
MATATIELE LOCAL MUNICIPALITY

HARDWARE BUSINESSES POLICY



MATATIELE

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2022-23 financial year

HARDWARE BUSINESSES POLICY- MATATIELE MUNICIPALITY

1. INTRODUCTION

This policy is called the Hardware Businesses Policy for the Development Planning Unit under the Department of Economic Development and Planning of the Matatiele Local Municipality. The policy aims to address the rapid increase in illegal and mushrooming hardware's within the three main areas of Matatiele i.e CBD, Cedarville and Maluti.

The mandate behind this policy is that there has been an increase in unlawful land use activities within the town. This, in turn, has led to a flood of complaints from surrounding land owners, as well as from the Councilors who represent the ratepayers. The approach adopted must discourage the commencement of an activity prior to the land use rights being in place.

The approach must also give guidelines to officials on how to deal with land use enforcement issues in terms of Chapter 9 of the Spatial Planning and Land Use Management Act (SPLUMA) (Act 16 of 2013).

2. POLICY ISSUES

The Hardware Businesses Policy will act as a control measure for the establishment of hardware's within Matatiele, as regulated by the SPLUMA (16 of 2013) and the Matatiele Land Use Management Scheme. The policy is geared at controlling illegal land uses (both privately owned and municipal owned properties), whilst also tries to regulate and ensure that the existing hardware's conforms to the development controls as laid out in the Land Use Management Scheme. Further, the Policy emphasizes that every hardware operation should be approved by a Council through the process of a business license, consent where necessary and must have a detailed Site Development Plan.

3. LEGAL MANDATE

SPLUMA, as read with section 46 of the Land Use Planning Ordinance no 15 of 1985 (LUPO) places an obligation on the Municipality to enforce compliance with this law and the zoning scheme regulations promulgated in terms of it and a reciprocal obligation on all people to comply with the provisions of the law.

Section 11 (3) (a) of the Municipal Systems Act no 32 of 2000, entitles a municipality to exercise its executive authority by creating inter alia creating, developing and adopting policies. In addition, section 4 (2) (i) of the Municipal Systems Act no 32 of 2000 places a duty on the to provide a safe and healthy environment for its citizens. This policy contributes to the fulfilment of this duty.

4. POLICY OBJECTIVES

The policy aims to create an environment that:

- The uses/businesses are in line with the zoning of the area
- Minimises traffic congestion and the overloading of utilities.
- To ensure that all goods being sold are strictly within the premises and that no goods

shall be displayed outside- on the pavement and/or under the canopy.

- That for every use or development not specified in the Land Use Management Scheme, loading and parking accommodation shall be provided to the satisfaction of the Municipality
- Ensure the maintenance of a satisfactory standard of facilities around town, whilst also looking into matters of a sustainable environment.
- Links, integrates and co-ordinates all development plans of the municipality Ensures the maintenance of a satisfactory standard of facilities around town, whilst also looking into matters of a sustainable environment.
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- Observes the municipal council' vision for the long term development of the municipality with special emphasis on the municipality's most critical development and internal transformation needs

5. MAINTENANCE OF A SATISFACTORY STANDARD OF FACILITIES AROUND TOWN

It is paramount to ensure that there is a maintenance of a satisfactory standard of facilities around town, whilst also looking into matters of a sustainable environment to avoid levels of urban degeneration before an un-controllable situation is reached, where properties contravene national building regulations and municipal by-laws.

A car must have:

- a) A proper structure with proper roofing for protection storage of materials
- b) There is enough on-site parking
- c) The operations does not cause any traffic nuisance along the nearby streets
- d) Be located in an area zoned or permissible for such purpose

7. REQUIREMENTS FOR OBTAINING A SPECIAL CONSENT (PERMIT)

- an application is required to submit a special consent application to the Municipality (as per SPLUMA)

- area must be zoned/ be permitted for the proposed use (LUMS and SDF)

- proposed use must be compatible with the adjacent uses

- An advertisement of the proposed use must be put on the local newspaper (as per SPLUMA requirements) in two (2) of the following languages: English, Afrikaans, Sesotho and Xhosa and (circulation of the application to relevant Departments and Units will be undertaken by the Municipality).

- where applicable, a consent must be obtained from the neighbours

8. ISSUING OF SPECIAL CONSENT

When the Council is satisfied that the premises concerned –

(1) complies with all requirements laid down in these Policy and any other applicable legislation;

(3) will not be offensive or is compatible to any occupants of premises in the immediate vicinity of such premises,

it shall, on conditions as it may determine in respect of the premises concerned, issued a Special Consent in the name of the applicant.

9. STEPS TO BE FOLLOWED WHEN ASSESSING HARDWARE BUSINESSES

The following segment under this policy will ensure the identification, control and management of hardware businesses in the jurisdiction of Matatiele:

Step 1- identification

It is appropriate to first identify a responsible person,-who in this case being the person, any or all of the trustees of a trust or body corporate, any or all of the members of an association, any and all members of a partnership, any or all of the directors of a company, any or all of the members of a close corporation, registered as the owner or holder of any property in the relevant deeds registry office.

Step 2

An authorised official shall at all times identify him/herself to the responsible person with an identification card as provided to him/her for this purpose by the local authority at the time of his/her appointment.

Any authorised official may enter any property or building at any reasonable time with a view to: inspect and/or determine whether the property or building complies with these policy and any other legislation; inspect and determine whether the property or building is, in his/her opinion, a problem property, is in compliant with town planning legislation; serve the responsible person with a notice contemplated in these or any other By-laws or legislation

Step 3

The authorised official together with an experienced Building Inspector may, subject to the provisions of this policy, declare a property or a building or any part thereof a problem property and has relevant permits , provided that one or more of the following circumstances exist at the property:

- the building does not comply with existing legislation and/or is not maintained in accordance with the health, fire-safety and town planning and building control legislation;

- is overcrowded as envisaged in any law, By-law, town planning scheme in operation or any other relevant legislation;
- has overloaded or illegally connected electricity supply;
- has no electricity supply;
- has no water supply;
- has illegal connections to sewer mains;
- has overflowed or blocked sewer drains;
- is subject to complaints of criminal activities, including but not limited to drug dealings, prostitution, money laundering;
- is occupied illegally;
- where refuse, waste material, rubble, scrap or any similar material is accumulated, dumped, stored or deposited, unless so stored in terms of a valid approval by the local authority;
- is partially completed and the responsible person has not complied with a notice issued in terms of Section 11 of the National Building Regulations and Building Standards Act, 1977;
- is structurally unsound;
- is a threat or danger to the safety of the occupiers, registered owners, responsible person or the public in general.

10. OFF-LOADING AND ONLOADING, STORAGE OF HARDWARE MATERIAL

Offloading and on-loading must be conducted onsite or within the premises.

No hardware material to be stored on residential property whether temporary or long term

11. NOTICE TO COMPLY

- 11.1 The Municipality shall serve a written notice (First and Final) on the responsible person that the property has been declared a problem property or is at the correct zoning and does not have relevant permits, requiring such responsible person within a specified period to comply with the provisions of these policy and any other relevant legislation or By-laws and the responsible person shall forthwith comply with the notice.
- 11.2 Despite the provisions of sub section (1), and subject to any applicable legislation, if the authorised official has reason to believe that the condition of any building or property is such that steps should immediately be taken to protect the safety and health of persons or property, he or she may take such steps as may be necessary in the circumstances to alleviate that condition, without serving or delivering such notice on or to the responsible person and may recover the cost of such steps from the responsible person.
- 11.3 If the authorised official deems it necessary for the safety of any person, he or she may, by notice in writing, and subject to any applicable legislation:
- Order the responsible person of any problem property to remove, within the period specified in such notice, any person occupying or working, or who for any other purpose is in or on the problem property or incorrect zoning, and to take care that no person who is not authorised by the local authority enters the Problem Property;

- Order any person occupying, operating or working from, or who for any other purpose is in or on any problem property or improper zoning and has no relevant permits, to vacate the property.
- No person shall occupy, use or permit the occupation or use of any problem property or continue to occupy, use or permit, the occupation or use of any problem property and area not zoned for the use, in respect of which a notice was given of subsection (3) or steps were taken by the local authority in terms of this section, unless he or she has been granted permission by the local authority in writing that the problem property may be occupied or used, as the case may be.

11.4 Legal action will be undertaken upon serving Final Notice on non-compliance. A letter of demand will be served instructing the perpetrator to comply within 7-14 days, if not complying, then a matter will be taken to court as per legal processes.

12. CONDITIONS OF SERVING OF A NOTICE

All and any notices to be given in terms of this policy shall be deemed to be duly given and effectively served on such person:

- When it has been delivered to him/her personally;
- When it has been delivered to a person, who accepts it on behalf of the responsible and who is apparently over the age of 16 years at found at the property or at the responsible person's place of residence or business;
- When it has been posted by prepaid registered or certified mail to the responsible person's last known residential or postal address as in possession of the local authority, 7 (seven) days after such posting;
- Any other method that the Council may find it relevant to serving of notice especially if the clear addresses the applicant are not known

13. OFFENCES

- (1) Any person –
- (a) who contravenes or fails to comply with any provision of this policy;
- (c) who fails or refuses to give access to premises to the inspector/municipal officer or any officer contemplated when requested to give such access;
- (e) who obstructs or hinders the or other inspector/municipal in the execution of this duties under this policy;
- (f) fails or refuses to give information to the o inspector/municipal such other officer which is lawfully required, or knowingly furnishes false or misleading information; or
- (g) fails or refuses to comply with a notice issued is guilty of an offence and must be liable to a conviction.

14. PENALTIES

(1) Any person who contravenes any provision of this policy shall be guilty of an offence and liable, upon conviction, to a fine of R2000.00 (two thousand rand) or imprisonment for a period not exceeding three (3) months or both the fine and the imprisonment.

(2) In the case of a continuing offence, the offender shall be liable to a further fine not exceeding R100.00 (One Hundred Rand) for every day during the continuance of such offence or imprisonment for a period not exceeding ten days for every period of 24 hours during which such offence continues or both the fine and imprisonment.



MR. L. MATIWANE
MUNICIPAL MANAGER

28/07/2022

DATE



CLLR. S. MNGENELA
MAYOR

28/07/2022

DATE



CLLR. N. NGWANYA
SPEAKER OF COUNCIL

28/07/2022

DATE