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Which includes / Waarby ingesluit is—



PROCLAMATIONS

PREMIER'S NOTICES

OFFICIAL NOTICES

GENERAL NOTICES

PROKLAMASIES

PREMIERSKENNISGEWINGS

OFFISIËLE KENNISGEWINGS

ALGEMENE KENNISGEWINGS



MUNICIPAL NOTICES

TENDERS

MUNISIPALE KENNISGEWINGS

TENDERS

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 37 OF 1999**KENHARDT****STANDARD BY-LAW REGARDING THE PROHIBITION AND CONTROL OVER THE DISCHARGE OF FIREWORKS**

The Premier has approved the adoption by the Municipal Council of Kenhardt of the Standard By-law regarding the prohibition and control over the discharge of fireworks published under Official Notice 24, dated 24 November 1997, as a by-law from the Kenhardt Municipality.

KENNISGEWING 37 VAN 1999**KENHARDT****STANDAARDVERORDENINGE INSAKE VERBOD EN BEHEER OOR AFVUUR VAN VUURWERKE**

Die Premier het dit goedgekeur dat die Munisipale Raad van Kenhardt die Standaardverordeninge insake die verbod en beheer oor afvuur van vuurwerke gepubliseer by Provinsiale Kennisgewing 24 van 24 November 1997, as 'n verordening vir die Munisipaliteit Kenhardt aanneem.

NOTICE 38 OF 1999

The Premier has approved the adoption by the Municipal Council of Upington the following By-Law, as a By-Law for the Upington Municipality:

UPINGTON MUNICIPALITY STREET TRADING BY-LAWS**INTERPRETATION**

1. (1) In these by-laws, unless the context otherwise indicates—

"authorised official" means an official of the Council authorised to implement the provisions of these by-laws and "officer" shall have a corresponding meaning;

"building" means normal brick structures and includes informal structures such as "shanties" or movables such as caravans;

"Council" means the City Council of Upington;

"foodstuff" means any article or substance [except a drug as defined in the Drugs Control Act, 1965 (Act No. 101 of 1965)] ordinarily eaten or drunk by persons or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;

"garden or park" means a garden or park to which the public has a right to access;

"goods" means any transferable interest but excludes any living thing and hazardous substances;

"local authority" means a municipal institution and includes an institution or body with functions similar to those of a municipal institution, as defined in Section 1 of the Local Government Transitional Act of 1993 (Act No. 200 of 1993);

"litter" means any waste materials and includes any container or other matter which has been discarded, abandoned or left behind by a person trading or his/her customers;

"pavement" means a sidewalk or that portion of a Road reserved for the use of pedestrians;

"national monument" means a building declared to be a national monument under the National Monuments Act, 1969 (Act No. 28 of 1969);

"nuisance" means any action or behaviour by anyone which constitutes a disturbance or causes discomfort to anyone;

"perishables" means milk, meat, fish, crustaceans, fruit and vegetables as well as products which require special storage facilities;

"Premier" means the Premier of the Northern Cape Province or Member of the Executive Council who is charged with the responsibility of the administration of the Business Act (Act No. 71 of 1991);

"prohibited area" means any place declared or to be declared under section 6A(2) of the Act by resolution of the Council to be an area in which street trading may be prohibited;

"property" in relation to a person carrying on the business of street trading, means any article, receptacle, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he/she trades;

"public building" means a building occupied solely by the State or the Council or any organs of state;

"public place" means any square, park, recreation ground, sports ground, sanitary lane or open space which has—

- (a) in connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used without interruption by the public for a period of at least 30 years expiring after the thirty-first day of December 1959, or
- (d) at any time been declared or rendered such by a council or other competent authority;

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes—

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare,

"restricted area" means any place declared under Section 6A(2) of the Act by resolution of the Council to be an area in which street trading may be restricted;

"street trader" means a person that is mobile and sells goods for own profit whether such goods are the product of his/her own labour or not;

"sell" means alienation for value and includes supply to and also—

- (a) exchange or hire;
- (b) store, expose, offer or prepare for sale; and "sale" has a corresponding meaning;

"services" includes any advantage or gain for consideration or reward;

"the Act" means the Business Act, 1991 (Act No. 71 of 1991);

"trade" means the lawful sale of goods or services in a public road or public place, and "trading" has a corresponding meaning;

"verge" means a verge as defined in Section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989), and any word or expression to which a meaning has been assigned in the Business Act, 1991 (Act No. 71 of 1991);

(2) For the purpose of these by-laws a single act of selling in a public road or public place shall constitute trading.

(3) For the purpose of these by-laws it is assumed that Council do not consist of townships.

2. RIGHT TO TRADE

Subject to the provisions of section 3 and 4 and any other law, street trading is permitted except in so far as such trading is restricted or prohibited by section 5 to 13 inclusive, provided further that no person who is not a South African resident shall be entitled to operate as a street trader unless he/she is in possession of a valid work permit authorising such street trading.

3. GENERAL CONDUCT OF STREET TRADERS

A person shall—

- (a) not place his/her property on a verge or public place except for the purpose of commencing to trade;
- (b) ensure that his/her property does not cover an area of a public road, public place or pavement which is greater in extent than six square metres (6 m²) unless written permission for a greater area is obtained from the local authority;
- (c) not place or stack his/her property in such a manner that it constitutes a danger to any person or property or is likely to injure any person or damage property;
- (d) not erect any structure for the purpose of providing shelter at the place of business without the prior written approval of the Local Authority provided that where approval is given for a shelter to protect goods he/she shall not erect an unsightly structure from which to conduct business;
- (e) not obstruct access to a fire hydrant or area demarcated solely for the use of emergency vehicles and/or services;
- (f) on concluding business for the day, remove his/her property, except any permanent structure permitted by the local authority, to a place which is not part of a public road or public place;
- (g) on request by an employee or agent of the Council or any supplier of telecommunication or electricity or other services, move his/her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;

- (h) not attach any object or goods by any means to any building structure, pavement, tree, parking metre, lamp post, electricity pole, telephone booth, post box, traffic sign, fence, bench or any other street furniture in or on a public road or public place;
- (i) not make an open fire at a place of trading or any other place not approved of by the Council;
- (j) not store his/her property in manhole or stormwater drain, bus shelter, public toilet or tree;
- (k) not sell his goods in a street by constantly using megaphones, radios, loudspeakers, or shouting or singing in a manner which shall constitute a nuisance or disturbance in the area.
- (l) be guilty of an offence if he/she commence street trading unless he/she registers with the local authority and pay such fees or costs for services reasonably required including the costs of leasing any trading space or structure provided by the local authority.

4. CLEANLINESS

(1) A person trading shall—

- (a) keep his/her property and the area or site occupied by him/her for the purpose of such business in a clean and sanitary condition;
- (b) dispose of litter generated by his/her business in whatever receptacles provided therefor by the Council, including recycling and dumping sites, and not dispose of litter in a manhole, stormwater drain or other place not intended for the disposal of litter;
- (c) ensure that on completion of business for the day the area or site occupied by him/her for the purpose of trade is free of litter;
- (d) take such precautions as may be necessary or prescribed by the local authority to prevent the spilling onto a public road or public place of any fat, oil, grease or any hazardous substances in the course of conducting his/her business and prevent any smoke, fumes, odour or noise emanating from his/her activities from becoming a nuisance.

(2) The Council shall—

- (a) ensure that the sites on which the street are trading are cleaned and sanitised on a regular basis;
- (b) provide receptacles on the sites in order to facilitate the disposal of litter by the street traders, and
- (c) ensure that the receptacles are emptied on a regular basis in order to facilitate clean trading sites.

5. OBSTRUCTION OF PEDESTRIANS

No person shall trade at a place where such trading—

- (a) obstructs access to or use of street facilities such as a bus passenger bench or shelter or queuing line, refuse disposal bin or other facility intended for the use of the general public;
- (b) obstructs the visibility of a display window, signboard or premises, if the person carrying on business in the premises concerned objects thereto;
- (c) obstructs access to a building, automatic bank teller machine, pedestrian crossing or motor vehicle;
- (d) leaves less than 1,5 metre in width of a sidewalk clear for pedestrian use, or in any other manner substantially obstructs pedestrians in their use of a sidewalk.

6. OBSTRUCTION OF VEHICULAR TRAFFIC

No person shall trade at a place where such trading—

- (a) causes an obstruction on a roadway;
- (b) limits access to parking or loading bays or other facilities for vehicular traffic;
- (c) obscures any road traffic sign or any marking, notice or sign displayed or made in terms of these or any other by-laws;
- (d) interferes in any way with any vehicle that may be parked alongside such place; or
- (e) obscures or impedes the view of any user of the road, any traffic sign or any other road user.

7. TRADING RESTRICTED TO SPECIFIED HOURS IN CERTAIN PLACES

No person shall trade—

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule A, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act, outside the hours so specified in relation to each garden, park, verge or area.

8. TRADING RESTRICTED TO SPECIFIED GOODS OR SERVICES IN CERTAIN PLACES

No person shall trade—

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in restricted area, which is specified in Schedule B, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act, other than in the goods or services so specified in relation to each such garden, park, verge or area; or
- (c) no person shall trade on a verge contiguous to that part of a building in which business is being carried on by a person other than a department store or supermarket or other large supplier of many different lines of goods of the same nature as or of a similar nature to goods being sold by the first-mentioned person without the written consent of the second-mentioned person.

9. TRADING RESTRICTED TO DEMARCATED STANDS OR AREAS IN CERTAIN PLACES

No person shall trade—

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule C, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act outside a stand or area set apart for trading purposes as contemplated in Section 6A(3)(b) of the Act.

10. NO TRADING IN STANDS OR AREAS WHICH HAVE BEEN LET EXCEPT BY THE LESSEE

If the Council has let or otherwise allocated any stand or area set apart or otherwise established for street trading purposes, as contemplated in Section 6A(3)(c) of the Act, no person may trade in such area if he/she is not in possession of proof that he/she has hired such stand or area from the Council of that it has otherwise been allocated to him/her.

11. NO TRADING NEAR CERTAIN PUBLIC BUILDINGS, PLACES OF WORSHIP AND NATIONAL MONUMENTS

No person shall trade on a verge contiguous to any place of worship, national monument or public building which is specified in Schedule D, compiled according to the consultation process outlined in Section 6A(2)(a) to (j) of the Act, unless he/she obtains written consent from the local authority, which consent shall not be unreasonably withheld.

12. NO TRADING IN PROHIBITED AREA

No person shall trade in any prohibited area, prohibited for that purpose by the Local Authority.

13. TRADING NEAR RESIDENTIAL BUILDINGS

No person shall, outside an area specified in Schedule E, compiled according to the consultation process outlined in Section 6A (2) (a) to (j) of the Act, trade in that half of a public road contiguous to a building used exclusively for residential purposes if—

- (a) the owner, person in control or occupier of any part of the building facing onto such road has objected thereto in writing; and
- (b) the fact that such objection has been made known in writing to the first mentioned person by an authorised official.

14. SIGNS INDICATING RESTRICTIONS AND AREA

The Council may—

- (a) by resolution, after consultation with all interested parties, prescribe signs, markings or other devices approved by the Premier indicating:
 - (i) specified hours, places, goods or services in respect of which street trading is restricted;
 - (ii) the location or boundaries of a restricted area;
 - (iii) the boundaries of a stand or area set apart for the purpose of the carrying on of the business of street trading under Section 6A (3) (b) of the Act;
 - (iv) the fact that any such stand or area has been let or otherwise allocated;
 - (v) any restrictions or prohibition against trading in terms of these by-laws; and
 - (vi) the location of boundaries of a prohibited area; and
- (b) display any such sign, marking or device in such a position and manner as will indicate the restrictions or the location or boundaries of the area or stand concerned.

15. REMOVAL AND IMPOUNDMENT

- (1) An officer may remove and impound any goods, article, receptacle, vehicle or structure—
 - (a) which he/she reasonably suspects is being used or has been used in or in connection with street trading; and

- (b) which he/she finds at a place where street trading is restricted or prohibited in terms of Section 5 to 13 inclusive and which, in his/her opinion, constitutes an infringement of any such section; or
 - (c) which constitutes an infringement of section 3 (d) hereof.
- (2) Any officer acting in terms of these provisions shall—
- (a) except in the case of goods which have been left or abandoned, issue forthwith to the person carrying on the business of street trader a detailed receipt for any property so removed and where the property will be impounded and the procedure for reclaiming such property; and
 - (b) forthwith deliver any such property to the Council.
- (3) Any property removed and impounded as contemplated by section 6A of the Act—
- (a) may, in the case of perishable property, be sold or destroyed by the Council within a reasonable time after the impoundment thereof, provided that such property shall subject to the provisions of 15 (4) hereunder, at any time prior to the disposal thereof, be returned to the owner on request and proof ownership by such owner to the Council provided such perishables are still fit for human consumption;
 - (b) shall, subject to the provisions of 15 (4) hereunder, in the case of property other than perishable property, be returned to the owner thereof on request and proof of ownership by such owner to the Council concerned within a period of one month of the date of impoundment.
- (4) The Local Authority concerned shall be entitled to keep the property concerned until all reasonable expenses have been paid to it, failing which the property may be sold by public auction upon 14 days notice being given to the owner or in the case of perishable goods either be sold or destroyed by the Council.
- (5) In the case of a sale of impounded property by the Council, the proceeds of such sale less the reasonable expenses incurred by the Council in connection with the removal, impoundment and/or disposal of such property, shall be paid to the person who was the owner of such property when such property was impounded. If such owner fails to claim the said proceeds within three months of the date on which such property was sold, such proceeds shall be forfeited to the Council and shall be paid into a special fund created by the Council dedicated to the development of the informal sector and matters ancillary thereto.
- (6) In the event of the proceeds of any sale of property contemplated by this provision not being sufficient to defray the reasonable expenses incurred by the Council in connection with such property, the owner of such property which has been removed and impounded and/or disposed or as contemplated herein shall be liable for all reasonable expenses incurred by the Council concerned in connection with such removal, impoundment and/or disposal.

16. OFFENCES

- (1) Any person who—
- (a) contravenes or fails to comply with any provision of these by-laws;
 - (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these by-laws;
 - (c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these by-laws;
 - (d) fails to comply with a written instruction to move or remove his/her property;
 - (e) deliberately furnishes false or misleading information to an officer or an employee of the Council; or
 - (f) threatens, resists, interferes with or obstructs an officer or employee of the Local Authority in the performance of his powers, duties or functions under these by-laws; shall be guilty of an offence.

17. PENALTIES

Any person who is guilty of an offence in terms of these by-laws shall on conviction be liable to a fine not exceeding R1 000 or to imprisonment for a period not exceeding three months.

18. VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

When an employee of a person conducting the business of street trading does or omits to do any act which would be an offence in terms of these by-laws for that person to do or omit to do, that person shall be deemed himself/herself to have done or omitted to do the act, unless he/she satisfies the court that—

- (a) he/she neither connived at nor permitted the act or omission by the employee concerned;
- (b) he/she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition or under no circumstances fell within the scope of the authority or employment of the employee concerned, and the fact that the said person issued instructions whereby an act or omission of that nature is prohibited shall not in itself be sufficient proof that he/she took all reasonable steps to prevent the act or omission.

19. VICARIOUS RESPONSIBILITY OF EMPLOYEES

When a person carrying on the business of street trading is by virtue of Section 18 liable for an act or omission by an employee of that person, that employee shall also be liable as if he/she were the person carrying on the business concerned.

20. APPEALS

- (1) Any person who feels him/herself aggrieved by a decision of the Council may appeal against such decision to an Appeal Committee in accordance with the Provisions set out herein.
- (2) Any person who feels him/herself aggrieved by the decision of the Council shall notify the Council of his/her intention to Appeal the decision in writing within 10 days of having received notification of the Council's decision.

21. CONSTITUTION OF AN APPEAL COMMITTEE

- (1) The Member of Executive Council of Economic Affairs may, with the concurrence of the Council, Representatives of the Informal Traders and any other interested person, designate persons as members and alternate members of the Appeal Committee.
- (2) The Appeal Committee shall consist of a maximum of 7 (seven) members with at least 1 (one) member from the relevant sector.
- (3) The members of the Appeal Committee shall appoint a member to act as a Chairperson and Deputy-Chairperson respectively.
- (4) When the Chairperson is unable to perform the function of Chairperson, the Deputy-Chairperson shall perform the function of Chairperson.
- (5) If the Chairperson is of the opinion that a particular person is able to assist the Appeal Committee, he/she may co-opt that person for that purpose.
- (6) A person so co-opted shall not be entitled to vote at any meetings of the Committee.
- (7) The Chairperson shall notify the aggrieved person of the date, time and place of the meeting of the Appeal Committee at which his/her presence is required within 10 days of receipt of one Notice of Appeal.
- (8) The aggrieved person who has received notice in terms of provision 21 (7) shall personally appear at the meeting or appoint a Legal Representative or any other person to appear on his/her behalf.
- (9) The Council concerned may be represented by an authorized official or a legal representative.

22. PROCEDURE AT APPEAL MEETINGS

- (1) The Chairperson shall determine the procedure of the meeting provided:
 - (a) such procedures adhere to the *audi alteram partem* principle; and
 - (b) all parties are advised seven days prior to the hearing of the hearing and the procedures to be observed.
- (2) All members shall be present at the meeting of the Appeal Committee.
- (3) Any person present at the meeting may—
 - (a) be called upon by the Chairperson to give evidence;
 - (b) be called upon by the Chairperson to produce to the Committee any document or any other property which is in his possession or under his control; or
 - (c) be questioned by the Committee on the matter before it.
- (4) The Appeal Committee shall review the decision of the Council and make a finding having regard to the following considerations:
 - (a) whether the decision of the Council was fair and equitable in the circumstances;
 - (b) the effect of the decision on the ability to trade of the aggrieved person; and
 - (c) whether alternative measures may be adopted to facilitate the continued business of the aggrieved person.
- (5) A decision of the Committee shall be taken by a majority of votes of the members present at the meeting and in the event of an equality of votes, the Chairperson shall have a casting vote in addition to his/her deliberative vote.

- (2) All members shall be present at the meeting of the Appeal Committee;
- (3) Any person present at the meeting may—
 - (a) be called upon by the Chairperson to give evidence.
 - (b) be called upon by the Chairperson to produce to the Committee any document or any other property which is in his possession or under his control, or
 - (c) be questioned by the Committee on the matter before it.
- (4) The Appeal Committee shall review the decision of the Council and make a finding having regard to the following considerations—
 - (a) whether the decision of the Council was fair and equitable in the circumstances;
 - (b) the effect of the decision on the ability to trade of the aggrieved person, and
 - (c) whether alternative measures may be adopted to facilitate the continued business of the aggrieved person.
- (5) A decision of the Committee shall be taken by a majority of votes of the members present at the meeting and in the event of an equality of votes, the Chairperson shall have a casting vote in addition to his/her deliberative vote.

SCHEDULE A

Places with restricted trading hours

PLACES

- A. Gardens and parks;
- B. Verges contiguous to the following—
places of worship, national monuments and public buildings.

With regard to A and B above, the hours determined by the Council in consultation with all stakeholders after receiving specific application.

SCHEDULE B

Places where goods or services are restricted

PLACES

- A. Gardens and parks;
- B. Verges contiguous to the following—
places of worship, national monuments and public buildings.

With regard to A and B above, the goods or services determined by Council in consultation from time to time.

SCHEDULE C

Places where trading is restricted to demarcated stands and areas

- A. Gardens and parks;
- B. Verges contiguous to the following—
places of worship, national monuments and public buildings.

SCHEDULE D

Verges where trading is prohibited

Verges contiguous to the following:

- Public buildings;
- Places of worship;
- National monuments.

SCHEDULE E

Areas excluded from restriction on trading near residential buildings

Township and portions of townships;
Public roads and portions of public roads.

MUNICIPAL NOTICE • MUNISIPALE KENNISGEWING

MUNICIPAL NOTICE 29

MUNICIPAL NOTICE 24

BENEDE-ORANJE DISTRICT COUNCIL

CLOSURE OF A PORTION OF BUITEKANT STREET ADJACENT TO ERF 43, KAROS

Notice is hereby given in terms of Section 138 of Ordinance 18 of 1976, that the District Council Benede-Oranje has permanently closed a portion of Buitekant Street adjacent to Erf 43, Karos.

[(S/3945/11/1 (p97))]

H. T. FESTUS, Acting Chief Executive Officer

corner of Hill and Le Roux Streets, Private Bag X6039, Upington, 8800

14 April 1999

MUNISIPALE KENNISGEWING 29

MUNISIPALE KENNISGEWING 24

BENEDE-ORANJE DISTRIKSRAAD

SLUITING VAN GEDEELTE VAN BUITEKANTSTRAAT GRESEND AAN ERF 43, KAROS

Kennis geskied hiermee ingevolge artikel 138 van Ordonnansie 18 van 1976, dat die Benede-Oranje Distriksraad 'n gedeelte van Buitekantstraat grensend aan Erf 43, Karos permanent gesluit het.

[(S/3945/11/1 (p97))]

H. T. FESTUS, Waarnemende Hoof-Uitvoerende Beampte

hoek van Hill- en Le Rouxstraat, Privaatsak X6039, Upington, 8800

14 April 1999

CONTENTS • INHOUD

No.		Page No.	Gazette No.
GENERAL NOTICES • ALGEMENE KENNISGEWINGS			
37	Municipal Council of Kenhardt: Standard by-laws regarding the prohibition and control over the discharge of fire-works.....	2	390
37	Munisipale Raad van Kenhardt: Standaardverordeninge insake verbod en beheer oor afvuur van vuurwerke.....	2	390
38	Upington Municipality: Upington Municipality Street Trading By-laws.....	2	390
MUNICIPAL NOTICE • MUNISIPALE KENNISGEWING			
29	Ordinance 18 of 1976: Benede-Oranje District Council: Closure: Portion of Buitekant Street adjacent to Erf 43, Karos	9	390
29	Ordonnansie 18 van 1976: Benede-Oranje Distriksraad.....	9	390

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