



**uMngeni Municipality**

**NOTICE NO: 15 /2022**

**uMNGENI MUNICIPALITY BUSINESS LICENSING BY-LAWS DRAFT**

UMngeni Local Municipality invites public comments on the Business Licensing By-laws draft.

The objective of this document is to provide management tools to be used to control and improve conditions of health and safety in the business trade sector. The business licensing by-laws prevents the operation of a business without possession of an obligatory license. It being imperative to comply with the Business Act (Act 71 Of 1991), a comprehensive business licensing by-laws is vital in providing the framework for issuing, refusing and renewal of a business license. The primary objective of the by-laws is to give the uMngeni Municipality, an opportunity to fulfil its role in terms of promoting social and economic development within its area of jurisdiction.

The documents will be available for comments on our website: [www.umngeni.gov.za](http://www.umngeni.gov.za) and from all uMngeni Municipal Libraries (Howick, Howick West, Hilton, Mpophomeni, and Nottingham Road). The comments should be submitted in writing, or emailed to [tourism@umngeni.gov.za](mailto:tourism@umngeni.gov.za). The comments must be submitted before the 21<sup>st</sup> of July 2022.

**Ms. SZP Dlamini**

**General Manager: Economic development and Planning**



***uMngeni Municipality***

***Draft Business Licensing By-law***

## 1. **Introduction**

The business licensing by-laws prevents the operation of a business without possession of an obligatory license. It being imperative to comply with the Business Act (Act 71 Of 1991), a comprehensive business licensing by-laws is vital in providing the framework for issuing, refusing and renewal of a business license. The primary objective of the by-laws is to give the uMngeni Municipality, an opportunity to fulfil its role in terms of promoting social and economic development within its area of jurisdiction.

## 2. **Definitions**

For the purpose of these by-laws, unless the context indicates otherwise:

**“Approval”** means approved by authorized official;

**“Authorized official”** means any official of the municipality who has been granted authority to implement the provisions of the by-laws.

**“Business Act”** means the Business Act 71 of 1991, and includes the regulations made there under.

**“Business Premises”** means the premises upon, in or from which the business is or to be carried on.

**“Carry on business”** means opening or keeping open of any premises for such purpose in relation to a license, means a condition imposed under Business Act 71 of 1991, section 2(6) or 2(8) and specified in the relevant license

**“Council”** means Council of the uMngeni Local Council and includes, in relation to a duty, function or power under these by-laws, a committee or official of the Council to whom it has delegated that duty, function or power;

**“Employee”** means any person employed by or working for the Council and receiving or entitled to receive any remuneration and other person whom so ever who in any manner assists in the carrying on or conducting the business of the Council;

**“Employer”** means any person who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him / her;

**“Foodstuff”** means any foodstuff as defined in section 1 of the foodstuff, cosmetics and disinfectants Act, 1972 (Act no 54 of 1972). Means any article or substance (except a drug as defined in the Drugs Control Act, 1965) ordinarily eaten or drunk by man or

purporting to be suitable, or manufacture for human consumption, includes any part or ingredient of any such article or.

**“License”** in relation to a business, means a certification or authorization issued by the licensing authority to carry on business in the Municipal jurisdiction.

**“License holder”** means a person who is the holder of the license

**“Licensing Authority”** means uMngeni Municipality, or a person or body designated or appointed under section 2 of the act as a licensing authority.

**“Municipality”** means uMngeni Municipality

**“Officer/administrator”** means an official appointed by the Council to undertake Municipal duties and functions;

**“Perishable Foods”** means any foodstuff with a limited lifespan as indicated by the manufacturer by means of a “best before date”, “use by date” or “expiry date”

**“Premises”** means any land, building, structure, part of a building or of a structure wherein the business is operated.

**“Regulation”** means a regulation made by an Administrator under section 6(1) Business act 71 of 1991.

**“Sell”** means alienation for value and includes supply to and also:

- Exchange or hire
- Store, expose, offer or prepare for sale, and ‘sale’ has a correspond meaning.

**“Services”** means and includes any advantages or gain for consideration or reward

**“Trade”** means the lawful sale of goods or services in a public place, and “trading” has a corresponding meaning.

### 3. ***Purpose of the by-law***

The purpose of the by-law is to legalize and control the operations of the businesses within the area of jurisdiction of the uMngeni Municipality, in particular, to ensure compliance with safety and health requirements.

#### **4. *Business in respect of which a license is required***

##### **4.1 Item 1: Sales storage or supply of meals or perishable foodstuff**

- (1) 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 food stuff.
- (2) For the purpose of sub-item (1) "perishable foodstuff" means any foodstuff or category of foodstuff declared by an Administrator by notice in the Official Gazette to be a perishable foodstuff in the province concerned for the purpose of this item.

##### **4.2 Item 2: Provision of certain types of health facilities or entertainment**

- (1) The carry-on of business by:
  - (a) Providing Turkish baths, saunas or other health baths
  - (b) Providing massage or infra- red treatment
  - (c) Making the services of an escort, whether male or female, available to any other person.
  - (d) Keeping three or more mechanical, electronic or electrical contrivance, instrument, apparatus or devices which are designed or used for the purpose of recreation or amusement, and the operation of which involves the payment of any valuable consideration, either by the insertion of a coin, or disc therein or in an appliance attached thereto or in any other manner.
  - (e) Keeping three or more snooker or billiard tables
  - (f) Keeping or conducting a night club or discotheque
  - (g) Keeping or conducting a cinema or theatre
  - (h) Conducting adult premises referred to in section 24 of the Films and Publication Act, 1996

##### **4.3 Item 3: All businesses within the jurisdiction of the Municipal planning scheme:**

- (1) Which includes but not limited to the following types of businesses:
  - (a) Hotels
  - (b) Bed and Breakfast
  - (c) Self-catering accommodation
  - (d) Lodges

##### **4.4 Item 4: Provision of certain types of businesses.**

For the purpose of complying with other regulatory/legislative bodies, uMngeni Municipality may issue a license in following the process/schedule.

## 5. **Business excluded from business referred to in Schedule 1 of the Business Act, 71 of 1991**

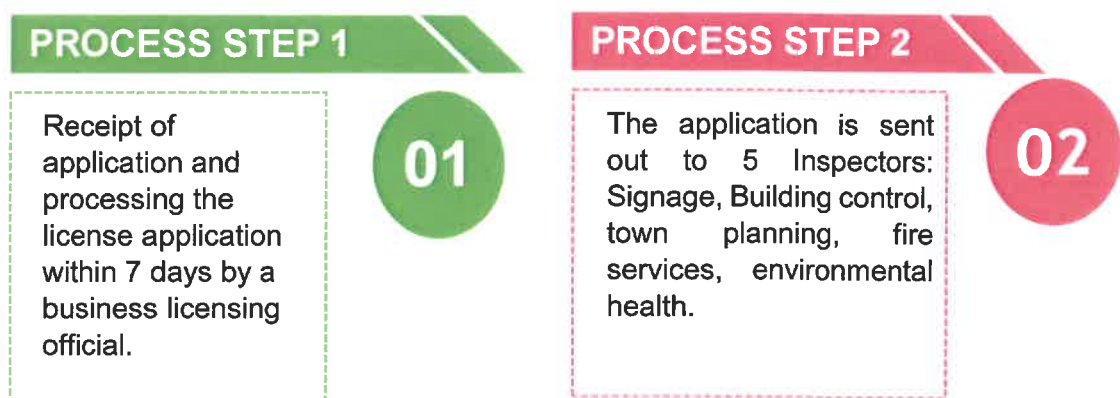
- (1) A business which is carried on by the State or a Local Authority.
- (2) A business which is carried on by a charitable, religious, educational, cultural association, organization or institution of a public nature, if all profit derived from the businesses are devoted entirely to purpose of that or any other such association, organization or institution.
- (3) In the case of a businesses referred to in item 1 (1) of Schedule 1, such a business which is carried on: -
  - (a) by a social, sport or recreation club which is a non-proprietorship club and restricts the business to the sale or supply to its member and their guest of foodstuff for consumption on or in the business premises.

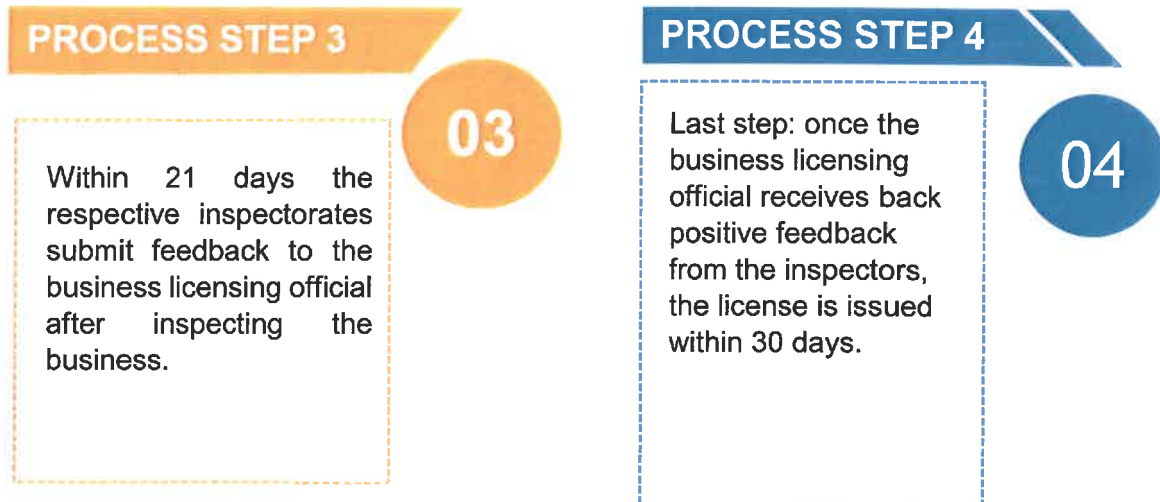
## 6. **Legislative Provisions**

- 6.1. Businesses Act 71 of 1991
- 6.2. National Building Regulations Act 103 of 1977
- 6.3. uMngeni Spatial Planning and Land Use Management By-law 2016
- 6.4. Occupational Health and Safety Act 85 of 1993
- 6.5. National Environmental Management Act 107 of 1998

## 7. **Business license application process**

The business license application has to be lodged at the Municipal offices, the application form may also be found on the Municipal website ([www.umngeni.gov.za](http://www.umngeni.gov.za)), lastly the application process may be done on eservices ([www.eservices.gov.za](http://www.eservices.gov.za))





## 8. ***Departments involved in business license application process***

They are the following:

- 8.1 Economic Development and Planning
- 8.2 Environmental Health
- 8.3 Town Planning
- 8.4 Building Control
- 8.5 Fire Services
- 8.6 Signage

## 9. ***Changing of ownership and business premises***

- 9.1 To change the ownership of the business means that the new owner or prospective new owner of the premises has to re-apply for a trading license. The same procedure of processing new applications will be followed when processing the application.
- 9.2 A license issued in respect of a business referred to in Item 1, 2 and 3 of Schedule 1 of the Business Act 71 of 1991 shall only be valid in respect of the premises described therein.

## 10. ***Renewal of the Business License***

Every Business License holder within uMngeni Municipality is required to renew the business license in every twelve (12) months after the receipt date of the certificate. Failing to renew the business license on the notification period will result in being suspended as a license holder and will be required to re-apply. The renewal fee shall be

R200 which shall be payable at the Municipal Finance Department and the applicant must ensure to submit the duplicate receipt (Proof of Payment) to a Business License Official for filling purpose.

**11. Issuing of duplicate license and amendments**

Where a valid license is lost, destroyed or if it needs to be corrected/amended the license holder therefore may apply in writing to the uMngeni Licensing Authority for the issue of a duplicate of such license. The duplicate license fee shall be R100 which must be payable at the Municipal Finance Department and ensure to submit the duplicate receipt (Proof of Payment) to a Business License Official for filling purpose.

**12. Refusal, suspension or withdrawal of a license**

A license holder who, having been noticed in terms of section 2(10) (a) of the Business Act that his/her license has been suspended or withdrawn, carries on business during the period of such suspension or, in the case of withdrawal of his/her license, after such notification, shall be deemed to be carrying on business without license and shall be guilty of an offence.

**12.1** A license Authority shall, when notifying a license holder of the suspension of his/her license, specify the steps required to be taken by him/her to enable the suspension of his/her license to be lifted and the period within which such steps must be completed.

**12.2** If the license holder fails to fulfil the requirement of a notice advising him of suspension of his license to the satisfaction of the licensing authority, it may withdraw the license.

**12.3** A person whose application for a license has been refused or whose license has been withdrawn shall not re-apply for a license of the same category or in respect of the same premises, whichever is applicable, unless the matters upon which such refusal or withdrawn were based have remedied or resolved to the satisfaction of uMngeni licensing authority.



### 13. *Enforcement and penalties*

A person is found in contravention of this act should they do the following:

<b>Offence Code</b>	<b>Description of Offence</b>	<b>Fine</b>
UMN/LA/001	Carry on of a business without a valid/expired business license.	R1000.00
UMN/LA/002	Operating the business from a different address of the license.	R800.00
UMN/LA/003	Conducting a business outside of what is stipulated in the license.	R500.00
UMN/LA/004	Does not adhere to the conditions of the license.	R400.00