



STELLENBOSCH

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MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Draft Spaza Shop By-law, 2025

SCHEDULE

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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.