

EMALAHLENI LOCAL MUNICIPALITY



SPAZA/TUCK SHOPS BY-LAW

Table of Contents

- 1. DEFINITIONS AND APPLICATION..... 1
- 2. PURPOSE OF THE BY-LAW 3
- 3. OBJECTIVES OF THE BY-LAW 4
- 4. SCOPE AND APPLICATION OF THE BY-LAW..... 4
- 5. SCOPE AND APPLICATION OF THE BY-LAW..... 4
- 6. TRANSITIONAL ARRANGEMENTS 4
- 7. APPLICATION FOR A SPAZA/TUCK..... 5
 - 7.1 APPLICATION PROCESS 5
 - 7.2 REQUIREMENTS FOR APPLICANTS..... 5
 - 7.3 APPROVAL OF APPLICATION 6
 - 7.4 OPERATING PERMIT 6
 - 7.5 NUMBER OF SPAZA/TUCK SHOP WITHIN RESIDENTIAL AREAS..... 6
- 8. DISAPPROVAL OF APPLICATION..... 7
- 9. APPEAL AGAINST DISAPPROVAL 7
- 10. WITHDRAWAL AND LAPSING OF AN APPROVAL..... 7
- 11. NON-COMPLIANCE WITH APPROVAL CONDITIONS..... 8
- 12. GENERAL TERMS AND CONDITIONS 8
- 11. POWERS AND FUNCTIONS OF AUTHORIZED OFFICIALS 11
- 12. TRANSFERABILITY OF PERMIT 12
- 13. OFFENCES..... 13
- 14. PENALTIES 14
- 14. OBJECTIONS 15
- 15. APPEALS..... 15
- 16. DELEGATIONS..... 15
- 17. SHORT TITLE 16
- 18. SCHEDULES APPLICABLE TO SPAZA SHOPS..... 16

1. DEFINITIONS AND APPLICATION

“Act and Regulations” refers to National Building Regulations and Building Standards Act No. 103 of 1977 and National Building Regulations & Building Standards Amendment Act No. 49 of 1995

“Asylum” means a person who is seeking recognition as a refugee in the Republic.

"Authorized Officer" means any official of the municipality authorized by the Municipality to administrator to implement and enforce the provisions of this By-law. It also includes a Peace Officer.

"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.

“Business license” means a license or permit issued by a local government that allows an individual or company to conduct business within the government's geographical jurisdiction.

“Council” means the Council of Emalahleni Local Municipality, a municipality established in terms of section 12 of the Local Government Municipal Structures Act, no.117 of 1998 and any member of administration to whom the Council has delegated the powers, functions and duties vesting in the Council in relation to this By-Law.

“Dwelling” means a building, designed for use as a house for, and used exclusively by, a single household family.

“Goods” means a product marketed for human use or consumption.

“Health certificate” means a health certificate issued to certify that the premises comply with the relevant health norms and standards.

“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;

“Litter” includes a receptacle, container, or other matter, which has been discarded,

abandoned, or left behind, by a street trader, or by his or her customers

“Municipality” means the municipality of Emalahleni or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No 308 and Notice No 397 of 2000 in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

“Municipal consent” means the consent, in writing, by the municipality for any activity on, or use of land or buildings for which an application is made, in terms of any relevant legislation.

“Municipal Manager” means the person appointed as the Emalahleni Local Municipality Municipal Manager in terms of section 54A of the Municipal Systems Act and includes any person acting in that position or to whom authority has been delegated;

“Public nuisance” means any activity which spills over beyond the property and causes problems for immediate and surrounding neighbors; this includes noise levels or activities which may cause health or pollution problems such as smoke or flies / vermin, vehicle oil or unsightly activities / storage of goods which detract from the amenity of the neighborhood.

"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 authorize, 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 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;

“Township economies” means business activities (formal or informal) undertaken in townships.

"Operator ", in relation to any Spaza/Tuck, means any person who is the owner of the shop and/or is leasing space in the owner’s site for him/her to run a Spaza/Tuck shop.

“Operating permit” means an approval granted by the municipality following an

application process permitting the applicant to conduct business under the conditions provided.

“Outbuilding” means a building attached to or separate from a dwelling and ancillary to a dwelling.

“Owner” means the person in whose name the site/erf is registered in the deeds registry for Mpumalanga Province or he/she is the beneficial holder of a real right in the site/erf or he/she is the person in whom the site/erf vests

"Person" means a natural person or a juristic person and includes an organ of state.

"Premises” in relation to any Spaza/Tuck, means a site/erf wherein the Spaza/Tuck shop business is operated.

“Property” means that to which a person has a legal title, whether in his possession or not; thing owned; an estate, whether in lands, goods, or money.

“Refugee” means any person who has been granted asylum in terms of the Act (Act No. 130 of 1998).

“Residential Areas” a residential area is a type of land use where the predominant use is housing. In areas that are zoned residential, buildings may include single family housing, multiple family housing such as (apartments, duplexes, and town homes).

“Responsible Person(s)” is a person permitted by the court of law to be responsible for the property in the event of the death of the property owner

“Spaza Shop” also known as a **“tuck shop”**, is an informal convenience shop business in South Africa and usually run from home. They serve the purpose of supplementing household incomes of the owners, selling of daily convenience goods and prepared and pre-wrapped food, excluding alcoholic beverages, table games or electronic games. A tuck shop is not a general business or retail function on a residential piece of land and the residential component remains the main use of the land. The area used for a tuck shop shall not exceed 40% of the area of the piece of land, not exceeding 60m² (storage area included).

“Zoning” means an area shown on a planning scheme map by distinctive colouring or edging in some other distinctive manner, for the purpose of indicating the restrictions imposed by a Scheme on the erections and use of buildings or structures, or the use of land.

2. PURPOSE OF THE BY-LAW

2.1 Purpose of this By-Law is to control the operations of Spaza/Tuck shops within the

jurisdiction of Emalahleni Local Municipality, Mpumalanga. This is to ensure compliance with safety and health requirements and to provide the proper establishment of Spaza/Tuck shops and the application process thereof.

3. OBJECTIVES OF THE BY-LAW

3.1 The objectives of this by-law are to:

- (a) facilitate inclusive spatial and economic development in townships
- (b) harmonize the township ecosystem and provide norms and standards for the establishment and management of township-based enterprises both formal and informal;
- (c) raise awareness of applicable laws and regulations affecting township businesses; and
- (d) support small businesses to grow and participate in mainstream economic activities.

4. SCOPE AND APPLICATION OF THE BY-LAW

4.1 The By-law applies to all Spaza/Tuck shops within the jurisdiction of Emalahleni Local Municipality, Mpumalanga.

5. SCOPE AND APPLICATION OF THE BY-LAW

5.1 The By-law applies to all Spaza/Tuck shops within the jurisdiction of Emalahleni Local Municipality, Mpumalanga.

6. TRANSITIONAL ARRANGEMENTS

6.1 The Municipality should, by public notice, call all the existing Spaza/Tuck shops within the area of jurisdiction of the Municipality to register their Spaza/Tuck shops.

6.2 All the existing Spaza/Tuck shops must have been registered with the Municipality within the period of twelve (12) months upon the promulgation of this By-law in the provincial gazette.

6.3 Any existing Spaza/Tuck shop that will not have registered with the Municipality in terms of the public notice to be issued by the Municipality, prescribing deadline for registrations

of existing Spaza/Tuck shops, will be regarded operating illegally after such a prescribed date.

6.4 All existing Spaza/Tuck Shops before the promulgation of this By-law must also comply with the application procedure outlined in this By-law.

6.5 Any new Spaza/Tuck shop established after the coming into operation of this By-law must apply, in terms the application procedure of this By-law, before they can operate and database of tuck-shops to be introduced.

7. APPLICATION FOR A SPAZATUCK

7.1 APPLICATION PROCESS

7.1.1. A person who intends to operate a Spaza/Tuck shop business within the jurisdictional area of the municipality must apply on prescribed forms available at municipal offices.

7.1.2. Where the operator is not the property owner, there must be an existing lease agreement between the owner of the property and the operator.

7.1.3. The municipality will consider the application within the period of thirty (30) working days upon the date of the receipt of the application forms.

7.1.4. The application form must be fully completed and all relevant documents required as stated in Schedule (1) & (2) be attached.

7.1.5. A non-refundable prescribed application fee must be paid upon submission of the application

7.2 REQUIREMENTS FOR APPLICANTS

7.2.1 Completed application forms must be accompanied by the following documents:

(a) Certified copy of South African Identity Document, if he/she is a South African citizen;

(b) Proof of Residence, if he/she is an Emalahleni Local Municipality resident;

(c) Original Copy of Asylum Document issued by the South African Department of Home Affairs, if he/she is a foreign national;

(d) Certified copy of title deed or permission to occupy;

(e) Approved building plans of the subject property tuck shop in line with the zoning of the property;

(f) Internal and external photos of the existing building(s) on the site.

(g) Responsible persons must attach a letter of authority from the court of law

- (h) Proof of purchase of at least 2 SABS approved wheelie bins;
- (i) Proof of food approved pest control measures by certified/registered companies;
- (j) Lease agreement between the property owner and the operator;
- (k) Proof of payment of application fee.
- (l) Operator's Police Clearance Certificate.

7.3 APPROVAL OF APPLICATION

- 7.3.1 Once the application has been approved by the relevant Land Development Officer or their designee, an applicant will be notified of the approval within the period of thirty (30) working days.
- 7.3.2 Spaza/Tuck shop operator is not permitted to trade until he/she receives his identity operating permit.
- 7.3.3 Approval conditions, if any, will be attached to the operating permit.

7.4 OPERATING PERMIT

- 7.4.1 The operating permit shall be issued by the municipality and it is renewable after every 1 year.
- 7.4.2 The following terms and conditions shall apply to the operating permits:
 - (i) Operating permit can only be issued by the municipality upon the payment of the prescribed fee determined by Council tariffs.
 - (ii) Operating permit is not transferrable without the permission of the municipality (the permit cannot be transferred from one owner to the other);
 - (iii) A Spaza/Tuck shop operator must at all times be in a position to produce the operating permit on demand by the authorized officer whenever so required;
 - (iv) If the operating permit gets lost or accidentally or unwillingly damaged or destroyed the owner must immediately report the loss, damage or destruction thereof to the Municipality. The document will be reprinted on a fee.

7.5 NUMBER OF SPAZA/TUCK SHOP WITHIN RESIDENTIAL AREAS

- 7.5.1 The municipality reserves the right to prohibit issuance of an Operating permit in a

predominantly residential area in order to protect and enhance the character of the residential environment.

7.5.2 In order to sustain the business of Tuck/Spaza shops in residential areas, Tuck/Spaza selling similar goods or services should not be located no closer than 500m in radius from each other.

7.5.3 The above spacing distance should be applied less restrictively on the properties located along existing and proposed activity spines and activity nodes.

8. DISAPPROVAL OF APPLICATION

8.1 If the municipality, by the Land Development Officer or his/her (other) designee, has decided to disapprove the application, the applicant will be notified of the decision to disapprove his application within the period of thirty (30) working days.

8.2 The applicant will be provided with written reasons for the disapproval, and the decision can be in terms of the provisions of this By-law or in terms of any legislation applicable or circumstances warranting the Municipality to arrive at such decision.

8.3 Non-compliance with other relevant municipal By-laws.

9. APPEAL AGAINST DISAPPROVAL

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

9.2 The affected applicant must lodge his appeal with the Municipal Manager within the period of fourteen (14) days upon the receipt of the notice of the disapproval.

9.3 The Municipal Manager must consider and decide on the appeal within the period of ten (10) working days.

9.4 The decision by the Municipal Manager is final and binding.

10. WITHDRAWAL AND LAPSING OF AN APPROVAL

10.1 Approval is granted to the owner of the property to run a Spaza/Tuck shop from his dwelling house and will be withdrawn under the following circumstances:

10.1.1 When the property is alienated.

10.1.2 Approval of consent use for a Tuck/Shop shop and Land use approval application is

withdrawn.

10.1.3 Valid objections have been received and an interdict against the owner is obtained.

10.1.4 The owner of the property is arrested in connection with drug abuse, selling of drugs, the sale of liquor or the operation of a shebeen from the Spaza/Tuck shop, prostitution, human trafficking, gun incidents, knife stab incidents or any other crime incidents.

10.1.5 Where the shop is a cause of nuisance to surrounding neighborhood

10.1.6 Where operating permit conditions are not complied with.

10.1.7 Where any provision of this By-law or any relevant By-law is violated.

10.1.8 Where the owner/ operator fails to obtain/ or renew a certificate of acceptability (COA) issued by the Nkangala District Municipality

10.1.9 Where the owner/ operator fails to comply with good waste management practices in terms of proper storage of solid waste and promoting recycling at source.

11. NON-COMPLIANCE WITH APPROVAL CONDITIONS

11.1 If approval conditions are not complied with, the relevant department will issue a written notice to the operator to rectify any irregularities within 14 (fourteen) working days.

11.2 If complaints are received with regard to the approved tuck shop, the relevant department will evaluate the validity of the complaints and where applicable, notify the operator about the complaints and further give a written notice to the operator to comply with the conditions put by the Municipality.

11.3 Failing to comply with points (8.1) and (8.2) above may lead to the Municipality cancelling the operating permit.

12. GENERAL TERMS AND CONDITIONS

10.1 Any approved Spaza/Tuck shop business must abide by the following terms and conditions, to the extent that they are applicable:

10.1.1 A spaza / tuck shop must be operated from a building or associated immovable structure, approved, in terms of the National Building Regulations and Building Standards, 1997, (Act No.103 of 1977), as may be amended. Any person who

wishes to establish a temporary structure for the use of a tuck shop must have written permission from the Municipality approving the type of structure to be used, the placement of the structure, and the duration for which the structure is allowed

- 10.1.2 Only the registered owner/responsible person(s) will be allowed to apply.
- 10.1.3 The applicant shall obtain written comments from the surrounding neighbours. The Municipality will determine the affected neighbours.
- 10.1.4 Spaza/Tuck shops will not be allowed to operate within a 500m radius of each other.
- 10.1.5 The above spacing distance should be applied less restrictively on the properties located along existing and proposed activity spines and activity nodes.
- 10.1.6 The amenity of the neighborhood must not unduly be interfered with by the proposed use.
- 10.1.7 In accordance with the stipulations of Section 24 of the Constitution of the RSA (Act 200 of 1993), as may be amended, the permission shall be withdrawn without payment of any compensation whatsoever, where the general amenity of the neighborhood is harmed in the opinion of the Local Municipality or a nuisance is created.
- 10.1.8 The floor area used in conducting the Tuck shop, including storage of any material or goods may not exceed 40m².
- 10.1.9 Tuck shops that sell perishable goods and flammable substances must comply with health and fire regulations and bylaws. The availability of suitable and adequate storage facilities is of utmost importance in this regard.
- 10.1.10 The main use of the piece of land shall remain residential and the owner shall reside only in the dwelling house.
- 10.1.11 The activity shall not interfere with or negatively influence the amenities of the surrounding area
- 10.1.12 All vehicular and pedestrian access shall be to the satisfaction of the Local Municipality.
- 10.1.13 No stock delivery by heavy delivery trucks will be allowed and the owner must collect stock from the depots themselves.
- 10.1.14 A tuck shop business shall only be operated with an operating permit issued by

the Municipality and the operating permit is transferable subject to the provisions of clause 12.

- 10.1.15 The applicant must indicate how parking would be provided in a manner that does not disturb traffic flow and/or cause inconvenience to the neighbors.
- 10.1.16 No food shall be prepared and sold on the land unless such is approved by the Health Services Department.
- 10.1.17 The Local Municipality may impose any other condition/s that is deemed necessary to protect the amenities of the area or neighborhood.
- 10.1.18 A notice or sign displayed on the piece of land to indicate and advertise the business being conducted from the dwelling shall be to the satisfaction of the Local Municipality in terms of size, position and design, such sign should indicate the name of the owner, the name of the business, the nature of the trade and operating hours.
- 10.1.19 No alcohol drinks/beverages shall be sold from spaza / tuck shops.
- 10.1.20 A trading license must be obtained from the relevant Municipal Department.
- 10.1.21 All health by-laws must be adhered to and complied with.
- 10.1.22 A spaza / tuck shop must be used for the sale of convenience goods to the local community.
- 10.1.23 No tobacco products must be sold to persons under the age of 18.
- 10.1.24 Adequate facilities for the disposal of waste must be provided and provision must be made for the recycling of cans and bottles.
- 10.1.25 All sale or supply of meals or perishable foodstuffs, or any business that requires a license, must be in terms of Schedule 1 of the Business Act, 1991, (Act No. 71 of 1991), as may be amended.
- 10.1.26 A tuck shop must have a fire extinguisher (size 4.5kg it might always differ on the household) and renewed every year.
- 10.1.27 The operating hours for all Spaza/Tuck shops are allowed between 06h00, in the morning, and 20h00, at night.
- 10.1.28 The storage of goods and equipment shall be within the area designated for that purpose on the plan which is to accompany the application detailing that area to be used for the business as well as any portion of that area in which goods or

equipment will be stored.

- 10.1.29 If the Spaza/Tuck shop is closed for a period longer than 90 days, it will be presumed that the business 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 the operating permit in regard to that Spaza/Tuck shop.
- 10.1.30 Where an operator has more than one Tuck shop business in separate sites, a separate permit is required for each tuck shop operating.
- 10.1.31 No person is allowed to sleep and/or wash him/herself in the Spaza/Tuck shop.
- 10.1.32 No person is allowed to operate a Spaza/Tuck shop business if he/she has been declared by a court of law to be of unsound mind.
- 10.1.33 The operator must not commit any criminal activity in the shop in question or he/she must not have a criminal record that led to his/her business being closed.
- 10.1.34 No pets and/or animals should be kept in the tuck shop.
- 10.1.35 Advertising signs must comply with the Outdoor Advertising By-law of the Municipality.
- 10.1.36 The owner must ensure that a tuck shop is always clean and does not have:
 - 10.1.36.1 Waste kept in a manner that attracts rodents or other pests to the tuck shop; or
 - 10.1.36.2 Flies, cockroaches or mice attracted to, or breeding, in significant numbers in the tuck shop.
- 10.1.37 If food is to be sold or prepared from the premises, a Certificate of Acceptability be obtained as required by regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) from the Municipality.
- 10.1.38 Tuck shop building plan must show the layout, extent, position and elevations of buildings on the proposed plan.
- 10.1.39 Dispose of litter generated by the business in whatever refuse must be stored in refuse bin(s) as required by the municipality or disposed at a dumping site approved by the Municipality.
- 10.1.40 The Tuck/Spaza shop must have a maximum number of two(2) employees.

11. POWERS AND FUNCTIONS OF AUTHORIZED OFFICIALS

- 11.1 The authorised official may, in respect of the premises, at all reasonable times enter any land or premises on which a Spaza/Tuck shop is being operated in terms of this By-laws in order to
- a) Inspect or monitor the land or premises;
 - b) Question the owner, operator or person in control of the land or premises;
 - c) Serve any compliance notice to the owner, operator or person in control;
 - d) Take photos of any items used on the premises and
 - e) Take samples or other evidence in respect of any goods sold on the premises.
- 11.2 A duly authorized official may, in respect of a Spaza/Tuck shop operated instruct a person to cease an act or conduct which poses harm and or risk, such act or conduct should be prohibited with immediate effect.
- 11.3 If it appears to the authorized official that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct within a reasonable time period.
- 11.4 When issuing a warning notice the authorized official must obtain the signature of the offending person confirming receipt of a warning notice or by way of the registered post and Email service.
- 11.5 The authorized official must inform the offending person that-
- a) A signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
 - b) It is an offence in terms of this By-laws to refuse to sign a warning notice issued by an authorized official.

12. TRANSFERABILITY OF PERMIT

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

- c. A dependent or assistant is only permitted to replace the permit-holder for the period stipulated in the affidavit and approved by the municipality.
- d. A permit-holder may not transfer a permit to any other person in any manner.
- e. (a) If a permit is transferred by the municipality and the new holder does not resume trading within a period stipulated in the transfer notice, the municipality may revoke the permit and in such a case the permit must immediately be returned to the municipality.

(b) Details of revoked permits must be placed on a database to be shared with relevant departments.
- f. If a permit holder no longer wishes to trade, the municipality may revoke the permit and in such a case the permit must immediately be returned to the municipality.

13. OFFENCES

- a. Any person who:
- b. Contravenes or fails to comply with any provisions of these Spaza/Tuck shop By-laws;
 - 12.2.1 Refuses or fails to comply with any notice served on him or her in terms of or for the purposes of this By-law;
 - 12.2.2 Refuses or fails to comply with the terms or conditions of any approval issued in terms of this By-law;
 - 12.2.3 Interferes with an authorised official or other official of the Council acting under power delegated to him or her, in the exercise of any power or the performance of any duty under this By-law;
 - 12.2.4 refuses to furnish to an authorised official or other official of the Council acting under power delegated to him or her, with any documentation or information required for the purposes of this Bylaw or furnishes a false or misleading document or false or misleading information;
 - 12.2.5 A person found to be transgressing any provision of this by-law must—
 - (a) 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

(b) 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

12.2.6 Pretends to be an authorized official or other official of the municipality acting under power delegated to him or her, shall be guilty of an offence and –

(i) upon conviction, be liable to a fine or imprisonment or both. The fine shall be determined by the Municipality.

(ii) 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.

(iii) No person under 18 years of age may apply for permit.

c. Nothing in subsection (1) above 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.

d. Any person who establishes a Tuck Shop business without Municipal approval shall be liable as per the approved fine register.

e. Tuck shop owners who fail to renew their permits on time will be fined and their business will be closed until they pay the fine and apply for renewal of their permits.

f. Spaza/Tuck shop owners or operators found sleeping inside the Tuck shops will be fined the amount as per approved Tariffs.

14. PENALTIES

a. Any person who is convicted of an offence or offences under this By-laws is liable to a fine of an amount not exceeding R40 000 or to imprisonment for a period not exceeding 2 years, or to both fine and imprisonment.

b. In the case of a counting offence, an additional fine of an amount not exceeding R 2000.00 or imprisonment for a period not exceeding 90 days, for each day on which such offence continues or both fine and imprisonment, will be imposed.

- c. The standard fine should be imposed in line with the approved Council tariffs as reviewed from time to time.

14. OBJECTIONS

- 14.1 Any person whose rights are affected by the application in terms of this By-law may object against the application in terms of this By-Law by giving written notice of the objection and reasons thereof to the municipal manager within 21 days of the date of the notification of the application.
- 14.2 The objections committee shall be comprised of the delegation set out in Clause 16 of this By-Law, this committee shall be responsible for taking a decision on the applications with objections.

15. APPEALS

- 15.1 The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.
- 15.2 The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable authority.
- 15.3 The appeal authority must confirm, vary or revoke the decision, but no such variation of a decision may detract from any rights which may have accrued as a result of the decision.
- 15.4 The appeal authority must furnish written reasons for its decision on all appeal matters.

16. DELEGATIONS

- 16.1 Subject to the Constitution and applicable national and provincial laws, any-
 - a. Power, excluding a power referred to in section 160(2) of the Constitution;
 - b. Function; or
 - c. Duty conferred, in terms of this By-laws, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to any entity within, or a staff member employed by the Municipality.
- 16.2 Any delegation contemplated in this clause must be recorded in the Registrar of Delegations, which must contain information on the-
 - a. Entity or person issuing the delegation or sub-delegation;
 - b. Recipient of the delegation or sub-delegation;
 - c. Conditions attached to the delegation or sub-delegation.

17. SHORT TITLE

17.1 This By-law is referred to as the Emalahleni Local Municipality Spaza/Tuck shops By-law and will come into operation on the date of announcement of the By-law in the Provincial Gazette.

17.2 In the event of a conflict between this By-law and any other By-law of the Municipality the provisions of this By-law shall prevail regarding the regulation of the Spaza/Tuck shops.

18. SCHEDULES APPLICABLE TO SPAZA SHOPS

18.1 Schedule 1: Application Form

18.2 Schedule 2: Consent Form



EMALAHLENI LOCAL MUNICIPALITY

APPLICATION FOR THE ISSUING OF AN OPERATING PERMIT IN TERMS OF THE SPAZATUCK SHOP BY-LAW

To: The Municipal Manager
Emalahleni Local Municipality, PO Box 3, WITBANK, 1035

APPLICATION FORM :

PLEASE MARK WITH A CROSS (X)

NEW **RENEWAL**

NAME OF FIRM/COMPANY : _____

TRADE NAME : _____

NAME AND SURNAME OF APPLICANT : _____

RESIDENTIAL ADDRESS OF APPLICANT : _____

(PROOF OF RESIDENCE NOT OLDER THAN THREE MONTHS TO BE ATTACHED TO THIS APPLICATION)

IDENTITY /PASSPORT NUMBER : _____

TELEPHONE NUMBER : _____ CELLPHONE NUMBER _____

E-MAIL ADDRESS : _____

COUNTRY OF BIRTH : _____

SA CITIZEN : YES _____ NO _____

(IF NO, CERTIFIED COPIES OF THE FULLY ENDORSED WORK PERMIT OR LETTER FROM DEPARTMENT OF HOME AFFAIRS DECLARING CONFIRMATION TO WORK AND MANAGE A BUSINESS IN THE RSA)

STREET NAME & NUMBER : _____

PLACE WHERE BUSINESS : _____

WILL BE CONDUCTED : _____

NATURE OF BUSINESS : _____

ERF NUMBER : _____

WARD NUMBER : _____

WARD COUNCILLOR : _____

TYPE OF BUSINESS FOR EXAMPLE	MARK WITH A CROSS (X)
Fresh produce such as vegetables	
Basic groceries and food	
Flammable substances (e.g Paraffin and gas)	
Selling of clothing items (e.g shoes, dresses)	
Selling of beauty items (e.g weaves)	
Other (specify)	

FEEES PAYABLE FOR THE ISSUING OF OPERATING PERMIT IS PER RATES POLICY AND IS RENEWABLE EVERY YEAR. TRADING WITHOUT A VALID OPERATING PERMIT S A PUNISHABLE OFFENCE AND THE BUSINESS WILL BE CLOSED. NO PAYMENT SHOULD BE DONE BEFORE ALL THE LEGISLATIVE REQUIREMENTS ARE MET.

Motivation for conducting business from a residential site:

Checklist for applicants:

REQUIREMENTS	MARK WITH A CROSS (X)
Certified copy of South African Identity document	
Proof of Residence, if he/she is an Emalahleni Local Municipality resident	
Original Copy of Asylum Document issued by the South African Department of HomeAffairs, if he/she is a foreign national	
Certified copy of title deed or permission to occupy	
Approved building plans of the tuck shop in line with the zoning of the property	
Internal and external photos of the existing building(s) on the site	
Responsible persons must attach a letter of authority from the court of law	
Proof of purchase of at least 2 SABS approved wheelie bins	
Proof of food approved pest control measures by certified/registered companies	
Lease agreement between the property owner and the operator	
Proof of payment of application fee	
Operator's Police Clearance Certificate	

SIGNATURE OF APPLICANT

DATE _____

Returnable documents with this application: (Certified copy of South African Identity Document or Original Copy of Asylum document issued by the South African Department of Home Affairs; Certificate of acceptability; Proof of Residence, Certified copy of title deed or permission to occupy; Building plan of the tuck shop; Internal and external photos of the existing building(s) in the site; Approved solid waste storage facilities; Approval of consent use for a Tuck/Shop and Land use approval application)



EMALAHLENI LOCAL MUNICIPALITY

ADJACENT NEIGHBOURS' CONSENT FORM

CONSENT OF AFFECTED ADJACENT OWNER/S:

AFFECTED ADJACENT OWNERS COMMENTS:

FULL NAME: - _____

SURNAME: _____

ID NO: _____

CELL NO: _____

ERF NO. AND EXTENSION: _____

STREET ADDRESS: _____

COMMENTS: _____

SIGNATURE OF ABOVE-MENTIONED
OWNER

DATE

AFFECTED ADJACENT OWNERS COMMENTS:

FULL NAME: - _____

SURNAME: _____

ID NO: _____

CELL NO: _____

ERF NO. AND EXTENSION: _____

STREET ADDRESS: _____

COMMENTS: _____

SIGNATURE OF ABOVE-MENTIONED
OWNER

DATE

CONSENT OF AFFECTED ADJACENT OWNER/S:

AFFECTED ADJACENT OWNERS COMMENTS:

FULL NAME: - _____

SURNAME: _____

ID NO: _____

CELL NO: _____

ERF NO. AND EXTENSION: _____

STREET ADDRESS: _____

COMMENTS: _____

SIGNATURE OF ABOVE-MENTIONED
OWNER

DATE

AFFECTED ADJACENT OWNERS COMMENTS:

FULL NAME: - _____

SURNAME: _____

ID NO: _____

CELL NO: _____

ERF NO. AND EXTENSION: _____

STREET ADDRESS: _____

COMMENTS: _____

SIGNATURE OF ABOVE-MENTIONED
OWNER

DATE

CONSENT OF AFFECTED ADJACENT OWNER/S:

AFFECTED ADJACENT OWNERS COMMENTS:

FULL NAME: - _____

SURNAME: _____

ID NO: _____

CELL NO: _____

ERF NO. AND EXTENSION: _____

STREET ADDRESS: _____

COMMENTS: _____

SIGNATURE OF ABOVE-MENTIONED
OWNER

DATE

AFFECTED ADJACENT OWNERS COMMENTS:

FULL NAME: - _____

SURNAME: _____

ID NO: _____

CELL NO: _____

ERF NO. AND EXTENSION: _____

STREET ADDRESS: _____

COMMENTS: _____

SIGNATURE OF ABOVE-MENTIONED
OWNER

DATE