

P.K. 510/1998

18 September 1998

Die Lid van die Uitvoerende Raad van die Provinsie Wes-Kaap verantwoordelik vir Ekonomiese Aangeleenthede, wat aangewys is as bevoegde gesag om die bepalings van die Wet op Besighede, 1991 (Wet 71 van 1991), te administreer, soos beoog by Proklamasie No. 18 van 9 Maart 1995, het ingevolge artikel 6A(1) van daardie Wet die verordening wat deur die Raad van die Beaufort-Wes Munisipaliteit gemaak is en in die Bylae hieronder uiteengesit is, goedgekeur.

BYLAE

MUNISIPALITEIT BEAUFORT-WES:

VERORDENING VIR DIE TOESIG EN BEHEER OOR DIE
BEDRYF VAN BESIGHEID VAN STRAATHANDELAAR,
VENTER OF SMOUS

Woordomskrywing

1. (1) Tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan 'n betekenis in die Wet op Besighede, 1991 (Wet 71 van 1991), geheg is, die betekenis wat aldus toegeken is wanneer dit in hierdie verordening gebruik word, en beteken—
 - (i) "beampte"—
 - (a) 'n verkeerbeampte aangestel kragtens artikel 3 van die Padverkeerswet, 1989 (Wet 29 van 1989);
 - (b) 'n lid van die Mag soos omskryf in artikel 1(1) van die Polisiewet, 1958 (Wet 7 van 1958);
 - (c) 'n vredesbeampte beoog in artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977);
 - (d) 'n Omgewingsgesondheidsbeampte in diens van die raad, of
 - (e) 'n beampte van die raad wat gemagtig is om die bepalings van hierdie verordeninge toe te pas;
 - (ii) "die Wet" die Wet op Besighede, 1991 (Wet 71 van 1991);
 - (iii) "goedere" enige houer, voertuig of beweegbare struktuur wat vir die opberging of vervoer van goedere gebruik word;
 - (iv) "oorlas" enige gedrag wat 'n stand van sake of toestand meebring of kan meebring wat 'n bron van gevaar vir 'n persoon of die eiendom van 'n persoon inhou of wat wesenlik inbreuk maak op die gewone gerief, gemak, rus of vrede van 'n persoon;
 - (v) "openbare pad" enige pad, straat, deurgang of enige ander plek (hetsy 'n deurgang of nie) wat gewoonlik deur die publiek of 'n gedeelte daarvan gebruik word of waartoe die publiek 'n reg van toegang het, en ook—
 - (a) die soom van enige sodanige pad, straat of deurgang;
 - (b) enige brug, pont of drif waaroor of waardeur enige sodanige pad, straat of deurgang loop, en
 - (c) enige ander werk of voorwerp wat 'n deel uitmaak van of verbind is met of behoort tot sodanige pad, straat of deurgang;
 - (vi) "plaaslike owerheidsdiens" enige stelsel wat deur namens 'n plaaslike owerheid bestuur word vir die versameling, vervoer of afvoer, behandeling of wegdoen van vullis, rioolvuil of stormwater, of vir die

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The Member of the Executive Council of the Province of the Western Cape responsible for Economic Affairs, having been designated the competent authority to administer the provisions of the Business Act, 1991 (Act 71 of 1991), as contemplated by Proclamation No. 18 of 9 March 1995, has, in terms of section 6A(1) of that Act, approved the by-law by the Council of the Beaufort West Municipality and set out in the Schedule below.

SCHEDULE

BEAUFORT WEST MUNICIPALITY:

BY-LAW FOR THE SUPERVISION AND CONTROL OF THE
CARRYING ON OF THE BUSINESS OF STREET VENDOR,
PEDLAR OR HAWKER

Definitions

1. (1) Unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Businesses Act, 1991 (Act 71 of 1991), shall, when used in this by-law, have the meaning thus assigned, and—
 - (i) "Council" means the Council of the Beaufort West Municipality and includes any committee or employee of the Council exercising power or performing duties delegated to that committee or employee by the Council;
 - (ii) "goods" means any receptacles, vehicles or movable structure used for the storage of transport of goods;
 - (iii) "local authority services" means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or stormwater or for the manufacture, generation, impounding, storage, purification, distribution, conduction, transmission, conveyance, provision or supply of water, gas or electricity;
 - (iv) "local authority service works" means all works of whatsoever nature necessary or desirable for or incidental, supplementary or ancillary to any local authority service and includes anything of whatsoever nature used for or in connection with any such works or service;
 - (v) "nuisance" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to a person or the property of a person or which materially interferes with the ordinary comfort, convenience, peace or quiet of a person;
 - (vi) "officer" means—
 - (a) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act 29 of 1989);
 - (b) a member of the Force as defined in section 1(1) of the Police Act, 1958 (Act 7 of 1958);
 - (c) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
 - (d) an Environmental Health Officer in the service of the Council, or
 - (e) an official of the council authorised to implement the provisions of this by-law;
 - (vii) "public road" means any road, street, thoroughfare or place (whether a thoroughfare or not) which is commonly used by the public or a section of the public or to which the public has a right of access and includes—

vervaardiging, opwekking, opvang, opberging, suiwering, verspreiding, geleiding, transmissie, vervoer, voorsiening of verskaffing van water, gas of elektrisiteit:

(vii) "plaaslike owerheidsdienswerke" alle werke van watter aard ook al wat nodig of wenslik is vir of bykomstig tot of aanvullend is by of gepaard gaan met enige plaaslike owerheidsdiens en sluit dit enige ding van watter aard ookal en wat gebruik word vir of in verband met enige sodanige werke of diens:

(viii) "Raad" die raad van die munisipaliteit van Beaufort-Wes en sluit enige komitee of werknemer van die Raad in wat bevoegdhede uitoefen of pligte uitvoer wat deur die Raad aan daardie komitee of werknemer gedelegeer is, en

(ix) "soom" die gedeelte van 'n pad, straat of deurgang wat nie die ryvlak is nie.

(2) Vir die toepassing van die bepalings van hierdie verordening sluit 'n persoon wat die besigheid van straathandelaar, venter of smous bedryf, enige werknemer van enige sodanige persoon in.

Verbode gebiede

2. 'n Persoon mag nie die besigheid van straathandelaar, venter of smous bedryf nie—

- (a) in 'n tuin of park of parkeerterrein waartoe die publiek 'n reg van toegang het;
- (b) op 'n soom aangrensend aan—
 - (i) 'n gebou wat behoort aan, of geokkupeer word slegs deur, die Staat of die plaaslike owerheid;
 - (ii) 'n kerk of ander plek van aanbidding, of
 - (iii) 'n gebou wat kragtens die Wet op Nasionale Gedenkwaardighede, 1969 (Wet 28 van 1969), tot nasionale gedenkwaardigheid verklaar is;
- (c) in 'n gebied wat ingevolge artikel 6A(2)(a) van die Wet deur die raad verklaar is tot 'n gebied waar die bedryf van die besigheid van straathandelaar, venter of smous—
 - (i) verbied word, of
 - (ii) in stryd is met 'n voorwaarde wat deur die raad ten opsigte van so 'n gebied opgelê is;
- (d) op 'n plek waar—
 - (i) dit 'n brandkraan of 'n ingang van 'n gebou versper;
 - (ii) dit voertuigverkeer belemmer, of
 - (iii) dit voetgangers wesenlik belemmer in die gebruik van 'n sypaadjie, soos omskryf in artikel 1 van die Padverkeerswet, 1989;
- (e) op 'n soom aangrensend aan 'n gebou waarin besigheid bedryf word deur 'n persoon wat goedere verkoop wat van dieselfde of 'n soortgelyke aard is as goedere wat deur die betrokke straathandelaar, venter of smous verkoop word, sonder die toestemming van daardie persoon;
- (f) op daardie helfte van 'n openbare pad aangrensend aan 'n gebou wat vir residensiële doeleindes gebruik word, indien die eienaar of persoon in beheer of enige bewoner van die gebou daarteen beswaar maak, en

(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;

(viii) "the Act" means the Businesses Act, 1991 (Act 71 of 1991), and

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

(2) For the purposes of the provisions of this by-law a person carrying on the business of street vendor, pedlar or hawker includes any employee of any such person.

Prohibited areas

2. A person shall not carry on the business of street vendor, pedlar or hawker—

- (a) in a garden or 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 local authority;
 - (ii) a church or other place of worship, or
 - (iii) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969);
- (c) in an area declared under section 6A(2)(a) of the Act to be a place where the carrying on of the business of street vendor, pedlar or hawker is—
 - (i) prohibited, or
 - (ii) in contravention of a condition imposed by the Council in respect of such an area;
- (d) at a place where—
 - (i) it causes an obstruction in front of a fire hydrant of any entrance to or exit from a building;
 - (ii) it causes an obstruction or vehicular traffic, or
 - (iii) it substantially obstructs pedestrians in their use of a sidewalk as defined in section 1 of the Road Traffic Act, 1989;
- (e) on a 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 vendor, pedlar or hawker concerned, without the consent of that person;
- (f) 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, and

(g) op 'n plek waar—

- (i) dit toegang tot straattoebehoere, buspassasiersbanke of -skuilings-, roustaanplekke, vullishouers of ander geriewe wat vir die gebruik van die algemene publiek bedoel is, versper;
- (ii) dit die sigbaarheid van 'n vertoonvenster van 'n sakeperseel versper, indien die persoon wat sake in die betrokke sakeperseel doen, daarteen beswaar maak;
- (iii) dit toegang tot 'n voettoegang versper;
- (iv) dit toegang tot enige voertuig versper;
- (v) dit enige padverkeersteken of enige merk, kennisgewing of teken wat ingevolge hierdie verordening vertoon word, versper, of
- (vi) dit op enige wyse inbreuk maak op enige voertuig wat langs sodanige plek geparkeer is.

Algemeen

3. Geen persoon wat die besigheid van straathandelaar, venter of smous bedryf mag—

- (a) op enige wyse die vrye toegang tot enige plaaslike owerheidswerke belemmer nie;
- (b) indien sodanige besigheid op 'n openbare pad of openbare plek bedryf word—
 - (i) by die plek van sodanige besigheid oomag nie, of
 - (ii) sonder die voorafverkreë skriftelike goedkeuring van die raad, enige struktuur (uitgesonderd 'n toestel wat op dieselfde wyse werk as 'n sambreel) met die doel om skuiling te verskaf, oprig nie;
- (c) sodanige besigheid op so 'n wyse bedryf dat dit—
 - (i) 'n oorlas veroorsaak nie;
 - (ii) enige oppervlak van enige openbare pad of openbare plek of enige ander eiendom van 'n raad beskadig of skend nie, of
 - (iii) 'n gevaar vir verkeer veroorsaak nie;
- (d) behalwe in 'n vullishouer wat deur die raad goedgekeur is, enige vullis, rommel of afvalmateriaal op enige grond of perseel of op enige openbare pad of openbare plek ophoop, stort, opgaar of plaas of laat ophoop, stort, opgaar of plaas of toelaat dat dit gedoen word nie, en
- (e) versuim of weier om enige goedere, houer, voertuig of beweegbare struktuur te verwyder of te verskuif nadat hy of sy deur 'n beampte of 'n behoorlik gemagtigde werknemer van die raad wat ingevolge die bepalings van artikel 5(1) daartoe versoek is nie.

Sindelikheid van besigheidsplek en beskerming van openbare gesondheid

4. Elke persoon wat die besigheid van straathandelaar, venter of smous bedryf moet—

- (a) tensy skriftelike goedkeuring deur die raad verleen is wat daardie persoon van die bepalings van hierdie paragraaf vrystel, alle rommel, verpakkingsmateriaal, voorraad en toerusting van watter aard ook al wat in verband met sodanige besigheid gebruik word, na afloop van elke dag se handeldryf van enige openbare pad of openbare plek verwyder;

(g) 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 the general public;
- (ii) it obstructs the visibility of a display window of 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 obscures any road traffic sign or any marking, notice or sign displayed in terms of this by-law, or
- (vi) it interferes in any way with any vehicle that may be parked alongside such place.

General

3. A person carrying on the business of street vendor, pedlar or hawk shall—

- (a) in any way obstruct free access to any local authority service or local authority service works;
- (b) if such business is carried on any public road or public place—
 - (i) stay overnight at the place of such business, or
 - (ii) without the prior written approval of the Council, erect any structure (other than a device which operates in the same manner as an umbrella) for the purpose of providing shelter;
- (c) carry on such business in such a manner as to—
 - (i) create a nuisance;
 - (ii) damage or deface the surface of any public road or public place or any other Council property, or
 - (iii) create a traffic hazard;
- (d) other than in a refuse receptacle approved by the Council, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place, and
- (e) fail or refuse to move or remove any goods, receptacle, vehicle or movable structure after having been requested to do so by an officer or a duly authorised employee of the council acting in terms of the provisions of section 5(1).

Cleanliness of place of business and protection of public health

4. A person carrying on business of street vendor, pedlar or hawk shall—

- (a) unless prior written approval, exempting that person from provisions of this paragraph has been given by the council, remove daily from any public road or public place at the conclusion of trading all waste, packaging material, stock equipment of whatsoever nature which are utilised in connection with such business;

- (b) sy besigheid op so 'n wyse bedryf dat dit nie 'n gevaar of bedreiging vir die openbare gesondheid of openbare veiligheid inhou nie;
- (c) op versoek van 'n beampte of 'n behoorlik gemagtigde werknemer van die raad enigiets van die betrokke plek van besigheid verskuif of verwyder sodat die plek van besigheid skoongemaak kan word; en
- (d) sy besigheid op sodanige wyse bedryf dat dit te alle tye in 'n skoon en netjiese toestand is.

Verwydering en skut

5. (1) 'n Beampte kan enige goedere verwyder en skut—

- (a) wat gevind word op 'n plek waar—
 - (i) die bedryf van sodanige besigheid ingevolge artikel 2 verbode of beperk is en wat na die oordeel van die beampte 'n oortreding van sodanige artikel is, of
 - (ii) na die oordeel van die beampte, sodanige goedere so geplaas is dat dit—
 - (aa) voertuigverkeer versper, of
 - (bb) 'n plaaslike owerheidsdiens of plaaslike owerheidswerke belemmer;
- (b) wat die persoon wat die besigheid van straathandelaar, venter of smous bedryf, versuim of geweier het om van die betrokke plek te verwyder nadat hy of sy deur 'n beampte of 'n behoorlik gemagtigde werknemer van die raad daartoe versoek is, of
- (c) wat daar agtergelaat is.

- (2) Enige beampte wat ingevolge subartikel (1) optree, moet—

- (a) aan die persoon wat die besigheid van straathandelaar, venter of smous bedryf 'n kwitansie uitreik vir enige goedere wat aldus verwyder en geskut word, en
- (b) onverwyld enige sodanige goedere aan die raad oorhandig.

Dra van skriftelike goedkeuring

6. Enige persoon wat die besigheid van straathandelaar, venter of smous bedryf, moet wanneer ook al sodanige persoon sodanige besigheid bedryf, enige skriftelike goedkeuring wat deur 'n raad ingevolge hierdie verordening aan daardie persoon toegestaan of uitgereik is, op sy of haar persoon dra en moet op aanvraag sodanige skriftelike goedkeuring aan 'n beampte of behoorlik gemagtigde werknemer van die raad toon.

Gelde

7. Die Raad stel die gelde vas wat aan hom betaalbaar is vir die verhuring van staanplekke of stalletjies binne afgebakende gebiede onder sy beheer, vanwaar die bedryf van die besigheid van straathandelaar, venter of smous toelaatbaar is.

- (b) carry on such business in such a manner as to—

- (i) create a nuisance;
- (ii) damage or deface the surface of any public road or public place or any other council property, or
- (iii) create a traffic hazard;

- (c) other than in a refuse receptacle approved by the council, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place, and
- (d) fail or refuse to remove or move any goods receptacle, vehicle or movable structure after having been requested to do so by an officer or a duly authorised employee of the council acting in terms of the provisions of section 5(1).

Removal and impoundment

5. (1) An officer may remove and impound any goods—

- (a) which
 - (i) are found at a place where the carrying on of such business is prohibited or restricted in terms of section 2 and which, in the officer's opinion, constitute an infringement of such section, or
 - (ii) in the officer's opinion, are so placed that they—
 - (aa) cause an obstruction to vehicular traffic, or
 - (bb) obstruct a local authority service or local authority service works;
- (b) which the person carrying on the business of street vendor, pedlar or hawker has failed or refused to remove from the place concerned after having been requested to do so by an officer or a duly authorised employee of the council, or
- (c) which have been abandoned.

- (2) An officer acting in terms of subsection (1) shall—

- (a) issue to the person carrying on the business of street vendor, pedlar or hawker a receipt for any goods so removed and impounded, and
- (b) forthwith deliver any such goods to the Council.

Carrying of written approval

6. A person carrying on the business of street vendor, pedlar or hawker shall, whenever such person is carrying on such business, carry on his or her person any written approval granted or issued to that person by the Council in terms of this by-law and shall on demand show such written approval to an officer or a duly authorised employee of the Council.

Charges

7. The Council shall fix the charges payable to it for the letting of stands or stalls in demarcated areas under its control from where the carrying on of the business of street vendor, pedlar or hawker is permissible.

Appelle

8. (1) 'n Persoon wat veronreg voel deur 'n besluit van die raad kan by 'n Appèlkomitee appelleer in ooreenstemming met die bepalings hierin uiteengesit.
- (2) 'n Persoon wat veronreg voel deur 'n besluit van die raad moet binne 10 dae na ontvangs van die kennisgewing van sy besluit, die raad skriftelik in kennis stel van 'n voorneme om teen die besluit te appelleer.

Samestelling van Appèlkomitee

9. (1) Die Lid van die Uitvoerende Raad verantwoordelik vir Ekonomiese Aangeleenthede kan, met die instemming van die raad, verteenwoordigers van die straathandelaars, venters of smouse en enige ander belanghebbendes as lede van die Appèlkomitee aanwys.
- (2) Die Appèlkomitee moet bestaan uit hoogstens ses lede, maar minstens twee lede moet verteenwoordigers bedoen in subartikel (1) wees.
- (3) Die lede van die Appèlkomitee moet een lid aanstel om as voorsitter te dien.
- (4) As die voorsitter van mening is dat 'n bepaalde persoon in staat is om die Appèlkomitee behulpzaam te wees, kan daardie persoon in die Appèlkomitee gekoopteer word.
- (5) 'n Persoon wat aldus gekoopteer is, is nie geregtig om op 'n vergadering van die Appèlkomitee te stem nie.
- (6) Die voorsitter moet die veronregte persoon binne 10 dae vanaf ontvangs van die kennisgewing van appèl verwittig van die datum, tyd en plek van die vergadering van die Appèlkomitee waar daardie persoon se teenwoordigheid vereis word.
- (7) Die veronregte persoon wat ingevolge subartikel (6) kennis ontvang het, moet die vergadering persoonlik bywoon en kan 'n regsverteenwoordiger of enige ander persoon aanstel om namens die veronregte persoon te verskyn.

Prosedure op appèlvergaderings

10. (1) Die voorsitter moet die prosedure op die vergadering bepaal.
- (2) Al die lede moet op die vergadering van die Appèlkomitee teenwoordig wees.
- (3) Enige persoon wat die vergadering bywoon, kan—
- (a) deur die voorsitter versoek word om getuienis te lewer;
 - (b) deur die voorsitter versoek word om 'n dokument of ander eiendom in daardie persoon se besit of onder daardie persoon se beheer aan die Appèlkomitee voor te lê, of
 - (c) deur die Appèlkomitee ondervra word oor die aangeleentheid wat voor die komitee dien.
- (4) 'n Besluit van die Appèlkomitee moet geneem word met 'n meerderheid van stemme van die lede wat op die vergadering teenwoordig is, en in die geval van 'n staking van stemme het die voorsitter 'n beslissende stem benewens 'n gewone stem.
- (5) Die Appèlkomitee kan, nadat hy die getuienis wat gelewer is, oorweeg het—
- (a) die appèl van die hand wys;

Appeals

8. (1) A person who feels aggrieved by a decision of the council may appeal against the decision to an Appeal Committee in accordance with the provisions set out herein.
- (2) A person who feels aggrieved by a decision of the council shall, within 10 days of having received notification of the council's decision, notify the council and the chairperson of the Appeal Committee of an intention to appeal against the decision in writing.

Constitution of Appeal Committee

9. (1) The Member of the Executive Council responsible for Economic Affairs may, with the concurrence of the council, designate as members of the Appeal Committee representatives of the street vendors, pedlars or hawkers and any other interested persons.
- (2) The Appeal Committee shall consist of a maximum of six members but at least two members shall be representatives referred to in subsection (1).
- (3) The members of the Appeal Committee shall appoint one member to act as chairperson.
- (4) If the chairperson is of the opinion that a particular person is able to assist the Appeal Committee, that person may be co-opted to the Appeal Committee.
- (5) A person so co-opted shall not be entitled to vote at a meeting of the Appeal Committee.
- (6) The chairperson shall, within 10 days of the receipt of the notice of appeal, notify the aggrieved person of the date, time and place of the meeting of the Appeal Committee at which that person's presence is required.
- (7) The aggrieved person who has received notice in terms of subsection (6) shall personally appear at the meeting and may appoint a legal representative or any other person to appear on the aggrieved person's behalf.

Procedure at appeal meetings

10. (1) The chairperson shall determine the procedure at the meeting.
- (2) All members shall be present at the meeting of the Appeal Committee.
- (3) Any person present at the meeting may—
- (a) be called upon by the chairperson to give evidence;
 - (b) be called upon by the chairperson to produce to the Appeal Committee a document or other property which is in that person's possession or under that person's control, or
 - (c) be questioned by the Appeal Committee on the matter before it.
- (4) A decision of the Appeal Committee shall be taken by a majority of votes of the members present at the meeting and if there is an equality of votes, the chairperson shall have a casting vote in addition to a deliberative vote.
- (5) The Appeal Committee, having considered the evidence presented, may—
- (a) refuse the appeal;

- (b) die appèl handhaaf, of
- (c) die ander stappe doen soos wat hy goëddink.

(6) Die Appèlkomitee moet so gou doenlik—

- (a) die veronregte persoon skriftelik van sy besluit verwittig, en
- (b) die veronregte persoon van skriftelike redes vir die besluit voorsien.

Misdrywe

11. 'n Persoon wat—

- (a) 'n bepaling van hierdie verordening oortree of versuim om daaraan te voldoen;
- (b) 'n kennisgewing, teken of merk wat vir die toepassing van hierdie verordening vertoon of opgerig is, ignoreer, verontagsaam of nie gehoorsaam nie;
- (c) 'n goedkeuring of voorwaarde wat ingevolge hierdie verordening verleen of opgelê is, oortree of versuim om daaraan te voldoen;
- (d) versuim om te voldoen aan 'n versoek om sy of haar eiendom te verskuif of te verwyder;
- (e) opsetlik vals of misleidende inligting aan 'n beampte of behoorlik gemagtigde werknemer van die raad verstrek, of
- (f) 'n beampte of behoorlik gemagtigde werknemer van die raad by die uitoefening of uitvoering van daardie beampte of werknemer se bevoegdhede of pligte kragtens hierdie verordening dreig, teenstaan, hom of haar daarmee bemoei of die beampte of werknemer dwarsboom.

is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens eenduisend rand (R1 000) of met gevangenisstraf vir 'n tydperk van hoogstens drie (3) maande.

Toepassing

12. Die verordening wat in hierdie Bylae uiteengesit is, is oral in die Beaufort-Wes Munisipaliteit se regsgebied van toepassing.

Herroeping

3. Ingevolge artikel 3(2) van die Wysigingswet op Besighede, 1993 (Wet 186 van 1993), word die Regulasies insake Straathandelaars, Venders of Smouse, afgekondig deur die voormalige Administrateur kragtens Provinsiale Kennisgewing 404 van 28 Augustus 1992 in *Provinsiale Koerant* 4746, in die mate dat dit in die raad se regsgebied van toepassing is maar met uitsondering van regulasies 6(4)(a) en (b) en 7, hierby herroep.

- (b) uphold the appeal, or
- (c) take any other steps that it may think fit.

(6) The Appeal Committee shall as soon as is practicable—

- (a) notify the aggrieved person of its decision in writing, and
- (b) furnish the aggrieved person with written reasons for the decision.

Offences

11. A person who—

- (a) contravenes or fails to comply with a provision of this by-law;
- (b) ignores, disregards or disobeys a notice, sign or marking displayed or erected for the purposes of this by-law;
- (c) contravenes or fails to comply with an approval or a condition granted or imposed in terms of this by-law;
- (d) fails to comply with a request to move or remove his or her property;
- (e) deliberately furnishes false or misleading information to an officer or duly authorised employee of the council, or
- (f) threatens, resists, interferes with or obstructs an officer or duly authorised employee of the council in the exercise or performance of that officer's or employee's powers or duties under this by-law,

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

Application

12. The by-law set out in this Schedule is applicable throughout the area of jurisdiction of the Beaufort West Municipality.

Repeal

13. In terms of section 3(2) of the Businesses Amendment Act, 1993 (Act 186 of 1993), the Regulations Relating to Street Vendors, Pedlars or Hawkers promulgated by the former Administrator under Provincial Notice 404 of 28 August 1992 in *Provincial Gazette* 4746, to the extent that they apply in the area of jurisdiction of the council but with the exception of regulations 6(4)(a) and (b) and 7, are hereby repealed.

P.K. 511/1998

18 September 1998

MUNISIPALITEIT BLAAUWBERG:

WET OP OPHEFFING VAN BEPERKINGS, 1967 (WET 84 VAN 1967)

Ek, André John Lombaard, in my hoedanigheid as Assistent-Direkteur in die Departement van Owerheidsake en Behuising: Wes-Kaap, handelende ingevolge die bevoegdheid beoog in artikel 2(1) van die Wet op Opheffing van Beperkings, 1967 (Wet 84 van 1967), behoorlik aan my gedelegeer ingevolge artikel 1 van die Wes-Kaapse Wet op die Delegasie van Bevoegdhede, 1994, en op aansoek van die eienaar van Erf 4702, Milnerton, hef klousules B.(A) (b) en (d) vervat in Deeltitel Plan Nr. DS 11 van 1997, op.

P.N. 511/1998

18 September 1998

BLAAUWBERG MUNICIPALITY:

REMOVAL OF RESTRICTIONS ACT, 1967 (ACT 84 OF 1967)

I, André John Lombaard, in my capacity as Assistant Director in the Department of Governmental Affairs and Housing: Western Cape, acting in terms of the powers contemplated by section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), duly delegated to me in terms of section 1 of the Western Cape Delegation of Powers Law, 1994, and on application by the owner of Erf 4702, Milnerton, remove clauses B2.(A)(b) and (d) contained in Sectional Plan SS 11 of 1997.

MUNICIPALITY BEAUFORT WEST

NOTICE NO. 101/2004

PROPOSED ALIENATION OF ERF 3489,
BEAUFORT WEST

Notice is hereby given in terms of Section 4(3)(a) of the By-law relating to the Management and Administration of the Municipality's immovable property promulgated in terms of Section 13(a) of the Systems Act 2000 that the Local Council of Beaufort West, intends to sell erf 3489, to Mr. W.H. Vorster for the purpose of building a house on the said property.

Full details regarding the abovementioned transaction are available for inspection at the Office of the Acting Director: Corporative Service, 92 Donkin Street, Beaufort West from Mondays to Friday between 07:30 to 16:15.

Objections, if any against the proposed alienation of the said property must be lodged in writing with the undersigned on or before Friday, 17 December 2004, stating full reasons for such objections.

D.E. Welgemoed, Municipal Manager, Municipal Office, 15 Church Street, Beaufort West, 6970.

[7/1/4] 26 November 2004

19666

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

MUNICIPALITY BEAUFORT WEST

NOTICE NO. 102/2004

The Council of the Municipality of Beaufort West publishes the sub-joined by-law relating to the amendment of the By-Law for the supervision and control of the carrying on of the business of street vendor, pedlar or hawker and conditions applicable to trade by a street vendor, pedlar or hawker in restricted prohibited areas, for general notice.

BY-LAW RELATING TO THE AMENDMENT OF THE
BY-LAW FOR THE SUPERVISION AND CONTROL OF THE
CARRYING ON OF THE BUSINESS OF STREET VENDOR,
PEDLAR OR HAWKER

INTRODUCTION

WHEREAS the Municipality of Beaufort West is vested with legislative authority in terms of the Constitution of the Republic of South Africa (Act No. 108 of 1996);

AND WHEREAS the Municipality in the exercise of its functions deemed it necessary to amend the by-law relating for the supervision and control of the carrying on of the business of street vendor, pedlar or hawker as enacted on 18 September 1998 by PN 510 of 1998 and to formulate conditions applicable to trade by a street vendor, pedlar or hawker in restricted prohibited areas.

Be it therefore enacted by the Municipality of Beaufort West as follows—

Amendment of section 1 of PN 510 of 1998.

1. Section 1 of PN 510 of 1998 is hereby amended by—

- (a) the deletion of section 1(1)(vi)(d) as a whole;
- (b) the insertion of the following definitions after section 1(1)(ix):

MUNISIPALITEIT BEAUFORT-WES

KENNISGEWING NO. 101/2004

VOORGESTELDE VERVREEMDING VAN ERF 3489,
BEAUFORT-WES

Kennisgewing geskied hiermee ingevolge Artikel 4(3)(a) van die Verordening insake die Bestuur en Administrasie van die Munisipaliteit se onroerende eiendom uitgevaardig kragtens Artikel 13(a) van die Stelselwet 32 van 2000 dat die Plaaslike Raad van Beaufort-Wes van voorneme is om erf 3489 te verkoop aan mnr. W.H. Vorster ten einde 'n woonhuis op die perseel te bou.

Volledige besonderhede met betrekking tot bogemelde transaksie lê ter insae by die Kantoor van die Wnrd. Direkteur: Korporatiewe Dienste, te Donkinstraat 92, Beaufort-Wes vanaf Maandae tot Vrydae tussen 07:30 tot 16:15.

Volledig gemotiveerde besware, indien enige, teen die voorgestelde vervreemding van die voormelde eiendom moet skriftelik en met vermelding van volledige redes by die ondergetekende ingedien word voor of op Vrydag, 17 Desember 2004.

D.E. Welgemoed, Munisipale Bestuurder, Munisipale Kantore, Kerkstraat 15, Beaufort-Wes, 6970.

[7/1/4] 26 November 2004

19666

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordeninge aan.
- Woorde met 'n vol streep daaronder dui invoegings in bestaande verordeninge aan.

MUNISIPALITEIT BEAUFORT-WES

KENNISGEWING NR. 102/2004

Die Raad van die Munisipaliteit van Beaufort-Wes publiseer die onderstaande Verordeninge insake die wysiging van die Verordening vir die toesig en beheer oor die bedryf van besigheid van straathandelaar, venter of smous en voorwaardes ten opsigte van beperkte verbode gebiede, vir algemene kennisname.

VERORDENING INSAKE DIE WYSIGING VAN DIE
VERORDENING VIR DIE TOESIG EN BEHEER OOR DIE
BEDRYF VAN DIE BESIGHEID VAN 'N STRAATHANDELAAR,
VENTER OF SMOUS

INLEIDING

AANGESIEN die Munisipaliteit van Beaufort-Wes ingevolge die Grondwet van die Republiek van Suid-Afrika (Wet 108 van 1996) wetgewende bevoegdheid het;

ENAANGESIEN die Munisipaliteit in die uitvoering van sy funksies dit nodig ag om die Verordening vir die toesig en beheer oor die bedryf van besigheid van straathandelaar, venter of smous soos afgekondig by PK 510 van 1998 dateer 18 September 1998 te wysig en voorwaardes te formuleer van toepassing op handeldryf deur 'n straathandelaar, venter of smous in 'n beperkte verbode gebied.

Verorden die Munisipaliteit van Beaufort-Wes soos volg—

Wysiging van artikel 1 van PK 510 van 1998.

1. Artikel 1 van PK 510 van 1998 word hierby gewysig deur—
 - (a) Artikel 1(1)(i)(d) in geheel te skrap;
 - (b) na artikel 1(ix) die volgende omskrywing in te voeg:

- (x) "Street vending", also the sale, display, present or exchange of any goods or services for compensation as street vendor but excludes the sale of newspapers only.
- (xi) "Street vendor", a person carrying on the business of a street vendor.
- (xii) "Formal trading section", an association or associations representative of the formal trading sector trading in the jurisdiction area of the Municipality and acknowledged by the Council.
- (xiii) "Informal trading sector", an association or associations representative of street vendors trading in the jurisdiction area of the Municipality and acknowledged by the Council.
- (xiv) "Committee for informal trading", a committee consisting of at least two members of the informal trading sector and two members of the formal trading sector, one representative of Council and co-opted advisors of the different sectors accepted or nominated by Council.

Amendment of section 2 of PN 510 of 1998

2. (a) Section 2(a) of PN 510 of 1998 is hereby amended by the insertion of the following words:

"in a garden or park or parking area to which the public has a right to access with the provision that the Council may from time to time temporarily allow it for special occasions, excluding those areas to which the Council does not have the sole jurisdiction."

- (b) The deletion of section 2(e) of PN 510 of 1998 is hereby amended by the insertion of the following words:

"on a 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 vendor, pedlar or hawker concerned, without the consent of the tenant(s) and owner of agent."

- (c) To amend section 2(g)(ii) of PN 510 of 1998 by means of the following deletions and insertions:

"it obstructs the visibility of a display window of business premises, [if the person carrying on business in the business premises concerned objects thereto:] unless Council obtained the permission of the tenant(s), and owner or agent in order to utilize such a trading block in front of such display window or part of such display window;"

Amendment of Section 4 of PN 510 of 1998.

3. Section 4(b) of PN 510 is hereby amended by—

- (a) the deletion of the following words ["carry on such business in such a manner as to—"] and the insertion of the following: "to conduct his business in such a way that it does not constitute a danger or threat to public health or public safety;"
- (b) the deletion of sections 4(b)(i), (ii) and (iii) of PN 510 of 1998, as a whole.
- (c) Section 4(c) of PN 510 of 1998 is hereby amended by the deletion of the following: ["other than in a refuse receptacle approved by the Council, accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place, and] and insertion of the following: "on request of an officer or duly authorised official of the Council remove or shift material from the place of trading in order that such place may be cleaned, and;"

- (x) "Straathandel", ook die verkoop, uitstal, aanbied of ruil van enige goedere of dienste teen vergoeding as straathandelaar, maar sluit die verkoop van koerante alleen uit.
- (xi) "Straathandelaar", 'n persoon wat die besigheid van straathandelaar, venter of smous bedryf.
- (xii) "Formele handelsektor", 'n assosiasie of assosiasies verteenwoordigend van die formele handelsektor, wat handel dryf binne die gebied van Munisipaliteit en deur die Raad erken word.
- (xiii) "Informele handelsektor", 'n assosiasie of assosiasies verteenwoordigend van straathandelaars wat handel dryf binne die gebied van die Munisipaliteit en deur die Raad erken word.
- (xiv) "Komitee vir informele handel", 'n komitee bestaande uit minstens twee lede van die informele handelsektor en twee lede van die formele sektor, een verteenwoordiger van die Raad en gekoöpteerde adviseurs van die verskillende sektore wat deur die Raad aanvaar of genomineer is.

Wysiging van artikel 2 van PK 510 van 1998.

2. (a) Artikel 2(a) van PK 510 van 1998 word hierby gewysig deur die volgende woorde in te voeg:

"in 'n tuinpark of parkeerterrein waartoe die publiek reg van toegang het met die voorbehoud dat die Raad van tyd tot tyd 'n vergunning vir spesiale geleenthede tydelik mag toelaat uitesluit gebiede waartoe die Raad nie alleen seggenskap het nie."

- (b) Artikel 2(e) van PK 510 van 1998 word hierby gewysig deur die volgende woorde in te voeg:

"op 'n soom aangrensend aan 'n gebou waarin besigheid bedryf word deur 'n persoon wat goedere verkoop wat van dieselfde of 'n soortgelyke aard is as goedere verkoop wat van dieselfde of soortgelyke aard is as goedere wat deur die betrokke straathandelaar, venter of smous verkoop word, sonder toestemming van die verhuurder/s en eienaar of agent."

- (c) Deur artikel 2(g)(ii) van PK 510 van 1998 te wysig deur middel van die volgende skrapping en invoeging:

"dit die sigbaarheid van 'n vertoonvenster van sakeperseel versper, [indien die persoon wat sake in die betrokke sakeperseel doen, daarteen beswaar maak;] tensy die Raad toestemming van die huurder/s en eienaar of agent verkry het om 'n staanplek voor sodanige vertoonvenster of deel van sodanige venster te benut."

- (d) Section 4(d) of PN 510 of 1998 is hereby amended by deletion of the following: ["fail or refuse to remove or move any goods receptacle, vehicle or movable structure after having been requested to do so by an officer or a duly authorised employee of the council acting in terms of the provisions of section 5(1)."] and the insertion of the following "conduct his in such way that it will be at all times in a clear and neat condition."

MUNICIPALITY BEAUFORT WEST

ANNEXURE

CONDITIONS APPLICABLE TO TRADE BY A STREET VENDOR, PEDLAR OR HAWKER IN RESTRICTED PROHIBITED AREAS

In terms of the authority vested in the Municipality of Beaufort West be section 6A(2)(a) of the Business Act (Act no 71 of 1991) as amended, read together with section 2(c)(ii) of PN 510 of 1998 dated 18 September 1998, the Council of the Municipality of Beaufort West has laid down the following conditions applicable to trade by a street vendor, pedlar or hawker in restricted prohibited areas:

1. Street vending in restricted prohibited areas may only be conducted from fixed trading blocks.
2. Council determine by resolution the rent for trading blocks for street vendors. To promote local street vending Council may exercise its discretion to differentiate between rent for local and non-local street vendors.
3. The rent for trading blocks is payable in advance. No blocks will be reserved but be allocated to the first person who applies and pays for it. No rent will be refunded after utilising of the rented block.
4. No trading blocks will be rented to business undertakings.
5. The position of trading blocks will be fixed by Council after requesting inputs from the committee for informal trading.
6. A maximum of two trading blocks shall be leased to a street vendor. Every local applicant for a trading block shall submit proof that he/she is a bona-fide local resident for longer than six months.
7. Street vendors may only trade from their paid-up trading blocks and are not allowed to sell goods by walking around.
8. A street vendor to whom a trading block has been allocated and leased shall conduct his business in person. However, a maximum of two employees may assist him/her during business. An identification document issued by the Municipality must be displayed during trading.
9. No street vendors may conduct business from private property situated next to public road.
10. Street vending may only be conducted from 07:00 until 19:00 or 17:00 until 05:00. Street vendors may only apply for one of these periods.
11. Only removable shelters resembling an umbrella or gazebo and that is aesthetic acceptable to Council may be erected on trading blocks during trading.

MUNISIPALITEIT BEAUFORT-WES

BYLAE

VOORWAARDES VIR HANDELDRYF DEUR 'N STRAATHANDELAAR, VENTER OF SMOUS IN BEPERKTE VERBODE GEBIEDE

Die Raad van die Munisipaliteit van Beaufort-Wes het ingevolge die bevoegdheid aan hom verleen deur artikel 6A(2)(a) van die Wet op Besighede (Wet No. 71 van 1991) soos gewysig saangelees met artikel 2(c)(ii) van PK 510 van 1998 dateer 18 September 1998 die volgende voorwaardes vasgestel vir handeldryf deur 'n straathandelaar, venter of smous in 'n beperkte verbode gebied:

1. Straathandel in beperkte verbode gebiede mag alleenlik vanaf bepaalde staanplekke beoefen word.
2. Die Raad bepaal by besluit die huur van staanplekke vir straathandelaars. Om plaaslike straathandel te bevorder het die Raad die diskresie om te differensieer tussen huur vir plaaslike en nie-plaaslike straathandelaars.
3. Die huur vir staanplekke is vooruitbetaalbaar. Geen staanplekke sal gereserveer word nie en sal toegeken word aan die eerste persoon wat daarvoor aansoek doen en betaal. Geen gelde is na opneem van verhuring terugbetaalbaar nie.
4. Geen staanplekke sal aan sakeondernemings verhuur word nie.
5. Die posisie van staanplekke word deur die Raad bepaal nadat insette van die komitee vir informele handel gevra is.
6. 'n Maksimum van twee staanplekke mag aan 'n straathandelaar verhuur word. Elke plaaslike aansoeker vir 'n staanplek moet bewyse indien dat hy/sy 'n bona-fide plaaslike inwoner vir langer as ses maande is.
7. Straathandelaars mag net vanaf hul betaalde staanplekke handel dryf, en nie rondloop om goedere te verkoop nie.
8. Straathandelaars aan wie 'n staanplek toegeken en verhuur is moet self sake by sy staanplek doen. Met dien verstande dat 'n maksimum van twee werknemers hom/haar mag bystaan met verkope. 'n Identiteitsdokument uitgereik deur die Munisipaliteit moet tydens sake getoon word.
9. Geen straathandelaars mag van privaat grond geleë langs 'n openbare pad sake doen nie.
10. Straathandel mag net vanaf 07:00 tot 19:00 of 17:00 tot 05:00 beoefen word. Straathandelaars mag slegs vir een van hierdie periodes aansoek doen.
11. Slegs verwyderbare beskuttinge wat lyk en werk soos 'n sambreel of gazebo en wat vir die Raad esteties aanvaarbaar is mag op verhuurde staanplekke tydens sake opgerig word.