

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW



A Model City and Centre of Excellence

TOWNSHIP ECONOMIES BY-LAW



GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

The Govan Mbeki Municipality hereby publish Draft Township Economies by-law in terms of section 156 and 162(1) and (2) of the Constitution (1996) read in conjunction with section 11 and 13 (a) and (b) of the Local Government: Municipal Systems (32 of 2000).

TABLE OF CONTENTS	
HEADING	PAGE
Preamble	3
Definitions	4 -10
Purpose and Objectives	9
Scope and application of the By-law	10
Freedom to engage in business activities	10
Legislative Framework	10 -11
Roles and responsibilities of stakeholders	11
Proactive steps by Municipality	11 - 12
Designated Business Areas and Sites	12
Cardinal Conditions, guidelines, terms and conditions	12 - 18
Hygiene and waste Removal	18
Restricted and Prohibited Areas	18 -19
Registration, Permitting and Licensing of Business Activity	19 -20
Application Specific Requirements	20 -21
Application Approvals	21 -22
Transferability of permit/License	22 -23
Application disapprovals	23
Appeal against Disapprovals	23
Withdrawal and Lapsing of an Approval	23
Non compliance with the conditions of approval	24
Offences and penalties	24 - 25
Law Enforcement Monitoring and Evaluation	25 - 26
Transitional Arrangements	27
Repeal	27
Short Title and Commencement	27

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

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 Govan Mbeki Municipality, as follows:

ACCRONYMS

SAPS	South African Police Services
DHA	Department of Home Affairs
SARS	South African Receiver of Revenue
COA	Certificate of Acceptability
SPLUM	Spatial Planning and Land Use Management
NBR	National Building Regulations.
CIPC	Companies and Intellectual Properties Commission
TRP	Town and Regional Planning
LED	Local Economic Development

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

1. DEFINITIONS

Spazashop	A micro or small daily convenience shop situated within a residential property. It sells basic foodstuffs and other products in response to local needs, within walking distance from community's homes. A Spazashop is not a general business or retail function on a residential piece of land and the residential component shall remain the main use of the Property. The area used for a Spazashop shall not exceed 40% of the area of the piece of land, not exceeding 60m ² (storage area included).
"Dwelling"	A coherent suite of rooms used, or designed for use, as residential accommodation for a single family
Floor Area	The total building including wall thickness but excluding basement used exclusively for the parking of motor vehicles, service installations, storage, garages, or carports
Home Activity	An activity, or in conjunction within a residential building, or a structure erected on the Site of an existing building which shall be limited to the owner of the property, who reside there, Council may if satisfied permit a different activity to be conducted by a person other than the owner.
Outbuilding	Building attached to or separate from a Dwelling
Owner	Person whose name is registered in the deed's registry against the property
Land use rights	The right to utilize or improve land in accordance with the zoning thereof or any approved departure, consent use or condition of approval and where applicable, in accordance with a site development plan.
Interested and affected party	any person or body who is affected with the provisions of this by-law. He/she has submitted any objection, comment, or representation in respect of any matter regulated in terms of this by-law

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

Municipality	Govan Mbeki Municipality including the Executive, acting by virtue of delegated powers in terms of legislation, or any officer to whom the Executive has delegated powers and duties regarding this by-law.
National Building Regulations and Building Standard Act	National Building Regulations and Building Standards Amendment Act No 49 of 1995 and any amendments thereto.
Noise disturbance	Any sound disturbing the convenience or peace of any person.
Non-perishable goods	Any food and non-food items that does not spoil or decay
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;
Perishable goods	Any food items that spoil or decay
Business Permit	A permit issued by Govan Mbeki Municipality in terms of the section 3 (2) of the Govan Mbeki business by-law (2016)
Business License	A license issued by Govan Mbeki Municipality in terms of the section 3 (2) of the Govan Mbeki business by-law (2016)
Public health nuisance	Have the same meaning as a health nuisance in terms of the Health Act, 2003 (Act 61 of 2003) “Health nuisance” means a situation, or state of affairs, that endangers life or health or adversely affects the well-being of a person or community
Property	A land, building, goods, money to which a person has a legal title.
Residential Areas	A type of land use is predominantly housing and zoned residential.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

Municipal Consent	A written consent by the Municipality for any activity or use of land or buildings for which an application is made
Site Development Plan	a plan required for application purposes showing the layout, extent, position, and elevations of buildings on the proposed development of a site
Zoning	The development rights and controls accorded to the property and its associated buildings
Asylum	A person who is seeking recognition as a refugee in the Republic of South Africa
Operator	Any person who is the owner of the Spazashop and/or leasing space in the owners' site for him/her to run a spaza shop.
Premises	A site/erf wherein the spaza shop business is operated
Refugee	Any person who has been granted asylum by relevant authorities in terms of the Act (Act No. 130 of 1998).
Sublease	The lease of a Spazashop to a person other than the owner
Business premises	Any premise or building or part thereof used or intended to be used as Spazashop
Storage	A place, premises, or buildings where goods are stored for distribution to other stores, businesses, or premises
Applicant	An owner or person duly authorized to make a land development Application as contemplated in the Govan Mbeki Spatial Planning and Land Use Management
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 by-law 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

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

	(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;
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);
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;
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;

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

Municipal Systems Act	Means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
National Road Traffic Act	Means the National Road Traffic Act, 1996 (Act No. 93 of 1996);
Obstruction	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 deed's 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

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

	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

2. PURPOSE AND OBJECTIVES OF THE BY-LAW

- 2.1. Govan Mbeki Municipality has several unlicensed and uncontrolled business activities. The very existence of these business activities indicates the presence of a demand for such services within residential areas, especially where communities are less mobile and existing business nodes are out of reach.
- 2.2. Therefore, this by-law seeks to regulate and control the operations of these business activities within the area of jurisdiction particularly to ensure compliance with safety and health requirements. It also seeks to provide a proper establishment of these business activities in terms of the radius between them and the total number allowed within a certain ward and
- 2.3. The by-law seeks to enforce business licenses and permits acquisition.
- 2.4. The Municipality's seeks to provide residents with an opportunity to run these small-scale economic activities, thus generating income without negatively impacting on the surroundings and aesthetic of the township. Clearly, this type of business activity need not to be confused with a retail facility allocated stands in a proper location serving a wide range of communities. It is emphasized that a stand where the type of township economic activities is operated shall remain within its primary use which is residential.
- 2.5. Facilitate inclusive spatial and economic development in townships;
- 2.6. Harmonise the township ecosystem and provide norms and standards for the establishment and management of township-based enterprises both formal and informal;
- 2.7. Raise awareness of applicable laws and regulations affecting township businesses; and
- 2.8. Support small businesses to grow and participate in mainstream economic activities.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

3. SCOPE AND APPLICATION OF BY-LAW

- 3.1. The By-law applies to all Township business activities within the jurisdiction of Govan Mbeki Municipality.
- 3.2. The By-law applies to all township business activities that are located either in the residential dwelling or part thereof, or on a property located in township/town, as long as the property has been zoned residential.
- 3.3. It applies to any township economic activity operator, or the site owner wherein the township business activity is operated.

4. FREEDOM TO ENGAGE IN BUSINESS ACTIVITIES

- 4.1 Any person that has a business licence, may engage in business activities within the area of jurisdiction of a municipality.
- 4.2. The municipality shall, 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.
- 4.3. In determining the quotas Govan Mbeki Municipality shall ensure that a proportion of the total staff employed in the business are South African citizens or permanent residents in line with all relevant legislation.
- 4.4. All business activities are subjected to the provisions of legislation in the Republic of South Africa; applicable permits or licencing requirements and any other applicable municipal by-laws and policies including this Township Economic by-law
- 4.5. 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.

5. LEGISLATIVE FRAMEWORK

- 5.1. Below are the pieces of legislations, policies and by-laws upon which the Draft Township Economies by-law is based.

LEGISLATION	YEAR
Constitution of the Republic of South Africa	1996
Spatial Planning and Land Use Management	2013
Municipal Systems Act	2000
Govan Mbeki Land Use Scheme	2020
National Building Regulations and Building Standards Act	1995
National Building Regulations & Building Standards Amendment Act	1998

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

National Environmental Management Act	1996
Mpumalanga Businesses Act	1996
Govan Mbeki Business By-law	2016

6. ROLES AND RESPONSIBILITIES OF STAKEHOLDERS

STAKEHOLDER	RESPONSIBILITY
South African Police Services (SAPS)	General law enforcement of all national and provincial legislation related to township business activities
Department of Home Affairs (DHA)	Verifications of foreign national rights related to permits to do economic activities
South African Receiver of Revenue (SARS)	To identify counterfeit goods
Traffic section	Enforcement related to vehicular obstructions and the general road traffic regulations
Municipal Compliance and Bylaw Enforcement section	Enforcement of this Draft Township Economies by-law
GSDM environmental Health	Necessary health inspections and issuing of Certificate of acceptability (COA)
Energy Services	Compliance to electrical installations regulations
Civil Engineering	Monitor compliance with the water and sanitation installations
Town and Regional Planning	Approval of SDP and building Plans for the Township businesses
Local Economic Development (LED)	Processing and submit for approvals of the licenses/permit's applications for township businesses

7. PROACTIVE STEPS TO BE UNDERTAKEN BY MUNICIPALITY

7.1. The municipality shall perform its functions and exercise its powers to

7.1.1. Build the operational and management capacity of entrepreneurs and small businesses in townships through workshops, training or mentoring;

7.1.1. Conduct business compliance and awareness

7.1.2. Facilitate skills development and business development support services for township businesses;

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

7.1.3. Facilitate access to infrastructure for township businesses; and

7.1.4. Facilitate access to markets for township businesses.

8. DESIGNATED BUSINESS AREAS AND SITES

8.1. The municipality shall, subject to the provisions of the Spatial Planning and Land Use Management and any other applicable legislation, policy or by-law:

8.1.1 Promote commercial, retail and industrial activities in townships; and

8.1.2 Demarcate business areas and sites to promote inclusive economic development or recognise a township as a mixed-use business area.

8.2. The municipality shall, by resolution

8.2.1. 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;

8.2.2. 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

8.2.3. Where possible, provide infrastructure for businesses that are leasing.

9. CARDINAL CONDITIONS, GUIDELINES, TERMS, AND CONDITIONS

9.1. All Spaza shop must abide by the following guidelines, terms, and conditions, to the extent that they are applicable and remain sacrosanct:

9.1.1. Before a Township business may open, all necessary Procedure outlined below must be followed to acquire necessary permission.

9.1.2. The owner of the property must obtain consent from the neighbors.

9.1.3. All objections lodged or representations made shall be dealt with by the Development Tribunal.

9.1.4. All existing township business activities without licenses and/or permits must apply for licenses and/or permits from the date of approval of this by-law.

9.1.5. The licenses/permit must be placed at obvious and visible positions to customers inside the business.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 9.1.6. The business activity (Spazashop) is limited to a maximum size of 60m² whether it is a detached structure or part of the dwelling unit. If the prescribed size is exceeded, it must be brought to the attention of the Municipality
- 9.1.7. Business (Spazashop) erected outside the dwelling; the building materials must be solid material. No harmful building materials, which pose a danger to the community and the immediate environment, may be used for this purpose.
- 9.1.8. In Informal Settlement Areas, no business activity may be operated from a structure that has not been approved by the Municipality in line with the National Building Regulations.
- 9.1.9. No advertising sign that exceeds into a street. Signs shall only be limited to display the Business name and the occupier.
- 9.1.10. Advertising signs must comply with the Outdoor Advertising By-law of the Municipality.
- 9.1.11. No business shall be allowed on public open spaces, sidewalks, vacant land, or street reserves.
- 9.1.12. Plans of the building concerned or part thereof shall be submitted with the application.
- 9.1.13. Upon approval of the application, may such part of the house be used just as a (business) Spazashop and nothing else.
- 9.1.14. The requirement of all health and other regulations that apply to the industry must be met.
- 9.1.15. No food handling may take place if the business does not have a Certificate of Acceptability (COA) issued in terms of Regulation 638 of 22 June 2018 Regulations Governing General Hygiene Requirements for Food Premises,
- 9.1.16. The Transport of food and related matters, published in terms of the Foodstuffs Cosmetics and Disinfections Act, 1972 (Act 54 of 1972).
- 9.1.17. No habitation /sleeping or bathing in the Spazashop is allowed.
- 9.1.18. A dry powder extinguisher must be provided for every business.
- 9.1.19. No flammable substances may be sold except for paraffin (subject to fire by-laws).

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 9.1.20. Any electrical wiring for the operation of the business must be made from the existing house and all connections must adhere to the Electrical Installation Regulations' requirements.
- 9.1.21. No goods or products for advertising purposes shall be exhibited outside the building, which is used as a business.
- 9.1.22. The operator shall take measures to prevent rodents, flies, cockroaches, mice, and insects.
- 9.1.23. The operator must ensure that a business is clean all the times
- 9.1.24. Where the owner has leased the property or portion thereof, where the business is operated, the responsibility for the compliance with the provisions of all relevant legislations, policies and by-laws shall remain with the owner of the property.
- 9.1.25. Under no circumstances shall large quantities of stock be stored on the site itself.
- 9.1.26. No noise disturbances and/or public nuisance shall be caused to surrounding and disturb the peace in the neighborhood.
- 9.1.27. No business that requires a special license, for example a liquor license, will be allowed without the proper license.
- 9.1.28. No industrial type business will be allowed in a residential area. And the use of industrial machines and noisy machines shall not be allowed.
- 9.1.29. Any property that is legally used for a business shall not be simultaneously used for any other purpose which in the sole discretion of the Municipality may place children in a vulnerable position.
- 9.1.30. No business may be operated from a structure that has not been approved by the Municipality.
- 9.1.31. The operating hours for all spaza shops businesses shall be between 05h00 in the morning, and 20h00, at night, every day. The rest of other businesses shall open at 8h00 in the morning and close at 17h00 in the evening.
- 9.1.32. Where an operator has more than one business on separate properties, a separate application is required for each business.
- 9.1.33. The Municipality may, at its sole discretion, withdraw any consent granted if any criminal and illegal activity is committed in the business.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 9.1.34. The municipality may impose any additional conditions if it deems fit depending on the circumstances.
- 9.1.35. No pets or birds should be kept in the business.
- 9.1.36. The operation of the business is only limited to the inside of the boundaries of the property.
- 9.1.37. Business operators must register their business with CIPC and the South African Revenue Services.
- 9.1.38. Businesses must comply with the requirements of the National Environmental Management Act and Regulations.
- 9.1.39. The Residents or the Body Corporate if any, of the Residential Building or Dwelling Units, shall give written permission for a business before it may operate.
- 9.1.40. Building plans of the business must have been approved and the size of the building thereof must be approved as part of the application.
- 9.1.41. Spaza shop structure must comply with the Building Regulations By-laws of the Municipality.
- 9.1.42. Businesses must be adequately ventilated, allow for sufficient natural light to enter the structure, have access to a toilet and a hand basin for sanitation purposes (connected to the municipal network), have electrical and plumber certificates and must provide for adequate storm-water run-off.
- 9.1.43. A shipping container or a timber structure cannot be used as a business structure as it does not comply with the regulations and thus cannot be occupied. It is however possible that the container or the timber structure can be converted to comply with the regulations and used for the purposes of a business.
- 9.1.44. Corrugated iron sheets may be used in erecting the business structure, provided that the construction thereof adheres to the Regulations and the Act.
- 9.1.45. If the business is closed for the period longer than 90 days, it will be presumed that it is no longer operating and the operator thereof or the owner of the site should inform the Municipality in writing. The Municipality will proceed to cancel license/permit.
- 9.1.46. No person is allowed to operate a business if declared by a court of law to be of unsound mind.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 9.1.47. The operator must not commit any criminal activity in the business, and must not have criminal record.
- 9.1.48. All vehicular and pedestrian access shall be to the satisfaction of the Municipality.
- 9.1.49. A radius of one (1) business per 500 meters away from the other business shall be kept.
- 9.1.50. No business shall be operated by a person whom her/his residence status is unlawful in South Africa.
- 9.1.51. Refugees and Asylum seekers must first be permitted by the Department of Home affairs to take on business activity before their applications can be considered.
- 9.1.52. A 70/30 ratio shall be determined for each application received, which 70% of businesses in a specific ward shall be owned and managed by South Africans and 30% owned and managed by foreign nationals.
- 9.1.53. Adequate facilities for the disposal of waste should be provided. Provision should be made for the recycling of cans and bottles.
- 9.1.54. No stock delivery by heavy delivery trucks will be allowed and the owner must collect stock from the depots themselves.
- 9.1.55. Except in cases where prior approval has been granted by the municipality, a person may not carry out a business activity:
- 9.1.55.1. in a garden or park to which the public has a right of access
 - 9.1.55.2. on a verge adjacent to building belonging to, or occupied by an organ of state; a church, mosque, synagogue or other formal registered place of worship; or a building belonging to, or occupied by the municipality;
 - 9.1.55.3. at a building declared to be a public monument;
 - 9.1.55.4. next to an auto teller bank machine;
 - 9.1.55.5. at a place where it causes an obstruction in front of a fire hydrant or an entrance to or exit from a building; causes an obstruction to vehicular traffic; or substantially obstructs pedestrians in their use of a sidewalk;
 - 9.1.55.6. 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;

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 9.1.55.7. 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.
- 9.1.55.8. 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;
- 9.1.55.9. may not place his or her property on a public road, except in cases where prior approval has been granted by the municipality;
- 9.1.55.10. 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;
- 9.1.55.11. may not buy goods from an establishment that does not comply with relevant regulatory prescripts;
- 9.1.55.12. may not sell expired items;
- 9.1.55.13. must ensure that his or her property or area of activity does not cover an area of a public road, or a public place which is greater than six square meters (with a maximum length of three meters) in extent, unless otherwise approved by the municipality; and
- 9.1.55.14. in respect of a sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than one and a half meters wide when measured from any contiguous building to the property or area of activity, and not less than one half meter wide when measured from the kerb line to the property or area of activity;
- 9.1.55.15. may not conduct business on a sidewalk where the width of such sidewalk is less than one meter;
- 9.1.55.16. 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;
- 9.1.55.17. may not sell, distribute or store illegal goods or goods that do not comply with acceptable standards;
- 9.1.55.18. may not carry on business in such a manner as to create a nuisance and create a traffic, health hazard, or health risk; or obstruct access to, or the use of, street furniture or any other facility designed for use by the general public;

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

9.1.55.19.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 authorized official; and

9.1.55.20.may not knowingly purchase goods from suppliers engaged in the trade of illegal goods.

HYGIENE AND WASTE REMOVAL

10. A person operating a registered business must:

10.1. Ensure that the business complies with health and safety requirements and has the applicable health and safety certificates;

10.2. Ensure that the food sold in the business is not contaminated by insecticides, pesticides, or any poisonous substance;

10.3. Keep the business area or site occupied by him or her for the purposes of such business activity, in a clean and sanitary condition;

10.4. Keep his or her property in a clean, sanitary and well-maintained condition;

10.5. 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;

10.6. Ensure that no excessive smoke, fumes or other substance, odours, or noise, emanating from his or her business activities, causes pollution of any kind;

10.7. Ensure that the necessary recycling methods are utilised; and

10.8. Dispose of hazardous and e-waste in the correct manner.

10.9. 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.

11. 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:

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 11.1.1. Specified hours during which business activity in respect of particular goods or services is restricted or prohibited;
- 11.1.2. The boundaries of the restricted or prohibited areas and any other restriction or prohibition against business activity regarding the area in question.
- 11.1.3. 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.
- 11.2. 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.
- 11.3. 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. A registered business must not cause any nuisance.

9 REGISTRATION, PERMITTING AND LICENCING OF BUSINESS ACTIVITIES

- 10.1. The municipality have delegated the authority to deal with the registration, permitting, licencing and enforcing of the Draft by-law for township economies to Planning and Economic Development Department (LED section) and the Community Services Department (Law Enforcement) respectively.
- 10.2. The delegated departments are responsible for creating awareness about the application process and applicable policies and by-laws;
- 10.3. Assisting and supporting applicants in the application process;
- 10.4. The following criteria, requirement and Procedure shall be met by the applicant:
 - 10.4.1.1. A person who wants to operate a business within the municipality must apply on a prescribed forms available at Municipal Local Economic Development (LED) offices.
 - 10.4.1.2. The applicant must complete the forms fully, and attach all relevant documents
 - 10.4.1.3. Upon receipt of the application, the section Local Economic Development (LED) will refer the application file to all other relevant departments for objections, inputs, comments, and recommendations.
 - 10.4.1.4. The Municipality will consider the application within **thirty days (30)** from the date of the receipt of the application forms.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 10.4.1.5. Application fee (R500 for formal business and R300 for informal business) as outlined in the Govan Mbeki Municipality's Business by-law shall have been paid and a receipt of such attached to the application.
- 10.4.1.6. Once objections, inputs, comments, and recommendations are received, the section LED will formerly write to the applicant. If the applicant does not respond seven (7) days, the application shall be deemed to have lapsed.
- 10.4.1.7. Objections that purely attempt to avoid trade competition, will not be allowed.
- 10.4.1.8. Application shall not be approved contrary to the restrictive cardinal conditions, guidelines, terms, and conditions listed in section (9) of this by-law.
- 10.4.1.9. Licenses and Permits shall be renewed to applicants who have a good record of compliance.
- 10.4.1.10. Licenses and Permits shall be valid for 12 months and renewed annually.
- 10.4.1.11. Applications submitted by foreign nationals with formally recognized South African Identity documents shall be treated as if it is submitted by a South African.
- 10.4.1.12. Applications from foreign nationals shall be subjected to Department of home affairs for verification of legality and the right to operate a business.
- 10.4.1.13. The applicant must provide a sworn affidavit stating that he or she is not engaged in the trade of illegal goods and that his or her business operations are within applicable norms and standards.
- 10.4.1.14. 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.
- 10.4.1.15. An approved business must be issued with a licence or permit that must be displayed and be available for inspection at all times.

11. APPLICATION SPECIFIC REQUIREMENTS

- 11.1. A fully completed application form must be accompanied by the following document:
 - 1.1.1.1. South Africans must attach a certified copy of Identity Document
 - 1.1.1.2. Non-South Africans must attach Original Copy of Asylum Document issued by the South African Department of Home Affairs

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 1.1.1.3. Proof of Residence
- 1.1.1.4. Concluded Lease Agreement in cases where the owner is not the business operator
- 1.1.1.5. Certified copy of title deed or permission to occupy
- 1.1.1.6. Fully signed Neighboring community's consent form
- 1.1.1.7. Building plans of the business
- 1.1.1.8. Power of attorney where the applicant is not the owner
- 1.1.1.9. An affidavit confirming that the applicant does not have a criminal record.
- 1.1.1.10. Valid Tax clearance certificate
- 1.1.1.11. Municipal receipt showing payment for the non-refundable application fee
- 1.1.1.12. Certificate of acceptability
- 1.1.1.13. Municipal water and lights account, not exceeding 30 days in debt or a Copy of the payment arrangement of areas

12. APPLICATION APPROVALS

- 12.1. All applications will be considered on merit and it must be noted that by simply the mere submitting the application does not imply that such application will necessarily be approved by the Municipality.
- 12.2. Upon approval of the application and signed off by the Head of Department Planning and Economic Development, the applicant shall be notified to collect his/her permit or license.
- 12.3. The business operator does not have a right to operate until the license/permit is duly issued
- 12.4. Special conditions that the Municipality may deem necessary shall be written on the permit/license
- 12.5. The business license/permit will contain the following:
 - 12.5.1. The name of the municipality
 - 12.5.2. The reference from the Mpumalanga Business Act (2 of 1996)

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 12.5.3. Reference number
- 12.5.4. Serial Number
- 12.5.5. Date of issue
- 12.5.6. Name of the business
- 12.5.7. Description of Nature of business
 - 12.5.7.1. Name and surname of the license/permit holder, gender and disability status
- 12.5.8. Identity number
- 12.5.9. Contact number
- 12.5.10. Business physical and postal address
- 12.5.11. The location of the business
- 12.5.12. License/permit conditions
- 12.5.13. Form of ownership
- 12.5.14. Citizenship status
 - 12.5.14.1. Signature of the permitting authority (Head of Department Planning and Economic Development)

13. TRANSFERABILITY OF PERMIT / LICENCE

13.1. In the event of the death of a licence/permit-holder and the loss of income generated by the informal trading which results in the dependents of the deceased licence/permit-holder being placed under undue or severe economic hardship, a licence/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 /licence/permit is no longer valid.

13.2. A licence/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 /licence/permit-holder, if the licence/ 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 licence/permit-holder requires the licence/permit transfer.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

13.3. Dependent or assistant is only permitted to replace the licence/permit-holder for the period stipulated in the affidavit and approved by the municipality.

13.5. Details of revoked licences/ permits must be placed on a database to be shared with relevant departments.

13.6. If a licence/permit holder no longer wishes to trade, the municipality may revoke the licence/permit and in such a case the licence/permit must immediately be returned to the municipality. A licence/permit transferred may not be used for the purpose of a business other than the business to which the permit relates.

14. APPLICATION DISAPPROVALS

14.1. Govan Mbeki Municipality reserves the right to approve or disapprove an application:

14.2. Should the Municipality, through the Head of Department Planning and Economic Development or his/her delegate decided to disapprove an application, the applicant will be notified of the decision to disapprove within the prescribed period of thirty (30) days.

14.3. Reasons for the disapproval shall be provided to the applicant in writing. Such decision may be in terms of this by-law or any other piece of relevant legislations and policies applicable and warranting the Municipality to arrive to such decision.

15. APPEAL AGAINST DISAPPROVAL

15.1. The applicant whose application has been disapproved has the right to appeal against the decision.

15.2. Appeal shall be lodged with the Municipal Manager within twenty-one (21) days of receipt of the disapproval notice.

15.3. During the appeal process it is assumed that the application was unsuccessful

15.4. The Municipal Manager will also have twenty-one (21) days within which to consider and decide on the appeal

15.5. The Municipal Manager will issue in writing a final and binding decision

16. WITHDRAWAL AND LAPSING OF AN APPROVAL

16.1. Granted approval to the owner or the leasee of the property to run a business can be withdrawn on the following circumstances:

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 16.1.1. When criminal activities have been confirmed
- 16.1.2. When the applicant ceases the business activity
- 16.1.3. When the operating conditions are not complied with.
- 16.1.4. When the owner terminates the lease agreement with the operator
- 16.1.5. When the property is alienated.
- 16.1.6. In the event of the death of the owner.
- 16.1.7. Valid objections against the business have been received
- 16.1.8. Where any provision of this By-law is contravened

17. NON-COMPLIANCE WITH THE CONDITIONS OF APPROVAL

- 17.1. Conditions of approval shall be adhered to judiciously by all business operators and property owners, not:
 - 17.1.1.1. The Municipality will issue a written notice to the owner to rectify any irregularities within 7(seven)days.
 - 17.1.1.2. If complaints are received with regarding the approved business, the Municipality will evaluate the validity of the complaints and notify the owner about the complaints and further give a written notice to the owner to comply with the conditions put by the Municipality.
 - 17.1.1.3. Failure to comply with points (17.1.1.1 and (17.1.2) above shall lead the Municipality to cancel the operating license/permit

18. OFFENCES AND PENALTIES

- 18.1. Failure to abide by all the cardinal conditions, guidelines, terms, and conditions as outlined above shall be guilty of contravening this Draft Township Economies by-law
- 18.2. Failure to abide by the provisions of the Govan Mbeki Municipality's Business by-law (2016) section (22) subsection (1) shall be guilty of contraventions against this by-law
- 18.3. Pretends to be an authorized official or pretend to be acting under power delegated to him or her, shall be guilty of an offence and,

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

- 18.4. Upon conviction, be liable to a fine or imprisonment or to both a fine and imprisonment.
- 18.5. A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable to a fine, or upon conviction, to imprisonment or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission
- 18.6. Nothing in this by-law shall be construed to prevent the Municipality from imposing, in addition to the civil and criminal options available, a rates penalty as per the Municipality's approved Rates Policy against an owner of a property who is in contravention of any provision of this By-law.
- 18.7. A person who
- 18.7.1. Contravenes, or fails to comply with, a provision of this by-law;
 - 18.7.2. Fails to comply with a notice issued in terms of this by-law;
 - 18.7.3. Fails to comply with a lawful instruction given in terms of this by-law; or
 - 18.7.3.1. 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.
- 18.8. Despite the provisions of subsection (18.7.1), a person found to be transgressing any provision of this by-law must
- 18.8.1.1. 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
 - 18.8.1.2. 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.

19. LAW ENFORCEMENT, MONITORING AND EVALUATION

- 19.1. The department Community Services (By law enforcement) and Planning and Economic Development (LED) of 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

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

Revenue Service and other stakeholders to ensure compliance with relevant and applicable legislation.

- 19.2. The municipality shall apply its discretion to impound business equipment where continuous transgression without remedy is observed; or
- 19.3. Release the business equipment at a fee in line with municipal tariffs.
- 19.4. The municipality may impound goods on reasonable suspicion that such goods are expired or illegal.
- 19.5. Goods that are confirmed to be expired or illegal must be handed over to the relevant government body for destruction.
- 19.6. The municipality shall establish a task team dedicated to combating the trade of illegal goods and services, which must 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;
- 19.7. The municipality shall collaborate with national and provincial law enforcement agencies to share information and conduct joint operations against illicit trade networks;
 - 19.7.1. implement a confidential reporting system for the public and other traders to report suspected illicit trade activities;
 - 19.7.1.1. implement information programmes to educate businesses on what constitutes an illegal product; and
 - 19.7.1.2. 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.
- 19.8. Section 87 of the SPLUMA By-law provides for enforcement of the provisions of the By-laws. This provision gives Council a right to investigate a complaint/alleged illegal activity, to ascertain its validity and extent. It also allows Council to serve a notice on an offender to cease activities which may also include a notice of intent to take further legal action.
- 19.9. This by-law strictly prohibits non-compliance with legislation. Offenders are subject to fines and closure and they may not continue the illegal activities whilst they make the necessary applications to legalize them. Applications can take a long time to process and the general public will suffer the consequences if illegal and uncontrolled activities are allowed to continue. Affected persons are known to be subjected to intimidation by offenders, making evidence needed for prosecutions more difficult to elicit.

GOVAN MBEKI MUNICIPALITY DRAFT TOWNSHIP ECONOMIES BY-LAW

19.10. Complaints from the community and other businesses (formal and informal) shall be investigated and if the owner is found to be guilty of failing to comply with the by-law policy restrictions s/he shall be penalized. The penalty shall be a fine in accordance with the Govan Mbeki Business By-law (2016) section 23(1), including the approved fine book of the Municipality

20. TRANSITIONAL ARRANGEMENTS

- 20.1. Once this Draft Township Economies by-law is gazetted, Govan Mbeki Municipality shall issue a public prescribing deadlines calling all existing businesses within its jurisdiction to apply for new licenses/permits
- 20.2. All businesses must have been registered with the Municipality within the period of three (3) months upon the promulgation of this By-law in the provincial gazette.
- 20.3. Any business that will not have registered in terms of the public notice mentioned above to shall be regarded as illegal and non-compliant
- 20.4. The applications of the existing businesses and new ones must all comply with the application procedure as outlined in section (6.1) above

21. REPEAL

21.1. No by-law has to be repealed.

22. SHORT TITLE AND COMMENCEMENT

- 22.1. This by-law shall be called the Govan Mbeki Municipality's Draft Township Economies by-law 2024 and it shall come to operation on the date of promulgation in the Mpumalanga Provincial Gazette.
- 22.2. This Govan Mbeki Municipality's Draft Township Economies by-law (2024) shall be in force for a period of three (3) years before it is reviewed.

A MODEL CITY OF EXCELLENCE