

EMALAHLENI LOCAL MUNICIPALITY

BUSINESS TRADING CONTROL BY-LAW



The Council of Emalahleni Local Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) hereby publishes the Emalahleni Local Municipality Business Trading Control By-law.

Date approved by Council:

Council Resolution:

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1. Definitions:

In this By-law, unless the context otherwise indicates-

“authorised official” means a person authorised as such by the Council for the purposes of this By-law to perform, exercise and implement any or all of the functions specified therein, including but not limited to:

(a) peace officials and EMIs as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and section 31B, 31BA, or 31C of the National Environmental Management Act 107 of 1998; and (b) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace official, such person must be accompanied by a peace official or an EMI official.

“boarding house” means a boarding house as defined in the Spatial Planning and Land Use Management Scheme;

“business” means any business referred to in Schedule 1 and Schedule 2 of this By-law;

“business license” means a license or permit issued to a business;

“business premises” relates to a business referred to in items 1 and 2 of Schedule 1 or Schedule 2, and includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

“designated area” means an area designated by the Municipality in terms of the Spatial Planning and Land Use Management Scheme in which business trading is allowed;

“conducting business” means to buy, sell or barter any goods or to provide or offer to provide any service for remuneration;

“foodstuff” means foodstuff as defined in section 1 of the Foodstuff, Cosmetics and

Disinfectants act no. 54 of 1972;

“goods” means any goods used for sale;

“licensing authority” means the Emalahleni Local Municipality as delegated in terms of Provincial Gazette no. 855 (Notice 770 of 2002) or person or body designated as a license authority in terms of section 2 of the Mpumalanga Business Act no. 2 of 1996);

“Municipality” means the Emalahleni Local Municipality established in terms of Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“municipal manager” means a person appointed in terms of section 54A of the Local Government Municipal Systems Act no. 32 of 2000;

“Nkangala District Municipality” means the district in which the Municipality forms part;

“property” means, with regard to a person doing business on premises or, as the context requires, any place/area, article, receptacle, vehicle, structure, and/or goods used or intended to be used in connection with such business;

“public place” include any land, park or open space, road, street, sanitary passage or thoroughfare, bridge, building or structure which is commonly used by the public and is owned by the Municipality or, of which the control, to the entire exclusion of the owner, is vested in the Municipality or to which the inhabitants of the Municipality have a common right or access and shall also mean any public place as defined in the Spatial Planning and Land Use Management Scheme of the Municipality;

“Spatial Planning and Land Use Management Scheme” means the land use scheme of the Municipality in terms of the Spatial Planning and Land Use Management Act no. 16 of 2013;

“residential place” relates to an area consisting of private housing rather than offices or factories or shop and shall also mean a residential place as defined in the Spatial Planning and Land Use Management Scheme of the Municipality;

“trader” means a person conducting business in, at or from a public/private place, but shall not

include a person selling newspapers, and “*trade*” or any like words shall have a corresponding meaning. For the purpose of this clause, “*person*” shall include a juristic person.;

“*trade license inspector*” shall have a corresponding meaning to an “*authorised official*”;

“*trading hours*” means the hours in respect of which a business shall operate as stipulated by the Municipality from time to time;

“*zoning certificate*” means a certificate issued by the Municipality in accordance with the Land Use Planning and Management Scheme.

2. Objective of this By-law

- 2.1. To provide for the control of business trading in the jurisdiction of the Emalahleni Local Municipality, and for matters connected therewith.
- 2.2. To provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate business trading.

3. Scope and limitations in the application of this By-law

- 3.1. The Emalahleni Local Municipality has been designated as a licensing authority under the Mpumalanga Business Act no. 2 of 1996 as promulgated in the Provincial Gazette Notice 770 of 2002.
- 3.2. This By-law shall be read with any applicable provisions of the, Constitution of the Republic of South Africa, Act no. 108 of 1996, Mpumalanga Trading Hours Act no. 5 of 1999, the Mpumalanga Business Act no. 2 of 1996 and the Business Act no. 71 of 1991, National Road Traffic Act no. 93 of 1996, National Health Act no. 61 of 2003 and the Foodstuffs, Cosmetics and Disinfected Act no. 54 of 1972.

- 3.3. In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates business trading, the provisions of this By-law shall prevail to the extent of the inconsistency.
- 3.4. This By-law shall not override any other national and provincial business trading legislation.
- 3.5. This By-law are limited to businesses mentioned in Schedule 1 and 2 of this By-law.

4. Principles

- 4.1. The Municipality has the responsibility to ensure that all businesses within the municipal area are regulated in a manner that will promote economic development and that takes into account the rights of all citizens of Emalahleni Local Municipality and those of other businesspeople within the Municipality.
- 4.2. Any person exercising powers in accordance with this By-law must at all times seek to promote development that is sustainable.
- 4.3. This By-law shall promote participation of all municipal residents in the promotion of responsible citizenship by ensuring sound business practices within the Municipality.

CHAPTER 1: GENERAL MANAGEMENT REQUIREMENTS FOR BUSINESSES

5. General Duty of Care

- 5.1. Every person has a duty to manage his/her business and/or the activities of persons working in his/her business in such a manner that does not cause

any harm to human health or damage to the environment.

5.2. Any person subjected to the duty imposed in subsection 5.1 may be required by the Municipality or an authorised official to take measures to ensure compliance with the duty.

5.3. The measures referred to in subsection 5.2 that a person may be required to undertake include—

5.3.1. investigation, assessment and evaluation of the impact that their activities, the process or a situation has on the environment and human health;

5.3.2. informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment and human health;

5.3.3. ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment and human health;

5.3.4. containing or preventing the movement of pollutants or other causes of damage to the environment and human health;

5.3.5. eliminating or mitigating any source of damage to the environment and human health; or

5.3.6. rehabilitating the effects of the damage to the environment.

6. Prohibitions in conducting a business without a business license.

6.1. No person shall conduct a business -

6.1.1. except with the prior written permission of the Municipality and in accordance with the conditions set out in the permission;

6.1.2. unless he/she has a valid business license and

- 6.1.2.1. is a South African citizen;
 - 6.1.2.2. has been granted the right of permanent residency; or
 - 6.1.2.3. is an approved foreign national with a valid work or residence permit issued by the immigration authorities;
- 6.1.3. outside a designated area unless the area has been rezoned accordingly;
- 6.1.4. unless all relevant municipal fees are paid or up to date; and
- 6.1.5. at any time, other than during the hours specified in this By-law and which are consistent with the Mpumalanga Business Trading Hours Act no. 2 of 1996.
- 6.2. The business license issued must be, at all times, conspicuously displayed on the internal wall of the business premises, or otherwise be carried on the person of a trader.
- 6.3. The Municipality may, in writing for the duration of a specific event and subject to any conditions determined by the Municipality, exempt any person, or group of persons, from compliance with any or all of the provisions of subsection 6.1 above.

7. Requirements and procedure for applications to conduct a business

- 7.1. A person applying for a business license shall make application in the prescribed form as set out in Annexure A provided by the Municipality which application must be accompanied by the following:
 - 7.1.1. A copy of Identification Document or Card in the case of a South African or a Visa and work permit in the case of a non-South African;
 - 7.1.2. Sketch map or locality map where the business will be situated;
 - 7.1.3. Application fee as determined by the Municipality from time to time;

7.1.4. Where applicable, a copy of the municipal water and lights account for the business which is not older than 3 (three) months;

7.1.5. A zoning certificate in the case of a private residential premises; and

7.1.6. Where applicable, a certificate of acceptability obtained from the Nkangala District Municipality.

7.2. An application for a business license shall be made as follows:

7.2.1. An application in the form of Annexure A must be:

7.2.1.1. directed to the Municipal Manager or his/her delegate; and

7.2.1.2. be accompanied by the fees determined by the Municipality from time to time, as well as fees for services or structures provided by the Municipality at the designated area, where applicable.

7.2.2. The Municipal Manager or his/her delegate must consider the application and grant or refuse the application within 30 (thirty) days after receipt of the application.

7.2.3. If the application is successful, the Municipal Manager or his/her delegate must forthwith issue the business license setting out the conditions subject to which it is issued.

7.2.4. If the application is unsuccessful, the Municipal Manager or his/her delegate must forthwith notify the applicant accordingly and provide written reasons for his or her decision.

8. Duration, renewal, re-issue, substitution, transfer, and withdrawal of business license

8.1. A business license shall -

8.1.1. be granted for a period not exceeding 12 (twelve) months for the type of business to be conducted and for the goods and services for which application is made.

8.1.2. be renewable for a period of 12 (twelve) months at a time if application in the prescribed format and payment of the fees determined by the Municipality is made by the trader concerned at least 2 (two) months before the end of the initial period of 12 (twelve) months in terms of (a) or each further period of 12 (twelve) months.

8.2. In the event that the license is lost, destroyed or damaged, the Municipality shall upon receiving an application for a duplicate license, satisfy itself about the reasons for such application and subsequently issue a duplicate license to conduct business with an endorsement of the word “DUPLICATE” inserted thereon.

8.3. When a licensee dies, becomes insolvent, or is placed under curatorship, the administrator of the estate or curator must, as soon as he/she is appointed, inform the Municipality of his/her appointment as such.

8.3.1. The administrator may, for the purpose of administering the estate, continue to conduct the licensed activities in the name of the estate, or make an application in the prescribed manner and form to the Municipality to transfer the license to any other qualified person.

8.3.2. Any person may apply in the prescribed manner and form to the Municipality for the appointment of a qualified person to conduct the licensed activities of the licensee, pending the appointment of an administrator as contemplated in subsection (a).

8.4. A licensee may make an application to the Municipality, for the transfer of a license to another person, in the prescribed form and on payment of the prescribed fee.

8.4.1. The Municipality must, within the prescribed period, consider the application and may (i) approve; (ii) approve subject to conditions; or (iii) refuse, the application for transfer of a license.

8.4.2. The Municipality may not grant an application for transfer unless it is satisfied that the person to whom the license is to be transferred is not disqualified in terms of this By-law.

8.4.3. When the application in subsection (a) is approved, the license holder ceases to be the licensee and all rights and obligations of the license holder are transferred to the new license holder.

8.4.4. The provisions of sections (7) and 8 in respect of the application procedure and requirements shall *mutatis mutandis* apply in the application for a transfer of a license.

8.5. The Municipality may withdraw or suspend a business license if the trader-

8.5.1. does not comply with or acts contrary to any condition set out in the business license;

8.5.2. contravenes or fails to comply with any provision of this By-law or any other law;

8.5.3. fails to obey or comply with a lawful instruction or request given or made by an authorised official; and

8.5.4. ignores or contravenes the provisions of a sign or notice displayed by the Municipality in terms of this By-law.

9. Prohibition on the hours of trading

- 9.1. No person shall conduct a business as a trader, except during the trading hours which shall be determined by the Municipality from time to time and which are consistent with the Mpumalanga Trading Hours Act no. 5 of 1999.
- 9.2. The Municipality may when issuing a business license may impose reasonable minimum or maximum trading hours.
- 9.3. Trading outside the prescribed hours shall be done with prior written consent of the Municipality.

CHAPTER 2 – SPECIFIC REQUIREMENTS FOR BUSINESS TRADING

10. Prohibited conduct of trading

- 10.1. No person who is a business license holder shall-
 - 10.1.1. place his or her property in a public place that is not a designated area for business;
 - 10.1.2. place or stack his or her property on a pavement and in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or damage property;
 - 10.1.3. erect any structure outside the boundaries of the business premises for the purpose of trading, without the prior written approval from the Municipality;
 - 10.1.4. obstruct access to a fire hydrant or area demarcated solely for the purpose of and use of emergency vehicles or services;
 - 10.1.5. leave his or her property outside an area designated for business trading before or after trading hours;

- 10.1.6. when requested by an employee or agent of the Municipality or any supplier of telecommunications, electricity or other services, refuse or neglect to move his or her property so as to permit the carrying out of any work with regard to a public place or any such service;
- 10.1.7. attach any property by any means to a building, structure, pavement, tree, parking, meter, lamp post, electricity pole, telephone booth, post box, traffic sign, fence, bench, or any other street furniture in, on or at a public place;
- 10.1.8. make an open fire at the designated area or in circumstances where it could harm any person or cause air pollution;
- 10.1.9. disregard a reasonable requirement put by an authorised official of the Municipality;
- 10.1.10. promote his/her business by using a megaphone, radio, loudspeaker, or by constant shouting or disturbance without prior written consent of the Municipality;
- 10.1.11. sell any property which are dangerous or hazardous to public health, human health or the environment; and
- 10.1.12. fail to comply with the relevant provisions of the solid waste management by- laws and/or any other by-law of the Municipality.

11. General cleanliness and safety requirements for business premises

- 11.1. A person doing business as a trader shall-
 - 11.1.1. keep his/her property in a clean and sanitary condition;

- 11.1.2. dispose of litter generated by his or her business in whatever receptacles approved by the Municipality and not dispose of litter in any street litter receptacle which is meant for use by pedestrians;
- 11.1.3. ensure that on completion of business for the day, the business premises including the fore front and pedestrian walkway next to the business is free from litter;
- 11.1.4. take such precaution as may be necessary or prescribed by the Municipality to prevent the spilling or discharge onto a public place or municipal drainage system of any fat, oil, grease or any hazardous substances which might be generated in the course of conducting his or her business and to prevent that any smoke, fume, outdoor or noise emanating from his or her activities become a nuisance;
- 11.1.5. comply with the general public health by-laws of the Nkangala District Municipality;
- 11.1.6. ensure that no overnight sleeping takes place in the business premises;
- 11.1.7. not pack his/her property on the floor inside the business premises;
- 11.1.8. have access to fire extinguishers or firefighting equipment as shall be prescribed by the Municipality;
- 11.1.9. ensure that no smoking is allowed in the business premises in which smoking is prohibited by law; and
- 11.1.10. ensure that no tobacco is allowed to be sold to underage children.

- 11.2. All buildings where business is conducted must have approved building plans or permitted by the Municipality.

12. Prohibited trading practices that may cause obstruction.

- 12.1. No person shall conduct business as a trader at a place where such business-
- 12.1.1. obstructs access to or the use of a street facility such as a bus stop, shelter or queuing line, refuse disposal bin or other facility intended for public use;
 - 12.1.2. obstructs the visibility of a display window, signboard or premises;
 - 12.1.3. obstructs access to a building, automatic bank teller machine or queuing line, pedestrian crossing or vehicle;
 - 12.1.4. leaves less than 2m (two meters) in width of a sidewalk clear for pedestrian use, or in any other manner obstructs pedestrians in their use of a sidewalk;
 - 12.1.5. obscures or impedes the view of any user of the road;
 - 12.1.6. causes an obstruction on a roadway;
 - 12.1.7. limits access to parking or loading bays or other facilities for vehicle traffic;
 - 12.1.8. obscures any road traffic sign or any marking, notice or sign displayed or made in terms of this By-law; and/or
 - 12.1.9. interferes in any way with any vehicle that may be parked alongside such place.

13. Display of signs by the Municipality

The Municipality may display any sign or notice to give effect to the provision of this By-law.

CHAPTER 3 – POWERS OF TRADE LICENSE INSPECTOR

14. Appointment of trade license inspector

- 14.1. An authorised official of the Municipality shall be appointed by the Municipal Manager as a trade license inspector.
- 14.2. A trade license inspector shall perform the duties and functions provided for in this By-law.

15. Functions and powers of a trade license inspector

- 15.1. A person appointed in terms of subsection 14.1, or any official appointed by law may at all reasonable times-

15.1.1. Compliance Inspection

Enter any shop or business or other premises or place connected to or belonging thereto, after identifying himself/herself, and search or inspect any property therein which he/she reasonably suspects to be used in connection with such business and on reasonable grounds determine:

- 15.1.1.1. whether the business complies with the requirements of any relevant municipal by-laws;
- 15.1.1.2. in consultation with the environmental health practitioner, whether any property complies with the

requirements of the public health by-law.

15.1.2. Compliance Notice

Issue a compliance notice requiring any person:

15.1.2.1. To produce any document pursuant to this By-law;
and

15.1.2.2. To rectify any contravention of this By-law within a
specified period as the circumstances reasonably
dictates.

15.1.3. Seizure

15.1.3.1. Seize any property which he/she reasonably suspects
is being used or has been used for or in connection
with business trading and in contravention with this
By-law which, in his or her opinion, constitutes an
infringement of this By-law.

15.1.3.2. The person appointed in terms of subsection 14.1
shall forthwith deliver any such seized property to a
police station within the jurisdiction of the
Municipality for safe keeping to be entered into the
SAPS 13 register as an exhibit.

15.2. Seizure Notice

Any authorized official who seizes property in terms of subsection (15.1.3)
must, except where property has been abandoned, issue the trader a seizure

notice which -

- 15.2.1. captures the full name, identity number and contact details of the trader;
- 15.2.2. states whether the property are owned by the person in whose possession they are found or whether they are being controlled on behalf of the owner; and if owned by a person other than the person in whose possession the property are found, state the full name and contact details of such person;
- 15.2.3. states the relevant section of the By-law contravened by the trader;
- 15.2.4. fully itemises the property to be seized;
- 15.2.5. takes photos of the property to be seized;
- 15.2.6. states the period of seizure;
- 15.2.7. states the terms and conditions which must be met to secure the release of the seized property;
- 15.2.8. states the place at which the property will be kept and where representations may be made for the payment of the admission of guilt fine and release of such property;
- 15.2.9. contains an acknowledgement signed or marked by the trader confirming that—
 - 15.2.9.1. the contents of the receipt are correct;
 - 15.2.9.2. the contents of the receipt have been explained to him/her; and
 - 15.2.9.3. he/she understands the consequences of seizure and the requirement for the release of such seized

property; and

15.2.9.4. contains the name of the authorized official concerned and the time and date of seizure.

15.3. The Municipality must upon the delivery of such seized property at the police station, state depot or facility;

15.3.1. immediately enter in the SAPS13 register from the Municipality's seizure notice book the—

15.3.1.1. details of the trader as per subsection 15.2.1;

15.3.1.2. full details of the property seized, including the condition of such property;

15.3.1.3. place and area from where such property was seized;

15.3.1.4. name of the authorised official who attended to the seizure property; and

15.3.1.5. date and time of such seizure; and

15.3.1.6. attach photographs of the seized property.

15.3.2. Cause a docket for the contravention for which the seizure relates to be opened by the Police; and

15.3.3. Issue a summons for the prosecution of such person in accordance with the applicable provisions of the Criminal Procedure Act.

15.4. **Seized property**

Upon payment of an admission of guilt fine, or if the property is part of a case and is not forfeited to the Municipality by a magistrate, the property seized must be handed back to the owner of such property if he/she may legally own

such property. If such person cannot legally own such property, it shall be forfeited to the State in terms of the provision of section 32 of the Criminal Procedure Act 51 of 1977.

15.5. Chain of custody

Should seized property need to be returned to the Municipality for any reason the chain of custody shall be observed by entering the property into the Municipality's exhibit register from the SAPS 13 register to ensure the chain of custody is not broken.

15.6. Disposal of seized property

The disposal of any property shall be in accordance with a Court Order granted in favour of the Municipality.

16. Offences

16.1. Any person who –

- 16.1.1. contravenes or fails to comply with any provision of this By-law;
- 16.1.2. ignores, disregards or disobeys any notice, sign or marking displayed or erected in terms of this By-law;
- 16.1.3. contravenes or fails to comply with any approval granted or condition imposed in terms of this By-law;
- 16.1.4. fails to comply with a lawful written instruction by the Municipality for compliance with a provision of this By-law;
- 16.1.5. deliberately furnishes false or misleading information to an official or an employee of the Municipality; and/or

16.1.6. threatens, resists, interferes with, or obstructs an official or employee of the Municipality in the performance of his or her powers, duties or functions under this By-law,

shall be guilty of an offence and shall be liable on conviction to a fine not more than R3 000.00 and as shall be determine by the magistrate or to imprisonment for a period not exceeding 1 year, or to both such fine and imprisonment and in the case of a continuing offence, to a further fine not exceeding R500, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the person concerned requiring the discontinuance of such offence.

17. Vicarious responsibility

17.1. When an employee or assistant of a business license holder, does or omits to do any act which shall be an offence in terms of this By-law, that trader shall be deemed himself/herself to have done or omitted to do the act, unless he/she satisfies the court that –

17.1.1. he/she neither connived at nor permitted the act or omission; and

17.1.2. he/she took all reasonable steps to prevent the act or omission.

17.2. The fact that the license holder alleges that he/she issued instructions whereby an act or omission is prohibited shall not in itself be sufficient proof that he/she took all reasonable steps to prevent the act or omission.

17.3. When a person carrying on the business of trading is by virtue of subsection (1) liable for an act of omission by an employee of that person, that employee shall also be liable as if he/she was the person carrying on the

business concerned.

18. Short title

This By-law shall be called the Emalahleni Local Municipality Business Trading Control By-law and shall come into effect after the promulgation of this By-law in the Government Gazette.

SCHEDULE 1

Business for which a business license is required in terms of the Mpumalanga Business Act, 1996 (Act no. of 1996) –

1. Carrying of business which sells to the consumers;
 - (a) any foodstuff in the form of meals for consumption on or off the business premises and
 - (b) any perishable foodstuff,
2. Carrying on of business by-
 - (a) Providing turkish baths, saunas or other health baths;
 - (b) Providing massage or infra-red treatments;
 - (c) Making the service of an escort, whether male or female, available to any person,
 - (d) Keeping three or more mechanical, electronic or electrical contrivances, instruments apparatus or devices which are designed or used for the purpose of playing of any game or for the purpose of recreation or amusement, and the operation of which involves payment of any valuable consideration, either by the insertion of a coin, token coin or disc their or in an appliance attached or in any other manner;
 - (e) Keeping three or more snooker or billiard tables;
 - (f) Keeping or conducting a night club or discotheque; and
 - (g) Keeping or conducting a cinema or theatre;

SCHEDULE 2

Business for which a business permit is required in terms of this By-laws –

1. Hairdressing and beauty salons
2. Second-hand goods dealer and Scrap Yards subject to registration in terms of the Second-Hand Goods Act
3. Dry cleaner and Laundromat
4. Panel beaters and spray booths
5. Boarding houses
6. Mechanical workshop
7. Warehouse
8. Resorts

ANNEXURE A



EMALAHLENI

Local Municipality

INTEGRATED BUSINESS TRADING APPLICATION FORM

Very important to note:

Application must be completed in full, where not applicable please insert N/A All non-coloured spaces must be completed

Application must be completed by the owner of the business premises or the landlord, in the event that the landlord or owner of the business premises is not available, a person authorised by the landlord or owner of property may complete the form.

Applicant must attach all relevant documents and sign the application form

If the applicant requires any upgrades of municipal services, the cost thereof will be borne by the Applicant

Submit proof of payment of the non-refundable application fee R1 691.20 (To be paid on vote number 023301001853 at the cashiers)

All municipal services account must be up to date

Proof of requirements with all other sector departments must be submitted

Date of submitting application: _____

Nature of business operation (give a short description of the business operations, e.g. selling groceries)

Particulars of applicant/s:

| | |
|----------------------------|---|
| Surname | |
| First Names | |
| ID/ Passport number | |
| | Copies of ID/Passport must be attached |
| Residential address | |
| | |
| Postal address | |
| Tel. no | |
| Cell no. | |
| Email: | |

Particulars of business:

| | |
|--|--|
| Name of business/ trade name | |
| Status of business | Please mark the appropriate box: Close cooperation <input type="checkbox"/> Private Company <input type="checkbox"/> Cooperative <input type="checkbox"/> One-man Business <input type="checkbox"/> Business not registered with CIPC <input type="checkbox"/> Other (please specify): <input type="checkbox"/> <input type="checkbox"/> |
| Name and Surname of person operating the business | |
| Stand number or Portion number of farm where business is conducted | |
| Street name of business | |
| Township/ Extension where business is situated | |
| Name of building (if business is conducted within a shopping complex) | |
| Please indicate the number of businesses that are operated in the same property | |

Checklist (Please complete the following checklist by ticking the box next to the corresponding statement)

| | | |
|--|------------|-----------|
| 1. Is the business situated in an informal settlement? | Yes | No |
| 2. Is the business operated from a residential stand? | Yes | No |
| If Yes, Please attach zoning certificate or any council approval. | | |
| 3. Is the business operated from a business stand? | Yes | No |
| If Yes, Please attach zoning certificate or council approval | | |
| 4. Does the structure have approved building plans? | Yes | No |
| If Yes, Please attach approved building plans | | |
| 5. Is the building situated within the municipal building lines in terms of the building regulations? (applicable to formal areas) | Yes | No |
| 6. Does the building you operate from have an electrical certificate of compliance (COC) issued by a qualified electrician | Yes | No |
| If Yes, Please attach COC. | | |
| 7. Does the building/s have an electricity meter? Please indicate the method of connection by ticking the appropriate box below: Pre-paid please provide the meter number: _____ Conventional Other Please specify _____ | Yes | No |
| 8. Does the building/s have a water meter? | Yes | No |

| | | |
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| If Yes, please provide a meter number: _____ | | |
| 9. Does your business have a consumer account with the Municipality? | Yes | No |
| If Yes, please attach the current municipal statement | | |

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| 10. Does the business comply with fire safety requirements in terms of flammable liquids/gases (Cylinder gas bottles, paraffin, motor oil, methylated spirits, etc) If Yes, please attach a compliance certificate from the fire department. | Yes | No |
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SIGNATURE OF APPLICANT

DATE

FOR OFFICE USE ONLY:

Date application received:

File/ reference number:

Payment receipt no:

Name of official receiving application:

Is the application fully completed? Yes/No

Did the applicant attach all the required documents? Yes/No

Did the applicant attach proof of payment for this application? Yes/No

EMALAHLENI LOCAL MUNICIPALITY

Business Trading Control By-law

SCHEDULE OF OFFENCES AND FINES DETERMINED IN TERMS OF SECTION 16 OF THIS BY-LAW

| Section contravened | Description of offence | Proposed fine | Offence code |
|----------------------------|---|----------------------|---------------------|
| | Notwithstanding the provisions of any other law: | | |
| 5 (5.1) | Fail to comply with the general duty of care | R3 000 | EMC BT001 |
| | | | |
| 6 (6.1) (a) | Conducting a business without a valid business license issued by the Municipality; | R3 000 | EMC BT002 |
| 6 (6.1) (c) | Conducting a business outside a demarcated area unless the area has been rezoned accordingly and | R3 000 | EMC BT003 |
| 6 (6.2) | Failure to display a business trade license conspicuously on the internal walls of the business premises or to produce a business license or permit. | R1 000 | EMC BT004 |
| | | | |
| 9 (9.1) | Conducting a business outside the hours of trading that are determined by the Municipality and in line with the Mpumalanga trading hours Act no. 5 of 1999. | R 3000 | EMC BT005 |
| | | | |
| 10 (10.1) (a) | Placing property in a place that is not a designated area for business; | R1 500 | EMC BT006 |
| 10 (10.1) (b) | Placing or stacking of property on a pavement and in such a manner that it constitutes danger to any person or property or is likely to injure any person or damage property; | R1 500 | EMC BT007 |
| 10 (10.1) (c) | Erecting any structure outside the boundaries of the business premises for the purpose of conducting | R1 500 | EMC BT008 |

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| | business, without prior approval from the Municipality; | | |
| 10 (10.1) (d) | Obstructing access to a fire hydrant or area demarcated solely for purposes of and use of emergency vehicles or services; | R1 500 | EMC BT009 |
| 10 (10.1) (e) | Leaving his or her property outside and an area designated for business trading before or after trading hours; | R1 500 | EMC BT010 |
| 10 (10.1) (f) | when requested by an employee or agent of the Municipality or any supplier of telecommunications, electricity or other services, omit or neglect to move his or her property so as to permit the carrying out of any work with regard to a public place or any such service; | R1 500 | EMC BT012 |
| 10 (10.1) (g) | attach any property by any means to any building, structure, pavement, tree, parking, meter, lamp post, electricity pole, telephone booth, post box, traffic sign, fence, bench, or any other street furniture in, on or at a public place; | R1 500 | EMC BT013 |
| 10 (10.1) (h) | make an open fire at the designated area or in circumstances where it could harm any person or cause air pollution; | R1 500 | EMC BT014 |
| 10 (10.1) (i) | disregard a reasonable requirement put by an authorised official of the Municipality; | R1 500 | EMC BT014 |
| 10 (10.1) (j) | promote his/her business by using a megaphone, radio, loudspeaker, or by constant shouting or disturbance without prior written consent of the Municipality; | R1 500 | EMC BT015 |
| 10 (10.1) (k) | sell any property which are dangerous or hazardous to public health or human health and | R1 500 | EMC BT016 |

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| 10 (10.1) (l) | fail to comply with the relevant provisions of the solid waste management by-laws and/or any other by-law of the Municipality. | R1 500 | EMC BT017 |
| 11. (11.1) (a) | fail to keep his/her property in a clean and sanitary condition; | R1 500 | EMC BT018 |
| 11. (11.1) (b) | fail to dispose of litter generated by his or her business in whatever receptacles approved by the Municipality and not dispose of litter in any street litter receptacle which is meant for use by pedestrians; | R1 500 | EMC BT019 |
| 11. (11.1) (c) | fail to ensure that on completion of business for the day, the business premises including the fore front and pedestrian walkway next to the business is free from litter; | R1 500 | EMC BT020 |
| 11. (11.1) (d) | fail to take such precaution measures to prevent the spilling or discharge onto a public place or municipal drainage system of any fat, oil, grease or any hazardous substances which might be generated in the course of conducting his or her business and to prevent that any smoke, fume, outdoor or noise emanating from his or her activities become a nuisance; | R2 000 | EMC BT021 |
| 11. (11.1) (f) | fail to ensure that no overnight sleeping takes place in the business premises; | R1 500 | EMC BT022 |
| 11. (11.1) (h) | fail to have access to fire extinguishers or firefighting equipment as shall be prescribed by the Municipality; and | R1 500 | EMC BT023 |
| 11. (11.1) (i) and (j) | fail to ensure that no smoking is allowed in the business premises for which smoking is prohibited and that no tobacco is allowed to be sold to underage children. | R1 500 | EMC BT024 |

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| 16 (16.1) (a) | fail to comply with any provision of this By-law; ignores, disregards or disobeys any notice, sign or marking displayed or erected in terms of this By-law; | R2 500 | EMC BT025 |
| 16 (16.1) (b) | contravened or fail to comply with any approval granted or condition imposed in terms of this By-law; | R2 000 | EMC BT026 |
| 16 (16.1) (c) | fails to comply with a lawful written instruction by the Municipality to move or remove his or her property; | R1 500 | EMC BT027 |
| 16 (16.1) (d) | deliberately furnished false or misleading information to an official or an employee of the Municipality; and/or | R2 000 | EMC BT028 |
| 16 (16.1) (e) | threatens, resists, interferes with or obstructs an official or employee of the Municipality in the performance of his or her powers, duties or functions under this By-law, | R3 000 | EMC BT029 |