



COMMENTS
INFORMAL BUSINESS BYLAW
KWADUKUZA MUNICIPALITY

09 July 2024

Strictly Confidential

Copyright and all other intellectual property contained herein rests with the iLembe Chamber of
Commerce, Industry & Tourism.

The information contained in this document may not be reproduced in either whole or part without prior written consent of the iLembe Chamber. The information contained in this document may be only used for purposes of evaluating the technical proposal contained herein and may not be communicated to any person for any other purpose without the prior written consent of the iLembe Chamber and its delivery partners identified in this proposal.

TABLE OF CONTENTS

1. BACKGROUND & INTRODUCTION.....	4
2. COMMENTS	4
3. CONCLUSION	6

1. Background & Introduction

The iLembe Chamber of Commerce Industry & Tourism is a non-profit business association that consists of mission-driven local businesses who have joined together to promote the economic development, and resulting common wellbeing, of the iLembe business community, making it a better place in which to live, work, invest and do business in.

The iLembe Chamber of Commerce appreciates the opportunity to review, and provide input and comments on the KwaDukuza Municipality's draft Informal Business Bylaw.

The comments aim to offer constructive feedback to enhance the bylaw's effectiveness in supporting economic activity, promoting economic development, social integration, and job creation, while ensuring orderly, aesthetically pleasing informal trading that prioritises public health and safety.

2. Comments

2.1. General Comments

The content of the draft bylaw is detailed and comprehensive, which is acknowledged with appreciation. The quality of the document therefore allows for limited detailed comments, but more general observations around the effective implementation of the bylaw, and the importance of enforcement of the provisions in the administration thereof.

The objectives of the bylaw, as detailed in Chapter 1, Paragraph 3, are commendable. The South African informal business sector absorbs a large portion of the country's labour force, and it is important that the by-law encourages economic activity and promote fair opportunities, whilst providing employment and income opportunities to those who might not find jobs in the formal sector.

The content of Chapter 3, Informal Business Plan is emphasised, especially the relevance of the Informal Economy Spatial Designation System as a framework to manage and regulate the activities of informal traders within urban areas, balancing the needs, and rights, of informal traders with the needs, and rights, of formal businesses, pedestrians, and residents.

In this regard the appeal, including appearance, of main economic corridors, and designated trading areas around employers with large workforces and industrial estates/nodes should be managed with due care and concern.

No reference is made in the bylaw to the availability of infrastructure and especially access to sanitation facilities such as clean water, and ablution facilities. The identification of designated trading area should consider access to such facilities.

The iLembe Chamber would welcome the opportunity to explore opportunities to collaborate with KDM on capacity building and support initiatives aimed at improving the business skills of traders, as well as their compliance with the regulations contained in the bylaw.

2.2. Detailed Comments

- 2.2.1 Clause 14(1)(b):** A person may apply for an informal business permit if that person does not already hold a permit in respect of any other informal business site within the area of jurisdiction of the Municipality.

The comments below also relate to Restricted Conduct: Fronting 30. (1): A registered and/or formal business must not do business under the guise of, or in conjunction with, an informal business., and (2) An informal business must not do business as or in conjunction with a formal business in an informal business area.

Comment: Cautiously based on the capacity and unique product offering of an informal trader, consider allowing such few informal traders to hold permits for more than one site. This can encourage growth and expansion, and the formalisation of the trader's business.

A very specific example is Gerald, the grass basket/woven craft trader whose offering at the entrance into Salt Rock has the potential to enhance the tourism experience of this economic corridor onto the KZN North Coast.

Care should at the same time being taken that permits are not granted to mere informal business employees, acting as agents for bigger, formalised wholesalers – this will allow a limited number of these formal trading wholesalers to dominate and monopolise informal trading opportunities. This is specifically applicable to tourism nodes where this model also limits the merchandise on offer.

- 2.2.2. Clause 14(1)(e):** A person may apply for an informal business permit if that person does not have an interest in more than one entity or partnership which conducts informal business.

Comment: As per the above comments.

- 2.2.3. Clause 14(2):** An application for an informal business permit must be on the form prescribed by the Municipality from time to time and may be online.

Comment:

Please ensure that the application form is available both online and in physical locations, making it accessible to those without internet access.

Clear, simple instructions, also in isiZulu will greatly assist, as well as assistance at municipal offices where applicants can be assisted to complete the necessary forms.

- 2.2.4. Chapter 4 Clause 28 (1):** An informal business must dispose of litter generated by his or her informal business in a refuse receptacle approved or supplied by the Municipality.

Comment:

The routine and frequent collection of such litter to be prioritised as part of the operational support of the bylaw.

It is the Chamber understanding that animal offal, skin and feathers often form part of the waste and litter generated by informal traders, and being disposed of in an uncontrolled and inappropriate manner. Appropriate measures, including links to the relevant bylaws should be considered.

Clause 32 is also covered by the above comments.

2.2.5. Chapter 7 Enforcement, Recovery of Costs Clause 37. (1): If an informal business person contravenes any provision of this By-law, an applicable informal business policy or his or her permit and fails or refuses to cease the contravention, or to take steps to rectify any contravention, then the Municipality may take those steps itself and recover the costs from the informal business person.

(2) The costs mentioned in subsection 37(1) are in addition to any fine which may be imposed on the informal business person.

Comment:

It is suggested that in addition to fines and the recovery of costs, informal trading permits be revoked and a ban on informal trading being imposed.

Please also see comments below on the resolution of disputes between authorised traders, between authorised traders and authorities, and with the community.

2.2.6. Chapter 6 Appeals Clause 35. (1): A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Comment:

KDM should consider offering assistance to informal traders in preparing and submitting appeals, whether decisions or penalties, such as providing templates, legal aid, and/or a dedicated municipal officer to assist with the process.

The iLembe Chamber, through its Business Support Desk, would be willing to assist KDM by supporting bona fide traders, with legitimate grounds for appeal.

3. Conclusion

The iLembe Chamber of Commerce is committed to supporting the growth, and sustainability, of informal businesses in the KwaDukuza municipal area. We trust that this submission, comments, and recommendations will be considered to enhance the bylaw's effectiveness.

Submitted on behalf of the iLembe Chamber of Commerce by:



Cobus Oelofse
Chief Executive Officer