Section 6A(2) sets out the process that a municipality must follow to restrict or prohibit trading in an area. There are different steps that a municipality must take. Most of these steps give you an opportunity to challenge the plans of the municipality or to show the municipality how their plan will negatively affect you. Remember that these steps have to follow the order set out in this pamphlet otherwise the municipality is not acting in terms of the law. The steps in the process are:

1. Before a municipality can even consider restricting or prohibiting trading in an area, section 6A(2)(c) of the Businesses Act says that it must investigate how this will affect informal traders. This is important because municipalities are required to encourage informal trade in their areas and should usually not make decisions that have a negative impact on informal trade. When the municipality is doing this investigation it is required to look at two things:
   - Firstly, the municipality has to look at whether the aims it wants to achieve can be achieved by more effective supervision or control of informal trade in the area. This could include negotiating with informal traders or informal trade organisations like SAITF or SANTRA in Johannesburg. If the municipality could achieve its aims in this way, it is not allowed to prohibit trading in the area.
   - Secondly, the municipality has to investigate whether restricting or prohibiting trading in an area would mean that traders would go out of business. For example, sometimes informal traders trade close to taxi ranks or in places that people walk past throughout the day. If traders are prohibited from trading in those areas, it could mean that they would not have as many customers and that some could go out of business. The municipality has to investigate whether this could happen if it restricts or prohibits trading in an area.

2. After this investigation, a municipality can resolve to take steps to restrict or prohibit trading in an area. This is done by passing a resolution in the city council.

3. The municipality must then draw up a plan to show which areas it wants to restrict or prohibit informal trade.

4. A municipality is then required to publish a notice in a local newspaper. This notice must say that the municipality wants to restrict or prohibit informal trade in a specific area, give reasons for why it wants to do this and say that the plan it drew up is available at a specific place so that you can inspect it (look at it). It is important to look at the plan so that you can understand how the plan will affect you. The municipality must then give at least 21 days for people to inspect the plan, consider it and let them make objections to the plan. The municipality must consider every objection made against the plan.

5. Only after the municipality has considered every objection made against the plan can it declare informal trade prohibited in the area. In Johannesburg, this is done by a resolution of the city council. Remember that the decision to prohibit trade must be published in the Government Gazette (the government’s newspaper in which it publishes laws and by-laws).

6. After a municipality has resolved to restrict or prohibit trading in an area, the Premier of the province has the power to change or revoke (undo) the resolution. The Premier must do this within 60 days after the decision of the municipality is published in the Government Gazette. The Premier must speak to the municipality before he or she can do this.

7. Only once all of these steps have been followed can the restriction or prohibition be enforced.
What can you do to stop the restriction or prohibition of trading in an area?

Being aware of this process is very important, but that is no guarantee that a municipality will not prohibit trading in an area. If your municipality starts the process to restrict or prohibit trading in an area:

- You need to **participate in the process** to make sure that you show the municipality how its plans will affect you.
- You need to **monitor the process** by making sure that the process outlined in this pamphlet is followed. If the process is not followed correctly, the decision to restrict or prohibit trading will be unlawful and could be set aside (undone) by a court.
- You need to **mobilise** with other informal traders. This could mean organising protests, writing petitions or writing press releases to make sure that the media know what the municipality is trying to do. This might be done through trader organisations like SAITF or SANTRA.

Remember:
Section 33 of the Constitution also protects your **right to fair and reasonable administrative action**. This means that a municipality must give you a chance to say how their plans will affect you throughout the process and must listen to you. It also means that a municipality must act within the law and cannot make an arbitrary or unreasonable decision. An arbitrary or unreasonable decision is a decision that doesn’t make sense in the circumstances, e.g. if restricting or prohibiting trade in an area will mean that a lot of informal traders will go out of business, but the municipality takes a decision regardless.