Statutory Instrument of 2022 **CAP. 29:15**

Manyame Rural District Council Hawkers and street vendors By-laws, 2022

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**Arrangement of sections**

**Section**

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**FIRST SCHEDULE: Form of application**

**SECOND SCHEDULE: Forms of licences**

**It is hereby notified that the following are Hawkers and street vendors By-laws, 2022 by laws by Manyame Rural District Council**

**Title**

These By-laws may be cited as the Manyame Rural district Council Hawkers and Street Vendors By-laws.

**Application**

These By Laws shall apply to the area under the jurisdiction of Manyame Rural District Council.

**Interpretation of terms**

In these by-laws-

“Appropriate fee” means the appropriate fee fixed in terms of section 21

“Contagious and infectious disease”means:-

1. Any disease specified in or declared in terms of section 17 of the Public health Act chapter[ 15:09] as an infectious disease;
2. Any venereal disease or contagious skin disease;

“Chief Executive Officer” means the person appointed by the Council as the Chief Executive officer or to act on his behalf or his/ her deputy.

” Council” means Manyame Rural District Council

Food and Food Standards Act definition:

“**food**” means any substance which is, in whole or in part, intended for human consumption or

which is intended for entry into, or to be used in the manufacture of, any such substance;

“goods” means wares, merchandise, produce and in general, corporeal, movable things of any description;

“hawker” means any person who carries on the business of selling goods whilst travelling about for that purpose from place to place with the goods, either on foot or with a vehicle, animal or carrier, but does not include:-

1. A baker or his employee in respect of the sale of bread;
2. A dairy marketing authority or a diary or its employee, as the case may be, in respect of the sale of milk;
3. Any person in respect of the sale of publications sponsored by the state or newspapers;

“health certificate” means a health certificate referred to in subsection (1) of section 10;

"Infectious disease" means any communicable disease caused by pathogenic microorganisms, such as bacteria, viruses, parasites or fungi that can be spread, directly or indirectly, from one person to another as specified in section 46 of the Public Health Act Chapter 15:17.

"Infected", in relation to-

1. An infectious disease, means suffering from, or in the incubation stage or contaminated with the infection of that disease;

(b) a sexually transmitted disease, means any form or stage of infection

referred to in paragraph (a), whether the disease was transmitted through sexual intercourse or not;

“public place” means any bridge, enclosure, footpath, garden, open space;

Pavement, road, sanitary lane, side walk, square, subway or street of the nature of a thoroughfare vested in or controlled by Council, and to which the public or any section of the public has access;

“sell”, in addition to its ordinary meaning, means barter or exchange, or offer or expose or prepare for sale;

“street vendor” means any person who sells goods from one or more fixed places in or on any public place, but does not include any person in respect of the sale of publications sponsored by the State or newspapers.

4. **Control of Hawkers**

No person shall whether as principal, agent or servant, carry on the business of a hawker:-

1. Unless he is the holder of a hawker’s licence or is engaged or employed by the holder of a hawker’s employer’s licence;
2. If he sells food, unless he is the holder of a valid health certificate;
3. In any area specified by the Council

**5. Control of street vendors**

(1) No person shall, whether as principal. Agent or servant, carry on the business of a street vendor:-

a) unless he is the holder of s street vendor’s licence or is engaged or employed by a holder of a street vendor’s employer’s licence;

b) If he sells food, unless he is the holder of a valid health certificate;

c) In any area specified by the Council

**6. Control of employers of hawkers and street vendors**

No person shall engage or employ another, whether as an agent or servant, as a hawker or street vendor:-

1. Unless:-
2. The first mentioned person is the holder of a hawkers’ employer’s licence or a street vendors’ employer’s licence, as the case may be; or
3. The hawker or street vendor is a holder of a hawker’s or a street vendor’s licence, as the case may be;
4. For the sale of food, unless the hawker or street vendor concerned is the holder of a valid health certificate.

**7. Specified areas**

The Council may, by resolution, specify any area within the Council area, where hawking and vending shall be permitted.

8**. Application for hawker’s or street vendor’s licence**

An application for hawker’s licence shall be made to Council and shall:-

1. Be in the form prescribed in the second schedule
2. Be accompanied by:-
3. The appropriate fee
4. Two recent identical full face portrait photographs, sixty three millimetres by fifty millimetres, of the applicant, without head gear
5. In the case of an applicant who wishes to sell food, a valid health certificate.
6. Restrict the applicant to carry on the business for which the licence is required to certain areas or sites and to certain hours and days
7. In the case of an application for hawker’s employer’s licence or street vendor’s employer’s licence, restrict the applicant to engaging or employing not more than a specified number of hawkers or street vendors, as the case may be.
8. Require the applicant to affix to any vehicle, container or stall used in connection with the business for which the licence is required such identification marks as Council may specify.
9. Require the applicant in the case of a hawker’s employer’s licence or street vendors’ employer’s licence, to ensure that his agents or employees, whilst engaged upon the business for which the licence is required, wear such clothing and display, in such manner as to be clearly visible, such badges for the purpose specified.
10. Require the applicant, in the case of a hawker’s licence or street vendor’s licence, whilst engaged in the business for which the licence is required, wear such clothing and display, in such manner as to be clearly visible, such badges as Council may specify.
11. Require the applicant to ensure that, where the trade results in the creation of litter, to have a litter disposal container on the vending site or carried by the hawker.
12. Any condition or restriction imposed by the Council in terms of subsection (1) shall be specified on the licence concerned.
13. Currency, renewal and variation of licence
14. A licence issued or renewed in terms of these by-laws shall be in the form set out in the Third Schedule, and shall be valid up to and including the 31st December of the year for which it was issued or renewed.
15. The holder of a licence who wishes to renew the licence for the next succeeding year shall apply to Council for the renewal thereof during the month of December preceding that year, and the provisions of sections 7 and 8 shall, mutatis mutandis, apply;

Provided that Council may:-

1. Waive the requirement to submit any photograph or health certificate with an application for the renewal of a licence;
2. Require the production of the licence previously issued to him.
3. The holder of a licence who wishes to have any condition or restriction imposed upon his licence altered or removed, either during the period of its or upon renewal, shall submit an application to Council together with the appropriate fee, and shall:-

In the case of a renewal specify the nature and extent of the variation required in his application for renewal;

In any other case, make application, in writing, to Council, specifying the nature and extent of the variation required.

1. Where an application in terms of paragraph (b) of subsection (3) is successful. The applicant shall submit his licence to Council for the appropriate endorsement to be made.
2. Refusal of application or renewal of licence

Council may refuse to issue or renew a licence if:-

1. The applicant has, within two years preceding the making of the relevant application, been convicted of:-
   1. Any offence under these by-laws which were repealed on adoption of these by-laws or
   2. Any offence under the Trade Measurer’s Act [Chapter 298]; or
   3. Any offence which involves carelessness concerning, or disregard for, cleanliness, hygiene, public health or public nuisance; or
2. In the opinion of Council:-

The issue or renewal would adversely affect any existing trade or business carried on in the area or jurisdiction of Council; or

The goods sought to be dealt in ought not to dealt in the interests of public health, public safety or public morality; or

Any vehicle, container, stall, storage premises, clothing or equipment used, or to be used, in connection with the business for which the licence is required is unsuitable in the interests of public health; or

There are sufficient hawkers or street vendors dealing in the goods in respect of which the applicant requires the licence.

1. Cancellation of licence
   * 1. Council may cancel a licence if the holder thereof, at any time after the issue of the licence:-
        1. Has been convicted of any offence referred to in paragraph (a) of section 13; or
        2. Does not maintain a satisfactory standard of cleanliness in respect of his person or any agent or servant of his who is engaged or employed in the business to which the licence relates; or
        3. Does not maintain a satisfactory standard of cleanliness in respect of any vehicle, container, stall, storage premises, clothing or equipment used by him or by any agent or servant of his in connection with the business to which the licence relates.
     2. Council shall cancel a hawker’s licence or street vendor’s licence if the holder thereof is dealing in food and is found to be suffering from a contagious and or infectious disease:

Provided hat Council shall, at no extra charge, reissue the holder with a licence if:-

* + - 1. He produces a health certificate, issued after the date of cancellation of the licence, certifying that he is no longer suffering from the contagious disease; or
      2. He applies to Council for his licence to be restricted to the sale of goods other than food and submits his licence to Council for the purpose of the relevant endorsement to be made.
    1. If any hawker or street vendor engaged or employed by the holder of a licence in connection with the sale of food is found to be suffering from a contagious and or infectious disease, Council may, by notice, in writing, given to the holder of the licence, direct him to cease forthwith engaging or employing that hawker or street vendor in connection with the sale of food, and if such direction is not complied with forthwith, Council may cancel the licence;
    2. Provided that Council shall, at no extra charge, reissue the holder with a licence if:-
       1. He produces a health certificate, issued after the date of cancellation of the licence, certifying that the hawker or street vendor concerned is no longer suffering from the contagious and or infectious disease; or
       2. He applies to Council for his licence to be restricted to the sale of good other than food, and submits his licence to the Council for the purpose of relevant endorsement to be made; or
       3. He satisfies Council that he has terminated the engagement of, or discharged, the hawker or street vendor concerned.
    3. Any licence cancelled in terms of this section shall be returned to Council by the holder thereof within thirty days of such cancellation.

**16. Inspection of vehicles, stall, and storage premises, etc.**

(1) A health inspector or any person specially authorised by Council may at any reasonable time inspect any vehicle, container, stall, storage premises, clothing or equipment used by the holder of a licence or hawker or street vendor engaged or employed by the holder of a licence in connection with the business to which the licence relates, in order to ascertain whether: -

a) A clean and sanitary condition is being maintained; or

b) The provisions of these by-laws are being complied with.

(2) No person shall hinder, obstruct or prevent a health inspector or person authorised in terms of subsection (1) from making an inspection in terms of that subsection

**17. Health, cleanliness and food**

(1) No holder of a licence or hawker or street vendor engaged or employed by the holder of a licence shall allow or permit any vehicle, container, stall, storage premises, clothing or equipment used in connection with the business to which the licence relates to be in a dirty or in sanitary condition

(2) No holder of a licence or hawker or street vendor engaged or employed by the holder of a licence shall sell, or allow to be sold, any food which is not in a sound or wholesome condition.

(3) No hawker or street vendor shall sell any food unless

a) He has taken adequate precautions to safeguard the food from dirt, dust, files other contamination

b) Whilst, to his knowledge, he is suffering from any contagious and or infectious disease.

(4) No holder of a licence or hawker or street vendor engaged or employed by the holder of a licence shall use any vehicle, container, and stall. Storage premises, clothing or equipment, used for transporting or storing food, for any other purposes.

**18. Removal of litter**

A hawker or street vendor shall:-

1. Pick up litter, which, in the exercise of his business, has fallen on any public place;
2. On request by any official of Council, move his receptacles and goods so as to permit such official to clean the streets or gutter;
3. Remove all receptacles and goods from his place or stand on the completion of business for the day, and shall leave his place or stand in a clean condition.

**19. Replacement of lost or destroyed licence badge**

Any person who has been issued with a licence or badge in terms of these by-laws may obtain a duplicate:-

1. On certifying, in writing, to Council that the licence or badge concerned has been lost or destroyed; and
2. On payment of the appropriate fee.

**20. Change of address or abandonment of business**

A holder of a licence shall, within seven days of the abandonment of his business, or of any change of his business address or his storage premises, notify Council, in writing of such, or such change of address, as the case may be.

**21. Obstruction of nuisance**

(1) Any police officer or person specially authorised thereto by the Council may direct any hawker or street vendor who is directly or indirectly obstructing the use of any public place, or is a nuisance to any person in the vicinity of any public obstruction of to abate a nuisance, as the case may be.

(2) No hawker or street vendor shall refuse to comply with any direction given in terms of subsection (1).

**22. Fees**

Council may, in resolution, fix fees for any application made in terms of these by-laws and for any licence, certificate or badge, or duplicate thereof, issued in terms of these by-laws.

**23. Offences and Level of Fine(s)**

**Any person who:-**

1. Fails to comply with any provision of these by-laws with which it is his duty to comply; or
2. Contravenes any condition or restriction of a licence issued to him; or
3. Transfers on condition or restriction of a licence to him/her; or terms of these by-laws with intent to deceive shall be guilty of an offence and liable to a fine prescribed in the approved Council budget.

**APPLICATION ISSUE FOR RENEWAL OF A LICENCE**

Application for ……………………………………………………………………………………………………………………………

|  |  |  |
| --- | --- | --- |
| a)Hawkers Licence |  |  |
| b)Street Vendor |  |  |
| c)Hawkers Employer’s licence |  |  |
| d)Street Vendors Employer’s Licence |  |  |

(Mark X in appropriate spaces)

2. Name of Applicant………………………………………………………………………………………………………………….

(Block letters)

3. Address of Applicant………………………………………………………………………………………………………………

(Residence)

4. Address of Applicant………………………………………………………………………………………………………………..

(Storage premises)

5. Type of vehicle, carrier, container or stall to be used……………………………………………………………

……………………………………………………………………………………………………………………………………………………

6. Goods to be dealt in……………………………………………………………………………………………………………….

7. Area under the jurisdiction of Council in which applicant wishes to trade

……………………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

8. Number of hawkers/street vendors to be engaged or employed as agents or servants at any time

……………………………………………………………………………………………………………………………………………………

(If application for licence (c) or (d) as specified in paragraph 1)

9. If paragraph 8 has been completed, describe how the persons they mentioned will be clothed or equipped so as to be patiently identified with the applicant.

…………………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

10. I/We attach:-

1. Photograph (if application is for licence(a)or(b) as specified in paragraph1) and
2. Medical certificate(required only upon the first issue or renewal of licence to deal in food)

11. I/We have read and understood the Councils by-laws pertaining to hawkers and street vendors.

………………………………………………………………… …………………………………………………….

Signature of applicant and stats of applicant if making application on behalf of a company or partnership

**SECOND SCHEDULE**

**FORMS FOR LICENCES**

**PART 1**

**HAWKERS/STREET VENDORS LICENCES**

Licence Number……………………………………………………………………..

The holder of this licence…………………………………………………………………………………………………………………………………………………..

……………………………………………………………………………………………………………………………………………………

(Name and address)

Whose photograph appears below is license as a hawker/street within the under mentioned area for the sale of the following goods:-

……………………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

Sites……………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

Areas…………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

Subject to the following conditions or restrictions (if any)…………………………………………………………………………………………..

……………………………………………………………………………………………………………………………………………………

……………………………………………………………………………………………………………………………………………………

…………………………………………………………………………..…………………………………………………………………….

Date for and behalf of the Council

This licence is valid until 31 December

|  |  |  |
| --- | --- | --- |
|  |  |  |

The holder must display budget

|  |  |  |
| --- | --- | --- |
|  |  |  |

**Manyame Rural District Council Hawkers and Street Vendors By-laws, 2022**

**PART II**

**HAWKERS EMPLOYERS/STREET VENDORS EMPLOYERS LICENCE**

Licence Number…………………………………………………………………………………………................

…………………………………………………………………………………………………………………………………..

The holder of this licence…………………………………………………………………………………………..

………………………………………………………………………………………………………………………………….

(Name and address)

Is licensed to engage or employ at any time………………………………………………………………

(State number)

Or fewer persons as hawkers/street vendors within the under-mentioned area for the Sale of the following goods:-

‘

…………………………………………………………………………………………………………………………………..

……………………………………………………………………………………………………………………………………

Sites……………………………………………………………………………………………………………………………

…………………………………………………………………………………………………………………………………..

Areas………………………………………………………………………………………………………………………….

…………………………………………………………………………………………………………………………………….

Subject to the following conditions or restrictions (if any):

……………………………………………………………………………………………………………………………………..

……………………………………………………………………………………………………………………………………..

This license is valid from……………………………………….to……………………………………………………

…………………………………………………………………………… ……………………………………………………..

Date For and behalf of Council

\*Delete the inapplicable