

DRAFT



BUSINESS LICENCE POLICY

ADOPTION OF POLICY

Policy Code:

Adopted by Committee/Council:

Adopted on:

File name:

Entered onto Policy Register by:

.....
Municipal Manager

.....
Executive Mayor

REVIEW CLAUSE

- This policy will be reviewed as required but at least on an annual basis.
- Any or all inputs pertaining to amendments can be forwarded to Manager: Business Regulations & Governance in writing from the 1st of July to the 30th of September of every year.

1. DEFINITIONS

"accommodation establishment" means a place in which accommodation is provided for gain, with or without meals

"business premises" means the premises from which any business referred to in paragraph 4.1 is carried out or is to be carried out

"film" means any sequence of visual images recorded in such a manner that by using such recording such images will be capable of being seen as a moving picture, and includes any picture intended for exhibition through any medium or device

"foodstuff" means any article or substance (except a medicine as defined in the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965)) ordinarily eaten or drunk by a person or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance

"city" means the City of Mbombela

"perishable food" means any foodstuff which on account of its composition, ingredients, moisture content and/or pH value and its lack of preservatives and suitable packaging is susceptible to an uninhibited increase in microbes thereon or therein if the foodstuff is kept within the temperature spectrum of 4-65 degrees Celcius, and includes the perishable foodstuffs listed in GN R 1183 of 1 June 1990, excluding fruit and vegetables

"take away foodstuffs" means any perishable food which may be consumed without having to undergo any further process of preparation to make it consumable

2. ABBREVIATIONS

EDM: Ehlanzeni District Municipality

EHP: Environmental Health Practitioner

3. APPLICABLE LEGISLATION

Constitution of the Republic of South Africa, 1996

Businesses Act, 1991 (Act 71 of 1991)

Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000);

Films and Publications Act, 1996 (Act 65 of 1996)

Mpumalanga Businesses Act, 1996 (Act 2 of 1996)

Mpumalanga Businesses Licensing Regulations, 1997

Mbombela Municipality: Street Trading By-Law, 2014
Ehlanzeni District Municipality: Municipal Health By-law, 2015
Fire Department By-Laws and Regulations
National Building Regulations Act 103 Of 1977
National Road Traffic Act, 1996 (Act 93 of 1996)
National Environmental Management Act 107 of 1998 (NEMA).

4. POLICY OBJECTIVES

To provide a uniform approach to the issuing of business licences, having regard to the principles set out in the Businesses Act and in the Constitution, taking into consideration the need of the residents to actively participate in economic activities and taking into consideration the need to maintain a clean, healthy and safe environment,

In the development and management of its obligations and the implementation of this policy, the City also recognises the infrastructural, social and economic disparities and inequalities resulting from previous local government dispensations and will strive to overcome such disparities and inequalities by supporting the goals for local government as determined in section 152 of the Constitution.

4.1 Businesses covered by the policy and procedure

The following businesses must apply to the City of Mbombela for a business licence:¹

Item 1: Sale or supply of meals or perishable foodstuffs

The carrying on of business by the sale or supply to consumers of –

- (a) any foodstuff in the form of meals for consumption on or off the business premises; or
- (b) any perishable foodstuff.

Item 2: Provision of certain types of health facilities or entertainment

The carrying on of business by:

- (a) providing Turkish baths, saunas or other health baths;

¹ In terms of Schedule 1 of the Mpumalanga Businesses Act, 1996 (Act 2 of 1996)

- (b) providing massage or infra-red treatment;
- (c) making the services of an escort, whether male or female, available to any other person;
- (d) keeping three or more mechanical, electronic or electrical contrivances, instruments, apparatus or devices which are designed or used for the purpose of the playing of any game or for the purpose of recreation or amusement, and the operation which involves the payment of any valuable consideration, either by the insertion of a coin, token coin or disc therein or in an appliance attached thereto or in any other manner.
- (e) keeping three or more snooker or billiard tables, which includes 'pool' tables;
- (f) keeping or conducting a night club or discotheque;
- (g) keeping or conducting a cinema or theatre;
- (h) conducting adult premises referred to in section 24 of the Films and Publications Act, 1996 (Act 65 of 1996).²

Item 3: Hawking in meals or perishable foodstuffs

The carrying on of business, whether as principal, employee or agent, by selling any foodstuff in the form of meals or any perishable foodstuff.

- (a) which is conveyed from place to place, whether by vehicle or otherwise;
- (b) on a public road or at any place accessible to the public; or
- (c) in, on or from a movable structure or stationary vehicle; unless the business is conveyed by a licence for a business referred to in item 1 of this Schedule.

Item 4: Accommodation establishments

All accommodation establishments, as defined, must apply for a business licence in terms of this policy

Prohibition: No person may operate a business mentioned in this paragraph within the area of the City of Mbombela without a valid business licence issued by the City of Mbombela. Any person who opened a new business as set out in this paragraph, who moved premises or a business where a change of ownership occurred must apply for a business licence in the manner prescribed below.

² **Section 24. Exemption in respect of distribution of certain publications and films: Adult premises.**—(1) Any person may exhibit in public or distribute any film, game or publication classified as "X18" in terms of this Act if such person is the holder of a licence to conduct the business of adult premises, issued by a licensing authority in terms of relevant national, provincial or local government laws: Provided that such exhibition or distribution takes place on or from within premises forming part of a building.

4.2 Businesses excluded from the policy

All business mentioned under Schedule 2 of the Act namely:

- (a) Business carried on by the State or the municipality;
- (b) Business carried on by a charitable, religious, educational, cultural, agricultural association, organisation of a public nature if all profits derived from the business are devoted entirely for the purpose of that or any other such association, organisation or institution.
- (c) In the case of the carrying on of business by the sale or supply to consumers of any foodstuff in the form of meals for consumption on or off the business premises, or any perishable foodstuff, such a business which is carried on:
 - (i) by a social sports or recreation club which is a non-proprietary club and restricts the business to the sale or supply to its members and their guests of foodstuffs for consumption on or in the business premises; or
 - (ii) by or on behalf of an employer for an employee as such of the employer.

Hawkers who sell fruit and vegetables are exempted from having to apply for a business licence.

4.3 Application procedure

The following steps must be followed in order to apply for a business licence (a schematic exposition is provided in Annexure D):

1. Complete the "Application for the issuing of a business licence" form (attached as Annexure A and available from the Business Regulation & Governance at the Mbombela Civic Centre and at all the Service Centres within the City).
2. Pay a non-refundable application fee at the cashiers. The following account number must be used and reflected on the receipt: 4508202330050 – short code 4251.
3. Attach the following documents to the completed application form:
 - (a) The receipt
 - (b) A copy of the applicant's ID and the business registration documents (if a company, closed corporation or any other form of formal enterprise)
 - (c) Applicants who apply for the sale of take away foodstuffs from caravans or trolleys must identify 3 suitable places within available stands
 - (d) Certificate of acceptability (see par 4.4 for the procedure to obtain a certificate of acceptability)

4. Submit the application form and the supporting documents to the Business Regulation & Governance Unit.

4.3.1 Conditions applicable to applications for business licences and customer care information

- (a) The Business Regulation & Governance Unit will within 5 working days of receiving a complete application refer the application to the undermentioned departments for their comments and or inspections:
 - (i) Municipal Health at Ehlanzeni District Municipality – for verification of the Certificate of Acceptability
 - (ii) Fire Department – Fire prevention and safety
 - (iii) Urban Planning – for special consent, rezoning etc requirements
 - (iv) Traffic Department – Parking and traffic related matters
 - (v) Building Inspectorate – compliance with relevant legislation
- (b) The licence fee shall be paid within a period of three (3) months from the date of approval of the business licence.
- (c) The non-payment of the licence fee within a period of three (3) months will result in the cancellation of the licence application.
- (d) A cancelled licence application will require the applicant to lodge a new application and the prescribed processes in terms of a new application will be followed.
- (e) A licence application for change of ownership and/or change of business will be treated the same way as if it is a new application for a business licence.
- (f) A licence will only be issued to the applicant once the stipulated licence fee is paid.
- (g) Environmental Health Practitioners (EHP's) may visit premises unannounced.

4.4 Certificate of acceptability

- (a) Obtain and complete an application form from Ehlanzeni District Municipality in Van Niekerk Street, Mbombela.
- (b) Pay the prescribed application fee at Ehlanzeni District Municipality.
- (c) Make an appointment with one of the EHP's (phone number 013 759 8500) and submit the completed form and the receipt.

4.5 Appeal procedure

Decisions on the approval or disapproval of applications are normally made in terms of delegated authority by the Licensing Officer of the City. A person whose rights are affected by a decision taken by such a staff member, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

The Municipal Manager will promptly submit the appeal to the appropriate appeal authority, which in cases like these will be the Municipal Manager him/herself. The Municipal Manager will consider the appeal, and confirm, vary or revoke the decision. The appeal will commence within 6 weeks and a decision will be arrived at within a reasonable period.

4.6 Validity of business licence

Business licences shall remain valid for an indefinite period, provided that:

- (a) the business licence fee as determined by the City from time to time in its Tariff Policy is renewed annually; and
- (b) any condition/s imposed by the City is complied with.

4.7 Invalid business licence

A business licence will become invalid:

- (a) when ownership changes; or
- (b) the business is moved to another premises within the municipal area;
- (c) the nature of the business changes; or
- (d) when the applicant fails to pay the licence fee within 3 months of having been notified that the application was approved.
- (e) when the applicant fails to renew and pay the licence renewal fee within 30 days after the expiry date of the license.

5. Enforcement

A business should always display the business license, and should the business fail to display the business license in the shop, a fine amount determined by the Council and approved by Magistrate will be charged.

A Peace/Law Enforcement Officer will anytime visit the business premises to check if the company have complied with the policy, should the business fail to comply with the policy a notice of compliant will be issued, and if after 30 days no remedial action has been taken to comply with the policy a fine will be issued.

6. Forms and *pro forma* licences

The following forms must be used:

- (a) Application form (Annexure A)
- (b) Comments from relevant departments (Annexure B)
- (c) *Pro forma* business licence (Annexure C)

ANNEXURE A

APPLICATION FOR THE ISSUING OF A LICENCE TO CONDUCT A BUSINESS



PO Box 45, Nelspruit, 1200, South Africa: 1 Nel Street, Mbombela, 1200: Tel 013 759 9111: Fax 013 759 2070

Made in terms of Regulation 5 of the Licensing of Businesses Regulations, 1996 made under section 6 of the Mpumalanga Businesses Act, 1996 (Act 2 of 1996).

To: The Licensing Authority of the City of Mbombela

Nature of the business in respect of which this licence application is submitted:

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Particulars of applicant

Full names					
Identity number					
Work permit number (if applicable)					
Postal address					
Residential address					
Telephone number/s					
E- mail					
Is the applicant the owner of the business?					
Nature of ownership (mark with an "X"):					
Individual	Partnership	Private Company	Public Company	Closed Corporation	Other

Notes:

1. In the case of a company or closed corporation, a schedule must be attached reflecting the registered names and address of the entity, its full name and address, the full names and residential, postal and business address of every director or managing member and a copy of the Certificate of Incorporation.
2. In the case of a partnership a schedule must be attached reflecting the full names, identity number and residential, postal and business address of every partner

Name under which the business will be trading	
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In the case of a business where foodstuffs in the form of meals or persihable foodstuffs will be sold or supplied, state the particulars of the kinds of foodstuffs that will be sold or supplied:

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Has the applicant's estate ever been sequestrated?	Yes	No
If YES, has he or shee been rehabilitated?	Yes	No
If NO, is the applicant's trustee's consent to carry on business attached	Yes	No

Particulars of the person who will be in actual and effective control of the business.³

Full names	
Identity number	
Residential address	
Postal address	
Postal code	

Location of business premises (complete applicable parts)

Stad/erf number/GIS point	
Township/suburb	
Street number	

³ Only in the case of a business referred to in Item 2 of Paragraph 4.1 (above)

Name of building	
Office/shop number	
Floor number	
Plot/portion number	
Name of farm/agricultural holding	
Registration division	
Number of the deed of transfer of the property	
Full names of the registered owner of the property	
Magisterial district	

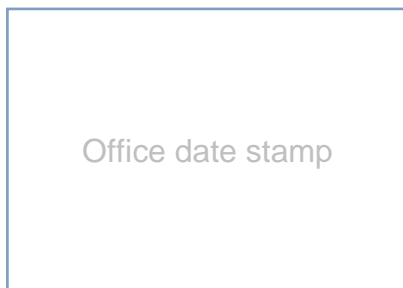
I hereby declare that the information supplied above is true and correct:

.....
Signature of applicant

.....
Date

.....
Capacity of applicant

Office use only:



Reference number:

Receipt number:

.....
Licencing official

ANNEXURE B

**APPLICATION FOR THE ISSUING OF A LICENCE TO CONDUCT A BUSINESS:
COMMENTS FROM THE RELEVANT DEPARTMENTS**



PO Box 45, Nelspruit, 1200, South Africa: 1 Nel Street, Mbombela, 1200: Tel 013 759 9111: Fax 013 759 2070

Regulation 5 of the Licensing of Businesses Regulations, 1996 made under section 6 of the Mpumalanga Businesses Act, 1996 (Act 2 of 1996).

FROM : LICENSING OFFICER - TRAFFIC DEPARTMENT
TO : SENIOR MANAGER: - FIRE DEPARTMENT
- URBAN PLANNING
- BUILDING INSPECTORATE
- TRADITIONAL COUNCIL

REF NR : _____

DATE : _____

Your comments concerning this application within 10 days will be appreciated.

TYPE OF LICENSE	
TRADE NAME	
BUSINESS ADDRESS	
STAND NR	
OWNER OF THE BUSINESS/CONTACT/ PERSON/RESPONSIBLE PERSON (IN CASE OF A TRUST OR COMPANY)	
TELEPHONE NUMBER	
E-MAIL	

REQUIREMENTS
RESTRICTIONS

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Senior Manager:

Date

Traditional Concil:

Date

LICENCE TO CONDUCT A BUSINESS



PO Box 45, Nelspruit, 1200, South Africa: 1 Nel Street, Mbombela, 1200: Tel 013 759 9111: Fax 013 759 2070

Issued in terms of Regulation 5 of the Licensing of Businesses Regulations, 1996 made under section 6 of the Mpumalanga Businesses Act, 1996 (Act 2 of 1996).

Serial Number : _____

Date of issue of Licence : _____

Name of Licence Holder : _____

Name of Business : _____

Business Postal Address : _____

Business Physical Address : _____

Nature of business in respect of which this licence is issued

Signature of designated officer

Printed initials and surname of designated officer

Date

Official stamp

FLOW CHART

ANNEXURE "D "

