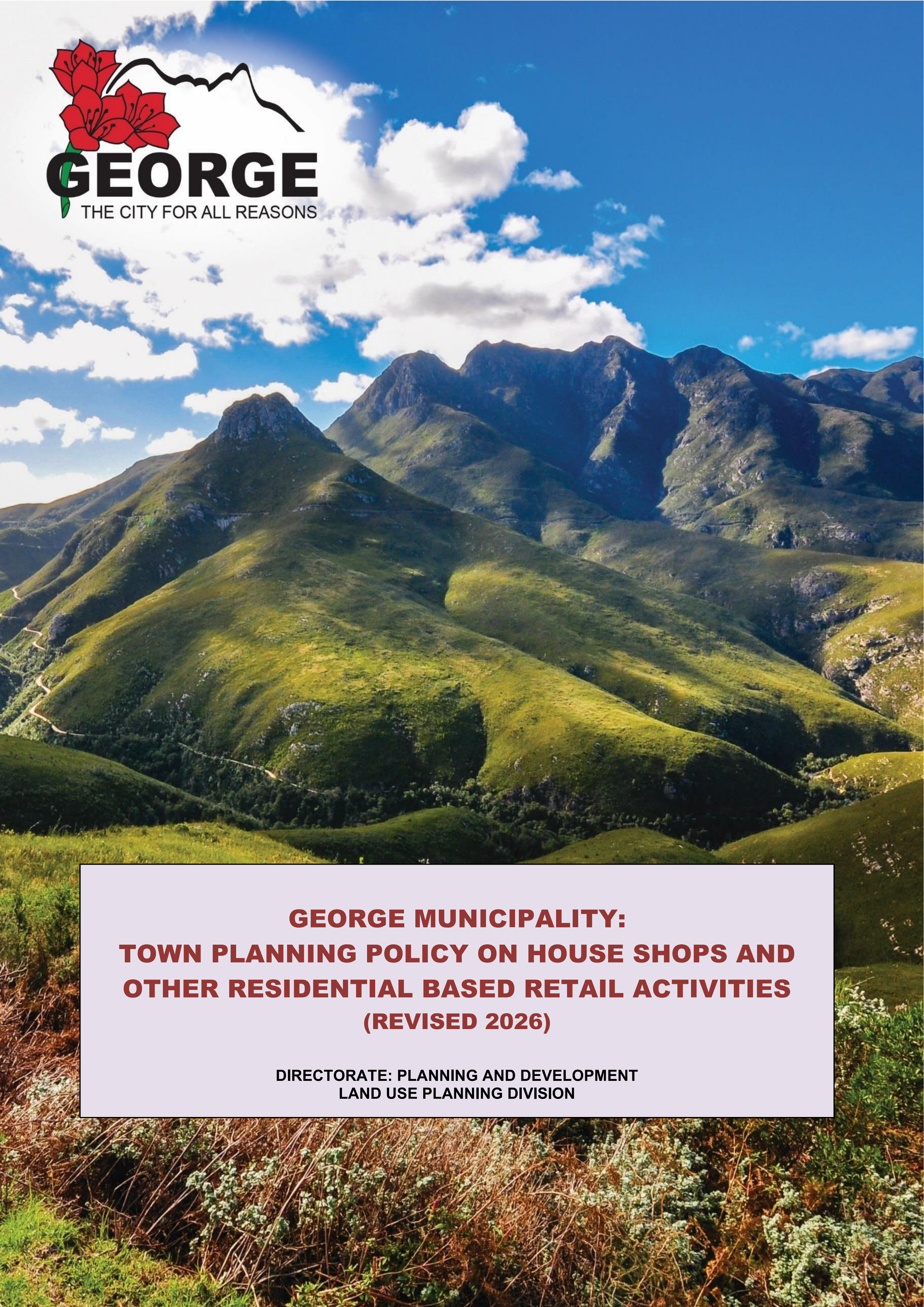

GEORGE
THE CITY FOR ALL REASONS

GEORGE MUNICIPALITY: TOWN PLANNING POLICY ON HOUSE SHOPS AND OTHER RESIDENTIAL BASED RETAIL ACTIVITIES

(REVISED 2026)

DIRECTORATE: PLANNING AND DEVELOPMENT
LAND USE PLANNING DIVISION

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A. PURPOSE OF POLICY

To formulate a set of policy guidelines that allows the George Municipality to consider and manage the operation of house shops as well as other residential based retail activities within residential neighbourhoods and informal settlement areas to:

1. Achieve higher levels of food security in low-income residential neighbourhoods where food deserts persist;
2. Assist residents living in these areas to earn an income from their property through home-based retail activities;
3. Limit negative impacts of such home-based retail activities on the rights of the other residents in the area to a safe, clean and quiet living environment;
4. Promote an entrepreneurial spirit and economic transformation in low-income neighbourhoods;
5. Aid in achieving the Municipality's development objectives with regards to integration, settlement restructuring and public transport orientated development as outlined in the George Municipal Spatial Development Framework, 2023 and applicable Local Spatial Development Frameworks;
6. Provide for retail activities operated by 3rd parties as well as for formalised retail business opportunities within residential areas;
7. Establish a simplified land use application submission and public participation process; and
8. Determine a process to rectify illegal retail business operations – including enforcement procedures;

Note: This policy must be read in context with the contents of Addendum A.

B. ASPECTS TO BE ADDRESSED BY THE POLICY

House shops should be allowed to fulfil its critical role in providing access to essential/ basic goods and services in low-income residential neighbourhoods areas. The Policy must thus establish sustainable land use management guidelines for the allowance and operation of house shops or similar micro-retail and services activities from residential properties, specifically those located in low-income neighbourhoods and informal settlement areas.

It is essential that this policy finds a balance between the regulatory framework within which these businesses must be conducted, against the needs and rights of the residents and property owners which these businesses must serve. This policy, however, does not address the broader need for the Municipality to provide land and incentives to attract and retain larger formalised neighbourhood shopping centres to low- and middle-income areas where food deserts are being experienced.

Further, the policy must align with statutory requirements, with due regard for minimum application submission and public participation requirements contained in the Municipality's Land Use Planning By-law, and applicable definitions, land use descriptions and development parameters contained in the Municipality's Integrated Zoning Scheme.

As the turnover of the house shops is relatively small it is virtually impossible to operate the house shop as an economically feasible establishment, especially considering potential rates and services charges increases. It is therefore important to ensure that the policy allows for the short-term sustainability of these retail activities while also promoting the longer-term planning objectives of the Municipality.

Lastly, this policy must also establish enforcement procedures that will encourage existing illegal operators whose establishments are found in desirable locations, or do not comply with other requirements, to legalise their activities and to operate within the proposed framework while discouraging non-conforming activities.

Notes:
This policy takes cognisance of but does not intend to directly address the following matters:

- *Operational capacity to address the influx of 3rd party business operators resulting in the proliferation of illegal retail businesses and light industrial enterprises in low-income neighbourhoods (requires additional operational capacity within Enforcement Divisions and Municipal Court).*

- *Immigration and Policing: 3rd party businesses operated by illegal immigrants (responsibility of National Government), businesses that area said as fronts for illicit (criminal) activities or that attract crime (especially after dark / at night).*

- *Human Settlements: The occupation of recently transferred state subsidised housing properties intended for the poor, with the beneficiaries unlawfully leasing or selling their properties (responsibility of Provincial Government).*

- *Landlord-Tenant relations: Incidents of abuse, intimidation and corruption have been reported by the public, landlords and operators (responsibility of Provincial Government).*

- *Leasing and occupation of properties owned by the state (George Municipality, Provincial Government, or National Government):*
  - *The Municipality must enter into agreements with state departments to manage informal settlements on state-owned land.*
  - *Operators in these settlements are required to enter into lease agreements with the Municipality before he/she may operate a retail activity on municipal property or state-owned property under the Municipality's control.*

- *The integration of land use, building plan and business license, and other permitting approval processes and develop a SOP in this regard (discussions for better collaboration are in process and engagements between GRDM, GM and Business Engineering [Collaborator] to integrate systems is on-going).*

C. POLICY ASPECTS

1. House Shop Categories

It is proposed that the policy make allowance for following four (4) categories of retail / services activities, each with its own criteria, namely:

(a) Tuck Shop
A tuck shop is a primary right under "shelter" (see Addendum A) of up to 6m² in extent. A shelter is a primary right under Single Residential Zones III (applied to most low-income neighbourhoods) and IV (applied to defined informal settlements).

It is often operated from a room in or on the front stoep of the dwelling house, second dwelling or shelter (informal structure) on the property.

Due to its limited size, these shops are normally confined to the selling of basic confectioneries 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 operated on a subsistence basis.

The presence of the tuck shop may not result in more than two (2) shelters being accommodated on a Single Residential Zone III property.

Note: Consideration must be given to increasing the size of the tuckshop to less than 15m^2 when the zoning scheme is amended, as this is the typical size of a bedroom in a dwelling house.

(b) Traditional House Shop
The traditional house shop typically ranges in size from 15m^2 (the size of a shipping container) to 25m² (the size of a single garage) or less than the total floor space of all residential structures on the property, 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 may be separated from the main house / shelter.

An additional area of up to 15m² can be applied for to accommodate any water closet, change room and/or storeroom.

The total floorspace of this house shop (including storage and utilities) may thus not exceed 40m^2 (roughly the size of a double garage) or the total floor space of all structures used for residential purposes by the occupants of the property, whichever is lesser.

Only the floorspace of the dwelling house (main house and second dwelling) and a maximum of two (2) shelters (in the case of a SRZIII property) may be used for the maximum floorspace calculation.

The presence of the house shop may not result in more than two(2) shelters being accommodated on a Single Residential Zone III property.

(c) Large House Shop
This type of shop is typically larger than 40m² but less than the total extent of all residential structures on the property, whichever is lesser. These shops have quite a significant impact on the residential environment and thus, is proposed that the locality criteria be strictly applied to these types of activities. An additional area of up to 15m² can be applied for to accommodate any water closet, change room and/or storeroom if this does not exceed the total floorspace of all residential structures on the property.

The total floorspace of the large house shop (including storage and utilities) may not exceed 60m^2 (the maximum area of a home occupation) or the total floor space of all structures used for residential purposes by the occupants of the property, whichever is lesser.

Only the floorspace of the dwelling house (main house and second dwelling) and a maximum of two (2) shelters (in the case of a SRZIII property) may be used for the maximum floorspace calculation.

The presence of the house shop may not result in more than two(2) shelters being accommodated on a Single Residential Zone III property.

Successful and well-placed retail activities should be allowed to transition to a neighbourhood shop where possible.

(d) Neighbourhood Shop
A neighbourhood shop is a retail activity / service with a total floor area exceeding the total floor space of all residential structures on the property or a 3rd party business that conflicts with the land use description of 'house shop". (see Explanatory Notes in Addendum A).

Only the floorspace of the dwelling house (main house and second dwelling) and a maximum of two (2) shelters (in the case of a SRZIII property) proposed to be regularised in compliance with the NBR&BS Act, may be used for the maximum floorspace calculation.

This retail activity provides a wider range of retail goods and services to the public with its customers being primarily the inhabitants of the neighbourhood and surrounding communities.

This type of retail activity may not be operated from a shelter (must comply with the NBR&BS Act) and may only be considered if it complies with the locality criteria as set out in the policy for a Large House Shop.

Note: A neighbourhood shop requires a rezoning to Business Zone III and by implication, shelters are not permitted, including shelters provided for residential occupation. The retail activity should not be considered if there is no intent to also formalise any existing shelters on the property.

2. Locality

The locality criteria for the abovementioned categories of retail/ services activities are as follows:

(a) Tuck Shops
Tuck Shops are a primary right under Single Residential Zones III and IV. Property owners or occupiers of a dwelling house / shelter on properties zoned Single Residential Zones III and IV do not require a land use application approval.

Owners / occupants in other neighbourhoods with Single Residential Zone I properties must obtain a land use approval from the Municipality prior to operating the retail activity.

This type of house shop can be considered on all Single Residential Zones I, III and IV properties and is not required to comply with any locality criteria.

(b) Traditional and Large House Shops
Traditional and large house shops should ideally be located within existing and proposed economic nodes as well as along existing and proposed activity corridors and activity spines as indicated in the George Spatial Development Framework and

respective Local Spatial Development Frameworks, as well as along designated land use intensification areas, along main and principle public transport routes and on land already designated (zoned / earmarked) for business purposes.

These areas are usually highly accessible to the public and ideal for the establishment of business facilities. Care must however be taken not to create monotonous ribbon development and compromise the Municipality's objectives of consolidating, diversifying and strengthening these identified areas.

Apart from the above, traditional and large house shops should only be allowed within a residential neighbourhood/ informal settlement under the following circumstances *(see Figure 1)*:

(i) The retail activity should not be located within 400m walking distance of established activity corridors, activity streets, business nodes, main bus routes and established business sites.
(ii) The retail activity should be restricted to a corner stand - at an intersection of at least two roads and at a location that would be suitable for the development of a neighbourhood (corner) shop.
(iii) The locality of the site should be of such a nature that it can serve a wider surrounding area and has a reasonable chance of being developed into a feasible neighbourhood shop site in future.
(iv) Two or more retail activities may be permitted on the same street intersection / in proximity of each other if said retail activity does not provide similar convenience goods and/or services to the surrounding neighbourhood.
(v) Retail activities that comply with all locality criteria as set out in the policy may be allowed to expand over time to become a neighbourhood shop/ formalised business.

Notwithstanding the above, the Municipality may permit a traditional or large house shop that deviates from the abovementioned locality criteria under the following circumstances:

(a) If the house shop:
  (i) serves a neighbourhood and/or surrounding community that is deemed to be a food desert as described in Explanatory Note 1 of Addendum A;
  (ii) existed in accordance with the Thembalethu Zoning Scheme (1989) prior to the adoption of the George Integrated Zoning Scheme Bylaw in 2017;
  (iii) lawfully existed as a non-conforming land use in terms of other applicable planning laws;
  (iv) is permitted in terms of an overlay zone; or
  (v) If a Council resolution has been obtained to permit a house shop in an informal settlement under the Municipality's control.

(b) If operated by a 3rd party,
  (i) it can be demonstrated how the retail activity will align with the land use description of "house shop", including any alterations or demolition that may be required to achieve such alignment; and
  (ii) the operator lives and is provided with sleeping quarters separate from the house shop (subject to compliance with applicable health and safety requirements) on the property.

(c) No valid objections are received from an interested and affected party/ surrounding neighbour.

(d) The application does not conflict with other criteria stated in the policy; and

(e) It is initially approved as a "temporary" use right, for a determined compliance period, where, after review of the impact on the local community and neighbourhood environment, consideration may be given to granting a "permanent" right.

3. Number of House Shops Within an Area

The number of traditional and large house shops within a predominantly residential neighbourhood should be restricted 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 and 3rd party retail activities are only located in areas which can grow into fully fledged neighbourhood shops. The number of shops will thus depend on the number of opportunities available.

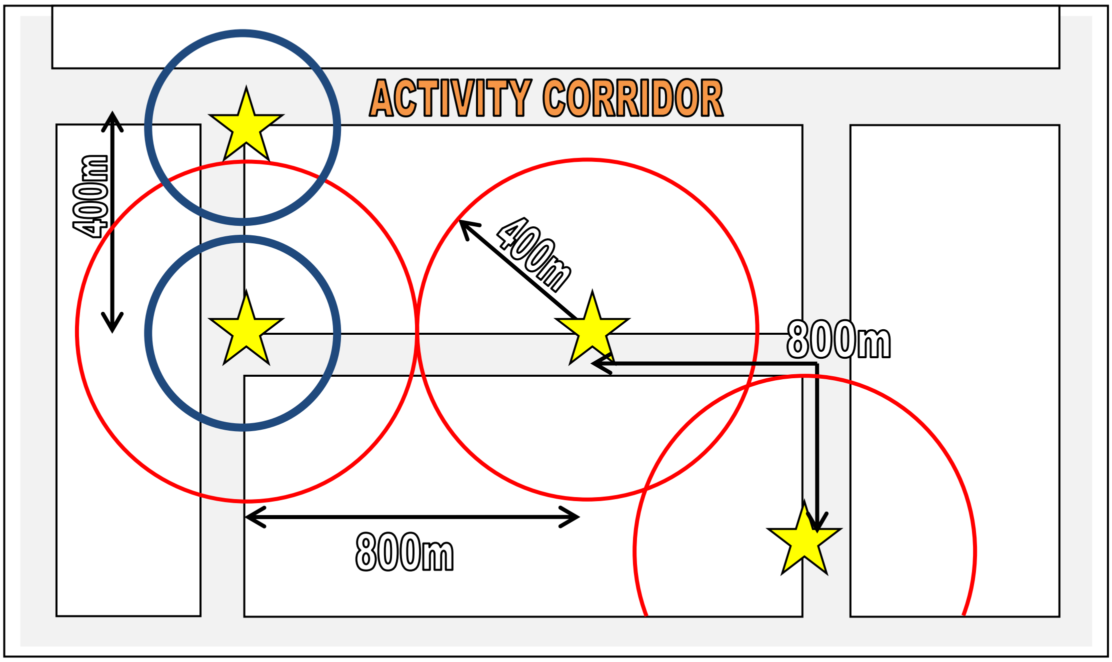


Figure 1: Permitted Position of House Shops

The optimum distance that a resident should walk to access convenience shops and services is 400m. For house shops to operate sustainably over time, it is suggested that traditional and large house shops located in a residential neighbourhood, which sell similar convenience services, should be located no closer than 400m in radius from each other or 800m walking distance apart. *(See Figure 1 for explanation).*

The above spacing distances shall not apply to properties located along existing and proposed activity corridors, activity spines, intensification areas, designated main and principle public transport routes and economic nodes as indicated in the George Spatial Development Framework and applicable Local Spatial Development Framework as well as on land already designated (zoned or earmarked) for business purposes, provided that it does not result in undesirable ribbon development.

The spacing criteria may also be applied less rigidly if the house shop:

(a) serves a neighbourhood and/or surrounding community that is deemed to be a food desert;
(b) existed in accordance with the Thembalethu Zoning Scheme (1989) prior to the adoption of the George Integrated Zoning Scheme in 2017;
(c) lawfully existed as a non-conforming land use in terms of other applicable planning laws;
(d) is permitted in in terms of an overlay zone; or
(e) in the case of an informal settlement, is permitted in terms of a Council resolution or applicable delegation, whereby an occupant, is granted permission to conduct the house shop on Municipality controlled land.

4. Compatibility with Surrounding Land Uses

The location of house shops must also consider its compatibility with other land uses generally found in a residential neighbourhood.

House shops may be located near community facility clusters such as schools, crèches, house of worship, old age homes, hospitals, clinics, or libraries unless it is evident that the retail activity will have a negative impact on such facility.

A house shop should not be permitted if it results in damage to public and private open space areas or parks where the increase in foot traffic cause faster erosion and degradation of such space unless the operator provides a solution for the continued maintenance of that space (e.g. applying Adopt-a-Spot).

House shops within residential neighbourhoods should not be permitted near a place of entertainment or a place of leisure unless it can be demonstrated that vulnerable citizens will not be exposed to anti-social behaviour and crime associated with such businesses.

For the purposes of the policy, a minimum impact radius of 100m will be applied when assessing the impact of a traditional house shop and a 200m radius for a large house shop.

5. Types of Structures Allowed for a House Shop

The zoning scheme parameters attached to house shops require that the retail activity either be operated from existing approved structures on the property (part of the house or an outbuilding) or from a new structure.

The structure must also be designed in such a way that it is readily capable of being reverted to residential use.

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, 1977 (NBR&BS Act).

A house shop located on Single Residential Zone I property may not be operated from a shipping container or an informal structure (shelter) unless it complies with the NBR&BS Act.

A house shop operated from a shelter on a Single Residential Zone III or IV property shall be granted the opportunity to comply the NBR&BS Act within the period as contemplated in Section 10 below.

Notwithstanding, all shelters used for a house shop should at least:

(a) be provided with an adequate foundation or a raised concrete platform on which the structure rests;
(b) make use of quality fire retardant materials and/or meet the minimum requirements in terms of fire safety;
(c) be structurally sound;
(d) be provided with adequate natural or artificial ventilation and natural light;
(e) have access to a toilet and a hand basin for sanitation purposes (connected to the municipal network);
(f) be separated from the operator's / occupant's living and sleeping quarters;
(g) have the necessary electrical compliance certificates; and
(h) make provision for adequate storm-water run-off control.

A new structure erected for a house shop should ideally have a similar appearance to the existing buildings on the property and/or other permanent residential structures in the area, especially when viewed from the street.

Acceptable exterior finishes for a house shop may include face-brick, plastered brick, timber half-rounds, nu-tec board and vibracrete panel walls – ideally painted the same colour as the house - keeping in mind that the finish must not detract from the existing house and other houses in the surrounding area.

The roof finishes (flat or pitched roof) will also depend on the materials and finishes found in the surrounding area.

6. Operating Hours

House shops should have limited operating times to respect the residential character of the area within which it is located.

It is proposed that retail activities located in desirable areas as described in Section 2 of the policy have less restrictive trading hours than those located within residential neighbourhoods.

Shops located in the middle of residential neighbourhoods are more isolated and susceptible to incidents of crime. Limiting the trading hours of these retail activities makes it easier for the South African Police to monitor and control these retail activities as well as prevent these incidents.

Limiting the trading hours of shops located in residential streets also limits negative impacts on the residents and better protects neighbours rights and amenities. Further, allowing extended trading hours for well–located shops creates an incentive for 3rd party retail activities to relocate their shops to better locations.

The trading hours of house shops and neighbourhood shops should be limited as follows :

(a) along activity corridors, activity spines, and main and principle public transport routes, within intensification areas and economic nodes, and business sites: 06h00 to 22h00; or
(b) within the remainder of the residential neighbourhood: 06h00 to 20h00.

Notwithstanding, the Municipality may restrict trading hours further after consultation with the SAPS, if the house shop or neighbourhood shop is located in a high crime area. It may also restrict trading hours or, if necessary, withdraw the approval of the house shop, should valid complaints be received about its operations (See Section 11).

Note: Council should introduce By-law conditions regulating the trading hours of house shops and neighbourhood shops as it will make it easier to enforce.

7. Prohibited Activities

Non-compliance with the following, may result in a land use application being refused or, if approved, a land use approval being suspended or revoked:

(a) No house shop may operate outside of its approved trading hours.

(b) No place of leisure activity such as the playing of video games, gaming or gambling machines and pool tables may operate from a house shop.

(c) No place of entertainment, prohibited activities or liquor outlet may operate from a house shop.

(d) A house shop may not constitute a noise nuisance, create a nuisance for any neighbouring property owner.

(e) No loud music, including a juke box or similar device, may be played outside or within a house shop. All music played in a house shop must be limited to listening music set at a low volume with no speakers placed outside the house shop.

(f) A house shop may not be used as a front for the operation of illicit (criminal) activities.

8. Land Use Application Submission Process

Land use applications are required as follows:

(a) A land use application is not required for a tuck shop on Single Residential Zone III and IV properties;

(b) A consent use application is required for persons seeking to operate a tuck shop on a Single Residential Zone I property, and a house shop on Single Residential Zone I, III and IV properties;

(c) A rezoning or temporary departure application is required for persons seeking to operate a neighbourhood shop.

Where an overlay zone that allows for a house shop as a primary right applies, an application for permission in terms of the zoning scheme is required.

The application requirements as approved by the Director: Planning and Development for a simplified land use application submission and public participation process to reduce the burden on property owners and house shop operators shall apply.

A shortened zoning rectification process as outlined in Section 8 of the George IZS By-Law may be followed for house shops that existed under the Thembalethu Zoning Scheme Regulations, 1989 prior to the implementation of the George IZS Bylaw in 2017 provided that the owner / operator can provide proof its existence prior to the implementation date and accepts the General Conditions of Approval as stated in Section12.

All applications will be processed in accordance with the provisions of the Land Use Planning By-law, and the system of delegations granted by Council. Public Participation will be dealt with in accordance with the provisions of Section 48 of the Land Use Planning By-law as follows, unless otherwise requested by the Municipality:

(a) Tuck Shops, Traditional and Large House Shops:
   (i) Consent letters from all the adjacent property owners, and
   (ii) Notice to the ward councillor/written consent from the ward councillor

(b) Notwithstanding the above, the Municipality may request of the applicant to obtain comments from any state Department, State Authority, Governing Body and/or Interested and Affected party if necessary.

(c) Should an application constitute an application for the removal of restrictive condition, the general submission and public participation process will apply.

(d) Garden Route District Municipality, SAPS and SARS (external) and LED and land use compliance (internal) be informed of an application, if approved.

9. Validity Period of Approvals

Owners and/or operators of retail activities addressed in this policy will obtain permanent land use rights (that do not lapse) once they have fully complied with the relevant conditions of approval and the NBR&BS Act.

All approvals in terms of this policy shall be valid for a maximum period of 5 years.

All owners /operators of new house shops / neighbourhood shops approved by the Municipality may not operate without first obtaining and complying with the applicable land use application and building plan approvals.

The approval period granted for an existing house shop or neighbourhood shop may be restricted to compel the owner and/or operator to regularise the retail activity. Sufficient time must be given to said owner and/or operator to comply with the relevant conditions of the land use approval and the NBR&BS Act as outlined in Section 10 below.

If the owner and/or operator of the existing retail activity is unable not fully comply with all requirements within stipulated time periods, he/she may request an extension of time which period may not exceed a total of 5 years as calculated from the date of the approval coming into operation.

Further extensions of approval should not be approved if an owner and/or operator of an existing retail activity has still not complied with all relevant conditions of the land use approval and/or the NBR&BS Act. The municipality must compel the owner/operator to cease the operation and regularise the structures on the property.

<u>Note:</u>
SPLUMA only allows a maximum initial approval period of 5 years. Owners / operators may apply several times for an extension of the approval period for a total period of 10 years. However, the Municipality is compelled to ensure that illegal house shops and

neighbourhood shops are regularised and thus, a further extension beyond 5 years is not encouraged.

10. Phased Implementation to Regularise Existing Retail Activities

The owner or operator of an existing trading retail activity addressed in this policy may, on application, request the Municipality to allow for the phased implementation of the land use application approval. Such phasing may generally be approved over a period of 3 years, depending on the nature of the non-compliance, as follows:

(1) **Within 3 months of approval:** If the structure is positioned over the property boundary and/or over the approved street building lines, the owner and/or operator must demolish that portion of the structure or move the structure to a position within property boundaries and building lines.
(2) **Within 6 months of approval:** The owner and/or the operator must ensure that the shop structure meets minimum ventilation, lighting and fire safety standards. The shop must be provided with an adequate wash-up and ablutions facility, and the operator must provide or be provided with on-site living quarters that is separate from the shop.
(3) **Within 1 year of approval:** The owner and/or operator must submit building plans for approval of a shop structure in accordance with the requirements of George Integrated Zoning Scheme Bylaw, relevant conditions of the land use approval and the National Building Regulations and Building Standards Act, 1977.
(4) **Within 1 year of (3):** The owner and/or operator must implement and alter the shop structure to comply with the approved building plan or replace the structure with a new structure that complies with said plans, as the case may be.
(5) **Within 1 year of (4):** Owner and/or operator must obtain the occupation and fire safety certificates for the approved structure.

The owner / operator may request an extension of time from the Land Use Planning Division to comply with the phasing requirements on good cause shown, provided that such extension does not exceed a total approval period of 5 years.

11. Revoking and Suspension of an Approval

An approval granted for a house shop or neighbourhood shop may be withdrawn (revoked) or suspended by the Municipality in accordance with the provisions of the Land Use Planning By-law for George Municipality should:

(1) it be determined that the retail activity persistently does not comply with associated health and business licensing regulations.
(2) it be found that the retail activity is used for any form of illicit trade or crime;
(3) it be found that the retail activity has been illegally dumping waste or creating unhealthy living conditions;
(4) the retail activity is found to be a source of noise or public nuisance or is reported by enforcement agencies as attracting crime to an area;
(5) the phasing requirements for rectifying an existing retail activity not be implemented within the time-frames stipulated, and no request for extension has been made;
(6) it be found that its operational hours as stated in the conditions of approval are routinely exceeded;
(7) at the request of the owner / operator, should the retail activity cease to operate;
(8) an emergency, disaster or any other justifiable (reasonable) reasons render the closure of the retail activity necessary.

12. General Conditions

The following general conditions may be included in house shops approvals:

1. The approval period as well as any compliance periods shall be stated.
2. If a house shop is approved, the type of house shop shall be described and the house shop shall be limited to this use right;
3. The phasing requirements for implementation of the approval in relation to the regularising of an existing retail activity to be stated (See Section 10 for guidance).
4. Permission to operate the retail activity is only granted to the property and the operator concerned and is not transferable;
5. The operator of a house shop must reside on the property in quarters or a room separate from the house shop;
6. No more than 3 (three) persons, including the occupants of the property, are permitted to be engaged in retail activities on said property;
7. Trading must be restricted to the boundaries and within the building lines of the property. No trading is permitted on the sidewalks or road reserve;
8. Unless otherwise permitted, trading may only be allowed from structures that comply with and have been approved in terms of the National Building Regulations and Building Standards Act, 1977;
9. Any new structure, or alteration to an existing dwelling unit or outbuilding, must conform to the residential character of the area concerned;
10. Trading hours shall be limited to 06h00 to 20h00, unless otherwise approved. The Municipality may restrict trading hours further on good cause shown;
11. Stock deliveries must be restricted to normal business hours (06h00 to 18h00 weekdays only);
12. The sale of liquor or alcoholic beverages, the storage or sale of gas and gas containers, paraffin and other hazardous substances is prohibited;
13. No activity such as video games, gaming machines, gambling machines and pool tables be allowed within a house shop;
14. The sale of cellular phone/telephone recharge vouchers and the provision of any other services or trades must be explicitly applied for and approved by the George Municipality;
15. The retail activity may not constitute a noise nuisance or create a nuisance for any neighbouring property owner;
16. No loud music including juke boxes will not be allowed within a house shop;

17. All parking for the retail activity must be provided on the property concerned to the satisfaction of the Directorate: Civil Engineering Services. No parking will be allowed in the road reserve;

18. Disposal of refuse must be addressed to the satisfaction of the Directorate: Community Services;

19. Only one non-illuminated sign shall be permitted and shall not exceed 5000cm² in area. Such sign shall indicate only the name of the owner, the name of the business and the nature of the retail trade. Any other sign must be applied for and approved by the George Municipality before it can be erected;

20. A business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) must be obtained from the Directorate: Community Services for approval.

21. A permit application in terms of Chapter 5, Section 6 of the Water and Sanitation Services By-law for the disposal of industrial effluent must be to the Directorate: Civil Engineering Services for approval if food is to be prepared and disposed of.

22. The operator must comply with a health, hygiene and food regulations if food is to be sold or prepared from the premises

23. The Municipality reserves the right to withdraw or suspend an approval should:

    (i) it be determined that the retail activity persistently does not comply with associated health and business licensing regulations.
    (ii) it be found that the retail activity is used for any form of illicit trade or crime;
    (iii) it be found that the retail activity has been illegally dumping waste or creating unhealthy living conditions;
    (iv) the retail activity is found to be a source of noise or public nuisance or is reported by enforcement agencies as attracting crime to an area;
    (v) the phasing requirements for rectifying an existing retail activity not be implemented within the time-frames stipulated, and no request for extension has been made;
    (vi) it be found that its operational hours as stated in the conditions of approval are routinely exceeded;
    (vii) at the request of the owner/ operator, should the retail activity cease to operate;
    (viii) in the event of an emergency or any other justifiable (reasonable) reasons which renders the closure of the retail activity necessary.

13. Rectification of Illegal House Shops and 3rd Party Retail Activities

All illegal house shops shall be addressed in accordance with the George Municipality's Department: Enforcements and Compliance's Standard Operation Procedures, which steps can be summarised as follows:

(a) The landowners and/or operator is served a 1st notice in accordance with the applicable provisions of the Land Use Planning By-law for George Municipality, providing them 30 days to rectify the offence.

    This will include a request to visit the Land Use Planning Division within the 30 days to make arrangements for extension of time to discuss options and agree on timelines for rectifying the contravention / submit an application.

(b) If the landowner and/or operator does not adhere to the Municipality's notice, a second notice shall be served allowing the owner and/or operator a further 14 days to rectify the contravention.

(c) Should the landowner and/or operator adhere to the abovementioned notices, he/she must make an appointment with a town planner at the Land Use Planning Division who will advise him/her/them on the requirements of submitting the necessary land use applications.

During this engagement, the town planner will confirm that the submission of an application does not mean that the illegal shop may continue to operate and further, does not guarantee that their application will be successful (approved). The owner and/or operator will then be provided sufficient time to submit / appoint an agent to submit the required land use application.

(d) Should the second notice not be adhered to, the matter will be escalated to the Manager: Enforcement and Compliance who will provide the owner / operator a final opportunity (7 days) to rectify the offence. The Manager will also invite the owner / operator to a meeting to discuss how he/she intends to address the matter.

(e) Should this fail, the matter will be handed over to the Department: Legal Services and Compliance for the instituting of further legal action – i.e. lay a criminal charge through the municipal courts, which creates a final opportunity for mediation through the municipal prosecutors office.

Note: The Municipality may depart from the above procedures and expedite legal action if the activity and/or structure poses an imminent danger to life or property, or if illicit activities are taking place on the property that pose a threat to the health and wellbeing of community concerned.

14. Other Regulatory and Licencing Requirements

All house shop and neighbourhood shop operators should be informed of the following obligations:

(a) To comply with the Garden Route District Municipality's food and hygiene licencing and permitting requirements should food be sold or prepared from the premises;

(b) To obtain a permit for the preparation and disposal of food from the Directorate: Civil Engineering Services of the George Municipality in terms of Chapter 5, Section 6 of the Water and Sanitation Services By-law;

(c) To obtain a business license from the Directorate: Community Services of the George Municipality for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991); and

(d) To register for tax with SARS.

Residential property owners, especially those who are receiving an indigent support grant, should be informed that the approval of a house shop on their property may result in a loss of their indigent support grant and/or an increase in their property rates and service charges.

Owners should also be advised to consult with the Department: Financial Services of the George Municipality to understand such implications so that they make an informed decision before committing to allowing a house shop on their property.

Note: Council should consider providing rebates on rates and services charges for tuck shops and traditional house shops. These businesses have low profit margins and play a significant role in ensuring food security in especially low-income residential areas.

15. Delegations

All decisions on land use applications shall be in accordance with the system of delegation approved by Council.

ADDENDUM A – EXPLANATORY NOTES

EXPLANATORY NOTE 1

Background

It is recognised that many residential neighbourhoods built with state subsidy housing funding (low-income neighbourhoods) function differently to the traditional suburban residential neighbourhoods of our city, towns and villages This can be attributed to, among others, differences in culture and traditions within these diverse communities, the levels of poverty, unemployment and dependency experienced among the citizenry and the ability of community's residents to access facilities, services, resources and opportunities.

Past planning practises also left many low-income communities isolated from the economically active parts of its city, town or village, compromising the ability of these communities to access local economic and employment opportunities as well as social and commercial facilities required to provide for their individual needs, including food. While restructuring and spatial integration efforts are on-going, residents living in low-income areas still travel considerable distances to access retail goods and neighbourhood services which citizens in higher income areas readily have access to.

In response, many residents and small business owners have established house shops (spaza shops) on residential properties in these low-income, with said activity being much less prevalent in middle-income areas. These house shops afford especially low-income households access to a variety of basic goods and services, a play a significant in terms of enabling a food secure future, especially as larger retail facilities, found in higher income areas, are generally absent in these low-income areas.

Most of the larger retail facilities were also located in places that are not easy to access by walking or by public transport, and its accessibility was further restricted by laws promoting segregation. When Apartheid ended, house shops became increasingly prevalent in low-income neighbourhoods due largely to the influx of foreign nationals into the country – who have since become the dominant operators of these informal businesses, especially as larger retailers are still not investing in lower-income neighbourhoods.

What are Food Deserts?

The phenomenon described above is known as "food deserts" or "food apartheid". The term originated in the global north (USA and Europe), initially referring to a form of food insecurity where rural households had to travel considerable distances (more than 16km) to access retail goods and services. The solution proposed in these areas – and largely replicated in our National Government's rural development policies – was to enable subsistence farming and developing rural centres. In the George context, such interventions would apply to places like Haarlem, Herold and Noll.

In an urban context – places like George and Uniondale – a "food desert" occurs when residents living in low-income neighbourhoods are not within 1.6km walking distance (30-minute walk) or a short bus trip (30-minute trip calculated from the time you leave your home to the point where you reach the centre) from of a large retail centre (like a big Pick 'n Pay, Shoprite, Checkers or Super Spar) or a large regional shopping centre (Garden Route Mall, Eden Meander) or the City Centre (George CBD).

In investigating the phenomenon in 2023, it was noted that while residents of areas around George CBD and along Knysna Road and York Street have good access to a range of shops to access food, there are large areas of George (not only low-income neighbourhoods) that qualified as food deserts. These included higher income areas such as Heather Park, Heatherlands, Glen Barrie, Denneoord, Loerie Park, Kingswood and Fancourt, though it's also acknowledged that most of these residents have access to private vehicle transport and public transport.

The residents of high-income developments in the Kraaibosch area (to the northwest of Garden Route Mall) in fact live in a severe food desert. The area is dominated by retirement villages – where residents rely on a fixed income and mobility is generally limited – and no public transport system operates in the area. There are however proposals to establish a neighbourhood shopping centre in the area.

Notwithstanding, at present, most middle and lower-income areas in George are considered food deserts. Some middle-income areas can be partly alleviated through the development of planned neighbourhood shopping centres such as in Blanco (on Montague Street) and Delville Park (cnr of Olympic Street and Beach Drive) while another shopping centre is also proposed in Parkdene (future intersection of Fiskaal Street and Nelson Mandela Boulevard). Once implemented, these centres will be able to serve several communities across all income groups.

The proposed Blanco shopping centre development was recently approved and will be completed soon. The land for proposed Pacaltsdorp and Parkdene shopping centres have been standing idle for more than a decade now – likely due to the economic feasibility of building it (explained later) and thus, it is difficult to determine when these areas will be served by larger supermarkets and other stores.

Notwithstanding these proposed developments, most households living in low-income neighbourhoods remain largely food insecure – with few (if any) formal corner and neighbourhood shops in these areas. Thembalethu is the most food insecure part of George – with only one formal shopping centre serving the entire area, and it is also not yet fully served by a formal public transport system (still largely reliant on minibus taxis). It is estimated that roughly 2/3 of the residents in Thembalethu do not have adequate access to formal shops even though there is land set aside (owned by the Municipality and other state organs) where it is possible to develop these. Most residents in Thembalethu also walk to their destinations, which translates to a greater need for the provision of large house shops, corner shops and neighbourhood shops with at least one more larger shopping centre at the end of Nelson Mandela Boulevard.

<u>Why are there no large retail centres found in low-income neighbourhoods?</u>
Looking at available research done in the South African and sub-Saharan Africa context (same applies abroad), it is evident that large retailers do not generally invest in low-income residential areas – as their operating costs are very high (especially with loadshedding). Their profit margins are relatively small (they require roughly a 20% margin to break even), and they need to able to sell higher-order goods such as premium coffees, cheese, clothing, electronic goods, etc (which have higher profit margins of about 25% to 50%) to cross-subsidise the low profit margins they apply to goods such basic food items (5% to 15%) – made necessary by strong competition, including competition created by house shops.

The larger retailers are also facing on-going competition from on-line retailers like Amazon and Takealot.com who also sell higher order goods. These retailers are now also being compelled to compete in the on-line retail space – with between 10% to 16% of their clients now doing their shopping on-line and having their shopping delivered to them. Paradoxically this places additional pressure on retailer's profit margins as fewer feet are now in their shops – removing any chance of a customer making impulsive purchases (the reason you go to the shop for one thing and end up walking out with 5 bags of groceries).

Due to the above, larger retailers are generally reluctant to invest in low-income neighbourhoods, at least in the present economic climate, and even if they do pursue this option in future – it will likely need to be accompanied by municipal incentives such as lower land costs, tax-breaks, reduced services charges, staggered development charges, etc to offset the lower profit margins they will likely experience due to them not being able to cross-subsidise as much – as the goods sold in these stores will likely only cater to the needs of the local population. Further, if they do invest in these areas, it will likely be a lower-end retail offering in the form of a Boxer, Pick 'n Pay Qualisave or Shoprite Usave type store, an independent operator (Millie's in Blanco) or a franchise store (OK Foods, Pick 'n Pay Express) – all with a limited variety of higher quality goods and fresh goods (meat, fruit and vegetables), being provided at a slightly higher cost.

For the resident of a low-income neighbourhood, traveling to the city centre (CBD), larger stores (like Shoprite, Checkers, Super Spar, Pick 'n Pay) and larger shopping centres (like Garden Route Mall and Eden Meander) is in no way convenient or affordable – given the distances they need to walk or travel by public transport and the related traveling time involved. For instance, a typical bus trip for such resident from home to the store could take as much as an hour, whereas the trip is about 15 minutes by private vehicle, meaning that a trip to the store and back costs a resident about 1.5 hours. They also have to pay for each public transport trip – adding about R30 to R60 to their grocery bill (in the George context) each time. Further, unlike those that are more mobile (have access to private vehicle transport) and can bulk buy, these residents are limited in the quantity of products they can purchase during that one trip (at most 4 shopping bags).

Low-income households in these neighbourhoods also do not source their food from these larger shops. In fact, studies show that they only make one or two trips to these big stores in a month (presumably at the same time they receive their grant or salary). Rather, these households favour smaller corner stores and spaza shops (house shops) to meet their needs – even though the quality and variety of food available is limited – mainly due to their accessibility and convenience (within less than 500m walking distance from their home). Contributing factors in this regard is that low-income households can purchase goods in much smaller quantities from these shops (shop keepers break up goods into smaller quantities) than they can at a larger supermarket or neighbourhood shop (even though it is proportionally more expensive) and that they can also purchase on credit from these outlets during the month (when they do not have access to funds).

The aspect of safety also plays an important role in the decision-making of households living in low-income neighbourhoods. Crime, especially contact crimes such as robbery and assault are a daily occurrence in these areas, and residents walking any significant distance through these neighbourhoods with money or food parcels in hand (imagine a person walking 1km to 2km with 4 or more bags) are at high risk of being targeted by criminals and gangs – placing residents' lives in danger and the real possibility of their food parcels being lost. Many of the residents accessing these local retail facilities like children, single mothers and retired people are also considered of the most vulnerable in our society. They cannot and should not have to cover large distances from their homes to access the basic necessities and thus, for these groups, the corner shops and house shops – which are a short walking distance from their homes (i.e. within a 500m radius) are their safest option.

Interestingly, access to corner stores and house shops does not translate to a higher degree of food security for low-income households – as the offerings are limited, especially in terms of access to fresh produce, and the quality of the products is much lower. Further, a significant proportion of a low-income household's food comes from alternative sources, including buying from informal traders, donations, borrowing from- and sharing with neighbours, and meals provided through food kitchens or charitable organisations. Although commonly promoted by government, most households do not grow or do not have the inclination to grow their own food.

Lastly, the studies advise that urban food security should be addressed in a holistic manner to ensure that especially low-income households have access to good quality and fresh food. This can be done through providing continued financial support to food banks, soup kitchens, urban food gardens, and small-scale / subsistence farming initiatives. Organs of State should also consider releasing land for the establishment of fresh produce markets and introduce informal trading spaces around its public transport hubs and main bus stops, as well as near corner stores and larger house shops.

Considering the above, it is evident that the corner shop and house shop plays a vital role in enabling low-income households to secure access to food and other basic goods. There are, however, a restricted number of products on the shelves of these shops. Smaller house shops tend to focus on providing durable (packaged and processed) goods that can stand on the shelf for a long time and generally do not sell fresh produce other than bread and milk – meeting only basic daily needs of the residents nearby – i.e., within a short walking distance.

The corner shops and larger house shop (up to $40m^2$) are providing a wider variety of product including some fresh fruit and vegetables, while their meat offerings are generally limited to cheap, frozen products (if any). These shops should be accessible to more residents to make it viable (have sufficient footfall) for operators to retain and grow the number and variety of products on offer. By implication, these larger retail facilities should be centrally located along main routes, or on an intersection where it can hopefully grow and/or agglomerate with other retail facilities and neighbourhood services, including informal trading spaces.

Notwithstanding, the products available in these smaller retail facilities will always be slightly more expensive and/or of poorer quality than that found in larger neighbourhood shops and supermarkets. Thus, the Municipality should seek to incentivise the development of neighbourhood and larger shopping centres in low-income neighbourhoods where food deserts exist, while also allowing for larger house shops in these areas to improve food security for these residents.

<u>EXPLANATORY NOTE 2</u>

<u>Why the need for a policy?</u>

All municipalities have zoning schemes to manage complementary and conflicting land uses in its area and determine the types of land uses that can be allowed on each property. A Municipality's zoning scheme has different zones for agriculture, business, industrial, residential, community and recreational uses, and each property is assigned a zoning. The Municipality then draws up spatial plans to determine the position of these zones and land uses 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 within residential neighbourhoods as it inevitably leads to conflict and disturbances (businesses generate more noise, traffic, pollution, waste 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 residential neighbourhoods you will typically find that business properties are found along main roads and/or on a large centrally located property with the smaller neighbourhood (corner) shops being located on one or two street intersections. This is due to their ease of access and/or the higher levels of passing foot traffic which is needed for these businesses to remain economically sustainable over time. These positions also minimises potential negative impacts on the surrounding residential uses and protects the residents' rights to live in a peaceful, safe and clean environment.

The Municipality, however, acknowledges the reality of the inequities found in the low-income neighbourhoods due to past planning practices which turned most of them into dormitory settlements with its residents having limited access to basic goods and services. Residents generally found themselves without access to the economic and employment opportunities found in the wealthier suburbs and thus, found other informal means to meet their needs.

It also acknowledges that most residents in the low-income neighbourhoods 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. With limited resources and access for formal employment and opportunities available, many owners in poor and vulnerable neighbourhoods (low-income neighbourhoods) and informal settlements are increasingly resorting to informality to address their needs such as renting rooms in their house to tenants or students, allow backyarders to erect temporary structures on their property, starting small scale workshops (tyre repairs, vehicle repairs, manufacturing), and operating small and micro businesses (home occupations) from home. Most of these activities are done without the Municipality's permission or approval.

Poverty, high levels of unemployment, informality and poor accessibility to retail goods and services has also resulted in the establishment of house shops ranging in size from small fruit and vegetable stalls, to tuck shops that sell sweets, cool drinks and chips, to small take-away stalls (typical braai stands) to your larger retail activities which sell a larger variety of goods and also provide neighbourhood scale services such as hair dressers, barbers, cellphone services, repair services and sale of materials for the erection of informal structures. In response to the above, the Municipality took a decision to allow owners and occupiers of residential properties located in the low-income neighbourhoods, the opportunity to operate house shops.

However, in recent years, formal business owners and 3rd parties (operators who do not live on the property) have taken advantage of the house shop concept to establish formal and informal retail activities in these areas, sometimes to the detriment of the property owner and the community concerned. Even though this activity conflicts with the original spirit or intent of the house shop concession, it is accepted that their presence is a reality and will need to be accommodated.

It is acknowledged that most of the 600+ house shops and retail activities operated from residential properties in the municipal area are illegal and that the approach adopted by the Municipality to address this issue, since adoption of the first House Shop Policy in 2013, has been unsuccessful. A new cost-effective approach to rectifying these illegal activities needs to be identified, considering the overall objectives of the policy, the spatial planning objectives set in the George MSDF and respective Local SDF's, the statutory requirements of the Municipality's Land Use Planning Bylaw and the George Integrated Zoning Scheme Bylaw.

The purpose of this policy is thus to manage the allowance of house shops and other retail activities within residential areas and in informal settlements in such a way that it:

- allows the Municipality's residents, especially those living in the low-income neighbourhoods and informal areas to earn a sustained income from their property;
- limits any negative impact on the rights of the other residents in the area to a safe, clean and quiet living environment;
- promotes an entrepreneurial spirit among the residents;
- make provision for existing 3rd party retail activities within these residential neighbourhoods; and addresses the proliferation of illegal retail activities.

<u>Why is the policy being amended?</u>

The Spatial Planning and Land Use Management Act, 2013 (SPLUMA), was implemented in the George Municipality on 1 June 2015. In terms of the principles contained in Section 7 of SPLUMA, the Municipality must take steps to transform its low-income neighbourhoods so that they can function more sustainably. Spatial justice and equity also needs to be perused to build spatial resilience in these areas over time, while the Municipality must also exercise good governance – to find easier ways to regularise and approve house shops with reduced red-tape and simplified application and public participation processes.

The Western Cape Land Use Planning Act, 2014 (LUPA) and the Land Use Planning Bylaw for George Municipality, 2015 was also implemented on the same date. Said Bylaw has since been repealed and replaced by a new Land Use Planning Bylaw in 2023. It is also recognised that the land use application and public participation process is largely affected by the prescripts of LUPA. It is anticipated that LUPA will be amended soon, including provisions relating to compulsory public participation requirements.

In September 2017, the George Municipality adopted the George Integrated Zoning Scheme Bylaw, 2017 which replaced the four (4) old zoning schemes. Under the new zoning scheme bylaw, a house shop is allowed as consent uses under Single Residential Zone I (SRZ I), established a uniform set of standards for house shops.

With the amendment of the zoning scheme in 2023, all the residential properties in low-income areas were allocated the zoning of Single Residential Zone III (SRZ III) allowing greater flexibility in the land use management system to the benefit of land owners. Included in these amendments was the allowance of a 6m^2 house shop as a primary right under shelter.

The new zoning scheme also allows for other residential based businesses as a primary right under SRZI and SRZ III, including a "home occupation". In terms of the provisions of home occupation, an owner can operate a professional practice of up to 60m^2 on their property without town planning approval. The practice (architect, attorney, doctor, vet, etc) or enterprise (hair salon, barber, etc) must be operated by at least one of the occupants who reside on the property (with a maximum of 3 employees), provided that the dominant use of the property concerned must remain for the living accommodation of the occupants.

In consideration of the above, and the phenomenon of "food deserts" (see explanatory note 1), it was evident that the present size limitations placed on house shops in the Municipality's 2021 House Shop Policy had to be revised and thus, it was decided to align their size with that of a "home occupation". The total size of a traditional house shop and a large house shop was therefore increased to a maximum floor area of 40m^2 and 60m^2 respectively.

Further, there has been a significant push from National Government recently to regularise illegal house shops in all residential neighbourhoods. This necessitated a reduction in red-tape and simplified application processes.

Thus, even though the 2021 House Shop policy aligns the Municipality's long-term spatial vision and development strategy for its urban areas, as well as Planning Law and Planning Bylaws, inconsideration of the above, it must be revised to comply with the latest requirements..

EXPLANATORY NOTE 3

Land Use Description of a House Shop

According the George Integrated Zoning Bylaw, 2023 the land use description of 'House Shop' means "the conducting of a retail trade from a dwelling house, second dwelling, shelter or outbuilding by one or more occupants who must reside on the property; provided that the dominant use of the property must remain for the living accommodation of the occupants."

(a) Development parameters applicable to "dwelling house", "second dwelling" and "shelter" apply.

(b) Any new structure or alteration to the property to accommodate the "house shop" must be reconcilable with the residential character of the area, particularly regarding the streetscape, and must be capable of reverting to use as part of the "dwelling house", "second dwelling" or "shelter".

The zoning scheme does not impose specific conditions on house shops in terms of its size and only states that it needs to be reconcilable with the definition of dwelling or shelter as well as not impact negatively on the streetscape and surrounding residential character.

The development parameters of a house shop require that any new structure or alteration to the property to accommodate the "house shop" must be reconcilable with the residential character of the area, particularly regarding the streetscape, and must be capable of reverting to use as part of the "dwelling house", "second dwelling" or "shelter".

The policy therefore need to focus on how to regulate the appearance and design of these establishments.

What is a house shop?

A house shop is a convenience retail activity 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, cellular phone / landline airtime sales and internet services, photocopy and faxing service, shoe repair, road side take-away, butchery and bakery.

A retail activity that does not comply with the land use description of house shop, for example - if it is bigger than the house or operated by a 3rd party (a person who does not lawfully reside on the property), is not a house shop. It is a formal business (neighbourhood shop) to which strict locality criteria as outlined in the policy will apply.

House shops do not include industrial type activities such as furniture manufacturing and repair, motor repair workshops and part sales, panel beaters and spray painting, and tyre repair and sales. The sale of liquor (liquor store) and places of entertainment (pub, tavern, games shop, gambling place) and other businesses that generate noise, air pollution and traffic or businesses that invariably attracts a broader spectrum of customers than just the local residents are also not recognised as house shops.

<u>What does "dominant use" mean?</u>
Dominant use basically means that not more than 50% of the buildings on the property and the property itself may be used for house shop purposes. In other words, the house shop must be smaller than the total floor area of all the structures on the property that is used for residential purposes.

<u>Who can operate and work in a house shop?</u>
The land use description of 'house shop' implies that it may only be operated by **an occupant** of a main house or second dwelling of single residential property, or an occupant of an informal structure in an informal settlement or temporary relocation area.

In terms of the zoning scheme, a dwelling house can only be occupied by a **single family**. A family is defined as: one or more individuals occupying a dwelling who are related through marriage or common law, blood relationship, legal adoption, or legal guardianship and no more than **<u>3 unrelated people</u>**; or a group of not more than 5 unrelated persons, **including domestic workers or boarders. The operator of the house shop can therefore be** any member of the family lawfully living in a house on the property / informal structure – i.e. **an owner, tenant, boarder or live-in domestic worker**.

<u>Why are house shops being allowed in residential neighbourhoods?</u>
The allowing of house shops in residential neighbourhoods is first and foremost a response by the Municipality to address the socio-economic needs of the poor and unemployed residents living in residential low-income neighbourhoods, subsidy housing areas and informal settlements. It is intended to assist families in living in such areas, to access basic goods and services which may be absent in their neighbourhood, obtain a sustainable income from their properties while at the same time, developing and fostering an entrepreneurial spirit within these communities. It is one of the Municipality's short and medium-term strategies to uplift the poor – through either getting them to work for themselves and/or earn an income through renting space on their property to a tenant, boarder or 3rd party – decreasing their dependency on the state or the Municipality.

The Municipality also recognises the need to address the legacies of Apartheid planning practices and to develop ways to assist in spatially transforming these areas to become integrated and functional residential neighbourhoods. The Municipality has developed a long-term strategy to spatially transform these areas, but it may take a long time to implement. The impacts of rapid urbanisation and increasing informality in these areas also causes the dynamics in these areas to continuously shift.

Within such an environment, the Municipality cannot afford to be rigid, and thus - in the short and medium term, it will need to allow for a greater degree informality in the abovementioned areas and not attempt to predetermine the final spatial structure of these neighbourhoods. However, the Municipality will still need to keep the long-term goals and objectives of its spatial plans in mind.

Thus, allowing house shops must facilitate a dual role – a social intervention to assist the poor, and an instrument of spatial transformation that assists in the establishment of sustainable and functional neighbourhoods.

What is a 3rd party?

A person who is not a member of the family (owner or tenant), **their boarder or live-in domestic worker** living in the house / shelter or outbuilding on the property is regarded as a 3rd party. Retail activities that are operated by 3rd parties cannot (by description) be regarded as house shops. These 3rd party operations do however comply with the land use description of a 'neighbourhood shop' – and therefore, need to be regarded as formal businesses and not house shops.

Why are mid-block 3rd party retail activities being discouraged?

Ideally, no retail activity, whether run by an occupier of the dwelling house or shelter concerned, or a 3rd party operator, should not be allowed mid-block in residential neighbourhoods as they inevitably create conflicts with the surrounding owners' rights and amenity to a quiet and safe residential living environment. House shops should thus only be allowed on mid-block properties as a short-term intervention to alleviate poverty and unemployment in the low-income neighbourhoods, with the intention that formalised business area established in better allocated areas.

The practice of property owners renting out of retail space on a residential property to a 3rd party is seen to be another form of subsidisation, which defeats the Municipality's objective of encouraging entrepreneurship within the township community. Further, such practice leads to the owner losing their indigent support and having to pay Business rates and services charges. The small rental fee that the owner receives is ultimately wiped out by the increased tariffs and charges, leaving them in a worse financial position.

There are also other consequences for the property owner as they are often tied into a lease agreement with the business owner for a certain period of time. They cannot afford to get out of these agreements and thus, in reality, 3rd party shops do not help the property owner / registered tenant to improve their lives.

Lastly, it is found that many of the present 3rd party operators do not comply with health regulations relating to basic hygiene, which requires that they have access to a toilet and hand basin, and that they not sleep in the shop. If the operators complied and added a bathroom and bedroom to their shop, they would technically be boarders and no longer 3rd parties – making it possible for them to apply for a house shop.

This arrangement benefits the operator and the property owner, promoting the principle of spatial resilience. The operator benefits through lower application fees and knowing that he/she apply for permanent rights to operate from the property. He/she can enter a lawful lease agreement with the owner making it possible for him/her to invest into a better structure and the business over time. The owner benefits by not losing his/her indigent support (depending on the size of the retail area) and gains a reliable source of income from his/her property.

Does the policy preclude 3rd parties from operating a retail activity in a residential neighbourhood?

As stated above, the land use description of 'house shop' does not allow for a 3rd party retail activity. However, the policy has been designed to make allowance for the operation of 3rd party retail activities on a residential property.

EXPLANATORY NOTE 4: CONTEXTUAL FRAMEWORK

The House Shop policy has been drafted within the framework of the following spatial planning and policy documents and legislation:

1. George Municipality: Integrated Development Plan

The George Municipality's IDP states the following institutional strategies which apply to the policy:

a) Deliver quality services in George - all citizens in George should have access to basic services as provided by local government.
b) Grow George - the Municipality must create an enabling environment which will attract investment into the area, stimulate economic activity to create jobs and alleviate poverty.
c) Keep George Safe & Green – maintain a beautiful and safe living environment..
d) Good Governance in George – ensure the city is run as effectively, efficiently, transparently and sustainably as possible.
e) Participate in George – ensure all members of public and organized business and other organizations participate in the decision-making processes.

2. Spatial Planning and Land Use Management Act, 2013 and Western Cape Land Use Planning Act, 2014

In terms of Section 22(1) of SPLUMA, a Municipality may not take a decision on a land use application which conflicts with its Municipal Spatial Development Framework unless site specific circumstances exist as contemplated by Section 22(2). Notwithstanding Section 22(2), the decision-making authority must, when considering an application, be guided by:

(a) The development principles contained in Section 7 of SPLUMA (and Section 56 of LUPA);
(b) The (guidelines and policies of) Municipal SDF;
(c) Constitutional transformation imperatives and related duties of the state;
(d) All relevant facts and circumstances applicable to the application;
(e) The rights and obligations of all parties affected;
(f) Impact on services infrastructure, social services and needs for open space;
(g) Compliance with applicable laws and administrate processes; and
(h) Compliance with applicable environmental legislation;

The decision-maker will also be required to address the requirements as set out in Section 56 of LUPA and Section 65 of the George Municipality's Land Use Planning By-law.

Key to the above is to ensure that the policy promotes the 5 key development principles of SPLUMA, being spatial sustainability, spatial justice, equality, spatial resilience and good governance. The policy therefore needs to assist decision-makers in establishing sustainable, flexible, diverse, healthy, risk adverse settlements that responds to the environmental, social and economic needs of the community concerned. The aim of the policy should thus be to:

a) protect the health and wellbeing of the community, landlord and tenant (operator) concerned;
b) ensure that there can be peaceful co-existence between the house shops and the community concerned;
c) protecting the adjoining neighbours rights and amenity by ensuring that the quality of neighbourhood and living environments are not compromised;
d) ensure that the residents are adequately informed of applications and can participate in decision-making processes;

e) ensure that house shop operations are feasible and can derive a sustainable income for the operator and landlord;
f) allow for the scaling up of operations over time, should the activity prove to be successful;
g) promote investor confidence through the granting of permanent rights to operators that offers a level of certainty that protects their investment;
h) create safe places for operators to trade and customers to access – by ensuring that applicable regulations including trading hours, laws and bylaws are enforced;
i) develop an entrepreneurial spirit within the local community by permitting the establish a diverse mix of neighbourhood scale retail activities and services in well-located areas and
j) broaden the economic base to develop a greater diversity of employment opportunities and promote sustainable job creation over time;
k) Align the policy with the concepts of Transit Orientated Development (locating near bus stops and interchanges), Non-motorised Transport (bicycles), and walkability – providing a high degree of accessibility to services, facilities and opportunities within a walkable distance of about 500m from any residential property;

3. George Municipal Spatial Development Framework (GMSDF), 2023

The purpose of the George MSDF, as set out in SPLUMA, is to, among others:

(a) Interpret and represent the spatial development vision of the Municipality;
(b) Guide planning and development decisions across all sectors of government – including municipal and provincial government spatial planning and land use management decisions;
(c) Provide clear and accessible information to the public and private sector and provide direction for investment purposes;
(d) Include previously disadvantaged areas (low-income neighbourhoods) and informal settlements, and address their inclusion and integration into the spatial, economic, social and environmental objectives of government;
(e) Address historical spatial imbalances in development;
(f) Provide direction for strategic developments, infrastructure investment, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development;
(g) Promote a rational and predictable land development environment to create trust and stimulate investment;
(h) Assist in integrating, coordinating, aligning and expressing development policies and plans emanating from the various spheres of government;

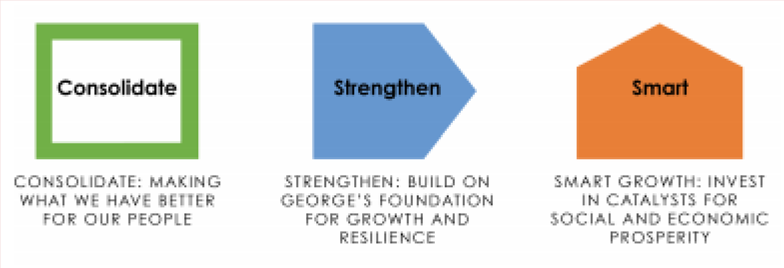
The George MSDF plays a leading role in the broader municipal planning system. It is the spatial expression of the IDP and the long term spatial vision for the municipal area that also considers the vision, principles and policy directives set out in national and provincial legislation, strategies, policies and plans. All municipal land development policies must be aligned to the vision, spatial strategies and plans set out in the MSDF.

The MSDF also leads the Municipality's policy-driven Land Use Management System. The MSDF provides the long term spatial framework for decisions made in terms of the Land Use Planning By-Law for George Municipality and George Integrated Zoning Scheme By-Law.

It is important to note that a MSDF does not confer or take away land use rights but guides decisions associated with the awarding and management of such rights. When deciding on an application, the Municipal Planning Tribunal, or any other authority required or mandated to make a land development decision must make a decision which is consistent with the MSDF (S22 of SPLUMA,2013).

There are three spatial drivers that give form to the George MSDF, of which two (2) are of relevance to the House Shop Policy as it relates to the ideal location of economic activities. The first is the system of activity nodes and corridors and nodes which must be reinforced and developed in a managed way to function as a productive and efficient system. The second is the local accessibility networks (motorised and non-motorised) connecting people and activities along corridors to nodes within the city of George, enabling choice and participation in society and the economy within the urban areas.

The performance of these elements is supported by three spatial strategies and accompanying policies for managing, guiding and promoting development in George, elaborated in the diagram below:



The municipal area of George hosts several urban settlements, each playing a distinct role in the regional economy. The business centres of towns and small rural settlements outside George are being consolidated and reinforced, and the decentralisation of economic activity curtailed.

Within the George city area, a network of existing and proposed mixed use nodal centres, serving as points of high accessibility and opportunity for surrounding communities at strategic locations, has been identified. These are the points of investment priority, where higher order facilities and business activities are concentrated and supported by a high quality public realm.

It is proposed that George CBD (the primary economic centre is revitalised and redeveloped into a thriving city centre that accommodates a variety of complementary activities and a substantially larger and mixed-income residential component. Secondary nodes (existing and proposed) will complement the George CBD as centres with specialisations relating to commercial, industrial or mixed-use local activities. Additional points of high accessibility have been identified that should be prioritised for transit-oriented development to harness the potential of their location, existing uses and high connectivity in the public transport network.

In the context of the MSDF, house shops are classified as part of the informal economy. The activity is not recognized as a potential significant economic generator within our urban settlements, but rather a generator of informal employment opportunities and a mechanism to aid in settlement restructuring and building greater resilience and efficiencies within residential neighbourhoods.

The ability of residents and visitors to access the opportunities, services and amenities in the George area is a precondition for growth of the economy and development of its communities. It is important that the functionality of particularly, public transport services networks as well as (non-motorised transport and pedestrian) movement networks are strengthened so that the community can have access to a higher level of choice.

Increasing footfall in an area also enhances the viability of street level commercial activity (such as house shops) and enables the development of a productive and growing local economy, especially within the low-income neighbourhoods. The MSDF identifies a 500m walkable land use intensification zone along the principal public transport corridors, which will also perform the role of the Municipality's Restructuring Zone – where higher density mixed residential, mixed use development is promoted.

All development need to strive towards creating quality urban and rural environments. A well-structured, safe and high-quality built environment, being the public realm (public streets, open spaces and amenities) and the buildings which bound these spaces (such as house shops and other retail activities), should be pursued. Transforming these spaces and making them more appealing makes neighbourhoods (low-income neighbourhoods) more attractive for economic investment and thus, establishing quality urban environments should be included in economic development strategies (to which this policy is linked).

The MSDF promotes the clustering of public facilities and public space in areas that have direct access to public transport routes, with higher order clusters of facilities being located along the priority public transport corridors and regional accessibility networks. Complimentary private sector investment is encouraged around these clusters to support efficiencies and land use and social integration. Clustering facilities and services achieves higher levels of resource efficiency, supports public transport usage and walkability, and improves security. Private investment in preferred well-located areas should be incentivised.

Compact and diverse neighbourhoods, offering places to live, work, recreate all within proximity, served by streets scaled to people so that they are comfortable to walk must be pursued. Small development projects that offer opportunities for improved inclusivity, empowering emerging contractors, developers and investors should be promoted. The George CBD, Thembalethu and Pacaltsdorp CBD's and the high streets of Uniondale and Haarlem present the best prospect for generating a private sector response at a scale proportionate to the public-sector intervention.

Public spaces and streets within nodes, along main corridors, main bus routes and priority investment areas should be upgraded and maintained to give dignity and priority to the pedestrian and public transport movement to stimulate footfall in support of small businesses at the street scale. Sidewalk spaces should be planned and designed to allow the local service economy (formal and informal) to thrive.

Public investment should be prioritised in well-located areas to enable commercial opportunities at the street level. Areas requiring intervention should be identified in close consultation with the local formal and informal business community.

The concept of walkability should be promoted within the intensification zone and especially within the priority nodes. Make walking safe and comfortable, ensure good street edges, encourage active ground floor use, promote fine grained development, promote mixed land use and inclusivity and well as universal access principles.

Further details with regards development opportunities for business are discussed in detail in the respective local spatial development frameworks.

4. Title Deed Restrictions

A house shop may not be permitted on a property if the use conflicts with a restriction contained in the title deed of that property. An additional application for removal of title deed conditions may be required.

5. Land Use Planning By-law for George Municipality

The LUP By-law sets the minimum requirements for submitting land use applications, procedures that must be followed in processing a land use application, the general considerations that must be considered when deciding on an application, and the procedures for addressing illegal land uses and buildings.

The Municipality has drafted separate simplified application submission and public participation guidelines that are consistent with the by-law.

Prior to the implementation of the GIZS By-law, house shops were only allowed as temporary departures. These departures could only be approved for a maximum of five (5) years, where after the house shop would either need to close or a new application had to be permitted.

In terms of the new By-law, a house shop is allowed as a consent use under the Single Residential Zones I and III which gives the Municipality the option of approving the application for an initial temporary period of up to 5 years:
(a) with additional extensions for a total period of 10 years; or ,
(b) a permanent approval does not lapse once certain requirements are complied with.

Law Enforcement procedures for illegal land uses are stated in Sections 85 to 97 of the Land Use Planning By-law. The following aspects are highlighted:

85. (1) The Municipality must comply and enforce compliance with—
- (a) the provisions of this By-law;
- (b) the provisions of a zoning scheme;
- (c) conditions imposed in terms of this By-law or previous planning legislation; and
- (d) title deed conditions;

(2) The Municipality may not do anything that is in conflict with subsection (1)

86. (1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she—
- (a) …;
- (b) utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;
- (c) …;
- (d) supplies particulars, information or answers in an application, or in an appeal against a decision on an application, or in any documentation

or representation related to an application or an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct;

(e) …; or

(f) hinders or interferes with an authorised employee in the exercise of any power or the performance of any duty of that employee;

(2) An owner who permits his or her land to be used in a manner set out in subsection (1) (b) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to contravene the zoning scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment.

(3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.

87. (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that **the person or owner** is guilty of an offence in terms of section 86.

(2) A compliance notice must instruct the occupier and owner to cease the unlawful utilisation of land or construction activity or both, without delay or within the period determined by the Municipality, and may include an instruction to—

(a) demolish, remove or alter any building, structure or works unlawfully erected or constructed or to rehabilitate the land or restore the building concerned to its original form or to cease the activity within the period determined by the Municipal Manager;

(b) submit an application for the approval of the utilisation of the land or construction activity in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention penalty within 30 days after approval of the utilisation; or

(c) rectify the contravention of or non-compliance with a condition of approval within a specified period;

(3) A person who has received a compliance notice with an instruction contemplated in subsection (2) (a) may not apply in terms of subsection (2) (b).

(4) An instruction to submit an application in terms of subsection (2) (b) must not be construed as an indication that the application will be approved.

(5) If the application submitted in terms of subsection (2)(b) is refused, the owner must demolish, remove or alter the building, structure or work unlawfully erected or constructed and rehabilitate the land or restore the building.

(6) A person who received a compliance notice in terms of this section may object to the notice by submitting written representations to the Municipality within 30 days of receipt of the notice.

90. If a person fails to comply with a compliance notice, the Municipality may—

(a) lay a criminal charge against the person;
(b) apply to the High Court for an order—
  (i) restraining that person from continuing the unlawful utilisation of the land;
  (ii) directing that person to, without the payment of compensation—
    (aa) demolish, remove or alter any building, structure or work unlawfully erected or constructed; or
    (bb) rehabilitate the land concerned;
(c) in the case of consent use or a temporary departure, withdraw or revoke the approval granted and act in terms of section 87.

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 by-laws, tobacco legislation and health and safety by-laws. The by-law however prohibits the imposing conditions requiring the approval being contingent on the approval of an application in terms of another law.

6. George Integrated Zoning Scheme Bylaw, 2023

The objective of Single Residential Zone I "… is to provide for residential development where ... limited employment and additional accommodation opportunities are possible as primary or consent uses, provided that the dominant use of the property remains residential, and impacts of such uses do not adversely affect the quality and character of the surrounding residential environment.".

The objective of Single Residential Zone III "…is to provide for the incremental upgrading of informal housing in a formal settlement – where … development management provisions are not restrictive and local employment generation is encouraged …"

Thus, while house shops may be permitted in residential neighbourhoods, the Municipality must ensure that the dominant use of the property remains residential, while adverse impacts of the activity on character of the surrounding neighbourhood and resident's rights and amenity to a quality living environment must be thoughtfully considered.

See Explanatory Note 3 for the interpretation of the land use description of "house shop".

7. National Building Regulations and Building Standards Act, 1977

In terms of the National Building Regulations and Building Standards Act, 1977, a retail activity may only be operated from a structure that has approved building plans.

A standard shipping container (the ones typically rented and supplied for house shops) cannot be used as a house shop as it does not comply with the regulations and thus cannot be occupied. It is however possible that a container can be converted to comply with the regulations and used for the purposes of a house shop. The container will, however, need to resemble a typical residential outbuilding and be suitably painted to blend in with the house.

Similarly, a timber or corrugated iron structure can be permitted if it complies with the National Building Regulations and Building Standards Act, as well as fire regulations. The structure should be designed to resemble a typical residential outbuilding.