

# DRAFT BUSINESS LICENCE POLICY

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## DIPALISENG LOCAL MUNICIPALITY AUGUST 2021

PLANNING AND ECONOMIC DEVELOPMENT SERVICES  
Dipaliseng Local Municipality  
Corner  
Balfour  
2410

Mr Lwazi Cindi  
Director: Planning and Economic Development  
e-mail: [cindil@dipaliseng.com](mailto:cindil@dipaliseng.com) / [mafulela@gmail.com](mailto:mafulela@gmail.com)

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## 1. DEFINITIONS

“accommodation establishment” means a place in which accommodation is provided for gain, with or without meals;

“business premises” means the premises from which any business referred to in paragraph (4.1.) is carried out or is to be carried out;

“foodstuff” means any articles or substance (except a medicine as defined in the Medicines and Related Substance Act, 1965 (No. 101 of 1965) ordinarily eaten or drunk by a person or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient or any such article or substance

“municipality” means Divaliseng Local Municipality;

“perishable food” means any foodstuff which on account of its consumption, ingredients, moisture contents and / or HP value and its lack of preservative and suitable packaging is susceptible to an uninhibited increase in microbes thereon or therein if the foodstuff is kept within the temperature spectrum of 4 – 65 degrees Celcius, and includes the perishable foodstuffs listed in GN R 1183 of 01 June 1990, excluding fruit and vegetables;

“take away foodstuffs” means any perishable food which may be consumed without having to undergo any further process or preparation to make it consumable.

## 2. ABBREVIATION

DLM: Divaliseng Local Municipality

EHP: Environmental Health Practitioner

## 3. APPLICABLE LEGISLATION

Constitution of the Republic of South Africa, 1996;

Business Act, 1991(No. 71 of 1991);

Local Government Municipal Systems Act, 2000 (No. 32 of 2000);

Mpumalanga Business Act, 1996 (No. 2 of 1996);

Mpumalanga Business Licensing Regulations, 1997;

Divaliseng Municipality: Street Trading By-Law, XXX;

Gert Sibande District Municipality: Municipal Health By-Law, XXX;

National Building Regulations Act, 1977 (No. 103 of 1977);

National Road Traffic Act, 1996 (No. 93 of 1997);

National Environmental Management Act, 1998 (No. 107 of 1998)

## **4. POLICY OBJECTIVES**

To provide a uniform approach to the issuing of business licences, having regard to the principles set out in the Business Act and in the Constitution, taking consideration the need of the residents to actively participate in economic activities and taking into consideration the need to maintain a clean, healthy and safe environment.

In the development and management of its obligations and the implementation of this policy, the municipality also recognises the infrastructural, social and economic disparities and inequalities resulting from previous local government dispensations and will strive to overcome such disparities and inequalities by supporting the goals for local government as determined in Section 152 of the Constitution.

### **4.1. Business covered by the policy and procedure**

The following businesses must apply to the municipality for a business licence:

Items 1: Sale or supply of meals or perishable foodstuffs

The carrying on of business by the sale or supply to consumers of –

- a) Any foodstuff in the form of meals for consumption on or off the business premises; or
- b) Any perishable foodstuff.

Items 2: Hawking in meals or perishable foodstuffs

The carrying on of business, whether as principal, employee or agent, by selling any foodstuff in the form of meals or any perishable foodstuff.

- a) Which is conveyed from place to place, whether by vehicle or otherwise;
- b) On a public road or at any place accessible to the public; or
- c) In, on or from a movable structure or stationary vehicle; unless the business is conveyed by a licence for a business referred to in item 1 of this Schedule

Item 3: Accommodation establishments

All accommodation establishments, as defined, must apply for business licences in terms of this policy.

Prohibition: No person may operate a business mentioned in this paragraph within the area of the municipality without a valid business licence issued by the municipality. Any person who opened a new business as set out in this paragraph, who moved premises or a business where a change of ownership occurred must apply for a business licence in the manner prescribed below.

## **4.2. Businesses excluded from the policy**

All businesses mentioned under Schedule 2 of the Act namely:

- a) Business carried on by the State or the municipality;
- b) Business carried on by a charitable, religious, educational, cultural, agricultural association, organization of public nature if all profits derived from the business are devoted entirely for the purpose of that or any other such association, organization or institution;
- c) In the case of the carrying on of business by the state or supply to consumers of any foodstuff in the form of meals for consumption on or off the business premises, or any perishable foodstuff, such a business is carried on:
  - i. By a social sport or recreation club which is a non-proprietary club and restricts the business to the sale or supply to its members and their guests of foodstuffs for consumption on or in the business premises; or
  - ii. By or on behalf of an employer for an employee as such of the employer.

Hawkers who sell fruits and vegetables are exempted from having to apply for a business licence.

## **4.3. Application procedures**

The following steps must be followed in order to apply for a business licence (a schematic exposition is provided in Annexure D):

1. Complete the "Application for the issuing of a business licence" form (attached as Annexure A and available from the **Department of Planning and Economic Development (Local Economic Development Unit)** at the municipality;
2. Pay a non-refundable application fee at the cashiers. The following account number must be used and reflected on the receipt: **XXXXXXX**;
3. Attach the following documents to the completed application form:
  - a) The receipt;
  - b) A copy of the applicant's ID and the business registration documents (if a company, closed corporation or any other form of formal enterprise);
  - c) Applicants who apply for the sale of take away foodstuffs from caravans or trolleys must identify 3 suitable places available within available stands;
  - d) Certificate of acceptance (see paragraph 4.4. for the procedure to obtain a certificate of acceptability);
4. Submit the application form and the supporting documents to the Department of Planning and Economic Development (Local Economic Development Unit).

### **4.3.1. Conditions applicable to applications for business licenses and customer care information**

- a) The LED Unit will within 5 working days of receiving a complete application refer the application to the under mentioned departments for their comments and or inspections:
  - i. Municipal Health at the Gert Sibande District Municipality – for verification of the Certificate of Acceptability;
  - ii. Fire Department – Fire prevention and safety;
  - iii. Town Planning – for special consent, rezoning etc requirements;
  - iv. Traffic department – Parking and traffic related matters;
  - v. Building inspectorate – compliance with relevant legislation
- b) The licence fee shall be paid within a period of (3) months from the date of approval of the business licence;
- c) The non-payment of the licence fee within a period of (3) months will result in the cancellation of the licence application;
- d) A cancelled licence application will require the applicant to lodge a new application and the prescribed processes in terms of a new application will be followed;
- e) A licence application for change of ownership and / or change of business will be treated the same way as if it is a new application for a business licence;
- f) A licence will only be issued to the applicant once the stipulated licence fee is paid;
- g) Environmental Health Practitioners (EHP) may visit premises unannounced.

#### **4.4. Certificate of acceptability**

- a) Obtain and complete an application form from Gert Sibande District Municipality;
- b) Pay the prescribed application fee at Gert Sibande District Municipality;
- c) Make an appointment with one of the EHP's (**telephone number**) and submit the complete form and the receipt.

#### **4.5. Appeal procedures**

Decisions on the approval or disapproval of applications are normally made in terms of delegated authority by the **Licensing Officer** of the municipality. A person whose rights are affected by a decision taken by such a staff member, may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

The Municipal Manager will promptly submit the appeal to the appropriate appeal authority, which in case like these will be the Municipal Manager him/herself. The Municipal Manager will consider the appeal, and confirm, vary or revoke the decision. The appeal will commence within 6 weeks and a decision will be arrived at within a reasonable period.

#### **4.6. Validity of business licence**

Business licenses shall remain valid for an indefinite period, provided that:

- a) The business licence fee as determined by Council from time to time in its Tariff Policy is renewed annually; and
- b) Any condition/s imposed by the municipality is complied with

#### **4.7. Invalid business licence**

A business licence becomes invalid:

- a) When the ownership changes;
- b) The business is moved to another premises within the municipal area;
- c) The nature of the business changes; or
- d) When the applicant fails to pay the licence fee within 3 months of having being notified that the application was approved;
- e) When the applicant fails to renew and pay the licence renewal fee within 30 days after the expiry date of the licence.

### **5. Enforcement**

A business should always display the business licence, and should the business fail to display the business licence in the shop, a fine amount determined by the Council and approved by Magistrate will be charged.

A Peace / Law Enforcement Officer will anytime visit the business premises to check if the company have complied with the policy, should the business fail to comply with the policy, a notice of compliant will be issued, and if after 30 days no remedial action has been taken to comply with the policy a fine will be issued.

### **6. Forms and pro forma licences**

The following forms must be used:

- a) Application form (**Annexure A**);
- b) Comments from relevant departments (**Annexure B**); and
- c) Pro forma business licence (**Annexure C**)

**APPLICATION FOR THE ISSUING OF A LICENCE TO CONDUCT A BUSINESS**



*Address all correspondence to the Municipal Manager*

*Dipaleseng Municipality*

*Private Bag X 1005  
Balfour, 2410  
Tel: (017) 773-0055  
Fax: (017) 773-0169  
Email: dipaleseng@worldonline.co.za*

Made in terms of Regulation 5 of the Licensing of Businesses Regulations, 1996 made under section 6 of the Mpumalanga Business Act, 1996 (Act 2 of 1996).

To: The Licensing Authority of Dipaleseng Local Municipality

Nature of the business in respect of which this licence application is submitted:

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Particulars of Applicant

Full names					
Identity number					
Postal Address					
Residential Address					
e-mail					
Is the applicant the owner of the business?					
Nature of ownership (mark with an "X"):					
Individual	Partnership	Private	Public	Closed	Other

		Company	Company	Corporation	
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Notes:

1. In the case of a company or closed corporation, a schedule must be attached reflecting the registered names and address of the entity, its full name and address, the full names and residential, postal and business address of every director or managing member and a copy of the Certificate of Incorporation.
2. In the case of a partnership a schedule must be attached reflecting the full names, identity number and residential, postal and business address of every partner.

Name under which the business will be trading	
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In the case of a business where foodstuffs in the form of meals or perishable foodstuffs will be sold or supplied, state the particulars of the kinds of foodstuff that will be sold or supplied:

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Has the applicant's estate ever been sequestrated?	Yes	No
If YES, has he or she been rehabilitated?	Yes	No
If NO, is the applicant's trustee's consent to carry on business attached	Yes	No

Particulars of the person who will be in actual and effective control of the business:<sup>2</sup>

Full names	
Identity Number	
Residential Address	
Postal Address	
Postal Code	

Location of business premises (complete applicable parts)

Stad / erf number GIS Point	
Township / Suburb	
Street Number	

<sup>2</sup> only in the case of a business referred to in terms of Item 2 of Paragraph 4.1 (above)

Name of Building	
Office / Shop Number	
Floor Number	
Plot / Portion Number	
Name of farm / agricultural holding	
Registration Division	
Number of the Deed of Transfer of the Property	
Full names of the registered owner of the property	
Magisterial District	

I hereby declare that the information supplied above is true and correct:

.....  
Signature of Applicant

.....  
Date

.....  
Capacity of Applicant

Office use only:



Reference No.: .....

Reference No.: .....

.....  
Licensing Official

.....  
Date

**APPLICATION FOR THE ISSUING OF A LICENCE TO CONDUCT A BUSINESS:  
COMMENTS FROM THE RELEVANT DEPARTMENTS**

*Dipaleseng Municipality*



*Address all correspondence to the Municipal Manager*

*Private Bag X 1005  
Balfour, 2410  
Tel: (017) 773-0055  
Fax: (017) 773-0169  
Email: dipaleseng@worldonline.co.za*

Regulation 5 of the Licensing of Businesses Regulations, 1996 made under section 6 of the Mpumalanga Business Act, 1996 (Act 2 of 1996).

FROM : LICENSING OFFICER TRAFFIC DEPARTMENT

TO : MANAGER FIRE DEPARTMENT  
TOWN PLANNING  
BUILDING INSPECTORATE

REF NO. : \_\_\_\_\_

DATE : \_\_\_\_\_

Your comments concerning this application within 10 days will be appreciated.

TYPE OF LICENSE	
TRADE NAME	
BUSINESS ADDRESS	
STAND NO.	
OWNER OF THE BUSINESS / CONTACT / PERSON / RESPONSIBLE PERSON (IN CASE OF A TRUST OR COMPANY)	
TELEPHONE NO.	
E-MAIL	



# LICENCE TO CONDUCT A BUSINESS



*Dipaleseng Municipality*

*Private Bag X 1005  
Balfour, 2410  
Tel: (017) 773-0055  
Fax: (017) 773-0169  
Email: dipaleseng@worldonline.co.za*

*Address all correspondence to the Municipal Manager*

Issued in terms of Regulation 5 of the Licensing of Businesses Regulations, 1996, made under section 6 of the Mpumalanga Businesses Act, 1996 (Act 2 of 1996)

Serial Number : \_\_\_\_\_

Date of issue of License : \_\_\_\_\_

Name of License Holder : \_\_\_\_\_

Name of Business : \_\_\_\_\_

Business Postal Address : \_\_\_\_\_

Business Physical Address : \_\_\_\_\_

Nature of business in respect of which this licence is issued

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

.....  
Signature of Designated Officer

.....  
Printed initials and surname of Designated Officer

.....  
Date

.....  
Official Stamp