

Informal Trading Policy

Mkhambathini Local Municipality

June 2021



DEFINITIONS USED IN THIS DOCUMENT

“**informal economy**” refers only to legal informal economy activities.

“**informal economy**” **actor or player** refers to anyone who is actively involved in business operations falling within the informal economy.

“**licence**” means the authority, regardless of its specific title or form, issued for the purpose of granting authority to conduct business.

“**illegal goods**” means illegal goods as defined in the Consumer Protection Act, 2008

“**Local Economic Development**” refers to the ability of local areas to achieve both economic growth and economic redistribution, sometimes referred to as pro-poor economic growth.

“**Municipality**” refers to all categories (A, B and C) as per the Municipal Structures Act, Act no 117 of 1998.

“**necessity entrepreneur**” refers to any informal economy actor who got into business because he or she was pushed by pressure of having to ensure that there is food for household survival.

“**nuisance**” means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to a person or property of others or which materially interferes with their ordinary comfort, convenience, peace or quiet.

“**opportunity entrepreneur**” refers to any informal economy actor who got into business because he or she identified business opportunity and capitalised on that opportunity. The main motive for commencing business in this case is economic opportunity rather than social pressure.

“**permit**” refers to a legal document giving official permission to do something. Along with business licenses, informal economy actors may need to obtain permits.

“**rental**” usually refers to payment for a place; in this document rental refers also to payment for the right to operate, whether at a fixed site, or as an itinerant or mobile worker.

“**small business**” has the meaning as set out in the National Small Business Act, 1996 (Act No. 102 of 1996).

“**approval**” **means** approval by an authorised official and “**approve**” has a corresponding meaning;

“**authorised official**” means an official of The Council to whom it has delegated a duty, function or power under this policy, in relation to the exercise or performance of that duty, function or power and includes an employee acting under the control and direction of such official;

“**Council**” means the council of The DEDT TRAINING Municipality and in relations to the exercise of a power, the performance of duty or the carrying out of a function includes any Committee or official of the Council to whom such power, duty or function has been delegated;

“**demarcated stand**” means stand demarcated by Council for the purposes of street trading in terms of section 6(a)(3)(b) of the act.

“**public places**” means a public place as defined in section 2 of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

“goods” means any movable property used in connection with street trading and ,without limiting the generality of the foregoing, including products for sale display table ,stands ,receptacles ,vehicles , structures or animals;

“Public road” means a public place road as defined in section 1 of the National Road traffic Act no.93 of 1996

“roadway” means a roadway as defined in section 1 if the national road traffic Act No 93 of 1996 but excludes a public place.

“the Act” means the Businesses Act, 1991 (Act No. 71 of 1991) and includes the regulations promulgated thereunder; and

DEFINITION AND INTRODUCTION

Informal Trading is defined as the economic activity undertaken by entrepreneurs who sell legal goods and services within a space deemed to be public and private property within the informal sector. The informal economy makes an important contribution to the economic and social life of the Mkhambathini Municipality. Due to the decline in formal employment, Covid 19 pandemic and consequent increase in unemployment rate, many people seek alternative means of earning an income. It is generally accepted that the informal sector plays a significant role in the local economy more especially in the previously disadvantage areas. One of the main reasons for this is the inability of national economy's formal sector to create sufficient employment for the relatively fast-growing labour force. This inability leads to new entrants into the labour market being increasingly forced to turn into the informal sector, to earn a living.

This Policy covers the informal trading activities occurring within the Mkhambathini Municipality. The policy formulation process involves consultation with a various stakeholder through public participation, as from August 2017.

For the Mkhambathini Area, Informal Trading is a positive development for the micro business sector as it contributes to the creation of jobs and has the potential to expand further the Council's economic base.

LEGISLATIVE CONTEXT

The White paper on Small Business (1995) grouped the small business sector into survivalist, micro, small and medium enterprises. It was estimated then that at least 3.5 million are in survivalist sector (which includes informal businesses) .The White paper suggested that support strategies be put in place for this sector. In 1996, the White Paper was enacted as the National Small Business Act.

The South Africa Constitution mandates local government to promote economic development. It is inherent in the IDP vision of the Mkhambathini Municipality to acknowledge the increasing importance of the informal economy, i.e.: The municipal area, as a town, will offer improved quality of life for all its citizens through sustainable development. It will be a renowned centre for: trade, tourism and nature lovers and coastal recreation, commerce: Industry and agriculture.

The survey of the Informal Trading sector within the Mkhambathini Municipality in 2017 revealed that more than 100 of traders had chosen to engage in informal trading as a result of not having or losing a job. This indicates the significant role that Informal Trading plays in absorbing the unemployed. Also significant was the fact that majority of the traders were female; this form of business activity is increasing because of its flexible working hours as well as the opportunity it provides for additional income generation for the poor.

1. THE MKHAMBATHINI MUNICIPAL APPROACH

1.1 The reasons of having an Informal Trading Policy can be summarised as follows:

- Defines an integrated and holistic approach for all departments/ stakeholders within the jurisdiction of Mkhambathini Municipal area.
- Clarifies the Council's policy to all relevant stakeholders.
- Forms the basis for the By-Law that will regulate Informal Trading in the municipality.
- Provides a basis for resource allocation decision.
- Establishment of the basis for a monitoring and evaluation process, with clearly defined key objectives.

2. THE MKHAMBATHINI INFORMAL ECONOMY

There are different types of informal trading that takes place in the Mkhambathini Municipality, namely:

- Street / kerbside trading
- Trading at transport interchanges
- Trading in Public Open Spaces

- Mobile Traders (roving, bakkies and containers)
- Intersection Trading
- Special events
- Car washers
- Hairdressers
- The Traditional Healers
- Market Vendors.
- Visual Art and crafts artisans
- Construction workers
- Mining
- Livestock trading
- Woodworks
- Clothing and textile manufacture
- Motor mechanics
- Electrical and electronics services
- Plumbing
- Tuckshop/ Spaza shops
- Catering services
- And others

2.2 Status quo

In the Mkhambathini Municipal area all the above types of trading are found at various localities. In several areas, trading is very concentrated resulting in pressures on the infrastructure available as well as cause for concern relating to the overall hygiene of some areas. These soled “hotspots” are found at the following localities:

- Camperdown Main Taxi Rank.
- Opposite Mkhambathini municipal building
- Outside Parak Supermarket
- Next to ANC office
- At Mlaas Road
- At Eston Cross Road
- At P338 Road towards Manderstone

Apart from the above-mentioned areas, trading also occurs at numerous wards next to the roads i.e. Ward 2 main road towards Nagle, Mid Illovo Petrol station etc.

2.3 Summary: Informal Economy Policy Statement for Support and Development of the Sector

Mkhambathini Municipality acknowledges the relevance and contribution of the informal economy to the economic and social life of the town. Informal trading provides some income to those who are unemployed as well as providing an alternative to established traditional formal sector retail options. The Mkhambathini aims to develop the sector and its participants into a commercially viable and dynamic economic sector, which contributes to the economic growth of the town and the quality of life of its citizens in a sustainable manner.

Appropriate infrastructure support and services, entrepreneurial development and spatial planning will be the cornerstones to achieving such a policy goal. Uncontrolled and unplanned growth of the informal economy sector will have a negative impact on the Camperdown town. Conflicts can arise between town officials and traders as well as between established Informal Economy actors and newcomers, because of uncertainty of each party’s rights. If there is little official regulation and control, new sorts of informal control mechanisms may come in to fill the void with their own means of controlling prices and protection rackets.

The Mkhambathini Municipality further affirms its obligation to assist the informal economy sector by way of mentoring and incubation as means to age them into a more formalised nature of economic activity. The envisaged period for new entrants to the market for them to graduate to formal economy is five (5) years.

Principles of Council's Approach:

The Key Principles that govern the Mkhambathini approach to informal Economy are economic, social and spatial.

2.3.1. Economic Principles Economic growth in the informal trading sector will be facilitated through:

- Linking the development and growth of trading areas to commercial zones in orders to create viable hubs of business activity that mutually benefit formal and informal businesses.
- Providing a range of facilities, capacity building and business support a service that caters for the different levels of the Informal Economy Actors, from mid-week trading and small survivalist to larger informal economy Actors.
- Ensuring that the buildings and property owned by the Mkhambathini Municipality are used for the maximum social and economic development of the community within which they are located.
- Targeting highly accessible and visible location for the promotion of tourist related trading in order to derive benefit for Informal Economy Actors from the tourism potential. i.e. By trading at entrance gates of tourism establishments (Tala Game Reserve)

2.3.2. Social Principles The promotion of equity within the Mkhambathini Municipality to create a dignified Town through:

- Spreading public spending in an equitable manner throughout the Mkhambathini with an emphasis on the poorer parts of the town that have not historically benefited from public sector investment.
- Viewing the location of public investment as an opportunity to integrate public sector investment.
- Using the development of the informal trading infrastructure as an opportunity to improve the general environmental condition of the Historically Disadvantaged Areas of the municipal area.
- Providing basic services such as water and refuse facilities to all areas where public health and/or public safety is at risk

2.3.3 Spatial Principles Informal Economy contributes to the value of public places as amenities and places of dignity and has the potential to be a catalyst for generating positive public places through:

- Developing those areas that will have most significant impact on the largest number of people, e.g. areas with large flow of pedestrian traffic.
- Allocating space for informal trading areas in accordance with the broad Spatial Planning Framework of the municipality and the local spatial development Framework.
- Providing minimal infrastructure for informal trading, that would vary depending on the type of activities.

2.4 Policy levers for change

The goal of this Policy and Management Framework is sustainable urban management, which plans, designs and manages a town that is able to accommodate Informal Trading in designated streets, public open spaces and markets.

The full integration of Informal Trading into the planning, design and management of the municipality is therefore necessary in order to enhance the town promote economic development and expand employment opportunities. The first of departure in the policy for the informal economy is that local government should promote the creation of job opportunities and diverse economic and trading opportunities. The key levers for change are planning, the allocations policy, the registration process, the rentals policy and the goods display, removal, impoundment and recovery policy.

2.4.1 Planning

New markets and trading opportunities must be properly planned, bearing in mind the economic needs of Informal Economy Actors, the need for more vibrant land use and need for orderly town, spatial and transport planning, as well as health and safety. Existing markets should be managed properly, and new market developments must be linked to emerging patterns of work in the areas they serve.

2.4.2 Registration

For management, maintenance and training reasons to name a few, it is important that all people working in public places register on a database with the municipality. Registration (as well as the sustained payment of rentals) provides permission to operate, to services and support. This permission goes along with responsibilities.

The registration procedure should also work towards preventing fronting whereby site intended to support people with very small businesses, and which are effectively subsidised by local government, are in fact controlled by wealthier established business people. The exploitation of traders should also be prevented.

Apart from detailing the activities of traders, socio-economic information is also needed from the traders, i.e. work experience, levels of education, number of dependents. The latter is important for deriving appropriate training modules as well as developing a better understanding of the second economy.

2.4.3 Allocation Policy

Allocation policy in respect of trading (bays, market, permits etc.) is central to the entire policy for the informal economy as it is the lever through which local government can steer management and support of the informal economy. This aim of the allocation Policy is to support growth and provide opportunities for new entrants, in an economically sustainable and socially useful way.

It can feed directly into the tourism industry, through achieving the appropriate tenant mix at tourist-related areas. The criteria for allocation will be negotiated locally with stakeholders; and the allocation of sites will then be done by officials.

Allocation policy is found as Annexure “A” in the Bylaw

2.4.4 Rentals Policy

In the same way that build properly has a value placed on it, depending on where it is located, so it is important to place value on different informal trading sites. Value is placed on sites through a system of differentiated rentals. Rentals will be linked to the size of the site, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in some areas. The tariff structure will allow for transparent subsidies in order to ensure cross-subsidisation and equity.

Rental tariff is found as annexure “B” in the Bylaw

2.4.5. Goods Display, Removal, Impoundment and Recovery Policy:

Is found as annexure “C” in the Bylaw

2.4.6 **Site Demarcation Plan** is found as **Annexure “D”** in the Bylaw

2.4.7 **Penal Provisions** is found as **Annexure “E”** in the Bylaw

2.4.4.1 Market grading

The grading relates to the level of service available at any given market as well as the relative viability of the individual trading enterprises. The following market types must be identified:

Type A markets

Are well equipped, with electricity, water and fixed structures. They usually established where there is heavy pedestrian traffic. These markets provide all the advantages of a formal retail outlet, but at a more affordable price and with facilities appropriate to the purchasing patterns and choices of their main consumers.

Type B markets

Are linear markets that have a good basic structure on which traders can place their goods. These markets operate from business nodes, mostly along streets.

Type C markets

Are those that are mobile whether by foot, roving / mobile traders.

2.4.4.2 Tariff Structure

A trader does not hold a right of reserve over any trading site. Tariffs are set out in the Council's tariff schedule and approved annually. The inherent economic value of space/area must be accommodated in the allocation of permits and leases and tariffs to be changed. This tariff must take into account where the trading space is located as well as the balance of value added by informal trading. Rentals would be linked to the size of the site, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in some areas. For street traders, a basic site rental should be set. Then differentiated rentals for different levels of service provision should be introduced. Components of a basic package of services are basic shelter, solid waste removal, water, toilets, lighting and storage facilities.

In areas that are managed by parties other than the municipality and where services supplied are supplementary to those provided by the municipality, an alternative tariff structure may apply in order to reflect the value of the additional services provided in the area.

2. ROLES and RESPONSIBILITIES

There are basically four key components to Informal Trading within the Mkhambathini Municipality:

- Policy Formulation and Revision
- Regulation and Enforcement
- Developmental Responsibilities
- Management

2.1. Roles

Different departments / sections are dealing with informal traders namely:

Local Economic Development

- Coordinating and monitoring of all informal trading activities.
- Regular surveying of informal sector in selected area.
- Promoting business linkages (informal and formal).
- Lobbying and support for the informal sector.
- Availing facilities and premises and allocation.
- Policy formulation.
- Issuing of informal trading permits which are renewable yearly

Environmental Health

- To promote hygiene in all areas of trade including home based business.
- Conduct health education to the sector.
- Conduct inspections and provide health certificates.

Property administration Section

- Provide land for trading purposes.
- Provision of lease agreement as per the Municipal rental policy.

Waste Management Section

- Provision of skips and or bins in all trading areas.
- Waste removal and cleaning of all trading facilities including ablution facilities provided for the sector actors.

Law enforcement

- Enforcement of the By-Law.
- Conduct inspections on daily basis in all trading areas.

Spatial and Environmental Planning

- Demarcation of new trading sites.
- Providing advice on the use of open space to Business Support.

Building and Structure Section

- Maintenance of market stalls.

Municipal Informal Economy Chamber

This body is the voice for the Informal economy actors, it advocates for all involved in the sector. The Municipal Informal Economy Chamber reports to the District Informal Economy Chamber which reports to the Provincial Informal Economy Chamber.

The LED Department is the contact section for the Informal Economy Chamber and will work with this body on any issues pertinent to the sector; amongst others and not limited to the following:

- Providing administrative support
- Providing transport logistics when attending District Meetings
- Providing mentoring and training support.
- Advisory service.

5. OPERATIONAL ISSUES

5.1 Criteria for the allocation of the trading bays

Central to equitable allocation of trading bays, is the compilation by the municipality of a database of all street traders in a particular area, which will include for each trader: ID number or any recognised form of identification, address, goods being sold, trading location and any other relevant information. Allocation of trading bays will be based on the following:

- Only genuine informal traders including those in a position of a valid permit issued by the relevant permits issuing Authorities, will be eligible, not business that operates from a brick and mortar premises.
- Traders operating five days per week for at least 47 weeks of the year will get preference over occasional/casual traders.
- Only one bay will be allocated per trader/per family.
- Unemployed citizens of Mkhambathini Municipality will get first preference over other applicants for permits to trade.

5.2 Criteria to allocate permits

When issuing permits the following criteria should inform the allocation decisions:

- Permits will be valid one year and renewable 30 days before expiry date.

- Preference will be given to Historically Disadvantaged Individuals defined as those who, although of legal age to vote, did not have the right to vote before 1994 in the South African Elections and they must have at least been trading within Mkhambathini Municipality area for 6 months prior the application.
- Unemployed individuals have first preference over others in application for a trading permit.
- The applicant must be in a possession of the valid South African identity document or work permit or a legal permit issued and vetted by the Department of Home Affairs immigration section.
- The trader must be able to trade at least five (5) days per week for at least 47 weeks of the year.
- There must be sufficient product diversity in an area to ensure the needs of consumers are appropriately met as well as ensuring sufficient market share for traders for them to operate profitably.
- Only one permit will be issued per trader / per family.
- In the case of food stuff, the trader must be in possession of the required Health certificate
- Permits will only be allocated in demarcated areas, provided there is a vacant trading bay.

5.3 Special Circumstances

It is recognised that the following special circumstances may warrant a variation on the above:

- Death of Principal Trader-where the inability to trade would undue hardship on the family of the Principal Trader, permission may be granted to another family member / assistant trader to continue trading until the end of the trading period as stipulated on the permit.
- Illness of Principal Trader or Religious Observances- a trader must report in writing to the informal traders' committees. The period of incapability must be stipulated. A family member or assistant trader may trade in his/her place but for a period that does not extend beyond that which is stipulated on the permit, and all the particulars of the assistant or relief trader must be provided at the back the permit.
- If a Principal Trader or his/her family chooses not to make application for special consideration as outlined above, the permit must be returned to the Council to be allocated to the next person meeting the criteria on the waiting list.

5.4 Steps to obtain informal trading permit

5.4.1 New Applications

- Application to be lodged via online business licensing using E-Service portal
- Applicant to register as applicant and lodging the application
- The applicant will receive the permit via email or permit can be collected at the LED office

5.4.2 Requirements (existing traders)

- Be trading for at least 6 months, within Mkhambathini area, prior to application and this would be confirmed, in writing, by the Informal Chamber.
- Citizens of Mkhambathini will get first preference over any other applicant (proof of residence).
- Be unemployed.
- Must not be involved in any formal business sector.
- Agree to be screened for any previous convictions with SAPS.
- Agree for identification documents to be vetted by the Home Affairs department.
- Must prove to have a trading permit.

5.4.3 Applicant to attach the following required documents during the application on the E-Service portal to obtain the trading permit:

- Green bar-coded ID book together with certified copy/ valid Home Affairs permit.
- Certified copy of the Smart Card(copied both sides)
- Proof of residence.
- Two passport photos
- First preference is given to the residence of Mkhambathini.

- Trailers and caravans must have valid license discs, fire extinguishers and registration number plates.

5.4.4 Complete application form (LED Manager) to get trading permit

5.4.5 Application granted.

5.4.6 Informal Traders trade on perishable food are sent for Environmental Health Trainings.

5.4.7 If there is a trading bay available a permit gets issued.

5.4.8 If application is not granted reply to the people concerned giving reasons for the decline and keep application on waiting list for the next available stall or stand. (If it was declined due to shortage of available trading stalls)

Renewal of permit

- Set up date for the renewal of permits in various trading areas.
- Communicate such dates with Environmental Health Section and Law Enforcement as well as other relevant departments.
- Traders will be contacted by LED personnel regarding renewal of trading permit

The following are the steps to follow when renewing permits:

- **Step 1.** Log on into E-Service portal
- **Step 2.** Click permit renewal
- **Step 3.** Fill in all required spaces
- **Step 4.** Process the application form.
- **Step 5.** Trader to provide attach proof of payment, Certified copy of ID and photo
- **Step 6.** Click lodge application

5.6 Inspections

- If trader does not adhere to Municipal Policies and Informal Trading bylaws, complaints must be sent to law enforcement section.

5.7 Mobile/Roving Trading

Subject to compliance with the relevant legislation, trading zones will be identified throughout Mkhambathini Municipality and maximum number of mobile trading permits will be identified for each zone. These permits will be granted against the criteria established in the section entitled "Criteria for Allocation Permits". Permits will be valid for a one-year period and renewable thirty days before lapse.

5.8 Special Event

These events are by their nature temporary and arrangements will depend upon the type of event and the geographical area in which it is taking place. Before any such event, approval must be obtained from the municipality, depending on the type of event. Example of special events: sport fixtures, night market and major events. **(Pensions pay out points?)**

5.9 Special Consent

The special consent procedure is an effective way to consider application for any type of commercial activity on land that is not appropriately zoned for such purposes because all interested and affected parties are afforded the opportunity to comment or raise concerns. In addition, conditions can be prescribed, and the special consent could be withdrawn if such conditions are not obeyed.

5.10 Enforcement and Monitoring

In order to enhance the Mkhambathini Municipality image in the eyes of both its residents and visitors, the conduct of traders will be strictly monitored. Anti-social and other unruly behaviour will be viewed as misconduct.

- No trader will be permitted to carry on such business in a manner, which creates a nuisance, is a danger or threat to public health and safety, or damages or defaces any property.
- Disciplinary and Appeal Procedures will be dealt with as outlined on page 32, paragraph 62 in the Municipal Systems Acts, No.32 of 200(see attached annexure).
- Where trader violates the permit conditions, he/she will be informed in writing of violation and course of action. Permit fees will not be refundable under any circumstances.
- Punitive measures could include a warning, a suspension for a specified period, or the total withdrawal of such trading permit.
- The trader will have the opportunity to put his/her case forward at an inquiry.
- In the case of a trader being refused a permit or having his permit revoked, the complaints procedure will be through the Mkhambathini Informal Economy Chamber In terms of the Municipal Structures Act, should the complaint be about a Council Official, it must be referred to the Municipal Manager.
- Each trader will be assessed every year, prior to issuing of permit, to monitor the trader's position and movement along the developmental continuum.

5.11 Termination of Licence/Permit

Council reserves the rights to withdraw or terminate the license/permit if:

- The license/permit holder is not utilizing the trading stall for six weeks and more without properly communicating reasons thereof.
- The permit holder contravenes any Law of the Country or its By-laws.
- The permit holder is found in possession or trading in drugs or intoxicating substance (without the requisite licence).
- A trader has wilfully supplied incorrect information related to permit conditions.
- A trader, who is allocated a stall has sub-let or sold such a stall to a third party; and
- A trader does not comply with Municipal By-laws.
- If the trader is permanently employed elsewhere.
- If he/she operates in the formal business environment.

6. CONCLUSION

It is of paramount importance that the informal trading economy is recognised as one of the area's economic drivers. Therefore, this policy is instrumental for the municipality to ensure the effective co-ordination and regulation of this sector.