

1. on any verge contiguous to-
  - (a) a building belonging to or occupied solely by the State or the Council;
  - (b) a church or other place of worship, or
  - (c) a building declared to be a national monument in terms of the Nations Monuments Act 28 of 1969;
2. on any verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street trader or who offers services of the same nature as or of a similar nature to a service offered by the street trader concerned without the consent of such person;
3. on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;

4. at any place where the carrying on of such business causes an obstruction to-
  - (a) the entrance to or exit from a building, or
  - (b) a fire hydrant;
5. in any declared area identified as such in terms of Section 6A(2)(a) of the Act in respect of which the carrying on of the business of street trader has been-
  - (a) prohibited by the Council, or
  - (b) restricted by the Council, unless such business IS carried on accordance with such restrictions;
6. At any place which has been set apart and demarcated as stands or areas by the Council in terms of Section 6A(3)(b) of the Act for the purposes of the carrying on of the business of street trader, unless such business is carried on in accordance with-
  - (a) an agreement with the Council, or
  - (b) the allocation by the Council to the street trader of any area or stand;
7. in any public garden or park except with the prior written consent of the Council.

**5. Places where street trading is prohibited**

- (1) Unless the municipality has so permitted in terms of an agreement or by means of the display of a sign, no person may carry on the business of a street trader in any of the following places:
  - (a) in a garden or a park to which the public has a right of access;
  - (b) on a verge contiguous to –
    - (i) a building belonging to, or occupied solely by, the State or the municipality;
    - (ii) a church or other place of worship; or
    - (iii) a building declared to be a public monument under National Heritage Resources Act, 1999.
- (2) No person may carry on the business of a street trader in any of the following places:
  - (a) in a place declared by the municipality under section 6A(2)(a) of the Act as a place in which street trading is prohibited;
  - (b) at a place where street trading obstructs the use of the sidewalk by pedestrians or interferes with the ability of a person using the sidewalk to view the goods displayed behind a shop display window or obscures such goods from view;
  - (c) within 5 metres of an intersection as defined in Regulation 322 of National Road Traffic Act, 1996;
  - (d) at a place where street trading obstructs –
    - (i) a fire hydrant;
    - (ii) the entrance to, or exit from, a building;
    - (iii) vehicular traffic;
    - (iv) access to a pedestrian crossing, a parking or loading bay or any other facility for vehicular or pedestrian traffic;
    - (v) access to , or the use, of street furniture or any other facility designed for the use of the general public;

- (vi) or obscures a road traffic sign that is displayed in terms of the National Road Traffic Act, 1996;
  - (vii) or obscures a marking, notice or sign displayed or made in terms of this by-law;
  - (d) that half of a public road contiguous to a building which is used for residential purposes, if the owner or person who is in control or any occupier of the building objects thereto; or
  - (e) the goods displayed behind a shop display window from the view of persons using the sidewalk in front of such shop; or
  - (f) on a portion of a sidewalk or public amenity in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law;
- (3) A person to whom an area or stand has been let or allocated under paragraph c of section 6A(3) of the Act must –
- (a) comply with conditions of the lease of allocation; and
  - (b) be in possession of written proof that municipality has let or allocated the area or stand to him or her.
- (4) A person who contravenes a provision of this section commits an offence.

## **6. General duties of street traders**

- (1) A street trader must -
- (a) at the end of each day ensure that all trading goods, movable structures, waste, litter, packaging material, stock and equipment of whatever nature used in connection with or generated by the business is removed from the business site;
  - (b) at the request of any officer or employee of the municipality who has been authorized to provide municipal services, move his or her property so as to permit the official or other person to carry out any work in relation to a public road, public amenity or service;
  - (c) keep the business site or stall occupied by him or her in a clean and sanitary condition and free of litter;
  - (d) ensure that no fat, oil or other substance drops or spills onto the surface of the sidewalk or splashes against a building;
  - (e) on request by an official of the municipality, move his or her property so as to permit the cleansing of the area where he or she is trading;
2. A person who contravenes a provision of subsection (1) commits an offence.

## **7. Prohibited conduct**

- (1) A street trader –
- (a) may not sleep or overnight at the area where he or she is trading, or at the area where another street trader is trading;
  - (b) may not place or stack his or her property in such a manner that it –
    - (i) constitutes a danger to any person or property; or
    - (ii) is likely to injure any person or cause damage to any property;

- (c) may not dispose litter in a manhole, storm water drain or other place not intended for the disposal of litter;
  - (g) may not release onto a public road or public amenity or into a storm water drain or fat, oil or grease in the course of conducting his or her business;
  - (h) may not allow smoke, fumes, noise, smells, or other substance arising from his or her activities to cause a nuisance or pollution of any kind;
  - (i) may not erect a structure for the purpose of providing shelter;
  - (j) may not place his or her property in a public road or public amenity;
  - (k) who conducts his or her business from a vehicle, may not park the vehicle or trailer in such a manner as to obstruct pedestrians or vehicular traffic and must ensure that he or she complies with the provision of the National Road Traffic Act, 1996;
  - (l) may not place on a public road or public amenity, his or her property that cannot be easily removed to a place of safety, which may not be a public road or public amenity, at the end of the day's business;
  - (m) may not display his or her goods or other property on or in a building, with or without the consent of the owner, lawful occupier or person in control of such building or property;
- (2) An official of the Municipality may remove and impound any goods (a) which he reasonably suspects are being used or intended to be used or have been used in or in connection with the carrying on of the business of a street trader, and
- (b) which he finds at a place where the carrying on of such business is prohibited or restricted in terms of these bylaws, whether or not such goods are in the possession or under the control of any person at the time of such removal and impoundment.
- (3) An inspector removing and impounding any goods shall-
- (a) except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof, and
  - (b) forthwith place such goods in safe custody.

## **8. Removal and impoundment of Goods**

- (1) An official who reasonably suspects that property is being used or intended to be used in or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to sub-section (2), remove and impound the property which he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.
- (2) An official who acts under sub-section (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:

- (a) the address where the impounded property will be kept and the period it will be kept;
  - (b) the conditions for the release of the impounded property or a structure; and
  - (c) that unclaimed property will be sold by public auction.
- (3) If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.
- (4) When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.
- (5) Any person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offense.

## **9. Sale of impounded goods**

- (1) The official must –
- (a) whenever any impounded goods has not been released within seven days from the date of its impoundment, apply to the Court for authority to sell the goods; and
  - (b) in the application contemplated in paragraph (a), provide the Court with proof that he or she lodged a statement as contemplated in sub-section (2) with the owner.
- (2) The statement contemplated in subsection (1)(b) must include –
- (a) the fees and costs due in terms of this by-law' and
  - (b) the place where the goods was impounded.
- (3) The Court, whether the amounts set forth in the statement contemplated in subsection (1)(b) are disputed or not, must –
- (a) summarily enquire into the matter;
  - (b) enquire whether notice was given to the owner of the impounded goods by the official; and
  - (c) make such order as it considers just and equitable, including an order –
    - (i) as to costs; and
    - (ii) on the process to be followed by the official in the sale of the goods.

## **10. Offences and penalties**

Any person who contravenes any provision of these bylaws shall be guilty of an offence and on conviction shall be liable to a fine or imprisonment for a period not exceeding three months.

## **11. Appeal**

Any person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons thereof in terms of Section 62 of Local Government: Municipal Systems

Act, Act 32 of 2000 to the Municipal Manager within 21 days of the date of the notification of decision.

**12. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of -
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting economic development;
- (2) A liaison forum may consist of –
  - (a) a member or members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councilor
- (3)
  - (a) The municipality may, when considering an application for an approval or exemption certificate in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person or persons contemplated in sub-section (2) may, on own initiative make an input to the municipality for consideration.

**13. Revocation of by-laws**

The following by-laws are hereby repealed:

- (a) Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law; and
- (b) Any by-law previously promulgated by the Sarah Baartman District Municipality or any of its predecessors, in so far as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Municipal Structures Act, 117 of 1998.

**14. Short title and commencement**

This by-law will be known as the Street Trading By-law and will come into operation on the date of publication thereof in the Provincial Gazette.