



DRAKENSTEIN

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Drakenstein Municipality Liquor Outlet and Tavern Policy

Effective from

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City Manager		
Council		

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DEFINITIONS

For purposes of this policy, unless otherwise stated, the following definitions shall apply:

Application	Means an application contemplated in terms of the By-law and/or zoning scheme.
Bylaw	Refers to the Drakenstein By-law on Municipal Land Use Planning, 2018, as amended from time to time.
Close proximity	Within 100m from the proposed facility.
Consent use	Refers to a land use right granted to a property owner on a temporary or permanent basis, in terms of the respective By-law and zoning scheme.
Conditions of approval	Refers to the conditions to be complied with, imposed by the Municipality when granting approval of a land use application.
Council	Means the municipal Council of the Drakenstein Municipality.
Departure	Relates to an application in terms of the By-law in order to depart from the standard development parameters contained in the zoning scheme.
Dwelling unit	Means a group of interrelated rooms and ancillary facilities for the accommodation of a single household and can be a dwelling house, second dwelling house, third dwelling unit, employee housing or a dwelling unit in an apartment building or a group housing scheme.
Facility	Means a liquor outlet and/or tavern.
Foreign National	A person who does not have citizenship status to reside in the Republic of South Africa.
House shop	Means the use of a portion of a dwelling house, outbuilding or structures for the sale of convenience goods directly from the street.
Land use rights	Refers to the lawful utilisation of land imposed in terms of the zoning scheme and/or land use application approvals.
Liquor outlet	Means a shop where alcoholic beverages are sold for off-site consumption.
Municipality	Means the Drakenstein Municipality.
Registered owner	Means the owner of a property as indicated in the title deed/deed of transfer of the property concerned.
Operator	Means the person who owns and/or manages the liquor outlet/tavern.
Overlay Zone	Relates to a designated area identified in the zoning scheme in which the development rules or use rights relating to that specific area or land unit may differ from that in the base zone, or may set new development rules or use rights.
Tavern	Means a place of entertainment where the primary business is the sale of alcoholic beverages exclusively for on-site consumption and may include the serving of meals.
Zoning scheme	Refers to the Drakenstein Zoning Scheme By-law, 2018, as amended from time to time.

1. INTRODUCTION

The consumption of liquor in South Africa plays an integral part of the history of segregation and apartheid. Liquor was alternately made available and prohibited as a means of economic and social control. As such the policies, by-laws and zoning schemes in the past were specifically drafted to exclude and deprive the historically segregated areas of obtaining the necessary rights to operate informal liquor outlets, such as shebeens and taverns as a means to generate an income. The only exception to this was perhaps the former Mbekweni Town Planning Conditions which provided for shebeens as a consent use.

The previous legislative dispensation regulating land use planning, together with the general perception of selling liquor in residential areas made it nearly impossible for property owners/operators to obtain such land use rights. The result of this inability to trade with liquor in residential areas was in stark contrast with the global phenomenon of accepting and embracing informal and home-based businesses. It was also regarded as a means to deprive such property owners from generating an income from their properties, which they would be perhaps not be able to do otherwise.

The promulgation of the Drakenstein Zoning Scheme By-Law (DZS) on 28 September 2018 is seen as huge step towards addressing the historical consequences and social and economic challenges of liquor trade and consumption. Although the purpose of a zoning scheme revolves around the allocation of rights, the use of rights and the extent to which properties may be used, the DZS has gone a step further by designating certain areas, more specifically the previously marginalized areas, where additional businesses should be permitted from home in order to promote a greater economic flexibility and diversity of formal and informal businesses. Among these businesses are liquor outlets and taverns.

Although the DZS has provided the mechanism in which to establish liquor outlets/taverns from residential properties, the DZS does not set detailed criteria and/or guidelines upon which to evaluate land use applications for such uses. Whilst the DZS does provide certain conditions for taverns, it does not provide conditions for liquor outlets, as well as criteria to guide the decision-making process.

2. PURPOSE OF THE POLICY

The purpose of this policy is to:

- 2.1 Provide clear guidelines in respect of the criteria for processing, assessing and deciding on land use applications for liquor outlets and taverns located in residential areas;

- 2.2 Provide existing and potential operators with a sense of certainty regarding the requirements for liquor outlets and taverns in residential areas;
- 2.3 Encourage illegal liquor traders to formalize and legitimize their businesses, where possible;
- 2.4 To align the policy with the current suite of planning legislation in Drakenstein Municipality; and
- 2.5 To assist with reducing the negative impacts of alcohol consumption.

3. STATUTORY FRAMEWORK

3.1 NATIONAL LIQUOR ACT, 2003 (ACT 59 OF 2003)

Section 2(a) of the Act states that the objects of the Act are to reduce the socio-economic and other costs of alcohol abuse by:

- (i) Setting essential national norms and standards in the industry;
- (ii) Regulating the manufacture and wholesale distribution of liquor;
- (iii) Setting essential norms and standards for the regulation of the retail sale and micro-manufacture of liquor; and
- (iv) Providing for public participation in the consideration of applications for registration.

Section 2(b) of the Act further states that the objects of the Act is to promote the development of a responsible liquor industry in a manner that facilitates:

- (v) The entry of new participants into the industry;
- (vi) Diversity of ownership in the industry; and
- (vii) An ethos of social responsibility in the industry.

3.2 WESTERN CAPE LIQUOR ACT, 2008 (ACT 4 OF 2008), AS AMENDED

The purpose of the Act is to provide for the licensing for the retail sale and the micro-manufacture of liquor in the Western Cape Province, and to provide for incidental matters.

Section 33 of the Act states that the Liquor Licensing Tribunal may grant the following licences, amongst others:

- (i) A licence for the sale of liquor for consumption off the premises where the liquor is sold; and
- (ii) A licence for the sale of liquor for consumption on the premises where the liquor is sold.

Section 34 of the Act states that the Liquor Licensing Tribunal may not grant a licence, unless it is satisfied on balance of probabilities that, amongst others:

- (i) The granting of the application does not prejudice—
 - The residents of a residential area;
 - The residents of an institution for the aged or frail;
 - The learners of an educational institution who are under the age of eighteen (18) years;
 - The patients of an institution for drug or alcohol related dependencies; or
 - The congregants of a religious institution located in the vicinity of the proposed liquor licensed premises.

Section 36(1) of the Act states that an application for a licence must be made to the Board by submitting the following documents, amongst others:

- (i) A zoning certificate; and
- (ii) Where necessary, a copy of a planning application submitted to the municipality concerned in terms of applicable planning legislation.

Section 36(6) of the Act states that notwithstanding the notification requirements in terms of the Act, where an applicant must submit a planning application to the local authority for approval, then the notification done in terms of the applicable planning legislation is deemed to be in compliance with the notification requirements in terms of the Act, provided that the Liquor Licensing Tribunal may require such additional notification as it may deem appropriate.

3.3 NATIONAL BUILDING REGULATIONS AND STANDARDS ACT, ACT 103 OF 1977

The Act stipulates that a building plan for a structure to be used as a liquor outlet/tavern, albeit for the conversion of a portion of an existing house or garage or a new structure (permanent or temporary), must be submitted to the Municipality for approval.

3.4 DRAKENSTEIN BY-LAW ON MUNICIPAL LAND USE PLANNING, 2018, AS AMENDED

Section 15(1) of the Drakenstein By-law on Municipal Land Use Planning, 2018, as amended, states that no person may commence, continue, or cause the commencement or continuation of land development, other than the subdivision or consolidation of land referred to in Section 24, without the approval of the Municipality in terms of Subsection (2).

Section 15(2)(n) further states that the owner or his agent may apply to the Municipality in terms of this Chapter and Chapter IV for the development of the land concerned, which involves a consent use for a liquor outlet and a tavern.

Section 86(1) states that a person is guilty of an offence and is liable on conviction to a fine or imprisonment, or to both a fine and such imprisonment if he or she contravenes or fails to comply with section 15(1) amongst others.

3.5 DRAKENSTEIN ZONING SCHEME BY LAW, 2018, AS AMENDED

Section 15(1) of Drakenstein Zoning Scheme By-Law, 2018, as amended, stipulates that consent use applications are made in terms of the Planning By-law. In this regard, liquor outlets/taverns are categorized as consent uses in the Conventional Housing Zone and Multi-Unit Housing Zone, where these properties are located within the Local Economic Development Overlay Zones (LED Zones) identified in the zoning scheme.

Section 195 of the Drakenstein Zoning Scheme By-Law, 2018, as amended, further sets out specific development parameters for taverns in the LED Overlay Zone. It should be noted that whilst these parameters are applicable to taverns, the parameters have not been made applicable to liquor outlets.

4. EXCLUSIONS FROM THIS POLICY

4.1.1 The provisions of this policy are only applicable to properties located in the Local Economic Development Overlay Zone, as identified in the zoning scheme.

4.1.2 Notwithstanding paragraph 4.1.1 above, the provisions of this policy are not applicable to properties zoned for any other purpose, other than Conventional Housing Zone.

4.1.3 Despite also being zoned Conventional Housing Zone, residential properties located outside of the Local Economic Development Overlay Zone, where such owners intend on operating a facility, shall be required to submit a rezoning application in terms of the Bylaw, of which the legislative application procedures will be followed.

5. LIQUOR TRADERS' ASSOCIATIONS

A liquor outlet/tavern operator must be a registered member of a recognised liquor traders' association, and proof thereof, together with a letter of good standing must be submitted as part of the application.

No application will be accepted without the above-mentioned documentation.

6. TYPE OF FACILITIES THAT CAN BE APPLIED FOR

Two type of liquor-selling facilities may be applied for, namely a Liquor Outlet and a Tavern.

6.1 LIQUOR OUTLET

Liquor outlets are facilities where an operator solely intends to sell liquor for off-site consumption. Such facilities can be regarded as similar to that of a house shop, with the differencing being the trading of liquor instead of household goods.

6.2 TAVERNS

Taverns are facilities where an operator intends to sell liquor for on-site consumption, which may include ancillary uses such as the serving of meals, operation of gambling machine, pool tables, etc. The latter uses must specifically be applied for and approved by the Municipality as part of the consent use application.

7. APPLICATION REQUIREMENTS

- 7.1 Applications for a liquor outlet/tavern from a residential zoned property will only be considered in the following circumstances:
- 7.2 Where such property falls within the Local Economic Development Overlay Zone area, as indicated in the zoning scheme;
- 7.3 Where the dominant/primary use of the property will remain residential, meaning that at least 60% of the property will be utilized for residential purposes;
- 7.4 Where the operator is either the registered owner of the property, or a permanent resident on the property, and proof thereof must be submitted;

7.5 Notwithstanding paragraph 7.4 above, no applications for liquor outlets/taverns will be considered, where such facility is proposed to be operated from a municipal rental unit, except where the operator is the legal beneficiary of such rental unit and where the conveyancing process with regard to the transfer of owner to the beneficiary has already commenced. Proof thereof, which includes written confirmation from the Legal Services Section or a written instruction from the conveyancing attorney, must be submitted with the application.

8. INSTANCES IN WHICH APPLICATIONS FOR LIQUOR FACILITIES WILL NOT BE CONSIDERED

8.1 When the application fails to meet the criteria set in Paragraph 7 above.

8.2 Where the facility operator illegally occupies the land on which the facility is being proposed.

8.3 Where the operator is a foreign national citizen, whose documentation for residing in South Africa, does not allow such citizen to conduct business activities.

9. FACILITY REQUIREMENTS

9.1 LOCATION

9.1.1 Taverns shall preferably be located along existing and/or proposed higher order roads, nodes and activity streets.

9.1.2 Where a facility is proposed within a predominantly residential area and where the application property is cocooned by residential development, it is encouraged that the operator apply for a liquor outlet, as opposed to a tavern.

9.1.3 Where taverns are proposed within a predominantly residential area as outlined in paragraph 9.1.2 above, then, in the event of approval, the Municipality may lay down conditions relating to the extent of the facility, maximum number of patrons, stringent operating hours, or any other reasonable condition as the Municipality may deem fit.

9.1.4 While it is not preferable to have a facility located in close proximity of or adjacent to a community facility, such as a school, clinic, church, crèche, etc, the Municipality might consider such applications, provided that the operator obtains the written permission of the said community facility or facilities, prior to the submission of the land use application.

9.1.5 Although the Municipality does not strive to limit the number of facilities in an area, the Municipality reserves the right to limit the number of facilities where deemed required. Reasons for limitation may include safety and social problems and/or concerns arising from alcohol abuse, alcohol related crimes, illegal criminal activity,

etc, using data derived from the South African Police Service and Department of Social Development.

9.2 FACILITY OPERATOR

- 9.2.1 An operator must be a permanent resident of the property on which the facility is being proposed.
- 9.2.2 An operator must be a South African citizen, or a foreign national whose legal documentation for residing in South Africa, permits the foreign national to conduct business activities.
- 9.2.3 When submitting an application, sufficient proof must be provided that the operator permanently resides on the property. Such proof includes, but is not limited to, a title deed, municipal account or a lease agreement between the operator and the registered owner of the property.
- 9.2.4 In instances where the subject property is owned by more than one person, or where the registered owner(s) are married in community of property, then all relevant owners/parties must sign all documentation related to the application.
- 9.2.5 Under no circumstances may a facility be rented out to a person who is not a permanent resident of the property concerned.
- 9.2.6 Where approval is granted to operate a facility, such approval shall be granted to the operator of the facility as indicated in the land use application, and such rights shall not be transferable to any other person.
- 9.2.7 When another person, other than the approved operator as stipulated in paragraph 9.2.6 above, wishes to take over the operation of the facility, then a new land use application with the particulars of the new operator shall be submitted for approval.
- 9.2.8 All operators, whether in their personal capacities or as a business entity registered in terms of the Companies Act, 2008 (Act 71 of 2008), must be registered taxpayers with the South African Revenue Services (SARS), and proof thereof is to be submitted.
- 9.2.9 Should an application be submitted by a business entity as mentioned in paragraph 9.2.8 above, then a company resolution, proving that the application may be submitted, together with the identification documents of all directors, must be accompany the application.

9.3 FACILITY STRUCTURE AND EXTENT

- 9.3.1 Facilities must be operated from structures that comply with the requirements in terms of the National Building Regulations and Building Standards Act.

- 9.3.2 Facilities may not be operated from temporary shipping containers or informal timber structures.
- 9.3.3 The total floor area occupied by a liquor outlet may not exceed a maximum of 40m², inclusive of storage areas.
- 9.3.4 The total floor area occupied by a tavern may be erected at a maximum of 60m², including all storage, trading space and circulation/movement areas, provided that such floor area does not extend beyond 40% of the total floor area of the dwelling unit(s) on the property.
- 9.3.5 In the event of an operator intending to use an outside area as part of the facility, then the extent of such outside area will be deemed to be part of the maximum floor area referred to in paragraph 9.3.4 above. Outside areas are however discouraged, especially where the property is cocooned by residential properties.
- 9.3.6 All structures to be utilized as part of the facility must be indicated on a building plan, including the use thereof as part of the facility, approved by the Municipality.

9.4 ADDITIONAL REQUIREMENTS FOR STRUCTURES TO BE UTILISED AS A LIQUOR OUTLET/TAVERN

- 9.4.1 Facilities shall be located within the relevant building lines applicable to the property, except where the Municipality has approved a departure therefrom.
- 9.4.2 In order to maintain the character of the surrounding residential area and to reduce the visual impact on the streetscape, facilities shall preferably be located towards the rear of the property and/or behind existing structures.
- 9.4.3 Any structure to be utilised for a facility must have the same façade as the existing structures on the property. Where the existing structures have been plastered and painted, then the facility must be plastered and painted the same colour as the existing structures.
- 9.4.4 Proposed new structures to be utilised for the facility may not be placed in a position which may compromise access to municipal infrastructure and services such as, but not limited to, water lines, sewer lines, stormwater channels/pipes, fire hydrants and electricity cables, distribution boxes and transformers.
- 9.4.5 Tavern operators shall ensure that taverns have unfettered access to ablution and hand-washing facilities, at all times. Ablution facilities within the main dwelling on the property may not be utilised as ablution facilities for the tavern.

9.5 ON-SITE PARKING AND LOADING ZONE REQUIREMENTS

- 9.5.1 An operator must provide the necessary parking and loading zone as required by the zoning scheme, as far as possible.
- 9.5.2 Notwithstanding the requirements of the zoning scheme, the Municipality may allow for a departure from the necessary parking and loading zone requirements, and will be considered on a case-by-case basis. The Land Use Planning and Surveying Section, together with the Civil Engineering Services Division will conduct an assessment into the practical implications of granting any departures.
- 9.5.3 Tavern operators are required to at least provide 50% of the required parking within the cadastral boundaries of the application property. The Municipality may consider the use of public property such as within road reserves, pavements and on-street parking to be included in the provision of parking for the facility, provided that this will not impact on road user safety and lead to traffic congestion.
- 9.5.4 Due to the nature of liquor outlets, the Municipality may consider waiving the on-site parking requirements for such facilities.
- 9.5.5 At least one (1) loading zone/bay per facility is to be provided.
- 9.5.6 Where it is physically impractical to provide a loading zone on-site, the Municipality may consider allowing offloading within the road reserve, to the satisfaction of the Civil Engineering Services Division.
- 9.5.7 For areas with street widths of less than 7.5m, delivery vehicles shall be restricted to vehicles weighing less than 1.5 tonnes, such as one tonne trucks and bakkies.
- 9.5.8 Notwithstanding paragraph 9.5.7 above, the use of vehicles weighing 1.5 tonnes or less is encouraged in all instances.
- 9.5.9 Deliveries may only take place from Monday to Friday, between 08:00 and 16:00.

9.6 CITIZENSHIP AND EMPLOYMENT

- 9.6.1 All facility operators must submit a certified copy of their ID, and in the case of a foreign national, legal documents for residing in South Africa together with proof of place of residence.
- 9.6.2 A liquor outlet operator may employ no more than two additional persons to assist with the operation of the liquor outlet.
- 9.6.3 A tavern operator may employ no more than three additional persons to assist with the operation of the tavern.

9.6.4 A facility operator may not employ a person under the age of eighteen (18) in connection with the sale, supply or serving of liquor.

9.7 TRADING HOURS

9.7.1 Trading hours shall be determined generally in accordance with the Municipality's bylaw on the regulation of the trading hours for the sale of liquor.

9.7.2 Notwithstanding the trading hours stipulated in the Municipality's bylaws regarding trading hours for the sale of liquor, the following standard operating hours shall be applicable to facilities:

Monday – Thursday: 11:00 – 20:00

Friday – Saturday: 11:00 – 24:00

Sunday: 11:00 – 20:00 (taverns only)

9.7.3 Liquor outlets are prohibited from trading on Sundays, in line with the Municipality's bylaw on the regulation of the trading hours for the sale of liquor. In the event of the Municipality's bylaw being amended to allow for trading on Sundays, then liquor outlets will automatically be allowed to operate at similar trading hours as taverns.

9.8 SIGNAGE

9.8.1 Only one un-illuminated sign, with a maximum of 2000cm² in size, which shall be affixed to the wall of the house / second dwelling / third dwelling/ outbuilding/ or any other legal structure as approved by the Municipality, shall be permitted.

9.8.2 Signage shall only indicate the name of the owner and/or the name of the facility.

9.8.3 No illuminated-, mobile-, freestanding-, or protruding signs shall be allowed.

9.8.4 No signage of any nature may be erected beyond the boundaries of the property on which the facility is located.

9.9 ADDITIONAL FACILITIES

9.9.1 No additional facilities such as video games, pool tables, vending machines, jukeboxes or limited pay-out gambling machines shall be permitted, unless such additional uses have specifically been approved by the Municipality as part of the consent use application in terms of Planning Law.

9.10 RESTRICTION ON PRODUCTS SOLD

9.10.1 The following products **may not** be stored and/or sold from facilities:

- (a) Sale of fireworks, sale or storage of gas or flammable fuel or gas/fuel containers, or any other substance deemed to be of an illegal nature; and
- (b) The sale of consumable products that are ordinarily sold from a house shop, with the exception of cigarettes.

9.11 OTHER REGULATIONS

- 9.11.1 All liquor facilities must comply with health, safety and fire regulations in terms of the relevant legislation.
- 9.11.2 All approvals obtained in terms of relevant legislation must openly be displayed within the, including but is not limited to the liquor licence, land use approval and health certificate.

10. PUBLIC NUISANCE

- 10.1 No facility may constitute a noise nuisance (patrons shouting, music being played loudly, extractor fans, etc), or create a nuisance for any neighbouring property owner (as a result of loitering, vehicles parking in the street, drunk patrons in the street, damaging neighbours' properties, cars hooting/stopping, etc).
- 10.2 Music played at taverns must be limited to background music at a low volume and speakers may not be placed outside of the tavern.
- 10.3 The Municipality may lay down conditions requiring the operator to install soundproofing measures within a tavern, in order to mitigate the impact on surrounding properties.

11. APPLICATION PROCEDURES

- 11.1 The application procedure in order to obtain the necessary land use rights to operate a liquor facility, will be as follows:
 - 11.1.1 The applicant must submit a land use planning application in terms of the Planning Law to the Municipality for consideration. Documents to be included in such application includes, but is not limited to:
 - (a) Completed application form (online Collaborator system);
 - (b) Application fees;
 - (c) Property owner consent (if applicant is not the owner);
 - (d) Copy of title deed;
 - (e) Certified identity documentation of the property owner and operator, if the operator is not the property owner;
 - (f) Motivation;

- (g) Site plan / site development plan;
- (h) Surrounding area land use plan (100m radius);
- (i) In the event of the application being to regularize an unlicensed facility, interior and exterior photos of the liquor facility;
- (j) In the event of the facility being proposed from municipal rental unit, written confirmation that the conveyancing process has already commenced;
- (k) Proof of registration as a taxpayer with the South African Revenue Services; and
- (l) In the case of a business entity, proof of registration with the Companies and Intellectual Properties Commission, and all relevant company resolutions as may be required by the Municipality.

11.1.2 Details of the application will be circulated to affected surrounding property owners and relevant internal and external departments for comment and/or objection. Depending on the application, the Municipality may require the application to be advertised in the Paarl Post. The costs of such advertisement will be for the applicant's account.

11.1.3 Details of the application will also be circulated to the Planning Portfolio Holder and the relevant Ward Councillor for comment. Ward Councillors must provide written comments on the application to the Land Use Planning and Surveying Section. Such comments may not refer to the approval or refusal of the application, but must refer to the grounds for objections, if any.

11.1.4 Should any objections be received from the surrounding property owners, then the applicant will have the right to respond to those comments. If any internal or external department requires more clarity on the application or additional information, it is the responsibility of the applicant to provide this feedback. Applications will not be finalized until the applicant has provided the necessary feedback.

11.1.5 Once all relevant information and comments on the application have been received, a recommendation will be made to the relevant decision-making authority on whether or not to approve or refuse an application for a facility. Once a decision has been made, the applicant and all other relevant parties who were notified of the application will be informed in writing of the outcome of the application.

11.1.6 The decision taken above is subject to a 21-day appeal period. Should no appeals be received, then the final decision letter will be issued. Should the decision be that the application has been approved, then the applicant may commence with the operation of the facility, subject to compliance with the relevant conditions of approval.

11.1.7 If an appeal was received, whether by the applicant or another appellant, then such appeal must firstly be circulated to all relevant parties for comment on the appeal. After all comments have been received, if any, then the appeal will be referred to the Executive Mayor for a final decision. Once a final decision has been made, the applicant and all other relevant parties who were notified of the application will be informed accordingly. Should any party be dissatisfied with the decision, then such parties will have to take the decision on legal review.

12. VALIDITY PERIOD OF APPROVALS

12.1 In order to evaluate the impact of facilities on the surrounding residential area(s), the following validity periods will be applicable:

12.1.1 Liquor outlets shall be approved for a period of two (3) years.

12.1.2 Taverns shall be approved for a period of one (2) year.

12.2 Operators who intend on proceeding with the operation of the facilities after the expiry of the validity period of the land use rights as referred to in paragraphs 12.1.1 and 12.1.2 above, must apply for the extension thereof, prior to the lapsing of the land use rights.

12.3 Should operators submit an application to extend the relevant land use rights as required in paragraph 12.2, the Municipality may consider a shortened/streamlined application process.

12.4 The contents of paragraphs 12.2 and 12.3 above must not be construed as an automatic approval of the application. Each application will be evaluated based on its own individual merit.

12.5 Failure to apply for the extension of the validity period of the land use rights may result in liquor facilities not being able to renew their liquor licences.

13. GROUNDS FOR IMMEDIATE REFUSAL OF AN APPLICATION AND/OR THE REVOKING OF APPROVED LAND USE RIGHTS

13.1 Approvals for facilities are granted to the operator of the facility, and shall lapse or be revoked under the following circumstances:

- 13.1.1 In the event of a liquor licence application being refused, after the Municipality has granted land use approval for the operation of the facility.
- 13.1.2 The liquor licence of an existing approved facility has been revoked or suspended by the Western Cape Liquor Authority.
- 13.1.3 When ownership of the property has been transferred, except where the new owner of the property decides to take over or continue with the lease agreement with the operator.
- 13.1.4 The operator of the facility has been arrested in connection with drug abuse, selling of drugs, prostitution, and occurrence of violent behaviour or any other criminal activity.
- 13.1.5 Where the operator ceases to continue with the operation of the approved activity.

14. LAW ENFORCEMENT PROCEDURES

- 14.1 Law enforcement in respect of facilities will be dealt with in accordance with Chapter IX of the By-law, or any other corresponding chapter dealing with land use enforcement and compliance.
- 14.2 Enforcement and compliance in respect of facilities will be addressed in the following manner:
 - 14.2.1 In the event of the Municipality receiving a complaint regarding the illegal operation of a facility, or failure of an approved facility to comply with the relevant conditions of the land use approval, the Municipality will firstly determine whether the facility in question has the relevant land use rights, and if so, what the conditions of approval are.
 - 14.2.2 An authorised official of the Municipality, who is appointed as a Peace Officer in terms of Section 334 of the Criminal Procedures Act, 1977, will then undertake an on-site inspection in order to determine whether a facility is in fact trading illegally, or in the case of a legal facility, whether there are any signs of non-compliance with conditions of the land use approval.
 - 14.2.3 In addition to the contents of paragraph 14.2.2 above, the Municipality may rely on evidence and submissions of the South African Police Services and neighbourhood watches amongst others, in its investigation.
 - 14.2.4 Should the authorised official of the Municipality find that the liquor facility is trading illegally or in contravention with the land use approval, the authorised official shall

issue the registered owner(s) of the property concerned with a compliance notice to cease the operation of the illegal facility, or in the case of a liquor facility, a notice to comply with the land use conditions of approval. The directions contained in such compliance notice must be complied with within a specific period of time, which will be determined on a case-by-case basis.

14.2.5 The owner of the property may object to the compliance notice by submitting written representations to the authorised official within the period stipulated in the notice.

14.2.6 After consideration of any objections or representations to the compliance notice, the Municipality may suspend, confirm, vary or withdraw the compliance notice or any part thereof, and must specify the period within which the person to whom the compliance notice is addressed, must comply with any part of the compliance notice that is confirmed or varied.

14.2.7 If the period of time mentioned in paragraph 14.2.4 above has lapsed, and no objections or representations have been received, or after the period which the Municipality has specified following the consideration of any objections or representations to the compliance notice, the authorised official will conduct a follow-up on-site inspection in order to determine whether the property owner has complied with the contents of the compliance notice.

14.2.8 If a person fails to comply with a compliance notice, the Municipality may:

- (a) Institute criminal proceedings against that person;
- (b) Impose a fine as set out in the bylaw;
- (c) Apply to a competent court for an order –
 - (i) restraining that person from continuing with the unlawful utilisation of land;
 - (ii) directing that person to, without the payment of compensation—
 - (aa) demolish, remove or alter any building, structure or work unlawfully erected or constructed; or
 - (bb) rehabilitate the land concerned; and
- (d) In the case of a consent use or a temporary departure, withdraw the approval granted and take any of the other steps contemplated in terms of Section 88(1)(g) of the bylaw.

14.2.9 In cases where the unlawful utilisation of land must be stopped urgently, the authorised official may issue a compliance instructing the registered owner of the property to cease the unlawful utilisation of land immediately, without allowing for the provisions as set out in paragraphs 14.2.5 and 14.2.6.

14.2.10 If the registered owner of the property fails to cease the unlawful utilisation of land immediately, the City Manager may apply to a competent court for an interdict or any other relief necessary.

15. EXISTING LAWFUL FACILITIES

15.1 All facilities that have legally been approved in terms of a former zoning scheme and subsequently acted on, and where all conditions of approval have been complied with, which is in contravention with the zoning scheme and this policy, will not be considered an offence, but a lawful non-conforming use.

16. DISCLAIMER

16.1 Where the provisions of this policy contradicts with the provisions of the zoning scheme and/or any other law, then the provisions of the zoning scheme and/or that law will take precedence.

16.2 Compliance with all the guidelines and/or criteria as set out in this policy, does not imply that applications will automatically be approved. The Municipality reserves the right to evaluate applications on a case-by-case basis.

17. COMMENCEMENT DATE

17.1 Unless otherwise specified, the commencement date of this policy will be the date of adoption by the Council, and shall remain in effect until it is reviewed, revoked or amended by Council.