



DRAKENSTEIN

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Paarl | Wellington | Gouda | Saron | Simondium

Amended Limited Pay-out Gambling Machine Policy

Date of Approval/Review by Council

29 January 2020

Implementation Date

29 January 2020

Signed by the City Manager

Signature Date

29 January 2020

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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.
Authorised employee	Means the employee authorised to make a decision on applications for limited pay-out gambling machines, in terms of Council's system of delegations.
By-law	Refers to the Drakenstein By-law on Municipal Land Use Planning, 2018, as amended from time to time.
Facility	Refers to a primary land use right in which gambling is proposed.
Gambling	Means any business which entails the wagering of money or something of value on an event with an uncertain outcome with the primary intent of winning money and/or material goods, and includes totalisators (totes) and gambling machines.
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 measures that are put in place in order to ensure that the limited pay-out gambling machine is compliant with relevant legislation, policies, norms and standards.
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.
Land use rights	Refers to the lawful utilisation of land imposed in terms of the zoning scheme and/or land use application approvals.
Limited pay-out gambling machine (LPGM)	Means a machine, including totalisators (totes) used for electronic sports betting and racing machines, in which the stakes and prizes are limited as prescribed by the National Gambling Act.
Municipality	Means the Drakenstein Municipality.
Neighbours permission	Means a land use in any zone provided for in the zoning scheme, the use of which may only be exercised if the written permission of the affected neighbours have been obtained, in which case the Municipality's permission is deemed to have been granted.
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.
Site	Refers to the site on which gambling machines are operated as a secondary use.

Zoning scheme	Refers to the Drakenstein Zoning Scheme By-law, 2018, as amended from time to time.
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1. INTRODUCTION

The existing Drakenstein Municipality Limited Pay-out Gambling Machine Policy has been in operation in the municipal area since 2014. Since adoption, the policy has been operating seamlessly, with very few matters of concern being raised.

However, the policy is based on a suite of national, provincial and municipal legislation, policies and frameworks, the bulk of which have been repealed in Drakenstein Municipality. The most important legislation involved is the repeal of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985) together with the various zoning schemes adopted in terms thereof, namely the Paarl Zoning Scheme Regulations, Wellington Zoning Scheme Regulations, Mbekweni Township Establishment Conditions, as well as the Section 8 Zoning Scheme Regulations.

The above-mentioned legislation have been repealed and subsequently replaced with the Drakenstein By-law on Municipal Land Use Planning and the newly adopted Drakenstein Zoning Scheme By-law. These by-laws have completely changed the manner in which land uses are managed throughout the municipal area, including limited pay-out gambling machines. The need has therefore arisen to review the existing limited pay-out gambling machine policy, in order to align it with the new suite of planning legislation in Drakenstein Municipality.

2. PURPOSE OF THE LIMITED PAY-OUT GAMBLING MACHINE POLICY

The purpose of the limited pay-out gambling machine policy is to:

- 2.1 Provide a set of criteria that will assist the Municipality in the assessment of all applications for limited pay-out gambling machines;
- 2.2 Outline the process which should be followed in order to obtain the necessary land use rights to operate limited pay-out gambling machines; and
- 2.3 To align the limited pay-out gambling machine policy with the current suite of planning legislation in Drakenstein Municipality.

3. STATUTORY FRAMEWORKS

3.1 NATIONAL GAMBLING ACT, 2004 (ACT 7 OF 2004)

The purpose of the National Gambling Act, 2004 (Act 7 of 2004) is to provide for the co-ordination of concurrent national and provincial legislative competence over matters relating to casinos, racing, gambling and wagering, and to provide for the continued regulation of those matters.

3.2 WESTERN CAPE GAMBLING AND RACING ACT, 1996 (ACT 4 OF 1996)

The purpose of the Western Cape Gambling and Racing Act, 1994 (Act 4 of 1996) is to provide for the establishment of a gambling and racing board, licencing of persons conducting gambling, the licencing of persons engaged in gambling and the manufacture and sale of gambling machines and gambling devices. The Act furthermore provides for the restriction, regulation and control of gambling and makes provision for taxes on gambling and fees for applications and investigations.

3.3 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 for the development of the land concerned, which involves a consent use contemplated in the zoning scheme.

3.4 DRAKENSTEIN ZONING SCHEME BY-LAW, 2018

In terms of the Drakenstein Zoning Scheme By-law, 2018, LPGM's are catered for in the base zones as follows:

Base Zone	Provision for LPGM's
Limited Use Zone	Only existing lawful non-conforming uses permitted.
Natural Environment Zone	Not addressed
Agriculture Zone	Not addressed
Open Space Zone	Prohibited
Community Use Zone	Prohibited

Conventional Housing Zone	Prohibited
Multi-Unit Housing Zone	Prohibited
Neighbourhood Business Zone	Consent Use for Gambling
Transport Zone	Prohibited
Utility Zone	Not addressed
Industrial Zone	Consent Use for Place of Entertainment
Mixed-Use Zone	Primary right

Notwithstanding the provisions of the base zones above, LPGM's may be applied for as a Consent Use for Business in the Local Economic Development Overlay Zone.

4. APPLICATION REQUIREMENTS

4.1 The use of LPGM's will only be considered in the following circumstances:

4.1.1 Where gambling is not a prohibited use in terms of the zoning scheme.

4.1.2 Only a maximum of two LPGM's will be considered/approved as a secondary or associated use, in instances where gambling is not stipulated as a primary right in terms of the zoning scheme, and where no land use application for additional LPGM's has been approved;

4.1.3 Properties must consist of an approved business/visitor's facility orientated use in accordance with the zoning scheme, or where a Place of Entertainment/Business/Visitor's Facility/Tavern have been approved;

4.1.4 A maximum of five LPGM's will only be considered/approved in instances where the zoning scheme permits it as either a primary right, or with consent; and

4.1.5 The LPGM must be accommodated within an approved building, as per building plans approved by the Municipality.

4.2 The following information/documentation must be submitted with the application for the keeping of LPGM's, in addition to other relevant documents associated with the submission of land use planning applications:

4.2.1 The type of gambling machines being applied for such as LPGM's and sports betting and racing should be specified;

4.2.2 An approval letter or zoning certificate clearly stipulating the approved primary right of the application property, if applying for two LPGM's as per paragraph 4.1.2;

- 4.2.3 Approved building plans applicable to existing buildings on the application property, together with an indication of the location/position of the LPGM site;
- 4.2.4 A copy of the most recent business license issued in respect of the primary use on the property;
- 4.2.5 Motivation letter; and
- 4.2.6 Consent letters from the possible affected surrounding property owners, if only applying for two LPGM's as per paragraph 4.1.2.

5. LOCATIONAL CRITERIA FOR LPGM'S

5.1 LPGM's should preferably be located in the following locations:

- 5.1.1 Within the Central Business District (CBD) area of the relevant towns or suburbs within the Drakenstein Municipal area;
- 5.1.2 Along existing established activity corridors and main routes such as Main Road (Paarl and Wellington), Main Street (Saron, Gouda and Hermon), Church Street (Wellington), Lady Grey Street (Paarl), Jan Van Riebeeck Drive between Langenhoven Avenue and Ambagsvallei Street (Paarl), Klein Drakenstein Road between Field Street and Maasdorp Street (Paarl);
- 5.1.3 Within existing and established industrial areas where Places of Entertainment and other recreational facilities have been approved;
- 5.1.4 Within existing neighbourhood shopping centres or local business nodes where restaurants, Places of Entertainment or any other type of recreational facility has been approved;
- 5.1.5 At legal or authorised taverns; and
- 5.1.6 The Municipality may consider alternative locations in exceptional circumstances.

5.2 LPGM's will not be considered in the following locations:

- 5.2.1 Properties not in compliance with paragraph 5.1 above;
- 5.2.2 At house shops, service and petrol stations and residential convenience stores;



5.2.3 Properties situated in established residential neighbourhoods whether or not it is zoned for business purposes, except for locations as mentioned in paragraphs 5.1.4 and 5.1.5 above; and

5.2.4 Illegal business premises/uses.

6. NUMBER OF LPGM'S PERMITTED ON PROPERTIES

6.1 Two (2) LPGM's per facility can be considered as permissible, with the consent of the Manager: Land Use Planning and Surveying Section, on properties within the areas mentioned in paragraph 5.1 above, except that of Taverns;

6.2 A maximum of two (2) LPGM's will only be considered at lawful Taverns, with the approval of a formal Consent Use application; and

6.3 A maximum of five (5) LPGM's may be allowed on properties, where an application for the necessary land use rights has been submitted and approved by the Municipality, except in instances where gambling is a primary right in terms of the zoning scheme.

7. LEVEL OF PUBLIC PARTICIPATION

7.1 The level of public participation should be determined on the basis of the impact that the application will have on the surrounding area. The impact can therefore be measured, but not limited to, as follows:

7.1.1 Applications for up to two LPGM's per facility and which complies with the policy must only be accompanied by the possible affected surrounding property owners' written permission, to the satisfaction of the Municipality;

7.1.2 Comments must be obtained from the relevant Ward Councillor;

7.1.3 In the event of the applicant not being able to obtain the affected surrounding property owners' permission, a full consent use application must be submitted in terms of the By-law;

7.1.4 Applications for a maximum of two LPGM's on properties with an existing land use right for a Tavern that complies with the policy will follow a formal land use application process, including advertisement in the press as prescribed in the By-law;

7.1.5 Applications for more than two LPGM's per property and which complies with the policy will follow a formal land use application process, including advertisement in the press, as prescribed in the By-law; and

- 7.1.6 Where gambling is a primary right in terms of the zoning scheme, no public participation process is required.

8. DELEGATED AUTHORITY TO APPROVE APPLICATIONS

- 8.1 A maximum amount of two LPGM's will be permissible per facility, provided that the proposal complies with the policy and no objections have been received from the affected surrounding property owners and Ward Councillor, with the decision-making being delegated to the Manager: Land Use Planning and Surveying Section. No right of appeal exists in these cases;
- 8.2 Notwithstanding paragraph 8.1 above, consent use applications for two LPGM's proposed at Taverns within the Local Economic Development Overlay Zone, as contemplated in the zoning scheme, shall be subject to the appeal processes prescribed in terms of the By-law; and
- 8.3 A formal land use planning application for three to five LPGM's can be considered per facility, provided that the proposed property complies with the policy, regardless of whether or not objections have been received, with the decision maker being the Authorised Employee.

9. EXISTING LAWFUL FACILITIES WITH LPGM'S

- 9.1 All LPGM'S that have legally been approved in terms of a former zoning scheme and subsequently acted on, which is in contravention with the zoning scheme and this policy, will not be considered an offence, but a lawful non-conforming use.

10. DISCLAIMER

- 10.1 The provisions of this policy only applies to applications which involve LPGM's only, and is not applicable to casinos, as defined in the National Gambling Act, 2004 (Act 7 of 2004).

11. COMMENCEMENT DATE

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

