

THEMBELIHLE LOCAL MUNICIPALITY

TUCK SHOP POLICY.

A. PURPOSE

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

B. DEFINING A TUCK SHOP

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

C. BACKGROUND

At present, the Thembelihle Municipality controls the establishment of the tuck shops on an ad-hoc basis in terms of temporary departures from the zoning schemes applicable to the area the tuck shop is located in. There are limited controls in place to identify appropriate sites for these types of micro-business enterprises and the municipality’s existing policy guidelines.

The policy under consideration is specifically aimed at achieving sustainable land use control guidelines to allow tuck shop or similar micro enterprises to operate from residential premises.

The policy must take into consideration existing municipal by-laws and policies, existing and draft zoning scheme regulations, the Land Use Planning Ordinance, 1985(Ord 15 of 1985), the Northern Cape Provincial Spatial Development Framework, the draft Thembelihle Spatial Development Framework and the Integrated Development Plan for Thembelihle.

Cognisance should be taken of the fact that the framework within which the tuck shop will be allowed can become a sensitive issue, especially in the poorer communities which these



“shops” mostly serve. It is thus essential that a balance is achieved between implementing a framework to control/manage these businesses and the perceived constitutional right of an individual to generate an income from the premises he resides in.

Controlling the establishment of the shop in the existing business and industrial sections of Thembelihle generally does not present a problem for the municipality as formal zoning rights are in place and “new” rights can be accommodated in terms of rezoning and departure/consent applications.

It is acknowledged that many of the illegal establishments allow members of the community access to basic goods and services without having to travel far and that it promotes entrepreneurship (allows people to make a living and access work opportunities). The uncontrolled allowance of these activities can however result in some level of abuse- can act as fronts for illegal activities such as selling of drugs and liquor, etc.

It is also recognized that the respective communities within Thembelihle area are all structured differently from a socio-economic perspective.

D. ASPECTS TO BE ADDRESSED BY THIS POLICY

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

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

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

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



E. CONTEXTUAL FRAMEWORK

1. Provincial Spatial Development Framework(PSDF)

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

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

Emphasis is placed in the PSDF on:

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

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

The basic principles contained in the PSDF suggest that it is the municipality’s responsibility to enable local economic development and socio-economic and spatial



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

2. **Thembelihle Integrated Development Plan (TIDP)**

The TIDP's vision is *“to be the best small sized town in the Northern Cape using all available resources sustainably to the benefit of the community in a growing and thriving city”*

The following issues applicable to this policy are highlighted in the TIDP namely:

- Ensuring that communities feel safe and that the environment is conducive to development opportunities;
- taking care of vulnerable citizens such as children and aged- social assistance and awareness programmes, soup kitchens , safe havens for street children(LED);
- ensuring that the IDP is linked to the initiatives of all three spheres of government for optimal service delivery;
- addressing economic development, unemployment and poverty;
- focus on the principles of good governance(responding to the needs of the people, ensuring public participation in decision making, etc.);
- allowing for development nodes outside the Thembelihle towns- primarily focused along the main activity and public transport routes;
- enhancing and supporting tourism development and developmental tourism opportunities;
- development of business hives(stalls, micro businesses, containers, selling of wood, etc.) in the townships(LED);
- creating a safer environment for the community of Thembelihle through regulation of informal traders, and community orientation policing in conjunction with law enforcement personnel;

F. LEGISLATIVE AND REGULATORY FRAMEWORK

The Thembelihle Local Municipality is subjected to a variety of By-laws and utilizes a single zoning scheme to regulate/manage land uses in the area under its control. This new policy should therefore inform both the system and scheme. The policy need to be informed primarily on the basis of existing legislation and policy guidelines.



1. Title Deed

A tuck shop may not be permitted on a property if the use is a conflict with a restriction contained in the title deed of that property. An additional application for removal of the title deed conditions in terms of the Removal of restrictions Act, 1967 (Act 84 of 1967) will therefore need to be submitted to the PGWC :Department of Environmental Affairs and Development Planning. A copy of this application must be submitted along with the land use application to the municipality for processing.

2. Land Use Planning Ordinance, 1985(Ordinance 15 of 1985)

In terms of Section 36 of the Land Use Planning Ordinance, 1985(Ordinance 15 of 1985) a land use application can only “ *be refused on basis of a lack of desirability of the contemplated utilization of land concerned, including the guideline proposals including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its effects on existing rights concerned(except against an alleged right to protect against trade competition)* ” and “ regard shall be had, in considering relevant particulars, to the safety and welfare of the members of the community concerned, the perseveration of the natural and developed environment concerned or the effect of the application on the existing rights concerned.”

3. Existing Zoning Scheme Regulations

Tuck shops are handled as temporary departure from the Thembelihle and Section 8 Zoning Schemes in terms of section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985). A temporary departure is allowed for a maximum period of five (5) years and approval can be extended for a further five (5) years.

In terms of any residential zoned property may accommodate business uses as a primary right subject to the following conditions:

- the overall use of the property must remain residential in nature(at least 60% of the property);
- the above use shall not have an adverse impact on the character of the immediate environment.

4. Zoning Scheme Regulations for Thembelihle Local Municipality.

The draft integrated zoning scheme describes the intent of Single Residential Zones as follows-

“The single residential zones are designed to provide locations for single-family dwelling units in a variety of densities, and to preserve the amenity and character of residential areas. The general aim of these single residential zones is to provide a comfortable, healthy, safe, and pleasant living environment and to promote the stability



of residential neighbourhoods by preserving neighbourhood character. However there are controlled opportunities for home employment and low intensity mixed use development that is compatible with residential use, subject to Council consent.

The existing zoning scheme makes provision for a “tuckshop” as **consent use** under Single Residential zones II and IV.

According to the draft integrated zoning scheme the following provisions shall apply if a consent use for a tuck shop is approved by Council. Council may however impose any additional conditions it deems fit depending on the circumstances.

- a) The extent and position of the retail component shall be clearly defined on a plan, and shall not exceed 25 m² or 50% of total floor space (excluding any water cost, change room and storeroom), whichever is the lesser area.
- b) In addition to the house shop, the proprietor of the tuck shop.
- c) Any new structure, or alteration to the existing dwelling or outbuilding, must conform to the residential character of the area concerned.
- d) No more than 3 (three) persons, including the occupant of the dwelling house, are permitted to be engaged in retail activities on the property.
- e) Only one un-illuminated sign shall indicate only the name of the owner, name of the business and nature of the retail trade.
- f) The following are not permitted in a tuck shop: sale of liquor or alcoholic beverages, storage or sale of gas containers, vending machines, video games or pool tables.
- g) The Council may restrict the operating hours relating to the tuck shop.
- h) The Council may require on-site parking to its satisfaction.
- i) Permission to operate a tuck shop is granted to a particular operator operating from a particular property, and is not transferable.

G. LAW ENFORCEMENT

In terms of sections 39(2) , 40,41 and 46 of the Land Use Planning Ordinance, 1985(Ord 15 of 1985)

“39(2) No person shall-

- a) contravene or fail to comply with-
 - the provisions incorporated in a zoning scheme in terms of this Ordinance , or
 - conditions imposed in terms of this Ordinance or in terms of the Townships Ordinance, 1934,



except in accordance with the intention of a plan for a building as approved and to the extent that such plan has been implemented , or

- b) utilize any land for a purpose or in a manner other than that intended by a plan for a building as approved and to the extent that such plan has been implemented.”

“40(1) a) If a building or any portion thereof was erected in contravention of section 39(2)(a), the local authority shall serve an instruction(herein referred to as the instruction) on the owner concerned-

- to rectify such contravention before a date specified in the instruction , being not more than six months after the date of the instruction or, at the option of the said council,
- to apply for the determination of a contravention levy, or in terms of section 15 for a departure, before a date specified in the instruction, being not more than 30 days after the date of instruction.

- b) If the said owner fails to comply with the instruction, the local authority shall, “ subject to the provisions of paragraph (c) , take all such steps as may be necessary to rectify such contravention “

“40(2) Any amount spent by the local authority in terms of subsection (1) shall be “ recoverable by that local authority from the owner “

“41 Any person authorized thereto in writing by the Administrator or director or a council may at any reasonable time, after reasonable notice and causing as little inconvenience as possible enter upon any land in order to-

- do anything which the Administrator or director or such a council, as the case may be, is permitted or required to do in terms of this Ordinance, or
- make an enquiry, an investigation or survey in connection with the exercise or performance of his or its powers or duties by the Administrator or director or such a council, as the case may be, in terms of this Ordinance.”

“46(1) Any person who-

- a) contravenes or fails to comply with a provision of section 23(1), 33(12),35(2), or 39(2), or
- b) threatens, resists, hinders or obstructs, uses foul language, insulting or abusive language towards a person in the exercise of a power under section 41 or refuses or fails to answer to the best of his ability a question put to him in terms of said section,



shall be guilty of an offence and on conviction liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or both such fine and such imprisonment.”

- c) “46(2) A person convicted of an offense under this ordinance who after such conviction continues with the conduct in respect of which he was convicted, shall be guilty of a continuing offence and on conviction liable to a fine not exceeding R100 in respect of each day on which he so continues or continued therewith.”

The above provisions give Council the right to investigate a complaint/alleged illegal activity, to ascertain the validity and/or extend thereof. 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, if required.

The monitoring and control of the illegal entities will require a high level of commitment and dedication as well as co-operation between all role players including the South African Services and the law enforcement section of the Municipality.

There are also numerous other sets of legislation (Acts, municipal by-laws and regulations) that are potentially applicable to the operation of tuck shop and other types of similar land uses- e.g. building regulations, nuisance/noise by-laws, tobacco legislation and health and a health and safety by-laws.

What should however be strictly enforced is non-compliance with legislation and offenders should not be allowed to continue the illegal activities whilst they make the necessary applications to legalise their business. 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 prosecution and/or rectification of the offence difficult.

H. PROPOSED POLICY

1. Tuck Shop Categories

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

- a) A tuck shop



- b) A traditional tuck shop; and
- c) A large tuck shop (conversion into traditional corner shop)

- Tuck Shop

A tuck shop is less than 6m² in extent and is operated from a room in or on the front stoep of the main house of the property. It is normally confined to the selling confectionery such as chocolate and sweets, cigarettes, bread , milk, chip and other small goods, home-made foods and preserves. It is often limited to a single operator typically an unemployed resident in the house trying to earn a little extra money to make ends meet.

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

- Traditional Tuck Shop

The traditional tuck shop typically ranges in size from 6m² to 20m² (single garage) in extent or half the size of the house, whichever is lesser. These types of shops offer a wider variety of goods and services and have a larger footprint/impact on the surrounding community. The shops are typically operated from outbuildings or temporary structures/shipping containers and are generally separated from the main house.

- Large Tuck Shop

This type of shop is typically larger than 20m² (single garage) but less than 40m² (double garage/size of a subsidy house) in extent or half the size of the main house, whichever is lesser and has quite a significant impact on the residential environment. It is proposed that the locality criteria be strictly applied to these types of shops and that these shops be allowed to grow into a formal business premises.

- Other businesses

A retail concern / service with a floor area larger than 40m² in extent and/or that is larger than the main house, and that does comply with the definition of tuck shop, for example an enterprise that is not operated by the property owner or the



legal tenant (by an outside person) is regarded as a formal business and not a tuck shop. This type of enterprise may only be considered if it complies with the locality criteria as set in the policy for a Large House Shops. Business rates and taxes will be charged on the property on which the house shop is located.

2. Locality

- Tuck Shops

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

- Traditional and large Tuck Shops

The following locality criteria shall apply to all traditional and large tuck shops larger than 6m² in extent:

Traditional and large tuck shops should ideally be located along existing and proposed activity spines and activity nodes as indicated in the draft Thembelihle Spatial Development Framework as well as on the land already designated for business purposes. These areas are usually highly accessible to the general public and are areas where business facilities should be established.

A traditional and large tuck shop located within a residential area(away from the main routes and business areas, or in close proximity to an established business site) should preferably be restricted to a corner stand where it might eventually develop into the traditional corner shop. The locality of the corner site must further be such a nature that in serves a fairly wide surrounding area and the shop has a reasonable chance of developing into a feasible corner shop(formal business).

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

A traditional tuck shop located within a residential area may only be considered away from a street corner and/or midblock provided that the extent, that no valid objections are received from an interested and affected party/surrounding neighbor and that it complies with other aspects addressed by the policy. Such



tuck shop may not be allowed to expand and will not be granted permanent zoning rights (rezoning).

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

3. Number of tuck shops within an area

The number of traditional and large tuck shops within a predominantly residential residential area should be restricted in order to protect and enhance the character of the residential environment, protect the vulnerable members of the community and to ensure that any adverse social impacts and unlawful activities can be controlled.

In this regard, it is suggested that a resident should walk to access convenience shops and services is 500m. In order for tuck shop to be sustainable over time, it is suggested that traditional and large house shops located in a residential area, which sell similar convenience services, should be located no closer than 400m in radius from each other (800m apart). (See figure 1 for explanation)

The above spacing distance's should be applied less restrictively on the properties located along existing and proposed activity spines and activity nodes as indicated in the draft Thembelihle Spatial Development Framework as well as on land already designated for business purposes.

4. Types of structures that can be used for s tuck shop

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

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

5. Operating hours



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

6. Compatibility with other surrounding land uses

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

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

7. Gaming machines, etc.

In order to ensure that there is no loitering around the tuck shop it is recommended that no activity such as video games, gaming machines and pool tables be allowed within a tuck shop. No place of entertainment will be allowed to operate from a tuck shop

8. Health regulations

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

- 1) that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991(Act 71 of 1991) from the Thembelihle Municipality ;
- 2) that the premises comply with general hygiene requirement's for food premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972(Act 54 of 1972);
- 3) that 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 Pixley District Municipality ; and



- 4) that the premises comply with government notice R264 of 30 March 2012 relating to the smoking of tobacco products in public places as promulgated in terms of Tobacco Products control Act, 1993 (Act 83 of 1993) as amended.

Any tuck shop where food is prepared and/or disposed of must also obtain a permit from the Directorate: Civil Engineering Services in terms of Chapter 5, Section 6 of the water and sanitation Services By-law for the disposal of industrial effluent.

9. Business license

A business license application must be submitted to the Municipal Manager of the Thembelihle Local Municipality.

10. Noise nuisance

The tuck shop may not constitute a noise nuisance (people shouting, loud music being played, extraction fans, etc), create a nuisance for any neighbouring property owner (as a result of vehicles parking in the street, damaging neighbour's property, smoke from fires, cars hooting/stopping in front of neighbours property, etc). All music played in a tuck shop must be limited to listening music set at a low volume and speakers may not be placed outside the tuck shop. Juke boxes will be allowed within a tuck shop.

11. Property rates and taxes

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

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

- a) The extent of the tuck shop in relation to the existing dwelling does not exceed the restrictions in the policy for a traditional tuck shop (up to 20m²); and/or
- b) On condition that the owner meets the requirements as outlined in the indigent policy of Thembelihle Local Municipality.



The tuck shop should thus only be charged business tariffs if it is larger than 20m² in extent.

12. South African Revenue Services(SARS)

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

13. Rectification of illegal shops

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

If the tuck shop owner and/or operator do not adhere to the municipality's notice, a final notice may be served by the municipality on this owner and/or operator allowing him/her a final 14 days in which to cease the unauthorized activities. Should this notice not be adhered to, the municipality will institute legal action, which can either result in a criminal charge being laid or civil proceedings being instituted to have the illegal use ceased.

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

If a tuck shop application is approved , the property owner will have 3 months in which to comply with the conditions attached to the application approval.

14. Application details to be submitted

- Tuck Shops in Thembelihle Local Municipality:

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



The application will be circulated internally and the department will check for its compliance with the policy. If the shop complies with the policy, the department will issue an approval letter which will be valid for 5 years. General approval conditions will be attached to the letter to which the tuck shop owner will need to comply.

If the application does not comply with the policy, title deed of the property, and/or the applicable zoning scheme, a formal application as outlined for traditional and large tuck shops will need to be followed.

- Traditional and large tuck Shops

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

- Application fees
- Completed application forms.
- Owner consent(if owner is not the applicant)
- Local plan
- Site development plan
- Surrounding land use plan(100meter radius)
- Certified copy of title deed.
- Internal photos of existing tuck shop clearly showing each room used by the shop, furnishings, décor, fittings, sound proofing , floor coverings, ablution facilities, internal storage areas, etc.(if applicable)
- External photos clearly indicating the external finishes of the structure which is used, its relationship to the existing dwelling unit on the erf, external storage areas, parking areas, treatment of erf boundaries, garbage disposal area, signage.(if applicable)
- Photos must also be provided clearly indicating the locality of the tuck shop in relation to surrounding properties.
- If the premises have not been completed, details must be provided as to how and when the construction will be completed.
- The owner of the existing or proposed tuck shop must provide a full motivation stating the type of shop being applied for and as to why he regards the establishment to be compatible with the surrounding land uses.
- The owner must indicate how nuisance factors such as noise disturbance and the adjoining neighbours' right of privacy is respected.



- The owner must indicate how health and safety requirements are addressed.
- The owner must indicate how the industrial effluent generated by the business, if any, will be disposed of (grease traps etc).

15. Advertising and processing of applications

- a) All applications for illegal or new traditional or large tuck shops shall be advertised as follows:
- In accordance with the instruction of the PGWC: Department of Environmental Affairs and Development Planning in terms of the Removal of Removal Act, 1967(Act 84 of 1967), if applicable;
 - In the absence of a removal of restrictions application, registered Notices shall be served on surrounding property owners affording those 30 days to comment. Copies of these notices may also be served by hand to these property owners.
 - Notices shall be served on the Ward Committee of the area as well as the Ward Councilor affording them 30 days to comment;
 - Notices shall be placed on the property and be clearly visible to passersby for 30 days from date of advertisement ;
- b) Applications for tuck shops are sent to the Traffic Services/law Enforcement Section of the Thembelihle Local Municipality for their comments so as to ascertain whether:
- any criminal activities such as illegal gambling, sale or distribution of narcotics, etc. have occurred or alleged to have occurred on the property;
 - incidents such as murders, stabbings, fights, etc. have been reported in the immediate vicinity of the property;
 - vehicle and/or pedestrian accidents occurred in the vicinity of the property;
 - and
 - any illegal sale of liquor has been reported.

The tuck shop should be refused if any of the above mentioned poses a problem.

- c) The applicant shall be granted a maximum of 30 days to comment on the objections/comments received. if the reply is not received with the 30 day period , the application shall be processed further.
- d) The decision/final recommendation will then be communicated to the applicant and any objector by registered post.



- e) The applicant or objector, as the case may be, shall be afforded a right of appeal in terms of the provisions of the Land Use Planning Ordinance, which right must be exercised within 21 days of the registration of the decision notice.

16. Validity period of approval

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

17. General Conditions

In consideration of the above, the following general conditions shall apply to all approved tuck shops:

- a) The type of tuck shop shall be described and the tuck shop shall be limited to this use rights;
- b) The tuck shop owner and/or operator has three(3) months within which to comply with the conditions of approval;
- c) Permission to operate the tuck shop is only granted to the property and the operator concerned and is not transferable;
- d) The operator of the tuck shop must reside in the dwelling unit and must also be the owner or the registered tenant of the property;
- e) No more than three(3) persons, including the owner/registered tenant of the dwelling unit, are permitted to be engaged in retail activities on the property;
- f) Trading must be restricted to the boundaries and within the street building lines of the property. No trading is permitted on the sidewalks or road reserve;
- g) Trading can only be allowed from the structures that comply with the National Building Regulations and Building Standards Act, 1977 with regards to human occupancy (has an occupancy certificate) and which have approved building plans. The tuck shop may not trade if building plans for the structure have been approved;
- h) Any new structure, or alteration to the existing dwelling unit or outbuilding, must conform to the residential character of the area concerned (look like a structure normally found on a residential property);
- i) The extent and position of the retail component(trading area) shall be clearly defined on a site development plan, and shall not exceed;

- Tuck Shop: 6 m² of total space of the dwelling unit;



- Traditional tuck shop: up to 20m² or 50% to total floor space of the dwelling unit whichever is lesser area; or
 - Large Tuck Shop: up to 40m² or 50% to total of floor space of the dwelling unit whichever is the lesser area;
- j) An additional area of up to 15m² can be applied for to accommodate any water closet, change room and/or storeroom associated with a traditional or large tuck shop provided that this does not exceed 50% of the total floor space of the dwelling unit;
 - k) Trading hours shall be limited to 06h00 to 22h00, unless otherwise approved. The municipality may restrict trading hours further depending on the comments and objections received on the application.
 - l) Stock deliveries must be restricted to normal business hours (08h00 to 17h00 weekdays);
 - m) The sale of liquor or alcoholic beverages, the storage or sale of gas and gas containers, paraffin and other hazardous substances is prohibited;
 - n) No activity such as video games, gaming machines, gambling machines and pool tables be allowed within a tuck-shop. No place of entertainment will be allowed to operate from tuck shop.
 - o) The sale of cellphone /telephone recharge vouchers and the provision of any other services or trades must be explicitly applied for and approved by Thembelihle Local Municipality;
 - p) The tuck shop may not constitute a noise nuisance or create a nuisance for any neighbouring property owner;
 - q) Juke boxes will not be allowed within a tuck shop. Should music be played in a tuck shop, it must be limited to listening music set at a low volume and speakers may not be placed outside the tuck shop;
 - r) All parking for the tuck shop must be provided on the property concerned to the satisfaction of the Directorate: Planning, Housing and Civil Engineering Services. No parking will be allowed in the road reserve;
 - s) Disposal of refuse must be addressed to the satisfaction of the Directorate: Environment and Civil Engineering Services;
 - t) Only one non-illuminated sign shall be permitted and shall not exceed 500cm² in area. Such sign shall indicate only the name of the owner, the name of the business and the nature of the retail trade;
 - u) Any other sign must be applied for and approved by the Thembelihle Local Municipality before it can be erected;
 - v) The following health regulations must be complied with if food is to be sold or prepared from the premises, namely:

- that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) from the Thembelihle Local Municipality;
 - that the premises comply with the general hygiene requirements for foods premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972(Act 54 of 1972);
 - that 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 Eden District Municipality; and
 - that the premises comply with government notice R264 of 30 March 2012 relating to the smoking of Tobacco Products Control act, 1993(Act 83 of 1993) as amended.
- w) A business license application must be submitted to the Municipal Manager.
- x) A permit application must be submitted in terms of Chapter 5, Section 6 of the Water and Sanitation Services By-law for the disposal of industrial effluent to the Directorate: Technical and Civil Engineering Services for approval.
- y) All tuck shop owners and/or operators must be registered for tax with the South African Revenue Services

18. Withdrawal and lapsing of an approval

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

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

19. Non-compliance with approval conditions



- a) If approval conditions are not complied with the Town Planning Section will issue a written notice to the owner to rectify any irregularities within 7 (seven) days.
- b) If objections are received with regard to the legally approved tuck shop the Town Planning Section will evaluate the legality of the objections and if necessary inform the owner about these objections and will request the owner to comply with approval conditions.
- c) By failure to comply with points (a) and (b) above further legal action will be taken by Council. A court interdict will be obtained against the owner of the property forcing him/her to suspend trade from property.
- d) In case of serious crime, the matter is to be referred to the state prosecutor's office for further action.

20. Delegation

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

