CITY OF TSHWANE

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

SECOND DRAFT REPORT

INFORMAL TRADING IN TSHWANE: REGULATORY, SPATIAL AND ECONOMIC FRAMEWORK

Report compiled by

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ANALYSIS OF THE EXTENT AND NATURE OF INFORMAL TRADING WITHIN THE CITY OF TSHWANE

1. INTRODUCTION

It is estimated that over a quarter of workers in the world operate in the informal sector. In developing countries informal activity mobilises between 30 % and 80 % of the workforce, mainly in cities, which are experiencing a large influx of people from the countryside. In Africa, it is estimated that this sector accounts for a significant (even the major) part of urban employment (two out of every three people derive their livelihoods from the informal sector) and it is estimated to be growing at an annual rate of 7 %.

The emergence of the informal sector is largely attributed to the divergence between the growth in especially the urban population and employment growth in the formal economy. Job creation in the formal sector frequently takes place at a far lower rate than growth in the labour force. The shortage of productive employment opportunities, therefore, compels people to fend for themselves.

The need of people with limited disposable income to feed and clothe themselves and their families, find accommodation, move around, et cetera generates a very significant demand for a variety of products and services, which can be supplied by informal enterprises. Products and services provided by the informal sector are often more affordable than those supplied by the formal sector and their type and quality more appropriate. It should, however, be recognised that prices of branded products at small convenience shops are often more expensive than in large chain stores.

The informal sector constitutes a variety of activities ranging from small commercial activities to small production and service enterprises. In most countries, including South Africa, the majority of informal businesses are located in the trade sector. Any initiative to support the endeavours of small business people is highly commendable. Surveys among informal sector entrepreneurs suggest that they often have good ideas but they have no knowledge of how to run a business and have limited underlying appreciation of business fundamentals. The City of Tshwane's initiative can make a considerable contribution to establishing a self-generating business environment.

2. INFORMAL TRADING IN TSHWANE

Informal trading makes an important contribution to the economic and social environment of Tshwane. As with most other cities in South Africa, Tshwane is moving from a culture of prosecution to a culture of accommodation of informal traders. The emphasis is shifting away from punitive law enforcement towards creating a supportive environment for the informal trading sector to thrive. However, although there is growing acceptance that informal trade forms part and parcel of the scenario of the city, it largely remains a survivalist trade.

A better understanding of the huge extent of informal trade in monetary terms is currently emerging. There is also a realisation that the 'informal economy' does not operate separately from the 'formal economy'. Instead, both the 'formal' and the 'informal economy' are part of a continuum, with the most formal and most informal activities at the extremities. In his State of the City Address on 17 February 2004 the Executive Mayor, Father Smangaliso Mkhatswa reinforced this idea when he stated that our economies are a seamless progression from informal traders to corporate entities.

Prior to 1994, the idea of 'informal trading' was an anathema and informal traders were usually summarily removed. Even after 1994 the situation regarding informal trading was an uneasy one. As recently as 2002 the City of Johannesburg still saw demonstrations by informal traders. This unease still prevails to a measure and needs to be addressed in order for the informal sector to operate in an orderly manner.

Addressing the situation has been the task of most of the metropolitan municipalities in South Africa, inter alia the cities of Johannesburg, Cape Town and Durban.

The accommodation of informal traders must take place within a proper regulatory framework. That regulatory framework consists not only of legislation, especially by-laws, but also of a policy within the framework of which informal trading may be placed on a sound footing.

This document will discuss issues pertinent to a policy against the background of the applicable legislative framework.

Reference will be made to the situations in Durban, acknowledged to be ahead of other South African cities in terms of integrating informal economy concerns into appropriate institutions at municipal level, Cape Town and Johannesburg. Each of these cities has recently gone through a process of policy development for informal trade and they are currently in the process of drawing up new by-laws.

3. NEGATIVE VERSUS POSITIVE ASPECTS

The negative and positive aspects of informal trading are well documented in other sources. However, the main points need to be highlighted so that the issues can be seen in perspective and can inform the formulation of a policy and by-laws.

In an historical context, the informal trading sector was viewed with suspicion. Traditionally informal trading was seen to lead to the obstruction of pavements, large volumes of litter, dirt and often unsanitary waste products, traffic congestion, crime, an unhygienic environment and a general deterioration and dilapidation of key areas and nodes. Informal traders were seen to pose unfair competition to formal traders as well as to create a poor impression about the city for tourists and visitors.

In many cities throughout South Africa, the negative aspects surrounding informal trading include the following:

- negative conceptions about informal traders still prevail
- support of the informal economy is still uncoordinated and fragmented
- procedures surrounding licensing and permits are complex, cumbersome and costly
- lack of planning and site allocation results in wastage
- consultation and participation are still lacking
- relations are often strained and hostile
- in-fighting between competing organisations takes place
- a lack of capacity of all parties in the informal trade process, viz officials, councillors, formal business and workers
- unfair competition
- littering
- health hazards
- blocking pedestrian flows
- tensions about foreigners seeking work.

It is these negative factors that have led to cities such as Johannesburg, Cape Town and Durban putting policies, programmes and by-laws in place.

The postive aspects are that an informal economy contributes to:

- flexible trading hours
- the economic viability and dynamism of the city
- the creation of employment

- the alleviation of the hardships of unemployment
- the development of entrepreneurial skills
- a large amount of money flowing through the informal sector
- diversity
- convenience
- the experience of cultural and religious practices
- support of a large majority of the population
- cheaper products
- the expansion of the municipality’s economic base.

For the traders themselves the main problems are:

- lack of infrastructure such as water, electricity, refuse removal and sanitation
- unorganised trading areas which often leads to conflicts
- lack of storage space
- lack of transport to and from trading areas
- no shelter
- conflicts with foreign informal traders
- lack of accommodation
- lack of child care
- crime against informal traders
- overtrading
- law enforcement.

For municipalities the problems include, inter alia:

- the sheer number of informal traders
- how and where to accommodate them
- what type of infrastructure to provide

- whether to introduce licensing and registration formalities
- policing.

4. OBJECTIVE OF THE STUDY

The overall objective of the study is to advise the City of Tshwane on policy issues leading to the development of a policy to develop the informal trade sector in Tshwane, specifically with regard to microenterprises established in public spaces.

More specifically, emphasis will be placed on:

(a) improvement of the regulatory framework that regulated informal trading in Tshwane

(b) spatial development issues such as orderly town, spatial and transport planning with regard to public spaces

(c) economic and business management support measures to improve the economic environment and business management skills base of informal retailers

It is acknowledged that the informal sector is labour intensive and has great potential for increased employment creation. However, this sector has experienced a high degree of business mortality, impacting on the ability to create long-term sustainable employment opportunities. Appropriate support measures within a realistic policy framework can contribute to enhancing the sustainability of informal trade businesses.

The aims of a policy should be to:

- define an integrated and holistic approach by the municipality as a whole
- make the municipality’s approach and principles clear
- form the basis for appropriate and workable legislation
- provide the basis for common action by different municipal departments

- provide the basis for making decisions about allocating resources for management and support
- provide the basis for making agreements with all stakeholders about the various roles and responsibilities
- provide a basis for resource allocation decisions
- clarify the municipality's policy for all stakeholders
- establish the basis for a monitoring and evaluation process with clearly defined key objectives.

5. MULTIDISCIPLINARY NATURE OF THE STUDY

Many principles, extracted from the Constitution and other legislation are applicable, and include sustainability, holism, integration, cooperation, accountability, transparency, equity, public participation, safety, etcetera. However, the following are perhaps the most pertinent:

- Economic principles

  Economic growth of the sector must be facilitated through the creation of activity nodes that will benefit informal traders, the provision of facilities, capacity building and business support services.

- Social principles

  Equity must be promoted by viewing the informal sector as an opportunity to integrate communities, to improve the opportunities for informal traders and to provide basic services where required. The needs of vulnerable groups are stressed.

- Spatial principles

  The Spatial Development Framework must allocate space for informal trading areas, develop those areas which will have an impact on trading and provide the necessary infrastructure.

To accommodate the above principles in a policy framework, this study follows a multidisciplinary approach encompassing disciplines such as law, spatial planning, economic development and management.

Of particular importance in an informal trade policy document is to establish the financial responsibility for providing facilities and services to informal traders. The following alternatives may be considered:

(a) Commercial approach: Some informal traders may be in a financial position to pay for their infrastructure and services at commercial rates, implying that no subsidies or government contributions are involved.

(b) Social welfare approach: As will be indicated later in the study, the majority of informal traders (80 % plus) can be catagorised as survivalists with a meagre income. This may imply that these survivalist businesses are not in a position to pay for services and structures provided to them. The question then arises: Should local government (the Tshwane Metro) or central government be responsible for this social welfare expenditure? Such expenditure would imply a long-term financial commitment, not only to erect and maintain capital structures such as buildings but also to pay for current services such as water and electricity.

(c) Soft approach: A third alternative is to supply infrastructure and services at soft rates, paid partly by the beneficiaries and partly subsidised. This type of support gravitates towards social welfare and it therefore seems appropriate for central government to foot the subsidy bill. Rent and/or service levels beyond the reach of informal traders may compel them to leave the newly erected market environment and continue with their businesses as was (without shelter and services to avoid overheads and therefore remain competitive with their prices).

6. SCOPE AND METHOD

Due to the wide spectrum of calculations and quantifications to be conducted, various methodologies were applied. This section highlights the research methodologies that would generate the desired output as specified by the client.

6.1 SCOPE OF THE PROJECT

6.1.1 Study area

Twenty sites where most of the informal trading in the Tshwane Municipal Area occurs were identified by the Metropolitan Municipality of Tshwane. These sites as well as their area location are shown in table 1.

TABLE 1

INFORMAL TRADING AREAS AND THEIR AREA LOCATION INCLUDED IN THE STUDY

Informal trade area	Area Name
Bloed/Van der Walt Street taxi ranks	Pretoria - CBD
Marabastad	Pretoria West
Denneboom station	Mamelodi
Bosman station	Pretoria - CBD
Wierda Park taxi rank	Centurion
Laudium shopping mall	Laudium
Centurion taxi rank and shopping mall	Centurion
Saulsville station	Saulsville
East Lynn business district	East Lynn
Church Street mall & square	Pretoria - CBD
Kopanong station	Mabopane
Babelegi business area & station	Hammanskraal
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa
Wonderboom station	Pretoria North
Eerstefabrieke station	Mamelodi
Sunderland Ridge industrial area	Centurion
Road Junction station	Centurion
Irene station	Centurion
Mabopane station	Mabopane
Soshanguve station	Mabopane

6.1.2 Informal traders

Informal traders are generally defined as retailers that are not registered for VAT. This includes, inter alia, spazas, tuck shops, hawkers/street vendors, shebeens, kiosks, take-aways and fast foods. Products traded include food and nonfood products. These businesses are primarily located in the following areas:

(i) Where high volumes of people and activity are present such as pedestrian malls, learning institutions, CBDs, train stations. These businesses are largely established in public spaces

(ii) Where large numbers of less affluent households are resident in township areas (eg spazas and tuck shops). These businesses are primarily established on private property.

The focus of this study is primarily aimed at informal traders located in (i) above and include, inter alia:

- trading at tourist destinations
- trading at educational institutions
- street/kerbside trading
- trading at pedestrian malls
- flea and craft markets
- trading at transport interchanges (train stations and taxi ranks)
- trading at public open spaces
- intersection trading
- special events

Informal trading in residential areas (eg spazas) falls outside the scope of this study. Regulating and supplying amenities (eg water and sanitation facilities) to this type of informal retailer located on private property differs from the situation pertaining to those established in public places.

6.2 METHODOLOGY

A variety of methodologies were applied in conducting this study, including the following:

(a) Informal business count

A census was conducted of all informal traders located in the twenty designated areas irrespective of type of accommodation. Businesses were classified according to sector ranging from prepared foods and sewing/tailoring to bakery products, exhaust pipe sales and arts and crafts.

The count was conducted between 9h00 and 15h00 during the period 10 to 24 May 2004. Only retailers observed and conducting business at the time of the census were recorded. This implies that the total number of businesses should be viewed as conservative (see section 6).

(b) Business survey and questionnaire

Although the requirements of the study did not stipulate structured interviews with business owners, one business owner per type of business was interviewed in each of the twenty locations. In total 155 questionnaires were completed. The results of this survey should, therefore, not be interpreted as a representative view of retailers but purely as a qualitative reflection of characteristics, problems experienced and access to infrastructure such as water, electricity and waste disposal by informal retailers.

(c) Best practices

The methodology also includes a review of the arrangements developed and implemented by other major metropolitan areas, specifically Cape Town, Durban and Johannesburg, with regard to properly planned and regulated informal trading activities.

6.3 OUTLINE OF THE REPORT

The report contains the following:

- Section 7 : Visual perspective on informal trading
- Section 8 : Results of the informal retail census in selected areas
- Section 9 : Results of the business survey
- Section 10 : Legislative framework
- Section 11 : Spatial framework
- Section 12 : Economic framework
- Section 13 : Management of informal trading

The report (section 14) is concluded with a few recommendations aimed at facilitating the formulation of an informal traders policy through a public participation process.

7. VISUAL PERSPECTIVE ON INFORMAL TRADE IN TSHWANE

(Section 7 is contained in a separate file)

8. INFORMAL RETAIL COUNT

This section highlights the results of the census in the twenty selected informal trading areas. Table 2 shows that a total of 3 614 businesses are recorded in the selected areas. The areas with the largest share in the census are:

- Mabopane station : 23,0 % (831 businesses)
- Marabastad : 18,2 % (658 businesses)
- Denneboom station : 17,3 % (627 businesses)
- Bloed/Van der Walt Street taxi rank : 11,4 % (411 businesses)
- Babelegi station (Hammanskraal) : 10,3 % (372 businesses)

TABLE 2

NUMBER OF INFORMAL RETAILERS IN SELECTED AREAS OF THE TSHWANE METROPOLITAN AREA

Informal trade area	Area name	Count	%
Bloed/Van der Walt Street taxi ranks	Pretoria - CBD	411	11,4
Marabastad	Pretoria West	658	18,2
Denneboom station	Mamelodi	627	17,3
Bosman station	Pretoria - CBD	111	3,1
Wierda Park taxi rank	Centurion	15	0,4
Laudium shopping mall	Laudium	15	0,4
Centurion taxi rank	Centurion	12	0,3
Saulsville station	Saulsville	98	2,7
East Lynn business district	East Lynn	85	2,4
Church Street mall & square	Pretoria - CBD	191	5,3
Kopanong station	Mabopane	1	0,0
Babelegi business area & station	Hammanskraal	372	10,3
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa	89	2,5
Wonderboom station	Pretoria North	54	1,5
Eerstefabrieke station	Mamelodi	10	0,3
Sunderland Ridge industrial area	Centurion	2	0,1
Road Junction station	Centurion	9	0,2
Irene station	Centurion	5	0,1
Mabopane station	Mabopane	831	23,0
Soshanguve station	Mabopane	18	0,5
Total		**3614**	**100.0**

The count of 3 614 represents only a portion of informal traders in the Tshwane Metropolitan Municipality. Areas excluded from the informal retail census are, for example:

- Hospitals such as Kalafong, and a large number of clinics located all over the municipal area. Only the Ga-Rankuwa Hospital (89 retailers) was selected for inclusion.
- Industrial areas such as Waltloo, Rosslyn and Koedoespoort. Only the Sunderland Ridge industrial area was included in the census.
- Tertiary institutions such as the Mamelodi Campus of the University of Pretoria and TUT in Soshanguve.
- Secondary schools.
- Shopping centres in residential areas. Only a few business areas are included.
- Construction sites.
- Hostels.
- Numerous informal traders in residential areas and at road intersections.

A comparison of the BMR count with a count conducted by the Tshwane Metro shows some discrepancies (table 3). The discrepancies can be attributed to one or more of the following reasons:

- Fluctuations in the numbers of informal retailers, implying that all retailers are not necessarily doing business on a daily basis. Furthermore, the informal retail sector is also characterised by easy access as well as high mortality rates, implying fluctuations in the retail business population.
- Business hours of informal retailers are strongly concentrated during morning and afternoon peak hours, especially at large transport junctions such as taxi ranks and train stations. The time of the day when the actual count was conducted can impact on the census results.

- Informal retail activities are more vibrant during month end and weekends, not only with regard to the number of retailers but also in terms of their composition – live chickens and vegetables are more popular during weekends compared to weekdays.

TABLE 3

NUMBER OF INFORMAL RETAILERS IN SELECTED AREAS OF THE TSHWANE METROPOLITAN AREA AS COUNTED BY THE BMR AND TSHWANE METRO

Informal trade area	Area name	BMR	Tshwane
Bloed/Van der Walt Street taxi ranks	Pretoria - CBD	411	300
Marabastad	Pretoria West	658	.. [1)]
Denneboom station	Mamelodi	627	900
Bosman station	Pretoria - CBD	111	..
Wierda Park taxi rank	Centurion	15	18
Laudium shopping mall	Laudium	15	30
Centurion taxi rank and shopping mall	Centurion	12	60
Saulsville station	Saulsville	98	..
East Lynn business district	East Lynn	85	..
Church Street mall & square	Pretoria - CBD	191	250
Kopanong station	Mabopane	1	104
Babelegi business area & station	Hammanskraal	372	200
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa	89	65
Wonderboom station	Pretoria North	54	50
Eerstefabrieke station	Mamelodi	10	..
Sunderland Ridge industrial area	Centurion	2	..
Road Junction station	Centurion	9	18
Irene station	Centurion	5	4
Mabopane station	Mabopane	831	1366
Soshanguve station	Mabopane	18	20
Total		**3614**	**3385**

1) Not reported by Tshwane Metro

Table 4 depicts the composition of informal retailers by type of business. Almost three in every four businesses (73,5 %) trade in the following six product groups:

- Fruit and vegetables : 22,6 %
- Clothing, sewing, tailoring : 14,6 %
- Cooldrinks, sweets, cigarettes : 13,5 %
- Prepared food : 11,6 %
- Telephone, fax, photocopying : 5,8 %
- Toiletries, cosmetics : 5,4 %

Other trades representing between 2 and 5 % of retailers are:

- Barbers, stylists : 3,9 %
- Electronics (eg radios & cellphones) : 2,9 %
- Peanuts, mopani worms : 2,9 %

Less popular traders by informal retailers are:

- Bakery products : 1,9 %
- Exhaust pipe sales, repairs : 1,8 %
- Raw meat : 1,2 %
- Shoe repairs : 1,1 %
- Traditional healers : 1,0 %
- Music (eg tapes & CDs) : 0,9 %
- Arts & crafts : 0,7 %
- Small groceries (eg tea, tinfood) : 0,6 %
- Tyre sales, repairs : 0,5 %
- Newspapers, magazines : 0,3 %
- Exhaust & tyres : 0,2 %
- Household pesticides : 0,2 %
- Cutlery : 0,1 %

The above clearly indicates a limited range of merchandise supplied by informal retailers to consumers. Just more than half (50,7 %) of all retailers sell fruit/vegetables, clothing and a combination of cooldrinks, sweets and cigarettes.

From a hygiene and health point of view, the following products can be regarded as of critical importance:

- Prepared food : 11,6 %
- Bakery products : 1,9 %
- Raw meat : 1,2 %

TABLE 4

NUMBER OF INFORMAL RETAILERS IN SELECTED AREAS BY TYPE OF BUSINESS

Informal trade area	Area name	Arts and crafts		Bakery products		Books, newspapers, magazines		Butchery, meat sellers (raw)		Clothing : selling, sewing, tailoring		Combination (exhaust and tyres)	
		N	%	N	%	N	%	N	%	N	%	N	%
Bloed/Van der Walt Street taxi ranks	Pretoria -CBD	2	0,5	1	0,2	5	1,2		0,0	75	18,2		0,0
Marabastad	Pretoria West		0,0	14	2,1	1	0,2	16	2,4	65	9,9	1	0,2
Denneboom station	Mamelodi	2	0,3	10	1,6		0,0	3	0,5	116	18,5		0,0
Bosman station	Pretoria - CBD	1	0,9	1	0,9		0,0		0,0	2	1,8		0,0
Wierda Park taxi rank	Centurion		0,0		0,0		0,0		0,0	2	13,3		0,0
Laudium shopping mall	Laudium		0,0		0,0		0,0		0,0	1	6,7		0,0
Centurion taxi rank and shopping mall	Centurion		0,0		0,0		0,0		0,0		0,0		0,0
Saulsville station	Saulsville	1	1,0	3	3,1		0,0	14	14,3	13	13,3	2	2,0
East Lynn business district	East Lynn		0,0	6	7,1		0,0		0,0	2	2,4		0,0
Church Street mall & square	Pretoria - CBD	20	10,5		0,0	2	1,0		0,0	93	48,7		0,0
Kopanong station	Mabopane		0,0		0,0		0,0		0,0		0,0		0,0
Babelegi business area & station	Hammanskraal	1	0,3	1	0,3		0,0	4	1,1	43	11,6	6	1,6
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa		0,0	1	1,1		0,0		0,0	11	12,4		0,0
Wonderboom station	Pretoria North		0,0	3	5,6		0,0		0,0	12	22,2		0,0
Eerstefabrieke station	Mamelodi		0,0		0,0		0,0		0,0		0,0		0,0
Sunderland Ridge industrial area	Centurion		0,0		0,0		0,0		0,0		0,0		0,0
Road Junction station	Centurion		0,0		0,0		0,0		0,0		0,0		0,0
Irene station	Centurion		0,0		0,0		0,0		0,0		0,0		0,0
Mabopane station	Mabopane		0,0	29	3,5	3	0,4	5	0,6	91	11,0		0,0
Soshanguve station	Mabopane		0,0		0,0		0,0	3	16,7		0,0		0,0
Total		**27**	**0,7**	**69**	**1,9**	**11**	**0,3**	**45**	**1,2**	**526**	**14,6**	**9**	**0,2**

(continued)

TABLE 4 (continued)

Informal trade area	Area name	Combination[1)]		Cooldrinks, cigarettes, sweets		Cooked food (prepared food)		Cutlery		Electronics		Exhaust pipe repairs/sales		Fruit and vegetables	
		N	%	N	%	N	%	N	%	N	%	N	%	N	%
Bloed/Van der Walt Street taxi ranks	Pretoria - CBD	26	6,3	64	15,6	50	12,2	3	0,7	15	3,6		0,0	63	15,3
Marabastad	Pretoria West	37	5,6	67	10,2	125	19,0		0,0	6	0,9	15	2,3	165	25,1
Denneboom station	Mamelodi	18	2,9	111	17,7	56	8,9	2	0,3	13	2,1		0,0	157	25,0
Bosman station	Pretoria - CBD	33	29,7	8	7,2	12	10,8		0,0	3	2,7	28	25,2		0,0
Wierda Park taxi rank	Centurion		0,0	2	13,3	4	26,7		0,0		0,0		0,0	3	20,0
Laudium shopping mall	Laudium		0,0		0,0	4	26,7		0,0		0,0		0,0	6	40,0
Centurion taxi rank and shopping mall	Centurion		0,0	3	25,0	5	41,7		0,0		0,0		0,0	1	8,3
Saulsville station	Saulsville	4	4,1	12	12,2	2	2,0		0,0	4	4,1		0,0	29	29,6
East Lynn business district	East Lynn	3	3,5	14	16,5	17	20,0		0,0	2	2,4	6	7,1	12	14,1
Church Street mall & square	Pretoria - CBD		0,0	11	5,8		0,0		0,0	1	0,5		0,0	12	6,3
Kopanong station	Mabopane		0,0		0,0		0,0		0,0		0,0		0,0	1	100,0
Babelegi business area & station	Hammanskraal	12	3,2	42	11,3	41	11,0		0,0	11	3,0		0,0	120	32,3
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa		0,0	10	11,2	7	7,9		0,0	6	6,7		0,0	27	30,3
Wonderboom station	Pretoria North		0,0	9	16,7	6	11,1		0,0	1	1,9		0,0	20	37,0
Eerstefabrieke station	Mamelodi	1	10,0	2	20,0	2	20,0		0,0		0,0		0,0	3	30,0
Sunderland Ridge industrial area	Centurion		0,0		0,0	1	50,0		0,0		0,0		0,0		0,0
Road Junction station	Centurion		0,0		0,0	5	55,6		0,0		0,0		0,0		0,0
Irene station	Centurion		0,0		0,0	1	20,0		0,0		0,0		0,0	4	80,0
Mabopane station	Mabopane	61	7,3	131	15,8	83	10,0		0,0	44	5,3	15	1,8	189	22,7
Soshanguve station	Mabopane	10	55,6	1	5,6		0,0		0,0		0,0		0,0	3	16,7
Total		**205**	**5,7**	**487**	**13,5**	**421**	**11,6**	**5**	**0,1**	**106**	**2,9**	**64**	**1,8**	**815**	**22,6**

1) Combination of telephone, fax; clothing, sewing; fruit, vegetables; and cooldrinks, cigarettes

(continued)

TABLE 4 (continued)

Informal trade area	Area name	Haircutter, styling (barber)		Music (tapes/CDs)		Peanuts, mopani worms		Household pesticides		Shoemaker, repairs		Small groceries, noncooked food		Telephone, fax, Photocopying		Toiletries, cosmetics	
		N	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**	**N**	**%**
Bloed/Van der Walt Street taxi ranks	Pretoria -CBD	2	0,5	5	1,2		0,0		0,0	4	1,0	1	0,2	44	10,7	47	11,4
Marabastad	Pretoria West	5	0,8	4	0,6	64	9,7	4	0,6	6	0,9	1	0,2	33	5,0	4	0,6
Denneboom station	Mamelodi	33	5,3	9	1,4	8	1,3	2	0,3	3	0,5	1	0,2	20	3,2	56	8,9
Bosman station	Pretoria -CBD	1	0,9	2	1,8		0,0		0,0	4	3,6		0,0	13	11,7	1	0,9
Wierda Park taxi rank	Centurion	1	6,7		0,0		0,0		0,0	1	6,7		0,0	1	6,7	1	6,7
Laudium shopping mall	Laudium	4	26,7		0,0		0,0		0,0		0,0		0,0		0,0		0,0
Centurion taxi rank and shopping mall	Centurion		0,0		0,0		0,0		0,0		0,0		0,0	3	25,0		0,0
Saulsville station	Saulsville	5	5,1	1	1,0	2	2,0		0,0	1	1,0		0,0	4	4,1		0,0
East Lynn business district	East Lynn	10	11,8		0,0		0,0		0,0	2	2,4		0,0	10	11,8		0,0
Church Street mall & square	Pretoria -CBD		0,0	1	0,5		0,0		0,0	2	1,0		0,0	29	15,2	19	9,9
Kopanong station	Mabopane		0,0		0,0		0,0		0,0		0,0		0,0		0,0		0,0
Babelegi business area & station	Hammanskraal	27	7,3	2	0,5	7	1,9		0,0	7	1,9		0,0	25	6,7	19	5,1
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa	8	9,0		0,0	1	1,1	1	1,1	1	1,1		0,0	8	9,0	7	7,9
Wonderboom station	Pretoria North		0,0	1	1,9		0,0		0,0		0,0		0,0	2	3,7		0,0
Eerstefabrieke station	Mamelodi		0,0		0,0		0,0		0,0	1	10,0		0,0	1	10,0		0,0
Sunderland Ridge industrial area	Centurion		0,0		0,0		0,0		0,0		0,0		0,0	1	50,0		0,0
Road Junction station	Centurion	2	22,2		0,0		0,0		0,0	1	11,1		0,0	1	11,1		0,0
Irene station	Centurion		0,0		0,0		0,0		0,0		0,0		0,0		0,0		0,0
Mabopane station	Mabopane	42	5,1	6	0,7	21	2,5	1	0,1	8	1,0	16	1,9	16	1,9	41	4,9
Soshanguve station	Mabopane		0,0		0,0		0,0		0,0		0,0	1	5,6		0,0		0,0
Total		**140**	**3,9**	**31**	**0,9**	**103**	**2,9**	**8**	**0,2**	**41**	**1,1**	**20**	**0,6**	**211**	**5,8**	**195**	**5,4**

(continued)

TABLE 4 (continued)

Informal trade area	Area name	Traditional Healers		Tyre repairs, sales		Other		Total	
		N	%	N	%	N	%	N	%
Bloed/Van der Walt Street taxi ranks	Pretoria -CBD	4	1.0		0.0		0.0	411	100.0
Marabastad	Pretoria West	4	0.6	16	2.4	5	0.8	658	100.0
Denneboom station	Mamelodi	6	1.0		0.0	1	0.2	627	100.0
Bosman station	Pretoria -CBD	2	1.8		0.0		0.0	111	100.0
Wierda Park taxi rank	Centurion		0.0		0.0		0.0	15	100.0
Laudium shopping mall	Laudium		0.0		0.0		0.0	15	100.0
Centurion taxi rank and shopping mall	Centurion		0.0		0.0		0.0	12	100.0
Saulsville station	Saulsville		0.0		0.0	1	1.0	98	100.0
East Lynn business district	East Lynn		0.0	1	1.2		0.0	85	100.0
Church Street mall & square	Pretoria -CBD		0.0		0.0	1	0.5	191	100.0
Kopanong station	Mabopane		0.0		0.0		0.0	1	100.0
Babelegi business area & station	Hammanskraal	3	0.8		0.0	1	0.3	372	100.0
Ga-Rankuwa Hospital/shopping complex	Ga-Rankuwa	1	1.1		0.0		0.0	89	100.0
Wonderboom station	Pretoria North		0.0		0.0		0.0	54	100.0
Eerstefabriek station	Mamelodi		0.0		0.0		0.0	10	100.0
Sunderland Ridge industrial area	Centurion		0.0		0.0		0.0	2	100.0
Road junction station	Centurion		0.0		0.0		0.0	9	100.0
Irene station	Centurion		0.0		0.0		0.0	5	100.0
Mabopane station	Mabopane	16	1.9	1	0.1	12	1.4	831	100.0
Soshanguve station	Mabopane		0.0		0.0		0.0	18	100.0
Total		**36**	**1.0**	**18**	**0.5**	**21**	**0.6**	**3614**	**100.0**

9. SURVEY FINDINGS

As mentioned in section 6.2, no primary survey was envisaged in the project description. However, a small qualitative sample of 155 respondents was selected to identify the main characteristics and issues faced by informal retailers. The rest of this section highlights the main findings of the survey. The qualitative nature of the survey precludes detailed quantitative and statistical analysis of the data.

9.1 SOCIODEMOGRAPHIC STRUCTURE

The following sociodemographic structure is evident from the survey:

(a) Gender: Slightly more males than females (55:45) in the sample, owned or managed informal retail businesses.

(b) Age composition: Just more than one third of the respondents fall into the 18-to- 30 year age category and 31-to-40 year age category each. Just more than one in every four owners is older than 40 years.

(c) Half the owners have a secondary school qualification, one in every four a primary school education and one in every six have no formal schooling.

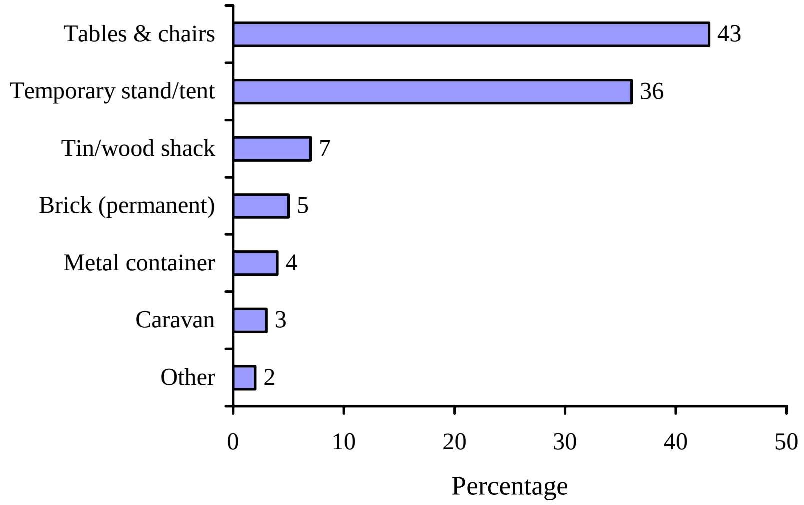
(d) 98 % of owners are from the African population group.

9.2 PHYSICAL STRUCTURE OF BUSINESSES

Figure 1 shows the physical structure of businesses interviewed. Just more than four in every ten make use of tables and chairs to conduct their businesses. This is followed by retailers (35 %) conducting their businesses from a temporary shelter (stand or tent).

FIGURE 1

PHYSICAL STRUCTURE OF BUSINESS



The above clearly suggests that the overwhelming majority of informal retailers conducted their businesses from rudimentary facilities. Only one in every ten businesses operates from fairly structured shelters such as permanent brick shelters, metal containers or caravans. Providing more permanent facilities to informal retailers would, therefore, be an expensive endeavour.

9.3 OWNERSHIP

In the majority of cases, the physical facility from which the business is conducted is owned by the business owner (88 %). One in every 20 respondents (5 %) rents the structure from the municipality. Rented facilities were reported in Centurion, Mamelodi and Laudium.

9.4 AVAILABILITY OF FACILITIES AND THEIR CONDITION

Question 9 of the questionnaire enquires on the availability of facilities as well as the respondent’s view on the condition of the facility and the approximate distance to the facility.

(a) Toilets

- Availability : 85 % of respondents
- Condition acceptable : 78 % of those with access
- Proximity : 0-50 m 43 %

  51-100 m 28 %

  100+ m 29 %

(b) Tap water

- Availability : 79 % of respondents
- Condition acceptable : 96 % of those with access
- Proximity : 0-50 m 48 %

  51-100 m 27 %

  100+ m 25 %

(c) Drainage

- Availability : 43 % of respondents

(d) Electricity

- Availability : 7 % of respondents

(e) Mobile telephone

- Availability : 60 % of respondents

(f) Landline telephone

- Availability : 3 % of respondents

(g) Waste disposal

- Availability : 60 % of respondents

The above confirms varied access to facilities. Tapwater and toilet facilities are available to approximately eight in every ten business owners. The availability of electricity is almost nonexistent in that only 7 % of businesses have access to this service.

9.5 CONDITION OF BUSINESS AND SURROUNDINGS

Respondents report a fairly high level of dissatisfaction with business and site conditions. Table 5 shows that only 10 % and 8 % of respondents reported a very clean business and surrounding area respectively. Dirty and very dirty conditions were reported by 20 % of respondents for the condition of their businesses and 45 % of respondents found the condition of their surrounding area unacceptable.

TABLE 5

CONDITION OF BUSINESSES AND THEIR SURROUNDINGS

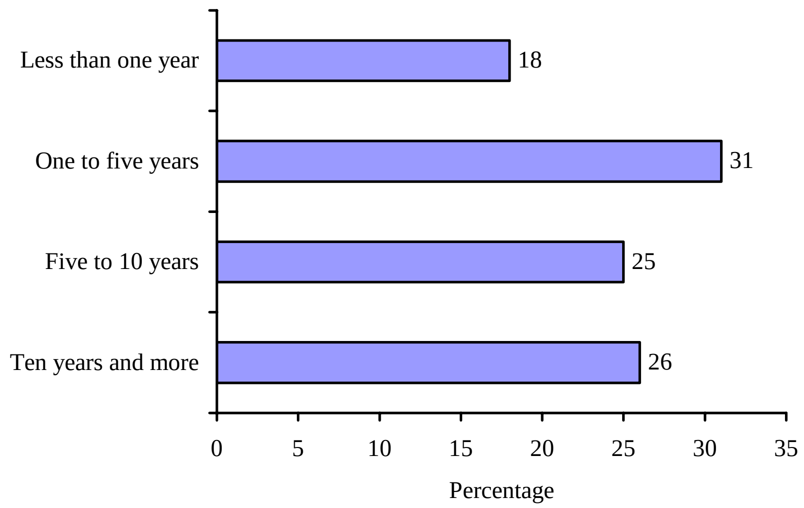
Condition	**Condition of business %**	**Condition of surroundings %**
Very clean	10	8
Moderately clean	70	47
Dirty	17	37
Very dirty	3	8
Total	**100,0**	**100,0**

9.6 AGE OF RETAIL BUSINESSES

The age of a business reflects its market experience and affects its ability to grow and trade up to the next size class. Market experience and size are also important variables that determine business access to financial and other resources. Figure 2 shows a high level of entry into the informal retail business – one in every five has been in existence for less than one year. On the other hand, figure 2 also shows some stability in the retail sector in that just more than half the respondents have been in business for more than five years. The latter also suggests a limited trade-up to higher size classes in that more than half the informal businesses have been in the informal sector for quite some time. Factors such as a lack of entrepreneurial spirit and/or overtrading may explain this phenomenon.

FIGURE 2

AGE OF INFORMAL RETAIL BUSINESSES

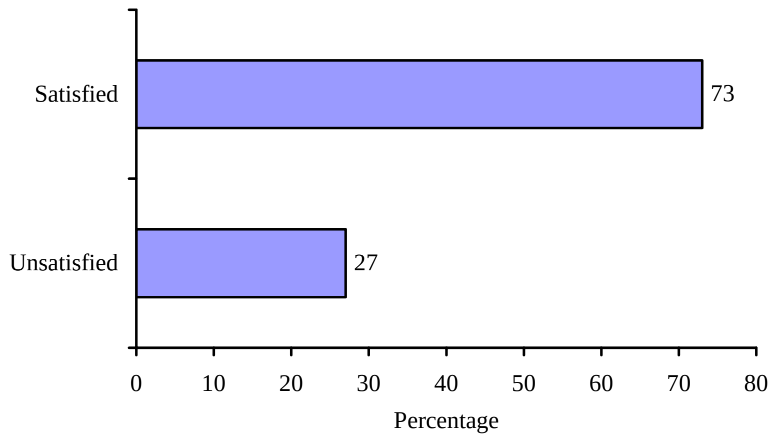


9.7 LOCATION

Figure 3 depicts the response to the question: 'Are you satisfied with the current location of your business?' Almost three in every four (73 %) owners affirm their satisfaction with their location.

FIGURE 3

LEVEL OF SATISFACTION WITH CURRENT LOCATION OF BUSINESS



The respondents that expressed dissatisfaction with their current location (27 %) responded as follows to the question: 'If not satisfied, would you prefer to be located in another area?'

- Yes : 57 %
- No : 33 %
- Don't know : 10 %

9.8 PHYSICAL FACILITIES

As indicated in sections 8.2 and 8.4, the majority of business owners operate from rudimentary accommodation with limited infrastructure. Just more than eight in every ten (84 %) respondents indicated that they would like the municipality to provide physical facilities for their businesses. The following facilities were highlighted by respondents in order of importance:

- proper shelter
- room
- container
- shelter and tables
- storeroom/storage facility
- electricity
- toilets
- tables and chairs
- shelter with electricity
- security
- water
- tent
- billboard for advertising

It is interesting to note that eight in every ten (80 %) respondents expressed their willingness to pay rates charged by the municipality. On enquiring what they are prepared to pay per month, the following emerged:

- 27 % are prepared to pay between R1 and R30
- 26 % are prepared to pay between R31 and R50
- 21 % are prepared to pay between R51 and R100
- 25 % are prepared to pay R100 +

The average amount mentioned by respondents amounted to approximately R60 per month implying a meagre capital investment per business of less than R600, especially if maintenance and cleaning fees are also considered.

The above suggests the requirement of extensive subsidies by the municipality should facilities and services be supplied by the municipality. This is also confirmed by the relatively small turnover generated by the respondents.

9.9 TURNOVER AND EMPLOYMENT

The average monthly turnover of respondents amounted to R4 460 or R53 500 per annum. Once operational costs such as transport, rent (in some instances) and especially the procurement of merchandise are subtracted from a monthly income of R4 460, retailers are left with a meagre income. A net profit of, for example, 25 % on turnover would result in a net average monthly income of R1 115. To put this in perspective, the minimum living level (MLL) of a family in Pretoria amounted to approximately R2 050 in 2004, implying that average net business profit represents approximately 50 % of what is needed for a household to maintain a minimum living level.

The distribution of business turnover by income category reveals a spectrum from very limited to average turnover. Just more than a third of respondents reported a turnover of less than R2 000 per month while 13 % reported a monthly turnover of more than R10 000. The turnover spectrum reveals the following:

- Less than R1 000 : 17 %
- Between R1 000 – R2 000 : 20 %
- Between R2001 – R5 000 : 30 %
- Between R5 001 – R10 000 : 20 %
- More than R10 000 : 13 %

The relatively small size of informal retailers is confirmed by the average employment size of 1,6 employees per business. The number of employees (including the owner) shows the following distribution:

Number of employees	% of businesses
1	60 %
2	25 %
3	10 %
4	3 %
5+	2 %

No less than 85 % of businesses reported an employment size of two or less. Only 5 % employed between five and seven persons, including the owner.

9.10 CONCLUSION

The picture that emerged from the foregoing analysis shows a large percentage of businesses operating at bare survival level in nonlucrative business environments. For example:

- 86 % operate from temporary and mobile structures such as wood/tin shacks, tables/chairs and temporary tents.
- Only 7 % of businesses have access to electricity.
- The fact that more than half of the retailers have been in business for more than five years, suggests limited trading-up to more advanced business levels.
- Although more than 80 % of respondents expressed a willingness to pay rent for facilities, the amount they are prepared to pay amounted to an average of only approximately R60 per month.
- Average employment size (owner included) is only 1,6 persons per business, with more than 85 % employing two or fewer persons. This implies that the majority of owners are involved in their businesses on a full time basis.

- Average monthly turnover amounted to only R4 460, implying an extremely small net profit available for household support.

Although represented by small individual businesses, the informal retail sector can be regarded as an important delivery channel of goods to the consumer. Nationally, it is estimated that about 10 % of retail sales, amounting to R38 billion, is channeled through informal retailers. The rest is largely distributed by large chain stores such as Pick-‘n-Pay and Checkers. Small convenience retailers face increasing competition from large stores, implying limited scope to increase informal market share. Unemployment compels a large percentage of households to fend for themselves specifically through the easy-access informal retail sector. This manifests in high levels of competition, compelling people to operate at minimum operational cost and overheads in order to remain in business. The majority of informal trading areas are characterised by overtrading (ie more businesses than the market size can accommodate).

The above environment is not always attractive to entrepreneurs. Informal retailers (specifically those located in the selected areas) therefore, largely comprise survivalist traders often operating at bare minimum level. This is supported by findings in other surveys, namely that:

- 83 % of hawkers entered their business not because of seizing business opportunities but because of poverty and unemployment;
- 97 % of hawkers have no formal business training; and
- two thirds of hawkers do not see their business endeavours as a long-term career path.

Mirroring the characteristics of the informal retail sample population, located primarily at taxi ranks and train stations, against the characteristics of dynamic entrepreneurs (such as opportunity assessment, holistic approach, leadership, creativity, innovation and risk taking) gave an extremely low entrepreneurial score to hawkers. More established informal retailers such as spazas and township general dealers portray far higher entrepreneurial scores than hawkers.

Support (eg infrastructure and services) to the informal retail sector in the selected locations should largely be seen as a social welfare function rather than a strategy for economic development and growth. The above conclusion should be viewed against the perspective that the informal retail sector depicts a continuum of informal traders ranging from fairly developed businesses to enterprises established purely for household survival purposes. This study focused largely on the latter. The other end of the continuum, represented by tuck shops and township general dealers, creates a better foundation for advancing entrepreneurship and allowing some of the businesses to gradually trade-up to more formal business structures. This perspective will be explored further in the strategy sections (see section 10 and 11).

10. LEGISLATIVE FRAMEWORK

10.1 INTRODUCTION

This study requires that the legislative framework within which informal trading operates be researched for the Tshwane Metro. A diverse array of legislative instruments could be applicable here. In this document only those instruments most relevant will be noted.

Special emphasis will be placed on the drafting and promulgation of by-laws.

10.2 CONSTITUTION

The Constitution is the supreme law of the Republic and all law and conduct must be consistent with the Constitution (section 2).

Various sections in the Constitution provide a point of departure for examining informal trading in South Africa. What is significant in this regard is that informal traders generally do not know what their rights are, they have no access to collective bargaining and are not seen as an important social or political voice. This leads to their marginalisation and discrimination against them.

10.2.1 **Bill of rights**

10.2.1.1 *Founding values*

As a general point of departure, section 1 of the Constitution declares that the founding values of our society are:

> …human dignity, the achievement of equality and the advancement of human rights and freedoms.

These values must form the basis for the examination of any issue in South Africa.

10.2.1.2 *Respect for rights*

Section 7(2) of the Constitution provides that the state must respect, protect, promote and fulfill the rights in the Bill of Rights. The duty to respect requires that the state refrain from law or conduct that directly or indirectly interferes with the enjoyment of rights. The duty to protect places a duty on the state to take legislative measures to protect vulnerable groups against violations of their rights. The duty to promote refers to awareness-raising and educational measures with regard to rights. The duty to fulfil requires the state to take positive measures to ensure that people gain access to rights where this is lacking. This is also relevant to groups and people in vulnerable situations.

Rights must be understood in their textual setting – that is chapter 2 of the Bill of Rights and the Constitution as a whole – as well as in their historical and social context. Rights cannot be seen in isolation and they are all, in one or more ways, interdependent on one another.

Other sections of the Bill of Rights which play a role are discussed in sections 10.2.1.3 to 10.2.1.10.

10.2.1.3 *Section 9 (Equality)*

The first clause of section 9 provides that:

> Everyone is equal before the law and has the right to equal protection and benefit of the law.

Section 9 further provides that neither the state nor any person may unfairly discriminate directly or indirectly against anyone on one or more grounds. These grounds include gender, sexual orientation, race, pregnancy, marital status, disability, religion, culture, language, et cetera.

Section 9 comprises a guarantee that the law will protect and benefit people equally and a prohibition on unfair discrimination. Equality includes the ‘full and equal enjoyment of rights and freedoms’. To this end, special measures may be taken to ensure the protection or advancement of people who have been disadvantaged by discrimination in the past.

10.2.1.4 *Section 10 (Human dignity)*

Section 10 of the Constitution provides that:

> Everyone has inherent dignity and the right to have their dignity respected and protected.

The right to human dignity has a central place in the Constitution and many rights stem from the right to dignity. In the decision in *S v Makwanyane* (1995 3 SA 391 CC at par 144) the court held that:

> Recognising a right to dignity is an acknowledgement of the intrinsic worth of human beings: human beings are entitled to be treated as worthy of respect and concern. This right therefore is the foundation of many other rights...

Any action or decision relating to informal traders must comply with the right to human dignity.

10.2.1.5 *Section 22 (Freedom of trade, occupation and profession)*

Section 22 of the Constitution provides that:

> Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

Section 6A of the Businesses Act 71 of 1991 provides for the making of by-laws regarding the restriction of the carrying on of informal trade. This is seen in some quarters as unconstitutional, infringing informal traders' freedom to trade.

Some are also of the view that the Businesses Act further violates informal traders' freedom since certain parts of city are out of bounds for informal trading.

These issues must be interrogated in drawing up the by-laws.

10.2.1.6 *Section 24 (Environment that is not harmful to health or well-being)*

Section 24 of the Constitution provides that:

> Everyone has the right to an environment that is not harmful to their health or well-being...

There must be an awareness of environmental health issues in actions or decisions affecting informal traders.

10.2.1.7 *Section 32 (Access to information)*

Section 32 provides that:

(1) Everyone has the right of access to
  (a) any information held by the state; and
  (b) any information that is held by another person and that is required for the exercise or protection of any rights.
(2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

Informal traders have the right to have access to any information held by the municipality, or another person, that may affect their rights.

10.2.1.8 *Section 33 (Just administrative action)*

Section 33 provides that:

(1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
(2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
(3) National legislation must be enacted to give effect to these rights and must
    (a) provide for the review of administrative action by a court or, where appropriate, an independent or impartial tribunal;
    (b) impose a duty on the state to give effect to the rights in subsections (1) and (2); and
    (c) promote an efficient administration.

In the past, people were subject to bureaucratic behaviour with ad hoc decisions and no obligation to provide reasons for those decisions. The inclusion of the above clause in the Constitution has introduced a culture of justification, fairness and accountability into administrative decision-making. In any action or decision taken by the municipality with regard to informal traders, cognisance must be taken of the fact that it must be lawful, reasonable and procedurally fair.

10.2.1.9 *Section 36 (Limitation)*

Section 36 provides that:

(1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including –

    (a) the nature of the right;
    (b) the importance of the purpose of the limitation;
    (c) the nature and extent of the limitation;
    (d) the relation between the limitation and its purpose; and
    (e) less restrictive means to achieve the purpose.

(2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

No right in the Bill of Rights is absolute and all rights are subject to limitation. The most important aspects of the limitation issue are the relationship between general and specific limitation provisions in a Bill of Rights and the proportionality test that is often applied to determine the justification of limitations.

10.2.1.10 *Section 39 (Interpretation)*

Section 39 of the Constitution provides that:

(1) When interpreting the Bill of Rights, a court, tribunal or forum-
   (a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
   (b) must consider international law; and
   (c) may consider foreign law.
(2) When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.
(3) The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.

Whenever a court, tribunal or forum must interpret the contents of one of the human rights contained in the Bill of Rights the factors listed in section 39(1)(a)-(c) should be taken into account. Take note that international law must be considered, but that foreign law may be considered.

In section 39(3) the Constitution acknowledges the validity and authority of common law, customary law and of legislation, as long as they do not contradict the principles of the Constitution. A person can, in other words, still rely on rights conferred by legislation, customary law or common law, as long as these rights are in line with the Bill of Rights. It is clear from these two sections that legislation, common-law principles and customary-law rules should be interpreted and applied in order to promote the fundamental rights contained in the Bill of Rights.

10.2.2 **Legislative competence of national and provincial government**

The legislative authority of national, provincial and local government is set out in section 43 of the Constitution.

Section 44 provides that national government shares legislative competence with provincial government on matters listed in schedule 4.

Section 104 provides that provincial government has competence to make laws on matters listed in schedules 4 and 5. It has concurrent legislative competence with national government in respect of a schedule 4 matter while it has exclusive legislative competence to pass legislation on a schedule 5 matter.

Section 156 provides that municipalities have executive authority in respect of and have the right to the administration of the local government matters listed in part B of schedule 4 and part B of schedule 5.

Street trading is a matter listed in part B of schedule 5 of the Constitution.

Other areas that could be relevant to informal trading are municipal health services, municipal planning and municipal transport. These are set out in part B of schedule 4 of the Constitution.

Section 156(2) provides that a municipality may make and administer by-laws for the effective administration of the matters that it has the right to administer.

Municipalities therefore have the right to make by-laws for street trading – in other words informal trading as described in section 5.

10.2.3 Cooperative governance

Chapter 3 of the Constitution sets out provisions relating to cooperative governance.

Important principles contained in section 41 are that all spheres of government must:

(a) secure the well-being of the people in the Republic
(b) provide effective, transparent, accountable and coherent government ...
(c) cooperate with one another in mutual trust and good faith...

Municipalities are at the coalface of informal trade issues – they are the sphere of government directly involved in issues relating to the regulation of informal trade and are usually the point of engagement with the state by citizens and civil society.

Informal trade issues are not dealt with by one municipal department. Usually a number of departments are involved in the various aspects relating to informal trade, for example the departments of local economic development, spatial planning, the metro police, legal services et cetera. These departments must all work together. This is where the principles set out in chapter 3 of the Constitution must play a significant role.

10.2.4 Other clauses in the Constitution dealing with duties of municipalities

Numerous other sections in the Constitution have relevance and each of these sections will have to be examined. Examples of such sections are:

- Section 152(1): Objects of local government

  The objects of local government are:

  (a) to provide democratic and accountable government for local communities

(b) to ensure the provision of services to communities in a sustainable manner;
(c) to promote social and economic development;
(d) to promote a safe and healthy environment;
(e) to encourage the involvement of communities and community organisations in the matters of local government.

- Section 153: Developmental duties of municipalities

A municipality must:

(a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community; and to promote the social and economic development of the community; and
(b) participate in national and provincial development programmes.

- Section 162: Publication of municipal by-laws

  (1) A municipal by-law may be enforced only after it has been published in the official gazette of the relevant province.
  (2) A provincial official gazette must publish a municipal by-law upon request by the municipality.
  (3) Municipal by-laws must be accessible to the public.

Chapter 10 of the Constitution relates to public administration.

With regard to basic values and principles governing public administration (section 195(1)) the following are relevant:

- Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following values:

  (a) A high standard of professional ethics must be promoted and maintained.
  (b) Efficient, economic and effective use of resources must be promoted.
  (c) Public administration must be development-oriented.

(d) Services must be provided impartially, fairly, equitably and without bias.

(e) People’s needs must be responded to, and the public must be encouraged to participate in policy-making.

(f) Public administration must be accountable.

(g) Transparency must be fostered by providing the public with timely, accessible and accurate information.

(h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.

(i) Public administration must be broadly representative of the South African people with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

These basic values and principles must provide the point of departure in any policy, action or decision regarding informal trading in the municipality, for section 195(2) provides that these principles apply to the administration in every sphere of government.

10.3 NATIONAL LEGISLATION

10.3.1 Local Government: Municipal Systems Act 32 of 2000

The Local Government: Municipal Systems Act 32 of 2000 is the central statute dealing with aspects of local government relevant to all issues regulated by local government including informal trade.

The Act gives meaning to terms such as ‘developmental government’, ‘integrated development’ ‘community participation’ and ‘sustainability’.

Chapter 5 deals with the Integrated Development Plan (IDP). It provides that a municipality must undertake developmentally oriented planning so as to ensure that it:

(a) strives to achieve the objects of local government as set out in section 152 of the Constitution;
(b) gives effect to its developmental duties as required by section 153 of the Constitution
(c) together with other organs of state contributes to the progressive realisation of (certain) fundamental rights…

The chapter sets out procedures for integrated development plans, a component of which is the Spatial Development Framework (SDF). A municipality has the responsibility of drawing up an SDF for its area of jurisdiction. This is determined in terms of an envisaged draft Land Use Management Bill (*Government Gazette* 22473, dated 20 July 2001).

Section 26 sets out the contents of an IDP as including:

(a) The municipal council's vision for the long term development of the municipality ...
(b) an assessment of the existing level of development in the municipality ...
(c) the council's development priorities and objectives ...including its local economic development aims ...
(d) a spatial development framework which must include the provision of basis guidelines for a land use management system for the municipality

The Tshwane Metro's IDP and its 2004 revision were drawn up in terms of this chapter.

An IDP must contain an SDF. Ideally speaking the SDF must make provision for informal trade areas.

Chapter 4 of the Act provides for community participation. These procedures must be followed carefully in dealing with informal trading issues such as where, new markets must be situated, the rentals to be paid, structures to be erected et cetera.

Chapter 7 provides for monitoring and evaluation. In all municipalities this is an ongoing process and cognisance must be taken of the provisions of the Act. Especially with regard to initiating an informal trading policy and programmes constant monitoring and evaluation is required.

10.3.2 Promotion of Administrative Justice Act 3 of 2000

The Promotion of Administrative Justice Act 3 of 2000 was enacted in consequence of section 33 of the Constitution, providing that ‘everyone has the right to administrative action that is lawful, reasonable and procedurally fair’.

The long title of this Act provides that it gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons.

Sections 3 and 4 provide for procedures for administrative action for individuals and the public respectively. In any action or decision regarding informal trading the municipality has to take these provisions into account. This Act must be adhered to by all officials in any decision relating to informal traders. Informal traders and officials alike must be educated in the procedures, implications and effects of this Act.

10.3.3 Promotion of Access to Information Act 2 of 2000

This Act gives effect to the constitutional right of access to information that is held either by the state or by another person and that is required for the exercise or protection of any rights.

Where anyone requires access to any information which is necessary for the exercise or protection of any right, the procedures set out in this Act will be applicable.

Educational programmes have to be set up in order to inform both informal traders and officials about the operation and implications of this Act.

10.3.4 **National Land Transport Transition Act 22 of 2000**

This Act sets out the institutional structures in land transport. It indicates what transport authorities are and how these function in the context of municipalities.

With regard to the Tshwane Metro it has been decided that a transport authority is required (see National Land Transport Transition Act 22 of 2000: An introduction to transport authorities, National Department of Transport, September 2001).

10.3.5 **Businesses Act 71 of 1991**

This Act deals with the licensing and carrying on of businesses and shop hours.

Section 6A, dealing with the powers of local authorities to make by-laws regarding informal trading, was inserted into the Act in 1991. Regulations in much the same format as the Act were drawn up for most municipalities and they all look similar. Many municipalities are now in the process of drawing up new by-laws.

10.3.6 **National Small Business Development Act 102 of 1996**

Small business development, as part of the development process in South Africa, must be managed in accordance with the policy principles contained in the Growth, Employment and Redistribution Programme (GEAR), the National Small Business Support Strategy and the National Small Business Development Act 102 of 1996.

Businesses can be divided into categories of medium, small, very small and micro enterprises.

The Act established the National Small Business Council and the Ntsika Enterprise Promotion Agency.

Municipalities must adhere to the guidelines published by the minister for the promotion and development of small business in South Africa.

10.3.7 National Environmental Management Act 107 of 1998 (NEMA)

This Act is the guideline statute for environmental matters in South Africa, providing for national environmental management principles, procedures for co-operative governance, integrated environmental management, international obligations and agreements and co-operation agreements.

Within the context of section 24 of the Constitution, which provides that everyone has a right to an environment that is not detrimental to their health and well-being, this Act has a role to play in determining where to accommodate informal traders.

10.3.8 Environment Conservation Act 73 of 1989

The Environment Conservation Act 73 of 1989 plays a very significant role in the context that it currently regulates the submission of Environment Impact Assessments (EIAs) in terms of Regulations R1182 and R1183 of 1997 (*Government Gazette* 18261 dated 5 September 1997) where certain changes in the use of land are envisaged. These regulations are in the process of being replaced by regulations drafted in terms of the National Environmental Management Act 107 of 1998 (namely the National Environmental Management Second Amendment Bill 2003, *Government Gazette* 24777, dated 22 April 2003). EIAs may be of significance where they are required for land use to be changed.

10.3.9 **Health Act 63 of 1977**

Chapter IV provides that municipalities have certain powers and duties, including:

> …taking all lawful, necessary and reasonably practicable measures-

(a) to maintain its district at all times in a hygienic and clean condition;

(b) to prevent the occurrence within its district of-

- (i) any nuisance;
- (ii) any unhygienic condition;
- (iii) any offensive condition; or
- (iv) any other condition which will or could be harmful or dangerous to the health of any person within its district or the district of any other local authority, or, where a nuisance or condition referred to in subparagraphs (i) to (iv) inclusive, has so occurred, to abate, or cause to be abated, such nuisance, or remedy, or cause to be remedied, such condition, as the case may be.

The Act and the accompanying regulations must be adhered to by the municipality especially with regard to foodstuffs.

10.3.10 **The draft Land Use Management Bill 2001**

This draft Bill (*Government Gazette* 22473, dated 20 July 2001) contains overriding principles of land use and also sets out a land use management system comprising the provision of plans as well as procedures to change the use of land. It contains the provisions for the compilation of SDFs, one of the components of IDPs which must be compiled by municipalities in terms of the Local Government: Municipal Systems Act 32 of 2000. The SDF will include a land use policy which will guide desired patterns of land use in the municipality and the spatial reconstruction of the municipal area. The Land Use Scheme will determine the purpose for which each piece of land in which the scheme applies may be used (section 21(1)(b)). Informal trading areas should, ideally speaking, be indicated as such in the land use scheme.

10.4 PROVINCIAL LEGISLATION

10.4.1 Town-planning and Townships Ordinance 15 of 1986 (Transvaal)

This Ordinance sets out procedures for town planning and township establishment. Where land use must be changed, which envisages the amendment of the planning scheme (rezoning), this Ordinance applies. This Ordinance is due to be repealed by the Development Planning Act of 2003 once the latter comes into operation.

10.4.2 Gauteng Planning and Development Act (Notice 442 of 17-10-2003)

This Act will, once proclaimed, provide a set of principles for land development in the province, procedures to regulate the plan-creation aspects, such as spatial development frameworks, on the one hand and land-use management procedures on the other hand. It is envisaged that this statute will repeal the system of fragmented and uncoordinated legislation that still exists in Gauteng.

In dealing with land-use issues the spatial aspects of informal trading have to be accommodated.

10.5 BY-LAWS

10.5.1 Introduction

The by-laws in existence in most of the cities in South Africa are those drafted in terms of section 6A of the Businesses Act 71 of 1991. Most by-laws are almost identical to one another. A number of the larger cities in South Africa are in the process of drafting new by-laws.

Durban has different sets of regulations. A Municipal Notice of 1995 makes provision for restricting trading in two areas, the beachfront and the central business district. Traders operating outside these areas are regulated in terms of the by-laws. No sites are demarcated and the control is less stringent than in the restricted areas. In other areas, by-laws are applied. New by-laws are in the process of being drawn up.

Johannesburg has a new set of by-laws, which can be used to inform the draft currently being prepared by the Tshwane Metro.

Cape Town is in the process of compiling one City-wide by-law. At present 3 sets of by-laws regulate informal trading, namely those for Cape Town, the South Peninsula and Tygerberg.

The Tshwane Metro is in the process of compiling new by-laws. This report will have to inform the process relating to the new by-laws and no new by-laws should be promulgated before the implications of this report and a possible policy are thoroughly worked through.

10.5.2 Law enforcement

One of the most crucial issues with regard to informal trade is enforcement. There are many sides to the issue of law enforcement. This is clear from the fact that most of the metropolitan municipalities in South Africa are in the process of drawing up new by-laws. It is accepted that the by-laws currently in operation are outdated, and not designed for the purpose they are supposed to serve.

Within the context that the regulation of informal trading, in the past, was criminalised, the regulation of the informal sector should be linked to the management and support functions.

Problems with regard to enforcement are experienced by both informal traders and the law enforcers. Many of these have a historical context.

10.5.2.1 *Traders' problems*

It appears that the major concern for most informal traders centres around the enforcement of by-laws. Informal trading is often criminalised. There is much criticism of enforcement measures by informal traders - currently in Johannesburg only informal traders selling illegal products such as counterfeit goods and those selling from restricted or prohibited areas are targeted.

10.5.2.2 *Law enforcers*

In the past there was inconsistency with regard to the enforcement of by-laws. Law enforcers find themselves having to impose by-laws, which are often inappropriate, on people who are wary and critical. In addition, there are often not sufficient people to enforce the by-laws.

The enforcement measures do not work. Often people arrested one day are back the following day. This is a waste of time and resources and is not good for relationships between law enforcers and informal traders.

10.5.3 **Illegal trading**

Illegal trading has come to be associated with crimes such as pick-pocketing, mugging, vagrancy, illegal immigrants and illegal taxi ranks.

In some cities strategies of establishing markets and registering informal traders are implemented to reduce illegal trading and, in the process, to eliminate the side effects of illegal trading such as, for example, illegal taxi ranks.

10.5.4 **Putting effective by-laws in place**

The purpose of by-laws is to ensure that the needs of informal traders are met without compromising the needs of other users of public infrastructure and open spaces.

This must take place in terms of a set of by-laws that has been drawn up in the context of consultation. Informal traders would like to see by-laws that:

- recognise the right to trade in the streets
- recognise that informal traders are an important component of the economy
- give informal traders sufficient trading space
- support informal traders with services such as training
- establish the legal rights to basic infrastructure, such as transport, electricity, child care and protection from crime, which is necessary for business.

Enforcement cannot be limited to traditional enforcement measures. These do not work. Innovative ways of enforcing by-laws will have to be found to make them successful. Enforcement must take place in an environment that is humane, consistent and within the parameters of the law.

Where there are by-laws, these need to be strictly enforced so that there is certainty for all parties. In Johannesburg law enforcement is strict informal traders are not allowed to cause obstruction, to operate under unhygienic conditions or contravene other by-laws. The Metro Police are responsible for enforcing by-laws. The view there is that the enforcement of by-laws to prevent illegal trading is aimed at ensuring an orderly way of conducting business and also to attract the potential of vast investment in the city.

10.5.5 Participation

The participation of informal traders in the drawing up of by-laws can contribute to the establishment of a law-abiding trading environment. Law enforcement can be facilitated by keeping people informed and involved in the processes.

In Johannesburg each market has house rules that govern the behaviour of all parties and there are grievance procedures for aggrieved parties to follow.

These can help to alleviate the sometimes contentious application of the formal enforcement measures

10.5.6 **Education**

An educational campaign for traders on by-laws and their enforcement is underway in Johannesburg. This follows on a High Court ruling compelling the Metro Police Department to comply with city by-laws in their handling of informal traders.

Informal traders must be aware of the by-laws and the by-laws must be made available to them in understandable and gender-sensitive language. In Durban informal traders are provided with information in Zulu.

It is very important, in order to comply with their responsibility as developmental government agencies, that municipalities put training and educational programmes in place, especially with regard to training traders about law enforcement.

10.5.7 **Task teams**

Johannesburg has launched a task force of agents, council employees and law enforcement officers, known as the Informal Trading Task Team, to tackle a wide range of inner city ills. It is made up of four units, namely infrastructure, law enforcement, building control or land use and environmental clean-up. Major problems encountered include crime, lack of by-law enforcement, unmanaged informal trading, street children, et cetera. Because of the biased scope of its work the task force has to draw from a wide range of different role players, including the South African Police Services, the South African National Defence Force, the Johannesburg Metro Police Department, utilities, agencies and entities such as Johannesburg Water, the Johannesburg Development Agency, City Power, City Parks, Pikitup and the Johannesburg Road Agency.

10.5.8 Coordination

The system of regulation is often fragmented, not only with regard to the laws to be applied, but also with regard to the institutions applying the law.

There needs to be coordination, not only amongst the law enforcers, but also amongst the laws and by-laws themselves. Where, for example, enforcement of by-laws or laws relating to health issues is required, there must be certainty which law is contravened and who the responsible department/official is.

10.5.9 Policy to inform by-laws

One of the aims of a policy is to form a basis for the by-laws that will regulate informal trading in the municipality.

Acceptance of an informal trading policy is a prerequisite for the formulation of informal trading by-laws. The two processes must go hand in hand and must inform one another.

This is what has happened in the three major cities of Cape Town, Johannesburg and Durban. A policy was first worked out and then the process of drafting the by-laws initiated.

10.5.10 Enforcement of permit conditions

Where permits are issued and certain conditions of trading are attached to the permit or lease and these are contravened, punitive measures can be taken in terms of the permit or lease, such as withdrawal of the permit, suspension of trading for a certain period, warnings, et cetera.

10.5.11 Appeal/review procedures

If an informal trader feels that the municipality has acted unfairly against him/her, there should be a procedure to appeal against the decision. Most by-laws do not contain such a procedure. This means that the only other alternative is for the informal trader to take the matter to court. Informal traders must have the opportunity of putting their case at an inquiry or an appeals committee. Structures must be put in place to deal with appeal/review procedures.

10.5.12 Accessibility of by-laws

The Constitution provides that by-laws must be accessible to the public. This means that it must be easy for informal traders to find out about and understand the laws they are trading under. By-laws would be more accessible if:

- the language of the by-laws is clear and simple
- all written information is in a language understood by the majority of informal traders
- there are workshops where informal traders can give their inputs
- the reasons behind by-laws are explained to both officials and informal traders

People are more likely to adhere to by-laws if they make sense.

10.6 POLICY DOCUMENTS

10.6.1 White Paper on the National Strategy for the Development and Promotion of Small Business in South Africa Notice 213 of 1995 GG 16317 dated 28-03-1995

This 1995 White Paper identifies four categories of businesses in the informal sector, one of which is survivalist. In principle,the White Paper commits the government to the creation of an environment which encourages and assists the development of all categories of the informal economy.

10.6.2 White Paper on Local Government 1998

This 1998 White Paper initiated the transition of local authorities and led to the enactment of three important statutes, namely the Local Government: Municipal Demarcation Act 27 of 1998, the Local Government: Municipal Structures Act 117 of 1998 and the Local Government: Municipal Systems Act 32 of 2000. In the context of informal trading it requires local government to be committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and to improve the quality of their lives.

10.7 RECOMMENDATIONS AND CONCLUSION

Starting with the Constitution, a number of statutes are relevant to the issue of informal trading. Relevant legislation covers health, planning, environmental issues, business, transport, administrative decision-making, et cetera. For a successful informal trading structure to be established, each of these statutes must be noted.

Perhaps the most important legislative enactments with regard to informal trading are the by-laws of the municipality. The by-laws currently in existence are outdated and ineffective. A properly drawn up set of by-laws, in pursuance of municipal policy must be implemented to properly regulate informal trading.

11. SPATIAL PLANNING

Spatial planning is part of the integrated development of a municipality. An Integrated Development Plan (IDP) contains a Spatial Development Framework (SDF). Both the IDP and the SDF must accommodate informal trading. The land-use management scheme within the SDF must indicate those areas demarcated for informal trading.

11.1 PURPOSE OF SPATIAL PLANNING

An objective of an integrated land-use planning system must be to improve the quality of life of the inhabitants. As an integral part of a town planning or land use management scheme, which has as its purpose "the harmonious and coordinated development of the area to which it relates (including where necessary, the relayout and redevelopment of any part of it which has already been subdivided and built upon) in such a way as will most effectively tend to promote health, safety, good order, amenity, convenience and general welfare, as well as efficiency and economy in the process of development" (Townships and Town Planning Ordinance 15 of 1986 section 19) an informal trading policy must have the same objective [see also *Pick 'n Pay Stores (Pty) Ltd v Teazers Comedy and Revue CC* 2000 3 SA 645 (W)].

11.2 AN INTEGRATED PLANNING SYSTEM

Markets often developed without reference to environmental impact, provision of infrastructure, town planning or transport planning. The quality of an urban environment depends on the land-use planning system in place. The planning system must take into account all relevant factors in a systematic, logical, consultative way. Informal trading areas must be simultaneously planned with all the other land uses and not allocated on an ad hoc basis. In the process the issue of urban sprawl must be addressed. An integrated and multi-disciplinary planning system must be in place to adequately deal with and manage informal trading areas.

11.3 INTEGRATED DEVELOPMENT PLANNING AND LAND USE MANAGEMENT

The White Paper on Spatial Planning, Land Use Management and Land Development (Government Gazette 22473, dated 20 July 2001) distinguishes between integrated development planning and land-use management.

In a broader context, an IDP includes the municipal council's vision for the long-term development of the municipality, operational strategies, and an SDF.

In the White Paper on Spatial Planning, Land Use Management and Land Development the term "Integrated Development Plan" (IDP) is used in a narrower sense to describe the determination of land use. This takes place mainly by the creation of plans but can also take place by way of the insertion of conditions into the title deed of land. The IDP is relevant in the context that certain areas must be allocated to certain uses during the process of plan preparation and creation.

The White Paper indicates that land-use management includes the following activities:

(a) the regulation of land use changes such as, eg, the rezoning of a property from residential to commercial use;
(b) the regulation of 'green fields' land development, ie, the development of previously undeveloped land;
(c) the regulation of the subdivision and consolidation of land parcels;
(d) the regulation of the regularisation and upgrading process of informal settlements, neglected city centres and other areas requiring such processes; and
(e) the facilitation of land development through the more active participation of the municipality in the land development process, especially through public-private partnerships.

Land use management and land development are relevant because informal trading areas must be allocated, demarcated and managed. It must also be possible to change the use of land in order to accommodate informal trading areas. This will have to take place primarily during the process of township establishment. However, land previously zoned for something other than for informal trade may be rezoned to be used as informal trading. Procedures to change the use of land are contained in the Town-planning and Townships Ordinance 15 of 1986, the Gauteng Removal of Restrictions Act 3 of 1996 or in terms of a court order.

11.4 INTEGRATED DEVELOPMENT PLAN (IDP) OF A MUNICIPALITY

The Local Government: Municipal Systems Act 32 of 2000 provides that the core components of an IDP include the municipal council's vision for the long term development of the municipality, operational strategies, and a Spatial Development Framework (SDF) which must include the provision of basic guidelines for a land use management system for the municipality.

One of the components of an IDP is a Spatial Development Framework (SDF).

The Regional Spatial Development Framework (RSDF) for all the areas of Johannesburg indicates that the SDF guides and informs all decisions of the municipality relating to the use, development and planning of land. The SDF must guide and inform:

- directions of growth
- major movement routes
- special development areas
- conservation of the built and natural environment
- areas of particular types of land use
- areas of intensity of land use.

The Spatial Development Framework has four components:

- policy for land use and development
- guidelines for land use management
- a capital expenditure framework showing where the municipality intends spending its capital budget
- a strategic environmental assessment.

The City of Johannesburg SDF (ie Regional Spatial Development Framework, Administrative Region 8) indicates, for example, under Development Objective 2 ‘to reinstate and develop Joubert Park as a functional open space’ and that one of the interventions is to contain informal trade by prohibiting informal trade outside formalised markets and to enforce or apply the Informal Trade Management Strategy (RSDF p 58). The SDF determines how and where people trade.

An indication must be provided in the SDF as to existing areas for trade and which new areas are to be identified. The basis of this principle is zoning.

11.4.1 City of Tshwane Integrated Development Plan (IDP)

Section 32 of the Local Government: Municipal Systems Act 32 of 2000 provides that the IDP must contain the municipal council's vision for the long-term development of the municipality. In terms of the IDP Tshwane must be 'the leading international African capital city of excellence that empowers the community to prosper in a safe and health environment' (Draft Tshwane IDP Revision, cycle 2, 2004:p 30).

The IDP (p 85) indicates that there are 350 000 unemployed people in Tshwane and summarises the strategy to address this problem as:

- the retention of business, about which not much is being done
- growing of existing businesses
- the best opportunity to increase employment lies in encouraging expansion.
- attraction and development of new businesses.

The IDP deals only with small and medium enterprise development and the need for training, advice, access to finance and opportunities to network. The IDP seems to be silent on informal trading.

11.4.2 City of Tshwane Spatial Development Framework (SDF)

The recently completed SDF for Tshwane establishes a geographic or spatial context regarding the form, structure and location of future development. This macroframework does not address detailed aspects of informal trading development but provides some guidelines to be considered. For example, the SDF document states that Tshwane has to pay attention to the development of small, medium and microenterprises (SMMEs) and pursue other strategies aimed at the creation of economic opportunities for the majority of its residents (p 31). In order to trigger, ensure or attract appropriate economic development, Tshwane, should inter alia:

- Address its present spatial inefficiencies, such as urban sprawl, low densities and uneven distribution of infrastructure; and
- Ensure sufficient, well located and meaningfully inter-related parcels of land needed for such economic development.

In addition, the SDF identifies various urban core areas that are defined as activity nodes of metropolitan significance aimed at providing economic, social and residential opportunities. Several of these high priority areas correlate with the designated areas of this study, implying that the SDF would promote the development of these areas. For example, the following urban areas are relevant for informal trading:

- Pretoria inner city
- The area around the Pretoria North business area and station
- The area around Eersterust station
- The area around Saulsville station
- The area around Klip-Kruisfontein station
- The area around Mabopane station
- The area around Hammanskraal station

The precinct plans envisaged for the above areas should prominently cater for informal trading activities, especially with regard to infrastructure, services and superstructures (shelters).

11.5 TRADING AREAS

11.5.1 Classification of trading areas

In most cities informal traders may trade in a variety of different areas, for example:

- on the street/kerbside
- in pedestrian malls
- at designated trading areas,

- at appropriate markets (flea and craft markets as well as special markets, eg sector based)
- in public open spaces
- at markets (in dedicated trading streets),
- at transport interchanges
- in flexible market structures built at key transport nodes
- in designated trading bays located along major pedestrian traffic routes
- at intersections
- at special events
- or they may be mobile/roving traders, operating from caravans or bakkies.

There is considerable difference of opinion as to which option is best for both traders and the municipality and there are advantages and disadadvantages to each option. At the one end of the spectrum is a site at a trading market where a fee is paid, there is security of tenure and there are services and infrastructure while at the other end of the spectrum there is street trading where there are no services, no fee is paid, there is no security of tenure, no shelter, no infrastructure.

The current situation in the major South African cities namely Cape Town, Johannesburg and Durban is sketched against this background.

11.5.1.1 *Public versus private property*

The City of Cape Town policy specifically excludes trading activities on private property and only the regulation of trading activities taking place on publicly-owned property is addressed.

Similarly, in Johannesburg only trading on public property is regulated.

In Durban the point of departure is that with the growing importance of home-based and outdoor informal work, and changes in the use of public and private space, municipalities must revise their role and responsibilities. In this context its policy includes home-based workers. This is possibly too wide.

11.5.1.2 *Allocation of trading areas*

The City of Cape Town has guidelines according to which the allocation of trading areas in the city must take place. Trading must occur in uniform structures, the design of which is determined from time to time. These areas are in pedestrian malls, in designated trading areas, at appropriate markets, in dedicated trading streets, designated trading bays located along major pedestrian traffic routes, open trading areas and flexible market structures built at key transport nodes.

Both the Durban and the Cape Town allocations policies are indicated to be central to the entire policy for the informal economy as it is the lever through which municipalities can steer management and support of the informal trading sector. The aim of the allocations policy is to support growth and provide opportunities for new entrants in an economically sustainable and socially useful way. It can be a powerful tool for job creation and for the inclusion of formerly marginalised people.

Specific criteria must be set for the allocation of trading bays and the allocation of permits (see also 11.7 below). These criteria must be negotiated with all stakeholders.

11.5.1.3 *Establishment of markets*

An informal trading market refers to a specific group of traders, operating in a defined or enclosed space, who are engaged in the exchange of goods and operate under a single set of rules.

The issue of the establishment of markets is not without criticism especially from some of the informal traders themselves. However, there are many traders who welcome the idea of markets.

The City of Johannesburg is in the process of removing informal traders from the streets and moving them into markets. Markets are now being provided and it is hoped that as more markets are completed informal traders will be encouraged to move there. Recently several informal markets were opened in Yeoville, Hillbrow, Rosebank, Mai Mai, Faraday, the Metro Mall in Newtown and the city centre. It is foreseen that markets will, in the longer term, provide a better situation for informal traders. The idea is to put markets where the people are and the Informal Traders Forum (ITF) assists council in deciding where to put markets.

In Johannesburg the job of establishing the markets is in the hands of the Metropolitan Trading Company (Pty) Ltd (MTC), a council company responsible for the establishment and maintenance of facilities for informal traders and taxis. The MTC has an Informal Trading Markets Programme in terms of which access to a formal trading environment is facilitated.

In Cape Town, formal markets are but one of a number of options. An informal trader will have to tender for the allocation of a site in a formal market. The allocation will be granted for a certain period of time against payment of a rental, a management contract to manage aspects of storage, cleansing and security.

In Durban, a mix of street trading sites and built markets is part of the strategy of creating different opportunities. However, the policy stresses that more built markets should be encouraged, especially in the formerly underdeveloped residential areas, where the planning for markets should relate to the supply coming from home-based work.

The approach of Johannesburg, Durban and Cape Town is more in the direction of the establishment of informal trade markets and away from other categories of informal trade.

11.5.1.4 *Grading of markets*

In Johannesburg, markets are graded on the basis of the provision of different services and infrastructure. This system allows traders to graduate from lower to higher grade market types so that in 15 years' time only grade A and B will exist (see table 6).

The type A markets are those that are well-equipped, with electricity, water and fixed structures. They are usually established where there is heavy pedestrian traffic, for example the Metro Mall in Johannesburg where more than 100 000 people pass through daily. These markets provide all the advantages of a formal retail outlet, but at a more affordable price and with facilities appropriate to the purchasing patterns and choices of their main consumers. This market is regulated through the issuing of permits and licences.

The type B markets include traders whose businesses, while not lucrative, are still reasonably viable. These markets have awnings and shelters, but not brick structures. An example is the Hillbrow Market.

Category C markets are linear markets that have a good basic structure on which traders can place their goods. These markets operate from business nodes, mostly along streets.

Category D markets are those merely demarcated with a painted outline to indicate trading spaces and have no physical features.

TABLE 6

CATEGORIES OF INFORMAL TRADING MARKETS IN JOHANNESBURG

Facilities	**Grade A**	**Grade B**	**Grade C**	**Grade D**
Discrete location	X	X	X	
Permanent structure	X	X		
Electricity	X			
Storage	X	X	X	
Security	X			
Refuse removal	X	X	X	X
Cleaning service	X			
Development programme	X	X	X	

11.5.1.5 *Individual fixed trading sites*

In terms of the Cape Town policy a permit may be obtained for an individual fixed trading site against payment of a fee.

11.5.1.6 *Mobile/roving trading*

In terms of its policy, Cape Town approves a maximum number of mobile/roving trading permits in a certain zone to be issued against payment.

In Durban, mobile traders are restricted and regulated in the same way as people with fixed sites.

11.5.1.7 *Street trading*

Street trading does not operate from a geographically defined area and is not governed by a single set of rules. There is usually less of a sense of community amongst street traders than there is amongst market traders.

On the streets the infrastructure is poor and informal traders have no security of tenure.

11.5.1.8 *Intersection trading*

The Cape Town policy provides that a fixed number of traders are permitted at intersections. Permits are granted to trade at an intersection and a permit fee is payable. Any trading in the vicinity of intersections should not obstruct vehicular or other traffic.

In Durban, the only traders who may operate at traffic intersections are newspaper vendors, and only because of the long historical precedent.

11.5.1.9 *Special events*

Special events include sports fixtures, night markets and other events. These events are temporary by nature and circumscribed by the type of event and its location. Approval must be obtained from the municipality, subject to such conditions as might be imposed.

11.5.1.10 *Different character of different trading areas*

In Durban, the character of informal trading in different areas of the city differs. Trading along the beach tourist area is stringently controlled in terms of the numbers that are allowed to trade there and the goods that may be sold whereas in other areas, such as Warwick Avenue, a great diversity of goods may be sold.

Informal trading areas may be restricted of the sale of certain types of goods, for example, only clothes, food, vegetables or herbs.

11.6 SUMMARY AND CONCLUSION

Informal trading can take place in a variety of different ways and impacts differently on different areas. It must be accepted that areas where informal trading takes place are part and parcel of the urban fabric, whether the informal trade takes place in a market, at a taxi or bus rank or at an intersection. These areas must be demarcated, allocated and managed on a similar basis to any other area, for example a residential, business or open-space area.

The spatial regulation of land use takes place within a formal system where there is an IDP, which contains, inter alia, and SDF. The SDF must include basic guidelines for a land-use management system for the municipality.

The land–use management or town-planning scheme must take into account the specific uses to which land is put, so that the municipality is in a position where the proper planning of infrastructure and services can take place.

Land-use planning has a specific purpose and it must take account of principles of zoning. Within this context planning areas must define where markets may be established, where kerbside trading is permitted, where trading at taxi ranks and bus stops may take place, at which intersections trading is allowed, et cetera. All these trading areas impact on the spatial plan of the city. In the context of the city of today, informal trading areas must be recognized as such and a determination of where these markets and trading areas are situated must be made.

12. ECONOMIC SUPPORT TO THE INFORMAL TRADING SECTOR

12.1 INTRODUCTION

Entrepreneurial conduct holds the key to wealth creation. Growth in the USA during the past 30 years, for example, is largely ascribed to entrepreneurial initiative resulting in the establishment of businesses and especially the dynamic growth of existing businesses.

The ingredients of the entrepreneurship factor are difficult to pinpoint but the outcome of an entrepreneurial spirit can, however, be measured. One of the ways in which entrepreneurship is measured, is by calculating the Total Entrepreneurial Activity (TEA) index. This index measures the proportion of adults between 18 and 64 years who are either actively involved in starting a business or are owner-managers of a business that is less than three-and-a-half years old. The average TEA index for 2001 and 2002 is 13,1 % for developing countries and 8,2 % for all countries. Entrepreneurial activity is thus higher in developing countries than in developed countries. The statistic that is more startling, from a South African perspective, is that the TEA index for South Africa over the same period is only 6,5 % compared to the 13,1 % for all developing countries. (Global Entrepreneurship Monitor.)

The number of new businesses established is closely related to the entrepreneurial spirit of the community. Potential entrepreneurs are challenged to look for new business opportunities and to do the associated planning and management needed to utilise an identified opportunity.

This general trend is further confirmed if the TEA index is disaggregated by age of the firm. The indices for start-ups (below three months), for new firms (between three and 42 months) and for established firms in South Africa are all below those for developing countries. The TEA indices in the three categories are 57 %, 31 % and 30 % respectively of the average in developing countries.

The rate at which new owners/managers enter the SMME sector is therefore also problematic. The situation points to a need for a concerted policy initiative to promote an entrepreneurial spirit. The importance of the role of entrepreneurs in society and ways in which one can become an entrepreneur needs to be stressed. It need to be emphasised that although the established professions provide good employment prospects, the rewards of a successful business venture can be equal to or even more rewarding. Role models can play an important part. Training to provide the basic economic and business skills at school level can provide an important nurturing role. Considerable emphasis should be placed on this aspect. Programmes to generate a probusiness culture are, however, a long-term measure and general positive results cannot be expected over the short term.

12.2 BUSINESS FOCUS OF AN INFORMAL TRADE POLICY

Informal traders show the following continuum or levels:

The SMME sector is not homogeneous and consists of various subcategories, each with different characteristics and objectives. Accordingly, the conditions each subcategory face are not necessarily similar. Success factors differ markedly between the upper end of the spectrum, namely successful growing businesses, and those at the other end of the spectrum, namely those that are stagnant or slow growers as well as firms fighting for survival. In designing support strategies for the SMME sector, this heterogeneity should be considered to accommodate the differences in support strategies.

- Level 1: Survivalist traders that make insufficient income to sustain the trader and family on a minimum living level (the MLL for Tshwane amounted to R2 050 per month in 2003)

- Level 2: Survivalist traders that make sufficient profit to sustain the trader and family on a MLL
- Level 3: Informal traders that make profit marginally exceeding the personal and family needs of the trader
- Level 4: Formal traders that have a fixed location and are operating a formal business that complies with regulations such as VAT payments and labour law regulations.

As indicated in section 5, the survey in the 20 designated areas cannot necessarily be regarded as representative, but gives a broad indication of the level at which the businesses operate. On an assumption of a 25 % profit margin the following emerges:

- Three in every four businesses (78 %) fall within business level 1, making a profit of less than R2 000 per month, which represents an income lower than the MLL income needed to sustain a household in Pretoria.
- One in every ten businesses (11 %) generates a profit more or less equal to the MLL income, falling within business level 2 where sufficient income is generated to address minimum household needs.
- One in every ten businesses (11 %) falls within level 3, generating a profit marginally above minimum household needs.

This implies that eight in every ten businesses generate insufficient income to support owners' households on a minimum living level.

In addition, more than half the respondents have been in operation for more than five years, confirming a limited trading-up of businesses to more formal structures.

The above suggests that the normal development continuum of:

Kerbside → Informal → Formal business

does not emerge strongly among the businesses located in the designated areas.

It seems, therefore, that the policy framework for businesses located in the identified areas should provide for business types that show limited dynamism and hence entrepreneurial spirit. Appropriate support measures may, therefore, ease the trading environment of informal traders without necessarily resulting in substantial trading or conversion to formal businesses. It also implies a lack of resources to pay for services and facilities provided to them. It seems therefore that the provision of facilities and services to the majority of informal traders should largely be regarded as a social welfare action or at least a soft option (see section 5 for the financing implications of this perspective).

12.3 STRATEGIES TO ASSIST SMEs

The evaluation of existing policy measures will be indirectly. The various individual policy measures will not be discussed or analysed. Its effectiveness will be assessed by measuring the visibility of the various policy measures in the SME subsector.

12.3.1 Public sector

The approach initiated in the White Paper on Small Business Development, was to establish an enabling environment for growth. Accordingly most of the efforts by the authorities are concentrated on the supply side of the market. Small business development is the responsibility of the Department of Trade and Industry (DTI). Two agencies were established to implement policy initiatives.

The Ntsika Enterprise Promotion Agency was created to provide nonfinancial business support in selected activities. Examples of aspects that are addressed by the agency are market access, business linkages, targeted assistance, management and entrepreneur development and business development services. Khula Enterprise Finance Ltd, the second agency, was created with the purpose of increasing the access of small businesses to sources of finance and to provide financial assistance to SMEs via financial intermediaries.

On the basis of the results so far, it would appear that these initiatives cannot be described as a complete success. This is particularly true for the programmes aimed at the lower end of the market. The programmes generally have a low visibility level. For instance, in a number of surveys it was found that the awareness of government programmes is very low. The percentage of firms aware of the various programmes in the Johannesburg Metropolitan Area was below 14 % with regard to all programmes. In a 2001 survey in Tshwane, the awareness was even lower and only 2,6 % of the firms indicated some support from government. Part of the low visibility can be ascribed to a lack of capacity on the part of the agencies implementing the programmes.

Positive policy measures, such as favourable treatment in tendering for government contracts in order to target small firms in the previously disadvantaged category, have been implemented. The percentage of firms applying for government contracts is small and the number of successful applications is only a small percentage of the total number of applications received. One reason for the low response is the complicated tendering procedures used by the authorities. Businesses in the informal retail sector very seldom provide products and services suitable for government tenders.

It would seem that the assistance expected by the owners/managers is modest. Previous surveys found that the government's major contribution could be in creating conditions for providing lower interest rates and macroeconomic policy stability and in giving priority status to good education and business training.

As indicated, the above initiatives by Government largely favour the more developed segement of SMEs. Informal traders largely fall outside the scope of the above programmes. Only Khula Start Programmes, aimed at supporting the bottom end of the market, may reach the smaller enterprises. However, the success rate of this programme is not encouraging. Knowledge of this programme is also very limited among informal traders.

12.3.2 **Private sector**

The contribution of large firms can be enormous in fostering a culture of small business participation. The results-oriented approach of large firms necessitates more targeted programmes and thus increases the probability of success. Opportunities for small businesses are identified by the larger firms in collaboration with prospective entrepreneurs. Such opportunities arise mainly from a definite effort to establish businesses that fit in with the larger firms by providing possibilities for subcontracting and outsourcing. Large firms see this as part of their social responsibility to assist in the development of previously disadvantaged persons.

Although the initial impetus may be social responsibility, the initiative must be based on sound business principles to benefit both the small and large firms. The chances of success are also greatly increased since the initiating firm provides a steady source of demand, financing and skills transfer. A number of successful programmes have been established by large firms. Some innovative programmes have been launched by big business projects undertaken by Anglo/De Beers, Xerox, South African Breweries, Barlows and the NAFCOC initiative. It is generally felt that big business has a critical role to play in forging links with small business but that such linkages are as yet underdeveloped. Reasons given by business for not being more vigorous include the degree of risk associated with outsourcing and subcontracting. Many SMEs have a limited track record. The performance-driven middle management of large firms tends to underestimate the high learning curve of new small firms.

The percentage of small firms to which large firms outsource activities is thus still fairly low. A large survey in the Johannesburg Metropolitan Area found that the percentages of small firms involved in outsourced tasks are 6,9 % for production, 3,8 % for maintenance and repair, 3,0 % for administration, 2,9 % for training, 2,0 % for transport and 1,5 % for marketing. On the basis of these statistics, it appears that there is considerable scope for expansion with regard to outsourcing.

As with government programmes, private sector initiatives such as outsourcing and subcontracting would, in all probability, not reach the focus group of this study where more than half of the informal traders sell fruit and vegetables, clothing and cooldrinks and sweets at large transport junctions such as train stations and taxi ranks. However, previous studies in the informal sector confirm important linkages between formal and informal businesses in the form of product deliveries, promotion sales and even the availability of wholesale credit. These linkages contribute considerably to the survival potential of informal traders.

12.4 THE FALLACY OF FINANCE

Part of the conventional wisdom that guides government policy on entrepreneurship in South Africa is to identify the lack of access to finance as the principal impediment to the small enterprise economy. Aspirant entrepreneurs often see this as the most visible constraint. However, research increasingly finds that new entrants frequently erroneously blame the lack of finance for the failure or stagnation of their businesses. A report by the Centre for Development and Enterprise (CDE) stated that it is necessary to distinguish between cause and effect in this issue, to be aware of constraints other than access to finance, and to consider the collateral dangers of ‘soft’ access to finance.

Survey findings indicate that the majority of retailers in South Africa sourced their start-up capital requirements from their own private savings or other household members. In a recent survey among informal retailers in South Africa private savings constituted 85 % of hawkers and 80 % of spaza capital needs.

The question that arises from these findings is whether the limited use of external capital arises from a lack of access to external capital resources or whether it is purely a matter of not needing debt capital for starting a business. In a survey among small and medium enterprises (SMEs) in Johannesburg in 1999, the World Bank concluded as follows with regard to access to capital markets: ‘The majority of firms that do not use bank finances are not necessarily limited by lack of access to capital. On average, poor business conditions that preempt the need for capital investment seem to be a far more critical explanation than limited access to capital markets.' Although a GEM (2003:5) survey among entrepreneurs in South Africa also reported that a lack of financial support is widely viewed as one of the main problems facing entrepreneurs in South Africa, a thorough cross-country analysis shows that:

- Compared to other countries, South Africa does not stand out as having a financial system that is reluctant to support entrepreneurs.
- Internationally, formal financial institutions appear to provide funding to a small minority of entrepreneurs. The entrepreneurs' savings and their ability to access informal investment from friends, family and colleagues appear to be far more important sources of start-up finance.

A releasing of the 'credit bottleneck' may well bring to the fore other problems not previously identified which have nothing to do with access to finance. It is also worth noting the distinction between access to finance at prevailing market rates of interest and access to subsidised or soft loans. Subsidised rates may be part of the answer to the problems of very poor retailers who can become impoverished by debt, but they do not adequately prepare those aspirant entrepreneurs for the financial discipline that will be required after the start-up phase. Subsidised interest as well as financing policies that require minimal security and collateral pose particular risks in the development of careers in small business. Overall, the key finding of local and international research in this area is that personal and family savings as well as non-formal sources of credit are the keys to entrepreneurial success.

The Centre for Development and Enterprise (CDE) suggests that the recognition of the shortcomings in policies that emphasise credit to the detriment of other support invites consideration of three broad areas in which South African policies might learn from international research and experience. The first involves nonfinancial support services or business development services, which are back on the international 'credit-plus' policy agenda. Such services typically include training, technology development, business linkages, and information. However, the mode of delivery of these services is shifting from the supply-side provision of generic, standardised packages towards a more market-led or demand-driven approach. The second involves government facilitation of a hospitable environment for entrepreneurs. The third explores the possibilities of informal, self-sufficient financing. It is to the last of these that we turn first.

12.5 POLICY GUIDELINES

On the basis of international experiences of the role of small business in creating employment and economic growth, the Tshwane policy makers are justified in placing emphasis on this sector. The fact that expectations are not yet realised cannot be ascribed only to lack of capacity or an inappropriate policy mix. This state of affairs points towards the fact that such development requires a longer term to be realised. Quick results on issues such as low entrepreneurial spirit, relevant business training, even at school level, and a lack of good education are not realistic.

A targeted approach focusing specifically on the needs of the business population under consideration is required. Support programmes aimed at correcting the root causes of informality such as easing heavy tax burdens and complex regulatory systems, would not be appropriate for supporting hawkers at train stations and taxi ranks. Their informality originates from other causes. Poverty and unemployment compel people to survive through buying and selling merchandise, which does not necessarily imply the existence of entrepreneurial ability.

12.5.1 Institutional support

StreetNet International is an alliance of street vendors, which was established in Durban in 2002. Membership-based organisations, which directly organise informal traders, can affiliate to StreetNet International. The aim of StreetNet is to promote the exchange of information and ideas on critical issues facing informal traders and on practical organising and advocacy strategies.

The African Council of Hawkers and Informal Business (ACHIB) was formed to support the sector. ACHIB is one of the industry sectors of the National African Federated Chamber of Commerce and Industry (NAFCOC).

A Gauteng Hawkers Association has been established in Gauteng and in Johannesburg the Informal Traders Forum (ITF) works with council.

The Self-Employed Women's Union is a trade union organising in the informal sector. Self-employed workers welcome the opportunity to be recognised as workers and to join a trade union.

At present, national government support for informal trade is inadequate. The Department of Trade and Industry acknowledges its overall lack of success in supporting SMMEs, and especially poorer ones. The programmes of Ntsika and Khula do not really address the needs of small informal traders.

Local government must be proactive and must provide a referral service to informal economy workers, identify gaps in support, fund appropriate projects, et cetera.

12.5.2 Educational support

The importance of training and skills transfer should not be underestimated. Stress should be placed on negotiating skills, entrepreneurial skills, training for municipal officials and training for trade unions. Training in basic legal procedures and applicable legislation also deserves attention.

In Johannesburg, there are two organisations that have been established to promote entrepreneurship and job creation. These are the Open for Business Centres and the SMME Development Unit. The Open for Business Centres are the result of a joint venture launched in 1995 between the Department of Education and the Atlantic Canadian Opportunities Agency. Their objective is to provide informal traders with an understanding of the basics of business practices. The SMME Development Unit is based at Technikon South Africa, now part of the University of South Africa.

Also in Johannesburg, the Metropolitan Trading Company runs the Informal Trading Markets Programme. The plan is to provide informal traders with access to a formal trading environment.

CIDA City Campus is training informal traders in Johannesburg in basic financial literacy and entrepreneurship, while the Center for International Private Enterprise (CIPE) works with ACHIB to provide basic business skills in certain areas.

In Cape Town, the policy distinguishes between ‘emerging/stable’ and ‘survivalist/necessity’ entrepreneurs in informal trading. The policy recognises that business support of these categories include financial support, business management advice and skills, the identification of market opportunities and the provision of technical skills. Cape Town includes in its support the so-called generic business services, which may include business literacy skills and training development, the provision of advice, information and business counselling, the provision or management or appropriate technical training including financial management and the provision of marketing and market development services.

12.5.3 Public/private partnerships

In Johannesburg, a number of NGOs are involved in informal trading matters, from education, to regeneration programmes.

Computer Foundation works with the Johannesburg City Council to analyse the activities of informal traders.

Telkom and the African Council of Hawkers and Informal Business (ACHIB) have signed a partnership in terms of which ACHIB members manage payphones in their spaza shops and salons and distributing Telkom phonecards and PrepaidFone vouchers.

The Center for International Private Enterprise (CIPE) works with ACHIB to provide basic business skills in certain areas.

CIDA City Campus works in conjunction with First National Bank to train informal traders in Johannesburg.

12.5.4 Pilot projects

Durban has supported innovative pilot programmes in urban renewal. The Urban Renewal Programme (URP) is targeted at increasing market opportunities for informal traders in an area of the Central Business District. Several projects were initiated as part of the URP.

The advantage of implementing pilot projects is that the developmental aspects of an informal trading policy can be implemented, public perceptions can be monitored, ongoing research can be done and the implementation of by-laws monitored. One can learn from pilot projects and implement experience elsewhere.

12.6 SUMMARY

The discussion in section 12.2 suggests that the overwhelming majority of the businesses in the 20 designated areas can be typified as survivalist with limited entrepreneurial acumen. Their involvement as informal traders largely originates from poverty and unemployment and not as a result of seizing business opportunities.

This perspective on the business characteristics of the majority of the study population necessitates a targeted approach that directly addresses the needs of the informal traders. The most prominent needs expressed by informal traders in the 20 selected areas were some form of shelter/storage facility and services such as electricity and water. The amount available for payment for such facilities and services is extremely limited, given the small turnover of the businesses. The majority would not be in a position to defray any costs involved in supplying facilities and/or services to them.

The provision of such facilities and services to informal traders should be seen as a social welfare function, in the sense that no or only a limited payment, compared to the cost to Tshwane, may be forthcoming from the traders. (Reluctance to pay service fees is experienced by other metropolitan municipalities in South Africa.) The social welfare and soft options as discussed in section 5 should be considered.

The social welfare perspective on supporting informal traders at the bottom end of the business continuum may suggest grounds for recovering this type of expenditure from the central government. If not, this expenditure will have to be cross-subsidised from other city income sources. The question to be asked is: Should it be the responsibility of a local authority to provide fully or partially subsidised services such as water, electricity and shelters to survivalist traders or should such expenditure be recovered from central government services?

On the provision of management and financial support services to improve the level of business management among informal traders, the following conclusion seems relevant. The provision of support services such as training, technology development, business linkages, business management advice and the identification of market opportunities is, in principle, not the responsibility of local authorities. Central government has established institutions such as Khula and Ntsika to fulfil this responsibility (albeit not very effective at this stage). These activities can be supplemented by the creation of linkages between formal and informal sectors, public/private sector partnerships and NGOs. The establishment of 'information links' at informal markets can serve as a source for providing information on support services available to informal traders.

However, it is also important to mention that a portion (approximately 10 %) of informal traders show an income level marginally above business and household needs and may therefore be described as more successful and dynamic informal traders that may convert to a more formal status and/or larger employment. The availability of financial and nonfinancial support such as training and counselling should also be available to promote further growth and development in this business category.

In putting together support programmes along the above lines, both with regard to infrastructure and service (eg water and electricity) as well as business development services (eg business literacy skills, training advice and business counselling), the design of pilot projects should be considered. Nobody has final answers on the exact composition of the programmes, the mix of various ingredients, possible public perceptions, market reactions and the possible impact on the behaviour of informal traders. For example, would the levy of a small service charge on informal traders result in such an increase in product prices that new informal traders establish a new informal market across the street and start operating there without any service or infrastructure but at lower product prices?

By utilising, for example, sources from the Municipal Infrastructure Programme, a comprehensive pilot project can be designed for, for example, Marabastad or Mabopane station, which can be used as a case study to ultimately design the most appropriate development programme for uplifting or sustaining informal traders in general.

13. MANAGING INFORMAL TRADE IN TSHWANE

13.1 MANAGEMENT STRUCTURE

An administrative structure to manage informal trading is necessary. It is important to have representation of stakeholders on the management.

In the Durban policy, the principle is area-based management. In terms of this principle, management zones are determined to promote orderly planning and development. Within management zones, trading in certain places can be prohibited, for example, around historic buildings. Within the area management zone, a local/area team is responsible for management.

In Johannesburg, the Informal Trading Task Team must manage informal trading.

In Cape Town, the principle on which the management of trading areas is based is that ‘different situations require different models and different relationships, depending on the characteristics of the market or informal trading areas’. Management of the formal market sites is granted on a tender basis and outsourced by the municipality. Permits are granted for fixed trading sites, mobile trading and intersection trading, with a fixed number of traders per intersection.

13.2 REPRESENTATION ON THE MANAGEMENT STRUCTURE

The participation of informal traders in the management of informal trade in a city is accepted as being desirable. The form of the participation must be determined in consultation with all concerned. Representative bodies, coordinating committees, et cetera may be formed (see also section 13.6 below). There should not be too many representative bodies. In Johannesburg, for example, consolidation of various bodies into the Informal Business Forum was welcomed.

13.3 INTEGRATED MANAGEMENT AND PLANNING

Informal trading is not merely the responsibility of one department of the municipality. Many departments are involved, for example Local Economic Development, Metro Police, Safety and Security, Environmental Health, Health, Legal Services, Land-use Planning and Sanitation. Interdepartmental technical task teams should be involved in issues relating to informal trade.

On the other hand, Durban is the only city in the country to have a department managing informal trading.

Cape Town’s policy stresses integrated service delivery consisting of three portfolios, namely utilities, services and cleansing; economic development and planning; and community services.

In addition to Tshwane Metro's involvement in managing informal trade, a large number of external institutions are also involved as service providers. These include the DTI, Khula, Ntsika, welfare departments and NGOs. These institutions should also be involved in and 'Informal Sector Coordinating Committee' to ensure a comprehensive support programme.

13.4 OVERTRADING

A problem that is endemic of informal trading is often the numbers of informal traders. Very few can be accommodated in markets and the informal sector cannot accommodate all the subsistence traders.

The City of Johannesburg hopes that in overhauling the sector in the long term, the subsistence traders will disappear from the sector and be absorbed into the burgeoning economy as employees in the formal sector. It is probably futile to hope that the informal sector (even in its current format) would be fully absorbed in future.

There must be a limit to the number of traders the streets can accommodate. As far back as 1993 the Johannesburg Chamber of Business noted that a package of welfare-type assistance measures might be a more cost-effective way of reinforcing the safety net function which is currently being fulfilled by street trading activities.

13.5 REGISTRATION

In Durban Unicity, management zones are set up and informal traders registered. The idea is that once people are registered as legitimate traders, their rights and obligations can be negotiated. Once people are registered they have permission to operate and have access to services and support. Registration is seen as the granting of the right to work, a right accompanied by responsibilities.

The registration system can form the basis of an information system, which can assist with management functions, can link traders and locations and facilitate the enforcement function.

The Cape Town policy indicates that one of the policy goals is the registration of all informal traders and the sustained payment of rentals. This action gives permission to operate and provides access to services and support. Data on registration will link where traders are, the sectors they work in, rent-paying status, environmental health and the enforcement function.

In Johannesburg a database of all informal traders is being developed.

13.6 PUBLIC PARTICIPATION

An informal trading policy must improve community involvement. Public participation is part and parcel of any land-use planning system and the public must be involved in all stages of the planning process. The Promotion of Administrative Justice Act 3 of 2000 also stresses public participation by providing for procedures whereby the public and individuals are given ample opportunity to make inputs in decision-making.

Public participation is the term used to refer to a broad range of activities, from informal communication, to consultation, to representation on coordinating committees and possibly even trade unions.

Public participation is an iterative, on-going communication process between an informed public and the professional team concerning the conceptualisation, development, assessment and decision-making of alternative proposals, which affect the environment. This requires a commitment by the participants (that is public, professional team and decision-making authorities) to adhere to the agreed upon proposals and the outcome of these proposals.

The most important means of establishing public participation is through legislation. In South Africa most legislation relating to planning and environmental matters contains provisions for public participation.

Chapter 4 of the Local Government: Municipal Systems Act 32 of 2000 is devoted to the issue of community participation in municipal government. One of the major proposals is that municipal councils must establish appropriate mechanisms, processes and procedures for residents, communities and community organisations to participate in municipal affairs. Every municipality is entrusted with developing a culture of municipal governance (section 16) and municipalities must create appropriate structures, mechanisms, processes and procedures for public participation (section 17). Against that background the municipality must provide the necessary atmosphere for communities to participate in establishing and developing an informal trading policy.

The Promotion of Administrative Justice Act 3 of 2000 also stresses public participation, especially in section 4, which contains procedures for administrative justice affecting the public. In any decision-making situation an administrator will have to determine fair and just procedures to comply with the constitutional directives.

Consultation and participation by individuals and local communities has become a hallmark of our land-use planning system.

In Johannesburg market committees were set up in Yeoville and Hillbrow to involve traders in running the markets. Each market has house rules, which govern the behaviour of all parties, and there are grievance procedures for aggrieved parties to follow. Representatives from the council and the traders toured the inner city to look at possible spots to locate street markets.

The City of Johannesburg also has an Informal Traders Forum (ITF) which meets once a month where informal traders and the city engage on issues affecting the sector. The ITF is a body representing council and various informal traders' associations. In Johannesburg, the Forum works with council to identify suitable areas for markets.

The voices of informal traders need to be heard and means for communication need to be devised. Channels can be created for representation through organisations and associations.

The different levels within the municipality must provide for inputs from informal traders at each level. Possibilities must created from street level, to market level, to ward committee level and to departmental level where people can make their inputs.

While laws and policies stress the importance of consultation and discussion in the management of informal trading, the mechanisms to ensure that this happens are often absent.

13.7 SERVICES AND INFRASTRUCTURE FOR INFORMAL TRADERS

The provision of infrastructure for informal traders is related to the establishment of markets. In Johannesburg, the view is that it is necessary to improve the infrastructure available to the sellers, especially those selling food. Preparing foods can pose serious health hazards.

As far as infrastructure is concerned, the issue is what extent of infrastructure should be provided. Infrastructure can include the provision of:

- some type of structure
- water
- waste disposal
- cleaning services
- sewage services
- electricity
- security services
- storage facilities, both bulk and cold storage

In this regard, a variety of factors play a role, namely the type of market, the type of goods sold (eg food), whether rental is paid, et cetera.

Cape Town views the informal trading sector as requiring basic economic infrastructure and municipal services as well as so-called generic business services. The city must make provision for cleansing, security and maintenance.

Further services may include the provision of trading areas and facilities and the management thereof, the provision of electricity, cleaning services, water and sewage. The generic business services may include business literacy skills and training development, the provision of advice, information and business counselling, the provision or management or appropriate technical training including financial management, the provision of marketing and market development services.

The idea of different facilities in different areas and serving different types of informal trading should form the point of departure.

13.8 RENTAL LEVIES

The issue of the payment of rental or levies must be carefully addressed. Once again the type of market/trader will determine the amount of the levy/rental.

In the Durban policy, in the same way as a value is placed on built property depending on where it is located, a value is placed on a trading site, such as a pavement trading site. A system of differentiated rentals is applied, to cover street vendors, itinerant vendors and people trading in built markets. Rentals are based on location and level of services provided. At present the rental for street vendors who have a fixed site is R35,00 per month.

In Johannesburg, informal traders pay various levies – at the Metro Mall open stalls with a roof covering the rentals vary from R75,00 to R210,00 per month; semi-closed stalls with steel gates from R350,00 to R650,00 per month; and shop/kitchen stalls from R 400,00 to R 800,00 per month, depending on services and facilities available. Rent at Yeoville market is R 2,75 per day. This money is used for the maintenance of the markets.

In Cape Town, the policy determines that rentals are linked to the site size, desirability of location and the level of services provided. A problem occuring in most centres is that of non-payment of rental or levies. On the one hand it is often difficult to collect rents, but on the other hand many informal traders question the payment of a rental or a levy. Seen in the context of the provision of services and infrastructure some fee should be paid, which is then ploughed back in to the sector. Payment procedures must be simple.

13.9 LEASES/PERMITS

Permits may be required to trade at certain sites.

In Cape Town, different permits are required for the different types of trading areas and the policy indicates the criteria according to which these are obtained. Permits are granted for fixed trading sites, mobile trading and intersection trading, with a fixed number of traders per intersection. Leases may be granted in respect of sites in markets. Certificates or permits should be obtained where people trade in foodstuffs.

13.10 CONCLUSION

From the start of any project or programme there must be some sort of public involvement. Programmes and projects can only work if considered in the context of public participation. In this way informal traders must be involved in policy formulation, they must have an input in the drafting of policies and by-laws, they must be involved in the determination of whether and where to establish markets, whether or not a fee is payable, et cetera.

This will not be an easy task. Informal traders are generally not well organised – hence the name ‘informal’. No ready-made recipe is available for the involvement of informal traders in formulating informal trading policy. Existing structures or the establishment of new structures in each of the markets/areas would ultimately guide the public participation process.

This communication process should be interpreted as an iterative and on-going communication process between all relevant stakeholders, both on the service delivery and service recipient side. Recipients are the informal traders while those who offer services include the Tshwane Metro, Ntsika, Khula, various NGOs, et cetera. All these institutions/stakeholders should serve on a coordinating body to ensure the delivery of a comprehensive support package to informal traders.

In the final analysis an administrative structure to implement and manage informal trading policy should be established. This structure can be centralised or decentralised on a trading area basis. The peculiar circumstances of Tshwane will finally dictate the most appropriate system for it.

14. RECOMMENDATIONS

The main recommendations emanating from this research are that :

(a) An interdepartmental committee be set up to analyse the document.

(b) A committee representing both informal traders and officials from all relevant departments be set up to determine the content of an informal trade policy

(c) Strategic decisions be taken on, inter alia:

- which categories of informal marketing, for example, markets, be supported
- the areas in which informal trading may take place
- whether or not to restrict informal trading to markets
- whether different categories of markets must be established with different services and differentiated rentals
- the type of management structure to be applied
- infrastructure
- services
- whether permits should be required
- payment for facilities and services
- differentiation between social welfare (subsidised) and commercial rates
- whether registration of informal traders should be required

- what type of implementation of recommendations is foreseen
- whether certain pilot projects are envisaged
- business support measures to be introduced
- a structure for managing informal trade

(d) Research be undertaken on issues of uncertainty, for example:

- trading at intersections
- situation of foreign traders
- constitutionality of by-laws
- the role of informal trading in the Regional Spatial Development Framework

(e) A policy be drawn up containing provisions relating to:

- categories of informal trading
- methods of participation by informal traders
- the allocation of trading areas
- registration of informal traders
- proper management structures
- training of both informal traders and officials
- capacity building, particularly in negotiations and conflict resolution skills, for traders, the leaders and officials of organisations, as well as for municipal officials
- training and education opportunities and programmes for both officials and traders
- possibilities for traders to appeal against law enforcement
- procedures for monitoring and evaluation

(f) Accommodation in the Spatial Development Framework to be determined

(g) Specific attention be given to the content of the proposed by-laws

(h) The institution of the by-laws be postponed until a policy is finalised.

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