



**cooperative
governance**

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Cooperative Governance
REPUBLIC OF SOUTH AFRICA

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CIRCULAR NO: 34 OF 2024

FROM : DIRECTOR-GENERAL

**TO ALL : HEADS OF DEPARTMENT RESPONSIBLE FOR LOCAL
GOVERNMENT IN THE PROVINCES**

MUNICIPAL MANAGERS

IMPLEMENTATION: STANDARD DRAFT BY-LAW FOR TOWNSHIP ECONOMIES (ISSUED IN TERMS OF THE MUNICIPAL SYSTEMS ACT, 2000)

1. PURPOSE OF THE CIRCULAR

The purpose of this Circular is to guide municipalities and provinces on the implementation of the Standard Draft By-law for Township Economies¹ issued in terms of Section 14 of the Local Government: Municipal Systems Act No. 32 of 2000.²

2. BACKGROUND

2.1 During 2022, the concerns raised by traditional leaders were discussed in a workshop convened by the Ministry and Department of Home Affairs³, whereat a resolution was taken

¹ Hereinafter referred to as "SDB".

² Hereinafter referred to as "Municipal Systems Act".

³ Hereinafter referred to as "DHA".

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for the Ministry of Cooperative Governance and Traditional to develop a standard draft by-law to deal with the matter relating to, amongst other matters, spaza shops.

- 2.2 Drawing from the discussions held during the above-mentioned workshop, and the promulgation of the Gauteng Township Development Act No. 2 of 2022, during December 2023 the Department of Cooperative Governance⁴ developed the SDB. In addition to the above, the SDB was borne out of reports that township businesses remain unregulated with many people unable to meaningfully participate in the mainstream economy. The reports also highlighted that these businesses often encounter significant challenges in building thriving and competitive businesses that are sustainable.
- 2.3 Township⁵ businesses that are not growing economically lead to aggravated unemployment and inequalities resulting in communities not being able to work and invest where they live. Subsequently, the revenue generating capacity of municipalities is negatively affected as these spaces become welfare spaces depending mainly on government grants.
- 2.4 Over the past two years, township spaza shops have drawn the attention of the country as there were reported cases of food borne illnesses. By October 2024, over 200 cases of children that have fallen sick after eating suspected contaminated food and snacks had been reported with more than 20 children having lost their lives. The majority have been falling sick in groups after consuming products from the same vendor. Reports indicate that the foodborne illnesses are linked to poor food safety practices in township tuck shops, and others are linked to suspected poor hygiene and food handling practices. Concerns have been raised around food packaging.
- 2.5 While three (3) provinces namely, Gauteng, Eastern Cape and Limpopo were noted as hot spot areas, it is important that collective efforts are put in place to prevent the scourge from spreading to other provinces.
- 2.6 Following extensive consultations with the Department of Small Business Development⁶; DHA; Departments in the Economic Sectors Employment and Infrastructure Development (ESIEID) Cluster; Departments in the Justice, Crime Prevention and Justice Crime Prevention and Security (JCPS) Cluster; Heads of Department responsible for local government in the provinces; Municipal Managers; the South African Local Government Association⁷; and the public through publication of the SDB in the *Government Gazette*, the SDB was finalised.

⁴ Hereinafter referred to as “DCoG”.

⁵ It is important to note that “Township” also includes rural areas where only the most basic amenities and infrastructure are provided.

⁶ Hereinafter referred to as “DSBD”.

⁷ Hereinafter referred to as “SALGA”.

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- 2.7 In terms of section 14(1) of the Municipal Systems Act, the Minister of Cooperative Governance and Traditional Affairs published the SDB in *Government Gazette* No. 5i529 on 7 November 2024.

3. OBJECTIVES OF THE SDBs

- 3.1 The SDB introduces a standardised framework to support municipalities to promote commercial and industrial economic activities in townships and demarcate business areas and sites to promote inclusive economic development, as provided for by the Spatial Planning Land Use Management Act No. 16 of 2013.⁸
- 3.2 SPLUMA introduces the principles of spatial justice, spatial sustainability, spatial resilience, and efficient and good administration to guide land use governance and promotion of economic development.
- 3.3 Spatially targeted interventions in economically depressed areas such as townships and rural areas have the potential to unlock economic development opportunities, employment creation, alleviate poverty and inequalities.

4. SIGNIFICANCE OF THE SDB TO GROWING VIBRANT TOWNSHIP ECONOMIES

- 4.1 Despite the progressive policies and legislative frameworks that were introduced post the democratic government in 1994, the degree of inequality, as measured by the Gini coefficient, has worsened over the years indicative of the fact that inequality remains a serious constraint on the economic development of the country. According to the most recent data, South Africa has the highest income inequality in the world, with a Gini coefficient of around 0.67.
- 4.2 The SDB seeks to mobilise municipalities around a common national agenda and collective responses towards stimulating competitive and inclusive local economies and curbing of illegal business operations in townships, in line with municipal powers and functions as stipulated in Schedules 4 and 5 of the Constitution of the Republic of South Africa, 1996.⁹
- 4.3 Additionally, a balance must be achieved between regulation and empowerment of township businesses to avoid excluding them from mainstream economy and high costs of doing business and mitigate against illegal operations. Therefore, the aim of the SDB is to entrench a response to local challenges faced by people living, working, and operating businesses in townships through regulation and empowerment initiatives.

⁸ Hereinafter referred to as “SPLUMA”.

⁹ Hereinafter referred to as the “Constitution”.

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5. ADOPTION AND IMPLEMENTATION OF THE SDB

- 5.1 It must be noted at the outset that the SDB is **A STANDARD DRAFT BY-LAW** and is merely a guide or template to assist municipalities to develop their own by-law to provide for this matter. The SDB should be viewed as a template or framework for consideration by municipalities across the country.
- 5.2 Municipalities are therefore advised to adapt the SDB to suit their local context and adopt them in terms of Section 14 (3)(a) of the Municipal Systems Act, which states that a standard draft by-law or an amendment of a standard draft by-law is applicable in a municipality only if, and to the extent and subject to any modifications and qualifications, adopted by the council of that municipality.
- 5.3 If a municipal council intends to adopt the standard draft by-law with or without any modifications or qualifications, Section 14(4) of the Municipal Systems Act requires the municipality to follow the procedure set out in Section 12(3), and after adoption, publish the by-law in accordance with Section 13 of the Municipal Systems Act.
- 5.4 The provincial departments responsible for Local Government in the Provinces and SALGA, have been advised to support municipalities to consider the SDB, and adopt the SDB in instances where such by-law is not in place.

6. A STRATEGY FOR IMPLEMENTING THE SDB

- 6.1 To address the sale of contaminated and expired food, as well as illegal goods in spaza shops, it is recommended that the municipality implement a comprehensive strategy to deal with these matters. The following are key considerations when developing such strategy –

NO.	KEY CONSIDERATIONS	MUNICIPAL INTERVENTIONS
(i)	Education and Training	Provide training for spaza shop owners and staff on food safety practices, including proper food handling, storage, and cooking techniques. This can be facilitated through workshops or partnerships with local health organizations.
(ii)	Regular Inspections	Establish a system for regular business inspections by business inspectors to ensure all businesses operating in the local environment are registered and comply with the Business Act.
(iii)	Regular Inspections	Establish a system for regular health inspections by local health authorities to ensure compliance with food safety regulations. Provide feedback and support to help shops improve.
(iv)	Community Awareness Campaigns	Launch community awareness campaigns to educate customers about food safety, signs of spoilage, and how to report unsafe practices.

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NO.	KEY CONSIDERATIONS	MUNICIPAL INTERVENTIONS
(v)	Access to Resources	To set minimum resource requirements such as handwashing stations, refrigeration units, and safe food storage solutions to enhance food safety in spaza shops.
(vi)	Traceability Systems	Implement traceability systems for food products sold in spaza shops, allowing for quick action in the event of a food borne illness outbreak.
(vii)	Ensure Safe Sourcing	Set a system of compliance for spaza shops to report on the sourcing of food from reputable suppliers and farmers who follow safe practices.
(viii)	Feedback	Establish a feedback system for customers to report issues related to food safety anonymously.
(ix)	Promote Safe Food Preparation	Encourage the use of safe cooking methods, such as thorough cooking and avoiding cross-contamination.
(x)	Government Support	Continue to advance government policies that support small businesses in meeting food safety standards and accessing training resources.

7. ROLES AND RESPONSIBILITIES

7.1 Successful implementation of the SDB and the prevention of illegal business activities in townships will require collective efforts from all stakeholders. The table below provides roles of the key stakeholders, namely DCoG, provincial departments responsible for local government, DSBD, DHA, DoH, Consumer Protector, Competition Commission, South African Police Service, and the South African Revenue Service, as follows -

STAKEHOLDER	ROLES AND RESPONSIBILITIES
DCoG	- Develop SDB. - Coordinate stakeholders.
CoGTAs and Economic Development ¹⁰ (Provincial)	- Align provincial legislation with national legislative frameworks. - Provide support to municipalities and monitor implementation of the Acts.
Municipalities	- Implement and enforce the SDB in collaboration with CoGTAs and DEDs, DSBD, DHA, DoH, Competition Commission, Provincial Consumer Protector, National Consumer Commission, and other stakeholders. - Issue trading permits and Health and Food Safety Certificates to qualifying businesses. - Environmental Health Practitioners and Law Enforcement to conduct regular inspections.
DSBD	Monitor the implementation of the National Business Act.

¹⁰ Hereinafter referred to as "DED".

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STAKEHOLDER	ROLES AND RESPONSIBILITIES
	▪ Develop a framework to guide business operations (e.g., who is eligible to operate a business in the country and determine quotas to protect specific sectors). ▪ Provide financial and non-financial support to qualifying businesses.
DoH	▪ Ensure that Environmental Health Practitioners conduct regular health inspections.
DHA	▪ Enforce and monitor the Immigration Act.
Competition Commission	▪ Enforce and monitor the Competition Act which empowers them to investigate, control and evaluate restrictive business practices among others.
Consumer Protector	▪ Monitor and enforce Consumer Protection Act. ▪ Conduct regular inspection.
NATJOINTS ¹¹	▪ Overall coordination and law enforcement.
SARS	▪ Ensure taxation and revenue collection from businesses.
Citizens	▪ All citizens must ensure that all unlawful actions are immediately reported to the relevant authorities.

- 8.1 All stakeholders must ensure enforcement in relation to their respective mandates, and also undertake public awareness campaigns.

8. ESTABLISHMENT OF DATABASE OF BUSINESSES

- 8.1 All business must ensure that the information required in terms of section 7(4) of the SDB is uploaded in municipal databases.
- 8.2 In order to build a database that will also geo-locate the businesses, businesses will also be required to upload their location onto the database.

9. EMERGING RISKS

- 9.1 The increase in awareness that is being created in this regard is bound to result in those businesses that have been engaged in unlawful activities and stocking contaminated / expired food, as well as poisonous consumables to “dump” their contraband in places that communities will have access to.
- 9.2 The safe disposal of expired food and poisonous consumables is a critical component of containing further exposure to the public. In this regard municipalities must -
- Communicate in local channels to the public never to use or pour out illicit pesticides. They can be highly toxic and harmful to humans, animals, and the environment

¹¹ National Joint Intelligence Structure.

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- Provide guidance to communities on where expired food and poisonous consumables can be disposed of safely and without cost.
- Encourage communities until disposal, store the expired food and poisonous consumables in their original containers with labels intact, and mark them as expire. It should be kept in a secure, well-ventilated area away from children, pets, and food.
- Encourage communities to adhere to all local, provincial, and national regulations, bylaws and standards regarding the disposal of expired food and poisonous consumables. Municipalities must set up mechanisms where communities can obtain guidance on the legal requirements and safe disposal methods
- Encourage communities to avoid mixing expired food and poisonous consumables with other types of waste.
- Host voluntary collection events of expired food and poisonous consumables, expired food and poisonous consumables from the community.

10. NEXT STEPS

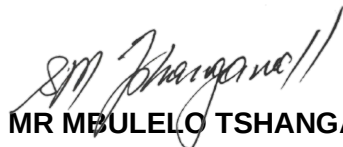
- 11.1 Municipalities are required to adopt their by-law to address local economies before the end of November 2024, in accordance with the relevant provisions of the Municipal Systems Act.
- 11.2 An editable version of the SDB is available on the website of DCoG; municipalities are encouraged to download the SDB for customization and subsequent processing through the municipal council.
- 11.3 To strengthen our coordination role and support municipalities to implement the SDB, the DCoG and DSBD will activate interdisciplinary inspection teams to upscale inspections in the hotspot provinces.

11. ENQUIRIES

Enquiries relating to this Circular may be directed to the following officials in the Department –

- Mr. Mohlatlego Vinny Rabothata, Chief Director: Development Planning Tel: 012 334 4882; Cell: 066 484 5048; Email: MohlatlegoR@cogta.gov.za; or
- Ms. Viwe Sibelegwana, Director: Local Economic Development Planning Tel: 012 336 5836; Cell: 064 850 8841; Email: ViweS@cogta.gov.za.

Yours Sincerely,



MR MBULELO TSHANGANA
DIRECTOR-GENERAL

DATE: 15 November 2024

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- c.c.:**
- (i) NATJOINTS**
 - (ii) Director-General: Presidency**
 - (iii) Director-General: Department of Health**
 - (iv) Director-General: Department of Home Affairs**
 - (v) Director-General: Department of Small Business Development**
 - (vi) Director-General: Department of Trade Industry and Competition**
 - (vii) Chief Executive Officer: SALGA**