

GEORGE MUNICIPALITY

House Taverns and Unlicensed Shebeens

Policy Framework



GEORGE MUNICIPALITY TOWN PLANNING POLICY ON HOUSE TAVERNS AND UNLICENSED SHEBEENS

A. PURPOSE

To formulate a policy that allows the George Municipality to manage its concession of permitting the establishment of house taverns and the handling of unlicensed shebeens located within the George Municipal Area in such a way that the residents living in these areas can earn an income from their property while limiting any negative impacts of these businesses on the rights of the other residents in the area to a safe, clean and quiet living environment, promoting an entrepreneurial spirit within these neighbourhoods, and stopping the abuse of this concession by outside business owners who are profiting from it often to the detriment of the property owner and residents concerned.

EXPLANATORY NOTE 1

Why the need for a policy?

All municipalities have zoning schemes to manage complementary and conflicting land uses in its area and to determine the types of land uses that can be allowed on each property. Each zoning scheme has different zones for business uses, industrial uses, residential uses and institutional uses and each property is assigned a zoning. The municipality then draws up a plan to determine where these zones and land uses can be located in relation to each other.

A typical example of conflicting land uses are industrial uses next to a residential use, or a tavern next to a school. A complementary use is typically a business property next to an industrial property or a residential property next to school or church.

Under ideal circumstances (everything being equal) business uses should not be entertained in lower density residential areas as it inevitably leads to conflict and disturbances (businesses generate more noise, traffic, pollution and smells and attract elements to the area) in an area that should be a place of solitude (rest and relaxation, family time, etc) for the residential property owner and his/her family.

In most neighbourhoods you will typically find that business properties are located in the main roads and/or on a large single property and the smaller corner shops are located on one or two street intersections. The shops are located in these positions as it minimises potential negative impacts on the surrounding residential uses and the residents' rights to live in a peaceful, safe and clean environment.

The municipality however, acknowledges the reality of the inequities found in the township areas due to past planning practices that made most townships dormitory towns with its residents having limited access to basic goods and

services. Residents generally found themselves without access to the economic opportunities found in the wealthier suburbs and as a result, found other informal means to meet their needs.

It also acknowledges that the majority of the residents in the township areas are not by the economic means to support themselves and that the only real asset they can use to generate an income for themselves is their property. As a result, you will find that many owners in these areas would typically rent rooms in their house or part of their property to backyarders, while others start vegetable gardens, small and micro businesses from home. The types of businesses range from small fruit and vegetable and luxury (sweets, cool drinks and chips) stalls, small take-away stalls (typical braai stands) to your larger house shops which sell a larger variety of goods and services as well as your shebeens and taverns.

The proliferation of taverns and other entertainment orientated businesses in the township areas is thus a response to rectify the imbalances of the past and also to respond to the social needs and economic demands of the community and the municipality, in response to the need, has made a concession to allow these enterprises.

However, in recent years, the concession to allow the establishment of taverns in the township areas as a socio-economic intervention has been abused by formal business owners and other outside parties who take advantage of the house tavern concept to establish formal businesses on these residential properties, often to the detriment of the property owner concerned. This activity is deemed to be in conflict with the spirit in which the concession was originally afforded by the municipality and should therefore not be permitted.

B. DEFINING A HOUSE TAVERN AND A SHEBEEN

A house tavern is defined as “*an enterprise, conducted from a dwelling house or outbuilding, by the occupant of the dwelling house concerned, for the sale of alcoholic beverages and may include consumption of alcoholic beverages by customers on the property, provided that the dominant use of the dwelling house concerned shall remain for the living accommodation of a single family.*”

A shebeen is defined as “*an unlicensed outlet, either for the on and/or off consumption/sale of liquor.*” For the purpose of this policy shebeens are thus enterprises located on residential properties which do not have a land use approval in terms of the Land Use Planning Ordinance, 1985 (Ord.15 of 1985) and/or a liquor license in terms of the Western Cape Liquor Act, 2008 (Act 4 of 2008) as amended by the Western Cape Liquor Amendment Act, 2010 (Act 10 of 2010), hereafter referred to as the Western Cape Liquor Act, as amended.

EXPLANATORY NOTE 2

What is a house tavern?

A house tavern is primarily a place where residents and people from outside the area can purchase liquor and other alcohol beverages which can be consumed either on- and/or off- the premises and may include an area where customers can relax and interact socially. A liquor store that is operated from a residential property is therefore also a tavern.

Who can operate and work in a house tavern?

The definition of house tavern only allows the owner or the registered tenant of the main house on the property to operate the tavern. The owner/ registered tenant is the person registered with the municipality for the paying of the rates, taxes, water and/or electricity accounts for that property. This means that the operator cannot be an outside person who rents only the tavern space from the owner / tenant.

Why is an outside person excluded from operating (renting) a house tavern?

The allowing of house taverns and other businesses on residential properties is first and foremost a concession by the municipality to address socio-economic needs in residential township areas and to assist the owners living in the township areas and their registered tenants to obtain a sustainable income from their properties while at the same time, developing and fostering an entrepreneurial spirit within these township communities.

The municipality is thus only allowing house taverns as an intervention to uplift the poor by getting them to work for themselves rather than depending on the state or the municipality for subsidies or grants. The house tavern is thus not intended to allow for the establishment and operation of formal businesses on residential properties or for these properties or part thereof to be rented out for such purpose.

The renting out of a house tavern is seen as just another form of subsidy / grant / handout which in reality does not help the property owner / registered tenant to improve their lives and that of their family in any meaningful way, defeating the intent of the municipality's concession.

Does the policy preclude "foreign nationals" from operating or working in a house tavern?

No, the policy does not preclude a "foreign national" from operating a house tavern as long as he/she is the registered owner or registered tenant of the main house on the property.

As stated above, house taverns are only being allowed by the municipality as a socio-economic intervention to assist the residents of townships (who are often unemployed and poor) to improve their lives through entrepreneurial development and not to afford formal business rights to a residential property.

A "foreign national" is not precluded from working in the house tavern.

What does "predominant use" mean?

Predominant use basically means that more than 50% of the buildings on the property and the property itself must still be used for residential purposes. In other words, the house tavern must be smaller than the house.

C. BACKGROUND

At present, the George Municipality controls the establishment of house taverns on an ad-hoc basis in terms of temporary departures from the zoning schemes

applicable to the area the house tavern is to be located in. There are limited controls in place to guide officials in consideration of the tavern applications.

The policy under consideration is specifically aimed at achieving sustainable land use control guidelines for the establishment of house taverns located on residential erven within the George Municipal Area.

The policy will take into consideration existing municipal by-laws and policies, existing and draft zoning scheme regulations, the Western Cape Land Use Planning Ordinance, 1985 (Ord.15 of 1985), the George Spatial Development Framework, the Provincial Government Western Cape's (PGWC) draft Liquor Policy and the Western Cape: Liquor Act, as amended.

Cognisance should be taken in the preparation of the policy of the fact that the framework within which the house tavern will be allowed and the manner in which unlicensed shebeens may be legalized can become a sensitive issue especially in the poorer communities which the land uses mostly serve. It is thus essential that a balance is achieved between implementing a framework to control/manage these house taverns and unlicensed shebeens and the perceived constitutional right of an individual to have access to these types of facilities.

Problems however exist in the "old traditional coloured and black townships" where discriminatory planning principles only made provision for residential uses and no proper planning is in place to allow for house taverns. These planning principles resulted in the proliferation of illegal taverns, shebeens and illegal off-sales "smokkelhuise" as experienced today.

D. ASPECTS TO BE ADDRESSED BY POLICY

It is acknowledged that a need exists for house taverns to be allowed as these establishments allow members of the community access to places of entertainment, social interaction and promotes entrepreneurship (allows people to make a living and access work opportunities). The policy must thus provide guidelines as to the sensible location of house taverns.

It is also acknowledged that the activities associated with house taverns and unlicensed shebeens do have the inclination to contribute towards adverse social impacts within the community it serves. As a result, a large section of this document will focus on the regularisation of these land uses. The policy document should thus address the conditions subject to which a house tavern will be allowed or an unlicensed shebeen may be legalized.

Prospective liquor license applicants, especially house tavern and unlicensed shebeen owners, often have difficulty in understanding the application process, finding it to be tedious and quite costly. The cost factor is a main contributor towards many of these establishments remaining unlicensed as small time house tavern owners are constrained by their budgets. The approval process is also complicated by the dual process of public participation for the liquor license and the town planning application. This policy document must therefore also aim to put in place a more user-friendly process for regularising these establishments.

This policy must also create a mechanism that will encourage existing unlicensed shebeen owners, whose establishments are located in desirable locations, to legalise their activities and to operate within the regulated framework and prospective owners/operators to follow the proper channels/processes.

The need to address the enforcement of the regulations and the handling of illegal and/or undesirable establishments will also have to be addressed in the policy.

E. CONTEXTUAL FRAMEWORK

1. Provincial Spatial Development Framework (PSDF)

The PSDF guidelines are based on the three pillars of sustainability being – Ecological Integrity (protection of the sensitive natural and built environment to enable sustainable human settlements), Social Justice (enabling of constructive spatial changes to integrate and ensure a physically, spiritually and mentally healthy society) and Economic Efficiency (optimization of space, infrastructure, and other resources to ensure lowest possible cost to the environment) – commonly known as the triple bottom line approach.

The Ikapa Elihlumayo (Home for all) vision of the Western Cape Province also highlights the need to work towards a movement away from welfare dependence to self-reliance, growing the economy, increasing employment and economic participation, reducing socio-economic inequity and providing for a sustainable social safety net.

Emphasis is placed in the PSDF on:

- **Building Social Capital** – Developing programs aimed at decreasing crime (developing an ethos of civic responsibility), creating strong family units, alleviating poverty and discouraging xenophobia, etc.
- **Building Human Capital** – Creating opportunities for further education and training, development of human values (dignity);
- **Developing economic and social infrastructure** – To build communities, create economic opportunities, enabling sustainable and integrated human environments, etc;
- **Development of the micro-economy** – Improving the livelihood and quality of life of citizens, creating employment, creating a healthy competitive environment, etc. through activities such as local tourism initiatives;
- **Development of support mechanisms for SMME's** – Assistance in starting and running small businesses, support for women and black owned small businesses, building an entrepreneurial culture;
- **Development of a system of holistic governance** – Integrated and complimentary approach to the development of strategies, policies and programs;

The PSDF highlights the need to transform the socio-economic pattern of our townships which reflect the racial separation of the past, dismantling apartheid

era layouts, reorganizing spatial patterns to enable social and economic opportunities and community stability.

The basic principles contained in the PSDF suggest that it is the municipality's responsibility to enable local economic development and socio-economic and spatial transformation in the previously disadvantaged townships. However, it is also the municipality's responsibility to ensure that the integrity and dignity of the community is not harmed, that the family unit is strengthened, that the physical and spiritual well-being of the community is not prejudiced and that the immediate natural and built environment is not adversely affected by decisions that it takes, and/or policies and strategies it implements.

2. George Spatial Development Framework (GSDF)

The GSDF indicates that George acts as the leader town in the Eden region with a very strong economic footprint. It is however affected by high unemployment levels, poverty and social depravities, a lack of broad-based black economic empowerment, a lack of land reform and business ownership, significantly high income and wealth gaps, skills imbalances, environmental sustainability challenges and weakening societal structures (lack of strong community leadership).

The GSDF highlights the need to provide holistic and integrated human settlements (housing with schools, church sites, crèches, community centres, public transport access, shops, service trades, parks, recreation areas, entertainment, etc.) especially within the poorer parts of George and the need to implement programs and policies to support the required spatial restructuring that needs to occur.

It is important from a socio-economic point of view that small scale business nodes and local economic activities be allowed to occur outside of the existing central business district in support of urban restructuring. The GSDF indicates that this restructuring should be focused towards the proposed central nodes in Thembaletu and Pacaltdorp and along activity corridors and spines and main public transport routes. The restructuring will need to be accompanied by an urban renewal program, which needs to be combined with the development of public facilities and amenities (schools, parks, library, council offices/ facilities, community halls, crèches, public recreation facilities, etc).

It is noted in the document that the highest levels of poverty are found amongst the black and coloured communities of George. These people live in areas which have the highest residential densities and are severely affected by low living standards, high crime rates, drug (including alcohol) abuse, teenage pregnancies, prostitution, poor health conditions and a high prevalence of HIV/AIDS and TB infections. Large sections of these areas also have limited access to basic services, housing, and food and employment opportunities.

In terms of the positioning/location of businesses (not specific to the sale of liquor) it is noted that activities should ideally focus around the CBD with activities being reinforced through densification. Allowance is also made for the development of small business nodes in the residential areas – primarily

located along the existing activity corridors and high order public transport routes.

Business activities are planned around the intersection of Mission Street and Beach Drive in Pacaltsdorp. In Thembalethu and George South East business activities will be focused primarily along Sandkraal Road, with possible smaller nodes to be identified in terms of an urban renewal strategy to be prepared for these areas. In Blanco, activities should be promoted along George Road and Montagu Street. In Kleinkrantz, which is primarily a holiday destination, the focus should be towards the development of social infrastructure and not business activities. In Touwsrante, a small business node has been set aside opposite the crèche and within designated area in the new extensions. There is only a very small township in Haarlem and further business opportunities are proposed along Voortrekker Road in Uniondale.

In terms of sustainable development principles outlined in the GSDP document the following points are noted:

- minimize environmental damage;
- fair distribution of costs and benefits of developments;
- respect fundamental human rights – civil and political, cultural, social and economic freedoms, and personal security;
- maximize human well-being;
- identify the environmental and social costs - minimize the negative effects of development on local communities;
- create conditions for viable enterprises;
- support democratic processes – ensuring public participation;
- encourage free enterprise within a system of clear and fair set of rules;
- ensure transparency – providing access to all information;
- ensure accountability for decisions and actions – based on comprehensive and reliable analysis;
- ensure that decisions are made at the appropriate level;

3. George Integrated Development Plan (GIDP)

The GIDP's vision is *“to be the best medium sized city in the country using all available resources sustainably to the benefit of the community in a growing and thriving city.”*

The following issues applicable to this policy are highlighted in the GIDP, namely:

- ensuring that communities feel safe and that the environment is conducive to development opportunities;
- taking care of vulnerable citizens such as children and the aged – social assistance and awareness programmes, soup kitchens, safe havens for street children (LED);
- ensuring that the IDP is linked to the initiatives of all three spheres of government for optimal service delivery;
- addressing economic development, unemployment and poverty;

- focus on the development of integrated human settlements;
- adhering to the principles of good governance (responding to the needs of the people, ensuring public participation in decision making, etc.);
- allowing for development nodes outside of the George CBD – primarily focussed along the main activity and public transport routes;
- enhancing and supporting tourism development and developmental tourism opportunities;
- development of business hives (stalls, micro businesses, containers, selling of wood, etc.) in the townships (LED);
- creating a safer environment for the community of George through regulation of informal traders, and community orientated policing in conjunction with law enforcement personnel;

The above indicates the need for almost all departments within this municipality as well as law enforcement agencies and the general public to participate in the formulation of this policy.

4. Draft Liquor Policy for the Western Cape, 2004

In terms of the PGWC Liquor Policy a “shebeen” is defined as an unlicensed outlet, either for the on and/or off consumption sale of liquor, whilst the term “tavern” (as contained in the old Liquor Act, 1977 (Act 87 of 1977) is defined as a licensed on-consumption premises that used to be a “shebeen”.

The terms “tavern” and “shebeen” refer to informal businesses, mostly in the townships areas, where liquor is sold legally/ illegally on and from a residential premises. Both terms, reflect the terminology most commonly used in these communities in South Africa.

Statistics released by the Western Cape Liquor Board show that there are approximately 20 000 to 30 000 shebeens and taverns operating in the Western Cape whilst only some 5800 licenses were issued, including licenses issued for restaurants, supermarkets, wine estates and liquor stores.

The origin of shebeens and taverns can be traced back to the Apartheid era when the black and coloured communities were excluded from trading in liquor. This resulted in a large number of illegal shebeens and taverns operating in the township areas. These entities, which were also seen as a mechanism of defying the Apartheid Government, provided an integral component of recreational activities which were purposely absent within these communities. Later on, these shebeens and taverns became a means for jobless people, with limited access to economic opportunities, to earn an income.

One of the greatest concerns raised by the PGWC Liquor Policy is the uncontrolled and illegal use of residential properties for the sale of liquor as these activities often result in negative impacts on the amenities and rights of surrounding neighbours as a result of noise, anti-social behaviour, increased vehicle and pedestrian traffic and the general character of the neighbourhood.

Many of these activities are also associated with/related to criminal activities such as gangsterism; prostitution; drug trafficking; sale of liquor to minors; loan sharks and the dealing in stolen goods. The PGWC Liquor Policy also recognises that the abuse of alcohol is one of the major social problems experienced in the Western Cape, especially among the poorer communities, and that illegal outlets play a major contributing factor to facilitating these social ills.

On the positive side the policy states that shebeens and taverns can become a focus for social interaction and adding vibrancy to the area. They create jobs, provide an economic injection into townships and can also be utilised as a focus of local tourism initiatives. However, these positive spin-offs will depend entirely on the placement/location of these outlets and whether they are managed properly.

The position of shebeens and taverns in residential areas should therefore be strictly regulated, especially in close proximity to schools and places of worship (religious institutions generally do not condone shebeens and taverns do the perceived negative social impacts they have on especially the poorer communities).

If a shebeen/tavern is legalised, there would also need to be better control and monitoring from a town planning and law enforcement/policing perspective, in terms of trading hours, identification checks, noise and nuisance control, health and safety regulations, building and ventilation standards, food and hygiene standards and smoking (tobacco) regulations.

Many of the shebeens and taverns also operate in contravention of applicable town planning and building code regulations. Council's policy will therefore need to focus on this illegal trading in terms of town planning regulations as well as the Act. In order to facilitate consistency the PGWC Liquor Policy recommends that municipalities consider amending the applicable town planning schemes to allow for house taverns and the legalizing of unlicensed shebeens.

The PGWC Liquor Policy furthermore contains very specific guidelines with regard house taverns and shebeens. These guidelines will be later addressed in this policy.

F. LEGISLATIVE AND REGULATORY FRAMEWORK

The George Municipality is subjected to a variety of bylaws and still utilises four (4) separate zoning schemes to regulate/manage land uses in the area under its control, being the George Zoning Scheme (George and Blanco), Section 8 Zoning Scheme (Rural areas, Herolds Bay, Pacaltsdorp, Kleinkrantz and sections of Thembalethu and the DMA areas), Thembalethu Zoning Scheme (old sections of Thembalethu) and the Wilderness Zoning Scheme (Wilderness). The municipality is in the process of integrating the bylaws and zoning schemes to enable an Integrated Land Use Management System as well as one Zoning Scheme for the municipal area. This new policy should therefore inform both the system and the scheme.

In the absence of the integrated system, the policy will need to be informed primarily on the basis of existing legislation and policy guidelines, being:

1. Title Deed

A house tavern may not be permitted on a property if the use is in conflict with a restriction contained in the title deed of that property. An additional application for removal of title deed conditions in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) will therefore need to be submitted to the PGWC: Department of Environmental Affairs and Development Planning. A copy of this application must be submitted along with the land use application to the municipality for processing.

2. Land Use Planning Ordinance, 1985 (Ord. 15 of 1985)

In terms of Section 36 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985) a land use application can only *“be refused on basis of a lack of desirability of the contemplated utilisation of land concerned, including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its affects on existing rights concerned (except against an alleged right to protect against trade competition)”* and *“regard shall be had, in considering relevant particulars, to the safety and welfare of the members of the community concerned, the preservation of the natural and developed environment concerned or the affect of the application on the existing rights concerned.”*

3. Existing Zoning Scheme Regulations

House taverns are handled as temporary departure from the George-, Wilderness- and Section 8 Zoning Schemes in terms of section 15 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985).

(a) George Zoning Scheme Regulations, 1977

The George Zoning Scheme allows for the formal sale of liquor from Minor Business Zone, Business Zone, Commercial Zone and Industrial Zone properties. Under the Business Zone the following liquor sales establishments can be allowed – a liquor store, a bar/saloon, a restaurant, licensed hotel, night clubs. Under Minor Business Zone and Commercial Zone only a liquor store is allowed. Industrial Zone only allows for the wholesale distribution and sale of liquor.

Restrictions are normally placed on the sale of liquor from small business premises such as the corner shops found in residential areas.

The sale of liquor from residential premises (shebeen and tavern) is handled in terms of a temporary departure from the zoning scheme in terms of section 15 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985). A temporary departure is allowed for a maximum period of five (5) years and approval can be extended for up to a further five (5) years.

(b) Section 8 Zoning Scheme Regulations

The Section 8 Zoning Scheme regulations allows for the formal sale of liquor from Agriculture Zone I properties as a consent use (farm store, tourist facility), Business Zone I premises as a consent use (place of entertainment, restaurant, bottle-store, hotel), Business Zone III as a consent use (place of entertainment), Business Zone IV (wholesale distribution and consent use for place of entertainment) and Industrial Zone I (wholesale distribution). Thus, the sale of liquor is more strictly controlled in the formal business and industrial areas.

The sale of liquor from residential premises is also handled in terms of a temporary departure application.

(c) Wilderness Zoning Scheme Regulations

The sale of liquor is controlled under Business Zone (liquor store, restaurant, hotel and consent use for place of amusement), Local Business Zone (liquor store), Commercial Zone, Light Industrial Zone and Industrial Zone (wholesale distribution). No properties in Wilderness are however zoned for Local Business, Commercial, Light Industrial and/or Industrial purposes.

The sale of liquor in the Wilderness area is strictly controlled.

There are no townships that fall under the Wilderness Zoning Scheme.

(d) Thembaletu Zoning Scheme Regulations

The Thembaletu Zoning Scheme is the only regulations that make specific reference to a shebeen which is defined as premises for the on-consumption of liquor in terms of a liquor license issued in accordance with the Liquor Act,1977 (Act 87 of 1977). This definition does however not coincide with the PGWC Liquor Policy which defines a shebeen as an unlicensed outlet, either for the on and/or off consumption sale of liquor. This matter will thus have to be addressed.

The zoning scheme makes provision for the sale of liquor under Residential Zone I, II and III in terms of a consent use (shebeen, liquor store, and hotel) and Business Zone (liquor store, restaurant and hotel with consent use for a shebeen).

In terms of the zoning scheme any residential zoned property may with the consent of Council accommodate social, educational, religious, occupational or business uses subject to the following conditions:

- the overall use of the property must remain residential in nature (at least 60% of the property);
- the above use shall not cause a disturbance or nuisance to a neighbour;
- the above use shall not have an adverse impact on the character of the immediate environment;

4. Draft Integrated Zoning Scheme Regulations for George, 2011

The draft integrated zoning scheme describes the intent of Single Residential Zones as follows –

“The single residential zones are designed to provide locations for single-family dwelling units in a variety of densities, and to preserve the amenity and character of residential areas. The general aim of these single residential zones is to provide a comfortable, healthy, safe, and pleasant living environment and to promote the stability of residential neighbourhoods by preserving neighbourhood character. However there are controlled opportunities for home employment and low intensity mixed use development that is compatible with residential use, subject to the Council’s consent.”

The draft integrated zoning scheme makes provision for a “house tavern” as a consent use under the Rural Zone 2, and Single Residential Zone 2 and 4 zones.

In terms of the draft integrated zoning scheme regulations it is proposed that the following provisions shall apply for a consent use approved by the Council for a house tavern, provided that the Council may impose additional conditions:

- (a) The total area, including storage, to be used for a house tavern shall not exceed 40% of the total floor area of the dwelling unit on the property or 50m², whichever is the lesser, but not smaller than 20m².
- (b) The extent and position of the house tavern shall be clearly identified on a plan to be approved by the Council, and the Council may also restrict the specific location of the house tavern on the property.
- (c) In addition to the house tavern, the property must contain a dwelling unit, which must be occupied by the proprietor of the house tavern.
- (d) The Council may restrict the maximum number of patrons, operating hours, number of staff and signage relating to the house tavern.
- (e) The Council may require structural alterations to the property for fire or health reasons, and to ensure that the impact of the house tavern on neighbouring uses is minimised.
- (f) The following uses are not permitted in a house tavern: vending machines, video games, pool tables, amusement centre and discotheque.
- (g) The owner of the house tavern must obtain a liquor license in terms of the relevant legislation. In the event of the liquor license being withdrawn or suspended, the Council’s consent for the operation of a house tavern shall automatically lapse.

- (h) Permission to operate a house tavern is granted to a particular operator, operating from a particular property, and is not transferable.
- (i) Only one un-illuminated sign, shall be permitted, and shall not exceed 5000cm² in area. Such sign shall indicate only the name of the owner, name of the business, and nature of the retail trade.
- (j) The Council may require on-site parking to its satisfaction.

Under Business Zones 1 to 5 the retail sale of liquor (liquor store, restaurant, clubs) is permitted as a primary right and/or a consent use. The wholesale sale of liquor will be allowed as a primary right or consent use in Industrial Zones 1 to 3 while these zones also make provision for the retail sale of liquor as consent uses.

EXPLANATORY NOTE 3

What is the consequence of this new integrated zoning scheme?

When the new zoning scheme is implemented, all property owners will need to abide by it. If a house tavern approval is already in place before the new zoning scheme is implemented, that approval will be regarded as valid until it lapses (5 years after approval granted).

You will then need to reapply for a consent use to operate the house tavern. The consent use can be granted as a temporary or a permanent right.

5. Western Cape Liquor Act, as amended

The Western Cape Liquor Act, 2008 (Act 4 of 2008) was gazetted on 27 November 2008, amended by the Western Cape Liquor Amendment Act 2010 (Act 10 of 2010) on 14 December 2010, and is at present in force in the Western Cape Province. All liquor license applications need to be considered in terms of the requirements of this legislation with effect from 1 April 2012.

The following sections of the act are noted for the purposes of the policy:

- 32. (1) A person may not micro-manufacture or sell liquor unless authorised to do so in terms of a licence issued in terms of this Act, the Liquor Act or the Liquor Act, 1989 (Act 27 of 1989).
- (2) A person who is authorised to micro-manufacture or sell liquor must do so in accordance with the conditions of the license.
- 33. The Liquor Licensing Tribunal may grant the following licenses—
 - (b) a license for the sale of liquor for consumption on the premises where the liquor is sold;
 - (c) a license for the sale of liquor for consumption off the premises where the liquor is sold;
 - (d) in exceptional circumstances, a license for the sale of liquor for consumption both on and off the premises where the liquor is sold;

34. The Liquor Licensing Tribunal or Presiding Officer, as the case may be, may not grant a license, unless it or he or she is satisfied on a balance of probabilities that—
- (a) the granting thereof is in the public interest;
 - (b) the applicant is of good character, and not disqualified from holding a license in terms of section 35;
 - (c) the premises on which the sale or consumption of liquor will take place are or will upon completion be suitable for use by the applicant for the purposes of the license;
 - (d) the applicant has the right to occupy the proposed licensed premises;
 - (e) the granting of the application does not prejudice—
 - (i) the residents of a residential area;
 - (ii) the residents of an institution for the aged or frail;
 - (iii) the learners of an educational institution who are under the age of eighteen (18) years;
 - (iv) the patients of an institution for drug or alcohol related dependencies; or
 - (v) the congregants of a religious institution located in the vicinity of the proposed licensed premises.
35. (1) The following persons are disqualified from holding liquor licenses—
- (a) anyone who has, within five (5) years prior to the lodgement of the application, been sentenced to imprisonment without the option of paying a fine;
 - (b) anyone who has, within five (5) years prior to the lodgement of the application, been declared to be unfit to hold a registration by the National Liquor Authority or a licence by any provincial liquor board or authority;
 - (c) anyone who is an unrehabilitated insolvent;
 - (d) anyone who is a minor upon the date of consideration of the application;
 - (e) anyone who was the holder of a licence which was cancelled in terms of the provisions of this Act, or an Act regulating liquor licences in any other province, within a period of twelve (12) months prior to the lodgement of the application;
 - (f) anyone who is the spouse or life partner of a person described in (a), (b) or (e) above; and
 - (g) anyone who is mentally ill as defined in the Mental Health Care Act, 2002 (Act 17 of 2002).
36. (1) An application for a license of a category referred to in section 33 must be made to the Authority by submitting on or before the prescribed date to the Authority and the designated liquor officer in whose area of jurisdiction the proposed licensed premises are located—
- (a) the prescribed application form properly completed;
 - (b) a zoning certificate or a copy of a planning application submitted to the municipality concerned in terms of applicable planning legislation;

- (d) other information that may be required by the Liquor Licensing Tribunal to enable it to determine whether the applicant meets the criteria for the granting of a license; and
 - (e) the prescribed fee which must be paid in the prescribed manner.
- (2) No application for a license may be advertised during the period of 1 December and 15 January of the following year.
37. (1) The Authority must, in the prescribed form, publish notices, in the three official languages of the Province in the *Provincial Gazette* and in a community newspaper circulating in the area in which the proposed licensed premises are located, and where there is no such community newspaper, in at least one other newspaper circulating in the area where the premises concerned are located.
- (2) The applicant must display a notice, as prescribed, in the three official languages of the Province in a prominent place at the proposed licensed premises so that it is visible to passers-by: Provided that the Liquor Licensing Tribunal may condone the non-compliance with this provision on good cause shown.
- (3) A notice in terms of subsection (2) must remain in place for the prescribed period from the date of lodgement of the application.
- (4) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must, within the prescribed period from the date of lodgement of an application, serve a copy of the application in the prescribed manner on the municipality concerned in order for it to—
- (a) where section 36(1) (c) applies—
 - (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;
 - (ii) obtain the comment of the ward councillor;
 - (iii) comment on the application; and
 - (iv) allow for the consideration of the planning application in relation to the application for a liquor license; or
 - (b) where section 36(1) (c) does not apply—
 - (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;
 - (ii) obtain comment of the ward councillor; and
 - (iii) comment on the application.
- (5) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must or the municipality may, within the prescribed time, give notice of the application to—
- (a) neighbouring residents or such persons who in his, her or its judgement may be affected by, or have an interest in, the granting or refusal of the application; and
 - (b) the community policing forum, if any, of the area in which the premises are located.

- (6) Notwithstanding subsection (1), where an applicant has to comply with section 36(1)(c), the notification done in terms of the applicable planning legislation is deemed to be in compliance with the notification requirements in terms of this section: Provided that the Liquor Licensing Tribunal may require such additional notification as it may deem appropriate.
40. (1) The municipality concerned must, within the prescribed period, forward to the Authority the following—
- (a) its decision in respect of the planning application referred to in section 36(1) (c); and
 - (b) information regarding the extent of the public participation process that was followed in respect of that application.
- (2) The municipality concerned must, within the prescribed period, with regard to an application for a liquor license, forward to the Authority the following—
- (a) the comments, if any, of the ward councillor;
 - (b) its comments, if any, on the application for a liquor license; and
 - (c) any other document or article lodged with it in connection with the application for a liquor license.
42. (1) The Liquor Licensing Tribunal may conditionally grant a license.
- (2) A license granted by the Liquor Licensing Tribunal in terms of subsection (1) may not be issued until the applicant complies with the conditions imposed at the time of granting.
- (3) The Liquor Licensing Tribunal must, when conditionally granting a licence, stipulate a period within which the applicant must comply with the conditions referred to in subsection (2).
43. The Liquor Licensing Tribunal may, when conditionally granting a license, direct that the license may not be issued unless it is satisfied that the applicant has the right to use the premises concerned for the purpose to be authorised in the license.
44. The Liquor Licensing Tribunal may, when conditionally granting a license in respect of premises not yet erected, or premises requiring any structural alteration, addition or reconstruction to be effected so as to make such premises suitable for the purposes for which they will be used under the license, direct that the license may not be issued until the applicant complies with the conditions it has imposed relating to the completion of the premises.
46. (1) The Authority must, within the prescribed period after the Liquor Licensing Tribunal has granted an application made in terms of section 36, notify the—
- (a) applicant;
 - (b) individual objectors;
 - (c) organiser of a petition, where the objections were made by means of a petition;

(d) municipality concerned; and
(e) designated liquor officer concerned,
in writing of the decision of the Liquor Licensing Tribunal.

- (4) A license must be issued in the name of the person who operates, conducts and benefits from the operation of the licensed business and may not be issued in the name of a nominee or agent.
49. (1) It must be a condition of every license for the consumption of liquor on the premises where the liquor is sold, that all liquor sold must be consumed on the licensed premises only and that no liquor sold may be removed from the licensed premises.
- (2) It must be a condition of every license for consumption of liquor off the licensed premises that no container containing liquor may be opened and no liquor may be consumed on the licensed premises except for tasting purposes as approved by the Liquor Licensing Tribunal or the Presiding Officer, as the case may be.
52. (1) The Liquor Licensing Tribunal must, unless the applicant is a natural person, when granting a licence, approve the appointment of a natural person nominated by the applicant, and who is resident in the Province, as manager of the licensed business.
54. (1) No person may sell liquor to a person under the age of eighteen (18) years.
- (3) A licensee or a manager, as the case may be, may not allow a person under the age of eighteen (18) years to consume liquor on the licensed premises.
- (4) A licensee or a manager, as the case may be, may not allow a person under the age of eighteen (18) years to be in a part of licensed premises in which such a person may not be in terms of this Act or in terms of a condition of the license.
- (5) A person under the age of eighteen (18) years may not obtain or consume liquor in contravention of this Act or mislead any person regarding his or her age in order to obtain or consume liquor or gain access to parts of licensed premises which such a person may not enter.
55. (1) A person may not employ a person under the age of eighteen (18) years in connection with the sale or supply of liquor unless such a person is—
- (a) of or above the age of sixteen (16) years;
- (b) undergoing training in catering services; and
- (c) apprenticed to the licensee.
59. (1) A municipality may by by-law determine different trading days and hours for licensed businesses selling liquor for consumption on the

licensed premises and for those selling liquor for consumption off the licensed premises.

- (3)
 - (a) If a municipality has not determined the trading days and hours for licensed businesses selling liquor for consumption off the licensed premises, a licensee of such a business may sell liquor on any day between 09:00 and 18:00, subject to conditions imposed by the Liquor Licensing Tribunal when granting a license or after consideration of any matter referred to in section 20(1) (d) to (g);
 - (b) If a municipality has not determined the trading days and hours for licensed businesses selling liquor for consumption on the licensed premises, a licensee of such a business may sell liquor on any day between 11:00 and 02:00 the next day, subject to conditions imposed by the Liquor Licensing Tribunal when granting a license or after consideration of any matter referred to in section 20(1) (d) to (g); and
 - (c) If the licensee has a license for consumption of liquor both off and on the licensed premises, paragraph (a) applies in as far as the sale of liquor is for consumption off the licensed premises and paragraph (b) applies in as far as the sale is for consumption on the licensed premises.
- (4) A licensee may at any time apply to the Liquor Licensing Tribunal to have his, her or its trading hours extended to a time later than the trading hours referred to in subsection (3): Provided that such extended time period imposed by the Liquor Licensing Tribunal may not exceed 20:00 the same day with regard to subsection (3) (a) and 04:00 the next day with regard to subsection (3) (b).
- (5) The Liquor Licensing Tribunal may not grant an application referred to in subsection (4) unless it is satisfied on a balance of probabilities that the granting thereof—
 - (a) is in the public interest; and
 - (b) does not prejudice—
 - (i) the residents of a residential area;
 - (ii) the residents of an institution for the aged or frail;
 - (iii) the learners of an educational institution who are under the age of eighteen (18) years;
 - (iv) the patients of an institution for drug or alcohol related dependencies; or
 - (v) the congregants of a religious institution located in the vicinity of the licensed premises concerned.

It is clear from the above that the municipality has a significant role to play in the issuing of Liquor Licenses. Unfortunately, it is also evident that most liquor license applications are not being processed correctly by the Liquor Board in terms of their own requirements. The Liquor Board appears to have ignored the following requirements:

1. The board must be satisfied that the property is correctly zoned to carry out the uses allowed under the License issued (zoning certificate/ land use application approval);
2. The board must be satisfied that the license holder can legally utilise the premises from which he intends to operate (zoning in place) and that the premises is suitable for such use (building plans approved and occupation certificate issued with all applicable health, ventilation and business licenses).
3. It also appears that the advertising requirements as prescribed by the Act is not being followed in that the municipality is not being informed in writing of these applications and as such, is not being afforded the opportunity to comments thereon. The applications are also not being discussed at the Policing Forum, where municipal officials are also represented.

What is interesting to note is that the Act makes provision for the Liquor Board to deem the advertising process of a land use application to comply with the requirements of the Act, provided that the additional requirements of the Act, such as placing a notice on-site, are also complied with. In consideration of this, it would be beneficial to the applicant for the municipality to adopt the same requirements as the Liquor Board.

The trading hours for house taverns (on-premises consumption) is set by the Act at 11h00 to 02h00 the next day. The municipality may impose more restrictive trading hours than that permitted by the Act by means of a by-law. This of particular importance when considering taverns located within residential areas. The Act also makes provision for the owner of the house tavern to apply for extended trading hours.

G. LAW ENFORCEMENT

In terms of sections 39(2), 40, 41 and 46 of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985)

“39(2) No person shall –

(a) contravene or fail to comply with –

- (i) the provisions incorporated in a zoning scheme in terms of this Ordinance, or*
- (ii) conditions imposed in terms of this Ordinance or in terms of the Townships Ordinance, 1934,*

except in accordance with the intention of a plan for a building as approved and to the extent that such plan has been implemented, or

(b) utilise any land for a purpose or in a manner other than that intended by a plan for a building as approved and to the extent that such plan has been implemented.”

“40(1) (a) If a building or any portion thereof was erected in contravention of section 39(2) (a), the local authority shall serve an instruction (herein referred to as the instruction) on the owner concerned-

- (i) to rectify such contravention before a date specified in the instruction, being not more than six months after the date of the instruction or, at the option of the said council,*
- (ii) to apply for the determination of a contravention levy, or in terms of section 15 for a departure, before a date specified in the instruction, being not more than 30 days after the date of instruction.*

(b) If the said owner fails to comply with the instruction, the local authority shall, subject to the provisions of paragraph (c), take all such steps as may be necessary to rectify such contravention”

“40(2) Any amount spent by the local authority in terms of subsection (1) shall be recoverable by that local authority from the owner”

“41 Any person authorised thereto in writing by the Administrator or director or a council may at any reasonable time, after reasonable notice and causing as little inconvenience as possible enter upon any land in order to –

- (a) do anything which the Administrator or the director or such a council, as the case may be, is permitted or required to do in terms of this Ordinance, or*
- (b) make an inquiry, an investigation or a survey in connection with the exercise or performance of his or its powers or duties by the Administrator or director or such a council, as the case may be, in terms of this Ordinance.”*

“46(1) Any person who –

- (a) contravenes or fails to comply with a provision of section 23(1), 33(12), 35(2), or 39(2), or*
- (b) threatens, resists, hinders or obstructs, uses foul language, insulting or abusive language towards a person in the exercise of a power under section 41 or refuses or fails to answer to the best of his ability a question put to him in terms of said section, shall be guilty of an offence and on conviction liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.”*

“46(2) A person convicted of an offence under this Ordinance who after such conviction continues with the conduct in respect of which he was convicted, shall be guilty of a continuing offence and on conviction liable to a fine not exceeding R100 in respect of each day on which he so continues or continued therewith.”

The above provisions give Council the right to investigate a complaint/alleged illegal activity, to ascertain the validity and/or extent thereof. It also allows Council to serve a notice on an offender to cease activities which may also include a notice of intent to take further legal action, if required.

The monitoring and control of the illegal entities will require a high level of commitment and dedication as well as co-operation between all role players

including the South African Police Services and the Law Enforcement Section of the Municipality.

There are also numerous other sets of legislation (Acts, municipal by-laws and regulations) that are potentially applicable to the operation of house taverns and shebeens - e.g. building regulations, nuisance/noise by-laws, tobacco legislation and health and safety by-laws.

What should however be strictly enforced is the non-compliance with legislation and offenders should not be allowed to continue the illegal activities whilst they make the necessary applications to legalise their business. Applications can take a long time to process and the general public will suffer the consequences if illegal and uncontrolled activities are allowed to continue. Affected persons are known to be subjected to intimidation by offenders, making prosecution and/or rectification of the offence difficult.

H. ESTABLISHMENT OF A LIQUOR SUB-COMMITTEE

There are two processes that need to be followed with regard to any house tavern application, namely;

- the liquor licensing application; and
- the land use application.

Both need to be approved before a tavern will be allowed to operate. It would be advantageous, in light of the provisions of the Western Cape Liquor Act, as amended, that both the town planning and liquor license applications be handled simultaneously. It is therefore beneficial for the municipality, in co-ordination with the South African Police Services, to establish a Liquor Sub-Committee to oversee any liquor related applications.

The Sub-Committee will be regarded as a commenting body that will assist the Council in taking informed decisions on liquor related applications and will also make recommendations on applications for Liquor Licenses to the Western Cape Liquor Board.

The following should be borne in mind when establishing this Sub-Committee:

(a) The Sub-Committee must be representative of the broad community and should ideally comprise of the following:

- Councillors of the George Municipality;
- Officials of the respective municipal directorates including at least one senior official of the Town Planning department (as adviser);
- Representatives of the South African Police Services;
- Representatives from Welfare Organisations, Religious Institutions, and Educational Institutions;
- Representatives from the organised business community including Tavern/Restaurant owners;

(b) Council must provide the administration of the Sub-Committee;

- (c) The Sub-Committee must invite ad-hoc members to provide input / comment on applications including the Ward Councillor and representatives of the Ward Committee of the area in which the application falls;
- (d) The Sub-Committee may invite members of the public / adjoining property owners to voice their opinions on the application;
- (e) The terms of reference (mandate and functioning) of the Sub-Committee must be decided by Council within the confines of applicable legislation.

I. PROPOSED POLICY

GENERAL

1. Introduction

This Policy should have the following aims:

- Enable and encourage bona fide illegal traders to legitimise their businesses;
- Allow for community involvement in determining the location of taverns;
- Address the issue of illegal taverns/shebeens in residential areas in the face of efforts to legalise taverns/shebeens;
- Allow the municipality to become actively involved in the issuing of liquor licenses;
- That the public, ward councillor and ward committees are more involved in the decision making process on applications;
- Reduce the social cost of liquor abuse in poorer communities;
- Ensure that the activity is acceptable in the surrounding communities;
- The approval of an application will be in the public interest;
- Such an approval will not prejudice the residents in a residential area; and
- That the premises are suitable for such business.

2. Overriding principles

The following overriding principles should prevail:

- The approval of a new liquor license should not result in a change in the character of the local area in which it is to be located.
- It should generate economic activity through the provision of income and employment opportunities for the local community.
- It should ensure increased convenience for the local community in terms of access to services.
- The operator must be in a position to contain and remove any nuisance factors resulting from the operation of the liquor business. These include factors such as noise, smell, safety, littering and parking.
- Access to a liquor license is not a right and must be accompanied by duties and responsibilities that limit the negative social impact of the sale of liquor.

3. Locality

For the purposes of the policy a residential area comprises predominantly lower density residential development with its associated community facilities such as clinics, schools, churches, crèches, parks and sport fields. A local neighbourhood business comprises the existing minor business sites located within the residential area.

A central business area comprises predominantly higher order business and high density residential uses usually found along high order public transport routes with little to no lower density residential development in the immediate vicinity. Industrial areas comprise mainly industrial with some commercial warehousing uses.

Taverns should ideally be located along existing and proposed activity spines and activity nodes as indicated in the draft George Spatial Development Framework as well as on land already designated for business and/or industrial purposes. These areas are usually highly accessible to the general public and are areas where business facilities should be established.

The relocation of taverns and unlicensed shebeens to demarcated business zones and the establishment of new taverns within these demarcated areas should be encouraged. Proactive incentives should be put in place to encourage these owners to relocate to these business zones. These incentives could include:

- Easier and shortened application procedures.
- Lower application fees.
- The granting of licenses or consent to engage in gaming.
- Allowing of “Juke Boxes”.
- Extended operating hours.

If a tavern is to be located within a residential area it should preferably be restricted to a corner stand where it might eventually develop to be incorporated into the traditional corner shop. The locality of the corner site must further be of such a nature that it serves a fairly wide surrounding area and the business has a reasonable chance of developing into a feasible business concern.

The locality of these sites should preferably be identified as part of the process of preparing a Local Structure Plan for the area. This will allow for public participation at a very early stage as to determine the ideal localities for house taverns located in a residential area.

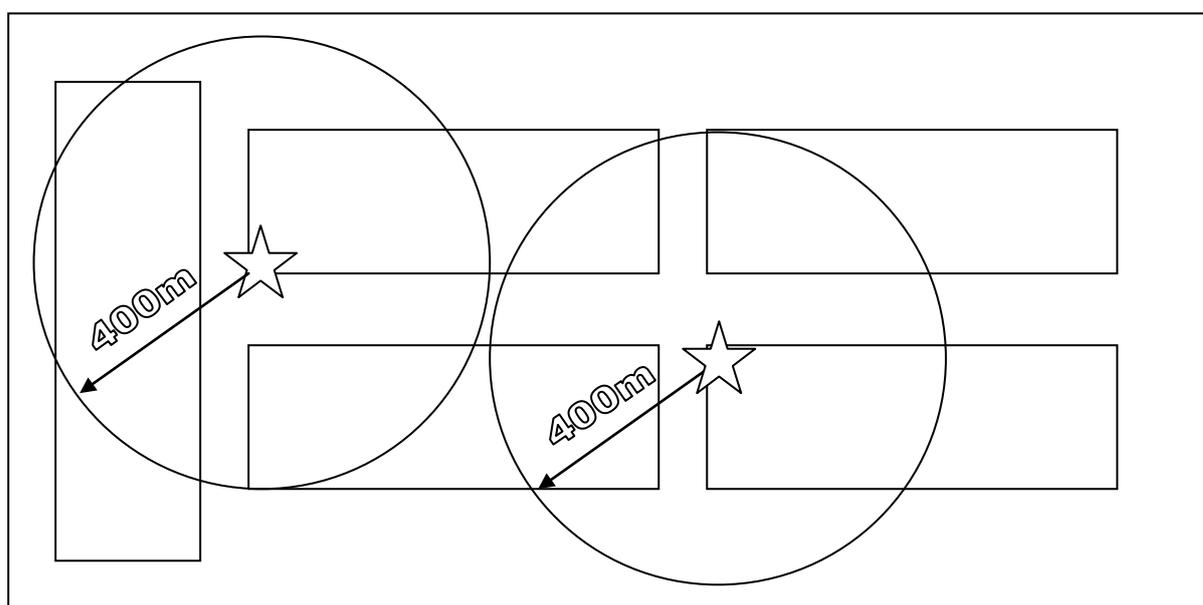
No new tavern located mid-block must be allowed. This type of locality only serves a very small portion of the population and has no potential to grow into a feasible business. Existing house taverns and shebeens, which are already located mid-block and which were operating in terms of a valid liquor license prior to the implementation of this policy on 1 July 2013, are however exempted from this provision.

4. Number of taverns per area

The number of house taverns located within a predominantly residential area should be restricted in order to protect and enhance the character of the residential environment, protect the residents' rights and amenity to a quality human friendly living environment, to protect the vulnerable members of the community and to ensure that any adverse social impacts and unlawful activities can be controlled.

Only house taverns that are located in positions which can eventually become part of a traditional corner shop development should be allowed. The number of house taverns will thus depend on the number of localities available where fully fledged corner shops can develop. These localities should however not be closer than 400 meters from each other as determined in terms of the radius of area it serves. (see figure 1)

Figure 1: Permitted Position of Taverns



5. Types of structures that can be used for a house tavern

House taverns must be operated from structures that comply with the requirements for human occupancy in terms of the National Building Regulations and Building Standards Act. Such buildings must therefore at least have a foundation, be adequately ventilated, allow for sufficient natural light to enter the structure, have access to toilets and hand basins for sanitation purposes (connected to the municipal network), have electrical and plumber certificates, have separate food preparation areas and must provide for adequate stormwater run-off.

A house tavern cannot be operated from a temporary shipping container or an informal timber structure.

EXPLANATORY NOTE 4

A house tavern can only be operated from a structure that complies with the

National Building Regulations and Building Standards Act and thus informal / temporary structures cannot be permitted. This is also a requirement of the Western Cape Liquor Act, as amended.

A standard shipping container cannot be used as a house tavern as it does not comply with the regulations and thus cannot be occupied. It is however possible that a container can be converted to comply with the regulations and used for the purposes of a house tavern. The container will however, need to resemble a typical residential outbuilding and be suitably painted to blend in with the house.

Similarly, a timber structure can be permitted if it complies with the National Building Regulations and Building Standards Act, and is designed to resemble a typical residential outbuilding.

All structures used for a house tavern must have approved building plans and an occupation certificate. The occupation certificate is required in order for the operator to obtain the necessary trading licenses.

6. Locality and appearance of the house tavern structure on the property

- House Taverns shall be located behind the development setback line of the existing house on the property and preferably behind the house to reduce visual impact from the street or behind the building line and screened from the street without impacting on the streetscape.
- The main colour of the structure shall match with the existing buildings.
- Normal development standards as applied to a single house shall be applied - the NBR&BS Act and zoning restrictions must be complied with.
- A structure may not be placed in a position which may compromise access to municipal infrastructure and services such as water lines, sewer lines, stormwater channels/ pipes, fire hydrants and electricity cables, distribution boxes and transformers.
- Additional car parking bays may be required for temporary structures used as 'public buildings', in accordance with zoning regulations.

7. Operating hours

All house taverns located in residential areas as well as taverns located in formalised business and industrial areas must comply with the trading hours as indicated in the Municipality's By-law on Liquor Trading Days and Hours.

8. Compatibility with other surrounding land uses

The location of a house tavern must also take into account its compatibility with other land uses generally found in a residential area. Thus it is advised that no house tavern is authorised or established where its proximity to community uses such as schools, crèches, old age homes, hospitals, clinics,

libraries, public open spaces and places of worship is likely to have a negative impact on the facility or within a distance of 100m from such a facility.

Parks and public spaces and places are often used as shortcuts to access house taverns. The resultant increase in foot traffic over these spaces causes faster erosion and degradation of these spaces as well as increased littering, which inevitably increases the maintenance costs of these facilities.

House taverns should ideally not be located in close proximity of a house shop given the potential adverse social implications thereof.

9. Law enforcement

It is imperative that all applications for house taverns must be sent to the South African Police Services and the Traffic Services/Law Enforcement section of George Municipality for their comment so as to ascertain whether:

- any criminal activities such as illegal gambling, sale or distribution of narcotics, etc. have occurred or alleged to have occurred on the property;
- incidents such as murders, stabbings, fights, etc. have been reported in the immediate vicinity of the property;
- vehicle and/or pedestrian accidents occurred in the vicinity of the property; and
- any illegal sale of liquor has been reported.

The house tavern should be refused if any of the abovementioned poses a problem.

10. Gaming machines, etc.

In order to ensure that there is no loitering around the house tavern it is recommended that no activity such as video games, gaming machines and pool tables be allowed within a house tavern. No place of entertainment should be allowed to operate from a house tavern.

11. Health regulations

Sufficient ventilation and light must be provided in the house tavern.

The following health regulations must be complied with if food is to be sold or prepared from the premises, namely:

- that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) from the George Municipality;
- that the premises comply with the general hygiene requirements for food premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);
- that a Certificate of Acceptability be obtained as required by regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics

and Disinfectants Act, 1972 (Act 54 of 1972) from the Eden District Municipality; and

- that the premises comply with government notice R264 of 30 March 2012 relating to the smoking of tobacco products in public places as promulgated in terms of the Tobacco Products Control Act, 1993 (Act 83 of 1993) as amended.

The owner must obtain a certificate from the municipality, which must be openly displayed on the premises, indicating the maximum number of people that may occupy the premises at any given time.

Any house tavern where food is prepared and/or disposed of must also obtain a permit from the Directorate: Civil Engineering Services in terms of Chapter 5, Section 6 of the Water and Sanitation Services By-law for the disposal of industrial effluent.

12. Noise nuisance

No house tavern may constitute a noise nuisance (people shouting, music being played loudly, extraction fans, etc), create a nuisance for any neighbouring property owner (as a result of vehicles parking in the street, patrons lying drunk in the street, damaging neighbour's property, smoke from fires, cars hooting/stopping in front of neighbours property, etc). All music played at a house tavern must be limited to listening music set at a low volume and speakers may not be placed outside the tavern. Juke boxes will not be allowed.

House tavern owners should however be allowed to apply in advance (2 weeks) for a relaxation of the noise nuisance provision for once-off events such as for a live band, special sports event, etc to the Law Enforcement section of George Municipality.

13. Social responsibility

Any house tavern allowed in a residential area must have a social responsibility programme and must contribute financially, or as may be determined by the George Municipality and the Liquor Board, towards a community based or municipal driven social (alcohol abuse) support programme.

14. South African Revenue Services (SARS)

All owner and/or operators of house taverns must register for tax with SARS.

15. Rectification of Unlicensed Shebeens

Following the approval of this policy, all illegal owners and/or operators of (unauthorised) house taverns (including those who have previously been served a notice) shall be served a notice requiring them to immediately cease the tavern activity and to rectify any other contraventions within 30 days of date of notice being served. The owner is also to be informed of the municipality's willingness to assist / guide the owner where possible in

rectifying the offense if the owner has or had a valid liquor license and was operating from the property prior to July 2013.

If the tavern owner responds to the notice and requests assistance, the municipality's officials will arrange an appointment with this owner who must present the official with sufficient information such as a liquor license and/or SARS registration dating prior to July 2013, a building plan, a title deed and other relevant information required to assist him/her in rectifying the tavern and/or any other contraventions on his property. The official must keep record of these engagements and respond to the tavern owner in writing with regards to the rectifications that need to be made on the property before the tavern can be considered. The official is also to lay out the timeframes for the submission of the application. The tavern owner is to revise his development proposal in accordance with the advice received and submit the required land use application in accordance with the policy.

Should the tavern not have a valid Liquor License, such incident is to be reported to the SAPS and/or the Liquor Board.

If the tavern owner and/or operator do not adhere to the municipality's notice, the advise received during the negotiation period, or fails to submit the required application within the timeframe stated by the official, a final notice may be served by the municipality on this owner and/or operator allowing him/her a final 14 days in which to cease the unauthorised activities. Should this notice not be adhered to, the municipality will institute legal action, which can either result in a criminal charge being laid or civil proceedings being instituted to have the illegal land use ceased.

Once the activity is ceased, the house tavern owner and/or operator may submit the required land use application for the house tavern, but should be advised that the submission of such application does not give them the authority to continue operating and does not mean that their application will be approved by the municipality.

If a house tavern application is approved, the property owner will have 3 months in which to comply with the conditions attached to the application approval.

16. Application details to be submitted

The following documents and information must be submitted before an application to convert an unlicensed shebeen into a house tavern / a new house tavern can be considered:

- Application fees
- Proof of the tavern being operated from the property with a valid liquor license prior to July 2013 (existing mid-block taverns only).
- Completed application forms.
- Owner consent (if owner is not the applicant)
- Locality plan
- Site development plan

- Surrounding land use plan (100meter radius).
- Certified copy of title deed.
- Rates and taxes clearance certificate.
- Internal photos of the existing unlicensed shebeen clearly showing each room used by the shebeen, furnishings, decor, fittings, sound proofing, floor coverings, ablution facilities, internal storage areas, etc. (if applicable)
- External photos clearly indicating the external finishes of the structure which is used, its relationship to the existing dwelling unit on the erf, external storage areas, parking areas, treatment of erf boundaries, garbage disposal area, signage.
- Photos must also be provided clearly indicating the locality of the unlicensed shebeen in relation to surrounding properties.
- If the premises have not been completed, details must be provided as to how and when the construction will be completed.
- The owner must provide a full motivation as to why he regards the establishment to be acceptable to the surrounding property owners and he/she must also indicate up-front whether the tavern will include off-sales.
- The owner must indicate how nuisance factors such as noise disturbance and the adjoining neighbours' right to privacy is respected.
- The owner must indicate how health and safety requirements are addressed.
- The owner must indicate how the industrial effluent generated by the business, if any, will be disposed of (grease traps etc).

17. Advertising and processing of applications

- a. All applications for the legalising of Unlicensed Shebeens and House Taverns shall be advertised as follows:
 - In accordance with the instruction of the PGWC: Department of Environmental Affairs and Development Planning in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967), if applicable;
 - Notices shall be placed in the local newspaper and in the Provincial Gazette in accordance with Council's language and/or advertising policy for a period of at least 30 days;
 - Registered Notices shall be served on surrounding property owners affording those at least 30 days to comment. Copies of these notices may also be served by hand to these property owners.
 - Notices shall be served on surrounding community, welfare, educational and religious organisations as well as other commenting government departments affording them 60 days to comment;
 - Notices shall be served on the Ward Committee of the area as well as the Ward Councillor affording them 60 days to comment;
 - Notices written in the 3 official languages of the Western Cape shall be placed on the property and be clearly visible to passers by for 60 days from date of advertisement;

- b. The applicant shall be granted a maximum of 60 days to comment on the objections / comments received. If the reply is not received within the 60 day period, the application shall be processed further.
- c. A report on the application shall be compiled and the application referred to the Liquor Sub-Committee for a recommendation.
- d. The report and recommendation will then be sent to the delegated official or the applicable Section 80 Committee, as the case may be, for a decision / final recommendation.
- e. The decision / final recommendation will then be communicated to the applicant, any objector, the South African Police Services and the Western Cape Liquor Board by registered post.
- f. In terms of land use applications, the applicant or objector, as the case may be, shall be afforded a right of appeal in terms of the provisions of the Land Use Planning Ordinance, which right must be exercised within 21 days of registration of the decision notice.

18. Validity period of approval

A house tavern is a temporary land use and only approved for a period of 5 (five) years. For the approval not to lapse, the owner must apply before 4 (four) years and 11 (eleven) months has lapsed, for the extension of the approval for a further period of 5 (five) years.

The owner of the shop will then need to reapply to operate the house tavern, which application will be considered on its merits.

19. General conditions

The following general conditions shall apply to all house taverns:

- (a) A house tavern is limited to on premises consumption. Off-premises consumption (off-sales) will need to be specifically requested by the applicant;
- (b) The house tavern owner and/or operator has three (3) months within which to comply with the conditions of approval;
- (c) The owner of the house tavern must be a South African resident of 18 years or older, must reside on the premises on a permanent basis and the applicant must sign an affidavit in this regard;
- (d) Permission to operate the house tavern is only granted to a specific applicant and is not transferable to a new owner. Approval is also granted in terms of a specific property and is not transferable to a new property;
- (e) No house tavern may be authorised on a rented premises without the written permission of the owner;

- (f) Trading must be restricted to the boundaries of the property and within the street building lines. No trading is permitted on the sidewalks or road reserve;
- (g) Trading can only be from permanent structures which have approved building plans. The house tavern may not commence trading if building plans for the structure have not been approved and occupation certificate issued;
- (h) The owner may not structurally alter, extend or reconstruct the licensed premises without the approval of the George Municipality or the Liquor Board. Any new structure, or alteration to the existing dwelling unit or outbuilding, must conform to the residential character of the area concerned;
- (i) No external evidence of the house tavern may be visible from the street, except for the advertising sign which is to comply with applicable by-laws;
- (j) The total area to be used for the house tavern on the property, including storage, shall not exceed 50% of the total floor area of the dwelling(s) on the property, or 60m², whichever is the lesser, but not smaller than 20m²;
- (k) Provision must be made for all goods connected with the house tavern to be stored inside a building or screened from the neighbours and the street. An additional area of up to 15m² can be applied for to accommodate any water closet, change room and/or storeroom associated with the house tavern provided that this does not exceed 50% of the total floor space of the dwelling unit;
- (l) No activity such as video games, gaming machines, gambling machines and pool tables be allowed within a house tavern without the approval of the municipality. No place of entertainment (disco, nightclub) will be allowed to operate from a house tavern in a residential area;
- (m) The house tavern may not constitute a noise nuisance or create a nuisance for any neighbouring property owner. Juke boxes will not be allowed within a house tavern. Should music be played in a house tavern, it must be limited to listening music set at a low volume and speakers may not be placed outside the house tavern;
- (n) The applicant must provide the municipality with adequate building plans which must clearly show that adequate measures have been taken to mitigate the following potential negative impacts: visual impact, impact on built form, impact on privacy of surrounding properties, noise, parking and loading, disposal of garbage, ablution facilities, storage, etc;
- (o) All house taverns must be separated from the residential portion of the building. A 1.8 m fence, with one entrance and exit according to building standards, must fence in the house tavern;

- (p) No person under the age of 18 years may work in a house tavern and no more than 3 (three) persons, including the occupant of the dwelling unit, are permitted to be engaged in retail activities on the property;
- (q) No person under the age of 18 years may access the tavern if such person is not under adult supervision. No liquor may be sold to or consumed on the premises by a person under the age of 18 years;
- (r) All house taverns located in residential areas as well as taverns located in formalised business and industrial areas must comply with the trading hours as indicated in the Municipality's By-law on Liquor Trading Days and Hours.
- (s) If stock is to be delivered the deliveries must be restricted to normal business hours (08h00 to 17h00 weekdays only);
- (t) All parking for the house tavern must be provided on the property concerned to the satisfaction of the Directorate: Planning and Housing in consultation with the Directorate: Civil Engineering Services. No parking will be allowed in the road reserve;
- (u) Disposal of refuse must be addressed to the satisfaction of the Directorate: Environmental Services;
- (v) Only one non-illuminated sign shall be permitted and shall not exceed 5000cm² in area. Such sign shall indicate only the name of the owner, the name of the business and the nature of the retail trade. Any other sign must be applied for and approved by the George Municipality before it can be erected;
- (w) A business license application must be submitted to the Department: Environmental Services of the George Municipality.
- (x) The following health regulations must be complied with if food is to be sold or prepared from the premises, namely:
 - (1) that the owner obtains a business license for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991) from the George Municipality;
 - (2) that the premises comply with the general hygiene requirements for food premises and the transport of food regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972);
 - (3) that a Certificate of Acceptability be obtained as required by regulations R962 of November 2012 promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972) from the Eden District Municipality; and
 - (4) that the premises comply with government notice R264 of 30 March 2012 relating to the smoking of tobacco products in public places as promulgated in terms of the Tobacco Products Control Act, 1993 (Act 83 of 1993) as amended.

- (y) The owner must obtain a certificate from the Directorate: Environmental Services which must be openly displayed on the premises, indicating the maximum number of people that may occupy the premises at any given time;
- (z) A permit application must be submitted in terms of Chapter 5, Section 6 of the Water and Sanitation Services By-law for the disposal of industrial effluent to the Directorate: Civil Engineering Services for approval.
- (aa) An appropriate liquor license issued by the Western Cape Liquor Board will be a prerequisite to an application for operating a house tavern within the jurisdiction of the George Municipality;
- (bb) All house tavern owners and/or operators must register for tax with the South African Revenue Services;
- (cc) The George Municipality reserves the right to impose any additional conditions and to rescind any approval in case of valid objections/complaints having been received or should the approval conditions not be complied with;

20. Non-compliance with approval conditions

- (a) If approval conditions are not complied with the Town Planning Section will issue a written notice to the owner to rectify any irregularities within 7 (seven) days.
- (b) If objections are received with regard to the legally approved house tavern the Town Planning Section will evaluate the legality of the objections and if necessary inform the owner about these objections and will request the owner to comply with the approval conditions.
- (c) By failure to comply with points (a) and (b) above further legal action will be taken by Council. A court interdict will be obtained against the owner of the property forcing him to suspend trade from the property.
- (d) In case of serious crime, the matter is to be referred to the state prosecutor's office for further action.

21. Withdrawal and lapsing of an approval

Approval is granted to the owner of the property to run a house tavern from his dwelling unit and will be withdrawn under the following circumstances:

- a. When the property is alienated.
- b. In the event of the death of the owner.
- c. Valid objections have been received and an interdict against the owner is obtained.
- d. The owner of the property is arrested in connection with drug abuse, selling of drugs, prostitution, gun incidents, knife stab incidents or any other crime incidents.
- e. Where the owners ends the approved activity.

22. Delegation

Approval of applications for house taverns shall not be delegated.

All applications will be referred to the applicable Section 80 Committee for a decision. Should an application require the removal of a title deed restriction, such application will be sent to PGWC: Department of Environmental Affairs and Development Planning for a final decision.