



**GEORGE MUNICIPALITY:
TOWN PLANNING POLICY ON
HOUSE TAVERNS,
PLACES OF LEISURE(TAVERNS)
AND
PLACES OF ENTERTAINMENT (NIGHT CLUBS)
IN SINGLE RESIDENTIAL NEIGHBOURHOODS
(ADOPTED 25 OCTOBER 2022)**

DIRECTORATE: HUMAN SETTLEMENTS, PLANNING AND DEVELOPMENT, AND PROPERTY MANAGEMENT
DEPARTMENT: PLANNING AND ENVIRONMENT
DEVELOPMENT MANAGEMENT SECTION

GEORGE MUNICIPALITY: TOWN PLANNING POLICY ON HOUSE TAVERNS, PLACES OF LEISURE (TAVERNS) AND PLACES OF ENTERTAINMENT (NIGHT CLUBS) IN SINGLE RESIDENTIAL NEIGHBOURHOODS

A. BACKGROUND

When the George Municipality developed and implemented its current (2014) town planning policy related to illegal shebeens, house taverns and taverns, it recognised that many of low-income single residential neighbourhoods, built mostly with state subsidy housing funding, where these activities (mostly illegal) were prevalent, functioned differently to the traditional suburban (middle and higher income) residential neighbourhoods within the city, and surrounding towns and villages. This can be attributed to, among others, differences in culture and traditions within these diverse communities, the levels of poverty, unemployment and dependency experienced among the citizenry and the ability of community's residents to access facilities, services, resources and opportunities.

Past planning practises conditioned by the political milieu at the time, left many of these low-income communities isolated from the economically active parts of its city, town or village or unable to benefit from the economic agglomeration effects of their proximity of economic and industrial nodes and activity nodes, while the business nodes were also often centralised within and not on the boundaries these neighbourhoods, limiting footfall and dooming these neighbourhoods to economic mediocrity. These actions compromised the economic sustainability and resilience of these communities, leaving them void of meaningful access to local employment opportunities and commercial facilities, forcing these communities to be reliant on formal business and industrial areas to find work and income generating opportunities to provide for their individual needs. In response, some residents and small business owners have taken the opportunity establish a variety of retail enterprises known as House Taverns (mostly illegally) on residential properties, rendering localised access to basic consumer needs.

More recently though, the restructuring and spatial transformation of these low-income residential neighbourhoods have become one of the main strategic priorities, with the Municipality (and provincial and national government) developing spatial and economic interventions to address these past planning legacies. The Municipality recognises that citizens in these low-income residential neighbourhoods should have access to the same economic opportunities and conveniences (should be treated the same) as their counterparts living in other parts of the city, town or village.

These citizens should be able to access economic opportunities in a walkable distance from their homes, in the same areas as that found in the higher income neighbourhoods (identified nodes, activity corridors, public transport routes, existing business and industrial zoned properties, etc) and not need to continue to travel considerable distances to access entertainment facilities, retail goods and neighbourhood services.

Unlike the previous illegal shebeens and house tavern policy, which was only aimed at the management of traditional House Taverns, Places of Leisure (larger taverns) and Places of Entertainment (night clubs) enterprises in low income neighbourhoods, the revised policy is intended to be applied to all residential neighbourhoods, and therefore will need to provide enabling conditions under which the existing illegal facilities that do not adhere to the new policy, can – over a period - be closed down and relocated to a more desirable location.

The policy must recognise that these land uses have a significantly higher impact on- and serve a much wider area than- the residential neighbourhood in which it is located and, many times, to the detriment of the peace and safety that all citizens and residents should be able to enjoy. The revised policy must therefore differentiate between these land uses and where and under what circumstances each should be permitted.

The Municipality notes that the concept of “unlicensed shebeens” in the 2014 policy document have become irrelevant and thus, references thereto has been deleted and the policy has been renamed the: *“George Municipality: Town Planning Policy on House Taverns, Places of Leisure (Taverns) and Places of Entertainment (Night Clubs) in Single Residential Neighbourhoods”*.

Controlling and managing the establishment of Places of Leisure (pubs, pool halls, taverns and sport bars) and Places of Entertainment (bars that have a dance floor, DJ, live music, etc) in the existing business and industrial sections of George generally do not present a problem for the Municipality as formal zoning rights are in place and “new” rights can be accommodated through formal land use application processes (rezoning, temporary departure and consent use applications).

The Municipality does not experience problems in controlling and managing liquor enterprises in its middle- and higher- income residential neighbourhoods. Most of the illegal House Taverns (as described later in the document), Places of Leisure (Taverns that do not generate a lot of noise and disturbances) and Places of Entertainment (Night Clubs that generate a lot of noise and disturbances through loud music – DJ/ live band, etc and disturbances due it associated activities) are located in the low-income single residential neighbourhoods. Most of these enterprises have liquor licenses but is likely that the operators thereof do not understand that, in addition to a liquor license, they also require a town planning approval, building plan approval, business licenses, health licenses and other permits before they may lawfully operate.

It is recognised that most of these illegal liquor enterprises are not located in desirable areas, and that their presence inside the residential neighbourhood conflicts with the Municipality’s objective of enabling a harmonious and safe environment for the those who reside in their vicinity. As it is the Municipality’s desire to treat all residential neighbourhoods equally, this policy must ensure that these undesirable illegal enterprises are closed down. Notwithstanding, the Municipality also recognises that many of these enterprises have operated for decades, supports the local economy and creates jobs. Many of these enterprises have become local institutions, form part of the local culture and is addressing a local need.

Consequently, the Municipality should seek to adopt a phased approach to the closing down and potential relocation of these businesses. In doing so, it should consider providing these established operators the opportunity to re-establish their businesses to better located land and release Municipal land for this purpose.

The Municipality has failed to adequately manage the proliferation of these and similar enterprises that have been unlawfully established within its low-income single residential neighbourhoods. According to the residential business survey conducted in early 2022, there are at least 44 illegal liquor enterprises in the Municipal area, almost all of them being in low-income single residential neighbourhoods. Since the George Municipality Council's adoption of its first House Tavern and Unlicensed Shebeen Policy on 01 July 2013, and the revised policy in June 2014, no applications to regularise these illegal enterprises have been submitted. Stricter enforcement will be required subsequent to the adoption and implementation of this policy.

The present policy also needs revision due to the changes in planning laws, Municipal bylaws and the adoption of new spatial planning frameworks by the George Municipality Council since 2015.

The Spatial Planning and Land Use Management Act, 2013 (SPLUMA), was implemented in the George Municipality on 01 June 2015. In terms of the principles contained in Section 7 of SPLUMA, the Municipality needs to take steps to transform its low-income single residential neighbourhoods so that they can function more sustainably. Spatial justice and equity also need to be perused to build spatial resilience in these areas over time, while the Municipality also needs to exercise good governance. This is elaborated on later in the document.

The Western Cape Land Use Planning Act, 2014 (LUPA) as well as the Land Use Planning Bylaw for George Municipality, 2015 was also implemented on the same date. These laws repealed and replaced the old order town planning laws on which the 2014 policy document is based.

In September 2017, the George Municipality adopted the George Integrated Zoning Scheme Bylaw, 2017 which replaced the four (4) old zoning schemes. Three of the four old schemes did not make provision for House Taverns and consequently, were treated as Temporary Departures which lapsed after five (5) years. Under the new zoning scheme bylaw, a House Tavern is not described, while a Tavern falls under the definition of a pub (explained later in the policy below).

Taverns and Night Clubs are not allowed as either a primary right or as a consent use right under Single Residential Zone I (formal housing) and Single Residential Zone III (informal housing and UISP), in the new zoning scheme as our land use management system is designed to protect and benefit all the land owners in that neighbourhood and not the individual owners. These land uses are not compatible with an exclusively residential environment due to the amount of traffic, noise, disruptions, and waste it generates; the

elements they attract to the neighbourhood, the crime that occurs around them, and the anti-social behaviour and issues linked to intoxication and alcohol abuse.

The integration of the zoning schemes created a uniform set of standards for Taverns and Night Clubs. The zoning scheme is an implementation tool of the Municipality's Spatial Development Framework (MSDF) and the MSDF along with its supporting local spatial development frameworks gives context as to where these land uses should be permitted.

A Municipal town planning policy may not conflict with its, planning and zoning scheme bylaws or its MSDF or LSDF proposals, guidelines and objectives. This policy must also be revised to align with the George Municipality: Integrated Development Plan, 2017 to 2022, the George Spatial Development Framework, 2019 and the respective Local Spatial Development Frameworks adopted from 2015 onwards.

B. PURPOSE

To formulate a policy that allows the George Municipality to manage the phasing out of its historical concession of permitting the establishment of House Taverns in low income single residential neighbourhoods and to establish guidelines for appropriate or desirable locations for the development of House Taverns, Places of Leisure (Taverns) and Places of Entertainment (Night Clubs) – collectively referred to in this policy as “liquor enterprises” – located within the George Municipal Area to:

1. Assist citizens to earn an income from their property while limiting any negative impacts of such business enterprises on the rights of the other citizens in the area to a safe, clean and quiet living environment;
2. Promote an entrepreneurial spirit within these neighbourhoods;
3. Aid in achieving the Municipality's development objectives with regards to integration, urban restructuring and public transport orientated development as outlined in the George Municipal Spatial Development Framework, 2019 and applicable Local Spatial Development Frameworks;
4. Make provision for formal higher order business opportunities in appropriate locations; and
5. Address the regularizing and rectification of existing illegal liquor enterprises;

The policy does not address or guide the development and operation of “Liquor Stores” from Single Residential zoned properties as such applications can be guided by the *“George Municipality: Town Planning Policy on House Shops and Other Residential Based Retail Concerns (Revised April 2021)”* in respect of the desired locations for Shops and Neighbourhood Shops in residential neighbourhoods.

Lastly, the Municipality recognises the problems that the community and the South African Police Service (SAPS) experience with illegal off-sales (“smokkelhuise”) that are found on residential properties, especially in low-income single residential neighbourhoods. However, the illicit sale of alcohol is a criminal offence in terms of the Western Cape Liquor Act, 2010 and not a land use planning offence. It is thus a matter

which must be addressed by the SAPS and not the Municipality, and thus, will also not be addressed in this policy.

EXPLANATORY NOTE 1

Why the need for a policy?

All Municipalities have zoning schemes, planning policies and spatial planning frameworks to manage complementary and conflicting land uses in its Municipal area and to determine the types of land uses that can be allowed on each property. The desired outcomes contained in the Municipality's planning policies and frameworks, translates into its zoning scheme.

The zoning scheme has different zones for business uses, industrial uses, residential uses, institutional use, recreational uses and agricultural uses. Each property in the Municipal area is assigned a zoning with each zoning allowing the owner to exercise a certain land use within the development parameters (height, coverage, floor area, building lines, parking requirements, etc) stated. The Municipality then draws up a zoning map to determine where these zones and land uses can be located in relation to each other. The Municipality also adopts spatial plans / frameworks that indicate where particular land uses should ideally be located.

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.

In terms of planning principles, business activities and land uses that serve a larger cross-section of the citizenry, are almost always positioned or planned in commercial nodes, along activity corridors and along main vehicle transport routes.

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. These shops are located in these positions as it minimises potential negative impacts on the surrounding residential uses and all citizens' rights to live in a peaceful, safe and clean environment.

House Taverns, Places of Leisure (Pubs and Taverns) and Places of Entertainment (Night Clubs) should ideally never be established in the middle of a residential neighbourhood as their presence 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 owners, their families and/or other occupier of the dwelling house, second dwelling or shelter, as the case may be, living in that neighbourhood.

With its previous policies, the Municipality acknowledged that most low-income single residential neighbourhoods were denied economic opportunities due to past planning practices that made most of them dormitory settlements. The citizens living in these

neighbourhoods were denied access to basic goods and services; as well as the economic opportunities generally accommodated in the wealthier residential neighbourhoods.

It is also acknowledged that most residents in the low-income single residential neighbourhoods are not by the economic means to support themselves and that the only real asset they can use to generate an income for themselves was their property. With limited resources and access for formal employment and opportunities available, many owners in poor and vulnerable neighbourhoods increasingly resorting to informality to address their needs such as renting rooms in their house to tenants or students, allow backyarders to erect temporary structures on their property, starting small scale workshops (tyre repairs, vehicle repairs, manufacturing), and operating small and micro businesses (home occupations) from home. Most of these activities are done without the Municipality's permission or approval.

In a few instances, entrepreneurs sought to establish higher-order business enterprises such as House Taverns, Taverns and Night Clubs to meet a demand in their neighbourhood, albeit illegally. Many of these areas were established under Apartheid era laws, where it was instructed by the State to provide only limited access to appropriately zoned land, to omit such land in subdivision layouts, and/or to place such the land in the middle of the neighbourhoods - making it difficult for surrounding neighbourhoods to access these business nodes, denying the footfall required to ensure their sustainability. It was also State practice to not release available land in appropriately located areas or when releasing such land, inserting clauses in the title deed, prohibiting the sale of alcohol from these business and industrial properties.

Thus, historically, many of the older House Taverns, Taverns and Night Clubs (liquor enterprises) found in our low-income single residential neighbourhoods today are located on single residential zoned properties, most in locations that one would deem inappropriate considering all the modern laws and policies that now need to be adhered to.

The Municipality acknowledged these past planning practices and introduced a policy in 2013, as a socio-economic concession to temporarily allow owners of these historic House Taverns the opportunity to apply to lawfully operate their businesses from their respective residential properties. Despite this, most of the owners / proprietors continue to operate illegally, with some abusing the House Tavern concession to establish commercial Taverns, Night Clubs and other late-night businesses on their properties and properties in the immediate surrounds, causing many problems for the surrounding community and the SAPS; placing these communities at risk and undermining the surrounding citizens' rights and amenity to live in a safe, quiet neighbourhood.

The policy must thus aim to find a balance between rectifying historical planning practices, acknowledging the need to phase out past concessions, while also addressing the needs of the neighbourhood and the rights of the citizens, all within the framework provided by applicable laws, bylaws and spatial planning documents applicable to the land uses concerned.

C. DEFINING A HOUSE TAVERN

The George Integrated Zoning Scheme Bylaw defines a Tavern as a “pub”. A pub in turn is described in the land use description of “Place of Leisure”. A Night Club is described in the land use description of “Place of Entertainment”. For more details see Section F.3. of the policy.

There is no definition or land use description for a “House Tavern” in the George Integrated Zoning Scheme Bylaw. The George Municipality: Policy on House Taverns and Unlicensed Shebeens (2014) provided the following description:

A House Tavern means “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.”

This description was based on the descriptions or definitions contained in the Western Cape Liquor policy, 2004, previous zoning schemes, the draft zoning scheme of 2011, and regulatory requirements which determined that an ancillary use may not be the dominant use of the property. This principle “dominant use” was carried over into the George Integrated Zoning Scheme Bylaw, 2017 with specific regard to business activities conducted from a single residential property.

Section 20 (3) (a) of the GIZSB states for instance that: *“when a consent use is granted in a particular zone, **the applicable land use must be supplementary to the primary use right allowed under the particular zone;**”*

The land use description of ‘House Shop’ means *“the conducting of a retail trade from a dwelling house, second dwelling, shelter or outbuilding by **one or more occupants who must reside on the property; provided that the dominant use of the property must remain for the living accommodation of the occupants.**”*

Development parameters:

- (a) *Development parameters applicable to “dwelling house”, “second dwelling” and “shelter” apply.*
- (b) ***Any new structure or alteration to the property to accommodate the “house shop” must be reconcilable with the residential character of the area, particularly regarding the streetscape, and must be capable of reverting to use as part of the “dwelling house”, “second dwelling” or “shelter”.***

Similarly, the land use description of a ‘Home Occupation’ means *“the practising of an occupation or the **conducting of an enterprise by one or more occupants who reside on the property, provided that the dominant use of the property concerned must remain for the living accommodation of the occupants** and home occupation does not include a house shop.*

Development parameters

- (a) *The dominant use of the property must be for accommodation of a single family.*
- (b) *The proprietor of the home occupation concerned must live on the property.*
- (c) **Any new structure or alteration to the property to accommodate a home occupation must be compatible with the residential character of the area, particularly with regard to the streetscape, and must be capable of reverting to use as part of the dwelling house, second dwelling or outbuilding concerned.**
- (d) *Not more than three employees may be engaged by the occupant in the home occupation concerned...*

The GIZSB provides for two (2) residential zoning categories which apply to low-income single residential neighbourhoods, namely: Single Residential Zones I and III. Single Residential Zone I allow for only formally erected structures whereas Single Residential Zone III allows for “shelters” – informally erected structures. The zoning table in the GIZSB describes the intent of Single Residential Zones as follows –

*“The objective of this zone is to provide for residential development where the **predominant type of accommodation is a dwelling house for a single family**, where each dwelling has its own land unit, and adequate outdoor space. **Limited employment** and additional accommodation **opportunities are possible** as primary or consent uses, **provided that the dominant use of the property remains residential and impacts of such uses do not adversely affect the quality and character of the surrounding residential environment.**”*

It is recognised that the GIZSB places significant emphasis on preserving the residential character of the area concerned, that residential property owners’ rights are preserved and that any business operating from a single residential property remains supplementary to the residential activities taking place on that property. Considering the above provisions, the land use description of a ‘House Tavern’ shall be amended to read as follows:

means “an enterprise, conducted from a “dwelling house”, “second dwelling”, “shelter” or outbuilding on a single residential property, by the occupant of the “dwelling house”, “second dwelling” or “shelter” concerned - who must reside on the property, for the sale of alcoholic beverages to customers on the property, provided that the dominant use of the single residential property concerned shall remain for the living accommodation of the occupants; and the structure or building erected must be reconcilable with the residential character of the area, particularly regarding the streetscape, and must be capable of reverting to use as part of the “dwelling house”, “second dwelling” or “shelter”.”

Further to the above, it is expected that the zoning of all single residential erven in low income single residential neighbourhoods (*formerly known as townships or state subsidised housing developments*) will be reclassified Single Residential Zone III to allow for informality. It is suggested that “House Tavern” is included as a Consent Use under this zoning, allowing the Municipality to grant permanent rights for successful enterprises in

desirable locations or temporary rights for the enterprises that must be phased out and eventually closed.

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 for consumption on the premises and may include an area where customers can relax and interact socially.

According to the proposed land use description above, a House Tavern can be operated from a “dwelling house”, “second dwelling”, “shelter” or outbuilding on a single residential zoned property. The structure or building erected for the House Tavern must be reconcilable with the residential character of the area (similar in nature to structures found on other properties in the area). The structure must be built in a way that with a few alterations, it can be converted back to a “dwelling house”, “second dwelling” or “shelter” as described in the George Integrated Zoning Scheme Bylaw.

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.

The House Tavern activity should only form a subservient (small) component of the property and the main use of the property must remain for residential purposes. In other words, the part of the property that is used for the House Tavern cannot be larger than the part of the property used by the owners and their families and other occupiers of the property to reside on.

In other words, the House Tavern must be smaller than the houses and/or shelters erected on the property for living in.

Can a House Tavern be operated from a Temporary Structure?

According to the description, a House Tavern can be operated from a “shelter” or an “outbuilding” and thus, from a land use perspective, it is possible to operate it from temporary structure. However, due to other legal requirements in terms of fire safety, and occupational health and safety, liquor licenses, Building Regulations, etc – can only be operated from a structure which is suitable for public occupation. Thus, any temporary structure to be used, must be approvable on a building plan and meet all public safety requirements.

Who can operate and work in a House Tavern?

The description of House Tavern (above), only allows the owner or an occupant on the property, and who resides on the property, to operate the house tavern. The owner is the person registered with the Municipality for the paying of the rates, taxes, water and/or electricity accounts for that property, while an occupier is either a family member of the owner or a tenant with a lease agreement – who also resides on the

property This means that the operator cannot be an outside person who rents only the tavern space from the owner on a 3rd party basis.

Why is a 3rd party excluded from operating a House Tavern?

The allowing of House Taverns on residential properties was a concession by the Municipality to address socio-economic needs of the citizenry living in low-income residential neighbourhoods and to assist these owners, their family and/or their tenants to obtain a sustainable income from their properties while at the same time, developing and fostering an entrepreneurial spirit within these low-income residential neighbourhoods.

The Municipality was thus only allowing House Taverns as a temporary 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 was never intended to allow for the establishment and operation of formal liquor enterprises on residential properties or for these properties or part thereof to be operated by 3rd parties.

Is a Liquor Store considered a House Tavern?

A Liquor Store that is operated from a residential property is not a House Tavern. A Liquor Store is a separately listed land use in the George Zoning Scheme and only allowed on Business and Industrial zoned properties. The land use description for 'Liquor Store' means "an establishment where the dominant use is the retail sale of alcoholic beverages, for consumption off the property". The development parameters applicable to "Shop" applies to Liquor Stores.

What is the difference between a House Tavern and a Night Club?

A House Tavern is not a place where you will, for instance, find loud music being played, a dancefloor, a stage for live music or a DJ booth being found, including where these activities occur afterhours. Such an enterprise is regarded, by definition, as a Place of Entertainment. A night club is listed in the zoning scheme as a Place of Entertainment and is therefore not a House Tavern.

Why is the previous concession to allow House Taverns and Taverns in the middle of low-income residential neighbourhoods being phased out and liquor enterprises not being allowed in residential areas?

House Taverns and Taverns should not be allowed in the middle of residential neighbourhoods, unless the property is zoned for such purpose – i.e. industrial and business properties, clubhouse on a sports field, etc – as they are known to cause disturbances and disrupt normal residential life. They were only previously allowed by the Municipality in the middle of low-income residential neighbourhoods (where they have historically been found) as a temporary socio-economic concession to enable residents of these neighbourhoods (who are often unemployed and poor) to improve their lives through entrepreneurial development and not to afford permanent business rights to a residential property.

The Municipality recognises that these concessions have been abused and that many of these House Taverns and Taverns (associated abuse of alcohol) contributes significantly to major crime in these areas and to anti-social behaviour among the citizenry.

Going forward, the Municipality intends to eradicate problematic liquor concerns located in the middle of residential neighbourhoods, while also allowing for the formalising of existing liquor enterprises in areas the Municipality deemed appropriate or desirable in accordance with the guidelines contained in the policy below. See Section F.3. for more information.

Does the policy preclude “foreign nationals” from operating a House Tavern?

No, the policy does not preclude a “foreign national” from operating a House Tavern if he/she is the registered owner or registered tenant on the property, and have the necessary immigration permits to do so. Section 52(1) of the Western Cape Liquor Act states that a Liquor License can only be issued to a Natural Person and that the manager of the premises must be a Natural Person.

D. ASPECTS TO BE ADDRESSED BY POLICY

At present, the George Municipality manages the establishment of House Taverns in low-income single residential neighbourhoods on an ad-hoc basis as a Temporary Departure from the provisions of the George Integrated Zoning Scheme Bylaw, 2017 as allowed for in terms of Section 15(2)(c) of the Land Use Planning Bylaw for George Municipality, 2015.

All other liquor enterprises such as Taverns and Night Clubs are managed in terms of the Municipality’s planning and zoning scheme bylaws. These enterprises are only permitted on appropriately zoned properties in areas where it is desirable to do so, irrespective of whether these are in a low-, middle- or high- income residential neighbourhood. The House Tavern will also only be permitted in desirable locations, with undesirably located liquor enterprises being downgraded and eventually phased out.

Note: The policy can be revised to allow for permanent House Taverns in well-located areas/ that are successful as Consent Uses on SRZIII properties once the Zoning Scheme Bylaw amendments have been adopted.

House Taverns (in low-income residential neighbourhoods), Taverns and Night Clubs play a critical social function in all single residential neighbourhoods, but it also recognised that the nature of these businesses – being the supplying of alcoholic beverages and hard liquor, are also linked to the anti-social behaviour and crime problems experienced in especially the low-income neighbourhoods. Further, these business activities, are one of the few sustainable economic activities that attract feet and money (economic activity) into residential areas, making it possible for the surrounding community to have access to a greater variety of goods and services. Thus, it is essential that this policy finds a balance between the regulatory framework within which these liquor enterprises must be conducted, the Municipality’s planning for the respective neighbourhoods, and the

rights and amenities enjoyed or that should be enjoyed by the entire citizenry and property owners concerned.

Cognisance is taken of the fact that many of these liquor enterprises are operated from informal structures. There may also be need in the future to accommodate such uses in informal settlements. Most informal settlements are located on properties owned by George Municipality, Garden Route District Municipality, Provincial Government, or National Government. Informal dwellers living in temporary relocation areas are also subject lease agreements signed with the Municipality. These agreements require the occupants to first obtain permission from the Municipality before a retail concern may be operated. Notwithstanding, these enterprises can only be operated from structures that comply with all building control, fire safety and health requirements.

There are no development parameters set on the Municipality's zoning scheme bylaw for a House Tavern or a Place of Leisure (Tavern). This must be determined by the Municipality through this policy. According to the proposed land use description for "House Tavern" above, any structure used or constructed on a single residential property for such purposes must reconcile with the residential character of the area, particularly regarding the streetscape, and must be capable of reverting to use as part of the "dwelling house", "second dwelling" or "shelter". The policy will therefore need to focus on how to regulate the appearance and design of these establishments.

It is further recognised that these liquor enterprises are also regulated by the Western Cape Liquor Authority and that they generally limit the issuing of Liquor Licenses. The Tavern owners also tend to self-regulate and do not allow trade competition. Nonetheless, it is important to ensure that the policy allows for the short-term sustainability of these enterprises while also promoting the longer-term spatial planning objectives of the Municipality.

This policy also needs to establish enforcement procedures that will encourage existing illegal operators whose establishments are found in desirable locations, or do not comply with other requirements, to legalise their activities and to operate within the proposed framework while also allowing for the downgrading and phasing out of non-conforming enterprises where it is possible to do so.

The revised policy must establish sustainable land use management guidelines for the allowance and operation of House Taverns from single residential properties, specifically those located in low-income residential neighbourhoods and informal settlement areas within the George Municipal Area.

The policy must consider existing Municipal by-laws, the planning bylaw, zoning scheme bylaw, applicable spatial planning and land use policies, and the national and provincial laws relating to these land uses, including the trade in liquor.

Cognisance also needs to be taken in the revision of this policy, that the regularising of the existing unlawfully operated liquor enterprises can become a sensitive issue, especially as it is known that some operators exert pressure and use intimidation tactics to

prevent communities from speaking out their businesses. It is therefore critical that the Municipality engages with the Western Cape Liquor Authority and the South African Police Services to ensure that problem enterprises are appropriately addressed.

E. CONTEXTUAL FRAMEWORK (APPLICABLE SPATIAL PLANS AND RELATED POLICIES)

Urban spatial policy is framed by the Municipal Finance Management Act, No. 107 of 2003 (South Africa. 2003) and the Municipal Systems Act, No. 32 of 2000 (South Africa. 2000) which requires local government to develop budgets that support service delivery to the poor while facilitating the creation of ‘developmental local governments’ through Integrated Development Plans, Spatial Development Frameworks and Local Economic Development strategies. These are in turn influenced by national and provincial policies including, the National Spatial Development Plan (NSDP 2030), Provincial SDF’s and the Integrated Urban Development Framework (IUDF,2014).

1. National Development Plan 2030

This is a broad-based plan aimed at protecting the environment while allowing for economic development and growth and improving the quality of lives of South Africa’s urban and rural communities. There are several objectives and proposals contained in the document which apply to this policy, namely:

| APPLICABLE PROVISIONS IN OF THE NDP |
|---|
| <ul style="list-style-type: none">• <i>Increase economic growth by placing greater focus on new market opportunities...;</i>• <i>Improve accessibility to markets through improved infrastructure provision;</i>• <i>Facilitate resource efficiency and counteract the impacts of climate change by reducing carbon footprints, reducing water consumption in urban areas, promoting and facilitating green and renewable energy, promoting green buildings, increasing waste recycling, reducing the need for commuting and increasing public transport usage;</i>• <i>Increase access to broadband (internet);</i>• <i>Protect and restore protected and environmentally sensitive areas;</i>• <i>Develop strategies for densification of towns and resource allocation for better located housing and settlements;</i>• <i>Develop programs to achieve minimum standards of living;</i>• <i>Improve access to facilities and services required by the community concerned;</i>• <i>Address social issues of hunger and poverty, crime, and protection of vulnerable groups – developing safer communities;</i> |

2. National Integrated Urban Development Framework, 2016

The IUDF (COGTA, 2014) provides guidance on addressing urban growth and infrastructure provision for South African cities, recognising that over 60% of South Africa’s population now live in major urban centres. The policy framework focuses on

the development of South Africa’s urban centres. It advocates for direct engagement with the urban context and the complex and unique urban issues to improve the lives of its citizens. It proposes eight (8) “levers” (NIUDF, 2016 p.11) with several proposals to address the country’s development agenda, which also apply to this policy, namely:

| No | NIUDF Lever | Proposal |
|-----------|---|---|
| 1 | <i>Integrated Spatial Planning Forms</i> | <i>Provide urban policy actions that guide investment as well as use of land and resources on a sustainable basis to achieve integrated urban development;</i> |
| 2 | <i>Integrated Transport and Mobility</i> | <i>Support a more efficient and densified urban form, economic development and social transformation</i> |
| 3 | <i>Integrated and Sustainable Human Settlements</i> | <i>Restructure Apartheid planning landscapes, improve land tenure and create quality, safe living and working environments</i> |
| 4 | <i>Integrated Infrastructure Network Systems</i> | <i>Access to resource efficient networks that facilitate economic development while addressing commercial, industrial and household needs</i> |
| 5 | <i>Efficient Land Governance and Management</i> | <i>Retain property values while allowing for spatial transformation of land and equitable access to land resources and land ownership</i> |
| 6 | <i>Inclusive Economic Development</i> | <i>Diversify the economic base by focusing on potential new economic opportunities, technological innovation, and investing in social capital and public services</i> |
| 7 | <i>Empowering Active Communities</i> | <i>Capture the energy and entrepreneurial spirit of the community, enabling them to participate in the economy as well as in planning decision-making</i> |
| 8 | <i>Effective Urban Governance</i> | <i>Manage the intergovernmental dynamics within the municipality, and relations with the province and neighbouring municipalities.</i> |

The plan identifies the George area as a regional centre of economic and settlement activity which has experienced significant growth in comparison with other secondary towns in the country.

3. Western Cape: Provincial Spatial Development Framework, 2014 (PSDF)

The PSDF is the spatial planning document of the Western Cape Government and contains several general spatial planning guidelines and principles falling under the four main spatial themes of Resources, Space Economy and Settlement, and underlying Spatial Governance. The following are relevant to this policy:

- *Protect, manage and enhance an area’s sense of place as well as cultural and scenic landscapes;*
- *Delineating urban edges to divert urban growth pressures away from critical biodiversity areas and agricultural resources;*
- *Support initiatives that promote public transport to reduce the need to travel;*

- *Introduce non-motorised transport infrastructure to complement other transport modes;*
- *Prioritise public transport investment and higher order facilities in district centres;*
- *Promote smart growth through efficient use of land and infrastructure, by containing urban sprawl and prioritising infill, intensification and redevelopment within urban centres;*
- *Regenerate and revitalise existing economic nodes in the urban space-economy;*
- *Incentivise mixed land use and economic diversification in urban land markets;*
- *Encourage higher density more compact urban forms that promote increased viability of public transport systems and inclusive economic growth;*
- *Promote functional integration and mixed land use to achieve levels of settlement liveability and transform apartheid spatial patterns through densification and infill development;*
- *Use government and private land to facilitate inclusionary land markets as well as increase land tenure options to facilitate integrated human settlements;*
- *Proactively plan, align and coordinate the strategic use and disposal of public land to ensure that opportunities for its use for public housing are not lost;*
- *Provide a wide range of housing typologies and tenure options based on principles of sustainability and integrated development planning;*
- *Use new bulk infrastructure investment to leverage private sector and community investments;*

4. PGWC: Growth Potential of Towns Study, 2014

This study determined the growth potential and socio-economic needs of settlements in the Western Cape outside of the Cape Town area. George is classified as a city with both very high growth potential (due to its very high economic resource base) and very high socio-economic needs (due to its high poverty and unemployment index). Future development and investment in the city will thus have to support economic growth and development, as well as socio-economic development imperatives.

5. Draft Liquor Policy for the Western Cape, 2004

According to the policy document, the origin of Taverns (liquor enterprises) in low-income residential neighbourhoods can be traced back to the Apartheid era when African and Coloured communities were excluded from trading in liquor. This resulted in many liquor enterprises operating illegally in low-income single residential neighbourhoods. These enterprises, which were also seen as a mechanism of defying the Apartheid regime, provided an integral component of recreational activities which were purposely absent within these communities. Later on, these enterprises became a means for jobless people, with limited access to economic opportunities, to earn an income.

The PGWC Liquor Policy raises major concerns regarding 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.

The policy also notes that that these liquor enterprises can become a focus for social interaction and adding vibrancy to the area. They create jobs, provide an economic injection into (low-income) residential neighbourhoods and can also become 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 Taverns in residential areas should therefore be strictly regulated, especially near to schools and places of worship. A liquor enterprise should only be legalised if it leads to 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 liquor enterprises operate in contravention of applicable town planning and building code regulations. The draft policy recommends that municipalities amend their zoning scheme to allow for House Taverns and the legalizing thereof. The policy also contains specific guidelines with regard to allowing House Taverns which have been incorporated into this policy document.

6. Western Cape Liquor Authority: Alcohol Harms Reduction Policy (White Paper)

According to the policy document, during 2015 the Western Cape Provincial Cabinet agreed that an alcohol-related harms reduction policy should be developed to guide the Western Cape Government's approach to the regulation of alcohol culminating in the development of this White Paper. It was concluded that the general focus of liquor legislation does not adequately consider the impact of alcohol-related harms on society or address the consequences of alcohol-related harms on the citizenry.

The document notes that South African drinkers consume comparatively high amounts of alcohol and do so in risky patterns. Alcohol was identified as the fifth leading risk factor for death and disability in South Africa. Alcohol-related harms include brain development impairment in children and adolescents, is linked to increased violence, transport-related deaths and suicide. The financial cost of alcohol-related harms to South Africa's economy was estimated at a net loss of approximately seven to ten per cent of South Africa's GDP – the industry therefore does more damage to the economy than good. The alcohol-related risks and harms to individuals and communities in the Western Cape causes high levels of abuse generally, and specifically by school-going youth. There is thus a need for an alcohol-related harms reduction approach in the province.

To address demand drivers for alcohol consumption in the province, the policy proposes a ban on alcohol advertising that is visible to any persons under the age of 18. It also proposes that government do not allow alcohol companies to sponsor or advertise at all government organised events or at public health and social service facilities in the Western Cape. It is also proposed to set maximum limits for trading hours in line with the alcohol-related harms reduction approach, with provision for exceptions based on set criteria. Municipalities would still be able to influence trading hours and thus reduce the availability of alcohol by regulating trading days and hours.

Chapter 2 of the policy addresses unlicensed liquor outlets and the illicit liquor trade. Concern is raised over a general lack of regulation leading to increased harm. The policy proposes steps to bring responsible unlicensed liquor outlets into the regulated space in a sustainable and responsible manner, identifying mechanisms and criteria that will enable the rezoning of outlets for liquor sales in appropriate residential areas. It also proposes that liquor enforcement units are to be capacitated and strengthened through increased resources and an integrated liquor enforcement approach, among other proposals.

Chapter 3 of the policy recognises both regulatory compliance and criminal enforcement as integral parts of a comprehensive approach to reduce alcohol-related harms. It proposes that all spheres of government and relevant departments should contribute to the clamp-down.

Chapter 9: Institutional arrangements recognises the critical role played by institutions in supporting and implementing the Western Cape alcohol-related harms reduction policy. The policy recommends shifting the administrative burden and cost of liquor licence applications to the applicant. The fee structures should be based on actual processing cost and renewal fees.

In conclusion, it appears that the Western Cape Government's approach to liquor enterprises is to restrict rather than to expand the issuing of liquor licenses, only to allow enterprises in appropriate locations within neighbourhoods, and not to incentivise the development of the enterprises in neighbourhoods where high risks of alcohol related harm is prevalent. Notwithstanding, the policy predicates for the regularising of enterprises in places where it is desirable to do so.

7. 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 must be considered in terms of the requirements of this legislation with effect from 01 April 2012.

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

32. (1) *A person may not ... 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 ... 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;*
34. *The Liquor Licensing Tribunal or Presiding Officer ... 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) *...;*
- (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.*
36. (1) *An application for a license ... must (include) —*
- (a) *...;*
- (b) *a zoning certificate or a copy of a planning application submitted to the Municipality concerned in terms of applicable planning legislation;*
37. (1) *The Authority must, ... publish notices, in the three official languages of the Province ... in a community newspaper circulating in the area ..., and where there is no such community newspaper, in at least one other newspaper circulating in the area ...*
- (2) *The applicant must display a notice, ... in a prominent place at the proposed licensed premises so that it is visible to passers-by: ...*
- (3) *.... must remain in place for the prescribed period from the date of lodgement of the application.*
- (4) *...*
- (5) *The designated liquor officer ... 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.
- a. Notwithstanding subsection (1), where ... notification (is) done in terms of the applicable planning legislation is deemed to (comply) with the notification requirements in terms of this section...
40. (1) The Municipality concerned must ... 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, ... 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.
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.
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.
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 ... 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, ... may not allow a person under the age of eighteen (18) years to be in a part of licensed premises ...*
- (5) *A person under the age of eighteen (18) years may not 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 ...*
 - (3) (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 ...*
 - (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 ... may not exceed ... 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, in the past, most liquor

license applications were not being processed correctly by the Liquor Authority in terms of their own requirements as they appeared to have ignored several requirements before issuing / re-issuing the licenses for most of the existing illegal liquor enterprises in our Municipal area:

1. The Liquor Authority must be satisfied that the property is correctly zoned to carry out the uses allowed under the License issued – i.e. the operator needs to provide a zoning certificate (confirmation that the zoning of the property allows for the proposed use) or proof that land use application is in process;
2. The Liquor Authority must be satisfied that the license holder can legally utilise the premises from which he/she intends to operate – i.e. that the zoning allows for the proposed use or that the land use application is approved.
3. The Liquor Authority must satisfy itself that the premises are suitable for such use – i.e. that building plans for the structure is approved and occupation certificate issued and that all applicable health certificates, ventilation and fire certificates, and business licenses, have been obtained.

It also noted that for many years, the advertising requirements as prescribed by the Act was not followed in that the Municipality was not being informed in writing of these applications and as such, could not provide comments thereon. The applications are also not being discussed at the Policing Forum, where Municipal officials are also represented. This has now been addressed, with the Liquor Officer now sending all new license applications the Department: Legal Services who in turn gathers the comments from the applicable internal departments and the Ward Councillor.

The existing illegal operations where licenses were already issued remains a problem as the renewal of these licenses occur automatically and the Municipality can therefore not comment. The Liquor Authority can withhold the renewal of these old licenses if the Municipality objects thereto. In such instances the license is set aside, and the operator is requested to submit a new license application which follows the requisite processes.

What is interesting to note is that the Act makes provision for the Liquor Authority 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 in the Provincial Gazette, are also complied with.

The trading hours for on-premises consumption is set by the Act at 11h00 to 02h00 the next day. The Municipality may and has imposed more restrictive trading hours than that permitted by the Act when it adopted the George Municipality: Bylaw on Liquor Trading Days and Hours, 01 October 2013. The trading hours of the Bylaw is more restrictive than the Act, with regards to House Taverns, Taverns and Night Clubs located within residential areas. The Bylaw does allow for the license holder to apply for extended trading hours.

Of further relevance to this policy is that the Liquor Authority must consider whether issuing the license would be in the public interest as well as the impact of the

operation on the residents of the residential area and nearby Places of Worship, Places of Instruction and Institutions as described in the George Integrated Zoning Scheme Bylaw, 2017.

It is also relevant that liquor license applications are served on the Community Policing Forum as a commenting body. These aspects of the Act can be assimilated into the land use application process.

8. Eden (Garden Route) District Municipality Spatial Development Framework, 2017

The EDMSDF spatial proposals respond to the four key drivers of spatial change identified in Eden District’s vision and mission adopted with the IDP in May 2017. The following policy proposals are applicable to this policy:

- *Contain settlement footprints and enable land use mix through incentives and the implementation of overlay zones.*
- *Support ITP proposals to achieve sustainable public transport through appropriate settlement form and densities.*
- *Promote walkability and cycling in towns.*
- *Promote a balanced approach to mobility and access at local level.*
- *Support the sustainable provision of social services.*
- *Ensure the development of strong resilient towns and places.*
- *Support and facilitate resilience, accountability and incremental investments.*
- *Prioritise and facilitate Transit Oriented Development (TOD) and Walkable Urban Developments within urban centres.*
- *Encourage walkability and accessible urban environments.*
- *Ensure that urban centres are more compact and therefore more economically efficient.*
- *Enable towns to become fiscally sustainable and pleasant places to live.*
- *Promote densification and mixed-use development to create complete settlements.*
- *Increase equitable access to quality social facilities, public facilities and services.*
- *Situate public facilities so that they are spatially connected with other facilities and public transport within the area.*
- *Encourage integration, infill, densification and mixed-use development in well-located areas.*
- *Ensure equitable access to social facilities and economic opportunity.*

9. George Municipality Integrated Development Plan, 2017 to 2022

George Municipality’s vision, as encapsulated in its 2017 to 2022 Integrated Development Plan (IDP), is to be ‘a city for a sustainable future’. The following 5 strategic goals were identified to achieve this vision:

- *Develop and grow George;*
- *Keep George clean, safe and green;*
- *Deliver affordable quality services;*

- *Participate in George – participative partnerships;*
- *Ensure good governance and human capital in George;*

In fulfilling its local government service delivery mandate, the IDP commits the Municipality to “*live our values, focus on citizens, work smart, act like owners and be the brand*”. Besides fulfilling its constitutional mandate and complying with applicable legislation, the IDP commits the Municipality to contribute to the development objectives of national and provincial government, as well as to Garden Route District Municipality’s agenda. The objectives of the three strategic goals most relevant to this policy are summarized as follows:

- *Create and facilitate an enabling environment for economic development in George;*
- *Ensure the development of participatory, practically implementable economic development and business retention and expansion strategies.*
- *Ensure that industry support is focused on high growth potential areas, with high job absorption ratios;*
- *Establish incubators, clusters and centres of excellence to contribute meaningfully to the demands of a growing economy;*
- *Red-tape reduction at all administrative levels;*
- *Improve planning and regulatory frameworks to encourage job creation;*
- *Ensure that maintenance and cleaning within the physical environment remains of the highest standard;*
- *Ensure the development of a desirable and quality living environment that fosters the safety and welfare of the community concerned, preserves the natural and cultural environment, and does not impact negatively on existing rights;*
- *Ensure infrastructure planning & development keeps pace with growing city;*
- *Preserve resources and ensure sustainable development;*
- *Protect and enhance the quality of life of its residents as well as the area’s unique environment;*
- *Deliver efficient and effective services that responds to community needs;*
- *Create an enabling environment for economic development, job creation and poverty alleviation; and*
- *Promote the principles of access, equity and social justice in the development of services;*

10. Spatial Planning and Land Use Management Act, 2013 and Western Cape Land Use Planning Act, 2014

In terms of Section 22(1) of SPLUMA, a Municipality may not take a decision on a land use application which conflicts with its Municipal Spatial Development Framework unless site specific circumstances exist as contemplated by Section 22(2). Notwithstanding Section 22(2), the decision-making authority must, when considering an application, be guided by:

- (a) The development principles contained in Section 7 of SPLUMA (and Section 56 of LUPA);
- (b) Policies and directives aimed at protecting agricultural land;
- (c) National and provincial government policies;
- (d) The (guidelines and policies of) Municipal SDF;
- (e) Constitutional transformation imperatives and related duties of the state;
- (f) All relevant facts and circumstances applicable to the application;
- (g) The rights and obligations of all parties affected;
- (h) Impact on services infrastructure, social services and needs for open space;
- (i) Compliance with applicable laws and administrative processes;
- (j) Compliance with applicable environmental legislation;

In consideration of the above, the decision-maker will need to, among others, address the following questions when assessing all land use applications submitted in terms of Section 15(2) of the Land Use Planning Bylaw for George Municipality, 2015:

| NO | EVALUATION CHECKLIST (S. 65) |
|-----|--|
| 1. | Does the application submitted comply with the provisions of this bylaw? |
| 2. | Has the motivation submitted been considered? |
| 3. | Were the correct procedures followed in processing the application? (see land use application process checklist) |
| 4. | Was a condonation required and granted with regards to the process followed? (see land use application process checklist) |
| 5. | Have the desirability guidelines as issued by the provincial minister to the utilise land for the proposed land uses been considered? (not yet applicable) |
| 6. | Have the comments received from the respondents, any organs of state and the provincial minister been considered? (s. 45 of LUPA) |
| 7. | Have the comments received from the applicant been considered? |
| 8. | Have investigations carried out in terms of other laws and that are relevant to the application being considered? |
| 9. | Was the application assessed by a registered town planner? (see land use application process checklist) |
| 10. | Has the impact of the proposed development on municipal engineering services been considered? |
| 11. | Is the application in line, consistent and/or compatible with the IDP of the municipality? |
| 12. | Is the application in line, consistent and/or compatible with the municipal SDF? |
| 13. | Is the application in line, consistent and/or compatible with the local SDF applicable to the area? |
| 14. | Is the application in line, consistent and/or compatible with any other municipal policy or by-law applicable to the proposed land use? |
| 15. | Is the application in line the consistent and/or compatible with the principles as contained in Section 7 of SPLUMA / 59 of LUPA? |

| | |
|-----|--|
| 16. | Is the application in line with the applicable provisions contained in the applicable zoning scheme by-law? |
| 17. | Will the natural environment and/or open space systems be negatively affected? |
| 18. | Will application result in trees/ indigenous vegetation being removed on site or in the road reserve? |
| 19. | Does the application have any negative impact on heritage resources? |
| 20. | Will the character of the surrounding area be negatively affected? |
| 21. | Will the architectural character of the streetscape be negatively affected? |
| 22. | Will there be any negative impact on vehicle traffic and pedestrian safety? |
| 23. | Will there be a negative impact on traffic movement? |
| 24. | Will there be a negative impact on vehicle sight distances? |
| 25. | Are there adequate on-site parking / loading facilities provided? |
| 26. | Is there adequate vehicle access/ egress to the property? |
| 27. | Will the neighbour's amenity to sunlight be negatively affected? |
| 28. | Will the application result in overshadowing onto neighbours' properties? |
| 29. | Will the neighbour's amenity to privacy / enjoyment of their property/views be negatively affected? |
| 30. | Will the proposal have a negative impact on scenic vistas or intrude on the skyline? |
| 31. | Will the intended land use have a negative impact on adjoining uses? |
| 32. | Will the land use pose a potential danger to life or property in terms of fire risks, air pollution or smells or compromise a person's right to a safe and secure environment? |
| 33. | Will there be a negative impact on property values? |
| 34. | Will the application result in a nuisance, noise nuisance, and disturbance to neighbours? |
| 35. | Will adequate open space and/or recreational space be provided (for residential developments)? |

The following principles of Section 7 of SPLUMA and Section 56 of LUPA are specifically relevant to all land use applications submitted in terms of Section 15 (2) of the Land Use Planning Bylaw for George Municipality:

| | |
|----|--|
| 1. | Redress spatial and other development imbalances of the past through improved access to and use of land |
| 2. | Address the inclusion of persons and areas previously excluded in the past, specifically informal settlements and areas characterised by wide-spread poverty and deprivation |

| | |
|-----|---|
| 3. | Consider the potential impact of the development proposal on the value of the affected land /properties |
| 4. | Recognise the impact of the application on the existing rights of the surrounding owners |
| 5. | Promote a spatially compact, resource frugal development form |
| 6. | Accommodate development within the existing fiscal (budget), institutional and administrative means of the municipality |
| 7. | Promote and stimulate the equitable and effective functioning of land market |
| 8. | Promote development that is sustainable, discourages urban sprawl, encourages residential densification and promotes a more compact urban form |
| 9. | Promote development that will result in or enable the establishment of viable communities |
| 10. | Strive to ensure that the basic needs of all the citizens are met in an affordable way |
| 11. | Sustain and/or protect the economic potential of the relevant area or region |
| 12. | Mitigate against the potential impacts of climate change |
| 13. | Include measures to reduce consumption / conserve water and energy resources |
| 14. | Consider geological formations and topographical (soil and slope) conditions |
| 15. | Promote development that benefit the long-term social and economic priorities for the area over any short-term benefits |
| 16. | Development should contribute towards the optimal use of existing resources, infrastructure and/or facilities |
| 17. | Development should contribute towards social, economic, institutional and physical integration aspects of land use planning |
| 18. | Promote the availability of employment and residential opportunities in proximity to each other or the integration thereof |
| 19. | Promote the establishment of a diverse combination of land uses |
| 20. | Contribute towards the correction of distorted spatial patterns of settlements within the town/city/village |
| 21. | Contribute towards and /or promote the creation of a quality and functional open spatial environment does the development |
| 22. | Make an area or town more spatially resilient to ensure a sustainable livelihood for the affected community most likely to be affected by economic and environmental shocks |

It is evident from the above, that assessing such an application is quite complex, thus the need for a policy that can give direction and provide greater certainty on the outcome of said application.

Key to the above is to ensure that the policy promotes the 5 key development principles of SPLUMA, being *spatial sustainability, spatial justice, equality, spatial resilience and good governance*.

The policy therefore needs to assist decision-makers in establishing sustainable, flexible, diverse, healthy, risk adverse settlements that responds to the environmental, social and economic needs of the community concerned.

The aim of the policy should thus be to:

- a) protect the health and wellbeing of the community, landlord and tenant (operator) concerned;
- b) ensure that there can be peaceful co-existence between the liquor enterprise and the community concerned;
- c) protecting the adjoining neighbours' rights and amenity by ensuring that the quality of neighbourhood and living environments are not compromised;
- d) ensure that the surrounding citizens are adequately informed of applications and can participate in decision-making processes;
- e) ensure that the liquor enterprise is feasible and can derive a sustainable income for the operator and landlord;
- f) allow for the scaling up of operations over time, should the enterprise prove to be successful;
- g) promote investor confidence through the granting of permanent rights to operators that offers a level of certainty that protects their investment;
- h) create safe places for operators to trade and customers to access – by ensuring that applicable regulations including trading hours, laws and bylaws are enforced;
- i) develop an entrepreneurial spirit within the local community by permitting the establish a diverse mix of neighbourhood scale business enterprises and services in well-located areas;
- j) broaden the economic base to develop a greater diversity of employment opportunities and promote sustainable job creation over time;
- k) Align the policy with the concepts of Transit Orientated Development (locating near bus stops and interchanges), Non-motorised Transport (bicycles), and walkability – providing a high degree of accessibility to services, facilities and opportunities within a walkable distance of about 500m from any residential property;

11. George Municipal Spatial Development Framework (GMSDF), 2019

The purpose of the George MSDF, as set out in SPLUMA, is to, among others:

- (a) Interpret and represent the spatial development vision of the Municipality;
- (b) Guide planning and development decisions across all sectors of government – including Municipal and provincial government spatial planning and land use management decisions;
- (c) Provide clear and accessible information to the public and private sector and provide direction for investment purposes;

- (d) Include previously disadvantaged areas (townships) and informal settlements, and address their inclusion and integration into the spatial, economic, social and environmental objectives of government;
- (e) Address historical spatial imbalances in development;
- (f) Provide direction for strategic developments, infrastructure investment, promote efficient, sustainable and planned investments by all sectors and indicate priority areas for investment in land development;
- (g) Promote a rational and predictable land development environment to create trust and stimulate investment;
- (h) Assist in integrating, coordinating, aligning and expressing development policies and plans emanating from the various spheres of government;

The George MSDF plays a leading role in the broader Municipal planning system. It is the spatial expression of the IDP and the long-term spatial vision for the Municipal area that also considers the vision, principles and policy directives set out in national and provincial legislation, strategies, policies and plans. All Municipal land development policies must be aligned to the vision, spatial strategies and plans set out in the MSDF.

The MSDF also leads the Municipality's policy-driven Land Use Management System. The MSDF provides the long-term spatial framework for decisions made in terms of the Land Use Planning By-Law for George Municipality (2015) and George Integrated Zoning Scheme By-Law (2017).

It is important to note that a MSDF does not confer or take away land use rights, but guides decisions associated with the awarding and management of such rights. When deciding on an application, the Municipal Planning Tribunal, or any other authority required or mandated to make a land development decision must make a decision which is consistent with the MSDF (S22 of SPLUMA,2013).

The spatial planning vision to guide the George MSDF is to: *Develop George as a resilient regional centre of excellence for inclusive, smart urban and rural prosperity.*

There are three spatial drivers that give form to the George MSDF, of which two (2) are of relevance to this policy as it concerns the identification of the ideal or desirable locations for economic activities. The first is the system of activity nodes and corridors and nodes which must be reinforced and developed in a managed way to function as a productive and efficient system. The second is the local accessibility networks (motorised and non-motorised) connecting people and activities along corridors to nodes within the city of George, enabling choice and participation in society and the economy within the urban areas.

The performance of these elements is supported by three spatial strategies and accompanying policies for managing, guiding and promoting development in George, elaborated in the diagram below:



The Municipal area of George hosts several urban settlements, each playing a distinct role in the regional economy. The business centres of towns and small rural settlements outside George are being consolidated and reinforced, and the decentralisation of economic activity curtailed.

Within the George city area, a network of existing and proposed mixed use nodal centres, serving as points of high accessibility and opportunity for surrounding communities at strategic locations, has been identified. These are the points of investment priority, where higher order facilities and business activities are concentrated and supported by a high-quality public realm.

It is proposed that George CBD (the primary economic centre) is revitalised and redeveloped into a thriving city centre that accommodates a variety of complementary activities and a substantially larger and mixed-income residential component. Secondary nodes (existing and proposed) will complement the George CBD as centres with specialisations relating to commercial, industrial or mixed-use local activities. Additional points of high accessibility have been identified that should be prioritised for transit-oriented development to harness the potential of their location, existing uses and high connectivity in the public transport network.

In the context of the MSDF, House Taverns are classified as part of the informal economy. The activity is not recognized as a potential significant economic generator within our urban settlements, but rather a generator of informal employment opportunities and a mechanism to aid in settlement restructuring and building greater resilience and efficiencies within residential neighbourhoods.

Taverns and Night Clubs are regarded as higher order services that is aligned to the formal services economy. The services industry is recognized as a potential economic development generator and thus, should be established in economic nodes and areas in neighbourhoods where development intensification and settlement restructuring are proposed, i.e. not in the middle of residential neighbourhoods.

The ability of residents and visitors to access opportunities, services and amenities in the George Municipal area is a precondition for growth of the economy and development of its communities. It is important that the functionality of particularly, public transport services networks as well as (non-motorised transport and pedestrian) movement networks are strengthened so that the community can have access to a higher level of choice. Increasing footfall in an area enhances the viability of street level commercial activity (such as house taverns and taverns) and enables

the development of a productive and growing local economy, especially our low-income single residential neighbourhoods. The MSDF identifies a 500m walkable land use intensification zones along the principal public transport corridors, which will also perform the role of the Municipality's Restructuring Zone (applicable to George area only) – where higher density mixed residential, mixed use development is promoted.

All development needs to strive towards creating quality urban and rural environments. A well-structured, safe and high-quality built environment, being the public realm (public streets, open spaces and amenities) and the buildings which bound these spaces (such as local business and other retail enterprises), should be pursued. Transforming these spaces and making them more appealing, makes especially low income single residential neighbourhoods more attractive for economic investment. Thus, establishing quality urban environments should be included in economic development strategies (to which this policy is linked).

The MSDF promotes the clustering of public facilities and public space in areas that have direct access to public transport routes, with higher order clusters of facilities being located along the priority/ principle public transport corridors and regional accessibility networks. Complimentary private sector investment is encouraged around these clusters to support efficiencies and land use and social integration. Clustering facilities and higher order services (like Taverns and Night Clubs) achieves higher levels of resource efficiency, supports public transport usage and walkability, and improves security. Private investment in preferred well-located areas should be incentivized.

Compact and diverse neighbourhoods, offering places to live, work and recreate – all within close proximity, served by streets scaled to people so that they are comfortable to walk – must be pursued. Small development projects that offer opportunities for improved inclusivity, empowering emerging contractors, developers and investors should be promoted. The George CBD, Thembalethu nodes, Pacaltsdorp CBD and the high streets of Uniondale and Haarlem present the best prospect for generating a private sector response at a scale proportionate to the public-sector intervention.

Public spaces and streets within nodes, along main corridors, principle and main bus routes and priority investment areas should be upgraded and maintained to give dignity and priority to the pedestrian and public transport movement to stimulate footfall in support of small businesses at the street scale. Sidewalk spaces should be planned and designed to allow the local service economy (formal and informal) to thrive.

Public investment should be prioritised in well-located areas to enable commercial opportunities at the street level. Areas requiring intervention should be identified in close consultation with the local formal and informal business community.

The concept of walkability should be promoted within the intensification zone and especially within the priority nodes. Make walking safe and comfortable, ensure good

street edges, encourage active ground floor use, promote fine grained development, promote mixed land use and inclusivity and well as universal access principles.

Further details with regards development opportunities for business are discussed in detail in the respective local spatial development frameworks.

F. LEGISLATIVE AND REGULATORY FRAMEWORK

The revisions to this section of this policy is informed primarily by new legislation and policy guidelines.

1. Title Deed

A liquor enterprise may not be permitted on a property if the use conflicts with a restriction contained in the title deed of that property. The owner / applicant must check if an additional application for removal of title deed conditions is required.

2. Land Use Planning By-law for George Municipality, 2015

The land Use Planning By-law sets the minimum requirements for submitting land use applications, procedures that must be followed in processing a land use application, the general considerations that must be considered when deciding on an application, and the procedures for addressing illegal land uses and buildings.

As indicated under Section F.8., all land use applications are motivated in terms of and be evaluated against Section 65 (1) of this Bylaw. This policy must also be consistent with the requirements of the by-law in terms of the land use application processes followed.

As explained under Section C of the policy document as well as under Subsection 4. below, these business activities are not allowed as either primary rights or consent use rights on Single Residential Zone I or III properties. As such, they can only be accommodated by way of a permanent Rezoning in terms of Section 15 (2) (a) of the LUP Bylaw or as a Temporary Departure in terms of Section 15 (2) (c) of said Bylaw.

A Rezoning would be required where most or all of the property is used for business purposes and a Temporary Departure will be required where most of the property will still be used for residential purposes. Rezonings will only be permitted in areas where it is desirable in terms LUP Bylaw and applicable spatial planning policies to do so. Any other application will only be considered as a Temporary Departure.

Section 18 of the LUP Bylaw states as follows:

18. (1) *An applicant may apply to the Municipality in terms of section 15(2) —*

- (b) to utilise land on a temporary basis for a purpose not permitted in terms of the primary rights of the zoning applicable to the land for a period not exceeding five years;*
- (3) The Municipality may approve a departure contemplated in subsection (1)(b) for a period shorter than five years but, if a shorter period is approved, the period together with any extension approved in accordance with section 67 may not exceed five years;*
- (4) A temporary departure contemplated in subsection(1)(b) may not be approved more than once in respect of a particular use on a specific land unit.*
- (5) A temporary departure contemplated in subsection(1)(b) may include an improvement of land only if—*
 - (a) The improvement is temporary in nature; and*
 - (b) the land can, without further construction or demolition, revert to its previous lawful use upon the expiry of the use right;*

The implication of the above provision is that no liquor enterprise located on a residential property for more than 5 years. An extension of the approval for more than 5 years may not be granted, and new application must be submitted.

Further, the provisions of S18(5)(b) mean that the liquor enterprise cannot be permitted as a temporary departure if a permanent building must be erected to conduct the activity and if no structural changes need to be undertaken for the building to be returned to residential use. No liquor enterprise will be able to meet these requirements due to other legal requirements.

Thus, at present, these liquor enterprises can only be regularised through a rezoning, and rezonings will only be permitted in desirable areas, making it impossible to consider the regularising or phasing out of existing enterprises. This hurdle can be resolved by, as recommended earlier in this policy, including a “House Tavern” as a Consent Use under Single Residential Zone III of the zoning scheme.

Section 19(3) of the Planning Bylaw, applicable to consent uses, states that a “...consent use may be approved permanently or for a period specified in the conditions of approval imposed in terms of S66.” while S19(4) states that a “...consent use approved for a specified period must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.” These provisions means that it is possible to accommodate a House Tavern as either a permanent or a temporary use on the property for a period as contemplated by Section 67.

Section 67 of the LUP Bylaw was amended on 10 July 2021 to read as follows:

A conditional approval of an application lapses if a condition is not complied with, within –

- (a) a period of five years from date of that approval, if no period of compliance is specified in such approval; or*
- (b) the period of compliance specified in such approval, which, together with any extension which may be granted, may not exceed ten years.*

The above means that if a House Tavern is approved as a Consent Use, the deciding authority may either permit it as a permanent land use (if in a desirable location) or a temporary land use for the purposes of either:

- (a) monitoring compliance with the phased rectification of the enterprise in accordance with Section 20 of the policy; or
- (b) The phasing out and eventual closing the enterprise.

A consent approved on a temporary basis cannot be longer than an initial period of 5 years. The Municipality may consider, if it is desirable to do so, to extend the approval for a total period of not more than 10 years or, as explained later in the policy document, allow the owner to apply for a rezoning.. Notwithstanding, once the temporary right lapses all business activities must cease, and the buildings erected returned to residential use.

Notwithstanding, the Municipality should seek to phase out its concession of permitting House Taverns in the middle of a low-income residential neighbourhoods over a period of no longer than 5 years, which is sufficient time for the operator to find alternative premises from which to re-establish their liquor enterprise.

3. George Integrated Zoning Scheme Bylaw, 2017

Places of Leisure and Places of Entertainment

In terms of the George Integrated Zoning Bylaw, 2017 a Tavern falls under the definition of 'Pub'.

*A "pub" means "an establishment for the sale of predominantly alcoholic beverages, and sometimes also food, to be consumed on the premises and is also known as a **tavern** or bar and **does not include a night club**".*

A pub (tavern) in turn falls under the land use description of 'Place of Leisure'. A 'Place of Leisure' means *"a place used predominantly for commercial leisure activities that may attract relatively large numbers of people, operate outside normal business hours or generate noise from such activities on a regular basis, including–*

- (a) a cinema;*
- (b) theatre;*
- (c) amusement park/ centre;*
- (d) dance hall;*
- (e) ball room hall;*
- (f) gymnasium;*
- (g) sport centre;*

- (h) *skating rink;*
- (i) **pool room;**
- (j) **pub;** and
- (k) *a sports and recreation centre.*

Development parameters:

The following development parameters apply:

- (a) *As determined by the Municipality.*
- (b) *The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.*

As per the definition of ‘Pub’, a tavern is not a night club. A night club falls under the land use description of ‘Place of Entertainment’ which means *“a place used predominantly for commercial entertainment and may include **as bar, stage or live music, one or more dance floor areas, a DJ booth** and which may attract relatively large numbers of people, operate outside normal business hours or **generate noise from music or revelry on a regular basis;** and includes—*

- (a) *club;*
- (b) *dance club;*
- (c) **disco;**
- (d) *electronic or mechanical playing devices,*
- (e) **nightclub;** and
- (f) *place of leisure.*

Development parameters:

Development parameters applicable to the primary use of the zoning category apply.

A Tavern (bar) is thus differentiated from a night club in that a tavern may not generate noise from the playing of loud music, having dance floors, bands, DJ’s, etc from the premises, whereas a night club may generate such noise.

A Tavern and a Night Club also only allow for sale of alcohol and beverages for consumption on the premises, meaning that sales for consumption of alcohol off the premises is not permitted. Such sales are only permitted in a Liquor Store as the land use description for ‘Liquor Store’ means *“an establishment where the dominant use is the retail sale of alcoholic beverages, for consumption off the property”*.

According to the zoning scheme (and our spatial planning policies), Places of Entertainment are only permitted on certain high order Business and Industrial zoned properties as either a primary or consent use right. The development parameters applicable to “Business Premises”, “Big Box Retail”, “Light Industry” or “Industry” apply to Places of Entertainment. As with Places of Entertainment, Places of Leisure are also only allowed as either a primary or consent use under the applicable Business and Industrial zones of the George Integrated Zoning Scheme Bylaw.

Places of Leisure and Places of Entertainment are regarded as disruptive businesses (they generate a lot of activity, noise, traffic, etc) and thus, should only be allowed in

areas where formal business activities (shops and neighbourhood shops) are encouraged as outlined in the **“George Municipality: Town Planning Policy on House Shops and Other Residential Based Retail Concerns (Revised April 2021)”**.

Notwithstanding, a Place of Leisure can also be found along the main roads of residential neighbourhoods, at neighbourhood shopping centres or in local nodes, at sports grounds (club houses), in larger public parks (in areas where people recreate), on the grounds of some high schools and on the campuses of tertiary education institutions (universities). Places of Leisure are therefore land uses that are generally reconcilable with most residential neighbourhoods, provided they are located where they cause the least disturbance to the citizenry concerned.

As stated under Section C, House Taverns are not separately defined or described in the George Integrated Zoning Scheme Bylaw, 2017. For all intents and purposes, it is a “Place of Leisure” operated from a residential property and not a “Place of Entertainment”. See explanatory notes under Section C.

Places of Leisure and Places of Entertainment are neither a primary or consent use right under the single residential zones. They may also cannot be permitted on a Single Residential Zone I or III property as a Temporary Departure. Thus, they can only be accommodated through a rezoning.

House Taverns

In the absence of a separate land use description being inserted into the George Integrated Zoning Scheme Bylaw, and the land use being inserted as a Consent Use under Single Residential Zone III, it will not be possible for the Municipality to adopt a phased approach to the regularising and/or phasing out of unlawful House Taverns in its residential neighbourhoods.

At present, a House Tavern falls within the definition of a “Tavern” and thus the land use description of a “Place of Leisure”. As explained earlier in the policy document, a Place of Leisure is not permitted on a Single Residential Zone I or III property, as either a primary or consent use right. Thus, in terms of planning law, it may only be considered in terms of an application for Temporary Departure, but any Temporary Departure for a Place of Leisure could never be lawfully implemented due to the provisions of Section 18(5) of the Planning Bylaw.

The Municipality is in the process of amending its zoning scheme to resolve the impasse. The amended zoning scheme is only expected to be adopted by the George Municipality Council by May 2023, and thus, this policy can only be implemented on adoption of the amended zoning scheme.

It is also noted that the zoning scheme does not provide development parameters for either a House Tavern or a Place of Leisure. While Places of Leisure can only be accommodated on business and industrial properties as well as at sports facilities, and thus their impact reasonably contained specific development parameters should be included under the land use description of House Tavern to ensure that the scale and

nature of the structures erected and the activities conducted on a Single Residential Zone III property are reconcilable with the definitions and descriptions of dwelling house, shelter or outbuilding, and do not impact negatively on the streetscape and or the character of the surrounding residential neighbourhood.

These proposed conditions, which is extracted from the 2014 Tavern Policy document, are contained in Section H. 10 of the policy document.

**Note: A House Tavern is not described in the George Integrated Zoning Scheme. It is recommended that this land use description along with the development parameters described in the “conditions of approval” below will be included with the amendment of the George Integrated Zoning Scheme Bylaw, 2017 which is expected to be adopted by May 2023. “House Tavern” should also be included as a Consent Use under Single Residential Zone III.*

G. LAW ENFORCEMENT

Law Enforcement procedures for illegal land uses are stated in Sections 85 to 97 of the Land Use Planning By-law for George Municipality, 2015. The following aspects are highlighted:

Enforcement

- 85.** (1) The Municipality must comply and enforce compliance with—
- (a) the provisions of this By-law;
 - (b) the provisions of a zoning scheme;
 - (c) conditions imposed in terms of this By-law or previous planning legislation;
 - and
 - (d) title deed conditions;
- (2) The Municipality may not do anything that is in conflict with subsection (1)

Offences and Penalties

- 86.** (1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she—
- (a) ...;
 - (b) utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;
 - (c) ...;
 - (d) supplies particulars, information or answers in an application, or in an appeal against a decision on an application, or in any documentation or representation related to an application or an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct;
 - (e) ...; or

- (f) hinders or interferes with an authorised employee in the exercise of any power or the performance of any duty of that employee;
- (2) An owner who permits his or her land to be used in a manner set out in subsection (1) (b) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to contravene the zoning scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment.
- (3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.

Serving of Compliance Notices

- 87.** (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that **the person or owner** is guilty of an offence in terms of section 86.
- (2) A compliance notice must instruct the occupier and owner to cease the unlawful utilisation of land or construction activity or both, without delay or within the period determined by the Municipality, and may include an instruction to—
 - (a) demolish, remove or alter any building, structure or works unlawfully erected or constructed or to rehabilitate the land or restore the building concerned to its original form or to cease the activity within the period determined by the Municipal Manager;
 - (b) submit an application for the approval of the utilisation of the land or construction activity in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention penalty within 30 days after approval of the utilisation; or
 - (c) rectify the contravention of or non-compliance with a condition of approval within a specified period;
 - (3) A person who has received a compliance notice with an instruction contemplated in subsection (2) (a) may not apply in terms of subsection (2) (b).
 - (4) An instruction to submit an application in terms of subsection (2) (b) must not be construed as an indication that the application will be approved.
 - (5) If the application submitted in terms of subsection (2)(b) is refused, the owner must demolish, remove or alter the building, structure or work unlawfully erected or constructed and rehabilitate the land or restore the building.

- (6) A person who received a compliance notice in terms of this section may object to the notice by submitting written representations to the Municipality within 30 days of receipt of the notice.

Failure to Comply with Compliance Notice

90. If a person fails to comply with a compliance notice, the Municipality may—

- (a) lay a criminal charge against the person;
- (b) apply to the High Court for an order—
 - (i) restraining that person from continuing the unlawful utilisation of the land;
 - (ii) directing that person to, without the payment of compensation—
 - (aa) demolish, remove or alter any building, structure or work unlawfully erected or constructed; or
 - (bb) rehabilitate the land concerned;
- (c) in the case of consent use or a temporary departure, withdraw or revoke the approval granted and act in terms of section 87.

The above provisions give the Municipality the right to investigate a complaint/alleged illegal activity, to ascertain the validity and/or extent thereof. It also allows the Municipality 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 Town Planning, Building Control and Law Enforcement Sections of the Municipality and South African Police Services.

There are also numerous other sets of legislation (Acts, Municipal by-laws and regulations) that are potentially applicable to the operation of House Taverns, Taverns, Night Clubs and other types of similar land uses - e.g. building regulations, nuisance/noise by-laws, tobacco legislation and health and safety by-laws. The by-law however prohibits the imposing conditions requiring the approval being contingent on the approval of an application in terms of another law.

H. PROPOSED POLICY

1. Introduction

This Policy should have the following aims:

- (a) Enable and encourage illegal liquor enterprises that are located in ideal or desirable areas to legitimise their businesses while ensuring that undesirably located liquor enterprises are eradicated over a 5-year period;

- (b) Allow for community involvement in determining the most appropriate locations for the establishment of liquor enterprises within residential neighbourhoods;
- (c) Involve the public, ward councillor, ward committees and community policing forum in the decision-making process on applications;
- (d) Reduce the social cost of alcohol-related risks and harms to the citizenry affected by permitting liquor enterprises in their residential area;
- (e) Ensure that the activities conducted for the liquor enterprise is acceptable in the surrounding communities;
- (f) The approval of an application is in the public interest;
- (g) Such an approval will not prejudice the citizens living in the residential neighbourhood concerned;
- (h) Ensure that the buildings or structures are suitable for the conducting of the contemplated liquor enterprise; and
- (i) Address the issue of removing undesirable illegal liquor enterprises from residential neighbourhoods;

2. Overriding principles

The following overriding principles should prevail:

- (a) The approval of such liquor enterprise should not result in a change in the character of the residential neighbourhood in which it is to be located.
- (b) It should generate economic activity through the provision of income and employment opportunities for the local community.
- (c) It should ensure increased convenience for the local community in terms of access to services.
- (d) The operator must be able to contain and remove any nuisance factors resulting from the operation of the liquor enterprise. These include factors such as loitering, noise, smell, safety, littering and parking.
- (e) The operation of the liquor enterprise 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) A residential neighbourhood comprises predominantly lower density residential development with its associated community facilities such as clinics, schools, churches, crèches, parks and sport fields;
- (b) A local neighbourhood business node comprises the existing neighbourhood business sites located within the residential neighbourhood and areas identified and planned for such purposes as indicated in the MSDF or an LSDF;
- (c) 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.

It also includes areas identified and planned for such purposes as indicated in the MSDF or an LSDF;

- (d) Industrial areas comprise existing Industrial zoned properties, where mainly industrial with some commercial warehousing uses are found as well as areas identified and planned for such purposes as indicated in the MSDF or an LSDF;

Liquor enterprises should ideally be located within existing and proposed business nodes as well as along existing and proposed activity corridors and activity spines as indicated in the George Spatial Development Framework and respective Local Spatial Development Frameworks, as well as along designated public transport routes and on land already designated (zoned / earmarked) for business or industrial purposes. These areas are usually highly accessible to the public and ideal for the establishment of business facilities. Care must however be taken not to create monotonous ribbon development and compromise the Municipality's objectives of consolidating, diversifying and strengthening these identified areas.

House Taverns should only be allowed within a residential neighbourhood/ informal settlement under the following circumstances (*see Figure 1*):

- (a) The liquor enterprise should be located at least 500m walking distance away from established activity corridors, activity streets, business nodes, main bus routes and established business sites.
- (b) The liquor enterprise should be restricted to a corner stand at an intersection of at least two roads at a location that would be suitable for the development of a neighbourhood (corner) shop.
- (c) The locality of the site is of such a nature that it can serve a wider surrounding area and has a reasonable chance of being developed into a feasible business site in future.
- (d) Two or more liquor enterprises may not be permitted on the same street intersection.
- (e) Liquor enterprises that comply with all locality criteria as set out in the policy may be allowed to expand over time to become formal businesses.

No new House Taverns located mid-block may be allowed. The Municipality may only consider a deviation from the above locality criteria and allow an existing **House Tavern** on a Single Residential Zone III property / within an informal settlement provided that:

- (a) The locality criteria shall not apply to the existing **House Taverns** that operated lawfully in terms of the rights granted in terms of the Thembalethu Zoning Scheme prior to the adoption of the George Integrated Zoning Scheme on 1 September 2017 as well as all other House Taverns that lawfully existed in terms of other applicable planning laws (it therefore does not apply to existing taverns and night clubs);
- (b) No valid objections are received from an interested and affected party/ surrounding neighbour;
- (c) The application complies with other aspects addressed by the policy;

- (d) The operator of the House Tavern must live on the property – as either the owner, owner’s family or as a tenant (boarder);
- (e) The House Tavern shall only be allowed as a temporary consent use right for a maximum period of 5 years calculated from the date of adoption of the policy;
- (f) The approval shall only be granted to allow the operator of the House Tavern adequate time to shut down the enterprise and/or find a more suitable location to conduct his/her business; and
- (g) It is accepted that no extension of approval will be contemplated.

To make it clear, the above deviation does not apply to new House Taverns or any Places of Leisure (Taverns) and Places of Entertainment (Night Clubs) as these liquor enterprises should never be permitted mid-block within a residential neighbourhood. A mid-block locality only serves a very small portion of the population and impacts exponentially more residential households than those located along main roads and within established or planned neighbourhood nodes.

Existing illegal Places of Leisure and Places of Entertainment which are located mid-block, and which were operating in terms of a valid liquor license prior to the implementation of the original House Taverns and Shebeen policy on 1 July 2013, may not continue to operate and must be closed down. The Municipality may consider the scaling down of these enterprises to a House Tavern to allow the operator additional time to close down and/or find a more suitable location for his/her enterprise. If the operator does not comply, the Municipality will take the necessary legal action to ensure that these illegal liquor enterprises are closed down.

The relocation of House Taverns, Places of Leisure (Taverns) and Places of Entertainment (Night Clubs) to demarcated Business and Industrial areas and the establishment of new liquor enterprises out of the residential neighbourhood to within more desirable locations or demarcated areas should be encouraged. The Municipality should consider implementing proactive incentives to encourage operators to relocate out of the residential neighbourhoods. These incentives could include:

- (a) Easier and shortened application procedures;
- (b) The granting of licenses or consent to engage in gaming (5 limited pay-out machines);
- (c) Allowing of “Juke Boxes”, live music, dance floors and DJ boxes on the premises;
- (d) Extended operating hours; and
- (e) Making business and industrial zoned land available or developing well-located vacant land portions available for this purpose

4. Number of liquor enterprises per area

The number of liquor enterprises located within a predominantly residential neighbourhood 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.

The number of enterprises permitted will thus depend on the number of localities available where fully fledged neighbourhood business nodes can develop.

It is acknowledged that the optimum distance that a resident should walk to access goods and services at neighbourhood level is 500m. It is therefore suggested that House Taverns, may only be located in a residential neighbourhood if it is no closer than 800m walking distance from other liquor enterprises. (See Figure 1 for explanation).

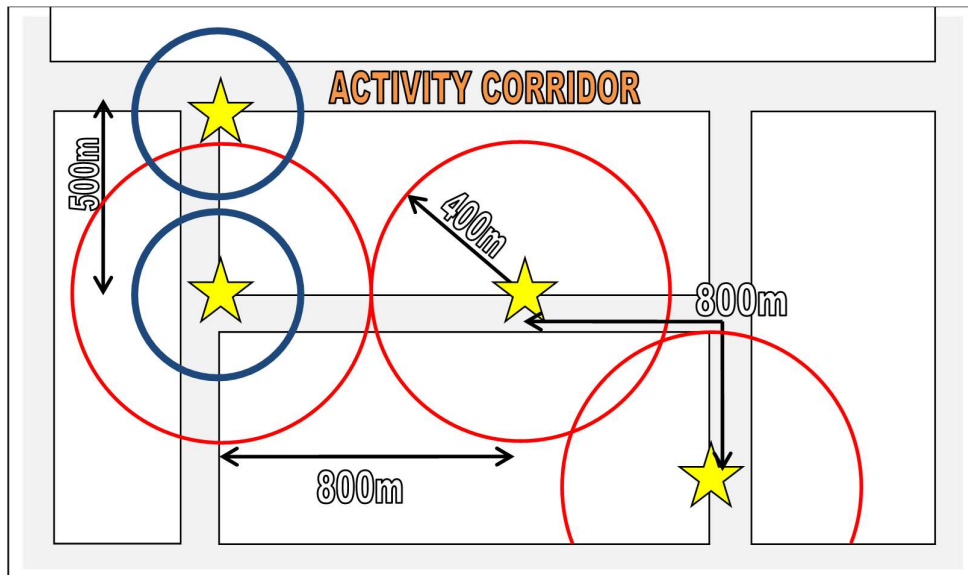


Figure 1: Permitted Position of House Taverns

Notwithstanding, the Municipality must ensure that all illegal mid-block House Taverns are phased out within 5 years of implementation of this policy, to ensure that the activity corridors, activity streets and existing and planned economic nodes are strengthened and the residential neighbourhoods revert to their intended purpose – i.e. a place where children, adults and senior citizens (families) can live in peace, tranquillity and safety, and where those who invest into these neighbourhoods can establish prosperous businesses.

The abovementioned spacing distances shall be applied less restrictively on the properties located along existing and proposed activity corridors, activity spines, designated public transport routes and activity nodes as indicated in the George Spatial Development Framework and applicable Local Spatial Development Framework as well as on land already designated (zoned or earmarked) for business and industrial purposes. Care must however be taken to ensure unwanted ribbon development is established.

5. Types of structures that can be used for a liquor enterprise

It is a legal requirement for all liquor enterprises to have approved building plans and an occupation certificate in terms of the NBR&BS Act, 1977 as explained towards the end of Section D. 6. of this policy document, as they must be fit for public occupancy.

Explanatory Note 2 in Section C of this policy also explains that House Taverns can either be operated from existing approved structures on the property (part of the house, second dwelling or an outbuilding) or from a new structure. The structure must also be designed in such a way that it can be converted back as part of the “dwelling house”, “second dwelling” or “outbuilding” in future.

Even though House Taverns can be operated from a “shelter” (a temporary structure) in terms of the proposed land use description, other legal requirements mean that structure erected or used for the liquor enterprise must still comply the NBR&BS Act. An applicant may also not apply for a temporary departure to erect a shelter (temporary structure) from which to conduct other liquor enterprises. Any structure erected must comply with the NBR&BS Act and, if approved as a consent use, must be designed so it can be reverted to the primary land use when the liquor enterprise ceases operating.

A structure erected for a liquor enterprise in a residential neighbourhood should have a similar appearance to the existing buildings on the property and/or other permanent residential structures in the area, especially when viewed from the street or scenic corridors (such as the N2, N9, Seven Passes Road, Prince Alfred Pass, etc). Acceptable exterior finishes for new structures and business buildings may include face-brick, plastered brick, timber half-rounds, nu-tec board and vibracrete panel walls – preferably painted the same colour as the house - keeping in mind that the finish must not detract from the existing house and other houses in the surrounding area. The roof finishes (flat or pitched roof) will also depend on the materials and finishes found in the surrounding area.

All buildings from which the liquor enterprise is operated must have an adequate foundation or a raised concrete platform on which the structure rests. The buildings should make use of quality fire retardant materials, be structurally sound, and meet the minimum requirements in terms of fire safety, natural or artificial ventilation, natural light, access to a toilet(s) and a hand basin(s) for sanitation purposes (connected to the Municipal network), electrical and plumber certification, and storm-water run-off control (roof with gutters or a concrete apron around structure).

EXPLANATORY NOTE 3

In terms of the National Building Regulations and Building Standards Act, 1977, as well as other laws, require that a business enterprise may only be operated from a structure that has approved building plans. The occupation certificate is required for the operator to obtain the necessary liquor and trading licenses.

A standard shipping container (the ones typically rented and supplied for house shops) cannot be used for a liquor enterprise as it does not comply with the legal requirements for public occupancy and thus cannot be occupied. It is however possible that a container can be converted to comply with applicable regulations and used for such purposes.

The container will however, need to resemble a typical residential outbuilding and be suitably painted or cladded to blend in with the house.

Similarly, a timber or corrugated iron structure can be permitted if it complies with the National Building Regulations and Building Standards Act, as well as fire regulations. The structure should be designed to resemble a typical residential outbuilding.

6. Placement of the structure on a property

- (a) 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.
- (b) The development parameters applicable to “dwelling house” and not “shelter” shall be applied to all House Taverns.
- (c) The main colour of the House Tavern structure should match or complement the existing buildings on the property.
- (d) The provisions of the GIZS Bylaw shall apply to all liquor enterprises.
- (e) The buildings of all liquor enterprises that face the street should have an adequate setback the street boundary to permit patrons to enter the facility without impeding pedestrian or non-motorised transport using the sidewalk space in front of the property.
- (f) No structure may 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.
- (g) The owner may apply for and motivate a reduced parking bay ratio as stated the provisions of the GIZS Bylaw, if the property is located along an identified activity corridor, activity street or public transport route. All on-site parking layouts must comply with the provisions of the zoning scheme.

7. Operating hours

All liquor enterprises 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 proposed location of a liquor enterprise must have regard to its compatibility with other land uses generally found in a residential area. Thus, it is advised that no liquor enterprise, 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 200m from such a facility.

Parks and public spaces and places are often used as shortcuts to access these liquor enterprises. The resultant increase in foot traffic over these spaces causes faster erosion and degradation of these spaces as well as increased littering, particularly bottles and broken glass, which inevitably increases the operational costs of cleaning and maintaining the surrounding public streets and open space.

House Taverns, located in a residential area, should ideally not be located near a House Shop (unless in an area where the agglomeration of these land uses is being encouraged) given the potential of especially children being exposed to anti-social behaviour.

9. Law enforcement

It is imperative that all applications for liquor enterprises are sent to the ward councillor, ward committee, community policing forum, local neighbourhood watch, 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 for on or off consumption has been reported.

The land use application should be refused if it is evident that any of the abovementioned poses a problem for the affected community or the SAPS.

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 gambling machines will be allowed in a House Tavern as the activity is only permitted within a Place of Entertainment.

These additional activities may however be permitted within Places of Leisure and Places of Entertainment located in the “appropriate” areas identified in Subsection 3.

11. Health regulations

Sufficient ventilation (natural or mechanical) and light (natural) must be provided in all structures used for the liquor enterprise.

In terms of the Garden Route District Municipality's requirements, the following health regulations need to be complied with if food is to be sold or prepared from the premises, namely:

- (a) 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);
- (b) 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); and
- (c) 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.

Any premises 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. Business license

A business license application must be submitted to the Department: Environmental Services of the George Municipality for the preparation of meals as required in terms of the Business Act, 1991 (Act 71 of 1991).

13. Noise nuisance

No liquor enterprise 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 premises. Juke boxes will also not be allowed.

Owners of Places of Leisure should apply 3 months in advance for a relaxation of the noise nuisance provision for occasional uses (once-off events) such as for a live band, special sports event, etc to the Tourism Department of George Municipality.

Places of Entertainment may conduct events, provided that the premises comply with the Municipality's noise nuisance bylaws.

14. South African Revenue Services (SARS)

All owner and/or operators of these businesses must register for tax with SARS.

15. Social responsibility

All operators of liquor enterprises 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 Authority, towards a community based or Municipal driven social support programme.

16. Rectification of illegal liquor enterprises

Following the implementation of this policy, all owners and/or operators of illegal (unauthorised) liquor enterprises (including those who have previously been served a notice) shall be served a notice requiring them to immediately cease the unlawful activity and apply to rectify the 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 and/or operator where possible in rectifying the offense if the owner has or had a valid liquor license and was operating from the property prior to 01 July 2013.

If the owner/ operator responds to the notice and requests assistance, the Municipality's officials will arrange an appointment with this owner or his appointed agent who must present the official with sufficient information such as a liquor license and/or SARS registration dating prior to 01 July 2013, a building plan, a title deed and other relevant information required to assist him/her in rectifying the contraventions on his/her property.

The official must keep record of these engagements and respond to the owner in writing on the pre-application forms with regards to the rectifications that need to be made on the property before land use application can be considered. The official is also to lay out the timeframes for the submission of the application. The owner or his agent 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 illegal liquor enterprise not have a valid Liquor License, such incident will be reported to the SAPS and/or the WC: Liquor Authority.

If the owner and/or operator adheres to the Municipality's notice, the advice received during the negotiation period, or submit the required application within the timeframe stated by the official, he/she will be permitted to continue operating on the terms stated by the Municipality until the land use application has been finalised.

However, if he/she does not adhere to the Municipality's notice, the advice received during the negotiation period, or submit the required application within the timeframe stated by the official, or the terms that the enterprise may continue to operate, as the case may be, a final notice will 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.

Only once the activity is ceased, the owner and/or operator will be permitted to submit the required land use application but should be advised that the submission of such application does not give them the authority to continue operating.

The submission of the land use application does not guarantee that it will be approved by the Municipality. All land use applications are subject to the prescripts of PAJA and thus, no decision can be pre-empted.

17. Application details to be submitted

The following additional documents and information must be submitted with a land use application:

- Proof of the business being operated from the property with a valid liquor license prior to 01 July 2013 (existing businesses only).
- Surrounding land use plan (500meter radius).
- Internal photos of the existing buildings clearly showing each room used by the business, including 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 indicating the position of the structure 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 indicate how the establishment to be acceptable to the surrounding property owners.
- 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).

18. Advertising and processing of applications

All applications will be advertised processed in accordance with the provisions of the Land Use Planning By-law for George Municipality, 2015.

If the applicant intends to use the public participation process to comply with the requirements of a liquor license, he/she will also be required to advertise the application in the Provincial Gazette, with the notices being published in all three (3) official Languages of the Western Cape.

Registered notices shall be served on the surrounding property owners affected by the application, affording them at least 30 days to comment. Copies of these notices may also be served by hand to these property owners.

Notices shall also be served on surrounding community, welfare, educational and religious organisations, including the neighbourhood watch, ratepayers' associations and business chamber affording them 30 days to comment, while the Ward Councillor, Ward Committee, SANCA, community policing forum and commenting government departments (including the SAPS) will be provided 60 days to comment.

The applicant shall also place a site notice in a conspicuous position on the site for the duration of the above 30-day commenting period. If the application involves a rezoning, a 30-day-notice must also be placed in a newspaper widely circulated in that neighbourhood.

The applicant shall be granted a maximum of 30 days to comment on the objections / comments received, unless otherwise agreed with the Municipality. If the reply is not received, the application shall be processed further.

The Municipality's decision on the land use application will be communicated to the applicant, the ward councillor, any objector, the South African Police Services and the Western Cape Liquor Authority. The applicant and objectors will be afforded a right of appeal in terms of the provisions of the Land Use Planning Bylaw, which right must be exercised within 21 days of registration of the decision notice.

The appeal will be heard by the Appeal Authority of the Municipality, which is presently the Executive Mayor.

19. Validity period of approval

Ideally located liquor enterprises should be approved as either Rezoning and Consent Uses as these can be permitted as permanent rights which, if the owner / operator complies with the conditions of approval, cannot lapse.

All other approvals in terms of this policy, will be approved as Consent Uses and shall be valid for a maximum period of 5 years. Enterprises that are located within informal settlements will only be permitted on a temporary basis for a total period of not more

than 10 years, to align with maximum period the Municipality may lease such land (i.e. 9 years and 11 months).

Note:

As explained in Section F. 2. of this policy document, the LUP Bylaw only allows for the approval of a temporary consent use for a maximum period of 5 years. The operator will thus need to apply for an extension of approval before the approval period lapses to accommodate the land use for period for up 10 years in total. An extension will only be considered if it desirable to do so.

20. Phased Implementation of Conditions of Approval

The owner or operator of the liquor enterprise, is not required to close down his/her business in the period contemplated by the policy, and the intention is to formalise said enterprise, he/she may apply to the Municipality to phase the implementation the liquor enterprise approval over a period of 5 years, which if approved, the following additional conditions shall apply:

The implementation of the conditions of approval may be phased as follows:

- 1. Year 1: The owner and/or operator must submit building plans for approval of a liquor enterprise structure in accordance with the requirements of George Integrated Zoning Scheme Bylaw, 2017, the conditions of approval and the National Building Regulations and Building Standards Act, 1977.*
- 2. Year 2: The owner and/or operator must commence with the alterations to the structure to comply with the requirements of the approved building plan or replace a temporary structure with one that complies with these requirements. If the structure is positioned over the property boundary and/or over the approved street, side or rear building lines, the owner and/or operator must demolish that portion of the structure or move the structure to a position within the property boundaries and within the applicable building lines.*
- 3. Year 3: The owner and/or the operator must ensure that the liquor enterprise structure meets all minimum ventilation, lighting and fire safety standards. The facility must be provided with an adequate wash-up and ablutions facility. If a house tavern is being contemplated / operated, the operator must provide or be provided with living quarters that are separate from the facility on-site. Owner and/or operator must obtain the occupation and fire safety certificates for the approved building.*

The operator is required to obtain a certificate of compliance from the Building Control Department on completion of each phase. The certificate will be valid for one (1) year from date of issue and must be displayed on site along with the approval granted and other required compliance certificates and licenses issued by other authorities.

The Municipality may grant an extension of phasing on submission of an application for extension of any temporary approval period. The Municipality may grant permanent rights should the owner or operator obtain an occupation certificate for the liquor enterprise building, should it be desirable to do so.

21. Lapsing and revoking of an approval

An approval granted for a liquor enterprise will be withdrawn and lapse in accordance with the provisions of the Land Use Planning By-law for George Municipality, 2015. The approval may be revoked should:

- (a) it be used for any form of illicit trade or crime;
- (b) it be found dumping waste or create unhealthy living conditions;
- (c) it becomes a source of noise of public nuisance; or
- (d) the phasing requirements for rectifying an existing liquor enterprise not be implemented within the time-frames stipulated;
- (e) if not operational for a continuous period of 12 months;
- (f) In the event that the owner does not adhere to conditions imposed and compliances notices issued in this regard are not adhered to;

22. General conditions

The following general conditions shall apply:

1. The liquor enterprise is limited to on premises consumption of liquor. No off-premises consumption (off-sales) may be permitted;
2. The owner and/or operator of an existing liquor enterprise shall rectify the structure from which it is operated in accordance with the phases below, as calculated from date of approval:
 - (a) Year 1: The owner and/or operator must submit building plans for approval of a liquor enterprise structure in accordance with the requirements of George Integrated Zoning Scheme Bylaw, 2017, the conditions of approval and the National Building Regulations and Building Standards Act, 1977.
 - (b) Year 2: The owner and/or operator must commence with the alterations to the structure to comply with the requirements of the approved building plan or replace a temporary structure with one that complies with these requirements. If the structure is positioned over the property boundary and/or over the approved street, side or rear building lines, the owner and/or operator must demolish that portion of the structure or move the structure to a position within the property boundaries and within the applicable building lines.
 - (c) Year 3: The owner and/or the operator must ensure that the liquor enterprise structure meets all minimum ventilation, lighting and

fire safety standards. The facility must be provided with an adequate wash-up and ablutions facility. If a house tavern is being contemplated / operated, the operator must provide or be provided with living quarters that are separate from the facility on-site. Owner and/or operator must obtain the occupation and fire safety certificates for the approved building.

3. The operator is required to obtain a certificate of compliance from the Building Control Department on completion of each phase. The certificate will be valid for one (1) year from date of issue and must be displayed on site along with the approval granted and other required compliance certificates and licenses issued by other authorities;
4. The owner of the liquor enterprise must be a South African resident of 18 years or older,
5. The owner of a House Tavern must reside on the premises on a permanent basis and the applicant must sign an affidavit in this regard;
6. Permission to operate the liquor enterprise on a temporary basis 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;
7. No liquor enterprise may be authorised on rented premises without the written permission of the owner;
8. 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;
9. Trading can only be from permanent structures which have approved building plans. The liquor enterprise may not commence trading if building plans for the structure have not been approved and occupation certificate issued unless being phased in accordance with Condition (2);
10. The owner may not structurally alter, extend or reconstruct the premises without the approval of the George Municipality or the Liquor Authority. Any new structure, or alteration to the existing dwelling unit or outbuilding, must conform to the residential character of the area concerned;
11. No external evidence of a House Tavern may be visible from the street, except for the advertising sign which is to comply with applicable by-laws;
12. The total area to be used for a 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;

13. For House Taverns, an additional area of up to 15m² can be applied for to accommodate any water closet, change room and/or storeroom associated with the liquor enterprise provided that this does not exceed 50% of the total floor space of the dwelling unit;
14. Provision must be made for all goods connected with the liquor enterprise to be stored inside a building or screened from the neighbours and the street.
15. No activity such as video games, gaming machines, gambling machines and pool tables be allowed within a liquor enterprise without the approval of the Municipality.
16. No Place of Entertainment will be allowed to operate from a House Tavern or Place of Leisure in a residential area;
17. The liquor enterprise may not constitute a noise nuisance or create a nuisance for any neighbouring property owner.
18. Juke boxes will not be allowed within a House Tavern. Should music be played in a House tavern or Place of Leisure, it must be limited to listening music set at a low volume and speakers may not be placed outside these liquor enterprises;
19. The applicant must provide the Municipality with 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;
20. All liquor enterprises must be separated from the residential portion of the property. A 1.8m high fence, with one entrance and exit according to building standards, must contain the liquor enterprise;
21. No more than 3 (three) persons, including the occupant of the dwelling unit or shelter, are permitted to work in the approved House Tavern;
22. No person under the age of 18 years may access the liquor enterprise 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;
23. All liquor enterprises must comply with the trading hours as indicated in the George Municipality: By-law on Liquor Trading Days and Hours, 2013.
24. If stock is to be delivered, the deliveries must be restricted to normal business hours (08h00 to 17h00 weekdays only);
25. All parking for the liquor enterprise must be provided on the property concerned to the satisfaction of the Directorate: Human Settlements, Planning and

- Development in consultation with the Directorate: Civil Engineering Services. No parking will be allowed in the road reserve;
26. Disposal of refuse must be addressed to the satisfaction of the Directorate: Community Services;
 27. 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 liquor enterprise. Any other sign must be applied for and approved by the George Municipality before it can be erected;
 28. A business license application must be submitted to the Department: Community Services of the George Municipality.
 29. The following health regulations need to be complied with if food is to be sold or prepared from the premises namely:
 - (a) 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);
 - (b) 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); and
 - (c) 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.
 30. The owner must obtain a certificate from the Directorate: Community Services (Fire Department) which must be openly displayed on the premises, indicating the maximum number of people that may occupy the premises at any given time;
 31. 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.
 32. An appropriate liquor license issued by the Western Cape Liquor Authority will be a prerequisite to an application for operating a liquor enterprise within the jurisdiction of the George Municipality;
 33. All liquor enterprise owners and/or operators must register for tax with the South African Revenue Services;

The George Municipality reserves the right to impose any additional conditions in case of valid objections/complaints having been received or revoke any approval should:

- (a) it be used for any form of illicit trade or crime;

- (b) it be found dumping waste or create unhealthy living conditions;
- (c) it becomes a source of noise of public nuisance; or
- (d) the phasing requirements for rectifying an existing liquor enterprise not be implemented within the time-frames stipulated;
- (e) if not operational for a continuous period of 12 months;
- (f) In the event that the owner does not adhere to conditions imposed and compliances notices issued in this regard are not adhered to;

23. 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 30 days.
- (b) If complaints are received regarding the legally approved liquor enterprise, the Town Planning Section will evaluate the validity thereof. If necessary, the owner will be informed of the complaints and given 30 days to comply with the approval conditions.
- (c) By failure to comply with (a) or (b) above, appropriate legal action will be instituted.
- (d) In case of a serious crime or illicit trade activities, the approval may be immediately revoked. A court interdict will be obtained against the owner / operator to cease trade from the property and/or the structure to be demolished/ removed from the property. A criminal charge may also be laid for the matter to be referred to the state prosecutor's office for further action.

24. Withdrawal and lapsing of an approval

An approval granted on a temporary basis to the owner of property / or operator to run a liquor enterprise from his/her property will be withdrawn under the following circumstances:

- (a) When the property is alienated, in the instance of residential properties.
- (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 end the approved activity.

25. Delegation

All decisions on land use applications shall be in accordance with the system of delegation approved by Council.