



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

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PROVINSIE WES-KAAP

# Provincial Gazette Extraordinary

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# Buitengewone Provinsiale Koerant

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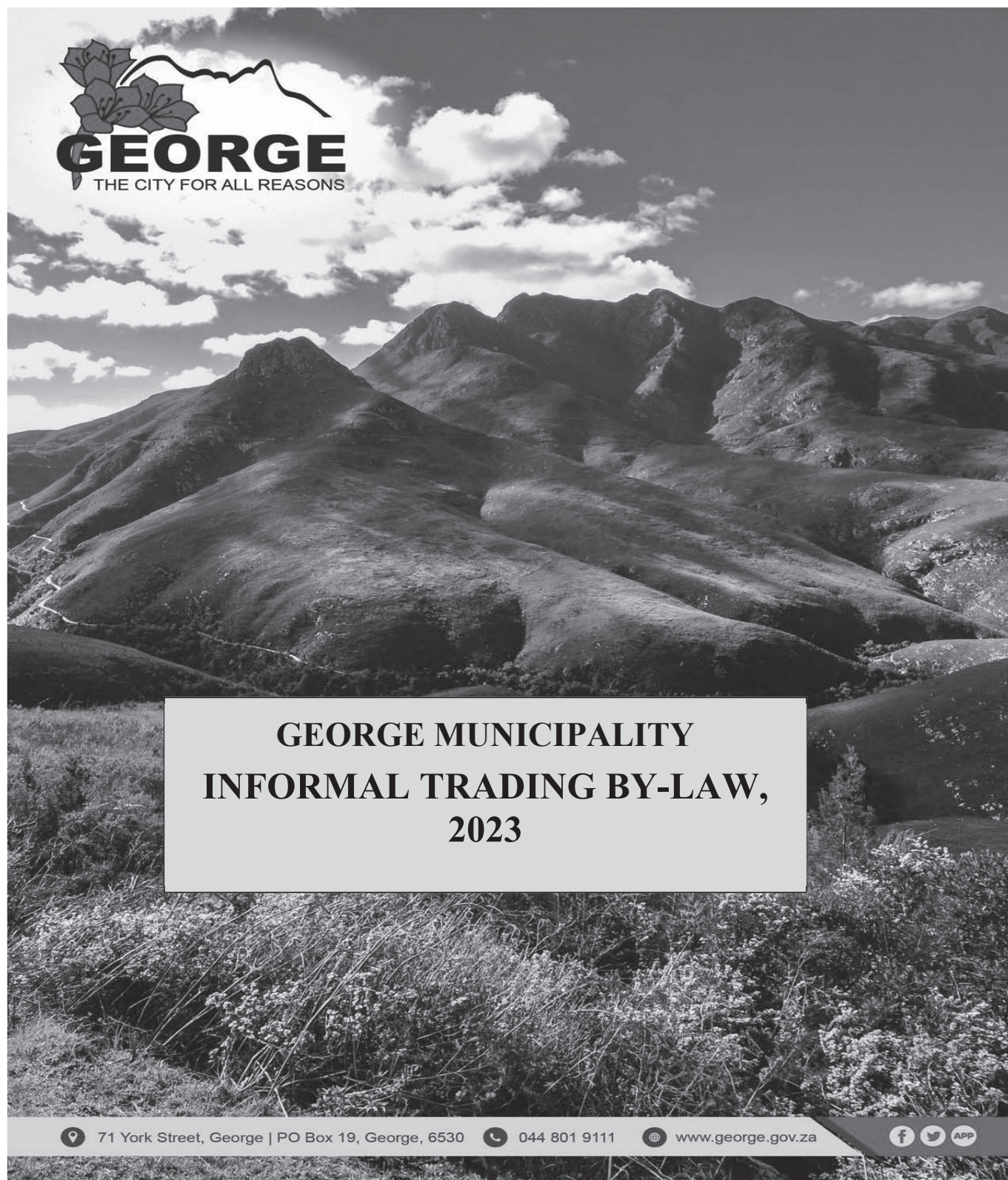
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**GEORGE MUNICIPALITY**  
**INFORMAL TRADING BY-LAW 2023 NOTICE NO.HS022/2023**

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By virtue of the provisions of section 156 of the Constitution of the Republic of South Africa, the George Municipality hereby enacts as follows-

## **1. Definitions**

(1) In this bylaw, any word or expression to which a meaning has been assigned in the Businesses Act, 1991 (Act 71 of 1991) shall have that meaning, and –

**“authorised official”** means -

- (a) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (b) a member of the South African Police Service;
- (c) a peace officer contemplated in section 334 of the Criminal Procedure Act, No. 51 of 1977; or
- (d) any employee of the municipality who is appointed or authorised thereto by the municipality to perform any act, function or duty related to the provisions of this bylaw or to exercise any power in terms of this bylaw.

**“demarcated area”** means a trading space allocated and marked for informal trading and published in the Provincial Gazette;

**“goods”** means any wares, articles, receptacles, vehicles or structures;

**"informal trader"** means a person, or an enterprise which is not registered or incorporated in terms of the corporate laws of South Africa and which engages in informal trading;

**"informal trading"** means the trading in goods and services in the informal sector by an informal trader and which typically constitutes the types of trading described in section 5;

**"illegal goods"** means goods that are illegal to sell or to buy, including but not limited to counterfeit goods as defined in the Counterfeit Goods Act, 1997 ( Act 37 of 1997);

**"impoundment costs"** means all costs incurred by the municipality in impounding and storing property impounded in terms of section 15, and, where applicable, the costs incurred as a result of the disposal or releasing of the impounded property and any other associated costs;

**“municipal service”** means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether-

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the Municipal Systems Act, 2000 (Act 32 of 2000) or by engaging an external mechanism contemplated in the said section; and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

**"municipality"** means the Municipality of George established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), Provincial Notice 488 dated 22 September 2000 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this bylaw 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 property"** means property owned, leased by, or under the management control of the municipality;

**“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 others or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people;

**“public amenity”** means –

- (a) any land, commonage, square, camping site, swimming bath, river, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail which is the property of the municipality, including any portion thereof and any facility or apparatus therein or thereon; and
- (b) any building, structure, hall, room, or office including any part thereof and any facility or apparatus therein, 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 fees or not;

**“public road”** means any road, street, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof or to which the public or any section thereof 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;

**“services”** means various intangible business activities offered by informal traders, such as hair dressing, tailors, laundry services, catering and landscaping;

**“sidewalk”** means that portion of a verge intended for the exclusive use of pedestrians;

**“Systems Act”**, means the Municipal Systems Act, 32 of 2000;

**“the Act”** means the Businesses Act, 1991 (Act 71 of 1991);

**“trading area”** means an area set apart and demarcated in terms of section 6(2) of this Bylaw;

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

- (2) For the purposes of this bylaw a person carrying on the business of informal trader shall include any employee or agent of such informal trader.

## **2. Purpose of bylaw and fundamental principles**

- (1) The municipality recognises the key role that informal trading plays in poverty alleviation, income generation and entrepreneurial development and, in particular, the positive impact that informal trading has on historically disadvantaged individuals and communities.
- (2) The municipality acknowledges the need to adopt a developmental approach to the informal trading sector in order to create an environment that is conducive to the growth of businesses in the informal trading sector.
- (3) The municipality acknowledges the right of informal traders to trade in line with the Constitution and in compliance with applicable administrative laws;
- (4) The municipality also recognises infrastructural, social and economic disparities and inequalities that may exist and shall strive to overcome such disparities and inequalities by differentiating, where appropriate, between communities and geographical areas.
- (5) This bylaw accordingly aims to provide mechanisms for the regulation and management of informal trading within the jurisdictional area of the municipality.

### **3. Freedom to trade**

Informal trading is permitted within the jurisdictional area of the municipality, subject to any trading policy adopted by the municipality, the provisions of this bylaw and any other applicable legislation.

### **4. Adoption of trading management policy**

- (1) The municipality must adopt a trading management policy which must provide for matters governing informal trading in the municipal area, including, but not limited to:
  - (a) prescribing informal trading conditions, including such terms and conditions to be imposed in terms of permits to be issued by the municipality and subject to any requirements of this bylaw;
  - (b) the manner in which social and economic development will be promoted through the policy;
  - (c) ensuring equal treatment of informal traders and prevention of unfair discrimination with particular reference to foreign nationals, refugees or asylum seekers;
  - (d) the provision of facilities or infrastructure for informal traders;
  - (e) promoting regular engagement with informal traders through various platforms and the facilitation of capacity building and skills development programmes for informal traders;
  - (f) the provision of clear guidelines to enforcement officials on the execution of their powers and functions in terms of the bylaw and other applicable legislation; and
  - (g) the manner in which sensitive heritage and environmental areas within the trading areas will be protected;
- (2) Before adopting a policy as contemplated in subsection (1), the municipality must consult interested and affected parties, including formal business and the informal trading sector.

## **5. Types of informal trading**

- (1) The different types of informal trading that take place in the Municipality will be covered by the policy, namely:
  - (a) Street traders – This refers to traders who trade on the sidewalks of pedestrian walkways or public roads;
  - (b) Market traders – This refers to traders who trade in formal markets and is applicable to traders that particularly trade on a weekend or public holiday;
  - (c) Business Hive traders – This refers to traders who trade from areas developed by the Municipality as business hives or business parks;
  - (d) Trader's trading from intersections – This refers to traders or vendors that sell newspapers or magazines from road intersections;
  - (e) Weekend traders and special day traders – refers to traders who trade only on weekends or on special days such as social grant pay out days;
  - (f) Roving traders/ hawkers/ buskers- which are regarded as traders who move around from place to place in the municipal area daily;
  - (g) Food trucks / mobile trading– which is regarded as trading from caravans, trailers, light delivery vehicles or a trolley or similar device;
  - (h) Trading at special events–which is regarded as trading at special events such as festivals or large gatherings of people;
  - (i) Trading in pedestrian malls; - trading in areas reserved for pedestrian-only use; and
  - (j) Trading in public amenities – trading in any type of merchandise in municipal parks, sportsgrounds or other amenities;

## **6. Trading areas and demarcation**

- (1) Notwithstanding the provisions of section 2, the municipality may, in terms of section 6A(2)(a) of the Act, by resolution declare any place in its area of jurisdiction to be an area in which the carrying on of the business of informal trader may be restricted or prohibited.



- (2) The municipality may, in terms of section 6A(3)(b)(i) of the Act, set apart and demarcate stands or areas for the purpose of carrying on the business of informal trader, which areas must be clearly marked to indicate their size and boundaries.
- (3) The municipality must, where appropriate, adopt trading zones, particularly in areas where there is a significant overlap between formal and informal trading. A trading zone may allow and regulate on non-municipal property, subjected to the rights of the owners of such property.
- (4) A trading zone must:
  - (a) define the geographic boundary of the trading area; and
  - (b) demarcate informal trading bays markets where informal trading is permitted, outside of which informal trading shall be prohibited in that trading areas.
- (5) A trading zone may include any other matters governing informal trading in the relevant trading areas, such as-
  - (a) Prescribing any informal trading conditions, including such terms and conditions to be imposed with regards to permits to be issued by the municipality in terms of section 8 and subject to any requirement of this by-law;
  - (b) The manner in which social and economic development will be promoted through the trading plan;
  - (c) The manner in which sensitive heritage and environmental areas within the proposed trading areas will be protected;
  - (d) Matters relating to a market which may be located within the relevant trading areas, including, but not limited to:
    - (i) The demarcation of the area within the trading area which constitutes a market;
    - (ii) Where appropriate, the demarcation of trading bays within the market;
    - (iii) The legal arrangement between the municipality and any third party in respect of obligations relating to the general management of the market in terms of which the third party is responsible for at least the following:
      - 1. The management of operations market;

2. The management of informal traders operating within the market;
  3. Providing guidance to the final traders within the market with business support and development; and
  4. Any service, which is in addition to services provided by municipality
- (e) A trading zone must comply with the provisions of this by-law and with any other applicable law.
- (f) Any person shall be entitled to request that the municipality consider adoption of a particular informal trading area; provided that where a proposed trader contemplates trading taking place on the non-municipal property, the request is accompanied by the written consent of the owner of such non-municipal property. The municipality must consider and decide upon the request within a reasonable period.
- (g) When considering a request for the adoption of a trading area, the municipality shall have due regards to any existing and proposed trading zones in the vicinity of the proposed trading area in order to determine the desirability of the adoption of an additional informal trading area.

## **7. Public Participation in respect of adopting a trading area**

- (1) Before adopting a trading zone, the municipality must-
- a) consult with interested and affected role players, including the informal and formal sectors, with the view to compiling a draft trading zone map;
  - b) compile a draft trading zone map following the consultation process in terms of section 7(1)(a);
  - c) publish a notice in a local newspaper that is circulated in the area in which the proposed trading zones is situated, which-
    - (i) contains the key aspects of the draft trading zones and which notifies the public that the draft trading zone maps are available for inspection; and

- (ii) invite comments and objections from the public in relation to such draft trading zone maps, to be received by the municipality within 30 (thirty) days from the date of publication of the notice.
- (2) The municipality must consider all objections or comments that municipality may receive pursuant to the process outlined in this section.
- (3) After having considered the comments and objections, the council must within a reasonable period from the commencement of the public participation process in respect of the relevant draft trading zone, at a meeting of the council-
  - (i) adopt the draft trading zone; or
  - (ii) amend and adopt the draft trading zone; or
  - (iii) reject the draft trading zone.
- (4) Notwithstanding the provision of section 59 of the Systems Act, the Council may not delegate the decision-making powers referred to in section 6(5)(g).
- (5) In the event that the municipality adopts a draft trading zone, a notice must be published in a daily newspaper circulated in the trading area, unless a community newspaper which is free to the public, is circulated in such area, in which case a notice must be published in such community newspaper which informs the public:
  - (a) that the draft trading zone has been adopted as a trading zone;
  - (b) of the key aspects of the trading zone including the date upon which it shall become effective; and
  - (c) that the trading zone map is available for inspection at a specified location.

## **8. Trading permits and fees**

- (1) No person may conduct informal trading on municipal property without a valid permit issued by the municipality. Permits must be applied for in the manner determined by the municipality.
- (2) The municipality is entitled to charge a permit holder-
  - (a) an application fee; and
  - (b) an additional fee or tariff, in respect of additional costs incurred or services provided by the municipality.

- (3) A person who wishes to carry on the business of informal trader must apply to the municipality in the format prescribed by the municipality and such application must be considered against the criteria set out in the said policy.
- (4) The municipality must provide the applicant with reasons for its decision when an application is refused.
- (5) A permit to trade must be kept at the place of trade at all times and must be produced on demand by an authorised official. Failure to present the permit when requested by an authorised officer is an offence.

#### **9. Appointment of Assistants**

- (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.
- (2) All prescriptions in this bylaw will be applicable to the assistants appointed by the permit holders, as would be the case of the permit holder.
- (3) It is the responsibility of the permit holder to notify the municipality of the appointment of any assistant, with full details as required by the municipality. The municipality may issue a permit to the assistant if deemed required.

#### **10. Transfer of permits**

- (1) Permits are non-transferable unless:
  - (a) In the event of the death or severe illness of the permit-holder a permit may be permanently transferred, with the written approval of the municipality, to a dependant, or an assistant acting on behalf of the dependant, who will continue trading until the permit is no longer valid; or
  - (b) A permit may be temporarily transferred, with the written approval of the municipality, to a dependent or, where there is no dependent, to an individual nominated by the permit holder, for reasons such as an illness, pregnancy, family responsibility, religious or cultural matters, or any other personal matter,

for a period no longer than 6 months, provided that an affidavit is provided to the municipality stating the nature and period for which the permit holder requires the permit transfer.

#### **11. Duties of street trader**

- (1) A street trader must-
  - (a) personally trade on the site allocated;
  - (b) when he or she concludes business for the day, remove his or her property, except if stored in any structure approved and permitted by the municipality, to a place which is not part of a public road or public amenity;
  - (c) when requested by an official of the municipality or by a person who has been authorised to provide municipal services, to 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;
  - (d) keep the area or stand occupied by him or her in a clean and sanitary condition;
  - (e) ensure that the area is free of litter at all times, and must, when he or she concludes business for the day, dispose of litter generated by his or her business in receptacles provided by the municipality for the public;
  - (f) 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.

#### **12. Revocation of permits**

- (1) The municipality may, upon written notice issued to the informal trader, and after affording him or her an opportunity to make written representations, revoke or suspend a permit in the event of such informal trader -
  - (a) breaching any provisions of the permit or the bylaw or any other law;
  - (b) being convicted of trading in illegal goods or providing a service unlawfully; or
  - (c) wilfully supplying incorrect information during application or when required to provide the municipality with information.

**13. Suspension of permits and re-location of traders**

- (1) Should it be necessary to do so because of the performance of activities which renders the continuation of trading from the relevant trading bay impossible or impractical, the municipality may, upon reasonable notice and with no compensation payable to the permit holder, temporarily-
  - (a) relocate a permit holder;
  - (b) suspend the validity of a permit; or
  - (c) prohibit a permit holder from trading at the relevant trading bay.
- (2) Activities referred to in subsection (1) may include, but not be limited to-
  - (a) maintenance or construction of infrastructure or buildings performed by the municipality;
  - (b) property developments, alterations or refurbishments by any entity;
  - (c) activities by public entities conducted in terms of their powers and functions; or
  - (d) the declaration of a state of disaster in terms of the Disaster Management Act, 2002 (Act 52 of 2002).

**14. Infrastructure and basic services**

- (1) The municipality may, where necessary, and within its financial and administrative capacity, ensure that-
  - (a) informal traders are provided with access to basic services including water, electricity, refuse removal and sanitation;
  - (b) it provides for the upgrade and maintenance of basic infrastructure; and
  - (c) it provides any other necessary infrastructure to promote informal trade.

**15. Obligation on owners of non-municipal land**

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



- (b) Ensure that all informal trading that takes place on the owner's property complies with the applicable trading plan and this by-law;
- (c) Permit any officer access to the owner's property to enforce the provisions of this by-law;
- (d) Ensure, at the owner's cost, that sufficient services are provided to maintain an acceptable hygienic condition in respect of the informal trading; and
- (e) Ensure that trading from a formal business premises does not encroach upon the property of another property owner.

**16. Prohibition of and restriction on trading**

- (1) The municipality may, in terms of section 6A(2)(a) of the Act and the provisions of this By-law, declare any place in its area of jurisdiction to be an area in which street trading is restricted and prohibited.
- (2) The municipality may, by public notice and by erecting a sign indicate such areas, and the notice and sign must indicate-
  - (a) the restriction or prohibition against street trading;
  - (b) if street trading is restricted-
    - (iii) the boundaries of the area or stand set aside for restricted street trading;
    - (iv) the hours when street trading is restricted or prohibited; and
    - (v) the goods or services in respect of which street trading is restricted or prohibited;
    - (vi) the boundaries of the areas for the roving trader; and
  - (c) that the area has been let or otherwise allocated.
- (3) The municipality may change the areas contemplated in subsection (1) if the needs and circumstances of residents and street traders demand such reconsideration.
- (4) A person who carries on the business of a street trader in contravention of a notice contemplated in subsection (2) commits an offence.
- (5) Informal trading may not be conducted –

- (a) in a public amenity under the control of the municipality and to which the public has a right of access unless such area has been set apart and demarcated by the municipality for the purpose in terms of section 6 of this bylaw;
- (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 national heritage site in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);
- (c) in an area declared by the municipality in terms of section 6A(2)(a) of the Act as a place where the carrying on of the business of informal trader is –
  - (i) prohibited, or
  - (ii) contrary to any restriction imposed by the municipality in terms of that section in respect of such area.
- (d) at a place where –
  - (i) it obstructs access to a fire hydrant or other municipal or government services;
  - (ii) it obstructs access to any entrance to or exit from a building;
  - (iii) it prevents pedestrians from using, or substantially obstructs them in their use of a sidewalk;
  - (iv) it causes an obstruction on a roadway;
  - (v) it limits access to parking or loading bays or other facilities for vehicular traffic;
- (e) on a sidewalk contiguous to a building used for residential purposes if the owner, occupier or person in control of the building objects thereto:
- (f) at a place where –
  - (i) it obstructs access to street furniture, bus passenger benches or shelters, queuing lines, refuse disposal bins or other facilities intended for the use of general public;
  - (ii) it obstructs the visibility of a display window in business premises, if the person carrying on business in the business premises concerned objects thereto;

- (iii) it obstructs access to a pedestrian crossing;
  - (iv) it obstructs access to any vehicle;
  - (v) it obstructs any road traffic sign or any marking, notice or sign displayed in terms of this bylaw;
  - (vi) it interferes in any way with any vehicle that may be parked alongside such place;
  - (vii) within 10 metres of an automatic teller machine (ATM);
  - (viii) it obstructs the view of CCTV cameras; or
  - (x) it obstructs access to a pedestrian arcade or mall.
- (6) A person to whom an area or stand has been let or allocated under paragraph (c) of section 6A(3) of the Act-
  - (a) must comply with the conditions of the lease or allocation;
  - (b) must be in possession of written proof that the municipality has let or allocated the area or stand to him or her; and
  - (c) may not transfer any written proof that the municipality has let or allocated the area or stand to him or her.
- (7) No person may purchase or offer to purchase from a street trader any goods or service, including casual labour services, in or at a place where street trading is prohibited.
- (8) A person who contravenes a provision of this section commits an offence

## **17. General prohibitions**

- (1) An informal trader may not-
  - (a) stay overnight at the place of such business,
  - (b) trade without a valid trading permit,
  - (c) erect any structure (other than a device which operates in the same manner as, and is shaped like an umbrella or gazebo) for the purpose of providing shelter;
  - (d) create a nuisance to other people;
  - (e) utilize loose fitting fabric or any other material to create a shelter or separation between stalls;

- (f) damage or deface the surface of any public road or public place or other municipality property;
- (g) create a traffic hazard;
- (h) 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;
- (i) 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 (f);
- (j) fail or refuse to move or remove any goods, after having been requested to do so by an authorized employee or agent of the municipality; or
- (k) display any form of advertising signage or erect any advertising structure of any kind at his or her trading place.

#### **18. Newspaper vendors**

- (1) Any publisher of a newspaper that sells such newspaper by using vendors in or on a public road must obtain the prior written approval of the municipality regarding the areas where and times during which such sales may be undertaken.
- (2) Any publisher or vendor that contravenes the provisions of this section commits an offence.

#### **19. Special events**

The municipality may permit or prohibit informal trading for purposes of a special event on such terms and condition as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading area, on the condition that the event complies with all laws and policies.

#### **20. Waste removal, cleansing and hygiene**

- (1) An informal trader must -

- (a) maintain his or her trading site in a clean and sanitary condition;
  - (b) on a daily basis and at the conclusion of trading, collect and remove from any public road or public place all waste, packaging material, stock and equipment that are utilised in connection with or produced by the informal trader's business, unless the municipality grants a written exemption in this regard;
  - (c) carry on business in a manner which does not cause a threat to the public or public safety; and
  - (d) at the request of an authorised official, move or remove any object so that the area or site from which informal trading is conducted may be cleaned.
- (2) A certificate of acceptability, as contemplated in the Regulations Governing General Hygiene Requirements for Food Premises, GN R638 of 22 June 2018, must first be obtained from the Garden Route District Municipality where food, irrespective of where such food was prepared, is sold or handled in an informal trading bay.

## **22. Removal and impoundment**

- (1) Subject to subsection (3), an authorised official may remove and impound goods of an informal trader which he or she reasonably suspects are being used, have been used or are intended to be used in connection with–
  - (a) trading in a place or area where informal trading is prohibited or restricted in terms of this By-law;
  - (b) trading without a valid trading permit issued by the municipality, as per section 8;or
  - (c) in the event of a trader continuing or repeating a contravention in respect of which one or more notices have been issued to that trader.
- (2) If an informal trader is found to be trading in illegal goods or offering illegal goods for sale, the authorised official may confiscate such goods in terms of section 20 of the Criminal Procedure Act, 1977, (Act 51 of 1977).
- (3) The removal and impoundment of goods in terms of subsection (1) may be carried out irrespective of whether such goods are in the possession or under the control of a third party at the time.

- (4) Any authorised official who removes and impounds goods in terms of subsection (1) must, except where goods have been left or abandoned in terms of section 26, issue the informal trader a receipt which—
- (a) captures the full name, identity number and contact details of the trader;
  - (b) states the relevant section of the bylaw contravened by the informal trader;
  - (c) itemises the goods to be removed and impounded;
  - (e) states the terms and conditions which must be met to secure the release of the impounded goods;
  - (f) states the impoundment cost to be paid to secure release of the impounded goods;
  - (g) states the place at which the goods will be kept and where representations may be made for release of such goods or for the payment of the cost and;
  - (h) contains an acknowledgement signed or marked by the informal trader confirming that the contents of the receipt are correct;
- (5) An authorised official acting in terms of this section must immediately after impoundment, deliver such goods to a facility designated by the municipality for the safe custody of impounded goods.

### **23. Municipal employees and councillors may not purchase impounded goods**

Employees and councillors of the municipality, or a family member, or a close associate of any municipal employee or councillor, may not purchase any goods offered for sale in terms of this bylaw, either personally or through any other person, directly or indirectly.

### **24. Impounded goods register**

The municipality must upon the presentation of such goods at the place of impoundment, keep an impoundment register in the form as set out in Annexure A to this by-law



## **25. Disposal of impounded goods**

- (1) Any goods removed and impounded may, after the impoundment thereof, be sold, or in the case of perishable food and vegetables and fruit, be destroyed, subject to subsection (2), in consultation with a Health Officer designated in terms of the National Health Act 2003, (Act 61 of 2003).
- (2) Perishable goods may, at any time after the impoundment, be sold or otherwise disposed of by the municipality, provided that notice has been served on the informal trader concerned advising him or her–
  - (a) that his or her impounded goods are to be sold, destroyed or disposed of;
  - (b) of the time of such sale, destruction or disposal; and
  - (c) of the reasons for such sale, destruction or disposal.
- (3) Goods which have been impounded must, subject to subsection (4), be released after proof of ownership in the form of the presentation of the receipt contemplated in section 22 together with–
  - (a) proof of payment of the impoundment cost;
  - (b) proof of payment of a fine imposed; or
  - (c) where applicable, proof of payment of the impoundment cost and the imposed fine.
- (4) Impounded goods, other than perishable goods or foodstuffs, may be sold by the municipality if the informal trader fails, or is unable to pay the impoundment cost within 30 days from the date of impoundment of those goods.
- (5) If such trader fails to claim the said proceeds within 30 days from the date on which such property was sold, the proceeds shall be forfeited to the municipality.
- (6) After the 30-day period mentioned in subsection (4) has lapsed, the municipality must serve a notice on the informal trader concerned advising him or her–
  - (a) that the municipality intends selling his or her impounded goods as a result of his or her failure to secure the release of such goods within the specified time;
  - (b) of the date, time and place where representations may be made by the informal trader as to why the municipality should not sell his or her goods; and

- (c) of the date, time and place of such sale should the informal trader be unsuccessful in his or her attempt to have such goods released as per paragraph (b).
- (7) If impounded goods are sold in terms of subsection (4), and upon the presentation of the receipt contemplated in subsection (3) as proof of ownership, the municipality must pay to the person presenting the receipt the proceeds of the sale less the impoundment cost.
- (8) In the event of the proceeds of any sale of goods contemplated in this section not being sufficient to defray any expenses incurred by the municipality in connection with the removal and impoundment thereof, the trader shall remain liable for the difference.
- (9) A certificate issued under the hand of the Chief Financial Officer of the municipality or any person authorised thereto shall be deemed to be proof of any expenses that the municipality has incurred in connection with the removal and impoundment of any goods.

## **26. Abandoned goods**

- (1) The municipality shall regard the following as abandoned goods (*res derelicta*), and with no legal owner-
  - (a) goods found on a public road or public place that do not appear to be under the control of any person;
  - (b) goods found on a public road or public place at the end of a day's business that do not appear to be under the control of any person; or
  - (c) goods found in a manhole, storm water drain, public toilet, public transport shelter or in any tree or shrub.
- (2) Abandoned goods found by an authorised official may be removed and immediately delivered to the place of impoundment where they can be disposed of as the municipality sees fit.

**27. Appeal**

A person whose rights are affected by any delegated decision taken in terms of the By-law may appeal against that decision in terms of section 62 of the Municipal Systems Act, 2000 (Act 32 of 2000), by giving written notice of the appeal, and reasons, to the municipal manager within 21 days of the date of the notification of the decision.

**28. Vicarious liability**

When an employee or agent of an informal trader contravenes a provision of this Bylaw, any informal trading policy or informal trading permit, the informal trader shall be deemed to have committed such contravention himself or herself unless such informal trader satisfies the court that he or she took reasonable steps to prevent such contravention.

**29. Offences and penalties**

- (1) It is an offence to-
  - (a) threaten, resist, interfere with or obstruct an authorised official in the performance of his or her duties or functions in terms of or under this bylaw;
  - (b) knowingly furnish false or misleading information to an authorised official or the municipality; or
  - (c) fail or refuse to comply with a notice issued in terms of this bylaw
- (2) A person who contravenes or fails to comply with any of the provisions of this by-law shall be guilty of an offence and liable on conviction to-
  - (a) a fine or imprisonment, or to both such fine and such imprisonment; and
  - (b) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**30. Indemnity**

Neither the Municipality nor any authorised official shall be liable for any damages in respect of anything done, or omitted, in the reasonable exercising of any power or carrying out any function in terms of this By-law.

**33. Repeal of bylaws**

The George Municipality: Bylaw relating to Street Trading, published in Provincial Gazette No. 6816 dated 30 November 2010 is hereby repealed.

**34. Short title and commencement**

This bylaw shall be known as the George Municipality: Informal Trading Bylaw and shall come into operation on the date of publication thereof in the Provincial Gazette.

**Annexure A: Impounded Goods Register***(Section 24)*

An impounded goods register must, at least, contain the following information—

1. Place where goods are kept
2. Date of receipt of goods
3. Number and description of goods
4. Name and address of person who seized the goods
5. Name and address of owner of goods (where applicable)
6. Name and address or description of place where goods were found
7. Distance between place where goods were seized and the pound;
8. Date of sale of goods
9. Proceeds of sale of goods
10. Name and address of purchaser
11. Excess amount (if any) paid to owner or municipality
12. Receipt number

**Annexure B: Designated trading areas***(Section 6)*







