

**MIDVAAL BUSINESS LICENCE
POLICY
2024**



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1. INTRODUCTION

The Midvaal Local Municipality recognizes the importance of fostering a vibrant and inclusive business environment that encourages economic growth and job creation for all residents. In line with national and provincial efforts to promote sustainable economic development, the Municipality aims to regulate and support business operations within its jurisdiction through a structured licensing process. This Business Licence Policy provides a framework for licensing businesses to ensure compliance with relevant laws, promote township economies, and stimulate local economic activities.

The policy aligns with the draft by-laws for Township Economies, which aim to formalize informal businesses, and complies with other legislative frameworks governing local economic development in South Africa. The policy is designed to offer clarity on the criteria, processes, and responsibilities involved in obtaining and renewing business licences within the Midvaal Local Municipality.

2. PURPOSE OF THE POLICY

The primary purpose of the Midvaal Local Municipality Business Licence Policy is to establish a clear, consistent, and transparent licensing process that:

- Promotes legal business activities within the Municipality.
- Regulates and supports business operations, ensuring compliance with local by-laws, national laws, and other relevant regulations.
- Stimulates economic growth, especially in township economies, by formalizing and supporting businesses within the region.
- Ensures a safe, sustainable, and equitable environment for businesses to operate in.
- Reduces the risk of informal businesses operating outside the law, which can lead to exploitation and unsafe working conditions
- Facilitates ease of doing business by streamlining the application process and enhancing access to resources for business owners.

3. DEFINITIONS

For the purposes of this policy, the following definitions apply:

- **Business Premises:** Premises where any business activity as described in this policy is or will be conducted.
- **Take-Away Foodstuffs:** Perishable food intended for immediate consumption without further preparation.
- **"Applicant"** means a person or corporation who makes application for a license under the provisions of this Policy.

- **"Business"** means carrying on a commercial or industrial undertaking of any kind or nature, or providing professional, personal or other services for the purpose of gain or profit.
- **"Council"** means the Council of the Midvaal Local Municipality and include any municipal councillor or employee to whom the Council has delegated the powers, functions and duties vesting in the Council in relation to this policy.
- **"Municipality"** means the Midvaal Local Municipality Local Municipality

4. APPLICABLE LEGISLATION AND POLICY ALIGNMENT

The policy is developed in accordance with several key legislative frameworks and strategies, which include:

- **The Constitution of the Republic of South Africa, 1996:** Provides the foundation for governance, human rights, and business freedom within the country, including the establishment of local government entities like the Midvaal Local Municipality.
- **Local Government Municipal Systems Act, 2000 (No. 32 of 2000):** Provides guidance on municipal governance and service delivery, ensuring the Municipality's processes are legal, efficient, and accountable.
- **The By-laws for Township Economies:** aim to transform township economies by addressing systemic barriers and providing a framework for formalization, growth, and sustainability. While striving to foster inclusive economic development by creating an enabling environment for businesses to thrive. Furthermore, the by-laws aim to ensure compliance with health, safety, and spatial planning standards, contributing to the development of vibrant township economic hubs.
- **The Business Act, No. 71 of 1991:** Governs the licensing and operation of businesses in South Africa, ensuring businesses comply with regulatory requirements, including health and safety, zoning laws, and the payment of taxes.
- **National Small Business Act, No. 102 of 1996:** Encourages the establishment and development of small, medium, and micro enterprises (SMMEs), providing support for entrepreneurs in both urban and township economies.
- **National Environmental Management Act, 1998 (No. 107 of 1998):** provides a framework for integrating good environmental management into all development activities; and promote certainty regarding decision-making by organs of state on matters affecting the environment, while establishing principles guiding the exercise of functions affecting the environment.
- **National Building Regulations Act, 1977 (No. 103 of 1977):** for the promotion of uniformity in the law relating to the erection of buildings in the areas of jurisdiction of local authorities; for the prescribing of building standards.
- **The Spatial Planning and Land Use Management Act 16 of 2013:** Promotes inclusive, developmental, equitable and efficient land use management and spatial planning at all levels of government.

- **Midvaal Spatial Planning and Land use Management By-laws:** Sets principles for decision-making and to provide for specific rules and regulations, including setting set procedures for the application of authorisations and approvals from the municipality
- **The Local Economic Development (LED) Strategy 2023:** Aimed at fostering inclusive local economies, this framework aligns with the Municipality's objective to strengthen township economies by supporting small business development.
- **National Environmental Health Policy (2013):** This policy provides a comprehensive framework for delivering effective Environmental Health Services across the country. It outlines the roles and responsibilities of Environmental Health Practitioners and emphasizes the importance of monitoring and controlling environmental factors such as water quality, food safety, waste management, and the surveillance of premises.
- **National Environmental Health Strategy (2020):** Building upon the 2013 policy, this strategy aims to enhance the implementation of environmental health services. It focuses on strengthening institutional capacity, improving service delivery, and ensuring compliance with environmental health standards.
- **National Health Act: National Norms and Standards for Environmental Health (2013):** These norms and standards establish the minimum requirements for environmental health services, ensuring uniformity and quality across all regions. They cover various aspects, including water quality monitoring, waste management, and food control.
- **Environmental Health Impact Assessment Guidelines (2014):** These guidelines assist in assessing the potential health impacts of development projects. They provide a structured approach to evaluating environmental health risks and integrating health considerations into the Environmental Impact Assessment (EIA) process.

By aligning this policy with these legislative frameworks, the Midvaal Local Municipality ensures its business licensing practices are legally sound, promote economic development, and support the empowerment of marginalized communities, particularly in township areas.

5. POLICY OBJECTIVES

The objective of this policy is to provide a fair and uniform approach for issuing business licenses in the Midvaal Local Municipality, in line with the principles of the Business Act and Constitutional values, while promoting economic growth, social integration, and community empowerment. The policy takes into consideration the challenges faced by local businesses, particularly those within townships, and seeks to support local entrepreneurs by simplifying procedures while maintaining public health, safety, and environmental standards.

This policy also aims to:

- Encourage economic participation and empower local entrepreneurs, especially in township economies.

- Promote the creation of sustainable and inclusive businesses within the municipality, addressing past socio-economic inequalities.
- Ensure compliance with health, safety, and environmental standards while fostering a conducive environment for business growth.

5.1. Business Covered by the Policy and Procedure

All Businesses (except excluded on 5.2 below) must apply for a business licence.

No person may operate a business in the municipality without a valid business licence issued by Midvaal Local Municipality. New businesses, business relocations, or changes in ownership require new business licence applications.

5.2. Businesses Excluded from the Policy

The following businesses are excluded from the policy:

- Businesses operated by the State or municipal government.
- Charitable, religious, or educational entities that operate without profit motive, provided all profits are reinvested into the same entity.
- Businesses operated by non-profit social clubs for members (e.g., social sports or recreation clubs).
- Informal trading businesses are exempt from business licence requirements as the sector is accommodated through a different process.

5.3. Application Procedures

Businesses must follow the steps below to apply for a business licence:

- Complete the **Business Licence Application Form** (available from the Local Economic Development (LED) Section at the Midvaal Local Municipality).
- Pay the non-refundable application fee at the designated municipal payment points.
- Submit the application form with the following documents:
 - Proof of payment
 - Applicant's ID and business registration documents
 - Land use approval (where applicable)
 - Building Plan approval (where applicable)
 - Certificate of Acceptability (for food-related businesses).
 - Fire Certificate (where applicable)
- Submit all documents to the Department of Development and Planning for processing.

5.4. Conditions for Applications

- The Municipality will review applications within 10 working days and circulate the application to the relevant departments (e.g., Town Planning, Building Control, Environmental Health, Fire Department).
- The relevant departments will be given 15 working days to comment on the application and return comments to the LED section

- Once all comments have been received, the Municipality will process the application and issue a licence within 10 working days of receiving all comments.
- A licence will only be issued once the fee is paid in full and all required documents submitted.

5.5 Certificate of Acceptability

To sell foodstuffs, businesses must obtain a **Certificate of Acceptability** from the **Midvaal Local Municipality's Environmental Health Section** to ensure compliance with health standards.

- Complete the application form for the certificate.
- Submit the form along with payment and schedule an inspection with an **Environmental Health Practitioner (EHP)**.

5.6 Appeal Procedures

If a business application is rejected, the applicant may appeal in writing to the **Municipal Manager** within 21 days. The appeal will be reviewed and decided within a reasonable period, usually within **6 weeks**.

5.7 Validity of Business Licences

Business licences will be valid for 12 months, thereafter the must apply for renewal of the licence, provided the business complies with the terms and conditions set by the municipality, including annual renewal of fees as prescribed in the municipality's Tariff Policy.

5.8 Invalid Business Licences

A business licence becomes invalid if:

- Ownership changes
- The business moves to another location within the municipality
- The nature of the business changes
- The business fails to renew the licence within 30 days of expiry

6. ENFORCEMENT

- Businesses must always display their business licences prominently on site.
- Non-compliance will result in fines or penalties, as per the municipal by-laws.
- **Peace Officers** may conduct unannounced inspections to ensure compliance.

7. OFFENCES AND ADMINISTRATIVE PENALTIES

7.1. General Provisions

7.1.1. Any person who contravenes or fails to comply with any provision of this by-law, including but not limited to requirements for registration, permitting, or operational standards, shall be guilty of an offence.

7.1.2. The municipality may, upon reasonable suspicion that a contravention has occurred, levy fines as outlined in this section.

7.2. Penalties

The following fines shall apply to offences under this by-law:

7.2.1 Unregistered Business Activities

- Operating without a valid business permit: R2,000, plus mandatory closure of such business by the authorised official.
- Failure to display a business permit: R1,000.

7.2.2 Non-compliance with Designated Business Areas

- Conducting business in restricted or prohibited areas: R3,000.
- Obstructing public spaces or roads: R2,500.

7.2.3 Health, Safety, and Hygiene Violations

- Selling expired or contaminated goods: R3,000 or a fine as determined in terms of the applicable policy or by-law, whichever is higher, shall be imposed, plus mandatory closure of such business by the authorised official.
- Failure to maintain hygiene standards: R2,500 or a fine as determined in terms of the applicable policy or by-law, whichever is higher, shall be imposed.
- Improper disposal of waste: R1,500 or a fine as determined in terms of the applicable policy or by-law, whichever is higher, shall be imposed.

7.2.4 Building and Structural Compliance

- Erecting unauthorised structures: R5,000, plus mandatory closure of such business by the authorised official.
- Non-compliance with fire or building safety requirements: R5,000, plus mandatory closure of such business by the authorised official.

7.2.5 Illegal Goods and Fraudulent Practices

- Selling counterfeit, stolen, or illegal goods: R10,000, and confiscation of goods, plus mandatory closure of such business by the authorised official.
- Providing false information during registration: R5,000, and permit revocation.

7.2.6 Obstruction or Hindrance

- Obstructing an authorised official during enforcement: R3,000.

7.3. Escalation for Repeat Offenses

7.3.1. First Offense: A fine as stipulated in the fine structure above.

7.3.2. Second Offense: Double the fine amount and a formal written warning.

7.3.3. Third Offense: Triple the fine amount and potential suspension or revocation of the business permit/license.

7.4. Enforcement Upon Reasonable Suspicion

7.4.1. The municipality reserves the right to investigate any suspected contraventions of this policy.

7.4.2. If there is reasonable suspicion of non-compliance, the municipality may:

- Levy penalties as prescribed in this section.
- Issue notices requiring immediate remedial action.
- Confiscate goods or equipment associated with the offence where necessary.

7.5. Payment and Compliance

7.5.1. Penalties must be paid within 30 calendar days of issuance. Failure to pay penalties within the specified period will result in further penalties, including but not limited to suspension of business operations, suspension of services and legal action.

7.5.2. Payment of penalties does not absolve the offender from the obligation to rectify the non-compliance or violation.

7.6. Appeals

7.6.1. Offenders have the right to appeal fines or penalties within 21 days of receiving the notice of violation.

7.6.2. Appeals must be submitted in writing to the municipal manager or delegated authority for review.

7.7. Additional Enforcement Measures

7.7.1. The municipality reserves the right to suspend or revoke permits/licenses in cases of repeated non-compliance or severe violations.

7.7.2. Confiscated goods deemed illegal or non-compliant may be destroyed or disposed of in accordance with applicable laws.

8. Non-Compliant Businesses

8.1. Public Notification of Business Closures

8.1.1. The authorised official shall periodically release a public notice listing businesses that have been closed due to non-compliance with this by-law or any other applicable municipal policies or regulations.

8.1.2. The notice shall include the following information:

- The name of the business.
- The location of the business.
- The specific provisions of the by-law or policies that were contravened.

8.1.3. The purpose of this notice is to:

- Promote transparency in the enforcement of municipal by-laws.
- Educate the public and business community on the importance of compliance.
- Deter future non-compliance by highlighting enforcement actions.

8.2. Timing and Frequency

8.2.1. Public notices shall be issued periodically or as deemed necessary by the municipality.

8.2.2. Notices shall be made available through appropriate channels, including:

- The municipal website.
- Public notice boards.

8.3. Confidentiality and Fair Process

8.3.1. Notices will only be published after due process has been followed, including the issuance of warnings, fines, and opportunities for appeal in accordance with this by-law.

8.3.2. The municipality will ensure that published notices do not violate applicable privacy or defamation laws.

8.4. Reinstatement Notice

8.4.1. Should a closed business rectify its non-compliance and be permitted to reopen, the municipality may issue a follow-up notice to update the public on its reinstatement.

9. SUSPENSIONS AND CANCELLATIONS OF LICENCE

A license may be suspended or cancelled by Council or the Business Licensing Inspector for reasonable cause.

The following circumstances may constitute reasonable cause:

- the holder fails to comply with a term or condition of the licence.
- the holder has ceased to comply with the policy or has otherwise ceased to meet the lawful requirements to carry on the business for which the holder is licensed or with respect to the premises named in the licence.

Before suspending or cancelling a license, the Business License Officer must give the license holder notice of the proposed action and an opportunity to remedy the cause.

10. EXEMPTIONS

In accordance with the provisions of the Business Licensing Regulations of the following exemptions are established for the consideration of exceptional and complex cases, including but not limited to businesses operating within informal settlements:

10.1 Mandate to Consider Exceptional Cases

Notwithstanding any provisions set forth in the Business Licensing Process, the *Authorised Official* may, at their discretion, grant exemptions or deviations from standard procedures in cases deemed extreme or complicated, such as businesses operating within informal settlements, where strict adherence to the usual criteria may be impractical or detrimental to the growth and development of the local economy and community.

10.2 Criteria for Consideration

In determining whether to exercise the authority to grant an exemption, the Authorised Official shall consider the following factors:

- The unique circumstances surrounding the business, including but not limited to the informal or and ownership issues.
- The potential economic, social, and community benefits that may arise from the formalisation of the business.
- The ability of the business to comply with key aspects of the Business Licensing Regulations, such as health, safety, and environmental standards, within the limitations of the informal setting.
- The support available to the business from government or non-governmental programmes aimed at integrating informal businesses into the formal economy.

10.3 Process for Requesting Exemption

Businesses seeking exemption from the standard business licence process must submit a formal request to the Authorised Official, detailing the specific challenges and circumstances they face, along with any supporting documentation or recommendations from relevant stakeholders.

10.4 Review and Decision-Making

The Authorised Official shall review each case on its merits and may, in consultation with relevant departments, propose practical and sustainable solutions to facilitate the formalisation of the business, while ensuring compliance with crucial municipal and legal requirements.

10.5 Monitoring and Compliance

Any business granted an exemption shall be subject to a review and monitoring process to ensure that the conditions for exemption continue to be met and that the business is progressing towards full compliance with the standard business licence requirements.

10.6 Final Authority

The Authorised Official's decision to grant or deny an exemption is final, and any subsequent conditions attached to the exemption shall be binding on the business.

This exemption clause is intended to balance the objectives of municipal regulation with the need to support and uplift businesses in informal settlements, fostering economic growth, formalisation, and integration into the broader economy of the Midvaal Local Municipality.

11. IMPLEMENTATION PLAN

The implementation of the Business Licence Policy will be overseen by the Midvaal Local Municipality's Local Economic Development Section, in collaboration with other relevant departments and sections of the municipality such as the Land use management section, Environmental Health, and Law Enforcement. The plan includes the following key actions:

- **Awareness and Education**
The Municipality will engage in an awareness campaign to inform business owners and potential entrepreneurs about the licensing process, its benefits, and the legal obligations of operating a business in Midvaal.
- **Application Process**
Establish a streamlined process for businesses to apply for licenses. This includes online and offline application options, clear application forms, and a checklist of required documentation, such as proof of identity, business registration, zoning compliance, and Certificate of accessibility.
- **Monitoring and Compliance**
Regular monitoring and inspections will be conducted to ensure businesses comply with the conditions of their licences. This will include on-site checks to verify business operations and the adherence to relevant laws and by-laws.
- **Licensing Fees**
A clear and transparent fee structure will be established for the different categories of business licences. Fees will be set in line with the Municipality's Tariff structure and will be reviewed regularly.
- **Training and Support**
Business owners will be given access to training programs and business development support, focusing on financial management, business compliance, and marketing, especially for emerging businesses in municipal jurisdiction.
- **Enforcement Mechanisms**
The Municipality will ensure strict enforcement of business licence conditions and the application of penalties for non-compliance, to maintain a fair and consistent business environment

12. REVIEW AND AMENDMENTS

The Midvaal Local Municipality will review this policy annually to ensure it remains aligned with the changing legislative landscape and the evolving needs of the local economy. Any amendments to the policy will be made in consultation with stakeholders, including business owners, residents, and relevant authorities.

13. CONCLUSION

The Business Licence Policy of the Midvaal Local Municipality aims to foster a formal, safe, and sustainable business environment that supports the growth of the local economy. By aligning with national and provincial legislative frameworks, the policy ensures that businesses contribute positively to the community, while adhering to all necessary regulatory requirements. This policy ensures that the Midvaal Local Municipality supports all businesses while also upholding the standards of health, safety, and environmental sustainability and promoting the growth of local enterprises and enabling all residents to actively engage in economic activities

14. FORMS AND PRO FORMA LICENCES

The following forms are used for the application process:

- **Business Licence Application Form** (Annexure A)
 - **Pro Forma Business Licence** (Annexure B)
-