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INFORMAL TRADING POLICY AND MANAGEMENT FRAMEWORK

PREPARED BY:



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1. INTRODUCTION AND DEFINITION

This chapter seeks to outline the importance of Informal Trading to the City. It is acknowledged that the entrepreneurial contribution to the City by survivalists, crafters, market users, roving traders and the like is indeed significant. The City recognises an opportunity to encourage further new entrepreneurs while simultaneously seeking to offer growth opportunities (through formalisation wherever possible) for existing traders.

For the City, Informal Trading is a positive development in the micro business sector as it contributes to the creation of jobs and has the potential to expand further the City's economic base and to contribute to the creation of a globally competitive world class African city.

By-laws regulating informal trading currently exist in three administrations: Cape Town, South Peninsula and Tygerberg. All three by-laws are essentially the same, being guided by the Businesses Act (No. 71 of 1991) and will be replaced by one City-wide by-law in terms of this Policy.

1.1. INFORMAL ECONOMIC ACTIVITY

“The informal sector includes employees, employers, self-employed people or family business workers who work for private sector enterprises with 20 or less employees and in enterprises that are not registered or incorporated and do not keep a set of accounts separate from the household budget. If respondents were uncertain about the enterprise’s record-keeping, it was classified as informal if it did not make Unemployment Insurance Fund (UIF) deductions and/or the business is located on a footpath street, open space or a market. Statistics South Africa’s October Household Survey 1998/1999 estimates of the informal sector are based on direct questions to the respondents as to whether the enterprise was in the formal or informal sector, based on their knowledge of whether the enterprise was registered.”¹

1.2. INFORMAL TRADING’S CONTRIBUTION TO THE ECONOMY

Informal Street Trading has become a feature of our urban environment in most South African cities, and symbolises the changing nature of the city in both spatial and economic terms. In a study of Africa's rapidly growing cities, markets and street vendors were found to be major sources of provisioning for poor urban households.² It is recognised that Informal Trading forms a vital part of any emerging economy. In Sub-Saharan Africa, the Informal Sector accounts for up to 60% of the economy.

The survey of the Informal Trading sector in Cape Town in 2002 revealed that 42% of traders had chosen to engage in informal trading as a result of not having or losing a job. This indicates the significant role that Informal Trading plays in absorbing the unemployed. Also significant was the fact that more

than half of the traders were female; this form of business activity is increasingly the province of women because of its flexible working hours as well as the opportunity it provides for additional income generation for the poor. In Cape Town, it is estimated that the Informal Sector accounts for 18 – 20% of the economy³.

1.3. WORKING DEFINITION OF INFORMAL TRADING

Informal Trading is defined as the *economic activity undertaken by entrepreneurs who sell legal goods and services within a space deemed to be public property, within the informal sector*. The implication is that informal trading management requires a public space management focus.

This specifically excludes any activity that is defined as illegal by any national and/or provincial law. While the definition as articulated could include trading taking place from private property, this Policy seeks to address the regulation only of those trading activities taking place on publicly owned property, hence the emphasis on public property.

1.4. SCOPE OF INFORMAL TRADING POLICY

The different types of informal trading that take place in the City of Cape Town are covered by the policy, namely:

- Street / kerbside trading
- Trading in pedestrian malls
- Markets (flea & craft markets as well as special markets, e.g. sector based)
- Trading at transport interchanges
- Trading in Public Open Spaces
- Mobile Traders (roving, caravans, bakkies)
- Intersection Trading.
- Special events (includes Night Markets and major events)

This policy does not cover Beach Trading (refer separate policy).

¹ Metsebetsi Labour Force Survey, Report 360 1999

² The Nordic Africa Institute's research programme on "Cities, Governance and Civil Society in Africa"

³ City of Cape Town, Integrated Development Plan 2000/2001.

2. THE CITY'S APPROACH

This chapter outlines the City's understanding of its own roles and responsibilities in respect of Informal Trading. A view is taken on the macro direction and vision of the City as defined by the Strategic Direction Goals. This affirms the importance of the Informal Trading Sector and defines the City's willingness to ensure that Informal Traders are a part of the integrated economic growth of the region. At a micro level there are the first indications of how an Implementation Strategy would be effected.

The reasons for having an Informal Trading Policy can be summarised as follows:

- It defines an integrated and holistic approach for all departments within the City of Cape Town;
- It clarifies the Council's policy to all relevant stakeholders;
- It forms the basis for the By-Law that will regulate Informal Trading in the City;
- It provides a basis for resource allocation decisions;
- It establishes the basis for a monitoring and evaluation process, with clearly defined key objectives.

2.1. LINK TO COUNCIL STRATEGIC DIRECTION

The Council's Strategic Direction 2003-2005 identified eight City Goals, for Cape Town to be recognised as:

- 1) A sustainable city
- 2) A dignified city
- 3) An accessible city
- 4) A credible city
- 5) A competent city
- 6) A safe and caring city
- 7) A prosperous city
- 8) A city known for its leadership.

In line with this strategic direction, the City's vision and mission for informal trading are:

VISION: "A well managed informal trading sector that is fully integrated into the economic, spatial and social development objectives of the City."

MISSION: "Through a developmental approach, the City seeks to facilitate the access to job and entrepreneurial opportunities within the informal trading sector and the nurturing of a positive relationship with the formal business sector by providing a stable regulatory and flexible management environment that is predictable, empowering and sustainable."

2.2. SUMMARY: INFORMAL TRADING POLICY STATEMENT

The City of Cape Town acknowledges the relevance and contribution of informal trading to the economic and social life of the City. Informal Trading provides some income to those who are unemployed as well as providing an alternative to established traditional formal sector retail options.

The City aims to develop the sector and its participants into a commercially viable and dynamic economic sector, which contributes to the economic growth of the City and the quality of life of its citizens in a sustainable manner. Appropriate infrastructure support and services, entrepreneurial development and spatial planning will be the cornerstones to achieving such a policy goal.

Uncontrolled and unplanned growth of the Informal Trading sector will have a negative impact on the City. The potential for conflict can arise between City officials and traders as well as between traditional traders and “newcomers”, because of uncertainty of each party’s rights. If there is little official regulation and control, new sorts of informal control mechanisms may come in to fill the void with their own means of controlling prices and protection rackets.

2.3. PRINCIPLES OF COUNCIL’S APPROACH

The Key Principles that govern the City’s approach to Informal Trading are economic, social and spatial:

2.3.1. *Economic Principles*

Economic growth in the informal trading sector will be facilitated through:

- Linking the development and growth of trading areas to commercial zones in order to create viable hubs of business activity that mutually benefit formal and informal businesses.
- Seeking to link traders to a range of facilities, capacity building and business support services that caters for the different levels of traders, from the weekly Saturday trader and small survivalist trader to larger traders.
- Ensuring that the buildings and property owned by the City are used for the maximum social and economic development of the community within which they are located.
- Targeting highly accessible and visible locations for the promotion of tourist-related trading in order to derive benefit for informal traders from the tourism potential.

2.3.2. *Social Principles*

The promotion of equity within the City to create a dignified City through:

- Spreading public spending in an equitable manner throughout the City with an emphasis on the poorer parts of the City that have not historically benefited from public sector investment.

- Viewing the location of public sector investment as an opportunity to integrate communities that have historically been spatially separated.
- Using the development of the informal trading infrastructure as an opportunity to improve the general environmental condition of the Historically Disadvantaged Areas of the City.
- Providing basic services such as water and refuse facilities to all areas where public health and/or public safety is at risk.

2.3.3. Spatial Principles

Informal trading contributes to the value of public places as amenities and places of dignity and has the potential to be a catalyst for generating positive public spaces through:

- Developing those areas that will have most significant impact on the largest number of people, i.e. areas with large flows of pedestrian traffic.
- Allocating space for informal trading areas in accordance with the broad Spatial Planning Framework of the City and the local area Spatial Development Frameworks.
- Providing minimal infrastructure for informal trading, which would vary depending on the type of activity.

2.4. FOUR POLICY LEVERS FOR CHANGE

The ultimate goal of this Policy and Management Framework is sustainable urban management, which plans, designs and manages a City that is able to accommodate Informal Trading in designated streets, public open spaces and markets in a positive well managed environment. The full integration of Informal Trading into the planning, design and management of the City is therefore necessary in order to enhance the City, promote economic development and expand employment opportunities.

The first point of departure in the policy for the informal economy is that local government should promote the creation of job opportunities and diverse economic and trading opportunities.

The four key levers for change are planning, the allocations policy, the registration process and the rentals policy.

2.4.1. Planning

New markets and trading opportunities must be properly planned, bearing in mind the economic needs of traders, the need for more vibrant land use and the need for orderly town, spatial and transport planning, as well as health and safety.

Existing markets should be managed properly and new market developments must be linked to emerging patterns of work in the areas they serve.

2.4.2. Registration

The policy goal 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. Simplifying existing registration procedures and moving towards the one-stop centre concept can reduce costs. Data on registration will be kept in the centralised inter-departmental information system, which will link where traders are, the sectors they work in, with registration, rent-paying status, environmental health and the enforcement function.

2.4.3. Allocations policy

Allocations policy in respect of trading (bays, markets, permits etc.) is central to the entire policy for the informal economy as it is the lever through which local government can steer management and support of the informal economy. The aim of the allocations policy is to support sustainable growth and provide opportunities for new entrants, in an economically sustainable and socially useful way. It can feed directly into the tourism industry, through achieving the appropriate tenant mix at tourist-related areas. The criteria for allocations will be negotiated locally with stakeholders, the allocation of sites will then be done by City officials. The allocations policy could be used as a positive tool to develop partnerships between established traders and new entrants.

2.4.4. Rentals¹ policy

In the same way that built property has a value placed on it, depending on where it is located, so it is important to place value on different informal trading sites, such as pavements. Value is placed on sites through a system of differentiated rentals. Rentals will be linked to site size, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in appropriate areas. The tariff structure will allow for transparent subsidies in order to ensure cross-subsidisation and equity

¹ The term “rental” usually refers to payment for a *place*; in this document rental refers also to payment for the *right to operate*, whether at a fixed site, or as an itinerant / mobile worker.

3. POLICY OBJECTIVES

This chapter frameworks the foundation for the City’s commitment to development within the Informal Trading sector. The development commitment is firstly at the level of the trader (allowing entry and subsequent growth, if so required and appropriate, to a formalised operation); to integrated business support services by the City.

The City of Cape Town recognises the key role Informal Trading has and will continue to play in the creation of jobs and the opening up of economic access opportunities for Historically Disadvantaged Communities. In light of this the following have to be prioritised:

3.1. DEVELOPMENTAL CONTINUUM

In order to encourage sustained economic growth, this sector has to be encouraged to develop from survivalist to more robust business enterprises. It is generally understood that various levels of trading exist within the Informal Trading sector.

Levels of Trading

- Level 1: Survivalist Trading – Makes sufficient income to sustain trader and family.
- Level 2: Informal Trading – Makes sufficient income to support personal and family needs but is also able to operate on a profit basis – money can be used to begin exercising lifestyle choices and/or invested in other business opportunities.
- Level 3: Formal Trading - Has fixed location and is run on formal business principle i.e. registered with SARS etc. There may be a formal brick and mortar shop elsewhere where products are manufactured.

Generally speaking, traders must be encouraged, as far as it is practical to do so, to move their businesses along a Developmental Continuum, being:





3.2. **AN INTEGRATED APPROACH**

The Developmental Continuum approach is in keeping with the proposed Business Support Policy of the City of Cape Town¹.

In this policy, business needs are classified in terms of the degree of the sophistication of the business. Four general categories are identified², of which two are relevant to informal trading: “emerging / stable” and “survivalist / necessity” entrepreneur. The policy recognises that the business support needs of these two categories are:

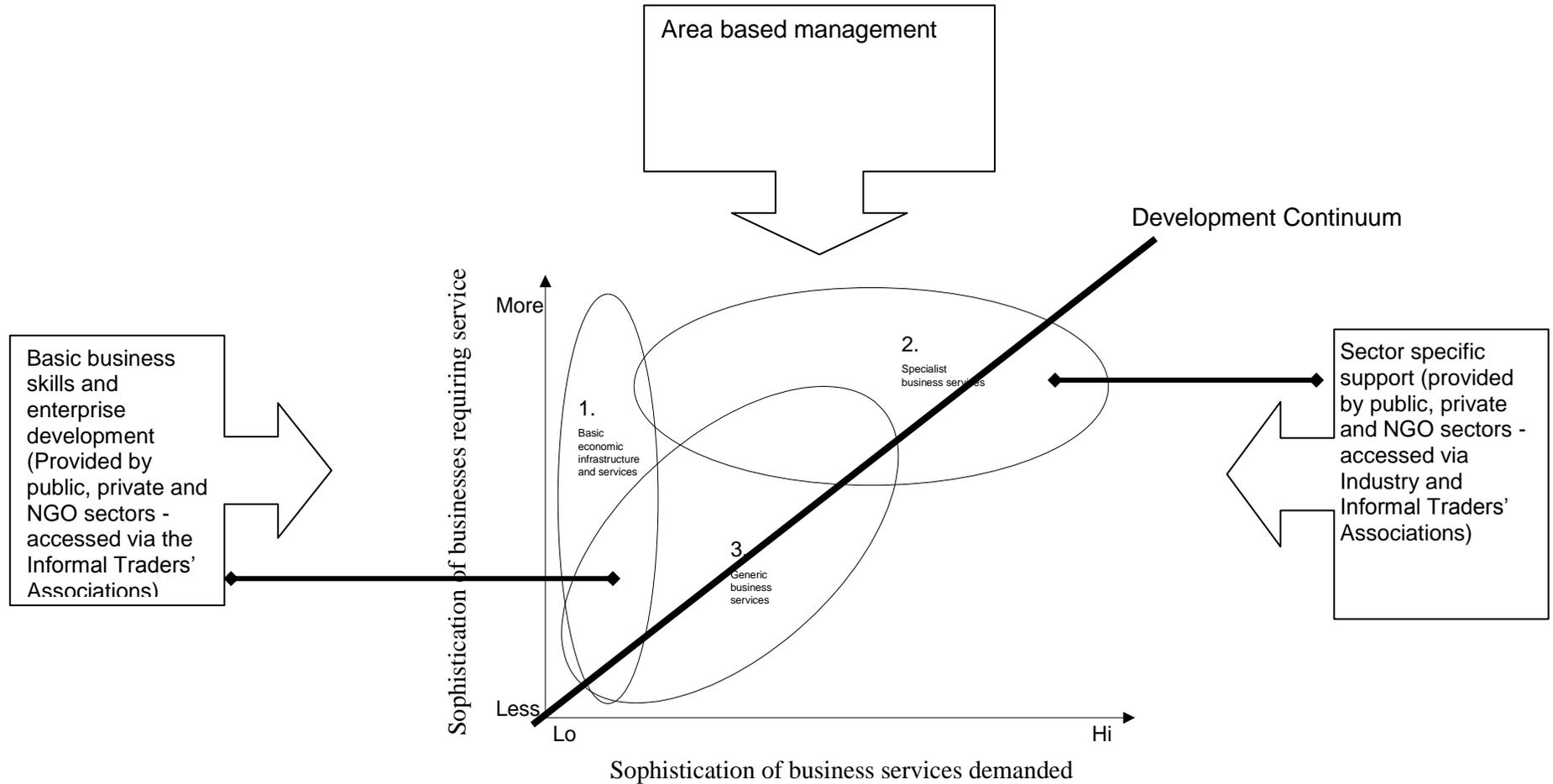
- Emerging and stable businesses: financial support, business management advice and skills, market opportunities and technical skills.
- Survivalist firms and necessity entrepreneurs: financial support and help with location of market opportunities.

This integrated approach to Informal Trading combines the management and support services necessary for all levels of informal traders as described by the Developmental Continuum. The approach is illustrated on the next page.

¹ City of Cape Town ED&T Draft Business Support Policy September 2002

² survivalist / necessity entrepreneur; emerging / stable; growth oriented; globally competitive

AN INTEGRATED APPROACH TO INFORMAL TRADING



3.3. INTEGRATED SERVICE DELIVERY

The informal trading sector requires basic economic infrastructure and municipal services as well as generic business services.

The public environment requires cleansing, security and maintenance and the City needs to make provision for these services. Effective delivery of “basic municipal services”¹ provides an environment in which business can thrive. These may include:

- Provision of trading areas and facilities and management thereof;
- Provision of electricity, cleaning services, water, sewage services etc, depending on the type of facilities involved.
- Ensuring safety and security in business areas.

Access by traders to generic business services can assist less sophisticated businesses to run more efficiently and to mature (i.e. grow in size, revenue and sophistication) along the Development Continuum. The City may seek to play a facilitative role in the access to these business services. Such business services may include:

- Business literacy skills and training development;
- Provision of advice, information and business counselling;
- Provision of management or appropriate technical training, including financial management;
- Provision of marketing and market development services.

The key service areas within the City that will be impacted upon are:

Utilities Services and Cleansing

These include Water, Electricity, Solid Waste (Refuse) Removal and Sewerage. To be consistent with the City’s policy on the provision of these basic services to Historically Disadvantaged Areas (HDAs), these services would need to be provided to Market areas in order to ensure a trading environment that is conducive to doing business effectively and efficiently. Specifically, Service Level Agreements need to be established around Solid Waste Removal to ensure that all trading areas are kept hygienic and that refuse is collected on a regular basis, similar to agreements with formal businesses located in the same area.

Economic Development, Planning and Environment

This portfolio addresses high level planning issues (economic development, spatial and land-use planning) and infrastructure development and delivery (roads, storm water drainage, housing and transport). Due to its areas of focus, these Services will take primary responsibility for ensuring that the developmental approach is practically achieved through the co-ordination of service delivery from both internal and external agencies (e.g. Wesgro, Chambers of Commerce, and Provincial Government). Services to be co-ordinated would include business skills development training and mentoring, identification of locations for trading areas and infrastructure development (taking cognisance of the needs of Informal Traders through the provision of sufficient kerb-side space in areas where this kind of trading is permitted).

Community Services

This portfolio focuses on the quality of life issues of our citizens. Service provision covers City Police, Emergency Services, City Health, Libraries, Parks, Community and Recreational Services. This directorate would through the City Police (encompassing all Law Enforcement Services) be responsible for enforcing the Informal Trading By-Law of the City. As the primary focus would be business development rather than merely enforcement, appropriate training needs to be offered to the City Police on:

- The contents and intention of the Informal Trading Policy;
- How the Informal Trading By-Law should be applied;
- Location and designation of all trading areas;
- The status of each designated trading area with appropriate remedial and punitive steps that City Police need to follow when there is a clear violation.

¹ Basic municipal services need not be provided directly by the City of Cape Town. The outsourcing, ring-fencing and privatisation of services mean that multiple parties can be service providers. However, the social, economic and political responsibility for such services still resides with the City of Cape Town.

4. ROLES AND RESPONSIBILITIES : Implementation 1

This chapter recognises the multi-departmental approach which the City has to take towards Informal Trading. The diversity of Informal Trading activities is acknowledged as are the differing impacts on the operational framework of the City. The Implementation Framework which emerges from this policy will need to be guided by this chapter's Management and Operation delegations.

There are basically four key components to Informal Trading within the City:

- Policy Formulation and Revision
- Regulation and Enforcement
- Developmental Responsibilities
- Management / Operations

Control of policy formulation and regulation should always reside directly with the City. However, external service providers that are managed directly or indirectly by the City of Cape Town can provide development and management.

The following tables give a perspective of the proposed roles and responsibilities of the various role-players, depending on the type of informal trading activity.

4.1. MANAGEMENT LEVEL ¹

	Policy	By-Law	Leases	Management / Enforcement	Aesthetics	Development Training
Kerbside / street	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police)	DS (Spatial & Land Use) CID	EDP (Econ. Dev.)
Pedestrian Mall	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police) / CID	DS (Spatial & Land Use) CID	EDP (Econ. Dev.)
Markets ¹	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police) / CID / DU	DS (Spatial Planning) DU / CID	EDP (Econ. Dev.) DU
Transport Interchanges	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police) / MA (Intersite)	DU / MA / Intersite	EDP (Econ. Dev.) DU
Public Open Spaces	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police)	DS (Spatial Planning)	EDP (Econ. Dev.)
Mobile Traders	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police)	DS (Spatial Planning)	EDP (Econ. Dev.)
Intersection Traders	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police)	N/A	EDP (Econ. Dev.)
Special Events	EDP (Econ. Dev.)	EDP (Econ. Dev.)	Property Management	CS (City Police)	DU	EDP (Econ. Dev.) DU

¹ Legend. CS = Community Services. DS = Development Services. US+C = Utilities Services & Cleansing. EDP = Economic Development and Planning. PS = Private Sector. DU = dedicated unit; MA= Management Agent. City Police = All City Law Enforcement Services

4.2. OPERATIONAL LEVEL ²

	Security	Cleansing	Facilities (storage & ablutions)	Permit allocation ²	Money Collection	Product Diversification	Marketing
Kerbside / street	CS (City Police)	US+C (Solid Waste)	(Storage only) DU / CID	EDP CS (City Police)	CS (Comm & Rec + City Police)	DU	CID and/or Trader Association
Pedestrian Mall	CS (City Police) CID (PS)	US+C (Solid Waste) CID (Contractor)	(Storage only) DU / CID	EDP CS (City Police)	CS (Comm & Rec + City Police)	DU	CID and/or Trader Association
Markets ³	CS (City Police) CID (PS) DU	US+C (Solid Waste) CID (Contractor) DU (Contractor)	EDP (Land Use) DU / CID	EDP CS (City Police)	CS (Comm & Rec + City Police)	DU EDP (Econ. Dev.)	DU CID EDP (Econ. Dev.)
Transport Interchanges	CS (City Police) MA / Intersite (PS / CPOs)	US+C (Solid Waste) MA / Intersite (Contractor)	EDP (Land Use) DU / MA/ Intersite	EDP CS (City Police)	CS (Comm & Rec + City Police)	DU	N/A
Public Open Spaces	CS (City Police)	US+C (Solid Waste)	N/A	EDP CS (City Police)	CS (Comm & Rec + City Police)	DU	N/A
Mobile Traders	CS (City Police)	US+C (Solid Waste)	N/A	EDP CS (City Police)	CS (Comm & Rec + City Police)	N/A	N/A
Intersection Traders	CS (City Police)	US+C (Solid Waste)	N/A	EDP CS (City Police)	CS (Comm & Rec + City Police)	N/A	N/A
Special Events	CS (City Police) DU (PS / CPOs)	US+C (Solid Waste) DU (contractor)	DU (contractor)	<i>Refer section 6.4.5.</i> CS (City Police)	<i>Refer section 6.4.5.</i> CS (City Police)	<i>Refer section 6.4.5.</i> DU	<i>Refer section 6.4.5.</i> DU

² Legend. CS = Community Services. US+C = Utilities Services & Cleansing. EDP = Economic Development and Planning. PS = Private Sector. DU = dedicated unit; MA= Management Agent. City Police = All City Law Enforcement Services.

4.3. SECTOR SUPPORT LEVEL

Sector support is necessary to help small operators move along the development continuum towards greater growth and independence because each sector:

- Is of different economic importance to the City
- Has different prospects for growth for individual operations, ranging from the limited prospects of the survivalists, to the better prospects of service providers such as hairdressers.
- Presents different problems of control (e.g. selling of hazardous chemicals in drums and the seasonality of mielie-cooking).
- Offers different possibilities for support, based on all of the above.

External sources can provide this sector support and play a number of creative roles in providing for example:

- Economically trained sector specialists for those sectors where large numbers of traders operate or where growth prospects are more positive.
- Training in general business skills
- Health education with regard to the handling of food for sale.
- Legal advice about small business development
- Subsidisation of selected training providers
- Co-operation with formal business.
- Facilitation of access to financial services.

4.4. DEVELOPMENTAL CONTRIBUTION BY THE CITY

It is difficult to assess the extent of the City's contribution in general to informal trading due to the various elements of management, policing, cleansing and organisational support that are involved. However the need for support for and creation of sustainable informal economic activity in certain areas is beyond dispute, in particular in localised community markets.

It is proposed that in the case of developmental projects consistent with the City's strategic objectives, a model based on equitable contribution to the trading environment by the City and the traders be adopted. Appropriately constituted trader groups would manage certain informal trading sites and be the conduit for funding, managing and maintaining the sites as well as the collection of fees from the traders. The City would be relieved of certain service obligations in respect of the public places involved, although normal,

basic, minimum services that the City is obliged to render in respect of public places would continue.

This scenario would be applicable only in certain areas and could mean providing funds to support the trading environment that could consist of:

- Trading fee (paid by traders in order to trade)
- City contribution per trader per month
- Training and development contribution by the City

This model needs to be tested through means of a pilot project, which could be used to quantify the City's contribution to the establishment and growth of economic activity opportunities at public places and facilities.

¹ flea & craft markets as well as special markets, e.g. sector based. Note: a dedicated unit could manage markets

² includes maintenance of waiting lists

³ flea & craft markets as well as special markets, e.g. sector based. Note: a dedicated unit could manage markets

5. TRADING AREAS : Implementation 2

This chapter recognises economic and spatial diversity through the city both in the trading spaces and in the type of trading activity appropriate for such trading spaces. This section does not generally apply to crafters.

Taking into account the differing economic, spatial and infrastructural elements of the City, the following guidelines must inform allocation of trading spaces in the City. Trading shall occur in uniform structures whose design will be determined from time to time by the City and whose cost may be incorporated into the rental costs for the trader. These structures will be dismantlable and freestanding, i.e. not attached to any building, structure or pole.

5.1. PUBLIC SPACES IN CENTRAL BUSINESS DISTRICT / TERTIARY ECONOMIC CENTRES¹

In the Central Business District and in Tertiary Economic Centres Informal Trading would be permitted:

- In pedestrian malls.
- In designated trading areas.
- At appropriate markets

This would provide a range of trading possibilities linked to opportunities for growth and diversity.

5.2. PUBLIC SPACES IN SECONDARY ECONOMIC CENTRES²

In Secondary Economic Centres the City will have:

- Designated trading bays located along major pedestrian traffic routes.
- Dedicated trading streets.
- Open trading areas that allow flexibility for traders as well as formal market spaces.

5.3. PUBLIC SPACES IN PRIMARY ECONOMIC CENTRES³

Each type of economic centre must allow an increase in the municipality's developmental and facilitative role. Therefore in Primary Economic Centres, housing estates and townships:

- Demarcated trading bays will only be imposed in high pedestrian traffic flow areas where congestion is problematic.

- Flexible market structures must be built at key transport nodes that allow for the integration of a number of services ensuring regular pedestrian traffic flows. In these areas cognisance must be taken of the lack of quality urban environments and appropriate physical infrastructure and therefore the approach needs to be in terms of a more physically structured response.

In informal settlement and township areas the provision of trading spaces should be clearly linked to "place-making" strategies, as trading may have the potential to generate new forms of public space. Appropriate facilities need to be provided in these environments that will allow a range of trading levels, structures that are flexible to change and upgrading and access to key services. In the suburbs and housing estates, similar strategies are applicable but without physical infrastructures.

Given that structured informal trading facilities are not financially self-supporting or sustainable at this stage, management of trading needs to balance the interests of the city whilst giving traders participation equity in their environments.

The table below summarises the trading areas appropriate for the three types of economic centres.

	Pedestrian Malls	Designated Open Trading Areas	Designated Trading Bays	Markets	Immune Zones
CBD & Tertiary Economic Centres	X	X		X	
Secondary Economic Centres	X	X	X		
Primary Economic Centres, Suburbs / Housing Estates & Townships			X	X	X

¹ Commercial centres that are used by many different communities, providing a nodal point for convergence. (e.g. Claremont, Bellville)

² Commercial centres that are used primarily by the immediately surrounding communities. (e.g. Gatesville/Rylands, Goodwood)

³ Commercial centres that are used almost exclusively by the community in which it is located. (e.g. Brackenfell, Mitchells Plain Town Centre). These include townships and suburbs / housing estates.

6. OPERATIONAL ISSUES : Implementation 3

This chapter addresses guidelines for allocation of permits for trading bays. Also recognised is the key role which is to be played by associations (including craft) within the sector. Further “permission” arrangements are also outlined for later inclusion into a formal implementation.

6.1. CRITERIA FOR THE ALLOCATION OF TRADING BAYS

Central to equitable allocation of trading bays, is the compilation by the municipality of a database of all street traders in a particular area, which will include for each trader: ID number or any recognised form of identification, address, goods being sold, trading location and any other relevant information.

It is acknowledged that the following basket of criteria will form the broad basis of decision to allocate bays. As the process is ultimately to be managed on an area basis (a combination of geographic criteria and category of economic centre criteria), it is required that the criteria following are a guideline. In the implementation stage it will be the right of all traders to be fully aware of exactly which criteria are being used in respect of allocation of trading bays.

Subject to and in compliance with Section 6A (1), (2) and (3) of the Businesses Act No. 71 of 1991, allocation of trading bays will be based on the following criteria:

- Only bona fide informal traders will be eligible - not businesses that operate from a brick and mortar premises.
- Once bays are allocated informal traders will be encouraged to join an Association in the area. This will facilitate the provision of sector specific support and business services.
- Where bays are continuously available, traders operating four days per week for at least 45 weeks of the year will get preference over occasional / casual traders.
- Preference will be given to Historically Disadvantaged Individuals.¹
- Only one bay will be allocated per trader.
- Traders who do not operate in other informal markets within the City of Cape Town will get preference.
- Unemployed people will get preference.
- Council will reserve the right to withdraw summarily the allocation of a bay in the event of evidence proving that (i) a trader has wilfully supplied incorrect information related to permit conditions; (ii) a trader has failed to update the information annually; (iii) a trader, who is allocated a bay, has

sublet or sold such a bay to a third party without the approval of Council;
(iv) a trader does not comply with the Informal Trading by-law.

- When City designated special events occur (see 6.4.5), the City will have the right to summarily cease (without any compensation for loss of earnings) all trading in bays which the City deems are affected by the special event.
- The trader must be in possession of a valid South African identity document or working permit.
- Only one bay will be issued per household².
- In the case of foodstuffs, the trader must be in possession of the required Business License and Certificate of Acceptability.

Special Circumstances for Allocation of Bays

It is recognised that the following special circumstances may warrant a variation on the above criteria:

- Death of Principal Trader – where the inability to trade would place undue hardship on the family of the Principal Trader, permission may be granted to another family member/assistant trader to continue trading until the end of the trading period as stipulated on the permit for the bay.
- Illness of Principal Trader – where the trader is able to provide proof from a medical practitioner that he/she is incapable of trading. The period of incapacity must be stipulated. A family member or assistant trader may trade in his/her place but for a period that does not extend beyond that which is stipulated on the permit for the bay.
- Religious Observances of Principal Trader – where the trader has to be absent in order to fulfil the duties of his/her religion, the City may decide to allow a family member/assistant trader to trade on their behalf for a period not exceeding one month or the period stipulated on the permit for the bay.

If the Principal Trader or his/her family chooses not to make application for special consideration as outlined above, the permit for the bay must be returned to the City to be allocated to the next person meeting the criteria on the waiting list.

6.2. PERMIT PROCESS

Applicants will be considered against the criteria by the Area Informal Trading Management Committee, members of which to be determined by Council³.

New applicants will be required to fill in a prescribed application form if they wish to be considered for a trading permit. Permits will be issued on a “first

come, first served” basis from the waiting list, but the number of permits may not exceed the maximum number of sites allowed in any trading area. The issuing of permits will be centralised and area based (refer table in section 6.1).

The City Police will maintain the list.

The diagram on the following page sets out the steps involved in issuing permits and the various City Departments that contribute to the process.

¹ Historically Disadvantaged Individual (HDI) means a South African citizen:

- (1) who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (“the Interim Constitution”); and/or
- (2) who is a female; and/or
- (3) who has a disability:

provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution is deemed not to be an HDI.

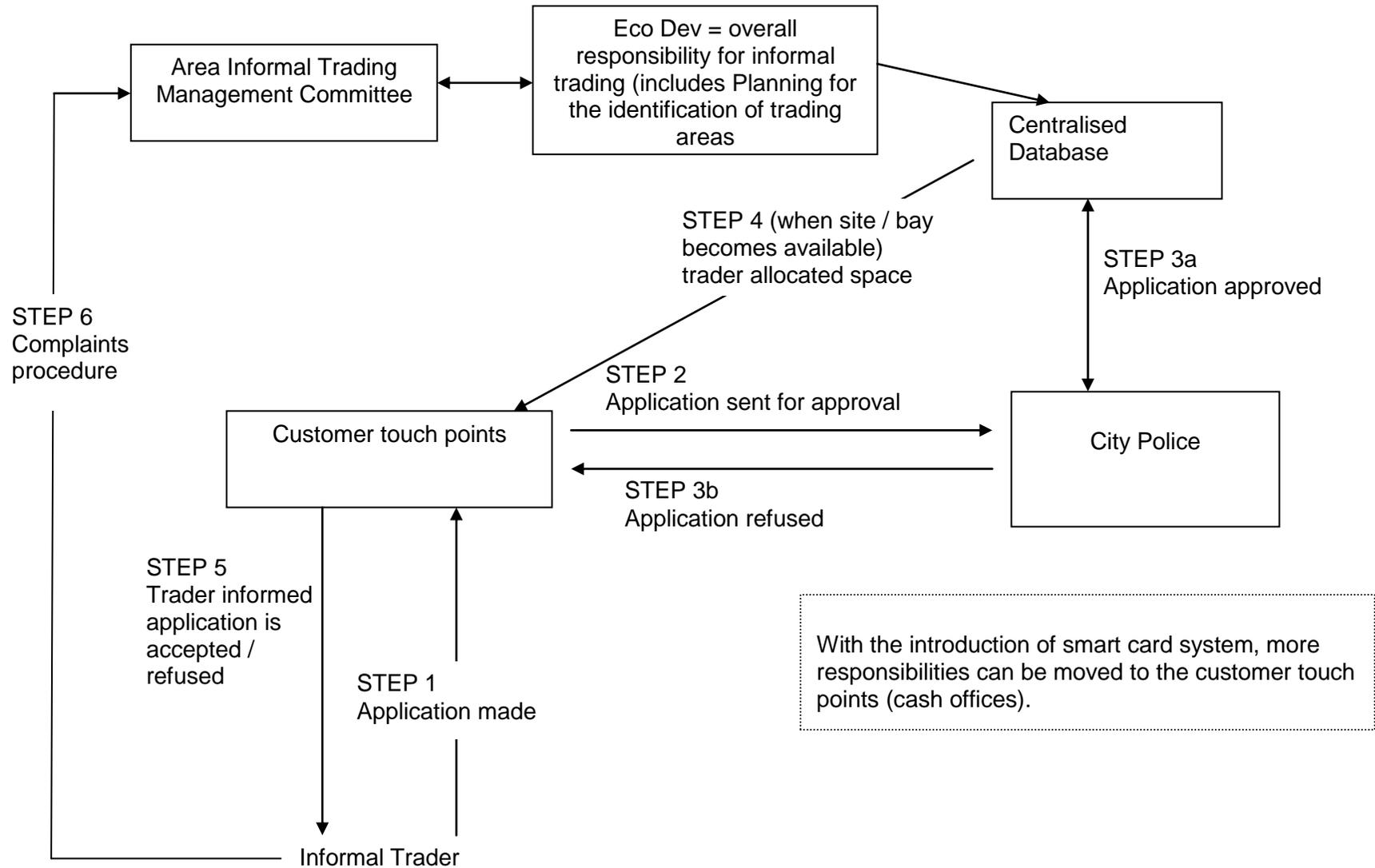
Disability means: in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or in the range, considered normal for a human being.

Woman: a female person who is a South African citizen and a female at birth.

² Household – Any persons living together as life partners and their dependants.

³ Currently informal trading permits are issued by a single Council Official in the respective trading area on a first come, first served basis. The Trader who has been trading in the area historically and the longest is given the first opportunity to apply and be allocated an informal trading bay, provided that the Trader is a South African Citizen, a non-South African Citizen with a valid work permit, and if trading in food that needs to be cooked, has a valid health permit. It is proposed that to ensure transparency, that this process be undertaken by an Area Informal Trading Management Committee which will comprise of a number of City Officials from appropriate sections of Council, such as Economic Development and Tourism, City Police and Sub-Councils. This management committee could, apart from issuing informal trading permits, address all local area informal trading issues.

STEPS TO OBTAIN AN INFORMAL TRADING PERMIT



6.3. MANAGEMENT OF THE TRADING AREAS

Different situations require different models and different relationships, depending on the characteristics of the market or informal trading areas.

6.4.1. *Formal Market Sites*

The management of these sites will be granted on a competitive tendering basis for those Formal Markets (including Craft Markets) identified by the City for outsourced management. The successful tenderer will be granted the management contract for a reasonable period (depending on the grade of market) after which it will once again be open for competitive tendering. Management agents will be required to sign Service Level Agreements with the City clearly spelling out each party's responsibilities and penalties for non-compliance. Included in the Agreements will be provision of ablution and storage facilities.

The legal arrangements that will govern the management of the markets can take the following forms:

- Head lease with a commercial operator who is responsible for all aspects of the market, including security, cleansing and maintenance. The operator would pay the City a market related rental.
- Head lease with an association of traders/crafters (usually a common law voluntary association not for gain) who is responsible for all aspects of the market, including security, cleansing and maintenance. The rental payable to the City would range from nominal to market related, depending on the location of the market.
- A management contract with the service provider to manage aspects of the market, such as ablution facilities, storage facilities, cleansing and security. The City will issue permits to the individual traders.
- Lease with local civic or community associations to manage trading areas, with individual permits issued by the City.
- In the case of City run markets, traders would be issued permits for areas or leases for structures such as containers or kiosk.

6.4.2. *Individual Fixed Trading Sites*

These permits will be granted against the criteria established in the section entitled "Criteria for Allocating Permits". Permits will be granted for one (1) full year after which application must again be made, subject to compliance to conditions. Permit fees will be divided into twelve equal payments which will be payable on a monthly basis.

6.4.3. *Intersection Trading*

Subject to compliance with the relevant national and provincial legislation (all of which currently prohibit any form of intersection trading), each intersection will have a fixed number of traders permitted at an intersection¹. This number

will be determined by the city from time-to-time. These permits will be granted against the criteria established in the section entitled “Criteria for Allocating Permits”. Permits will be granted for one (1) full year after which application must again be made. Permit fees will be divided into twelve equal payments which will be payable on a monthly basis.

6.4.4. Special Events

Examples of special events: sporting fixtures, night markets and major events. These events are by their nature temporary and arrangements will depend upon the type of event and the geographical area in which it is taking place. When deciding on granting permission for a special event, the City has the right to make changes to any other permissions given in respect of informal trading bys or trading permits. Before any such event, approval must be obtained from the relevant authority, depending on the type of event:



6.4.5. Transport Interchanges

Any trading in the vicinity of Transport Interchanges must not obstruct vehicular or other traffic. The establishment of any trading zones at Transport Interchanges would require the approval of the Interchange Management Authority and the City Police and must comply with the relevant national and/or provincial legislation.

6.4. TARIFF STRUCTURE

A trader (or market association) does not hold a right of reserve over any trading site. Economic Development and Planning will have the final decision on the allocation of trading space. Tariffs are set out in the Council’s tariff schedule and approved annually.

The inherent economic value of space/areas must be accommodated in the allocation of permits and leases and the tariffs to be charged. This tariff must take into account where the trading space is located as well as the balance of value added by informal trading to that area and its particular community. Rentals will be linked to site size, desirability of location and the level of services provided. Levels will be determined by considering the cost to local government of providing the facility, bearing in mind the need to subsidise new opportunities in some areas. For street traders, a basic site rental should be set. Then, differentiated rentals for different levels of service provision should be introduced. Components of a basic package of services are basic shelter, solid waste removal, water, toilets, lighting and storage facilities.

In areas that are managed by parties other than the City (e.g. CIDs, adjacent to shopping centres) and where services are supplied that are supplementary to those provided by the City, an alternative tariff structure may apply in order to reflect the value of the additional services provided in the area.

In the case of markets, tariffs will vary according to the Grade of the specific market site, with Grade D having the least services while Grade A has the most services. The grading would be based on the type of centre and the type of market.

A brief characterisation of the services and infrastructure offered for the different markets is shown in the table below:

	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	

6.5. **ENFORCEMENT AND MONITORING**

In order to enhance the City's image in the eyes of both its residents and visitors, the conduct of traders will be strictly monitored. Anti-social and other unruly behaviour will be viewed as misconduct.

- No trader will be permitted to carry on such business in a manner, which creates a nuisance², is a danger or threat to public health and safety, or damages or defaces any Council property.

- A criminal act will be dealt with through the appropriate criminal procedures.
- Where a trader violates the permit conditions, he/she will be informed in writing of the violation and course of action. Permit fees will not be refundable if the permit is revoked or suspended.
- Punitive measures could include a warning, a suspension for a specified period, or the total withdrawal of such trading permit.
- The trader will have the opportunity to put his/her case forward at an inquiry and he/she will be permitted to call any witnesses to testify on his/her behalf. Minutes will be kept of all inquiries and will be available to all interested parties.
- In the case of a trader being refused a permit or having his permit revoked, the complaints procedure will be through the Area Informal Trading Management Committee (refer diagram in Section 6.3).
- In the event of traders wishing to appeal a City official's decisions which are deemed to impact on the rights of traders, the appeals will follow the Disciplinary and Appeal Procedures as outlined on page 32, paragraph 62 in the Municipal Systems Act, No.32, of 2000.

¹ The National Road Traffic Act 93 of 1996 definition of a public road: "any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has the right of access, and includes (a) the verge of any such road, street or thoroughfare; (b) any bridge or drift traversed by any such road, street or thoroughfare; and (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare". Reg 322 of the Act refers to Trading on public roads "Except (a) on or in premises or demarcated for that purpose... (b) in such circumstances and in accordance with such requirements as may be prescribed, or determined by by-law. No person may sell, display, offer for sale or deliver pursuant to a sale, any goods (i) on or alongside a public road inside an urban area, with 180m or a railway level crossing or any road traffic sign denoting a blind corner or rise thereon or with 5 meters from any intersection thereon; or (ii) on or alongside any public road outside an urban area: Provided that where a provincial administration is responsible for the maintenance of a public road inside an urban area, the competent authority shall not zone or demarcate premises in such urban area situated alongside such a road, without the prior approval of the MEC concerned. The charge sheet for trading on a public road is R 60.00 (Sixty Rand)".

² "Nuisance" means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to a person or property of others or which materially interferes with their ordinary comfort, convenience, peace or quiet.

7. CONCLUSION: A PHASED APPROACH : Implementation 4

Currently, Informal Trading is managed by a variety of different departments within the different Administrations and includes Traffic, Business Areas Management, Legal Services and Economic Development.

In addition to this, each Administration has been using its own system of managing Informal Trading which creates the challenge of establishing one system that will ensure uniformity and consistency throughout the City. While this process is underway, the need for immediate, effective and efficient management of Informal Trading remains.

In order to ensure quick and significant progress, it is imperative that the interim management of Informal Trading ensures cross-functional co-operation and involvement of different Departments, focussed on the end result. Given the key requirements of the Management Framework, this will ultimately best be met through the establishment of a Dedicated Unit.

The timeframe for this phased approach will be as follows:

Phase 1	Formation of area based informal trading management teams ¹ :	Immediately
Phase 2`	Internal integration, pending new macro design	Immediate - 6 months
Phase 3	Dedicated Unit, pending new micro design	6 – 12 months

The policy will be continuously monitored and will be reviewed every three years.

¹ Area Informal Trading Management Committee comprising a number of City Officials from appropriate sections of Council, such as Economic Development and Tourism, City Police and Sub-Councils. This management committee could, apart from issuing informal trading permits, address all local area informal trading issues.