

10.8.2	REQUEST TO UNDERTAKE PUBLIC PARTICIPATION PROCESS (PPP) IN RESPECT OF THE DRAFT STELLENBOSCH MUNICIPALITY SPAZA SHOP BY-LAW
--------	--

Collaborator No: 780659

IDP KPA Ref No: Good Governance

Meeting Date: 19 February 2025 and 31 March 2025

1. SUBJECT: REQUEST TO UNDERTAKE PUBLIC PARTICIPATION PROCESS (PPP) IN RESPECT OF THE DRAFT STELLENBOSCH MUNICIPALITY SPAZA SHOP BY-LAW

2. PURPOSE

To request approval from Council to proceed with advertising of the Draft Spaza Shop By-Law, for public participation.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

The Municipality's Spaza Shop By-law has been drafted to regulate and support the operations of spaza shops within the Municipality. The Draft By-law aligns with recent national directives while addressing the unique circumstances of the Municipality. This initiative responds to President Ramaphosa's announcement on 15 November 2024, requiring all spaza shops to register their businesses within 21 days (see **ANNEXURE 1**). The registration deadline has since been extended to 28 February 2025, as per the additional announcement by the National Government on 18 December 2024.

Spaza shops play a crucial role in the local economy by providing essential goods, fostering entrepreneurship, and creating employment opportunities, particularly in townships and rural areas. However, challenges such as lack of formal registration, regulatory non-compliance, and health and safety risks necessitate a structured approach to registration and regulation. In response to these challenges and in line with the recent national policy directives, Stellenbosch Municipality has completed a drafted a Spaza Shop By-law to regulate spaza shops specifically, distinct from other township businesses. The Draft By-law:

- Facilitates formal registration of spaza shops, ensuring compliance with municipal policies, land-use regulations, and health and safety standards.
- Supports the growth and sustainability of spaza shops by providing municipal assistance and capacity-building initiatives.
- Ensures effective enforcement to address illegal trading and health and safety concerns.

This Draft By-law is a revised version of the Standard Draft By-law for Township Economies published by the Department of Cooperative Governance and Traditional Affairs (COGTA) (see **ANNEXURE 2**). While the national framework By-law provides general guidelines, the Municipality has tailored this Draft By-law to its specific local context, ensuring targeted and effective regulation.

The Draft By-law is to be submitted to Council for approval to allow for the commencement of the public participation process. Following public consultation and the necessary amendments which will follow, the final By-law will be resubmitted to Council for consideration of formal adoption and implementation.

5. RECOMMENDATIONS

- (a) that Council notes and approves the Draft Stellenbosch Municipality Spaza Shop By-law for public participation; and
- (b) that the final By-law be brought back to Council for formal adoption after the public participation process is concluded.

6. DISCUSSION / CONTENTS

6.1 Background

On 15 November 2024, President Ramaphosa announced that all spaza shop owners must register their businesses within 21 days to address concerns over foodborne illnesses, non-compliance, and consumer safety. This was done in response to several fatalities, particularly among children, caused by unsafe food products sold in spaza shops.

Following this announcement, municipalities were tasked with implementing the registration process. On 18 December 2024, Minister Velenkosini Hlabisa (COGTA) indicated the extension of the registration deadline to 28 February 2025 to allow for full compliance.

6.2 Discussion

The draft Stellenbosch Municipality Spaza Shop By-law was developed in response to the national directives received while addressing the unique circumstances of Stellenbosch (see Annexure 3). The Municipality has determined that the Standard Draft By-law for Township Economies was too broad and in turn regulated all township businesses, not only spaza shops. Given the distinct nature, form and service of spaza shops, a separate, and more targeted by-law was deemed necessary.

Key provisions of the Draft Spaza Shop By-law include:

- Mandatory registration of all spaza shops within Stellenbosch Municipality.
- Issuing of business licences, ensuring compliance with health, safety, and zoning regulations.
- Enforcement mechanisms, including penalties for non-compliance.
- Municipal support initiatives, such as business training and infrastructure support.
- Designated trading areas for spaza shops to operate legally.

The Municipality's Economic Development and Tourism section is currently engaging with relevant municipal departments as well as external government departments such as Cape Winelands District Municipality to ensure alignment with existing legislation. Concurrently, the section is assisting with the registration of spaza shops within its jurisdiction.

This Draft By-law directly addresses Action 4 of the Implementation Plan presented previously to the Council, which highlighted and noted the consideration, adoption, and promulgation of a Township Economy By-law.

Action 4 - Implementation Plan Action:

- Amend and refine the Standard Draft By-law for Stellenbosch Municipality.
- Advertise the By-law for public participation and obtain legal feedback.
- Submit the revised By-law to Section 80 (Portfolio Committee) and MAYCO for consideration.
- Submit the final By-law to Council for adoption and promulgation.

6.3 Financial Implications

Funding is required for the advertising of the By-law for comment.

6.4 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 Staff Implications

None.

6.6 Previous / Relevant Council Resolutions:

The following previous Council item is applicable:

- **27th Council Meeting: 2024-11-27: Item 15.1**
Council noted the following:
 - a) The Standard Township Economies By-law;
 - b) That a By-law will be brought back to Council for approval in principle before a public participation process is followed; and
 - c) That Council notes the department's plan for the registration of Spaza Shops within the WC024.

6.7 Risk Implications

The risks are addressed through the content of the item.

6.8 Comment from Senior Management

The item has been circulated for comments to the following internal departments:

- **Directorate of Planning and Economic Development:** Development Management – Comments have been received and incorporated.
- **Directorate of Infrastructure Services:** Roads and Stormwater - Comments have been received and incorporated.
- **Directorate of Corporate Services:** Comments have been received and incorporated.
- **Directorate Community Services:** Comments have been received and incorporated

6.8.1 Cape Winelands District Municipality: Comments have been received and incorporated.

6.8.2 Municipal Manager

Supports the recommendations.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2025-02-19: ITEM 7.8.3

- (a) that Council notes and approves the Draft Stellenbosch Municipality Spaza Shop By-law for public participation; and
- (b) that the final By-law be brought back to Council for formal adoption after the public participation process is concluded.

ANNEXURES:

- Annexure 1: President Ramaphosa's announcement on 15 November 2024, requiring all spaza shops to register their businesses within 21 days
- Annexure 2: Standard Draft By-law for Township Economies published by the Department of Cooperative Governance and Traditional Affairs (COGTA)
- Annexure 3: The Draft Stellenbosch Municipality Spaza Shop By-law

FOR FURTHER DETAILS CONTACT:

NAME	Jeremy Benjamin
POSITION	Senior Manager: Development Planning
DIRECTORATE	Planning and Economic Division
CONTACT NUMBERS	021 808 8196
E-MAIL ADDRESS	Jeremy.benjamin@ Stellenbosch.gov.za
REPORT DATE	11 February 2025

ANNEXURE 1



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA



ADDRESS BY PRESIDENT CYRIL RAMAPHOSA ON DEATHS OF CHILDREN DUE TO FOOD-
BORNE ILLNESSES, UNION BUILDINGS, TSHWANE

ADDRESS BY PRESIDENT CYRIL RAMAPHOSA ON DEATHS OF CHILDREN DUE TO FOOD-BORNE ILLNESSES, UNION BUILDINGS, TSHWANE



Friday, 15 November 2024

Fellow South Africans,

I wish to address you this evening on a matter that has deeply saddened and distressed our nation.

Across the country, there has been a rise in reported cases of food-borne illnesses and deaths.

A number of people are becoming severely ill and even dying after eating contaminated food.

It has been found that some of the food items would have been purchased from spaza shops and street vendors.

Since the beginning of September 2024, there have been a total of 890 reported incidents of food-borne illnesses across all provinces.

Gauteng and KwaZulu-Natal have been the most affected, with Limpopo, Free State and Mpumalanga also recording dozens of incidents.

Over the last few weeks alone, food-borne illnesses have claimed the lives of at least 22 of our nation's children.

Last month there was a major food-borne incident in Naledi in Soweto in which six children died.

The youngest of these children was just six years old.

Few words can adequately convey our sadness and our pain as a nation.

Our thoughts and prayers are with their families as they go through the pain and the anguish of losing their children.

Losing a child is something no parent should ever have to endure.

The young children who died weren't just children of their families. They were our children.

Our people have every right to be upset and to be angry in the face of such tragedies.

At a time like this, we need to unite as a country and work together to end these deaths.

We must do what it takes to make sure such tragedies never happen again.

As soon as the deaths occurred, multidisciplinary teams in government were activated to address these incidents.

These teams included detectives from the South African Police Service, health officials, environmental inspectors, Department of Agriculture officials and officials from the National Consumer Commission.

Cabinet has met on three occasions to receive reports from these departments on the recent incidents.

This is what we now know.

The National Institute for Communicable Diseases was requested to conduct scientific tests and has established that the deaths of the six children in Naledi, Soweto can be directly attributed to a highly hazardous chemical used as a pesticide known as Terbufos.

Terbufos can have serious health effects, even at low levels of exposure.

Terbufos is an organophosphate chemical that is registered in South Africa for agricultural use.

It is not allowed to be sold for general household use.

However, Terbufos is being informally sold as a so-called 'street pesticide' for domestic use in townships and informal settlements to control rats.

Samples were taken from 84 spaza shops in the Naledi area. Of these, three had evidence of Terbufos.

After stringent testing, a chip packet found on one of the children who had died had traces of Terbufos on both the inside and the outside of the packet.

As part of the investigation into the Naledi deaths, inspectors confiscated a number of illegal pesticides from spaza shops.

They found instances where food was being stored alongside pesticides and detergents.

It was also found that these spaza shops lacked proper safe food storage, hand and dishwashing facilities, increasing the likelihood of food contamination.

Even as our investigations are ongoing, it is critical to understand that this is not a problem confined to spaza shops and other informal traders.

The unregulated use of restricted pesticides in communities has become a growing problem, with devastating consequences.

In many townships another chemical, Aldicarb, and an organophosphate known as Galephirimi are commonly sold by street vendors and hawkers to control rat infestations.

Aldicarb has been banned for use in South Africa since 2016.

Last year, three children in Ekurhuleni and three children in Soweto died after exposure to Aldicarb.

In responding to these tragedies, we need to understand the cause of this challenge in our communities.

One of the reasons that people use pesticides is to deal with rat infestation.

The problem of rat infestation is due in part to poor waste management in several municipalities.

Rubbish is not collected regularly, streets are not being cleaned, creating conditions for rats and other pests to thrive.

Often, the poorest communities are the worst affected, and often the cheapest remedies that are used are these highly hazardous substances like Terbufos and Aldicarb.

Another challenge is that responsibility for environmental health that should happen in our communities is the responsibility of local government.

Many municipalities do not have the capacity and resources to conduct inspections of these businesses and enforce regulations.

Our response must therefore address all the factors that contribute to the problem.

We also need to prevent the spread of misinformation.

The investigations that have taken place do not suggest any deliberate campaign to poison children in our country.

There is also no evidence that the problem is confined to spaza shops owned by foreign nationals only.

These products are just as likely to be sold in shops owned by South Africans.

We all have a duty – as the State, as a society, as parents and families – to protect those among us who are most vulnerable.

Following the special meeting of Cabinet, we have decided to make the following interventions:

The first intervention is to get hazardous pesticides off the street.

The second critical intervention is to protect children from exposure to these substances.

The third critical intervention is to prevent future outbreaks.

The following measures will be implemented with immediate effect.

To get hazardous pesticides off the street:

The spaza shops which have been implicated in the deaths of children will be closed with immediate effect.

All spaza shops and other food handling facilities must be registered within the municipalities in which they operate within 21 days from today. Any shop that is not registered within 21 days and does not meet all health standards and requirements will be closed.

The South African Police Service and other law enforcement agencies will be required to investigate, arrest and prosecute offenders. This will involve close cooperation with all registered manufacturers and suppliers.

Integrated multidisciplinary inspection teams will undertake compliance inspections of food handling facilities, manufacturers, distributors, wholesaler and retailers. This will include spaza shops and general dealers.

Non-compliant businesses and shops linked to any poisoning incidents or found to unlawfully stock hazardous chemicals will be shut down.

A massive campaign of door-to-door inspection of all spaza shops, tuck shops and other informal traders will be undertaken, starting with Gauteng and KwaZulu-Natal.

This will be undertaken by inter-disciplinary inspections teams consisting of the South African Military Health Services, environmental health practitioners, the South African Police Service, the National Consumer Council, labour inspectors and others.

The initial phase of inspections will need be completed within a month.

All registered manufacturers of Terbufos will be inspected to ensure that no products are diverted into the non-agricultural market. The supply chain process for distribution and sale of Terbufos will be investigated to ensure that controls are being adhered to and that there is accountability for who they sell to.

Regulations and protocols on the traceability, repackaging, destruction and sale of pesticides, insecticides and foodstuffs will be strengthened.

The second intervention is about the protection of children from exposure to harmful substances:

The Department of Basic Education will immediately issue a circular to Provincial Education Departments and all schools on best practice protocols for preventing and managing foodborne illnesses within schools.

By the start of the new school year, the Department of Basic Education and School Governing Bodies, together with the Department of Health, will review and update the guidelines for schools on the management of suppliers of foodstuffs to public schools. This will include tuck shops operated at these schools.

A public education campaign will be launched aimed at children, parents, caregivers and the broader community on food safety and the identification, handling and storage of dangerous chemicals. This campaign will involve GCIS, government departments and agencies, industry organisations and civil society formations.

This will be complemented by a public education campaign aimed at communities, spaza shops, tuck shops, informal traders and other retailers on health, safety and hygiene regulations, the identification of hazardous products, regulations that apply to hazardous products and legal consequences.

The Ministers of Basic Education and Health and other government departments will classify certain pesticides and insecticides not suitable for home use as “dangerous objects” that may not be brought or used on school premises. This will be undertaken in terms of the Regulations on Safety Measures for Public Schools.

The third intervention will be aimed at preventing future outbreaks:

I have directed that Joint Operational and Intelligence Structures be established at a national and provincial level to deal with this crisis.

Our local municipalities will be required to take urgent action to address the problem of rat infestations by cleaning cities and towns and removing waste. All municipal landfill sites will be required to comply with National Environmental Management Waste Act. Failure to comply will result in strict sanctions that include directives, compliance notices and criminal enforcement.

A Ministerial Health Advisory Committee is being established to develop medium- and long-term prevention measures. This Committee will consist of experts such as toxicologists, paediatricians, chemical pathologists, epidemiologists, forensic pathologists and others.

All deaths of patients 12 years and below will be made notifiable in the Notifiable Medical Condition Surveillance System.

An electronic medical certification of death system will be established to allow the National Department of Health to access cause of death information immediately after a death is certified.

The work of the Biosecurity Hub will be strengthened to better control the entry of products, organisms and harmful biological products at ports of entry

The Department of Agriculture is in the process of reviewing and updating all relevant legislation with respect to the regulation and authorisation of agricultural pesticides for use in South Africa.

A joint fund of R500 million will be established by the Departments of Trade, Industry and Competition and Small Business Development to support township and rural businesses, including community convenience shops. The funding will be for the refurbishment of businesses and non-financial support in terms of technical skills, regulatory compliance and capacity building.

As we undertake these interventions and measures, there is a lot that we can do as parents to protect our children.

As consumers and parents, if we buy food or send our children to buy food, it must only be from places that are licensed to sell foodstuffs and that observe food safety regulations.

We must check that food is prepared in a clean and hygienic area.

We must make sure that foodstuffs being sold have clear branding and labels, and that they are not past their sell-by date.

We must educate our children about food safety and teach them to check for this labelling themselves.

Anyone who sees fake foodstuffs and expired foodstuffs being sold in our communities, should report them to the National Consumer Commission.

The number for the National Consumer Commission is 012 065 1940.

We have to take greater care with the storage and use of pesticides and dangerous chemicals.

We must only buy pesticides that are in their original containers and that are clearly labelled for household use.

All dangerous chemicals must be kept out of reach of children.

Spaza shops and street vendors have a special responsibility for the health and safety of their customers.

They need to operate responsibly and in terms of the law.

They need to observe certain basic practices.

For example, they must not use the same containers or implements for chemical substances and food.

Only pesticides and chemicals registered for household use may be sold.

They must be clearly labelled and in their original packaging.

Establishments found to be in possession of pesticides that are restricted or banned will face legal consequences.

Once again, South Africans are called upon to work together to overcome a great difficulty.

But we are far from helpless. There is much we can do.

Each of us needs to be better informed about the risks of pesticides and other dangerous products.

Each of us needs to take responsibility for the safety and well-being of those around us, particularly the children of our nation.

By working together, by enforcing the law, by being alert and responsible, we will be able to bring an end to these tragedies.

I thank you.

ANNEXURE 2



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 713

7

November 2024
November

No. 51529

N.B. The Government Printing Works will
not be held responsible for the quality of
"Hard Copies" or "Electronic Files"
submitted for publication purposes

ISSN 1682-5845



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

<i>No.</i>	<i>Gazette No.</i>	<i>Page No.</i>
------------	------------------------	---------------------

GENERAL NOTICES • ALGEMENE KENNISGEWINGS**Co-operative Governance, Department of / Samewerkende Regering, Departement van**

2826	Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000): Standard Draft By-Law for Township Economies.....	51529	3
------	--	-------	---

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE**NOTICE 2826 OF 2024****LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT NO 32 OF 2000)****STANDARD DRAFT BY-LAW FOR TOWNSHIP ECONOMIES**

I, Velenkosini Hlabisa, Minister for Cooperative Governance and Traditional Affairs hereby, in terms of section 14(1) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), and after complying with the procedural requirements in this section, make the Standard Draft By-Law for Township Economies, in the Schedule.

**MR VELENKOSINI HLABISA****MINISTER FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****DATE: 04/11/2024**

SCHEDULE**Contents**

Preamble	2
Definitions.....	3
Objectives.....	5
Freedom to engage in business activities.....	5
Designated business areas and sites	6
Issuing of permits	6
Proactive steps to be undertaken by municipality	7
Registration and permitting of business activities	7
Transferability of permit	9
Prohibitions and restrictions.....	10
Hygiene and waste removal	11
Restricted and prohibited areas.....	12
Offences and penalties	13
Appeals.....	13
Enforcement of by-laws	14
Amendment of by-laws and transitional measures	15

Preamble

Whereas sections 152(1) and 153(a) of the Constitution of the Republic of South Africa, 1996 ("Constitution"), require municipalities to promote social and economic development within their jurisdictional areas;

And whereas the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), mandates municipal spatial development frameworks to identify current and future economic nodes where public and private investment will be prioritised and identify the designation of areas where incremental upgrading approaches to development and regulation will be applicable;

And whereas the Businesses Act, 1991 (Act No. 71 of 1991), provides for municipalities to declare and prohibit trading in zones within their jurisdictional areas;

And whereas the dense concentration of poverty, unemployment and related social ills make townships a priority for inclusive growth and development;

And whereas Government acknowledges that townships must be vibrant economic centres;

And whereas section 22 of the Constitution guarantees the right of every citizen to choose his or her trade, occupation or profession freely, and empowers the State to regulate the practice of a trade, occupation or profession by law;

And whereas Government recognises that participation and meaningful inclusion of businesses in townships will transform the economy,

Be it therefore enacted by the Municipal Council of (Insert municipality name), as follows:

Definitions

1. In this Standard Draft By-Law, a word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned and, unless the context otherwise indicates—

"authorised official" means an employee of the municipality who is duly responsible for carrying out any duty or function or exercising any power in terms of this Standard Draft By-Law and includes—

- (a) a law enforcement officer declared to be a peace officer in terms of section 334(1)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
- (b) any other employee delegated or person authorised to carry out or exercise the duty, function or power;

"business" means an entrepreneurial undertaking, or a business concern, whether formal (registered) or informal (unregistered), which is engaged in the production of goods or provision of services or sale of goods, undertaken by an entrepreneur or an enterprise, an enterprise organisation or a co-operative as categorised in the National Small Business Act;

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

"business activity" means the selling of goods, or the supplying or offering to supply a service for remuneration;

"business licence" means a licence or permit issued by a local government that allows an individual or company to conduct business within the government's geographical jurisdiction;

"foreigner" means an individual who is neither a South African citizen, nor a permanent resident, but is not an illegal foreigner in terms of the Immigration Act, 2002 (Act No. 13 of 2002);

"goods" means a product marketed for human use or consumption;

"illegal goods" means—

- (a) goods which may not have been lawfully acquired or disposed of;
- (b) goods that are prohibited from sale or distribution under any applicable national, provincial, or municipal law;
- (c) counterfeit goods as defined in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);

- (d) goods that are required to be, but have not been, imported or produced in terms of the provisions of the Customs and Excise Act, 1964 (Act No.91 of 1964);
- (e) stolen goods; or
- (f) goods that do not meet mandatory safety or quality standards as prescribed by relevant legislation;

"litter" includes a receptacle, container, or other matter, which has been discarded, abandoned, or left behind, by a street trader, or by his or her customers;

"Minister" means the Minister responsible for local government;

"municipal council" means a municipal council referred to in section 157(1) of the Constitution;

"municipal manager" means a person appointed in terms of section 54A of the Municipal Systems Act, as the head of administration of the municipality;

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"nuisance" means conduct or behaviour by a person, an organisation, business or institution or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, plant or animal or causing or creating a situation or condition in or on private property or in a public place or anywhere in a municipality which causes damage, annoyance, inconvenience, noise pollution or discomfort to the public or to a person, in the exercise of rights common to all or of a person;

"National Road Traffic Act" means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

"obstruct" means to do anything which blocks or is likely to block vehicular or pedestrian traffic flow on a public road or private road, open or public space or private space;

"PAIA" means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

"public monument" means any one of the "public monuments and memorials", as defined in section 2 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

"public place" means a building, square, park, recreation ground or open space to which the public has the right of access, or which is shown on a general plan or land use scheme of a township filed in the deeds registry, Surveyor-General's office or a municipality, and has been provided for the use of the public or the owners of erven in such township;

"public road" means a public road as defined in section 1 of the National Road Traffic Act;

"sell" means exchange, offer, display, deliver, supply or dispose of, for sale or authorise, direct or allow a sale;

"services" means activities or value created, generated or performed for human consumption;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act;

"Spatial Planning and Land Use Management Act" means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

"townships" means residential townships where only the most basic amenities and infrastructure are provided which were initially established during the Colonial and Apartheid eras for occupation by Black South Africans on the outskirts of towns and cities and now also include newly created residential townships, in and on the outskirts of towns and cities, which have been created as a result of South Africa's history; and

"township economies" means business activities (formal or informal) undertaken in townships.

Objectives

2. The objects of this by-law is to—

- (a) facilitate inclusive spatial and economic development in townships;
- (b) harmonise the township ecosystem and provide norms and standards for the establishment and management of township-based enterprises both formal and informal;
- (c) raise awareness of applicable laws and regulations affecting township businesses; and
- (d) support small businesses to grow and participate in mainstream economic activities.

Freedom to engage in business activities

3.(1) Subject to subsection (2) any person that has a business licence, may engage in business activities within the area of jurisdiction of a municipality.

(2) A municipality may, based on its developmental objectives, determine quotas on the proportion of businesses within specific categories of businesses, to be owned and operated by foreigners in line with all the relevant legislation.

(3) In determining the quotas a municipality must ensure, amongst others, that a proportion of the total staff employed in the business are South African citizens or permanent residents in line with all relevant legislation.

(4) A business activity referred to in subsections (1) and (2), is subject to the provisions of—

- (a) legislation in the Republic of South Africa;
- (b) applicable permits or licencing requirements;
- (c) other applicable municipal by-laws and policies; and
- (d) this standard draft by-law.

(5) A person may not carry on a business activity within the area of jurisdiction of a municipality unless that person is a holder of a business permit issued or transferred to him or her by the municipality.

Designated business areas and sites

4.(1) A municipality must, subject to the provisions of the Spatial Planning and Land Use Management Act and any other applicable legislation, policy or by-law—

- (a) promote commercial, retail and industrial activities in townships; and
- (b) demarcate business areas and sites to promote inclusive economic development or recognise a township as a mixed-use business area.

(2) A municipality may, by resolution—

- (a) extend, reduce, or disestablish a business area or site subject to compliance with the requirements of the Spatial Planning and Land Use Management Act and after public consultation and reasonable notice;
- (b) lease land or a portion of a property from the owner or occupier on condition that the owner or occupier allows a specified number of businesses to trade on such property on terms and conditions determined by the municipality over an agreed period; or
- (c) where possible, provide infrastructure for businesses that are leasing.

Issuing of permits

5.(1) A municipality must issue a permit if it is properly applied for, unless—

- (a) the permit holder does not comply with the relevant provisions of this standard draft by-law;
- (b) the goods or services provided by the business are illegal; or

- (c) the business premises do not comply with the requirement relating to town planning or the safety or health of the public, or any law which applies to those premises.
- (2) The municipality must be satisfied that the applicant will be in actual and effective control of the business.
- (3) A municipality may grant the permit on condition that—
 - (a) the goods and services sold are legal; and
 - (b) the business premises comply with the requirement relating to town planning or the safety or health of the public, or any law which applies to those premises.
- (4) A municipality may, on application by a permit holder—
 - (a) amend a condition;
 - (b) extend the period of the permit;
 - (c) revoke a condition; or
 - (d) indicate that the condition specified in the permit is complied with.

Proactive steps to be undertaken by municipality

- 6. A municipality must perform its functions and exercise its powers to—
 - (a) build the operational and management capacity of entrepreneurs and small businesses in townships through workshops, training or mentoring;
 - (b) conduct business compliance and awareness workshops;
 - (c) facilitate skills development and business development support services for township businesses;
 - (d) facilitate access to infrastructure for township businesses; and
 - (e) facilitate access to markets for township businesses.

Registration and permitting of business activities

- 7.(1) A municipality must delegate the authority to deal with the registration, permitting and enforcing of the by-law for township economies to the municipal manager or any other delegated official.
- (2) The delegated official is responsible for—
 - (a) creating awareness about the application process and applicable policies and by-laws;
 - (b) assisting and supporting applicants in the application process;

- (c) administering the processing of applications and the timely processing of applications within a set period;
 - (d) reviewing and approving applications for registration or permitting including—
 - (i) receiving, reviewing and approving applications for registration or permitting within a set period;
 - (ii) investigating the feasibility of the application and the compilation of a report thereon;
 - (iii) submitting the application and the feasibility report to the delegated authority; and
 - (iv) issuing of registration cards or permits;
 - (e) resolving complaints and disputes occurring between the municipality and a business; and
 - (f) facilitating efficiency and municipal responsiveness in registering and permitting businesses, as well as enforcing by-laws.
- (3) Application forms for registration or permitting can be accessed physically at the municipal offices and on the municipal website.
- (4) The municipal manager or a delegated official is responsible to establish and maintain a database of registered businesses, which may contain the following information and must be managed in accordance with PAIA guidelines:
- (a) The full name, surname, gender and disability status of the business owner;
 - (b) the identity number of the business owner concerned;
 - (c) the physical and postal address of the business concerned;
 - (d) the location where the business concerned is authorised by such registration to carry on business, and if such registration applies to a trading plan area, the trading bay or market allocated to such a business in accordance with the applicable trading plan;
 - (e) a description of the goods or services that the business concerned is authorised by such registration to sell or provide;
 - (f) a distinguishing registration number;
 - (g) citizenship status, passport number, section 22 asylum seeker permit, section 24 refugee permit, valid visa allowing foreign national to be in the Republic to work or conduct business; and
 - (h) any other information that may be required by this by-law or any other law.

- (5) The applicant must provide a sworn affidavit stating that he or she is not engaged in the trade of illegal goods as defined in this by-law and that his or her business operations are within applicable norms and standards.
- (6) The municipality reserves the right to conduct background checks on applicants, including liaising with law enforcement agencies, to verify the legality of their business activity.
- (7) A registered business must be issued with a registration card or permit that must be displayed and be available for inspection at all times.
- (8) The responsible official must put in place a complaints system that can be used by residents and community members to report and receive feedback regarding their complaints or concerns and an appeal process.

Transferability of permit

- 8.(1) In the event of the death of a permit-holder and the loss of income generated by the informal trading which results in the dependents of the deceased permit-holder being placed under undue or severe economic hardship, a permit may be transferred, by the municipality, to a dependant, or an assistant acting on behalf of the dependant, who may continue trading until the permit is no longer valid.
- (2) A permit may be temporarily transferred for a period of no longer than twelve months by the municipality, to a dependent or, where there is no dependent, to an individual nominated by the permit-holder, if the permit-holder is unable to perform his or her functions: Provided that an affidavit is provided to the municipality stating the nature and period for which the permit-holder requires the permit transfer.
 - (3) A dependent or assistant is only permitted to replace the permit-holder for the period stipulated in the affidavit and approved by the municipality.
 - (4) A permit-holder may not transfer a permit to any other person in any manner.
 - (5)(a) If a permit is transferred by the municipality and the new holder does not resume trading within a period stipulated in the transfer notice, the municipality may revoke the permit and in such a case the permit must immediately be returned to the municipality.
 - (b) Details of revoked permits must be placed on a database to be shared with relevant departments.
 - (6) If a permit holder no longer wishes to trade, the municipality may revoke the permit and in such a case the permit must immediately be returned to the municipality.

(7) A permit transferred may not be used for the purpose of a business other than the business to which the permit relates.

Prohibitions and restrictions

9.(1) Except in cases where prior approval has been granted by the municipality, a person may not carry out a business activity—

- (a) in a garden or park to which the public has a right of access;
 - (b) on a verge adjacent to—
 - (i) a building belonging to, or occupied by an organ of state;
 - (ii) a church, mosque, synagogue or other formal registered place of worship; or
 - (iii) a building belonging to, or occupied by the municipality;
 - (c) at a building declared to be a public monument;
 - (d) next to an auto teller bank machine;
 - (e) at a place where—
 - (i) it causes an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (ii) it causes an obstruction to vehicular traffic; or
 - (iii) it substantially obstructs pedestrians in their use of a sidewalk;
 - (f) on a verge adjacent to a building in which business is conducted by a person who sells goods of the same nature as or of a similar nature to goods being sold by the seller concerned; and
 - (g) on half of a public road adjacent to a building used for residential purposes, if the owner or person in control or an occupier of the building objects thereto.
- (2)** A person carrying on a business—
- (a) may not sleep overnight at the place of such business, except in a case where prior approval has been granted by the municipality or where the business is operating from residential units or structures;
 - (b) may not place his or her property on a public road, except in cases where prior approval has been granted by the municipality;
 - (c) may not construct a permanent structure on a public road or public place other than a shed, shack, Wendy house or poles implanted into the ground,

- and other infrastructural arrangements common in the street trading environment;
- (d) may not buy goods from an establishment that does not comply with relevant regulatory prescripts;
 - (e) may not sell expired items;
 - (f) must ensure that his or her property or area of activity—
 - (i) does not cover an area of a public road, or a public place which is greater than six square metres (with a maximum length of three metres) in extent, unless otherwise approved by the municipality; and
 - (ii) in respect of a sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than one and a half metres wide when measured from any contiguous building to the property or area of activity, and not less than one half metre wide when measured from the kerb line to the property or area of activity;
 - (g) may not conduct business on a sidewalk where the width of such sidewalk is less than one metre;
 - (h) may not place or stack his or her goods in such a manner that such goods are likely to injure a person or cause damage to property;
 - (i) may not sell, distribute or store illegal goods or goods that do not comply with acceptable standards;
 - (j) may not carry on business in such a manner as to—
 - (i) create a nuisance;
 - (ii) create a traffic, health hazard, or health risk;
 - (iii) obstruct access to, or the use of, street furniture or any other facility designed for use by the general public;
 - (k) must maintain records of the identification of his or her suppliers and be able to provide proof of the legitimate sourcing of the goods upon request by an authorised official; and
 - (l) may not knowingly purchase goods from suppliers engaged in the trade of illegal goods.

Hygiene and waste removal

10.(1) A person operating a registered business must—

- (a) ensure that the business complies with health and safety requirements and has the applicable health and safety certificates;
 - (b) ensure that the food sold in the business is not contaminated by insecticides, pesticides, or any poisonous substance;
 - (c) keep the business area or site occupied by him or her for the purposes of such business activity, in a clean and sanitary condition;
 - (d) keep his or her property in a clean, sanitary and well-maintained condition;
 - (e) dispose of litter generated by his or her business in whatever refuse receptacle provided by the municipality for the public, or at a dumping site of the municipality;
 - (f) ensure that no excessive smoke, fumes or other substance, odours, or noise, emanating from his or her business activities, causes pollution of any kind;
 - (g) ensure that the necessary recycling methods are utilised; and
 - (h) dispose of hazardous and e-waste in the correct manner.
- (2) The owner of the property where business activities, including selling prepared meals or beverages, take place, must ensure that there is appropriate infrastructure, including ablution facilities.

Restricted and prohibited areas

11.(1) A municipality may in terms of section 6A(2) of the Businesses Act, after consulting the public and by resolution, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating—

- (a) specified hours during which business activity in respect of particular goods or services is restricted or prohibited;
- (b) the boundaries of the restricted or prohibited areas; and
- (c) any other restriction or prohibition against business activity regarding the area in question.

(2) A municipality must display any such sign, marking or device in such a position and manner as will indicate the restriction or prohibition and the location or boundaries of the area concerned.

(3) A sign erected in terms of this by-law or the Business Act serves as sufficient notice of the prohibition or restriction in respect of the area concerned.

(4) A sign contemplated in subsection (1) may be amended from time to time and displayed by the municipality for the purpose of this by-law and has the same effect as a road sign in terms of the National Road Traffic Act, 1996.

(5) A registered business must not cause any nuisance.

Offences and penalties

12.(1) A person who—

- (a) contravenes, or fails to comply with, a provision of this by-law;
- (b) fails to comply with a notice issued in terms of this by-law;
- (c) fails to comply with a lawful instruction given in terms of this by-law; or
- (d) who obstructs or hinders an authorised official in the execution of his or her duties under this by-law,

is guilty of an offence and must be served with a written warning advising of the offence, the remedial action and applicable times, consequences for failure to redress, and the appeal process.

(2) Despite the provisions of subsection (1), a person found to be transgressing any provision of this by-law must—

- (a) on a first transgression, be served with a written warning notice informing that person of the transgression and that his or her business licence may be cancelled immediately if he or she does not remedy the transgression within a reasonable time based on industry or sector trends; and
- (b) on a subsequent transgression, be served with a written notice informing that person of the transgression and that, subject to an appeal process, his or her business licence is immediately cancelled and that he or she will be barred from reapplying for a licence in any municipality for a period of five years after the subsequent transgression.

(3) Different penalties may be effected in respect of different businesses based on industry trends.

Appeals

13. (1) A person who feels aggrieved by the decision of the municipality may lodge an appeal within a period of 21 days after receipt of the application outcome or within such extended period as may be agreed upon between the municipality and the applicant concerned.

- (2) During the appeal process it is presumed that the application was unsuccessful.

Enforcement of by-law

14. (1) An authorised official appointed by the municipality is responsible for monitoring and enforcement of this by-law and must regularly liaise and co-operate with officials of the Department of Home Affairs, the Department of Health and the South African Revenue Service to ensure compliance with relevant and applicable legislation.

- (2) A municipality may—

- (a) apply its discretion to impound business equipment where continuous transgression without remedy is observed; or
- (b) release the business equipment at a fee in line with municipal tariffs.

(3) (a) A municipality may impound goods on reasonable suspicion that such goods are expired or illegal.

(b) Goods that are confirmed to be expired or illegal must be handed over to the relevant government body for destruction.

(4) A municipality must establish a task team dedicated to combating the trade of illegal goods and services, which must—

- (a) conduct regular inspections of businesses to verify that they are registered and that the products being sold are legal and comply with applicable regulatory requirements or norms and standards;
- (b) collaborate with national and provincial law enforcement agencies to share information and conduct joint operations against illicit trade networks;
- (c) implement a confidential reporting system for the public and other traders to report suspected illicit trade activities;
- (d) implement information programmes to educate businesses on what constitutes an illegal product; and
- (e) subject to the Protection of Personal Information Act, (Act No. 4 of 2013), implement a central repository of individuals whose licences have been cancelled due to non-compliance with the by-law and share details on an annual basis with other municipalities.

Amendment of by-laws and transitional measures

15. Once approved, the municipality must consider the impact of this by-law on all other by-laws and must amend sections that conflict with the provisions of this by-law or amend the applicable by-laws to be in line with the provisions of this by-law.

ANNEXURE 3



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Draft Spaza Shop By-law, 2025

SCHEDULE

Contents

Definitions	1
Objectives	4
Freedom to engage in spaza shops	4
Restrictions and prohibitions on spaza shops	4
Registration of Spaza Shops	5
Issuing of business Licences for spaza shops	6
Delegation of Authority and Administrative Responsibilities	7
Transferability of a business Licence	7
Hygiene and waste removal	9
Offences and penalties	9
Appeals	10
Enforcement of by-law	11
Amendment of by-laws and transitional measures	11

1. DEFINITIONS

(1) In this By-Law, a word or expression to which a meaning has been assigned in the Act, bears the meaning so assigned and, unless the context otherwise indicates—

“authorised official” means an employee of Stellenbosch Municipality who is duly responsible for carrying out any duty or function or exercising any power in terms of this By-Law and includes—

- (a) a law enforcement officer declared to be a peace officer in terms of section 334(1)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
- (b) any other employee delegated or person authorised to carry out or exercise the duty, function or power;

“Businesses Act” means the Businesses Act, 1991 (Act No. 71 of 1991);

“business activity” means the selling of goods, or the supplying or offering to supply a service for remuneration; specifically as it relates to spaza shops;

“business licence” means a licence or permit issued by a local government that allows an individual or company to conduct business within the government's geographical jurisdiction;

“goods” means a product marketed for human use or consumption;

“illegal goods” means—

- (a) goods which may not have been lawfully acquired or disposed of;
- (b) goods that are prohibited from sale or distribution under any applicable national, provincial, or municipal law;
- (c) counterfeit goods as defined in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);
- (d) goods that are required to be, but have not been, imported or produced in terms of the provisions of the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- (e) stolen goods; or
- (f) goods that do not meet mandatory safety or quality standards as prescribed by relevant legislation;

“Land Use Planning By-law” means the Stellenbosch Municipality By-Law on Municipal Land Use Planning, 2023;

“Law Enforcement agencies” means entities that enforce laws and regulations, including but not limited to Local Municipality Law Enforcement Officers, the South African Police Service (SAPS), Immigration Officers, Provincial Liquor Authority Officers, Health Inspectors, Fire Services Inspectors, Building Inspectors, and Land Use Inspectors.

“litter” includes a receptacle, container, or other matter, which has been discarded, abandoned, or left behind, by a street trader, or by his or her customers;

“municipality” means the Municipality of Stellenbosch established in terms of section 12 of the Local Government Municipal Structures Act, 1998 (Act No. 17 of 1998).

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000), as the head of administration of Stellenbosch Municipality;

“National Building Regulations” means the National Building Regulations and Building Standards Act, 1997 (Act No. 103 of 1977);

“nuisance” means conduct or behaviour by a person, an organisation, business or institution or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, plant or animal or causing or creating a situation or condition in or on private property or in a public place or anywhere in a municipality which causes damage, annoyance, inconvenience, noise pollution or discomfort to the public or to a person, in the exercise of rights common to all or of a person;

“PAIA” means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

“POPIA” means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);

“registration” means the process by which a spaza shop owner submits their details to Stellenbosch Municipality for the purpose of recording their details on the municipal database;

“sell” means exchange, offer, display, deliver, supply or dispose of, for sale or authorise, direct or allow a sale;

“services” means activities or value created, generated or performed for human consumption;

“spaza shop” means the use of a portion of a dwelling house, second dwelling and/or outbuildings as a shop for the sale of everyday convenience products as defined in Stellenbosch Municipality's Zoning Scheme By-Law, 2023, and includes a "house shop" as having a corresponding or equivalent meaning provided that—

- (a) the scale of anyone building so used shall not exceed that of a normal dwelling house which would ordinarily accommodate one family, and;
- (b) the primary use of the land unit shall remain the residence of the proprietor of the establishment and his or her family if applicable, and;
- (c) the proprietor of the establishment shall be the resident during the period when the activity is undertaken, although he/she may be absent for holidays for periods not exceeding 30 consecutive days during which the activity may be conducted by an employee;

“Zoning Scheme” means the Stellenbosch Municipality Zoning Scheme By-law, 2023.

2. OBJECTIVES

- (1) The objectives of this By-law are to—
 - (a) consolidate all relevant legislation applicable to spaza shops into a single by-law to ensure clarity, compliance and uniform enforcement;
 - (b) raise awareness of applicable laws and regulations affecting spaza shops; and
 - (c) support spaza shops to grow and participate in mainstream economic activities.

3. FREEDOM TO ENGAGE IN SPAZA SHOPS

- (1) Subject to subsection (2) any person that has a business licence, may operate a spaza shop within the area of jurisdiction of the Municipality (WC024).
- (2) A business activity referred to in subsection (1), is subject to the provisions of—
 - (a) legislation in the Republic of South Africa;
 - (b) applicable permits or licencing requirements;
 - (c) other applicable municipal by-laws and policies; and
 - (d) this By-law.
- (3) A person may not carry on with a business activity within the area of jurisdiction of the Municipality unless that person is a holder of a business licence issued or transferred to him or her by the Municipality.

4. RESTRICTIONS AND PROHIBITIONS ON SPAZA SHOPS

- (1) The Municipality may in terms of section 6A(2) of the Businesses Act, ensure compliance regarding—
 - (a) Standard operating hours during which business activity in respect of particular goods or services is restricted or prohibited are as follows—
 - (i) Spaza shop operations may only take place between 05:00 and 21:00.
 - (ii) No spaza shop activity shall be conducted between 21:00 and 05:00;

- (b) the boundaries of the restricted or prohibited areas; and
- (c) any other restriction or prohibition against spaza shop activity regarding the area in question.

(2) A registered spaza shop must not cause any public nuisance.

5. REGISTRATION OF SPAZA SHOPS

- (1) Application forms for registration or licensing can be accessed physically at the municipal offices and on the municipal website.
- (2) The municipal manager or a delegated official is responsible for establishing and maintaining a database of registered spaza shops, which may contain the following information and must be managed in accordance with PAIA guidelines—
 - (a) The full name, surname, gender and disability status of the spaza shop owner;
 - (b) the identity number of the spaza shop owner concerned;
 - (c) the physical and postal address of the spaza shop;
 - (d) the location where the spaza shop concerned is authorised by such registration to carry on business;
 - (e) a description of the goods or services that the spaza shop is authorised to sell or provide by such registration;
 - (f) a distinguishing registration number;
 - (g) citizenship status, passport number, section 22 asylum seeker permit, section 24 refugee permit, valid visa allowing foreign nationals to be in the Republic to work or conduct business; and
 - (h) any other information that may be required by this By-law or any other law.
- (3) The applicant must submit a sworn affidavit stating that they are not engaged in the trade of illegal or expired goods and that their spaza shop operates in full compliance with all applicable laws, norms, and standards.
- (4) The Municipality reserves the right to conduct background checks on applicants, including liaising with law enforcement agencies, to verify the legality of their identity, residency and spaza shop.

- (5) A registered spaza shop must be issued with a business licence that must be displayed and be available for inspection at all times.
- (6) A spaza shop may not trade unless it holds a valid business licence issued by the Municipality.
- (7) The responsible official must put in place a complaints system that can be used by residents and community members to report and receive feedback regarding their complaints or concerns and an appeal process.

6. ISSUING OF BUSINESS LICENCES FOR SPAZA SHOPS

- (1) The Municipality must issue a licence if it is properly applied for, unless—
 - (a) the licence holder does not comply with the relevant provisions of this by-law;
 - (b) the goods or services provided by the spaza shop are illegal or expired;
 - (c) the spaza shop premises do not comply with the requirements relating to town planning, the safety or health of the public, or any law which applies to those premises.
 - (d) the spaza shop premises do not have appropriate land use rights as provisioned in the Land Use Planning By-law and the Zoning Scheme;
 - (e) the building or premises do not have approved building plans that comply with the National Building Regulations, which include:
 - (i) a valid certificate of occupancy obtained from the Municipality; and
 - (ii) a valid fire certificate obtained from the Municipality.
 - (f) a certificate of acceptability (CoA) has not been issued in terms of Regulation 3(2) of R 638 of 22 June 2018 from the Cape Winelands District Municipality's Municipal Health Services Department.
- (2) The Municipality must be satisfied that the applicant will be the lawful occupier of the property and will personally manage and exercise effective control over the spaza shop.
- (3) The Municipality may, on application by a licence holder—
 - (a) amend a condition;

- (b) extend the period of the licence;
- (c) revoke a condition; or
- (d) indicate that the condition specified in the permit is complied with.

7. DELEGATION OF AUTHORITY AND ADMINISTRATIVE RESPONSIBILITIES

(1) The Municipality must delegate the authority to deal with the registration, licensing and enforcement of this By-law to the municipal manager or any other delegated official.

(2) The delegated official is responsible for—

- (a) facilitating the application process and applicable policies and by-laws;
- (b) assisting and supporting applicants in the application process;
- (c) administering the processing of applications and the timely processing of applications within a set period;
- (d) reviewing and approving applications for registration or licensing including—
 - (i) receiving, reviewing and approving applications for registration or licensing within a set period;
 - (ii) investigating the feasibility of the application and the compilation of a report thereon;
 - (iii) submitting the application and the feasibility report to the delegated authority; and
 - (iv) issuing of registration cards or licences;
- (e) resolving complaints and disputes occurring between the Municipality and a business; and
- (f) facilitating efficiency and municipal responsiveness in registering and licensing businesses, as well as enforcing by-laws by law enforcing agencies.

8. TRANSFERABILITY OF A BUSINESS LICENCE

(1) In the event of the death or absence of a licence-holder and the loss of income generated by the informal trading which results in the dependents of the deceased licence-holder being placed under undue or severe economic hardship, a permit may be transferred by the Municipality, to a dependant, or an assistant acting on behalf of the dependant, who may continue trading for a period stipulated by the

Municipality until the licence is no longer valid.

- (2) A licence may be temporarily transferred for a period of no longer than twelve (12) months by the Municipality, to a dependent or, where there is no dependent, to an individual nominated by the licence holder, if the licence holder is unable to perform his or her functions, provided that an affidavit is provided to the Municipality stating the nature and period for which the licence-holder requires the licence transfer.
- (3) A dependent or assistant is only permitted to replace the licence-holder for the period stipulated in the affidavit and approved by the Municipality.
- (4) A licence-holder may not transfer a licence to any other person in any manner except under the specific conditions outlined in subsections (1) – (3).
- (5) If a licence is transferred by the Municipality and the new holder does not resume trading within the period stipulated in the transfer notice, the Municipality may revoke the licence and in such a case the licence must immediately be returned to the Municipality.
- (6) Details of the revoked licence must be placed on a database to be shared with relevant departments.
- (7) If a licence holder no longer wishes to trade, the Municipality may revoke the licence and in such a case the licence must immediately be returned to the Municipality.
- (8) A licence transferred may not be used for the purpose of a business other than the business to which the licence relates.
- (9) Any supporting documents originally issued in the name of the deceased or former licence-holder and required for the operation of the spaza shop, must be transferred in accordance with the applicable laws and processes governing those approvals. If the law or relevant authority does not permit direct transfer of specific certificates or approvals, the dependent or nominated individual must reapply and obtain the necessary certificates and approvals in their own name as required

under section 8 of this By-law.

- (10) The Municipality will only issue and transfer the business licence to the new applicant once all required documents have been obtained in their name, in accordance with section 8 of this By-law.

9. HYGIENE AND WASTE REMOVAL

- (1) A person operating a registered spaza shop must—
- (a) ensure that it complies with health and safety requirements and has the applicable health and safety certificates; as stipulated in relevant provincial and national legislation;
 - (b) ensure that the food sold is not expired, or contaminated by insecticides, pesticides, or any poisonous substance;
 - (c) keep his or her property in a clean, sanitary and well-maintained condition and must ensure sufficient waste disposal bins are on the premises;
 - (d) dispose of litter generated in a refuse receptacle provided by the Municipality or another, at a dumping site of the Municipality;
 - (e) ensure that no excessive smoke, fumes or other substance, odours, or noise, emanating from his or her business activities, causes pollution of any kind;
 - (f) ensure that the necessary recycling methods are utilised; and
 - (g) dispose of hazardous and e-waste in the correct legally prescribed manner.
- (2) The owner of the property where business activities, including selling of prepared meals or beverages, take place, must ensure that there is appropriate infrastructure, including ablution facilities.

10. OFFENCES AND PENALTIES

- (1) A person who—
- (a) contravenes, or fails to comply with, a provision of this By-law;
 - (b) fails to comply with a notice issued in terms of this By-law;
 - (c) fails to comply with a lawful instruction given in terms of this By-law; or

- (d) who obstructs or hinders an authorised official in the execution of his or her duties under this By-law, is guilty of an offence and must be served with a written warning advising of the offence, the remedial action and applicable times, consequences for failure to redress, and the appeal process.
- (2) Despite the provisions of subsection (1), a person found to be transgressing any provision of this By-law must—
- (a) on a first transgression, the transgressor shall be issued a fine and/or a written warning notice informing that person of the transgression and that his or her business licence may be cancelled immediately if he or she does not remedy the transgression within a reasonable time based on industry or sector trends; and
 - (b) on a subsequent transgression, the transgressor shall be issued a fine and/or a written notice informing that person of the transgression and that, subject to an appeal process, his or her business licence is immediately cancelled and that he or she will be barred from reapplying for a licence in any Municipality for a period of five years after the subsequent transgression.
- (3) Spaza shop owners who contravene any provision of this By-Law, requiring municipal intervention—such as waste removal or the rectification of a transgression—shall be liable for a fine not exceeding R10,000, in addition to any costs incurred by the Municipality in addressing the violation. The Municipality may revoke or suspend the business licence until the fine and associated costs have been paid in full.
- (4) The Municipality may revoke a business licence and require the owner to remove any structure, if applicable, and restore the premises to its original condition at the owner's expense.

11. APPEALS

- (1) A person who feels aggrieved by the decision of the Municipality may lodge an appeal within a period of 21 days after receipt of the application outcome.
- (2) During the appeal process it is presumed that the application was unsuccessful.

12. ENFORCEMENT OF BY-LAW

- (1) An authorised official appointed by the Municipality and any Municipal law enforcement official is responsible for monitoring and enforcement of this By-law and may liaise and cooperate with officials of the Department of Home Affairs, the Department of Health and the South African Revenue Service to ensure compliance with relevant and applicable legislation.
- (2) The Municipality may—
 - (a) apply its discretion to impound business equipment and stock where continuous transgression without remedy is observed; or.
 - (b) release the business equipment at a fee in line with municipal tariffs.
- (3) The Municipality Law Enforcement agencies may to combat the trade of illegal goods and services, may—
 - (a) conduct regular inspections of spaza shops to verify that they are registered and that the products being sold are legal and comply with applicable regulatory requirements or norms and standards;
 - (b) collaborate with national and provincial law enforcement agencies to share information and conduct joint operations against illicit trade networks;
 - (c) implement a confidential reporting system for the public and other traders to report suspected illicit trade activities;
 - (d) subject to POPIA, implement a central repository of individuals whose licences have been cancelled due to non-compliance with this By-law.

13. AMENDMENT OF BY-LAWS AND TRANSITIONAL MEASURES

- (1) Upon approval, the Municipality shall assess the impact of this By-law on all other existing by-laws and make necessary amendments to any sections that are in conflict with its provisions. Where applicable, amendments will be made to align other by-laws with the provisions of this By-law.