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Ubuntu Municipality



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ubuntu • ithemba • izithethe
humanity • hope • heritage*

DRAFT TUCK SHOP POLICY

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1. INTRODUCTION

1.1 PURPOSE OF THIS POLICY

To formulate a policy that allows the Ubuntu Local Municipality to manage its concession of permitting the establishment of the tuck shop on residential premises located within the Ubuntu Area in such a way that the residents living in the respective areas within Ubuntu can earn an income from their property while limiting any negative impacts of such tuck shop on the rights of the other residents in the area to a safe, clean and quite living environment, promoting an entrepreneurial spirit within these neighbourhoods, and stopping the abuse of this concession by outside business owners who are profiting from it to the detriment of the property owner and residents concerned.

1.2 POLICY PHILOSOPHY AND PRINCIPLES

Tuck shops fulfil an important role in the present economic system of the country and provide an income for many families within the municipal jurisdiction. In order to offer the inhabitants of the municipal area of the Ubuntu Local Municipality the opportunity to operate home industries shops from residential premises, within the prescribed rules of the Northern Cape Act on Development and Zone Planning 1998 (Act 7 of 1998), together with the Municipality's own zoning policy, without their rights being infringed. It is necessary that clear guidelines and procedures dealing with these matters are put in place.

1.3 DEFINING A TUCK SHOP

A tuck shop means "the conducting of a retail trade from a dwelling house or outbuilding for the convenience of only the immediate residential community by one or more occupants of the dwelling house concerned, who shall reside in the dwelling house; provided that the predominant use of the dwelling house concerned shall remain for the living accommodation of a single family"

1.4 ASPECTS TO BE ADDRESSED BY THIS POLICY

Firstly, this policy document will focus on the establishment of a policy to regulate these establishments. At present the approval of tuck shops does result in a substantial increase in property rates and taxes as well as the loss of government subsidies where the tuck shop is conducted from a state subsidized dwelling unit. As the turnover of the tuck shop is relatively small this has the effect that it is virtually impossible to operate the house shop as an economically feasible establishment. These facts are also not known to the owner of the tuck shop and usually come as a huge surprise to the owner when he receives his rates and taxes account. These increases are as a result of the municipality's rates system which adjusts the rates to business should a tuck shop be approved.

Secondly this policy should provide for a mechanism to address this issue.

Thirdly this policy must create a mechanism that will encourage existing illegal operators whose establishments are located in desirable locations, to legalise their activities and to operate within the proposed framework.

Fourthly the policy needs to address the enforcement of the regulations and the handling of illegal and/or undesirable establishments.

1.5 CONTEXTUAL FRAMEWORK

The PSDF guidelines are based on the three pillars of sustainability being- Ecological Integrity (protection of the sensitive natural and built environment to enable sustainable human settlements), Social Justice (enabling of constructive spatial changes to integrate and ensure a physically, spiritually and mentally health society) and Economics Efficiency(optimization of space, infrastructure, and other resources to ensure lowest possible cost to the environment)- commonly known as the triple bottom line approach.

The Home for all vision of the Northern Cape also highlights the need to work towards a movement away from welfare dependence to self-reliance, growing the economy, increasing employment and economic participation, reducing socio-economic inequity and providing for a sustainable social safety net.

Emphasis is placed in the PSDF on

- Building Social Capital- Developing programs aimed at decreasing crime (developing an ethos of civic responsibility), creating strong family units, alleviating poverty and discouraging xenophobia, etc.
- Building Human Capital – Creating opportunities for further education and training, development of human values (dignity);
- Developing economic and social infrastructure- To build communities, create economic opportunities, enabling sustainable and integrated human environments
- Development of the micro-economy – Improving the livelihood and quality of life of citizens, creating employment, creating a healthy competitive environment, etc. through activities such as local tourism initiatives;
- Development of support mechanisms for SMME's- Assistance in starting and running small businesses, support for women and black owned small businesses, building an entrepreneurial culture
- Development of a system of holistic governance- Integrated and complimentary approach to the development of strategies, policies and program

The PSDF highlights the need to transform the socio-economic pattern of our townships which reflects the racial separation of the past, dismantling apartheid era layouts, reorganizing spatial patterns to enable social and economic opportunities and community stab

The basic principles contained in the PSDF suggest that it is the municipality's responsibility to enable local economic development and socio-economic and spatial transformation in the previously disadvantaged townships. However, it is also the municipality's responsibility to ensure that the integrity and dignity of the community is not harmed, that the family unit is strengthened, that the physical and spiritual well-being of the community is not prejudiced and that the immediate natural and built environment is not adversely affected by decisions that it takes, and/or policies and strategies it implements.

1.6 PROPOSED POLICY

1. Tuck Shop Categories

It is proposed that the policy make allowance for three categories of tuck shops, each with its own criteria, namely:

- a) A tuck shops
- b) A traditional tuck shop, and
- c) A large tuck shop (conversion into traditional corner shop)

- **Tuck Shop**

A tuck shop is less than 6m in extent is operated from a room in or on the front stoep of the main house of the property. It is normally confined to the selling of confectionary such as chocolates, sweets, cigarettes bread, chips and other small goods, home-goods and preserves. It often limited to a single operator typically an unemployed South African citizen in the house trying to earn a little extra money to make ends meet.

This type of tuck shop is not seen as a formal business and is typically run on an informal on the same and impact as that of an occupational practice.

- **Traditional Tuck Shop**

The traditional tuck-shop typically ranges in size from 6m to 20m (single garage) in extent or half the size of the house, whichever is lesser. These types of shops offer a wide variety of goods and services and have a larger footprint/impact on the surrounding community. The shops are typically operated from outside buildings or temporary structures/shipping containers and are generally separated from the main house.

- **Large Tuck Shop**

This type of shop is typically larger than the 20m (single garage) but less than the 40m (double garage/ size of the subsidy house) in extent or half the size of the main house, whichever is lesser and has quite a significant impact on the residential environment. It is proposed that the locality criteria be strictly applied to these types of shops and that these shops be allowed to grow into formal business premises.

- **Other Businesses**

A retail can concern/service with a floor area larger than 40m in extent and/or that is larger than the main house, and that does not comply with the definition of the tuck shop, For example, an enterprise that is not operated by the property owner or the legal Tenant (by an outside person) is regarded as a formal business and not a tuck shop This type of enterprise may only be considered if it complies with locality criteria as set In the policy for Large House Shops. Business rates and taxes will be charged on the Property on which the house shop located.

2. Locality

- **Tuck shop**

It is suggested that this type of tuck shop will not comply with the locality criteria as set out in the policy and thus, all property owners or registered tenants can apply to the municipality for such shop.

- **Traditional and large Tuck Shop**

The following locality criteria shall apply to all traditional and large tuck shops larger than 6m in extent;

Traditional and large tuck shops should ideally be located along existing and proposed Activity spines and activity nodes. These areas are usually highly accessible to the general public and are areas where business facilities should be established.

A traditional and a large tuck shop located within a residential area (away from the Main routes and business areas, or in close proximity to an established business site)

Should preferably be restricted to a corner stand where it might eventually develop into the traditional corner shops. The locality of the corner site must further be of such a nature that it serves a fairly wide surrounding area and the shop has a reasonable chance of developing into a feasible corner (formal business).

The municipality may allow two or more traditional and large tuck shops on the same Street intersection provided that said shops do not provide similar convenience goods And/or services to the surrounding neighborhood.

A tuck shop located within a residential area may only be considered away from a street

corner and/or midblock provided that the extent, that no valid objections are received from an interested or affected party /surrounding neighbor and that it complies with other aspects addressed by the policy. Such tuck shop may not be allowed to expand and will not be granted permanent zoning rights (zoning rights)

The traditional tuck shop and larger tuck shop that complies with all locality criteria as Set out in the policy shall be allowed to expand over time to become traditional corner Shops/formal businesses.

The municipality may allow two or more traditional and large tuck shops on the same Street provided that said shops do not provide similar convenience goods and/or Services to the surrounding neighborhood.

A traditional tuck shop located within a residential area may only be considered away From a street corner and/or midblock provided that the extent, that no valid objections are received from an interested and affected party/ surrounding neighbor and that it that it complies with the other aspects addressed by the policy. Such tuck shop may not be allowed to expand, and will not be granted permanent zoning rights (Rezoning)

The traditional and larger tuck shops that complies with all locality criteria set out in the policy shall be allowed to expand over time to become traditional corner shops/formal businesses.

3. Number of tuck shops within an area

The number of traditional and large tuck shops within a predominantly residential area Should be restricted in order to protect and enhance the character of the residential Environment, protect the vulnerable members of the community and to ensure that Any adverse impacts and unlawful activities ca be controlled.

In this regard it is suggested that a resident should walk to access convenience shop and Services is 500m. In order for a tuck shop to be sustainable over time, it is suggested that Traditional and large house located in a residential area, which sell similar convenience Services should be located no closer than 400m in radius from each other (800m apart).

4. Types of structures that can be used for tuck shops

Tuck shops must be operated from structures that comply with requirements for Human occupancy in terms of the National Building Regulations and Building Standards Act. Such buildings must therefore at least have a foundation, be adequately ventilated Allow for sufficient natural light to enter the structure, have access to a toilet and hand Basin for sanitation purposes (connected to the municipal network), have electrical and Plumber certificates and must provide for adequate storm water run-off.

A tuck shop cannot be operated from a temporary shipping container or an informal Timber structure.

5. Operating Hours

Tuck shops have limited operating time so as to respect the residential character of the area it is located. Trading hours in the residential area should thus be restricted to residents' rights. It is recommended that trading hours be limited from 06h00 to 22h00 as advised by the SAPS.

6. Compatibility with other surrounding land uses

The location of the tuck shop must also take into account its compatibility with other Land uses generally found in a residential area. Thus, it is advised that no tuck shop is Authorized where its proximity to community uses such as schools, creches, places of worship, old age homes, hospitals, clinics, libraries or public open spaces is likely to a negative impact on access tuck shops. The resultant increase in foot traffic over these spaces cause faster erosion of these facilities.

Tuck shops should ideally not be located in close proximity of a tavern given the the potential adverse social implication thereof.

In order to ensure that there is no loitering around the tuck shop, it is recommended that no place of entertainment will be allowed to operate from a tuck shop.

7. Health regulations

The following health regulations must be complied with if food is to be sold or prepared From the premises, namely:

- 1) That the owner obtains a business license for the preparation of meals as required in Terms of the Business Act,1991 (Act 71 of 1991) from the Ubuntu Local Municipality.
- 2) That the premises comply with Regulations Governing General Hygiene Requirements for Food premises, the Transport of Food and Related Matter R638 22 June 2018 promulgated under the Foodstuff, cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);
- 3) That a certificate of acceptability be obtained as required by Pixley Ka Seme District Municipality MHS By-law, 15 April 2019 and regulation R638 of 22 June 2018 promulgated under the Foodstuffs, Cosmetics and Disinfectant Act, 1972 (Act 54 of 1972); and
- 4) That the premises complies with government notice R264 of 30 March 2012 relating To the smoking of tobacco products in public places as promulgated in terms of Tobacco Product control Act,1993 (Act 83 of 1993) as amended.
- 5) National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008). Regulates the management of waste.

- 6) The National Building Regulations & Building Standards Act, 1977 (Act No.103 of 1977).
Regulates the requirements that a plan or design and construction should comply with.

8. Business License

A business license application must be submitted to the municipal manager of the Ubuntu Local Municipality

9. Noise Nuisance

The tuck shop may not constitute a noise (people shouting, loud music being played) Create nuisance a nuisance for any neighboring property owner (as a result of vehicles Parking in the street, damaging neighbor's property, etc. All music played in the tuck Shop must be limited to listening music set at a low volume and speakers may not be Placed outside the tuck shop. Juke boxes will be allowed within a tuck shop.

10. Property rates and taxes

The property owner should be exempted from paying business rates and taxes based on on the following:

- a) The extent of the tuck shop in relation to the existing dwelling does not exceed the Restrictions in the policy for a traditional tuck shop up to (20m); and/or
- b) On condition that the owner meets the requirements as outlined in the indigent policy of the Ubuntu Local Municipality.

The tuck shop should thus only be charged business tariffs if it is larger than 20m in extent

11. South African Revenue Services

All owner and/or operators of tuck shops must register for tax with SARS.

12. Rectification of illegal shops

Following the approval of this policy, an illegal owner and/or operator of unauthorised tuck shops (including those who have previously been served a notice) shall be served a notice requiring them to immediately cease the tuck shop activity and to rectify any other contraventions within 30 days of date of notice being served.

If the tuck shop owner and/or operator do not adhere to the municipality's notice, a Final notice may be served by the municipality on this owner and/or operator allowing him/her a final 14 days in which to cease the unauthorised activities. Should this notice not be adhered to, the municipality will issue legal action, which can either result in a

criminal charge being laid or civil proceedings being instituted to have the illegal use ceased.

Once the activity is ceased, the tuck shop owner and/or operator may submit the Required land use application for the tuck shop, but should be advised that the Submission of such application does not give them the authority to continue operating and does not mean that the application will be approved by the Ubuntu Local Municipality.

If a tuck shop application is approved, the property owner will have three months in which to comply with the conditions to comply with the conditions attached to the application approval.

13. Application details to be submitted

- Tuck shops in Ubuntu Local Municipality

A person wanting to operate any existing or new tuck shop in the Ubuntu area, as the case may be, submit a basic application (application **fees, application forms, cover letter, copy of title deed, neighbors' consent letters and site plan**) to register the shop with the Town Planning Department.

The completed application forms must be submitted to the Planning Department in Pixley Ka Seme District Municipality.

- Traditional and large tuck shops

The following documents and information must be submitted before an application to rectify an illegal/a new traditional or large tuck shop can be considered:

- Application fees
- Completed application forms
- Owner consent (if owner is not the applicant)
- Local plan
- Site Development Plan
- Surrounding land use (100meter radius)
- Certified copy of title deed
- Internal photos of existing tuck shop clearly showing each room used by the shop, furnishings, décor, fittings, sound proofing, floor coverings, ablution facilities, interna storage areas, etc. (if applicable)
- External photos clearly indicating the external finishes of the structure which is used, its relationship to the existing dwelling unit on the erf, externa storage area, parking area, signage (if applicable)
- Photos must also be provided indicating the locality of the tuck shop in relation to the surrounding properties

- The owner of the existing or proposed tuck shop must provide a full motivation stating the type of shop being applied for and as to why he regards the establishment to be compatible with the surrounding land uses
- The owner must indicate how nuisance factors such as noise disturbance and the adjoining neighbors' rights of privacy is respected.
- The owner must indicate how health and safety requirements are addressed
- The owner must indicate how the industrial effluent generated by the business, if any, will be disposed of (grease traps etc.)

14. Validity Period of Approval

A tuck shop is a temporary land use and only approved for a period of five (5) years. For the approval not to lapse, the owner must apply before four (4) years and eleven (11) months have lapsed, for the extension of the approval for a further five (5) years. The owner of the shop will then need to reapply to operate the tuck shop, which application will be considered on its merits.

15. Withdrawal and Lapsing of an Approval

Approval is granted to the owner of the property to run a tuck shop from his/her dwelling unit and will be withdrawn under the following circumstances :

- When the property is alienated.
- In the event of the death of the owner.
- Valid objections have been received and an interdict against the owner is obtained.
- The owner of the property is arrested and an interdict against the owner is obtained.
- The owner of the property is arrested in connection with drug abuse, selling of drugs, the sale of liquor or the operation of a shebeen from the tuck shop, prostitution, gun incidents, knife stab incidents or any other crime incidents
- Where the owner ends the approved activity.

16. Non-compliance with Approval Conditions

- a) If approval conditions are not complied with, the Town Planning Section will issue a written notice to the owner to rectify any irregularities within seven (7) days.
- b) If objection is received with regard to the legally approved tuck shop, the Town Planning Section will evaluate the legality of the objection and if necessary, inform the owner about these objections and will request the owner to comply with approval conditions.
- c) Failure to comply with points (a) and (b) above, further legal actions will be taken by Council. A court interdict will be obtained against the owner of the property forcing him/her to suspend trade from the property.

17. Delegation

Approval of applications for tuck shops shall be delegated to the Directorate: Corporate Services in consultation with Directorate: Technical Services on condition that no objections have been received, that it complies with this policy and that the applicant is a South African Citizen, and also not an employee of the municipality