



1. Preamble

The framework below will serve as a policy guideline to authorize official to remove or impound any property of a street trader or land invader which he or she reasonably suspect is being used or which intended to be used or has being used in or in connection with street trading; and

Which he or she finds at a place where street trading is restricted or prohibited and which, constitutes an infringement of any such restriction or prohibition or

Which he/she finds someone is in the process of process of occupying the land and erecting a structure.

2. Policy objective

- To enforce a by-law relating to the supervision and control of the carrying on of the business of street vendors, peddlers or hawkers within the Maluti-a-phofung municipality.
- To ensure that no person may conduct business of a street trader in the business area without being in possession of a valid permission issued by the council.
- To provide guidance on removal and impoundment of any goods, receptacle, vehicle or structure which are being used or are intended to be used or have been in or in connection with street trading at a place where street trading is prohibited.
- To ensure that no person may erect or occupy municipal property without council consent.

3. Policy statement

- To strike a balance between the vendors right to livelihood and the need to protect public space and traffic flow.
- To prevent the sprawling of informal settlement around Maluti-a-phofung municipality.

4. Legislative framework

- By-law relating to the supervision and control of the carrying on of business of street vendors, peddlers or hawkers within the municipality of Maluti-a-phofung;
- National road traffic act, act 93 of 1996;
- Business act, act 71 of 1991;
- Maluti-a-phofung guidelines to take action against land invaders and

- Prevention of illegal Eviction from and unlawful occupation of land, act 19 of 1998.

5. Removal and impoundment

5.1 Notices

An authorized official may issue a notice to remove or impound any property of a street trader or land invader which he or she finds at a place where street trading or human settlement is restricted or prohibited and which, constitute an infringement of any such restriction or prohibition in terms of the below stated procedure.

5.1.1 Immovable structure

- That a thirty (30) days notice be given to the party concerned to remove the structure.
- If such party refuses or fails to comply with the order to remove the structure then council shall notice the party of its intention to apply for demolition order, which order shall be done in consultation with the executive mayor and council legal service department.

5.1.2 Property attached to immovable structure

- That a twenty one (21) days notice be given to the party concerned to remove the structure.

- If such party refuses or fails to comply with an order to remove the property referred above the party shall be guilty of an offence.

5.1.3 Shacks or temporary structures

- That a fourteen (14) days notice be given to the party concerned to remove such structure.
- If such party refuses or fails to comply with an order to remove the shack or structure referred above the party shall be guilty of an offence.

5.1.4 Motor vehicle, caravan, receptacle or trailer

- That a seven (7) days notice be given to the party concerned to remove such motor vehicle, caravan or trailer.
- If such party refuses or fails to comply with an order to remove the property referred above the party shall be guilty of an offence.

5.1.5 Soft goods

- That a twenty four (24) hours notice be given to the party concerned to remove such goods.
- If such party refuses or fails to comply with an order to remove the property referred above the party shall be guilty of an offence.

5.1.6 Fence, steel and wooden rods

- A municipal official may remove or impound any fence, steal or wooden rod which he or she reasonably suspects are being used or going to be used to illegally occupy municipal property without notice if the perpetrator cannot be traced within twenty four (24) hours.
- A verbal order shall be given to the land invader if available to remove a fence, steal or wooden rods that had been erected on municipal property without council consent.
- A municipal official or officials may remove and impound such if the party concerned fails or refuses to remove from a property after having been ordered to do so.

5.2 Actual removal or impoundment

A municipal official or officials may remove and impound any structure, shack, motor vehicle, caravan, trailer and goods which a street vendor, peddler or hawker has failed or refused to remove from a place after having been ordered to do in terms of an official notice.

Hereafter, section 6.2 (1) and (2) of Maluti-a-phofung municipal By-law on supervision and control of carrying on of business of street vendors, peddlers or hawkers shall be applicable. That is to say an official acting in terms of this section shall issue to a street vendor, peddler or hawker a written proof for any structure, shack, motor vehicle, caravan, trailer and goods so removed or impounded, forthwith deliver any such goods to council warehouse.

Any authorized official acting in term of the subsection above shall issue to the party or person carrying on the business of the street trader, a receipt for any property so removed and impounded. The receipt must indicate the following:

- Itemize the property to be removed and impounded;

- Provide the address where the impounded address property will be kept, and the period thereof;
- State the conditions for the release of the impounded property;
- State the terms and conditions relating to the sale of unclaimed property by public auction; and
- Provide the name and office number of a council official to whom any representation regarding the impoundment may be made, and the date and time by which this must be done.

5.3 Conditions for the release of the impounded property

- Goods can be returned to a peddler, street vendor, hawker or land invader after payment of the determined fines and prescribed fees levied for impound and storage as determined by council from time to time.
- Shacks, receptacles, trailers, vehicles or structures can only be released to a party or a person to whom a trading site in the business area had been allocated.
- If the trading site is not available the above mentioned structures can only be released to a party or a person to whom an agreement had been entered into, not putting the structure in any prohibited area.
- Such structure shall be released after payment of fine determined by the council from time to time.

5.4 Terms and conditions relating to the sale of unclaimed property by public auction

- A municipal official may, and shall on the written advice of council Environmental health officer destroy all perishable goods after 24 hours after impoundment of the said goods if not claimed.
- A council may discard with, sell or give away any goods, receptacles, vehicles, shacks, trailers, caravan or structures that have not been claimed within ninety (90) days after the date of impoundment.
- The selling of such goods will be done through public auction of which date shall be advertised in the local news paper for four consecutive weeks.
- The advertisement shall state the date, place and the time of the auction.
- The auction shall take place at any place within the jurisdiction of Maluti-a-phofung municipality.

6. Implementation

Officials of the directorate of land and housing, spatial planning and development, public safety, community services, infrastructure together with the assistance of South African policy services will be responsible for effective implementation of this policy.

Council may delegate or assign in writing any power, duty or function imposed by or under this policy to any person in its employ subject to such conditions as it may be necessary. Directors must ensure that employees are remunerated accordingly in the event operations are done outside normal working hours.

7. Report

A quarterly report will be submitted to the executive mayor, reflecting areas where impoundment took place, register of goods impounded, money accrued from public auction and planned impoundment operations.

8. Review

This policy document will be revised every two (2) years from the date of the approval thereof.

9. Indemnity of council officials

The council, a council official or an employee of the council shall not be held liable for any loss, or theft of or damage to any goods, receptacles, vehicles, caravan, fence, steal or wooden rods, movable structure so removed, impounded or auctioned in terms of this policy.

This policy is governed by the provisions of the maluti-a-phofung By-Law relating to the supervision and control of the carrying on of the business of street vendors, peddlers or hawkers and the prevention of illegal eviction from and unlawful occupation of land act.

Nothing in this policy document shall be construed as establishing an absolute barrier to strike a balance between the citizen right to livelihood and the need to protect public space and traffic flow.