

Thanks for Downloading

This is a download from OpenByLaws.org.za. We make South Africa's by-laws freely available and easy to read and share. Find more by-laws and downloads at OpenByLaws.org.za or email us at hello@openbylaws.org.za.

License

The layout and presentation of this document, not including the content of the by-laws, are licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/). You are free to share and adapt this work as long as you provide attribution to OpenByLaws.org.za.

The content of the by-laws is not copyrighted, as per Section (8)(a) of the [Copyright Act 98 of 1978](https://www.gov.za/documents/copyright-act-1978).



Table of Contents

City of Cape Town: Informal Trading By-Law, as amended	3
1. Preamble	3
2. Interpretation	3
3. Types of informal trading	5
4. Freedom to engage in informal trading	6
5. Adoption of trading plans	6
6. Public participation in respect of the adoption of a trading plan	7
7. Amendment, revocation and review of trading plans	9
8. Permits	9
9. Transfer of permits	12
10. Obligations on owners of non-city property	13
11. General prohibitions on informal trading	13
12. Restrictions on informal trading	14
13. Waste removal, cleansing and hygiene	15
14. Special events	16
15. Guidelines and policies	16
16. Powers and functions	16
17. Appeals	17
18. Enforcement	17
19. Offences	18
20. Transitional provisions	18
21. Repeal of by-laws	19
22. Short title and commencement	19

City of Cape Town: Informal Trading By-Law, as amended

[Amended by City of Cape Town: Informal Trading Amendment By-law, 2013 on 6 December 2013]

1. Preamble

- 1.1 In terms of the Constitution, the City is responsible for "trading regulations", "markets", "street trading" and "beaches" within its area of jurisdiction. One of the City's objects is to promote social and economic development.
- 1.2 The City 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.
- 1.3 The City 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.
- 1.4 The City further acknowledges the need for a balanced relationship between the informal and formal trading sectors in order to promote social and economic development within a well-managed municipal area.
- 1.5 This By-Law, accordingly aims to:-
 - 1.5.1 consolidate in a single By-Law, the By-Laws passed by the predecessors in law of the City of Cape Town; and
 - 1.5.2 govern informal trading within its area of jurisdiction.

2. Interpretation

In this By-Law, the English text prevails in the event of any conflict with the Afrikaans or the isiXhosa texts and, unless the context indicates otherwise -

- 2.1 "**beach**" means the portion of land above and contiguous to the seashore and includes any grass verge (where such verge exists);
- 2.2 "**beach trading**" means informal trading that takes place on a beach and includes trading on a parking area adjacent to the beach;
- 2.3 "**black person**" is a generic term as contemplated in the Employment Equity Act, No. 55 of 1998 which means Africans, Coloureds, Indians and South African Chinese persons;

- 2.4 **"Businesses Act"** means the Businesses Act, No. 71 of 1991 including any regulations issued thereunder;
- 2.5 **"City"** means the municipality of the City of Cape Town duly established in terms of the Local Government: Municipal Structures Act, No. 117 of 1998;
- 2.6 **"City property"** means property owned, leased by, or under the management control of the City;
- 2.7 **"Constitution"** means the Constitution of the Republic of South Africa, 1996;
- 2.8 **"Council"** or "the Council" means the Council of the City as contemplated in section 118 of the Local Government: Municipal Structures Act, No. 117 of 1998;
- 2.9 **"high-water mark"** means the high water mark as defined in the Seashore Act, No. 21 of 1935 as amended from time to time;
- 2.10 **"historically disadvantaged individual"** means a South African citizen who -
- 2.10.1 is a black person;
 - 2.10.2 is a woman;and/or
 - 2.10.3 has a disability;
- 2.11 **"illegal goods"** means -
- 2.11.1 Goods that it is illegal to sell or to buy (including but not limited to counterfeit goods as defined in the Counterfeit Goods Act No. 37 of 1997);
 - 2.11.2 Goods that are bought or sold in a manner which contravenes the law.
- 2.12 **"impoundment costs"** means all costs incurred by the City in impounding and storing property impounded in terms of section 18.2, and, where applicable, the costs incurred as a result of the disposal or releasing of the impounded property and any other associated costs;
- 2.13 **"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;
- 2.14 **"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 3.1 and section 3.2;
- 2.15 **"market"** means a demarcated area within a trading area which is designated as such in a trading plan and which is managed in a co-ordinated manner;
- 2.16 **"non-City property"** means property that is situated within the jurisdictional area of the City but which is not owned, leased by, or under the management control of the City;

- 2.17 "**nuisance**" includes, but is not limited to, an act or omission which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely affects the public at large;
- 2.18 "**officer**" means -
- 2.18.1 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;
 - 2.18.2 a member of the South African Police Service;
 - 2.18.3 a peace officer contemplated in section 334 of the Criminal Procedure Act, No 51 of 1977;
 - 2.18.4 a municipal police officer of the Metropolitan Police, which has been established in terms of section 64A of the South African Police Services Act, No. 68 of 1995; or
 - 2.18.5 an employee, agent, representative and/or service provider of the City who are specifically authorised by the City in this regard;
- 2.19 "**permit-holder**" means an informal trader who has been granted a permit by the City to conduct informal trading in a trading area;
- 2.20 "**seashore**" holds the same meaning as it is defined in the Sea Shore Act, No. 21 of 1935 as amended from time to time;
- 2.21 "**special events**" may include, but are not limited to, sports events, night markets, cultural events, music festivals, promotional, filming activities and religious events;
- 2.22 "**Systems Act**" means the Local Government: Municipal Systems Act, No. 32 of 2000;
- 2.23 "**trading area**" means an area in respect of which a trading plan has been adopted in terms of this By-Law;
- 2.24 "**trading plan**" means a trading plan adopted by the City to govern informal trading within a trading area.

3. Types of informal trading

- 3.1 Informal trading may include, amongst others:-
- 3.1.1 street trading;
 - 3.1.2 trading in pedestrian malls;
 - 3.1.3 trading at markets;

- 3.1.4 trading at transport interchanges;
 - 3.1.5 trading in public open spaces;
 - 3.1.6 mobile trading, such as from caravans, and light delivery vehicles;
 - 3.1.7 roving traders; and
 - 3.1.8 trading at special events.
- 3.2 Beach trading includes -
- 3.2.1 trading from fixed trading bays;
 - 3.2.2 mobile trading, such as from caravans and light delivery vehicles;
 - 3.2.3 roving traders; and
 - 3.2.4 mobile and/or removable kiosks.

4. Freedom to engage in informal trading

Informal trading is permitted in any area within the jurisdiction of the City, subject to any trading plans adopted by the City, the provisions of this By-Law and any other applicable law.

5. Adoption of trading plans

- 5.1 The City must, where appropriate, adopt trading plans, particularly in areas where there is a significant overlap between formal and informal trading. A trading plan may allow and regulate informal trading on non-City property, subject to the rights of the owners of such property.
- 5.2 A trading plan must:
- 5.2.1 define the geographic boundary of the trading area; and
 - 5.2.2 demarcate informal trading bays and markets where informal trading is permitted, outside of which informal trading shall be prohibited in that trading area.
- 5.3 A trading plan may include any other matters governing informal trading in the relevant trading area, such as -
- 5.3.1 prescribing any informal trading conditions, including such terms and condition to be imposed in terms of permits to be issued by the City in terms of section 8 and subject to any requirements of this By-Law;
 - 5.3.2 the manner in which social and economic development will be promoted through the trading plan;

- 5.3.3 the manner in which sensitive heritage and environmental areas within the proposed trading area will be protected;
- 5.3.4 matters relating to a market which may be located within the relevant trading area, including, but not limited to:
 - 5.3.4.1 the demarcation of the area within the trading area which constitutes a market;
 - 5.3.4.2 where appropriate, the demarcation of trading bays within the market;
 - 5.3.4.3 the legal arrangements between the City and any third party in respect of the obligations relating to the general management of the market in terms of which the third party is responsible for at least the following:
 - 5.3.4.3.1 the management of the operations of the market;
 - 5.3.4.3.2 the management of informal traders operating within the market;
 - 5.3.4.3.3 ensuring that all relevant persons participate in appropriate decisions;
 - 5.3.4.3.4 providing guidance to the informal traders operating within the market with business support and development services; and
 - 5.3.4.3.5 any service which is in addition to the services provided by the City.
- 5.4 A trading plan must comply with sections 11, 12 and 13 of this By-Law and with any other applicable law.
- 5.5 Any person shall be entitled to request that the City considers the adoption of a trading plan; provided that where a proposed trading plan contemplates trading taking place on non-City property, the request is accompanied by the written consent of the owner of such non-City property. The City must consider and decide upon the request within a reasonable period.
- 5.6 When considering a request for the adoption of a trading plan, the City shall have due regard to any existing and proposed trading plans in the vicinity of the proposed trading area in order to determine the desirability of the adoption of a trading plan.

6. Public participation in respect of the adoption of a trading plan

Public Notice requesting comments and objections

Before adopting a trading plan, the City is obliged to-

- 6.1 consult with interested and affected role players including the informal and formal sectors with the view to compiling a draft trading plan;

- 6.2 compile a draft trading plan following the consultation process in terms of section 6.1;
- 6.3 publish notices in 2 (two) local daily newspapers that are circulated in the area in which the proposed trading area is situated, unless a community newspaper which is free to the public is circulated in such area in which case 1 (one) of the 2 (two) notices must be published in such community newspaper, that -
- 6.3.1 contains the key aspects of the draft trading plan and which notifies the public that the draft trading plan is available for inspection at a specified location; and
- 6.3.2 invites comments and objections from the public in relation to such draft trading plan, to be received by the City within 30 (thirty) days from the date of publication of the notice.
- 6.4 When the City publishes a notice in terms of section 6.3, it must, where applicable, convey the contents of the notice by radio on a local radio-station that broadcasts in the area concerned.

Public meeting

- 6.5 In the notice referred to in section 6.3, the City must invite interested and affected parties to a public meeting.
- 6.6 The public meeting must be held -
- 6.6.1 within the vicinity of the proposed trading area; and
- 6.6.2 after 7 (seven) days but not later than 60 (sixty) days from the date of publication of the notice published in terms of section 6.3.
- 6.7 At the public meeting, the City must -
- 6.7.1 be represented by a person duly authorised by the City who must make a presentation to the public present at the meeting in which the draft trading plan is explained;
- 6.7.2 reasonably respond to any queries related to the draft trading plan which may be posed by the public at the public meeting; and
- 6.7.3 give interested and affected parties an opportunity to make comments and objections at the public meeting, and such comments and objections must be recorded.

Consideration of options prior to adoption of a trading plan

- 6.8 The City must consider all objections or comments that the City may receive pursuant to the process outlined in this section.
- 6.9 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 plan, notwithstanding the provisions of any other law, and at a meeting of the Council

6.9.1 adopt the draft trading plan;

6.9.2 amend and adopt the draft trading plan; or

6.9.3 reject the draft trading plan.

6.10 Notwithstanding the provisions of section 59 of the Systems Act, the Council may not delegate the decision-making powers referred to in section 6.9.

6.11 In the event that the City adopts a draft trading plan, a notice must be published in 2 (two) daily newspapers circulated in the trading area, unless a community newspaper which is free to the public is circulated in such area in which case 1 (one) of the 2 (two) notices must be published in such community newspaper, and the Provincial Gazette, which informs the public:

6.11.1 that the draft trading plan has been adopted as a trading plan;

6.11.2 of the key aspects of the trading plan including the date upon which it shall become effective; and

6.11.3 that the trading plan is available for inspection at a specified location.

7. Amendment, revocation and review of trading plans

The City -

7.1 may amend or revoke an adopted trading plan, provided that:

7.1.1 if the amendment deviates materially from the trading plan, the City must comply with section 6 with the necessary changes required by the context, provided further that where persons are adversely affected by a proposed amendment that does not require compliance with section 6, such persons will be afforded their just administrative rights; or

7.1.2 In the case of a revocation the City shall afford all affected persons their administrative justice rights.

7.2 must review trading plans from time to time as the City deems fit.

8. Permits

8.1 No person may conduct informal trading on City property in a trading area without a valid permit from the City.

8.2 The City is entitled to charge a permit-holder:

- 8.2.1 a trading fee;
 - 8.2.2 an application fee; and
 - 8.2.3 an additional fee or tariff, which is to be determined by the City in its sole discretion, in respect of additional costs incurred or services provided by the City, including but not limited to circumstances where the permit-holder trades within a market.
- 8.3 In the event that a person qualifies for a permit, but has motivated in writing the inability to pay the fee contemplated in section 8.2 and has provided sufficient proof thereof to the reasonable satisfaction of the City, the City may waive the fee in whole or in part, or may determine a payment system in terms of which the person may pay the fee over a stipulated period by way of instalments.
- 8.4 In order to qualify for a permit, the applicant -
- 8.4.1 must be an informal trader, or desire to become an informal trader;
 - 8.4.2 may not already hold a permit in respect of the trading area in respect of which a permit is being applied;
 - 8.4.3 must be a South African citizen, failing which, must be in possession of a valid work permit which includes, but is not limited to, a refugee permit; and
 - 8.4.4 must not employ and actively utilise the services of more than 5 (five) persons.
- 8.5 The City must take into account the following factors when considering an application for a permit -
- 8.5.1 the applicant's ability to meet the trading hours for the relevant trading area as the City may determine;
 - 8.5.2 the need to give preference to applicants that are historically disadvantaged individuals;
 - 8.5.3 [[Paragraph 8.5.3 deleted by amendment on 2013-12-06.]]
 - 8.5.4 the nature of the trading goods which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading area or in its immediate vicinity;
 - 8.5.5 the need to give preference to unemployed applicants;
 - 8.5.6 the need to give preference to applicants who do not share a household with an existing permit-holder, unless:
 - 8.5.6.1 the number of available trading bays for the relevant trading area is more than the number of applicants seeking permits for those trading bays; or

- 8.5.6.2 the applicant who shares a household with a permit-holder is not a dependant or financially reliant upon such permit-holder;
- 8.5.7 [[Paragraph 8.5.7 deleted by amendment on 2013-12-06.]]
- 8.5.8 [[Paragraph 8.5.8 deleted by amendment on 2013-12-06.]]
- 8.5.9 where trading plans are adopted in areas previously not subject to such plans, the need to give preference to applicants who have an established informal trading operation in the location for which a new trading area is adopted.
- 8.5A Notwithstanding the provisions of subsection 8.5 the City may give preference to an applicant -
- (a) who resides in or close to the trading area for which the permit is applied; or
 - (b) who is a new entrant as an informal trader on the database of the City of Cape Town.
- 8.5B Notwithstanding the provision contemplated in paragraph 8.5.3, the City may allocate only one (1) bay per applicant.
- 8.6 The City is entitled to impose such terms and conditions in respect of permits as it deems fit, subject to the provisions of the applicable trading plan, including but not limited to the right to -
- 8.6.1 specify the:
 - 8.6.1.1 trading hours during which the permit-holder may trade;
 - 8.6.1.2 nature of the goods or services the permit-holder is permitted to trade;
and
 - 8.6.1.3 permit-holder's trading bay number;
 - 8.6.2 allocate the informal trader an alternative bay in the same trading area;
 - 8.6.3 specify the type of structure(s), if any, which may be erected on a trading bay and/or in a trading area;
 - 8.6.4 impound trading goods in terms of section 18.2 or section 18.8 in the event of contravention of any provision of this By-Law or any other law;
 - 8.6.5 suspend a permit for a special event on reasonable prior notice with no compensation payable to the informal trader, notwithstanding that informal trading may be permitted by the City at the special event in terms of section 14;
 - 8.6.6 provided that two written warnings have been issued to the informal trader and after affording the relevant informal trader an opportunity to make written representations, revoke or suspend a permit in the event of an informal trader

-

8.6.6.1 breaching any provisions of the permit and/or the By-Law or any other law;

8.6.6.2 being convicted of trading in illegal goods or providing a service unlawfully; or

8.6.6.3 wilfully supplying incorrect information when required to provide the City with information.

8.6.6.4 [[Paragraph 8.6.6.4 deleted by amendment on 2013-12-06.]]

8.7 Notwithstanding the contents of the relevant trading plan, the City has the right to, upon reasonable prior notice to the informal trader and with no compensation payable by the City to the permit-holder, temporarily:

8.7.1 relocate a permit-holder;

8.7.2 suspend the validity of a permit; or

8.7.3 prohibit a permit-holder from trading at the relevant trading bay;

should it be necessary to do so because of the performance of activities which renders the continuation of trading from the relevant trading bay impractical or severely inconvenient.

8.8 Activities referred to in section 8.7 shall include, but not be limited to, maintenance or construction of infrastructure or buildings performed by the City, property developments, alterations or refurbishments by any entity, or activities by public entities conducted in terms of their powers and functions.

9. Transfer of permits

9.1 A permit may be permanently transferred, with the written approval of the City, to a dependant, or an assistant acting on behalf of the dependant, who will continue trading until the permit is no longer valid, in the event of -

9.1.1 the death of the permit-holder; and

9.1.2 if the loss of income generated by the informal trading would place the dependent under undue or severe economic hardship.

9.2 A permit may be temporarily transferred, with the written approval of the City, to a dependent or, where there is no dependent, to an individual nominated by the permit-holder, where the permit-holder:

9.2.1 is incapable of for personal 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:

9.2.1.1 a written affidavit is provided to the City stating the nature and period for which the permit-holder requires the permit transfer

9.2.1.2 the dependent or assistant is only permitted to replace the permit-holder for the period stipulated in the affidavit;

9.2.2 [[Paragraph 9.2.2 deleted by amendment on 2013-12-06.]].

9.3 Subject to section 9.2, a permit-holder may not transfer a permit to any other person in any manner, including but not limited to, by way of lease or sale.

9.4 A permit must immediately be returned to the City should the City revoke such permit in the event of the permit-holder -

9.4.1 being refused permission to transfer the permit and the permit-holder failing to resume trading; and

9.4.2 no longer wishing to trade as an informal trader from the relevant trading bay.

10. Obligations on owners of non-city property

An owner of non-City property which has been demarcated in a trading plan as land where informal trading is permitted, must -

10.1 ensure that all informal trading that takes place on the owner's property complies with the applicable trading plan and this By-Law;

10.2 permit any officer access to the owner's property to enforce the provisions of this By-Law;

10.3 ensure, at the owner's cost, that sufficient services are provided to maintain acceptable hygienic conditions in respect of the informal trading;

10.4 ensure that trading from formal business premises do not encroach upon the property of another property owner.

11. General prohibitions on informal trading

Informal trading may not be conducted:-

11.1 in a garden or park under the control of the City and to which the public has the right of access, unless such area has been declared by the City as a trading area;

11.2 on a verge or sidewalk (as defined in section 1 of the National Road Traffic Act, No. 93 of 1996) next to -

1.2.1 a building belonging to or occupied solely by the State or City, unless the City has given its prior written consent after it has

11.2.1.1 duly considered any relevant trading plan; and

- 11.2.1.2 consulted with the relevant property owner and, where relevant, the tenant of such property;
- 11.2.2 a place of worship such as a church, synagogue or mosque unless a trading plan permits informal trading at that area; or
- 11.2.3 a national monument as determined in accordance with the provisions of the National Heritage Resources Act, 25 of 1999;
- 11.3 at a place where it -
 - 11.3.1 obstructs access to fire fighting equipment;
 - 11.3.2 obstructs any entry to or exit from a building;
 - 11.3.3 substantially obstructs pedestrians in their use of a sidewalk;
 - 11.3.4 obstructs vehicular traffic;
 - 11.3.5 and in a manner by which it creates a traffic hazard;
 - 11.3.7 obstructs access to street furniture, bus passenger benches and shelters, queuing lines, refuse disposal bins or other facilities intended for the use of the general public;
 - 11.3.7 obstructs the visibility of a display window of business premises, and if the person carrying on business in that business premises objects thereto;
 - 11.3.8 obstructs access to a pedestrian crossing;
 - 11.3.9 obstructs access to a vehicle;
 - 11.3.10 obscures any road traffic sign;
 - 11.3.11 obstructs access to an automatic teller machine;
 - 11.3.12 limits access to parking or loading bays or other facilities for vehicular traffic;
 - 11.3.13 obstructs access to a pedestrian arcade or mall;
 - 11.3.14 obstructs the view of CCTV cameras; or
 - 11.3.15 falls below the high water mark, unless a trading plan expressly provides for informal trading at that area;
- 11.4 on the half of a public road which is next to a building that is being used for residential purposes, if the owner or occupier of that building objects to the informal trading taking place at that location.

12. Restrictions on informal trading

No person shall:-

- 12.1 obstruct access to any service of the municipality or municipal service works;
- 12.2 unless prior written approval is granted by the City, at any public road or public place
 -
 - 12.2.1 stay overnight at the place where informal trading is conducted; or
 - 12.2.2 erect any structure, other than as stipulated in the relevant trading area plan and/or permit conditions, for the purpose of providing shelter;
- 12.3 carry on business as an informal trader in a manner which
 - 12.3.1 creates a nuisance;
 - 12.3.2 damages or defaces the surface of any public road or public place or any other property belonging to the City; or
 - 12.3.3 creates a traffic hazard;
- 12.4 attach an object to any building, structure, pavement, footway, tree, parking meter, lamp pole, electricity pole, telephone booth, postbox, traffic sign, bench or any other street furniture or device in or on a public road or public place that is generally intended for public use;
- 12.5 make a fire at any place or in circumstances where it could harm any person or damage a building or vehicle or any structure referred to in section 12.4, unless authorised to prepare foodstuffs by utilising open-flame fire or gas-fired equipment;
- 12.6 deliver or provide goods or equipment to an informal trader if that trader trades in contravention of this By-Law;
- 12.7 after having been requested to do so by any person carrying out an activity contemplated in section 8.7 who requires access to a facility or area, fail to remove or move any goods, or refuse to do so; and
- 12.8 if permitted to conduct beach trading:
 - 12.8.1 sell or promote alcoholic products;
 - 12.8.2 use bells, hooters, amplified equipment or similar devices, which emit sound, in order to attract customers; or
 - 12.8.3 use any electrical supply or power generator, unless expressly approved and provided for in the relevant permit.

13. Waste removal, cleansing and hygiene

- 13.1 An informal trader must -
 - 13.1.1 maintain the informal trader's allocated informal trading site in a clean and

sanitary condition;

13.1.2 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 City grants a written exemption in this regard;

13.1.3 carry on business in a manner which does not cause a threat to public or public safety; and

13.1.4 at the request of an officer or duly authorised employee of the City, move or remove any object so that the area or site from which informal trading is conducted may be cleaned.

13.2 Failure to comply with the provisions of this section or the lawful request of an officer in terms of this section, will be regarded as a contravention of the By-Law and the informal trader shall be subject to the enforcement provisions of this By-Law.

13.3 In the event of the sale of foodstuffs prepared in the trading bay, a certificate of acceptability must first be obtained from the City.

14. Special events

The City may permit or prohibit informal trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading area.

15. Guidelines and policies

The City may at any time publish or amend guidelines or policies in respect of informal trading in the municipal area.

16. Powers and functions

16.1 Subject to section 16(3), the City Manager shall be responsible for:

16.1.1 all functions and decisions contemplated in this By-Law; and

16.1.2 the administration of this By-Law.

16.2 The City Manager may delegate any of his powers and functions to an appropriate official with the power to sub-delegate in order to maximise administrative and operational efficiency.

16.3 The decisions contemplated in sections 6.9, 7.1.1 and 7.1.2 must be taken by Council and may not be delegated.

17. Appeals

A person whose rights are affected by a decision taken by the City in terms of this By-Law under a duty or power which has been delegated or sub-delegated, may appeal against that decision in terms of section 62 of the Systems Act.

18. Enforcement

- 18.1 An officer may issue a person with a written warning if, in the opinion of the officer, that person has traded in goods or provided services in contravention of this By-Law or that person has contravened this By-Law in any other manner, including but not limited to, in violation of a permit condition, or any other applicable law.
- 18.2 In the event of a person continuing or repeating a contravention in respect of which two (2) written warnings have already been issued to that person, then an officer may impound, in the case of an informal trader, any property used by the informal trader in conducting the informal trade, and in the case of any other person, any property, including but not limited to, goods, equipment, structures and motor vehicles, in which case the officer must -
- 18.2.1 complete a full inventory of all the property that has been impounded and such inventory must include information on the consequences of such impoundment should the person fail to pay the impoundment costs and collect the goods;
- 18.2.2 provide the person with a copy of the inventory; and
- 18.2.3 immediately store the impounded property in an area designated by the City for the storage of impounded property.
- 18.3 Property which has been impounded from a person may be released after the presentation by the person of the inventory contemplated in section 18.2 and the payment of the impoundment costs, provided that the City is reasonably satisfied that the relevant person will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded; provided further that, where the City is not so satisfied, it may withhold the goods for up to 30 (thirty) days after payment of any fine and/or impoundment costs.
- 18.4 Perishable goods that have been impounded may, at any time after the impoundment, be sold or otherwise disposed of by the City. The City may destroy the goods if the condition of those goods renders them unfit for human consumption.
- 18.5 Impounded property other than perishable goods, may be sold by the City if the owner does not, or is unable to, pay the impoundment costs within 1 (one) month from the date of impoundment of that property.
- 18.6 In the event of the impounded property being sold by the City in terms of sections 18.4 or 18.5, and upon the presentation of the inventory as contemplated in section

by the owner, the City must pay to that owner -

18.6.1 the proceeds of the sale less the impoundment costs; or

18.6.2 if the owner has previously paid the impoundment costs, the proceeds must be paid to the owner free of any such deduction.

18.7 If the owner does not claim the proceeds derived from the sale of the impounded goods within 3 (three) months from the date of impoundment, then the proceeds will be forfeited to the City.

18.8 If in the reasonable opinion of an officer, an informal trader is suspected of trading in illegal goods or that a supplier as contemplated in section 12.6 is supplying the trader with illegal goods, then such goods may be immediately confiscated. In the event of such a confiscation, the officer must:

18.8.1 complete a full inventory of all the property that has been confiscated;

18.8.2 provide the informal trader or person contemplated in section 12.6 with a copy of the inventory; and

18.8.3 immediately surrender the suspected illegal goods to the possession of the South African Police Service.

19. Offences

Any person who -

19.1 contravenes any provision of this By-Law or fails to comply with any condition imposed in terms hereof;

19.2 threatens, resists, interferes with or obstructs any officer or any employee of the City in the performance of official duties or functions in terms of or under this By-Law; or

19.3 deliberately furnishes false or misleading information to an officer or an employee of the City;

is guilty of an offence and liable on conviction to a fine not exceeding R5,000.00 (five thousand Rand) or to imprisonment for a period not exceeding 3 (three) months, subject to the Adjustment of Fines Act, No 101 of 1991.

20. Transitional provisions

Notwithstanding the enactment of this By-Law:

20.1 any declaration in terms of the Businesses Act of an area within the jurisdiction of the City as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the City adopts a trading plan in respect of such area in terms of this By-Law;

- 20.2 where an informal trader had been issued with a lease or permit prior to the enactment of this By-Law which permits trading from a particular bay, such lease or permit shall remain valid until an integrated permit system is adopted by the City which complies with the permit system as contemplated in this By-Law.

21. Repeal of by-laws

The following By-Laws are hereby repealed:

- 21.1 By-Law published in Provincial Gazette of 13 December 1996, PN 522/1996, in respect of the area of the former Cape Town Municipality;
- 21.2 By-Law published in Provincial Gazette of 23 April 1999, PN 136/1999, in respect of the area of the former City of Tygerberg;
- 21.3 By-Law published in Provincial Gazette of 27 August 1999, PN 282/1999, in respect of the area of the former Blaauberg Municipality;
- 21.4 By-Law published in Provincial Gazette of 20 November 1998, PN 633/1998, in respect of the area of the former South Peninsula Municipality;
- 21.5 By-Law published in Provincial Gazette of 10 March 2000, PN 76/2000, in respect of the area of the former Helderberg Municipality;
- 21.6 By-Law published in Provincial Gazette of 29 May 1998, PN 290/1998, in respect of the area of the former Oostenberg Municipality.

22. Short title and commencement

This By-Law is called the City of Cape Town: Informal Trading By-Law and takes effect on the date of publication in the Provincial Gazette.