

# HOUSE SHOPS POLICY



**MUNISIPALITEIT  
RICHTERSVELD  
MUNICIPALITY**

# **POLICY ON HOUSE SHOPS**

## **A. PURPOSE**

To formulate a policy that allows the Richtersveld Municipality to manage its concession of permitting the establishment of house shops on residential premises located within the Richtersveld Municipal Area in such a way that the residents living in these areas can earn an income from their property while limiting any negative impacts of such house shop on the rights of the other residents in the area to a safe, clean and quiet living environment, promoting an entrepreneurial spirit within these neighbourhoods, and stopping the abuse of this concession by outside business owners who are profiting from it often to the detriment of the property owner and residents concerned.

## **EXPLANATORY NOTE 1**

*Why the need for a policy?*

*All municipalities have zoning schemes to manage complementary and conflicting land uses in its area and to determine the types of land uses that can be allowed on each property. Each zoning scheme has different zones for business uses, industrial uses, residential uses and institutional uses and each property is assigned a zoning. The municipality then draws up a plan to determine where these zones and land uses can be located in relation to each other.*

*A typical example of conflicting land uses are industrial uses next to a residential use, or a tavern next to a school. A complementary use is typically a business property next to an industrial property or a residential property next to school or church.*

*Under ideal circumstances (everything being equal) business uses should not be entertained in lower density residential areas as it inevitably leads to conflict and disturbances (businesses generate more noise, traffic, pollution and smells and attract elements to the area) in an area that should be a place of solitude (rest and relaxation, family time, etc) for the residential property owner and his/her family.*

*In most neighbourhoods you will typically find that business properties are located in the main roads and/or on a large single property and the smaller corner shops are located on one or two street intersections. The shops are located in these positions as it minimises potential negative impacts on the surrounding residential uses and the residents' rights to live in a peaceful, safe and clean environment.*

*The municipality however, acknowledges the reality of the inequities found in the township areas due to past planning practices that made most townships dormitory towns with its residents having limited access to basic goods and services.*

*Residents generally found themselves without access to the economic opportunities found in the wealthier suburbs and a result, found other informal means to meet their needs.*

*It also acknowledges that the majority of the residents in the township areas are not by the economic means to support themselves and that the only real asset they can use to generate an income for themselves is their property. As a result, you will find that many owners in these areas would typically rent rooms in their house or part of their property to backyarders, while others start vegetable gardens, and small and micro businesses from home. The types of businesses range from small fruit and vegetable and luxury (sweets, cool drinks and chips) stalls, small take-away stalls (typical braai stands) to your larger house shops which sell a larger variety of goods and services.*

*The proliferation of house shops and other small businesses in the township areas is thus a response to rectify the imbalances of the past and also to respond to the social needs and economic demands of the community and the municipality, in response to the need, has made a concession to allow these enterprises.*

*However, in recent years, the concession to allow the establishment of house shops in the township areas as a socio-economic intervention has been abused by formal business owners and other outside parties who take advantage of the house shop concept to establish formal businesses on these residential properties, often to the detriment of the property owner concerned. This activity is deemed to be in conflict with the spirit in which the concession was originally afforded by the municipality and should therefore not be permitted.*

*The purpose of this policy is thus to manage the allowance of these house shops in such a way that it allows the residents living in the township areas to earn an income from their property without having a / limiting its negative impact on the rights of the other residents in the area to a safe, clean and quiet living environment, while promoting an entrepreneurial spirit within these neighbourhoods, and stopping the practice of outside business owners profiting from the desperation and poverty of the residents in these areas.*

## **B. DEFINING A HOUSE SHOP**

*A house shop means “the conducting of a retail trade from a dwelling house or outbuilding for the convenience of only the immediate residential community by one or more occupants of the dwelling house concerned, who shall reside in the dwelling house; provided that the predominant use of the dwelling house concerned shall remain for the living accommodation of a single family.”*

### **EXPLANATORY NOTE 2**

*What is a convenience business?*

*A convenience retail business that serves mostly the immediate community and includes, but is not limited to, the selling of daily groceries and other food stuffs, as well as convenience services and trades such as a hair salon and barber, cellphone/landline airtime sales and service, photocopy and faxing service, shoe repair, road side take-away, butchery and bakery. It does not include furniture manufacturing, motor repair workshops and part sales, panel beaters and spray painting, tyre repair and sales, the sale of liquor (liquor store), places of entertainment (games shop, gambling venue) and other businesses that generate noise, air pollution and traffic. A liquor store (off sales) is not considered a house shop as it invariably attracts a broader spectrum of customers than just the local residents.*

*Who can operate and work in a house shop?*

*The definition of house shop only allows the owner or the legal tenant of the main house on the property and up to 2 other occupants of said house. The owner/legal tenant is the person registered with the municipality for the paying of the rates, taxes, water and/or electricity accounts for that property. This means that the operator cannot be an outside person who rents only the house shop space from the owner/tenant.*

*Why is an outside person excluded from operating (renting) a house shop?*

*The allowing of house shops in residential areas is first and foremost a concession by the municipality to address socio-economic needs in residential township areas and to assist the owners living in the township areas and their tenants to obtain a sustainable income from their properties while at the same time, developing and fostering an entrepreneurial spirit within these township communities.*

*The municipality is thus only allowing house shops as an intervention to uplift the poor by getting them to work for themselves rather than depending on the state or the municipality for subsidies or grants. The house shop is thus not intended to allow for the establishment and operation of formal businesses on residential properties or for these properties or part thereof to be rented out for such purpose.*

*The renting out of a house shop is seen as just another form of subsidy / grant hand-out which in reality does not help the property owner / registered tenant to improve their lives and that of their family in any meaningful way, defeating the intent of the municipality's concession.*

*Further, the practice of renting of a portion of the property to outside business owners, often for a small rental fee, has other consequences for the property owner. The owner is often tied into a lease agreement with the business owner for a certain period of time. However, the property owner is still ultimately responsible for paying the municipal rates, taxes, electricity and water accounts.*

*The establishment of a business on the owner's property can result in the owner not complying with the municipality's indigent policy and thus, him/her losing the subsidy allocation and thus having to pay the municipal services which he/she used to receive for free. The establishment of the business can also result in the municipal rates tariff being changed from residential to business which increases the municipal service charges even further. The small rental fee that the owner receives is ultimately wiped out by the increased tariffs and charges and he/she is left in a worse financial position. The owner is also compromised as it is unlikely that he /she will be able to afford the legal process to cancel the lease.*

*It therefore makes no sense for the municipality to support the practice of renting house shop space to outside business people and as a result, the definition only allows the owner or the registered tenant, who lives on the property to apply for and operate a house shop.*

*Does the policy preclude "outside persons" from operating or working in a house shop?*

*In terms of the definition, only the registered owner or registered tenant of the main house on the property may apply for a house shop, and thus by definition "outside person" does not qualify to operate said business. However, the policy has been designed not to preclude an "outside person" from operating a business (shop) from a residential property.*

*The house shop operator may employ a maximum of 2 other people to work in the shop. These people must also live in the main house on the property. An "outside person" is thus precluded from working in a house shop.*

*As stated above, house shops are only being allowed by the municipality as a socio-economic intervention to assist the residents of townships (who are often unemployed and poor) to improve their lives through entrepreneurial development and not to afford formal business rights to a residential property.*

*What does “predominant use” mean?*

*Predominant use basically means that more than 50% of the buildings on the property and the property itself must still be used for residential purposes. In other words, the house shop must be smaller than the house.*

*Please note that an enterprise that does not comply with the definition of House Shop, for example if it is operated by an “outside person”, is seen as formal business (shop) to which strict locality criteria as outlined in the policy below will apply. The property on which this type of business is located will also be charged full business rates and taxes.*

## **C. BACKGROUND**

At present, the Richtersveld Municipality controls the establishment of house shops on an ad-hoc basis in terms of temporary departures from the zoning schemes applicable to the area the house shop is located in. There are limited controls in place to identify appropriate sites for these types of micro- business enterprises and the municipality’s existing policy guidelines, which comprises only one page is not sufficient.

The policy under consideration is specifically aimed at achieving sustainable land use control guidelines to allow house shops or similar micro enterprises to operate from residential premises.

The policy must take into consideration existing municipal by-laws and policies, existing and draft zoning scheme regulations, the Land Use Planning Ordinance, 1985 (Ord 15 of 1985), the Northern Cape Provincial Spatial Development Framework, the draft Richtersveld Spatial Development Framework and the Integrated Development Plan for Richtersveld.

Cognizance should be taken in the preparation of the policy of the fact that the framework within which the house shops will be allowed can become a sensitive issue, especially in the poorer communities which these “shops” mostly serve. It is thus essential that a balance is achieved between implementing a framework to control/manage these businesses and the perceived constitutional right of an individual to generate an income from the premises he resides in.

Controlling the establishment of shops in the existing business and industrial sections of Richtersveld generally does not present a problem for the municipality as formal zoning rights are in place and “new” rights can be accommodated in terms of rezoning and departure/ consent applications.

Problems however exist in the “old traditional coloured and black townships” where discriminatory planning principles only made provision for residential uses and no proper planning is in place to allow for business and industrial land uses.

These planning principles resulted in the proliferation of illegal business and industrial establishments experienced today.

It is acknowledged that many of these illegal establishments allow members of the community access to basic goods and services without the need to travel far and that it promotes entrepreneurship (allows people to make a living and access work opportunities). The uncontrolled allowance of these activities can however result in some level of abuse - can act as fronts for illegal activities such as selling of drugs and liquor, etc.

It is also recognised that the respective communities within the Richtersveld area are all structured differently from a socio-economic perspective.

## **D. ASPECTS TO BE ADDRESSED BY POLICY**

As a result this policy document will **firstly** focus on the establishment of a policy to regulate these establishments.

At present the approval of house shops does result in a substantial increase in property rates and taxes as well as the loss of government subsidies where the house shop is conducted from a state subsidized dwelling unit. As the turnover of the house shops is relatively small this has the effect that it is virtually impossible to operate the house shop as an economically feasible establishment. These facts are also not known to the owner of the house shop and usually come as a huge surprise to the owner when he receives his rates and taxes account. These increases are a result of the municipality's rates system which adjusts the rates to business should a house shop be approved.

This policy should **secondly** thus provide for a mechanism to address this issue.

This policy must **thirdly** create a mechanism that will encourage existing illegal operators whose establishments are located in desirable locations, to legalise their activities and to operate within the proposed framework.

The policy will **fourthly** need to address the enforcement of the regulations and the handling of illegal and/or undesirable establishments.

## **E. CONTEXTUAL FRAMEWORK**

### **1. Provincial Spatial Development Framework (PSDF)**

The PSDF guidelines are based on the three pillars of sustainability being - Ecological Integrity (protection of the sensitive natural and built environment to enable sustainable human settlements), Social Justice (enabling of constructive spatial changes to integrate and ensure a physically, spiritually and mentally healthy society) and Economic Efficiency (optimisation of space, infrastructure, and other resources to ensure lowest possible cost to the environment) – commonly known as the triple bottom line approach.

Emphasis is placed on:

- Building Social Capital** – Developing programs aimed at decreasing crime (developing an ethos of civic responsibility), creating strong family units, alleviating poverty and discouraging xenophobia, etc.
- Building Human Capital** – Creating opportunities for further education and training, development of human values (dignity);
- Developing economic and social infrastructure** – To build communities, create economic opportunities, enabling sustainable and integrated human environments, etc;
- Development of the micro-economy** – Improving the livelihood and quality of life of citizens, creating employment, creating a healthy competitive environment, etc. through activities such as local tourism initiatives;
- Development of support mechanisms for SMME's** – Assistance in starting and running small businesses, support for women and black owned small businesses, building an entrepreneurial culture;
- Development of a system of holistic governance** – Integrated and complimentary approach to the development of strategies, policies and programs;

## **F. LEGISLATIVE AND REGULATORY FRAMEWORK**

### **1. Title Deed**

A house shop may not be permitted on a property if the use is in conflict with a restriction contained in the title deed of that property. An additional application for removal of title deed conditions in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) will therefore need to be submitted to the deeds office.

A copy of this application must be submitted along with the land use application to the municipality for processing.

### **2. Land Use Planning Ordinance, 1985 (Ord 15 of 1985)**

In terms of Section 36 of the Land Use Planning Ordinance, 1985 (Ord 15 of 1985) a land use application can only *“be refused on basis of a lack of desirability of the contemplated utilisation of land concerned, including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its effects on existing rights concerned (except against an alleged right to protect against trade competition)”* and *“regard shall be had, in considering relevant particulars, to the safety and welfare of the members of the community concerned, the preservation of the natural and developed environment concerned or the effect of the application on the existing rights concerned.”*

### **3. Existing Zoning Scheme Regulations**

House shops are handled as temporary departure

Zoning Schemes in terms of section 15 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985). A temporary departure is allowed for a maximum period of five (5) years and approval can be extended for a further five (5) years.

the overall use of the property must remain residential in nature (at least 60% of the property);

the above use shall not cause a disturbance or nuisance to a neighbour;  
and

the above use shall not have an adverse impact on the character of the immediate environment.

### **4. Integrated Zoning Scheme Regulations for Richtersveld**

The following provisions shall apply if a consent use for a house shop is approved by Council.

Council may however impose any additional conditions it seems fit depending on the circumstances.

(a) The extent and position of the retail component shall be clearly defined on a plan, and shall not exceed 25 m<sup>2</sup> or 50% of total floor space (excluding any water closet, change room and storeroom), whichever is the lesser area.

(b) In addition to the house shop, the property must contain a dwelling house, which must be occupied by the proprietor of the house shop.

(c) Any new structure, or alteration to the existing dwelling or outbuilding, must conform to the residential character of the area concerned.

(d) No more than 3 (three) persons, including the occupant of the dwelling house, are permitted to be engaged in retail activities on the property.

(e) Only one un-illuminated sign, shall be permitted, and shall not exceed 5000cm<sup>2</sup> in area. Such sign shall indicate only the name of the owner, name of the business and nature of the retail trade.

- (f) The following are not permitted in a house shop: sale of liquor or alcoholic beverages, storage or sale of gas and gas containers, vending machines, video games or pool tables.
- (g) The Council may restrict the operating hours relating to the house shop.
- (h) The Council may require on-site parking to its satisfaction.
- (i) Permission to operate a house shop is granted to a particular operator operating from a particular property, and is not transferable.

## **G. LAW ENFORCEMENT**

In terms of sections 39(2), 40, 41 and 46 of the Land Use Planning Ordinance, 1985 (Ord 15 of 1985)

*“39(2) No person shall –*

*(a) contravene or fail to comply with – (i) the provisions incorporated in a zoning scheme in terms of this Ordinance, or (ii) conditions imposed in terms of this Ordinance or in terms of the Townships Ordinance, 1934, except in accordance with the intention of a plan for a building as approved and to the extent that such plan has been implemented, or (b) utilise any land for a purpose or in a manner other than that intended by a plan for a building as approved and to the extent that such plan has been implemented.”*

*“40(1) (a) If a building or any portion thereof was erected in contravention of section 39(2) (a), the local authority shall serve an instruction (herein referred to as the instruction) on the owner concerned- (i) to rectify such contravention before a date specified in the instruction, being not more than six months after the date of the instruction or, at the option of the said council, (ii) to apply for the determination of a contravention levy, or in terms of section 15 for a departure, before a date specified in the instruction, being not more than 30 days after the date of instruction.*

*(b) If the said owner fails to comply with the instruction, the local authority shall, subject to the provisions of paragraph (c), take all such steps as may be necessary to rectify such contravention”*

*“40(2) Any amount spent by the local authority in terms of subsection (1) shall be recoverable by that local authority from the owner”*

*“41 Any person authorised thereto in writing by the Administrator or director or a council may at any reasonable time, after reasonable notice and causing as little inconvenience as possible enter upon any land in order to – (a) do anything which the Administrator or the director or such a council, as the case may be, is permitted or required to do in terms of this Ordinance, or (b) make an inquiry, an investigation or a survey in connection with the exercise or performance of his or its powers or duties by the Administrator or director or such a council, as the case may be, in terms of this Ordinance.”*

*“46(1) Any person who – (a) contravenes or fails to comply with a provision of section 23(1), 33(12), 35(2), or 39(2), or (b) threatens, resists, hinders or obstructs, uses foul language, insulting or abusive language towards a person in the exercise of a power under section 41 or refuses or fails to answer to the best of his ability a question put to him in terms of said section, shall be guilty of an offence and on conviction liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.”*

*“46(2) A person convicted of an offence under this Ordinance who after such conviction continues with the conduct in respect of which he was convicted, shall be guilty of a continuing offence and on conviction liable to a fine not exceeding R100 in respect of each day on which he so continues or continued therewith.”*



The above provisions give Council the right to investigate a complaint/alleged illegal activity, to ascertain the validity and/or extent thereof. It also allows Council to serve a notice on an offender to cease activities which may also include a notice of intent to take further legal action, if required.

The monitoring and control of the illegal entities will require a high level of commitment and dedication as well as co-operation between all role players including the South African Police Services and the Law Enforcement Section of the Municipality.

There are also numerous other sets of legislation (Acts, municipal by-laws and regulations) that are potentially applicable to the operation of house shops and other types of similar land uses - e.g. building regulations, nuisance/noise bylaws, tobacco legislation and health and safety by-laws.

What should however be strictly enforced is the non-compliance with legislation and offenders should not be allowed to continue the illegal activities whilst they make the necessary applications to legalise their business. Applications can take a long time to process and the general public will suffer the consequences if illegal and uncontrolled activities are allowed to continue. Affected persons are known to be subjected to intimidation by offenders, making prosecution and/or rectification of the offence difficult.

## **H. PROPOSED POLICY**

### **1. House Shop Categories**

It is proposed that the policy make allowance for three categories of house shops, each with its own criteria, namely:

- (a) A tuck shop;
- (b) A traditional house shop; and
- (c) A large house shop (conversion into traditional corner shop)

#### **Tuck Shop**

A tuck shop is less than 6m<sup>2</sup> in extent and is operated from a room in or on the front stoep of the main house of the property. It is normally confined to the selling confectionery such as chocolates and sweets, cigarettes, bread, milk, chips and other small goods, home-made foods and preserves. It is often limited to a single operator - typically an unemployed resident in the house trying to earn a little extra money to make ends meet.

This type of house shop is generally not seen as a formal business and is typically run on an informal basis on the same scale and impact as that of an occupational practice.

#### **Traditional House Shop**

The traditional house shop typically ranges in size from 6m<sup>2</sup> to 20m<sup>2</sup> (single garage) in extent or half the size of the house, whichever is lesser. These types of shops offer a wider variety of goods and services and have a larger footprint / impact on the surrounding community. The shops are typically operated from outbuildings or temporary structures/ shipping containers and are generally separated from the main house.

### Large House Shop

This type of shop is typically larger than 20m<sup>2</sup> (single garage) but less than 40m<sup>2</sup> (double garage / size of a subsidy house) in extent or half the size of the main house, whichever is lesser and has quite a significant impact on the residential environment. It is proposed that the locality criteria be strictly applied to these types of shops and that these shops be allowed to grow into a formal business premises.

### Other businesses

A retail concern / service with a floor area larger than 40m<sup>2</sup> in extent and/or that is larger than the main house, and that does comply with the definition of House Shop, for example an enterprise that is not operated by the property owner or the legal tenant (by an outside person) is regarded as a formal business and not a house shop. This type of enterprise may only be considered if it complies with the locality criteria as set out in the policy for a Large House Shop. Business rates and taxes will be charged on the property on which the house shop is located.

## **2. Locality**

### Tuck Shops

It is suggested that this type of house shop will not have to comply with the locality criteria as set out further in the policy and thus, all property owners or registered tenants can apply to the municipality for such shop.

### Traditional and Large House Shops

The following locality criteria shall apply to all traditional and large house shops larger than 6m<sup>2</sup> in extent:

Traditional and large house shops should ideally be located along existing and proposed activity spines and activity nodes as indicated in the Richtersveld Spatial Development Framework as well as on land already designated for business purposes. These areas are usually highly accessible to the general public and are areas where business facilities should be established.

A traditional and large house shop located within a residential area (away from the main routes and business areas, or in close proximity to an established business site) should preferably be restricted to a corner stand where it might eventually develop into the traditional corner shop. The locality of the corner site must further be of such a nature that it serves a fairly wide surrounding area and the shop has a reasonable chance of developing into a feasible corner shop (formal business).

The municipality may allow two or more traditional and large house shops on the same street intersection provided that said shops do not provide similar convenience goods and/or services to the surrounding neighbourhood.

A traditional house shop located within a residential area may only be considered away from a street corner and/or midblock provided that the extent of the business does not exceed 20m<sup>2</sup> in extent, that no valid objections are received from an interested and affected party/ surrounding neighbour and that it complies with other aspects addressed by the policy.

Such house shop may not be allowed to expand and will not be granted permanent zoning rights (rezoning).

The traditional house shop and larger house shop that complies with all locality criteria as set out in the policy shall be allowed to expand over time to become traditional corner shops/ formal businesses.

### **3. Number of house shops within an area**

The number of traditional and large house shops within a predominantly residential area should be restricted in order to protect and enhance the character of the residential environment, protect the residents' rights and amenity to a quality human friendly living environment, to protect the vulnerable members of the community and to ensure that any adverse social impacts and unlawful activities can be controlled. In this regard, it is suggested that large house shops should only be located in positions which can grow into fully fledged corner shops.

The number of shops will thus depend on the number of localities available where the house shop can grow into fully fledged corner shops.

The optimum distance that a resident should walk to access convenience shops and services is 500m. In order for house shops to be sustainable over time, it is suggested that traditional and large house shops located in a residential area, which sell similar convenience services, should be located no closer than 400m in radius from each other (800m apart).

The above spacing distances should be applied less restrictively on the properties located along existing and proposed activity spines and activity nodes as indicated in the Richtersveld Spatial Development Framework as well as on land already designated for business purposes.

### **4. Types of structures that can be used for a house shop**

Tuck Shops can only be operated from part of the main house on the property.

All other house shops must be operated from structures that comply with the requirements for human occupancy in terms of the National Building Regulations and Building Standards Act. Such buildings must therefore at least have a foundation, be adequately ventilated, allow for sufficient natural light to enter the structure, have access to a toilet and a hand basin for sanitation purposes (connected to the municipal network), have electrical and plumber certificates and must provide for adequate stormwater run-off.

A house shop cannot be operated from a temporary shipping container or an informal timber structure.

### **5. Operating hours**

House shops should have limited operating times so as to respect the residential character of the area it is located. Trading hours in the residential areas should thus be restricted to protect residents' rights. It is recommended that trading hours be limited to from 06h00 to 22h00.

### **6. Compatibility with other surrounding land uses**

The location of house shops must also take into account its compatibility with other land uses generally found in a residential area. Thus it is advised that no house shop is authorised or established where its proximity to community uses such as schools, crèches, places of worship, old age homes, hospitals, clinics, libraries or public open spaces is likely to have a negative impact on the facility. Parks and public spaces and places are often used as shortcuts to access house shops. The resultant increase in foot traffic over these spaces causes faster erosion and degradation, which increases the municipality's maintenance costs of these facilities.

House shops should ideally not be located in close proximity of a tavern given the potential adverse social implications thereof.

## **7. Gaming machines, etc.**

In order to ensure that there is no loitering around the house shop it is recommended that no activity such as video games, gaming machines and pool tables be allowed within a house shop. No place of entertainment will be allowed to operate from a house shop.

## **8. Health regulations**

The following health regulations must be complied with if food is to be sold or prepared from the premises, namely:

(1) that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) from the Namakwa District Municipality;

(2) that the premises comply with the general hygiene requirements for food premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);

(3) that a Certificate of Acceptability be obtained as required by regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) from the Namakwa District Municipality; and

(4) that the premises comply with government notice R264 of 30 March 2012 relating to the smoking of tobacco products in public places as promulgated in terms of the Tobacco Products Control Act, 1993 (Act 83 of 1993) as amended.

Any house shop where food is prepared and/or disposed of must also obtain a permit from the Infrastructure Manager in terms of Chapter 5, Section 6 of the Water and Sanitation Services By-law for the disposal of industrial effluent.

## **9. Business license**

A business license application must be submitted to Richtersveld Municipality.

## **10. Noise nuisance**

The house shop may not constitute a noise nuisance (people shouting, loud music being played, extraction fans, etc), create a nuisance for any neighbouring property owner (as a result of vehicles parking in the street, damaging neighbour's property, smoke from fires, cars hooting/stopping in front of neighbours property, etc). All music played in a house shop must be limited to listening music set at a low volume and speakers may not be placed outside the house shop. Juke boxes will not be allowed within a house shop.

## **11. Property rates and taxes**

At present the approval of house shops does result in a substantial increase in property rates and taxes as well as the loss of government subsidies where the house shop is conducted from a state subsidized dwelling unit.

As the turnover of the house shops is relatively small this has the effect that it is virtually impossible to operate the house shop as an economically feasible establishment.

These facts are also not known to the owner of the house shop and usually come as a huge surprise to the owner when he receives his rates and taxes account.

These increases are a result of the municipality's rates system which adjusts the rates to business should a house shop be approved.

The property owner should be exempted from paying business rates and taxes based on the following: (a) the extent of the house shop in relation to the existing dwelling does not exceed the restrictions in the policy for a traditional house shop (up to 20m<sup>2</sup>); and/or (b) on condition that the owner meets the requirements as outlined in the indigent policy of the Richtersveld Municipality.

The house shop should thus only be charged business tariffs if it is larger than 20m<sup>2</sup> in extent.

## **12. South African Revenue Services (SARS)**

All owner and/or operators of house shops must register for tax with SARS.

## **13. Rectification of Illegal house shops**

Following the approval of this policy, all illegal owners and/or operators of (unauthorised) house shops (including those who have previously been served a notice) shall be served a notice requiring them to immediately cease the house shop activity and to rectify any other contraventions within 30 days of date of notice being served.

If the house shop owner and/or operator do not adhere to the municipality's notice, a final notice may be served by the municipality on this owner and/or operator allowing him/her a final 14 days in which to cease the unauthorised activities.

Should this notice not be adhered to, the municipality will institute legal action, which can either result in a criminal charge being laid or civil proceedings being instituted to have the illegal land use ceased.

Once the activity is ceased, the house shop owner and/or operator may submit the required land use application for the house shop, but should be advised that the submission of such application does not give them the authority to continue operating and does not mean that their application will be approved by the municipality.

If a house shop application is approved, the property owner will have 3 months in which to comply with the conditions attached to the application approval.

## **14. Application details to be submitted**

### **House Shops and Tuck Shops**

A person wanting to operate any existing or new house shop or a tuck shop in any area, as the case may be, can submit a basic application (application fees, application forms, cover letter, copy of title deed, neighbours' consent letters and site plan) to register the shop with the Town Planning Section.

The application will be circulated internally and the department will check for its compliance with the policy.

If the shop complies with the policy, the section will issue an approval letter which will be valid for 5 years.

General approval conditions will be attached to the letter to which the house shop owner will need to comply.

If the application does not comply with the policy, title deed of the property, and/or the applicable zoning scheme, a formal application as outlined for traditional and large house shops will need to be followed.

### **Traditional and Large House Shops**

The following documents and information must be submitted before an application to rectify an illegal / a new traditional or large house shop can be considered:

- Application fees
- Completed application forms.
- Owner consent (if owner is not the applicant)
- Locality plan
- Site development plan
- Surrounding land use plan (100meter radius).
- Certified copy of title deed.
- Internal photos of the existing house shop clearly showing each room used by the shop, furnishings, decor, fittings, sound proofing, floor coverings, ablution facilities, internal storage areas, etc. (if applicable)
- External photos clearly indicating the external finishes of the structure which is used, its relationship to the existing dwelling unit on the erf, external storage areas, parking areas, treatment of erf boundaries, garbage disposal area, signage. (if applicable)
- Photos must also be provided clearly indicating the locality of the house shop in relation to surrounding properties.
- If the premises have not been completed, details must be provided as to how and when the construction will be completed.
- The owner of the existing or proposed house shop must provide a full motivation stating the type of house shop being applied for and as to why he regards the establishment to be compatible with the surrounding land uses.
- The owner must indicate how nuisance factors such as noise disturbance and the adjoining neighbours' right to privacy is respected.
- The owner must indicate how health and safety requirements are addressed.
- The owner must indicate how the industrial effluent generated by the business, if any, will be disposed of (grease traps etc).

### **15. Advertising and processing of applications**

(a) All applications for illegal or new traditional or large house shops shall be advertised as follows:

- In accordance with the instruction of the Richtersveld Land Use By-Law if applicable;
- In the absence of a removal of restrictions application, registered Notices shall be served on surrounding property owners affording those 30 days to comment. Copies of these notices may also be served by hand to these property owners.
- Notices shall be served on surrounding community, welfare, educational and religious organisations as well as other commenting government departments affording them 30 days to comment;
- Notices shall be served on the Ward Committee of the area as well as the Ward Councillor affording them 30 days to comment;

□ Notices shall be placed on the property and be clearly visible to passers-by for 30 days from date of advertisement;

The house shop should be refused if any of the abovementioned poses a problem.

(c) The applicant shall be granted a maximum of 30 days to comment on the objections / comments received. If the reply is not received with the 30 day period, the application shall be processed further.

(d) A report on the application shall be compiled and will be sent to the delegated official or the applicable Section 80 Committee, as the case may be, for a decision / final recommendation.

(e) The decision / final recommendation will then be communicated to the applicant and any objector by post.

(f) The applicant or objector, as the case may be, shall be afforded a right of appeal in terms of the provisions of the Land Use Planning Ordinance, which right must be exercised within 21 days of registration of the decision notice.

### **16. Validity period of approval**

A house shops is a temporary land use and only approved for a period of 5 (five) years.

For the approval not to lapse, the owner must apply before 4 (four) years and 11 (eleven) months has lapsed, for the extension of the approval for a further period of 5 (five) years.

The owner of the shop will then need to reapply to operate the house shop, which application will be considered on its merits.

### **17. General Conditions**

In consideration of the above, the following general conditions shall apply to all approved house shops:

(a) The type of house shop shall be described and the house shop shall be limited to this use rights;

(b) The house shop owner and/or operator has three (3) months within which to comply with the conditions of approval;

(c) Permission to operate the house shop is only granted to the property and the operator concerned and is not transferable;

(d) The operator of the house shop must reside in the dwelling unit and must also be the owner or the registered tenant of the property;

(e) No more than 3 (three) persons, including the owner/ registered tenant of the dwelling unit, are permitted to be engaged in retail activities on the property;

(f) Trading must be restricted to the boundaries and within the street building lines of the property. No trading is permitted on the sidewalks or road reserve;

(g) Trading can only be allowed from structures that comply with the National Building Regulations and Building Standards Act, 1977 with regards to human occupancy (has an occupancy certificate) and which have approved building plans.

The house shop may not trade if building plans for the structure have not been approved; (h) Any new structure, or alteration to the existing dwelling unit or outbuilding, must conform to the residential character of the area concerned (look

like a structure normally found on a residential property); (i) The extent and position of the retail component (trading area) shall be clearly defined on a site development plan, and shall not exceed:

(1) Tuck Shop: 6m<sup>2</sup> of total floor space of the dwelling unit;

(2) Traditional House Shop: up to 20m<sup>2</sup> or 50% of total floor space of the dwelling unit whichever is the lesser area; or  
(3) Large House Shop: up to 40m<sup>2</sup> or 50% of total floor space of the dwelling unit whichever is the lesser area; (j) An additional area of up to 15m<sup>2</sup> can be applied for to accommodate any water closet, change room and/or storeroom associated with a traditional or large house shop provided that this does not exceed 50% of the total floor space of the dwelling unit; (k) Trading hours shall be limited to 06h00 to 22h00, unless otherwise approved. The municipality may restrict trading hours further depending on the comments and objections received on the application. (l) Stock deliveries must be restricted to normal business hours (08h00 to 17h00 weekdays only); (m) The sale of liquor or alcoholic beverages, the storage or sale of gas and gas containers, paraffin and other hazardous substances is prohibited; (n) No activity such as video games, gaming machines, gambling machines and pool tables be allowed within a house shop.

No place of entertainment will be allowed to operate from a house shop; (o) The sale of cellphone/telephone recharge vouchers and the provision of any other services or trades must be explicitly applied for and approved by the Richtersveld Municipality; (p) The house shop may not constitute a noise nuisance or create a nuisance for any neighbouring property owner; (q) Juke boxes will not be allowed within a house shop.

Should music be played in a house shop, it must be limited to listening music set at a low volume and speakers may not be placed outside the house shop; (r) All parking for the house shop must be provided on the property concerned to the satisfaction of the Directorate: Planning and Housing in consultation with the Infrastructure Manager.

No parking will be allowed in the road reserve; (s) Disposal of refuse must be addressed to the satisfaction of the Infrastructure Department; (t) Only one non illuminated sign shall be permitted and shall not exceed 5000cm<sup>2</sup> in area.

Such sign shall indicate only the name of the owner, the name of the business and the nature of the retail trade; (u) Any other sign must be applied for and approved by the Richtersveld Municipality before it can be erected; (v) The following health regulations must be complied with if food is to be sold or prepared from the premises, namely: (1) that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) from the Richtersveld Municipality; (2) that the premises comply with the general hygiene requirements for food premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972); (3) that a Certificate of Acceptability be obtained as required by regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) from the Namakwa District Municipality; and (4) that the premises comply with government notice R264 of 30 March 2012 relating to the smoking of tobacco products in public places as promulgated in terms of the Tobacco Products Control Act, 1993 (Act 83 of 1993) as amended. (w) A business license application must be submitted to the Namakwa District Municipality for approval. (x) A permit application must be submitted in terms of Chapter 5, Section 6 of the Water and Sanitation Services Policy for the disposal of industrial effluent to the Infrastructure Manager for approval. (y) All house shop owners and/or operators must be registered for tax with the South African Revenue Services



### **18. Withdrawal and lapsing of an approval**

Approval is granted to the owner of the property to run a house shop from his dwelling unit and will be withdrawn under the following circumstances:

- (a) When the property is alienated.
- (b) In the event of the death of the owner.
- (c) Valid objections have been received and an interdict against the owner is obtained.
- (d) The owner of the property is arrested in connection with drug abuse, selling of drugs, the sale of liquor or the operation of a shebeen from the house shop, prostitution, gun incidents, knife stab incidents or any other crime incidents.
- (e) Where the owners ends the approved activity.

### **19. Non-compliance with approval conditions**

- (a) If approval conditions are not complied with the Town Planning Section will issue a written notice to the owner to rectify any irregularities within 7 (seven) days.
- (b) If objections are received with regard to the legally approved house shop the Town Planning Section will evaluate the legality of the objections and if necessary inform the owner about these objections and will request the owner to comply with the approval conditions.
- (c) By failure to comply with points (a) and (b) above further legal action will be taken by Council. A court interdict will be obtained against the owner of the property forcing him to suspend trade from the property.
- (d) In case of serious crime, the matter is to be referred to the state prosecutor's office for further action.

### **20. Delegation**

Approval of applications for tuck shops and traditional house shops shall be delegated to the Infrastructure Committee on condition that no objections have been received, that it complies with this policy and that the applicant is not an employee of the Municipality.

All other applications will be referred to the Namakwa land use tribunal for a decision.

Should an application require the removal of a title deed restriction, such application will be sent to the deeds office for a final decision.

**AUTHORITY**

**RICHTERSVELD MUNICIPALITY  
HOUSE SHOPS POLICY**

**ATTENDANCE AND PUNCTUALITY POLICY**

**Approved Date: 31 May 2023**

**Council Resolution Nr: RVM017/05/2023**

**Effective Date: 01 July 2023**

**Review Date: 30 June 2024**