

1. POLICY OBJECTIVE:

To use standard procedures and guidelines to ensure effective management and control of Spaza Shops in the jurisdiction of Siyathemba Local Municipality.

This policy document will focus on the establishment of a policy to regulate these establishments. At present the approval of Tuckshops does result in a substantial increase in property rates and taxes as well as the loss of government subsidies where the Tuckshop is conducted from a state subsidized dwelling unit. As the turnover of the Tuckshop is relatively small this has the effect that it is virtually impossible to operate the house shop as an economically feasible establishment. The policy further seeks to enable compliance framework in matters of rezoning in consideration of the consent use principal approach to bring relief to the socio-economic challenge of the spaza communities.

2. BACKGROUND:

The Siyathemba Local Municipality has in recent years been experiencing a rapid increase in the number of tuck shop businesses within its municipal area. This can be attributed to the high levels of unemployment and lack of income for most of the residents. These tuck shop developments have been able to either provide income (through rents) for the property owner or provide a source of income for the lessee. The policy does not seek to disadvantage these enterprises but rather to make sure that they operate in a regulated manner.

In the Siyathemba Local Municipality, a lot of these tuck shop businesses are owned by foreign nationals, even though the property owner remains South African. However, there have been instances where people sell their houses to foreign nationals and end up increasing the housing demand.

Most of these tuck shops have not applied for Consent use from the municipality and are thus operating illegally, as they have not complied with the Siyathemba Local Municipality's Scheme Regulation (2005).

3. POLICY AND PHILOSOPHY PRINCIPLES

Spaza Shops play an important role in the current economic system of our country and provide an income for many families within the Council's jurisdiction. In order to offer residents within the jurisdiction of Siyathemba Local Municipality the opportunity to, without prejudice, operate Tuckshops, within the provisions of the Northern Cape Development and Planning Act Zoning Scheme, 1998 (Act 7 of 1998) and reading with the Council's zoning scheme, from residential premises it is essential that clear guidelines and procedures be laid down in this regard.

3. DEFINITIONS

"Application" -

means a person who submits a land use amendment application as contemplated in this Policy, who must prove that the title owner has given him/her permission to submit such an application.

"Hindrance trade" -

means any building or premises or part thereof which is designed or used for any known or potential noxious, harmful or offensive activity or use or storage of such a substance or a nuisance or cause and without the generality of the aforesaid limit, includes the following: any chemical works, distiller works, brewery, mill or fertilizers, processing of bones, horns or hooves, processing or storage of hides or skins other than in a dry state, abattoirs, stone

braking, any processing or manufacturing of cement, some brick factory, a site for the storage, sorting or any other act in any kind of garbage waste or sewage or night soil, oil or other Petroleum processing or any other use of the Council as a "hindrance trade"

"Owner" –

Means the owner of the property on which the Tuckshop is erected and operated and includes the lessee of municipal property

"Tenant" –

Includes the owner of the premises where the Tuckshop will be erected and operated from and includes the tenant of municipal property.

"sublease" –

Means the lease of a Tuckshop to a person other than the owner.

"Industry" –

Means a building or use, whether it corresponds to the meaning of a factory as defined in the Occupational Health and Safety Act, 1993 (Act 85 of 1993) or not used for any industry for production, assembling, processing, recovery or disposal of a product or part of a product, the storage of a product or raw material, repair, construction, demolition or dismantling of vehicles, printing production of gas and any related office, caretaker, or any building whose use is incidental to and usually in addition would be to, or reasonably would be needed in connection with, the use of such business on the same site, provided that buildings where food and beverages mainly for use on the premises to be prepared, not included;

"Inflammable substances"-

means flammable liquids, including all flammable liquids or flammable substances with a real flash point below 65°C and they are divided as follows: Flammable liquid, Class A: Gasoline (fuel); Inflammable liquid, class B: Any flammable liquid other than gasoline, the flash point 21°C and lower.

"Business premises" –

means any premises and/or building or part thereof used or intended to be used as shops and/or offices and includes hotels, licensed hotels, liquor store, tavern, restaurant, dry cleaning services, funeral homes, financial institutions professional offices, meeting places, surgeries of physicians, bond or products scholarships, setting course, apartments above the ground floor and buildings for similar uses, but does not include entertainment venues, a casino, adult entertainment, institutional buildings, mortuaries, public garages, service stations, repair or related repair functions, industrial buildings, noxious, truck facilities or any wholesale matter;

"Storage" –

Means a place, premises or buildings where goods are stored for distribution to other stores, businesses or premises;

"Spaza Shop" –

Means a retail outlet that is being operated from a portion of a house or outbuilding by a member/member of the household, with the provision that supplies are limited to what can be accommodated within the shop and no processing subdivision or preparing food without

the necessary trading license may take place and no store inventory can be stored outside the home shopping;

"Place of entertainment"-

Means any building or premises where people gather for entertainment or social recreational or sporting purposes and where an admission fee is usually charged and includes a theatre, cinema, dance hall, night club, entertainment park, sports centre, billiards hall, skating rink, a public or private sports club facility and restaurant entertainment offered, but does not include any building or premises for a casino or adult entertainment;

"Food preparation"-

Means preparing meals and/or meals for consumption by other persons on or off the premises and/or building.

4.GUIDELINES

Before a Tuckshop may start, with any commercial activities, it must register such Tuckshop with the Council. The application form is attached as **Schedule A**.

All existing Tuckshops must be rezoned to a business premise from the date of approval of this policy.

The proof of registration and/or suitability must be placed at obvious positions inside the Tuckshop.

The Tuckshop is limited to a maximum size of 25m², whether it is a detached structure or part of the dwelling unit.

If the prescribed size of 25m² regarding paragraph 4.2 is exceeded, it should be specifically brought to the responsible official's attention, and they must make a recommendation. The maximum size of the Tuckshop may not exceed 30m².

If the Tuckshop is erected outside the dwelling, the building materials can consist out of any solid material such as wood, zinc, stone, etc. No harmful building materials, which pose a danger to the community and the immediate environment, may be used for this purpose. Second-hand building materials must be inspected in advance by the Building Control Section of the Council.

The site must primarily be used for business purposes and not vice versa.

If the owner is registered as an indigent person under the Council's Indigent policy, contravenes the Tuckshop Policy, the Council can immediately suspend benefits, in terms of the Council's Indigent policy on the day of registration of the Tuckshop.

Tuck Shop owners should pay an annual fee determined by Council to operate

It is compulsory for every Tuck Shop to pay their Monthly Municipal services

No advertising sign, with the exception of an unlit sign or notice that do not exceed into a street or covers an area of 15,000cm² (e.g., 150cm x 100cm) and state only the name and occupation of the occupier, may be displayed.

No Spaza Shop will be allowed on public open spaces, sidewalks, vacant lots or street reserves.

There will be strict compliance with all building and other regulations. No relaxation of building lines or maximum coverage will be considered.

Plans of the building concerned or part thereof and applicable zoning certificate will be submitted with the application. The site plan accompanying the application must be drafted by a registered Architect/draftsman.

Upon approval of the application, may such part of the house be used just as a Spaza Shop and not for the purpose of a bedroom, offices, workshops, industrial, storage, entertainment or noxious industries.

The requirement of all health and other regulations that normally apply to the industry must be met. No food handling may take place if the Tuckshop does not have a certificate of acceptability issued by the Environmental Health Practitioner.

The minimum health requirements which must be met, is attached hereto as Schedule B.

Preparation of food in Spaza Shops will be handled individually and proposed restrictions, accordingly, including the types and quantities of food products.

Before preparing food at a Spaza Shop can take place, there must be applied in advance for a trading license in terms of the Business Act, 1991 (Act 71 of 1991).

No habitation in the Spaza Shop may occur.

A dry powder extinguisher of 9kg must be provided for every Spaza Shop.

With the exception of paraffin, no flammable substances may be sold.

Any electrical wiring for the operation of the Tuckshop must be made from the existing house, and all connections must adhere to the Electrical Installation Regulations' requirements.

No goods or products for advertising purposes shall be exhibited outside the building, which is used as a Spaza Shop.

The necessary measures to prevent rodents and insects should be taken. There may under no circumstances be stored large quantities of stock on the site itself.

No noise disturbance may be caused to surrounding neighbours.

No business that requires a special license, for example a liquor license, will be allowed.

No industrial type business will be allowed in a residential area. In other words, the use of industrial machines and noisy machines will not be allowed (noise pollution).

If an application is approved, it does not mean that the owner of the property acquired business rights.

Where the owner is in a rental agreement for the rental of a municipal home with the Council, the lease shall be amended accordingly.

The Council has the power to, before or during registration process, adopts conditions and/or restrictions that may be necessary or desirable to the Council's opinion

5.PROCEDURE

Application forms for the operation of a Tuckshop from residential premises are available from the Section Local Economic Development and the completed application form must be submitted to the LED office.

The zoning certificate must be obtained and must be submitted with the completed application.

Application tariffs, as contained in the Council's tariff list, will be charged.

Upon receipt of any application and prescribed application fee, the section Local Economic Development will refer the application to any other relevant department and the relevant Ward Councillor for input and recommendations concerned for their input and comments.

Upon receipt of any objections, inputs and comments, the section LED will provide the relevant letters to the applicant for his/her input and comments on the letters. Any link between the applicant and objectors that could lead to the clarification of misunderstandings, and therefore the withdrawal of objections is encouraged. If the applicant does not respond within 30 days to the relevant comments/inputs, the application shall be deemed to have lapsed.

No objections constitute merely an attempt to eliminate trade competition; will be taken into consideration by the Council.

The relevant proposal, with all inputs, objections and comments, will be submitted to the Council for approval.

6.ENFORCEMENT/PENALTIES ...

7.ROLES

The section Town Planning & Building Control is responsible for the processing of applications for Spaza shops.

The section Local Economic Development is responsible for the application process for Spaza shops.

The Environmental Health Practitioner of the District Municipality is responsible for the necessary health inspections; to avoid any health risk arises.

The Environmental Health Practitioner of the District Municipality issues the necessary registration and/or suitability of the Spaza shop.

The Electrical Division is responsible for ensuring that the applicant meets the guidelines of the Electrical Installation Regulations.

The Traffic/Building Division is responsible for law enforcement in terms of the policy.

The section LED monitors and coordinates compliance with the requirements and conditions of the policy by registered Spaza Shops:

By a quarterly meeting of the multi-disciplinary committee, consisting of the LED section, Town Planning & Building Control, Environmental Health Division and Administration.

The purpose of the above meeting will be: The composition of a program for monitoring all Tuckshops within the jurisdiction of the Council on an annual basis.

The above monitoring will be jointly done by the LED, Traffic, Town Planning, Building Control, Electricity and Environmental Health and will take place in a manner determined by the above committee.

8.RELATED LEGISLATION AND POLICY

The policy for the operation of a Spaza Shop must be read in conjunction with the instructions contained in the Northern Cape Planning and Development Act, 1998 (Act 7 of 1998) as well as the Council's approved Scheme Regulations.

9.POLICY REVIEW

This policy will be reviewed on an annual basis.