



SPAZA SHOP POLICY

Approved by Council on	January 2024
Council Resolution No	A011/01/2024
Policy No	01

Item No.	Item	Page No.
1.	Background	
2.	Definitions	
3.	Purpose of the policy	
4.	Scope and application of the policy	
5.	Conflict resolution	
6.	Procedural principles	
7.	Health, Building Control and Safety Requirements	
8.	Person eligible to apply	
9.	Application procedure	
10.	Application requirements	
11.	Deciding on an application	
12.	Appeal against a decision by authorised official	
13.	Offences and penalties	
14.	Development charges and contributions	
15.	Spaza shop considerations	
16.	Validity period of an approval	
17.	Withdrawal of an approval by the municipality	
18.	Non-compliance with approval conditions	
19.	General conditions applicable to all spaza shops	

1. BACKGROUND

At present, the Victor Khanye Local Municipality controls the establishment of spaza shops on an ad-hoc basis. There are limited controls in place to identify appropriate sites for these types of micro-business enterprises.

The policy is specifically aimed at achieving sustainable land use control lines to allow spaza shops or similar micro-enterprises to operate from residential premises.

The policy takes into consideration existing municipal by-laws and policies.

Cognizance was taken in the preparation of the policy of the fact that the framework within the spaza shops are 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/she resides in.

2. DEFINITIONS

“APPLICANT”: means an owner or person duly authorised to make a land development Application as contemplated in the Victor Khanye Local Municipality Spatial Planning and Land Use Management By-Law, 2019.

“BENEFICIAL OWNER”: means a person who was granted, in terms of any repealed or other law, specific property rights or equity in a property, even though dominium or formal title of the property has not been registered or transferred;

“BY-LAW”: means the Victor Khanye Local Municipality Spatial Planning and Land Use Management by-law, 2019”

“CELUS”: means the Victor Khanye Local Municipality Land Use Scheme, 2022.

“HEALTH CERTIFICATE”: means a health certificate issued in terms of these Public Health By-law.

“MUNICIPALITY”: means Victor Khanye Local Municipality.

“OWNER”: means a natural or juristic person registered in a deeds registry as contemplated in sections 1, 2 and 102 of the Deeds Registries Act as the Owner of Land or beneficial Owner in law where properties have been vested in and are under

the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939)

2. PURPOSE OF THE POLICY

Purpose of this policy is to regulate and control the operations of spaza shops within the area of jurisdiction of the Municipality; in particular, to ensure compliance with safety and health requirements and to provide the proper establishment of spaza shops and the application process thereof

3. SCOPE AND APPLICATION OF THE POLICY

The policy applies to all spaza shops within the jurisdiction of the Victor Khanye Local Municipality.

4. CONFLICT RESOLUTION

This Spaza Shop Policy is subsidiary to the Victor Khanye Local Municipality Business Licencing Policy, therefore if there is any conflict between this policy and the Business Licencing Policy, the Business Licencing Policy shall take precedence.

5. PROCEDURAL PRINCIPLES

- 5.1 The primary use of the property used to operate a Spaza Shop shall remain predominantly residential.
- 5.2 The Spaza Shop with its ancillary store rooms may not exceed 20 m² total building floor area and if a shipping container is used to operate a spaza shop it should be according to the standards of the Building Control Division.
- 5.3 The Residents or the Corporate Body if there is one, of the Residential Building or Dwelling Units, shall give written permission for the Spaza Shop before it may operate.
- 5.4 The Spaza Shop is otherwise subject to any health and safety standards or regulations of the Municipality.
- 5.5 The owner, beneficial owner or a person who leases the property where the Spaza Shop is to be operated, shall reside on that property.
- 5.6 Where an owner, beneficial owner has leased a portion of the property where the spaza shop is being operated, the responsibility for the compliance with the

provisions of the by-law, land use scheme, conditions of approval and this policy shall remain with the owner or beneficial owner.

- 5.7. The occupant of an informal dwelling, where the Spaza Shop is to be operated shall reside in that informal dwelling.
- 5.8. Any property that is legally used for a Spaza Shop may not be simultaneously used as a Tavern, Shebeen, Child Care Centre or any other land use which, in the sole discretion of the Municipality may place children in a vulnerable position.
- 5.9. Permission to operate a Spaza Shop shall be applicable to the occupant/beneficial owner of an informal dwelling in a Transitional Informal Settlement Area. The consent granted is not transferable to another occupant/beneficial owner
- 5.10. No Spaza Shop shall be operated by a person whom her/his residence status is unlawful in South Africa.
- 5.11. No Spaza shop may be approved by the Municipality, contrary to a restrictive condition of the Business Licencing Act and Business Licencing Policy.

6. HEALTH, BUILDING CONTROL & SAFETY REQUIREMENTS

- 6.1. Plans prepared by registered (SACAP) architectural professional for all proposed spaza shops must be formally submitted to the local authority for approval prior to the implementation of construction.
- 6.2. Approval for all plans by all relevant departments (Town Planning, Electrical, Fire, Traffic, Technical and Health)
- 6.3. Note:

Containers can only be considered where they comply with the following:
 - 6.3.1. The National Building Regulations and Building Standards Act 103 of 1977 & SANS 10400 code of practice must be complied with.
 - 6.3.2. The placement of the container (converted) Spaza Shop will have to take place within the erf boundaries to the satisfaction and approval by the Council.

- 6.3.3 The size of the container shall be restricted to a maximum of 20m².
- 6.4 The spaza shop should not create health nuisance nor interfere with the amenity and comfort of the surrounding areas by virtue of noise, odour or fumes.
- 6.5 If perishable foodstuffs are to be sold, the applicant must comply with the Health department's requirements relating to the sale of these types of commodities.

7. PERSONS ELIGIBLE TO APPLY

- 7.1 Only the owner or beneficial owner may apply for the operation of a Spaza Shop.
- 7.2 Where the owner or beneficial owner has leased a portion of the property where the spaza shop is to be operated, the lessee may apply for the operation of the spaza shop on condition that:
- 7.2.1 The owner, beneficial owner or the occupant of an informal dwelling has given the lessee the power of attorney to apply on their behalf.
- 7.2.2 In the case that the owner of the land/ property is not the applicant, a Concluded Lease Agreement must be obtained and submitted to the Municipality.
- 7.3 **Where the lessor/lessee or owner is of foreign nation a copy of Refugee permit or/ and work permit or/ and business permit with a Copy of Passport Document issued by the South African Department of Home Affairs.**

8. APPLICATION PROCEDURE

- 8.1. A person who wants to operate a spaza shop within the jurisdictional area of the Municipality must apply to the Municipality on prescribed forms available at Municipal offices.
- 8.2 For the application to be considered, the applicant must complete the forms fully, and attach to the forms the relevant documents mentioned in subsection (8) below.
- 8.3 If the application is approved in a Transitional Informal Settlement Area, the rights granted shall be linked to the informal dwelling number and the name of

the person who has officially been granted the right to occupy the dwelling by the municipal department responsible for human settlements.

9. APPLICATION REQUIREMENTS

9.1 Completed application forms must be accompanied by the following documents outlined in the forms attached hereto as Annexure A.

9.2 Where the area to of the property to be used as a spaza shop is leased:

9.2.1 Concluded Lease Agreement in cases where the property owner is not the spaza shop operator; and

9.2.2 Undertaking from the owner of the property to take responsibility for the compliance with the provisions of the Business Licencing Act, Business Licencing Policy, land use scheme, conditions of approval and this policy.

9.3 Neighbour's notification

The applicant shall inform of the adjoining properties owners/ occupants of the land development application in the manner as prescribed in the Business Licencing Policy. It is preferred that the notification also be in a language that is predominant in that area. Schedule 31 attached hereto as ANNEXURE B shall be used for the purpose of notifying neighbours.

9.4 External and internal photos of the proposal clearly showing the room to be used and the internal storage area.

9.5 The applicant must indicate the locality of other Spaza shops, formal shops and shopping centres in relation to the proposed Spaza shop.

9.6 Proposed spaza shop must be 500m radius away from other Spaza shops, formal shops and shopping centres.

9.7 The applicant must indicate how the following will be dealt with:

a.) noise by customers;

b.) littering;

c.) disposal of industrial effluent generated;

d.) Parking (where the offloading of products for the spaza shop will be)

9.8 Any other documentation that may be required, to the discretion of the Municipality.

10. DECIDING ON AN APPLICATION

10.1 The Municipality will finalize the application within twenty one (21) days from the date of receipt of a complete application.

10.2 The applicant will be notified of the decision of the Municipality together with the reasons thereof, within the period of seven (7) working days from the date of such decision.

10.3 All applications will be considered on merit and it must be noted that the mere submission of a land development application does not imply that such application will necessarily be approved by the Municipality.

10.4 The applicant shall not exercise the spaza shop rights until the land development application has been approved.

10.5 An owner of a spaza shop shall display a signed zoning certificate issued by the Municipality in a conspicuous place, preferably in a place where patrons will be able to see it together with other required approvals to operate a spaza shop from the municipality.

11. APPEAL AGAINST A DECISION BY THE AUTHORISED OFFICIAL

11.1 An applicant aggrieved by the decision taken by the Authorised Official or the Victor Khanye Town Planning Unit has the right to appeal against that decision.

11.2 The affected applicant must lodge his appeal with the Municipal Manager within a period of fourteen (14) days of the date of delivery of the notification of that decision.

11.3 The appeal authority shall decide the appeal within 30 days from the date of receipt of the appeal documents from the Municipal Manager.

11.4 The decision by the appeal's authority is final and binding unless otherwise challenged in the court of law.

12. OFFENCES AND PENALTIES

- 12.1 Any person who establishes a spaza shop without the approval of the Municipality will be asked to immediately cease use and restore the property to its original purpose within twenty four (24) hours from the receipt of the notice.
- 12.2 Any person who fails to cease the illegal use within the timeframe specified upon being informed shall be liable for illegal operation and a fine of R1000.00 shall be imposed as approved by Municipal Council.
- 12.3 Should the contravener fail to pay the penalty fee imposed, the Municipality shall follow the law enforcement process as contemplated in Section 14 of the Business Licencing Policy.
- 12.4 The Municipality may revoke the consent granted if the building is used contrary to the application, this policy or the conditions as stipulated in the approval.
- 12.5 If a consent use is approved by the Municipality and the rights granted by that consent use is not exercised for the period determined in the conditions of approval, the consent use shall lapse automatically without notification by the Municipality that it will or has lapsed.

13. DEVELOPMENT CHARGES AND CONTRIBUTIONS

- 13.1 No development charges and contributions will apply to spaza shops.

14. SPAZA SHOP CONSIDERATIONS

- 14.1 The Spaza Shop offers convenience service to the local residents thus the operating hours of the Spaza Shop are restricted to 06:00 to 22:00 Mondays to Saturdays, and 06:00 to 22:00 Sundays and Public Holidays.
- 14.2 The operational hours and days of operation shall be clearly displayed in an unilluminated signage in a visible position visible to the public such as a perimeter wall or wall of where the Spaza Shop which must be not more that the A3 in size.

15. VALIDITY PERIOD OF AN APPROVAL

- 15.1. The approval of the Spaza Shop remains valid as long the use is operated in line with the Business Licencing Act, Business Licencing Policy, land use scheme, conditions of approval and this policy.
- 15.2. Where material changes have been made to the property that are negatively affecting the consent granted prior to or when exercising the approval the Spaza Shop, the consent as granted shall be invalid and the owner must submit a new land development application.

16. WITHDRAWAL OF AN APPROVAL BY THE MUNICIPALITY

16.1 The approval granted will be withdrawn under the following circumstances:

- a) When the applicant ceases the activity;
- b) When an applicant moves from the informal dwelling;
- c) When an applicant is or employs illegal foreign nationals;
- c) In the event where criminal activities have been confirmed by SAPS.

17. NON-COMPLIANCE WITH APPROVAL CONDITIONS

17.1 Where the applicant has failed to comply with the conditions of approval, the law enforcement and associated penalties shall be enforced in terms of the Business Licencing Act, Business Licencing Policy, land use scheme, conditions of approval and this policy.

18. GENERAL CONDITIONS APPLICABLE TO ALL SPAZA SHOPS

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

- a) The predominant use, character and appearance of the property on which a spaza shop is operated shall remain residential.
- b) Except in Transitional Informal Settlement Areas, no spaza shop may be operated from a structure that has not been approved by the Municipality in line with the National Building Regulations.

- c) No liquor or alcoholic beverages and hazardous substances may be sold by the spaza shop, however, paraffin may only be sold in small containers, subject to the Firefighting By-laws of the Municipality.
- d) A spaza shop should not cause or be a cause of any kind of disturbance or public nuisance which will disturb people within the neighbourhood.
- e) Where an operator has more than one spaza shop business on separate properties, a separate land development application is required for each spaza shop.
- f) No person is allowed to sleep and/or wash himself/herself in the spaza shop.
- g) The Municipality may, at its sole discretion, withdraw the consent granted if any criminal activity is committed in the spaza shop.
- h) No pets or birds should be kept in the spaza shop.
- i) The operation of the spaza shop is limited to the boundaries of the property as indicated on the approved Surveyor General's plan or site plan and will not be permitted outside the property boundaries, along the pavement or in the road reserve and in a Transitional Informal Settlement Area.
- j) Any other sign must be applied for and approved by the Municipality before it can be erected and must comply with the Outdoor Advertising By-law of the Municipality.
- k) The owner must ensure that a spaza shop is clean all the times and does not have:
 - i. Waste kept in a manner that attracts rodents or other pests to the spaza shop;
 - ii. Flies, cockroaches or mice attracted to, or breeding, in significant numbers in the spaza shop
- l) Operators must register for tax with the South African Revenue Services.
- m) In a Transitional Informal Settlement Area, the consent granted to operate a Spaza Shop is not transferable to another occupant.
- n) If a spaza shop is located within a residential building it shall be located on the ground floor and its total extent shall not exceed 20 m².
- o) The necessary business trading license and permits such as for the disposal of the industrial effluent must be obtained from the relevant department which shall be displayed.

- p) A zoning certificate must be obtained from the Town Planning Unit and shall be displayed at all times in a visible place within the shop.
- q) The spaza shop must comply with the requirements of the Health Regulations.
- r) The spaza shop must comply with the requirements of the Environmental Resources Management; Waste Management and the other relevant departments.
- s) The Residents or the Body Corporate if there is one, of the Residential Building or Dwelling Units, shall give written permission for a spaza shop before it may operate.
- t) No special parking is allowed for a spaza shop that complies with the maximum allowable area of 20 m².
- u) A health certificate must be obtained from the relevant department and shall be displayed at all times in a visible place within the shop.
- v) A spaza shop business license must be obtained from Local Economic Development Unit

19. REVIEW

This policy must be reviewed every five years or when a new legislation is introduced, to ensure alignment to the Business Licencing Act, Business Licencing Policy, Land Use Scheme and other relevant legislation/By-Laws.