

# GUIDELINES ENABLING TRADE BY MOBILE BUSINESS OPERATORS

As approved by Mayoral Committee on 10 November 2022

# GUIDELINES ENABLING TRADE BY MOBILE BUSINESS OPERATORS

## Table of Contents

1	PREAMBLE.....	4
2	OBJECTIVES OF THE GUIDELINES .....	4
3	SCOPE OF THESE GUIDELINES .....	5
4	LEGAL FRAMEWORK .....	5
4.2	Regulatory context: .....	6
5	APPLICATION FOR PERMIT TO OPERATE A MOBILE BUSINESS.....	8
6	RULES OF OPERATION.....	9
7	ENFORCEMENT .....	10
7.2	Penalties (revoking of mobile business permits): .....	11
7.3	Law Enforcement.....	11
7.4	Removal and Impoundment.....	11
8	MOBILE BUSINESS TRADING AREAS (MBTA) .....	12
9	PROPOSED POLICY .....	14



# DEFINITIONS

<b>Authorised Official</b>	Means an employee of the Municipality responsible for carrying out any duty or function or exercising any power in terms of this Guideline and includes employees delegated to carry out or exercise such duties, functions or powers.
<b>Certificate of Acceptability</b>	Means that compliance with respect to health and safety has been attained, as issued by the District Municipality
<b>Municipality</b>	Means the Municipality of George ( <i>also referred to as the City</i> ), a municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), or any structure or employee of the municipality acting in terms of delegated authority.
<b>Council</b>	Means the Municipal Council of George Municipality.
<b>Environmental Health</b>	Means the Environmental Health Department within the District Municipality, responsible for the administration of licensing.
<b>Designated site trading plans</b>	Refers to the creation of stipulated mobile trading bays within a Mobile Business Trading Area. Designated site trading plans are created via Council determination.
<b>Fire Safety Certificate</b>	Means the Certificate attained from the Municipality's Fire and Rescue Department confirming that the Mobile Business Operator has undertaken the relevant fire safety checks and that these have been met with approval by the relevant authority.
<b>Mobile Business</b>	Refers to a self-contained, self-propelled vehicle that sells food or services. Self-contained trailers are also considered acceptable mobile businesses.
<b>Mobile Business Operator</b>	Means the operator of a mobile business, as registered with the Municipality, having attained the necessary licences outlined within this guideline and been issued with a mobile business permit. An operator can hold permits for several mobile businesses.
<b>Mobile Business Permit</b>	Means a permit to operate as a mobile business within the Municipality.
<b>Mobile Business Permit application</b>	Means the Municipality form which must be completed by all potential mobile business operators and submitted to the Municipality in order to obtain a mobile business permit. The application establishes all the requirements that must be fulfilled by the applicant in order to satisfy the permit conditions.
<b>Mobile Business Trading Areas (MBTAs)</b>	Means Trading areas for mobile businesses within the George municipal area.
<b>Public Property</b>	Includes a "public place" as defined in the Integrated Zoning Scheme By-law, 2017; and Property owned by the Municipality which is has been provided, reserved, or set apart for use by the public; or been dedicated to the public; and Excludes public land that has been leased by the Municipality.
<b>Operating hours</b>	Refers to the permissible times of tradeable activity (which may or may not fluctuate depending on the specific mobile business trading area).
<b>Waste Management Plan</b>	Means a plan depicting how the mobile business will ensure the self-containment of all waste generated by the mobile business, including that which is consumed by its clientele.



# PART I: INTRODUCTION AND BACKGROUND

## 1 PREAMBLE

---

- a. The 2019 Municipal Spatial Development Framework highlights strategy to promote city and settlement building that improves liveability and raises prospects toward optimising economic development potential, improved efficiency and promote inclusive economy, thereby investing in socio economic mobility and resilience.
- b. Investment in catalysts for social and economic prosperity is also promoted in the MSDF with the objective to develop policies that guide generative and inclusive renewal and growth at street scale. At the heart of this strategy is the objective to transform public spaces into safe, lively places of community and business because *“great neighbourhoods are built with many hands, often in small increments.”*
- c. The MSDF confirms that informal employment is growing in George and it can be anticipated that the bulk of economic growth will come from emerging economies. This guideline aims to give space in the structure of the City where this economic energy can be absorbed.
- d. This trend occurs on a worldwide basis where mobile businesses have emerged as a mobile alternative to established, grounded business locales.

## 2 OBJECTIVES OF THE GUIDELINES

---

- a. TO LEVERAGE immediate benefits available to the operators of mobile businesses, including reduced capital costs to establish the venture, no fixed rental commitments, mobility to chase demand and capture geographically spread markets, optional operating hours, and reduced operating costs;
- b. TO BENEFIT THE PUBLIC by enabling alternatives to fixed outlets, allow for a diversity of business options at a potentially different price point, and make business more accessible through the various locations those mobile businesses are able to operate from.
- c. TO ENHANCE the urban landscape through introduction of street culture, encouraging active use of public places and act as attractors for urban activity and engagement.
- d. TO CREATE A CATALYST for local industry by capturing symbiotic opportunities through drawing crowds who are already engaged in general urban activity.
- e. TO ENABLE business opportunity, entrepreneurialism and economic wellbeing; outcomes which are all the more pressing in the wake of the COVID-19 pandemic and a constrained economy.
- f. TO FACILITATE a lithe and adaptable governance response to a growing market need specifically in the informal economy.
- g. TO FORMALISE applications received from Mobile Business Operators (MBO's) and introduce a consistent approach in dealing with such applications.
- h. TO ENSURE operators are aware of the health and safety requirements and the standards and requirements of respective departments are acknowledged and adhered to.



### 3 SCOPE OF THESE GUIDELINES

---

- a. These guidelines are applicable to Mobile Business Operators only, who comply with the definition of a Mobile Business Operator, as provided above.
- b. Over the course of implementation, the preferred trade areas, trends emerging from operations, benefits and disadvantages will be monitored to enable the designation of structured mobile business trade areas (MBTA) which may evolve into specific site trading plans for mobile business operators via an iterative and optional process. Such development will be upon careful consideration of inputs from all departments, requirements in terms of the MFMA and submitted to Council to obtain a resolution stipulating the reason for formal and permanent sites, outlining the infrastructure requirements for such sites as well as the budget demanded for execution.
- c. This Guideline applies to the geographic municipal boundaries of the Municipality;
- d. Mobile Business Operators, as per this policy, will be permitted to operate in pre-determined and agreed upon:
  - i. Green belts, parks, coastal areas, public places, public property, public transport interchanges and public parking bays which are pre-determined and may, during later stages of development, be designated Mobile Business Trading Areas;
  - ii. This Guideline is not applicable to the operations of Mobile Business Operators undertaken from private property;
  - iii. This Guideline is not applicable to mobile businesses trading on public land associated with an approved event, in which case the event organiser of the approved event will be responsible to lodge an application for all traders as part of the event planning process.
- e. This Guideline intends to support operation of mobile business, which may include, but is not limited to:
  - i. food truck and coffee operators;
  - ii. mobile hair salons;
  - iii. mobile pet grooming;
  - iv. book mobiles; and
  - v. pop up flower trucks.

### 4 LEGAL FRAMEWORK

---

#### 4.1 ASSOCIATED STRATEGIES AND POLICIES WHICH BEAR RELEVANCE TO INSTRUCTION OF THESE GUIDELINES:

- a. Inclusive Economic Growth Strategy;
- b. Informal Trading Policy;
- c. Integrated Waste Management Policy;
- d. Events Policy; and
- e. Others (*applicability to be identified by the respective directorates upon assessment of applications*).



## 4.2 REGULATORY CONTEXT:

The list below is not exhaustive and may be expanded.

LEGISLATION	RELEVANCE
<b>Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996</b>	Section 22 of the Constitution of the Republic of South Africa (the Constitution) provides for the freedom of trade, occupation, and profession. It provides that "every citizen has the right to choose expanded their trade, occupation or profession freely." It is accepted that this freedom extends to informal trading. Section 22 of the Constitution further provides that "the practice of a trade, occupation or profession may be regulated by law."
<b>The Businesses Act 71 of 1991</b>	Prohibits the conduct of any business without the possession of a requisite license. Makes specific provision for the licensing of businesses.
<b>The National Road Traffic Act 93 of 1996</b>	Determines where, on public roads, a trader may/may not trade.
<b>The Promotion of Equality and the Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)</b> <i>Read with the National Strategic Framework on Universal Design and Access, 2021</i>	Prohibits the state or any person from discriminating unfairly against any person on the grounds of race or gender through the denial of access to opportunities for rendering services or by failing to take steps to reasonably accommodate the needs of such persons. <i>The framework serves as a prescriptive guide for the promotion and eventual enforcement of universal design and access standards, using a disability inclusion perspective as its motivating force. It applies to traders as well as government to ensure all citizens benefit equally from an environment, products and services if these are designed in such a manner that the design takes into consideration age, gender, disability and cultural diversity.</i>
<b>Regulation 918 promulgated under The Health Act 63 of 1977</b>	Establishes the manner for the application and issue of Certificates of Acceptability.
<b>The Atmospheric Pollution Prevention Act 45 of 1965</b>	Establishes the framework for the prevention of pollution in the atmosphere and provides for matters incidental thereto.
<b>Counterfeit Goods Act 37 of 1997</b>	Introduces measures aimed against the trade of counterfeit goods.
<b>Foodstuffs, Cosmetics and Disinfectants, 1972 (Act No. 54 of 1972)</b>	To control the sale, manufacture and importation of foodstuffs, cosmetics and disinfectants; and to provide for incidental matters.
<b>Tariff Policy</b>	A set of charges for services which a municipality may set for the provision of a service to the local community and includes a surcharge on such tariff.
<b>By-Law relating to Roads and Streets;</b>	Provide a mechanisms and guidelines for control and management of the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area
<b>Integrated Zoning Scheme By-Law, 2017;</b>	Regulates and control municipal zoning and utilisation of land



<b>LEGISLATION</b>	<b>RELEVANCE</b>
<b>Informal Trading By-law,</b>	To govern informal trade within designated trading areas
<b>Integrated Waste Management By-law, 2022</b>	Promotes sustainable development and a healthy environment; responsible citizenship and obliges waste generators to ensure generated waste does not cause harm to human health or the environment
<b>Municipal Land Use Planning By-law, 2015;</b>	Regulates and controls municipal land-use planning



# PART II: GUIDELINES PERTAINING TO OPERATION OF A MOBILE BUSINESS

## 5 APPLICATION FOR PERMIT TO OPERATE A MOBILE BUSINESS

---

- a. Applications for a permit to operate a mobile business will be received by the City's Economic Development department;
- b. The Economic Development department will facilitate the processing and decision-making process and duly consult with relevant departments in the process;
- c. A Mobile Business Operator (MBO) will be issued with a Mobile Business Permit, allowing them to trade on receipt and approval of a complete Mobile Business Operator application for a period not exceeding 6 months, or such lesser period as the Authorised Official may determine;
- d. A completed Mobile Business Operator application must be submitted in the prescribed format and must include:
  - i. Proof of payment of the prescribed application fee;
  - ii. Certified copy of a valid South African ID;
  - iii. Proof of physical address;
  - iv. A map indicating the sites / locality from where the MBO will trade. This map must also indicate:
    - the position of all formal and informal businesses within a radius of 50 metres from which similar goods are traded;
    - The distance from the nearest accessible ablution facilities;
    - The position of waste disposal points;
    - Access to potable water;
  - v. In the case of foodstuffs, the trader must be in possession of the required business license and certificate of acceptability, issued by the District Environmental Health department;
  - vi. A waste management plan;
  - vii. A fire safety certificate issued by the Fire and Rescue Services Department;
  - viii. An environmental responsibility commitment - consideration for biodegradable materials and cutlery;
  - ix. An approved road worthy certificate for vehicles (self-driven and towed); and
  - x. A description of the business activity delivered by the mobile operation.
- e. The application process will entail:
  - i. The City will accept online and physical applications and queries relating to mobile business permits at the Office of the Economic Development Department (physical and emailed applications); and
  - ii. The George Municipality website (queries);
  - iii. Only complete applications will be accepted. Partial applications will be returned to the applicant; and





- iv. Complete applications require all elements described in (d) above.
- f. By virtue of their application, MBO's will apply to operate from all areas identified in their application and cannot apply for specific sites;
- g. The Municipality reserves the right to delineate MBTA's and allocate specific sites if there is an over-demand for particular trade areas.
- h. The Economic Development Department will undertake a departmental review of the application which will include:
  - i. Obtaining sign-off from respective municipal departments for the waste management plan, the environmental responsibility commitment, and the relevant site and operator permissions in a sequential process;
  - ii. Conducting background checks on the operator. The Municipality reserves the right not to grant a permit where an applicant or their chosen operators have a history of non-payment, non-compliance with by-laws, disruptive / unruly / aggressive behaviour;
  - iii. Establishing reasonable time-periods within which to issue a mobile business permit and ensuring that these time periods are upheld;
  - iv. Responding to applicants on the progress of their applications;
  - v. Issuing mobile business permits; and
  - vi. Determine and guide applicants to the appropriate rules applicable for respective trade areas.

## **6 RULES OF OPERATION**

---

- 6.1 With an approved mobile business permit, an MBO may:
  - a. Access interim MBTAs which may include pre-determined parks, green belts, public places, coastal areas, public transport interchanges and public parking bays to supply their product;
  - b. If so required formal MBTA's will be identified upon review of the guidelines and a list of approved MBTAs will be published on the Municipality's website along with corresponding rules.
- 6.2 An MBO may not:
  - a. Operate within 50m of the entrance of an establishment which supplies a similar product (e.g. a coffee shop, florist);
  - b. Operate within 500m of an event where food trucks feature on the event premises;
  - c. Operate outside of the operating hours determined by the Municipality;
  - d. Operate in public areas which are not designated MBTAs;
  - e. Sell alcohol;
  - f. Operate directly in front of a residential property;
  - g. Operate exclusively from a City-owned parking bay without the requisite event or construction permit;
  - h. Obstruct any pedestrian or vehicular traffic;
  - i. Obstruct visibility or sight distances;
  - j. Obstruct the efficient operation of public transport facilities;
  - k. Play music or audio that is audible from a distance beyond 5 metres from the unit;



- l. Trade beyond the applicable time-constraints applied to the relevant MBTA;
- m. Cause harm or damage to any biodiversity or landscape features; and
- n. Contravene any applicable by-law or legislation.

6.3 An MBO must:

- a. Adhere to the sites-specific rules determined for the applicable MBTA;
- b. Ensure that the urban and natural environments of the MBTAs are maintained to support sustainable and continual operations;
- c. Submit a Waste Management Plan which determines how the Mobile Business Operator will safely contain and dispose of all waste generated by the Mobile Business Operator;
- d. Establish waste collection points outside the mobile business for customer refuse;
- e. Remove all waste that they and their clientele are responsible for and dispose of it in a responsible fashion such that City services are not required for this function;
- f. Provide their own potable water and power;
- g. Ensure that waste water is stored within the unit and disposed of at an appropriate site;
- h. Ensure that each operating mobile business is furnished on site with a mobile business permit which is clearly visible to all users and authorities;
- i. Ensure that their business in no way negatively affects the environment within which it is operating;
- j. Ensure their mobile units is well kept and maintained and is aesthetically acceptable;
- k. Avoid the use of profanity and distasteful or offensive language or images on their units or marketing materials;
- l. Ensure their permit is available for scrutiny at all times; and
- m. Submit to the instruction of appropriate City staff in respect to operations.

## 7 ENFORCEMENT

---

### 7.1 MUNICIPAL ENFORCEMENT AND MONITORING

The Municipality will:

- a. Administer the application submitted by potential Mobile Business Operators, ensuring that **consideration** is granted by the appropriate line functions;
- b. Determine the price of a Mobile Business Operator permit and publish this within an annual tariff schedule;
- c. Upon review of the guidelines, determine and make known the parks, green belts, public places, public property, coastal regions, public transport interchanges, and public parking bays that Mobile Business Operators are permitted to operate from;
- d. Consider the rules of operations such as operating times and number of operators on a single site at a given time;
- e. Issue mobile business permits for Mobile Business Operators upon successful completion of a mobile business application. Permits will be valid for 6 months and may be extended to 12 months, subject to review. The municipality reserves the right to revise or impose new conditions upon each review, provided that extension will not be granted if the MBO is in



arrears;

- f. Monitor adherence to the rules of operation for MBO's; and
- g. Review this guideline on a regular basis to ensure that it captures the operational needs of the mobile business sector and aligns with other applicable Municipal by-laws and legislation.

## **7.2 PENALTIES (REVOKING OF MOBILE BUSINESS PERMITS):**

- a. Should MBO's contravene the operational requirements of this policy or of the pre-determined MBTA in question, the MBO will be issued with a warning by an authorised official;
- b. Should the MBO accumulate three warnings, their mobile permit will be revoked. Reapplication for a new permit will only be considered 6 months after the permit was revoked; and
- c. The Municipality reserves the right to withdraw all mobile business permits for mobile businesses that are managed by a single operator, should more than three infringements of this guideline occur.

## **7.3 LAW ENFORCEMENT**

- a. In order to enhance our area's image in the eyes of both, its residents and visitors, the conduct of traders will be strictly monitored. Anti-social and other unruly behaviour will be viewed as misconduct. This includes:
  - i. No trader will be permitted to carry on such business in a manner, which creates a nuisance, is a danger or threat to public health and safety, or damages or details any Council property;
  - ii. Where a trader violates the permit conditions, he/she will be informed in writing of the violation and course of action. Permit fees will not be refundable if the permit is revoked or suspended;
  - iii. Punitive measures could include a warning, a suspension for a specified period or the total withdrawal of such trading permit;
  - iv. The trader will have the opportunity to put his/her case forward at an inquiry and he/she will be permitted to submit written representations to the Municipal Manager or delegated official; and
  - v. In the case of a trader being refused a permit or having his/her permit revoked, the appeal procedures will be followed through the Appeals Committee. In terms of the Municipal Systems Act, should the complaint be about a Council official it must be referred to the Municipal Manager, should the complaint be about an elected official it should be referred to the Executive Mayor.

## **7.4 REMOVAL AND IMPOUNDMENT**

- a. A Law Enforcement officer may remove and impound any goods of an MBO which he or she reasonably suspects is being used, has been used or is intended to be used for or in connection with trading which is in contravention of this policy or any other applicable law. Such impoundment shall be in terms of the relevant bylaw pertaining to informal trading.
- b. The removal and impoundment of goods may be carried out irrespective of whether or not such



goods are in the possession or under the control of any third party at the time and any Law Enforcement officer who removes and impounds must, except where goods have been left or abandoned, issue the trader a receipt which:

- (i). itemizes the goods to be removed and impounded; - provides the address where the impounded goods will be kept; - states the period of impoundment; - states the terms and conditions which must be met to secure the release of the impounded goods; - states the impoundment fee to be paid to secure release of the impounded goods; - states the terms and conditions on which unclaimed goods will be sold or otherwise disposed of; and
  - (ii). provides the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which representations must be made.
- c. The municipality may at any time after the impoundment sell, destroy or otherwise dispose of:
- (i). impounded perishable goods if the goods represent or might represent a health risk or a nuisance; and
  - (ii). Foodstuffs that are unfit for human consumption.
- d. Impounded goods other than perishable goods, may be sold by the municipality if the owner does not, or is unable to, pay the impoundment fee within one month from the date of impoundment of those goods. If in the reasonable opinion of a Law Enforcement officer, an informal trader is suspected of trading in illegal goods, then those goods may be immediately confiscated and, in the event of such a confiscation, the authorized official must immediately report and surrender the suspected illegal goods to the possession of the South African Police Service.
- e. When an employee or agent of an MBO contravenes a provision of any related policy/guideline or MBO trading permit, the trader shall be deemed to have committed such contravention himself or herself unless such trader satisfies the court that he or she took reasonable steps to prevent such contravention.
- f. A person is guilty of an offence if he or she;
- (i). Trades without an mobile business permit;
  - (ii). Contravenes any provision of this guidelines;
  - (iii). Contravenes any condition on which a permit has been issued to him or her;
  - (iv). Contravenes any provision of an applicable By-Law; and
  - (v). Threatens, resists, interferes with, or obstructs any Law Enforcement officer in the performance of official duties or functions in terms of or under this Policy.

## **8 MOBILE BUSINESS TRADING AREAS (MBTA)**

---

- a. MBTAs are to be established in due course via a review of the Informal Trading By-law, which currently permits economic activity in certain metropolitan areas subject to the conditions of the by-law. The delineation of the MBTA will be guided by the trends observed over the duration of application of these guidelines and will be informed by the Municipal Spatial Development Framework;
- b. The City will investigate the appropriate site, identify the departmental custodian, negotiate the



- permission to trade, ensure management of the site, advertise, and confirm the final MBTAs via Council;
- c. The City will accept applications from the public for the creation of new MBTAs. These applications are to be submitted via the Office of the Director: Human Settlements, Planning and Development;
  - d. Consideration for new MBTA sites is to be undertaken on an annual basis. New sites will be added to the active MBTA database once a year;
  - e. The City will also consider the de-activation of MBTA sites should they be found to be detrimental to the desired outcomes of this policy; and
  - f. The City will communicate the decision on MBTA's annually as well as maintain a map of all MBTA's on its website.
  - g. The following types of spaces are considered appropriate for MBTAs, and will be investigated by the City in establishing the initial list of operable MBTAs:
    - (i). Green belts;
    - (ii). Coastal areas;
    - (iii). Public places;
    - (iv). Public property;
    - (v). City parks;
    - (vi). Public transport interchanges and;
    - (vii). Parking areas.
  - h. As outlined in the definitions to this Guideline, designated site trading plans refer to the creation of specific Mobile Business Operator bays within a given MBTA. Though it is not the intention of *this* iteration of the Guideline to establish designated site trading plans for all MBTAs, these can be established should a given MBTA require an orderly determination of mobile business operations.
  - i. Application by the community, the mobile business sector, or the City can be made to Council to investigate the creation, designation and design of designated site trading plans.
  - j. Approval of the designated site trading plan is to be granted by Council, with the information uploaded to the City's website, added to the MBTA map and made available to all mobile business applicants.



# PART III: REVIEW OF GUIDELINES

## 9 PROPOSED POLICY

---

### 9.1 REVIEW:

This guideline should be reviewed within 6 months of approval by the Mayoral Committee. Pending the outcome of the review and the availability of sufficient information, these guidelines should be developed into policy and subjected to participation from interested and affected parties. The Economic Development department will:

- a. Track the number of mobile businesses operating within the municipal jurisdiction;
- b. The areas in which the supply of mobile businesses is the greatest;
- c. The products and services being traded
- d. Develop a more sophisticated model for operating areas should the quantity of Mobile Business Operators demand a more rigorous framework;
- e. Keep a comprehensive and accurate database of MBO's, the amenities required and monitor trends with regards to product and location;
- f. The number of mobile business violations issued per quarter/ number of Mobile Business Operators who have had their permits revoked;
- g. Engage with the Parks and Recreation department to review the parks and greenbelts that are included within the MBTAs;
- h. Expand the operating areas should a need exist to do so;
- i. what their infrastructure requirements are (i.e. ablution facilities);
- j. whether they operate in non-traditional tourist areas;
- k. Ease of process/ interaction with the City; and
- l. where they would like to operate and why they can't do so.

