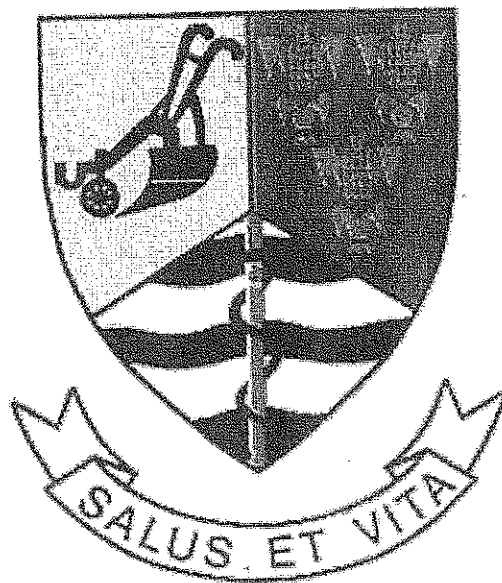


LOCAL AUTHORITY NOTICE 249 OF 2021

BELA-BELA LOCAL MUNICIPALITY



**INFORMAL TRADING
BY-LAW
Final 2020**

Notice is hereby given in terms of Section 13 of the Local Government: Municipal Systems Act, 32 of 2000, read with Sections 156 and 162 of the Constitution of the Republic of South Africa Act, 108 of 1996, that Bela-Bela Local Municipality resolved to adopt the following Street Trading By-Laws, with effect from the date of publication.

TABLE OF CONTENTS

1. Interpretation/Definitions
2. Object
3. Freedom to trade
4. General conduct
5. Cleanliness
6. Obstruction of pedestrians
7. Obstructing of vehicular traffic
8. Trading restricted to specified hours in certain places
9. Trading restricted to specified goods or services in certain places
10. Trading restricted to demarcated stands or areas in certain places
11. No trading in stands or areas which have been let except by the lessee
12. No trading near certain public buildings, places of worship and national monuments
13. No trading in prohibited area
14. Signs indicating restrictions and areas
15. Trading near residential buildings
16. Trading near certain business premises
17. Removal and impoundment
18. Tariffs
19. Offences
20. Presumption
21. Penalties
22. Vicarious responsibility of persons on business
23. Vicarious responsibility of employees
24. Repeal of existing By-laws
25. Short title

SCHEDULES

SCHEDULE 1	: Demarcation Areas/Street Trading Areas
SCHEDULE 2	: Trading Hours
SCHEDULE 3	: Notice of Unauthorized Informal Trading
SCHEDULE 4	: Notice of Impounded Goods
SCHEDULE 5	: Warning
SCHEDULE 6	: Tariffs & Fines
SCHEDULE 7	: Prohibition Sign
SCHEDULE 8	: Application Form

1. Interpretation/definitions.

(1) In these By-laws, unless the context otherwise indicates-

“Act”, means the Limpopo Business Registration Act, 2003 (Act No. 5 of 2003);

“Authorised Official” means an official of the Municipality authorised to implement the provisions of these By-laws — Peace Officers, Traffic Officers, the South African Police Services and any Municipal Health Official designated by Waterberg District Municipality for such purposes;

“Closing Hour” in relation to a shop, means the hour on any particular day after which no trading may, in terms of the provisions of this By-Law, take place in, on or from a shop;

“Demarcated Stand or Area/s” means a demarcated stand as envisaged in terms of section 7 (3) (b) (i) of the Act;

“Garden or Park” means a garden or park to which the public has a right of access;

“Goods” shall include livestock, poultry or any movable commodity;

“Informal Business” include Hair Salons/Dressing, Street Traders, Hawkers, Flea Market, and Car Wash, Car Repairs.

“Intersection” means an intersection as defined in Section 1 of the National Road Traffic Act, 1996, Act No. 93 of 1996;

“Litter” includes any container waste material or other matter which has been discarded, abandoned or left behind by a person trading or his customers;

“Municipality” means Bela-Bela Local Municipality as described in Section 2 of the Local Government: Municipal Systems Act (Act No. 32 of 2000), and its area as determined from time to time in terms of the Local Government: Municipal Demarcation Act (Act No. 27 of 1998);

“National Monument” means a building declared to be a national monument under the National Monuments Act, 1969 (Act No. 28 of 1969);

“Open” means open for admission of any person in a shop for the purpose of selling or supplying goods to him or her or for the purpose of attending to him or

4

her;

“Perishable food stuffs” as defined in Section 1 of the Business Act, 1991 (Act No. 71 of 1991);

“Prohibited area” means any place declared under Section 6A (2) of the Act in which street trading is prohibited;

“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 and or services in which he or she trades;

“Public building” means a building dedicated for use by the public in the Municipality;

“Public road” means a public road as defined in Section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“Restricted area” means any place declared under Section 6A (2) of the Act in which street trading is restricted;

“Roadway” means a roadway as defined in Section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“Sell” includes supply and also-

(a) exchange or hire;

(b) provide a service for reward;

(c) store, process, expose, offer or prepare for sale, and **“sale”** has a corresponding meaning;

“Services” includes any lawful advantage or gain for consideration or reward offered in restricted area;

“Sidewalk” means a sidewalk as defined in Section 1 of the National Road Traffic Act, 1996;

“Tariff” means the charges as determined by the Council of Municipality from time to time by resolution;

“Town Planning Scheme” means the Town Planning Scheme of the Bela-Bela Local Municipality;

“Trade” means sell goods or services in a public road or public place and “trading” has a corresponding meaning;

“Verge” means a verge as defined in Section 1 of the National Road Traffic Act, No 93 of 1996;

- (2) For the purpose of these By-laws a single act of selling or offering services in a public place shall constitute trading.

1. Objects

The objects of this by-law are to –

- (a) Support and encourage street trading as a way of enhancing the Municipality’s existing informal economic activities; and
- (b) Manage street trading in such a way that is acceptable standards of public health, pedestrian and motorist safety and a free flow of traffic is maintained

2. Freedom to trade

Subject to the provision of sections 4 and 5 and any other relevant law, street trading is freely permitted except in so far as such trading is restricted or prohibited by *Sections 7 to 15 inclusive of these By-laws.*

3. General conduct

(1) A person trading shall-

- (a) be in possession of a Street Trading Permit issued by Bela-Bela Municipality for the purposes of Street Trading;
- (b) not place his or her property on the roadway;
- (c) ensure that his or her property does not cover an area of the sidewalk or public place which is greater in extent than three metres in length and which on any sidewalk does not leave a space less than two metres for pedestrian traffic measured over the width thereof and any other public place not to an extent of twelve meters; and
- (d) not place or stack his property in such a manner that it constitutes a danger to any person or is likely to injure any person;

- (e) not obstruct access to a fire hydrant;
- (f) on concluding business for the day remove his property, except any temporary structure permitted by the Municipality, to a place which is not part of a public road or public place;
- (g) not display his or her goods or other property on a building or private property, without the written consent of the owner, occupier or person in control of such building or property;
- (h) on request by an employee or agent of the Municipality or any supplier of telecommunication or electricity or other services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- (i) not attach any object by any means to any building, structure, pavement, tree, parking meter, lamp pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- (j) not make a fire at a place or in circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in paragraph (i) or any Municipality property;
- (k) not trade nearer than 10 metres from a Bank or an Automated Teller Machine;
- (l) not store his/her property in a manhole or storm water drain or any public infrastructure;
- (m) not contravene the terms and conditions of the lease or allocation to his or her stand or area allocated.
- (n) not sleep overnight at the place of such business or erect any structure (other than a device which operates in the same manner as, and is shaped like an umbrella) for the purpose of providing shelter;
- (o) not carry on business in such a manner as to –
 - (i) create a nuisance,
 - (ii) damage/deface the surface or any public road or public place or any

public or private property,

- (iii) create a traffic hazard.

4. Cleanliness

(1) A person trading shall-

- (a) keep the area site occupied by him for the purpose of such business in a clean and sanitary condition;
- (b) keep his or her property in a clean and sanitary condition;
- (c) dispose of litter generated by his business in whatever receptacles provided by the Municipality for the public or at the Municipality's dumping sites;
- (d) not dispose of litter 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 trade is free of litter;
- (f) in the case of a vendor of foodstuffs, 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 business and to prevent any smoke, fumes or odours emanating from his or her activities from becoming a nuisance. Any person preparing or selling perishable foodstuffs must comply with the Health Act No. 63 of 1977;
- (g) on reasonable request by an employee or agent of the Municipality, move his or her property so as to permit the cleansing of the surface of the area or site where he or she is trading;
- (h) ensure food preparation, handling and selling is in accordance with the relevant legislation, Sections and Regulations.
- (i) Carry on business in such a manner as not to be a danger or threat to public health or public safety.

5. Obstruction of pedestrians

- (1) No person shall trade at a place where such trading substantially-
- (a) obstructs access to or the use of street furniture such as a bus passenger bench or shelter or queuing line, a refuse disposal bin, pedestrian walkway, bicycle stand 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 business premises concerned objects thereto;
 - (c) obstructs access to an entrance to or exit from a premise or an automatic bank teller machine, arcade and/or Mall;
 - (d) obstructs access to a pedestrian crossing, parking or loading bay and other facilities for vehicle, train or pedestrian traffic and if in the middle of a block a clear distance of 5 metres from the crossing must be obeyed;
 - (e) obstructs access to any vehicle;
 - (f) leaves less than one and a half metres in width of a sidewalk clear for pedestrian use; or
 - (g) in any other manner obstructs pedestrians in their use of a sidewalk.

6. Obstructing of vehicular traffic

No person shall trade at a place where such trading-

- (a) causes an obstruction on a roadway;
- (b) limits vehicular access to parking or loading bays or other facilities;
- (c) obscures any road traffic sign, traffic sign or any marking, notice or sign displayed or made in terms of this By-law; or
- (d) interferes in any way with any vehicle that may be parked alongside such place;
- (e) contravenes the provision of section 116 of the National Road Traffic Act (Act No. 93 of 2006).
- (f) is on or alongside a public road inside an urban area, within 180 metres of a

railway level crossing or any road traffic sign denoting a blind corner or rise thereon or within five (5) metres from any intersection thereon, provided that this subsection does not prohibit the trade inside an urban area on a roadway within five (5) metres from any intersection.

(g) is on or alongside any public road outside an urban area.

7. Trading restricted to specified hours in certain places

(1) 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 by Municipality outside the hours specified in relation to each such verge or area.

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

(1) No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building, financial institutions; or
- (b) in a restricted area which is specified by Municipality resolution other than in the goods or services so specified in relation to each such verge or area;
- (e) as a barber or hair dressing salon in a public place, unless the barber or hairdressing stand is-
 - (i) at least fifteen (15) metres from the nearest stand which sells perishable foodstuff, fruit or vegetables;
 - (ii) not contradictory to the Amended National Health Act (Act No. 61 of 2003) read in conjunction with the previous National health Act, No. 63 of 1977 and regulations;
 - (iii) supplied with an electrical connection, provided by the Municipality, according to the electrical By-laws and specifications or any other Act;
 - (iv) complies with the provision of Council's Land Use Scheme.

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

(1) 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 by Municipality resolution outside a stand or area set apart for trading purposes as contemplated in section 7 (3) (b) of the Act.

10. Trading on leased property

(1) No person shall trade -

(a) unless the Municipality has leased or otherwise allocated that stand or area or otherwise earmarked for street trading purposes.

(b) In such stand or in such area if he or she is not in possession of proof that such stand or area is hired from the Municipality or that it has otherwise been allocated to him or her by way of a valid formal lease agreement.

11. Trading near public buildings, places of worship and national Monuments

(1) No person shall trade –

(a) on a verge contiguous to any place of worship, national monument or public building;

(b) unless the person possess written temporal Permit approval from the municipality.

12. Trading in prohibited area

(1) No person shall trade-

(a) in any prohibited area, nor an area which has not been approved and indicated by the Municipality.

13. Signs indicating restrictions and areas

(1) The Municipality shall-

- (a) prescribe signs, markings or other devices 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.
 - (iv) the fact that any such stand or area has been allocated;
 - (v) any restriction or prohibition against trading in terms of these By-laws;
 - (vi) the location or boundaries of places where street trading is prohibited;
- and
- (b) display any sign, marking or device in such a position and manner visible to motorists indicate the restrictions.

14. Trading near residential buildings

Subject to the provisions of this By-Law no person shall, outside an area referred to in *Sections 7 to 12 inclusive*, trade in that half of a public road contiguous to a building used for residential purposes within the demarcated areas of trading as specified in terms of these By-laws, if the owner, person in control or any occupier of any part of the building facing onto such road has objected hereto in writing to Council, provided that in a township or portion thereof mentioned in a resolution of the Municipality, this section shall not apply to a building used for residential purposes if such buildings are used for business purposes at ground level.

15. Trading near certain business premises

No person shall, *outside an area referred to in sections 7 to 12 inclusive*, trade on a verge contiguous to that part of 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 first mentioned person, other than a department store or supermarket without the consent of the second mentioned person.

16. Removal and impoundment

- (1) An authorised official may after serving a person with a written warning, within reasonable time remove and impound any goods, articles, receptacles, vehicles or structures-
- (a) which he or she reasonably suspects is being used or is intended to be used or has been used in or in connection with street trading in contravention of this By-Law; and
 - (b) which he or she finds at a place where street trading is restricted or prohibited in terms of *Section 5 to 12 inclusive and Sections 14 and 15* and which in his opinion constitutes an infringement of any such Sections.
- (2) (a) The Municipality shall publish a notice in at least one newspaper circulating in its area of Jurisdiction, containing the following information relating to objects removed in terms of subsection (1)-
- (i) a description of the object, the address where the object is stored and, if known, the name of the owner;
 - (ii) that such objects may be claimed by the owners there on production of proof of ownership to the satisfaction of the Municipality;
 - (iii) that any object which has not been claimed within a period of three months from the date of publication of such notice will be destroyed or sold by public auction and the proceeds of such auction retained by the Municipality to defray its costs;
 - (iv) impoundment of "perishable foodstuffs" will be handled and disposed of in terms of the Health Act;
 - (v) pound fees will be charged as laid down from time to time by the Municipality.
- (b) The Municipality may sell by public auction any object unclaimed from it more than three months after a notice contemplated in sub-paragraph 2(a) (iii) has been published in respect of such object, and may retain the proceeds of such auction or may destroy such object.
- (c) The Municipality shall not be liable for compensation to any person for damages arising out of the damage to or the loss or any object removed.

- (i) or the sale thereof by public auction, and the owner of such object shall have no claim or right of redress against the Municipality.
- (d) (i) If any object is attached to any movable property or a fixture contemplated in subsection (1) and such object is under the apparent control of a person present threat to any authorised official of the Municipality may order such person to remove the object and if such person refuses or fails to remove the object, he shall be guilty of an offence.
- (ii) When any person fails to comply with an order to remove an object referred to in sub-paragraph (i) any officer of the Municipality may take such steps as may be necessary to remove the object.

17. Tariffs

- (a) The Municipality may impose tariffs or fees for street trading or hawking.
- (b) Tariffs or fees may be amended by way of Council resolution.
- (c) Are subject to change from time to time.

18. Offences

1. Any person who-
 - (a) contravenes or fails to comply with a provision of these By-laws or a direction issued by the Municipality in terms of these By-laws, or a condition imposed under these By-laws, his or her conduct constitute an offence;
 - (b) obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these By-laws; or
 - (c) furnishes false, incorrect or misleading information when applying for permission from the Municipality in terms of the provision of these By-laws, is guilty of an offence.

19. Presumption

- (1) In any prosecution for an offence under these By-laws, an allegation in the charge concerned that-
- (a) any goods with which a business was carried on were or were not of a particular kind, class, type of description or as it may be described by the Municipality;
 - (b) any goods or services were sold or offered for sale;
 - (c) any place was situated in a public road or public place or within a particular area;
 - (d) any person carried on the business of street trading and in a manner and place alleged.
- (2) In any criminal proceedings for a contravention of these By-laws, where it is shown that-
- (a) any goods were displayed in a public place, such goods shall be presumed to have been offered for sale;
 - (b) any property used in the provision of any service was available in a public place, such services shall be deemed to have been offered or supplied.

20. Penalties

Any person who is guilty of an offence in respect of this By-law, on conviction, may be liable to a fine as determined in schedule three (03) of this By-Law, adjusted in terms of the Adjustment of Fines Act, or to imprisonment for a period not exceeding six (6) months. The Permit will be annulled should a person commit the offense for the second time.

21. Vicarious responsibility of persons carrying on business

- (1) When an employee of a person conducting the business of Street Trading does or omit to do any act which would be an offence in terms of this By-Law for that person to do or omit to do, that person shall be deemed herself or himself to have done or omitted to do the act, unless he or she satisfies the Court of Law that –

- (a) he or she never connived at nor permitted the act or omission by the employee concerned;
- (b) he or she took all reasonable steps to prevent the act or omission; and
- (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 the said person issued instruction whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he or she took reasonable steps to prevent the act or omission.

22. Vicarious responsibility of employees

When a person carrying on the business of Street Trading is by virtue of *Section 20* liable for an act or omission by an employee of that person, that employee shall also be liable therefore as if he or she were the person carrying on the business concerned.

23. Repeal of existing By-laws

- (1) All previous By-laws are hereby repealed, provided that such repeal shall not affect the continued validity of any charges determined by Council of the Municipality under those By-laws.
- (2) Any reference –
 - (a) in this By-Law a charge determined by the Council of the Bela-Bela Municipality shall include a charge determined by the Council under the By-Law repealed by subsection (1), until the Council's determination of charges under these By-Laws comes into operation; and
 - (b) in determination of charges made under the By-Laws so repealed, to a provision in those By-Laws shall be deemed to be a reference to the corresponding provision in this By-Law.
- (3) Anything done under the provision of this By-Laws repealed by sub-section (1), shall be deemed to have been done under the corresponding provision of this By-Law and such repeal shall not affect the validity of any approval, authority, waiver or other Act which at the commencement of this By-Law is

valid under the By-Laws so repealed.

24. Location

(1) In terms of location an Informal Trader shall –

- (a) be allocated a site of trading by the official of the municipality;
- (b) be allocated a site provided he/she is in possession of a valid Permit issued by the Municipality;
- (c) be placed where it is reasonably safe to trade;

25. Proximity to other Informal Traders

(1) In terms of proximity an Informal Trader shall –

- (a) be placed three (3) metres apart from another informal trader.
- (b) be placed, atleast two (2) metres away from street infrastructure that is likely to cause danger to traders and their customers.

26. Short title

These By-laws shall be called the Informal Trading By-Laws, and shall come in to effect upon approval by council.

SCHEDULE 1
DERMACATING AREAS: TRADING - AREA

The Bela-Bela Local Municipality hereby gives notice in terms of Section 6A (3) (b) of the Business Act, 1991 (Act No. 71 of 1991), that the jurisdiction area Bela-Bela Local Municipality is declared a prohibited area for street trading with the exception of the areas as indicated below and subject to the conditions and stipulations of the above Act and the Bela-Bela Street Trading By-Law, with effect on date of this notice:

CENTRAL BUSINESS DISTRICT (CBD)

LOCATION OF HAWKING	NUMBER OF HAWKERS	STREET NAME	NEEDS/ADDITIONAL INFORMAL TRADERS/HAWKERS
Opposite SPAR	02	Chris Hani Drive	0
Next to RUSSELS	01	Chris Hani Drive	0
Next to JET	01	Chris Hani Drive	0
Next to BEARS	01	Chris Hani Drive	0
Next to DUNNS	01	Chris Hani Drive	0
Next to OLD WADOLF	02	Pretoria Street	0
Next to PEP/MICA	02	Pretoria Street	0
Front of SHOPRITE	02	Marx Street	0
Back of SHOPRITE	05	Sutter Road	0
Taxi Rank	14	Potgieter Street	0
	06	Ritchie Street	0
Next to NTK Building	03	Chris Hani Drive	0
	01	Chris Hani Street	0
Next to MR PRICE HOME	01	Chris Hani Street	0
Next to EXACT	01	Chris Hani Street	0
Next to RAGE	01	Chris Hani Street	0
Next to LEWIS	01	Chris Hani Street	0
Next to VODACOM	01	Chris Hani Street	0
Next to SHILAJOE	02	Pretoria Street	0
Opposite SALIO	01		0
Next to EBAIS SALON, Opposite SHOPRITE	01	Marx Street	0
Front of GOOD AGAIN SHOP	04		0
FLEA MARKET		Potgieter Street	0

BELA-BELA TOWNSHIP

LOCATION HAWKING	OF	NUMBER HAWKERS	OF	STREET NAME	NEEDS/ADDITIONAL INFORMAL TRADERS/HAWKERS
ALONG MILE STREET		34		MILE STREET	

**SCHEDULE 2
TRADING HOURS**

CATEGORY	OPENING TIMES	CLOSING TIMES
1. Street Hawkers/Market Stalls	<u>06:00am</u>	<u>17:00pm</u>
2. Tuck Shop/Spaza Shop	<u>06:00am</u>	<u>20:00pm</u>
3. Cafe/Restaurant	<u>07:00am</u>	<u>22:00pm</u>
4. Supermarket	<u>07:00am</u>	<u>19:00pm</u>
5. General Dealer	<u>07:00am</u>	<u>19:00pm</u>
6. Butchery	<u>08:00am</u>	<u>17:00pm</u>
7. Wholesalers	<u>08:00am</u>	<u>17:00pm</u>
8. Hardwares/Motor Spares or Workshop Related	<u>07:30am</u>	<u>17:00pm</u>