

APPLICATION FORM

POLOKWANE INTEGRATED LAND USE SCHEME, 2022



APPLICATION FOR SPECIAL CONSENT I.T.O CLAUSE 36 OF THE SCHEME READ TOGETHER WITH SECTION 73 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

DIRECTORATE PLANNING & ECONOMIC DEVELOPMENT

**CITY PLANNING & PROPERTY MANAGEMENT BUSINESS UNIT, 2nd FLOOR WEST
WING, CIVIC CENTRE, c/o LANDROS MARE & BODENSTEIN STREETS, POLOKWANE.**

NB: Please read the Footnotes

NB: Submit two (2) copies of the complete application and annexure.

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APPLICATION FOR SPECIAL CONSENT FROM THE LOCAL MUNICIPALITY IN TERMS OF PROVISIONS OF CLAUSE 36 OF THE POLOKWANE INTEGRATED LAND USE SCHEME, 2022.

PART A: APPLICATION

1. I/we the undersigned

being the ¹owner of land described herein after, hereby apply in terms of Clause 36(1) of the ²Polokwane Integrated Land Use Scheme, 2022, for Special Consent of the municipality for:

Mark appropriate blocks with X

- (i) the erection and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the Special Consent of the local municipality in terms of Column 2, **Table “A”**; and/or
- (ii) an increase in the density of an erf (Columns 8 and 9 of **Table “C”**);

2. The complete application detail shall be set out in **Part C, Paragraph 5** below.

3. I/we hereby acknowledge and accept that:

3.1 The local municipality may upon the granting of the consent contemplated in Clauses 32 of this scheme, impose conditions regarding the payment of contributions for the provision of services, open spaces and parks, as envisaged in Chapter 7 of the Polokwane Municipal Planning By-law, 2017;

3.2 A consent granted by the local municipality by virtue of provisions of this Scheme does not entitle any person the right to use any land, or to erect or use buildings thereon in any manner or for any purpose which is prohibited by the provisions of any condition registered against the title deed under which such land is held, or imposed by legislation in respect of such land.

3.3 If any land use is permitted in terms of this scheme but otherwise restricted in the Title Deed, the onus lies with the owner of such property to:

- (i) remove or waive the restriction by following the necessary procedure provided in legislation; and
- (ii) to submit proof to the local municipality that such restrictive conditions has been removed.

¹ Owner is defined in Clause 9 of the scheme.

² Polokwane Integrated Land Use Scheme, 2022 herein-after only referred to as the “scheme”.

PART B: PARTICULARS OF APPLICANT & PROPERTY

4. I hereby furnish the following information and particulars in respect of the owner and land.

4.1 Full name/s or ³other particulars of registered owner of land/property:

4.2 Full name and/or particulars of the duly authorized person or agent of such owner mentioned in par. 2.1 above (if any):

4.3 In the case of an authorized person or agent, I hereby attach the Power of Attorney as well as company resolution, as contemplated in **Schedule 17** of the Polokwane Municipal Planning By-law, 2017 (Ordinance 15 of 1986):

No, not attached or not applicable

Yes, attached hereto



If answered "yes", attached the documents and mark as "**Annexure A**" hereto.

4.3 Property description according to the Title Deed or Deed of Grant (e.g. Erf 1001 Bendor Extension 9):

4.4 I hereby attach a copy of the Title Deed, namely:
(e.g. T 1222/2007)

T

The copy of the Title Deed is attached hereto and marked as "**Annexure B**".

4.5 Size of the property:
(e.g. 2 855m²)

4.6 Street address of property:

³Other particulars means full particulars in the case of a company, close corporation, trust or any other legal entity, or a person charged with the administration of the estate thereof.

4.7 Existing zoning of the property in terms of the scheme
(e.g. "Residential 1"):

4.8 Has any ⁴other land use rights been granted on the property which may impact on this application?

No

Yes



If "yes", state the complete extent thereof and attach necessary proof of documentation and/or reference numbers where applicable.

Note: Information can be submitted in a separate annexure hereto.

4.9 Other contact detail of applicant:

Postal address:

Tel. no:

Cell. no:

Fax. no:

e-mail
address:

PART C: APPLICATION DETAIL

5. In terms of Clause 36(1) of the scheme the application is made for the Special Consent from the Municipality:

Application for secondary uses rights (uses permitted with the consent of the Municipality)

5.1 The erection and use of a building or for the use of land in any use zone, for purposes which requires the Special Consent of the local municipality in terms of ⁵Column 2, Table "A" of the scheme, namely:

⁴ Other land use rights may include consent from other the controlling authorities, e.g. i.t.o. provisions of Act 21 of 1940, or consent i.t.o. the title.

Specify use as provided for under Column 2 of Table "A" (e.g. Tavern)

In the case of a "Special Use", please refer to Clause 5.2 below

5.2 In the case of and application for a "Special Use" as defined in Clause 9 of the scheme, the proposed use/s rights to be permitted and conditions thereto, are set out as follows:

A "Special Use" for.....

subject to the following conditions:

In the case of a "Special Use", the proposed land use/use rights to be permitted and conditions thereto, shall be set out separately

Note: Information can be submitted in a separate annexure hereto.

or

5.3 In the case of and application for an Electronic Communication Facility (ECF), please specify the detail (see Schedule 11 of the Scheme)

Note: Information can be submitted in a separate annexure hereto

or

5.4 In the case of an application for a "Tavern", I/we hereby confirm that I am/we are aware that additional information shall be submitted and that additional procedure shall be followed, as contemplated in the relevant policy of the municipality, which may be amended from time to time.

6 I/we hereby attach an annexure in this regard, which is marked as follows:

6.1

ANNEXURE " " " "

or

6.2 In the case of an application for a Household Enterprise or Service Enterprise, I am/we are aware of the additional requirements contemplated in Clause 35 of the scheme, and hereby submit additional information in this regard as part of a motivational memorandum as also contemplated in Part D, Paragraph 6 below.

No, additional information/motivation is not attached

Yes, additional information/motivation is attached

Application for increase in the density.

7 The increase in the density of an erf as contained in **Column 8, Table “C”** and as follows, namely:

From,

Existing/Primary right of:
(e.g. 1 dwelling unit)

NB: *Delete not applicable

**dwelling units/erf; or
*dwelling units/ha; or
rooms/ha.

To,

Relaxation of:

**dwelling units/erf; or
*dwelling units/ha; or
rooms/ha.

PART D: MERITS OF THE APPLICATION

Purpose.

8 The purpose of this application and intended consent can be summarized as follows:

Note: Information may be submitted in a separate motivational memorandum hereto.

Meris of the intended use.

8.1 I/we hereby furnish a detail **motivational memorandum** in this regard and attached it hereto.

No, I have not submitted any motivational memorandum

Yes, a motivational memorandum is attached hereto

PART E: APPLICATION PROCEDURE

8.1 I/we hereby confirm that I/we are aware of the procedure to follow and responsibilities on the applicant as more clearly set out in **Clause 36** of the scheme and **Schedule 17** of the Polokwane Municipal Planning By-law, 2017 and will submit the required information to the municipality, and further hereto:

8.2 I/we submit the following information to assist the municipality, namely:

8.2.1 The first notice of the application as contemplated in Clause 36(2)(a) and (b) of the scheme, will appear on the following date:

8.2.2 The objection period will lapse on the following date:

PART F: GENERAL

9. I/we hereby attach two (2) copies of the following documentation and information, namely:

9.1 A **motivational memorandum**.

9.2 A Power of Attorney and Company Resolution (where applicable), marked "**Annexure A**".

9.3 A copy of the Title Deed or Deed of Grant, marked "**Annexure B**".

9.4 The following other documents contemplated in Schedule 17(2) of the Polokwane Municipal Planning By-law, 2017 (please list the documents and mark appropriately with Annexure numbers)

9.5 Application fee/proof of payment of the application fee as determined i.t.o Schedule 17(2) (a) of the By-laws.

Application fee payable:
[Official Use Only]

R

NB: I/we confirm that I am/we are aware that failure to submit the documents set out above, may lead to the rejection of the application and/or disqualification thereof.

PART G: DECLARATION BY APPLICANT

- 10.1 I hereby declare that the information contained in this application is true and the application is done to the best of my knowledge. I am/we are also aware that any person who willfully and with intent to defraud, furnishes false or misleading information in connection with an application, shall be guilty of an offence.
- 10.2 I/we also undertake to submit any further information that may be required by the municipality to finalise the application.

Signed in _____ on this _day of 20

SIGNATURE OF APPLICANT

Witnesses:

1. _____

2. _____

PART H: EXPLANATORY SUPPLEMENTS (not to be re-submitted)

**Please note that the following information is attached hereto only to assist the applicant. The onus remains with the applicant to comply with provisions of the scheme and by-laws at all times and the municipality take no responsibility should an applicant fail to comply with any provision in legislation.*

(i) Definitions as contained in Clause 8 of the scheme:

HOUSEHOLD ENTERPRISE

Means the practice of an activity, business, hobby or occupation in a dwelling-unit excluding a commune, a guest-house, a place of instruction, a place of childcare, a block of tenements, a boarding house, hostel and hotel, with the aim of deriving an income there from, subject to Clause 39.

OWNER

Means in relation to land or a registered right in land:

- (1) the person in whose name such land or right is registered, in a Deeds Registry in terms of the Deeds Registry Act, 1937 (Act 47 of 1937) and includes-
 - (a) if the owner is deceased, the executor of the deceased estate;
 - (b) if the estate of the owner has been sequestrated, the trustee of the insolvent estate;
 - (c) if the owner is a company or other juristic person the authorized representative (director, member or other);
 - (d) if the owner is a company or other juristic person that is being wound up, the liquidator thereof;
 - (e) if the owner is under legal disability, the owners legal representative;
 - (f) the authorised representative of the owner;
- (2) the person who is the holder of any right in land or informal right in land:
 - (a) which previously formed part of the former Lebowa which was declared by Proclamation No. R.224 in Government Gazette No. 3666 of 29 September 1972 a self-governing territory in accordance with the provisions of the Self-governing Territories Constitution Act, 1971 (Act 21 of 1971);
 - (b) who holds a Permission-to-Occupy (PTO) land in terms of Proclamation R188 of 1969 (Government Gazette No.2486 of 11 July 1969) issued in terms of Section 25 of the Black Administration Act 25 of 1938, read with the South African Development Trust Act 18 of 1936; or
 - (c) on communal land where it is assumed that such communal land is subject either to traditional leadership structures or a Community Property Associations (CPA)/Community Property Institution established since 1994; or
- (3) in the case of a road or public space under the control of the Municipality, that Municipality

SERVICE ENTERPRISE

Means a small scale enterprise regarded as Service Industry and permitted in Use Zones 1, 2, 4 and 5 in a dwelling unit, and also includes a hair salon, a beauty parlour, a beauty salon, a tailor shop or shoe repair shop which is used by the occupant for the conduct of a practice or occupation subject to provisions of Clause 18, with the aim of deriving income there from and which is practiced by a maximum of three (3) persons, of which the principal of such enterprise is a full time resident of the property, from a dwelling unit in such a way that the residential character and primary use of the dwelling unit and environment shall not, in the opinion of the local municipality, be in any way harmed or changed, and the enterprise shall, in the opinion of the local municipality, be conducted from a core part of the dwelling unit and/or main building and may not without the consent of the local municipality, be conducted from any outbuilding remotely removed from such main building. No retail trade, except retail trade that is subservient to the main enterprise and which will, in the opinion of the Municipality, not prejudice the general character of the area, is permitted from the

property. The activities not permitted in a dwelling unit are listed in Schedule 8 to this Scheme.

SPECIAL USE

Means land used or a building designed or used for any purposes not defined in this Scheme, or contained in Table "A" hereof. A special use is a consent use/right provided under provisions of Clause 36 (Special consent) of this Scheme, for any purposes not defined in the definitions, or contained in Table "A" thereof.

TAVERN

Means land or a building on a residential property designed and used for the purposes of selling and serving liquor, including home-brewed and artisanal (craft) beer, home distilled liquor and wine, other beverages and prepared food/snacks, to be consumed on the premises, which tavern floor area shall not exceed 50m² in extent, alternatively not more than 25% of the floor area of the dwelling unit on the same property: Provided that, with the special consent of the Municipality, this area may be increased, subject to such conditions as the Municipality may deem expedient.

"Shebeen" shall have the same meaning.

(ii) Application for a "Tavern"

Apart from procedure generally set out in this application, the applicant shall comply with the procedure and requirements as contained in the relevant policy of the municipality, which may be amended from time to time.

(iii) Application for "Household Enterprise" or "Service Enterprise"

In addition to any conditions imposed by the Municipality in the granting of Special or Written Consent, the conducting of a Household Enterprise or Service Enterprise, from a dwelling unit, shall be subject to provisions of Clause 39 read together with Schedule 8 of the scheme.

(iv) Procedure to lodge an application i.t.o. Clause 36 of the scheme:

Summary of procedure & steps to be taken by applicant:

- Complete prescribed form & submit all required documents as well as proof of payment of application fee;
- Publish a notice in local newspaper as prescribed;
- Display a notice on property as prescribed for period not less than 14 days;
- Obtain comments (where applicable) from persons/institutions which may be prescribed;
- Reply within 28 days from lapse of objection period, to any objections or comments received;
- Submit an Affidavit i.r.o. notice;
- Submit proof of notice being published.

Procedure of Clause 36 application in more detail:

- (1) Any owner of a property situated in the area of the Scheme (hereinafter referred to as "the applicant"), intending to apply to the Municipality for Special Consent for:
 - (a) the erection and use of a building or for the use of land in any use zone, for any purpose which requires the Special Consent of the Municipality in terms of Column 4, Table "A"; and/or
 - (b) an increase in the density of an erf (as per Column 10, Table "C"); and/or
 - (c) an increase of the floor area ratio (as per Column 16, Table "C");

shall submit such application to the Municipality in writing, in the prescribed form supplied by the Municipality.

- (2) The applicant shall, in the prescribed manner and format of the Municipality:

- (a) publish a notice twice (for two consecutive weeks) in a local newspaper, circulating in the area of the application, which notice shall be in the official language/s as prescribed by the Municipality;
 - (b) display a placard notice, and maintain same, for a period of not less than 14 consecutive days which first date of notice shall accord with the first date of notice contemplated in (a), in a conspicuous position, visible from a public street on each separate property to which such notice shall apply; and
 - (c) serve notices on owners of properties situated adjacent to the applicant's property and such other persons or bodies which may be identified by the Municipality for such purpose by prepaid registered mail or by delivering such notice to such owner or a representative of such owner at the address on record with the Municipality.
- (3) The notices referred to in (2) shall contain:
 - (a) the name and address of the applicant and the Municipality;
 - (b) the description and situational context of the property of the applicant;
 - (c) particulars of the purpose for which the land and buildings are proposed to be used;
 - (d) written confirmation that such notice, together with the application documents, shall lie for inspection at the office of the Municipality and the address of the applicant;
 - (e) written confirmation that any objection to or representation in connection with such application shall be lodged simultaneously with the Municipality and the applicant within a period of 28 days calculated from the day when the notice was first published, displayed on the site and served on the parties contemplated in (2).
- (4) The placard notice contemplated in (2)(b) shall be not less than 594mm by 420mm in size and no letter thereon shall be less than 6mm in height.
- (5) The applicant shall, within 28 days from the date of expiry of the notice period contemplated in (3)(e) or such further period as the Municipality may allow, lodge any objection or comment received by the applicant during such notice period, together with his/her reply thereto, with the Municipality. If no comments and/or objections are received by the applicant during such notice period, the applicant shall inform the Municipality accordingly within 28 days from expiry of such notice period.
- (6) The applicant shall submit an affidavit to the Municipality confirming that the notice referred to in (2)(b), was properly displayed and maintained and the applicant shall submit proof to the Municipality that the notices contemplated in (2)(a), were published and that the notice to be served on the parties contemplated in (2)(c) were properly served.
- (7) Upon the applicant having complied with the provisions of (6) above, the Municipality shall:
 - (a) in the case where no objection or representation or any comment is received from any interested or affected party, consider the application and either refuse or approve such application and notify the applicant within a period of 56 (fifty six) days of receipt of the affidavit contemplated in Clause 36(6);
 - (b) in the case where an objection, representation or comment in opposition to the application or any part thereof is received from an interested or affected party before the expiry of the 28 day period contemplated in (3)(e), conduct a hearing as contemplated in (8).
- (8) Should any objection, representation or comment in opposition to the application be received by the Municipality as contemplated in (7)(b), a time and place for the hearing of such matter in a manner complying with the requirements of ruling legislation, and shall give written notice thereof, by registered post or by electronic communication or facsimile, at least 14 days prior to the hearing, which notice shall be directed to the applicant and/or his duly authorised agent and all objectors and parties having submitted representations or comments in respect of the application with the 28

day period contemplated in (3)(e) and only such parties or their authorized representatives shall be permitted to attend such hearing and present their arguments to the Municipality.

- (9) Where an objection, representation and/or comment contemplated in (8) is submitted by more than one person or body and is contained in a single document, it shall be deemed sufficient compliance with the provisions of (8) if only the person or body who lodged the document, is notified of the arrangements of the hearing.
- (10) The Municipality shall, after considering any objection, representation and/or comment, notify the applicant and all other parties on record of its decision, together with the reasons for such decision with a period of 28 (twenty eight) days from concluding the hearing.
- (11) The decision of the Municipality shall (where any objection to an application was received) not come into operation before expiry of 56 days, calculated from the date of notification of the parties contemplated in (10) above.
- (12) Any party on record who is aggrieved by the decision of the Municipality may, subject to provisions of the Ordinance, lodge an appeal against such decision.
- (13) The Municipality may, upon the granting of any Special Consent contemplated in this Scheme, impose any conditions it may deem appropriate, including the payment of contributions for the provision of services, open spaces and parks, as envisaged in Sections 120 to 124 of Part 2 of Chapter 7 of the By-law, for which purposes the provisions of Section 184 in respect of provision of open spaces and parks and Sections 115 to 119 of Part 1 of Chapter 7 of the By-law, shall apply *mutatis mutandis*.
- (14) Any Special Consent granted by the Municipality shall be recorded on a Special Consent Schedule, the format of which is illustrated in Schedule 17 hereto.
- (15) Any application for Special Consent shall be submitted to the Municipality in accordance with the required application form/s.

(v) **Examples**

**Please note that the following examples are attached hereto only to assist the applicant. The onus remains with the applicant to comply with provisions of the scheme and by-laws at all times and the municipality take no responsibility should an applicant fail to comply with any provision in legislation.*

- Notices to be published in newspaper and posted on the land;
- Affidavit;
- Power of Attorney.

Example of notices (in English) to be published in newspaper and posted on the land.

POLOKWANE INTEGRATED LAND USE SCHEME, 2022

SPECIAL CONSENT FOR

(Use of land, e.g. "Place of Instruction")

Notice is hereby given in terms of provisions of Clause 36 of the Polokwane Integrated Land Use Scheme, 2022, that I/we, the undersigned,

(Full names of owner/s and/or authorized agent)

intend applying to the Polokwane Municipality for the Special Consent for

(Use of Land as provided in Column 2, Table "A" of the Scheme, e.g. "Place of Instruction")

for purposes of

(Purpose of the proposed use and/or use of buildings, e.g. "...the use of the existing building for purposes of a crèche")

on _____ located in
(Property description, e.g. Erf 1001 Bendor Extension 9)

(Street address, e.g. 101 Outspan Drive, Polokwane)

Particulars of the application will lie for inspection during normal office hours at the applicant at the address mentioned herein, and at the offices of the Town Planners, first floor, west wing, Civic Centre, Polokwane, for the period of 28 days from _____ (date).

Any objections to or representations in respect of the application shall be lodged in writing simultaneously with the applicant and with the Municipal Manager, Polokwane Municipality at the above address or at PO Box 111, Pietersburg, 0700, within a period of 28 days from (date).

Address and contact detail of applicant/agent:

Example of Affidavit

AFFIDAVIT

Reference: Special Consent in terms of the Polokwane Integrated Land Use Scheme, 2022 Planning Scheme, 2016 in respect of:

(Property description)

I/we, the undersigned _____, hereby declare that I/we have posted and maintained the notice for a period of at least 14 days in the prescribed form and manner in a conspicuous place as prescribed in Clause 36(2)(b) of the Polokwane Integrated Land Use Scheme, 2022, on the following land:

(Property description)

Signed in _____ on this _____ day of _____ 20_____.

(Signed) **APPLICANT**

I certify that the above mentioned affidavit was declared to me and that the declarant confessed that he/she is familiar with the contents of this sworn affidavit and understands it. The affidavit was confirmed by oath in my presence and the declarant's signature was administered in my presence.

Sworn and signed in my presence at on this _____ day _____

of _____ 20_____

(Signed) **COMMISSIONER OF OATHS**

SPECIAL POWER OF ATTORNEY

I/We, the undersigned

_____ (id. _____)
(Full names)

being the registered owner/s of _____ (property description), do hereby nominate, constitute and appoint:

(Full names)

with power of Substitution to be my lawful Town Planners and appointed Agent in name, place and stead, to make application in terms of the Polokwane Integrated Land Use Scheme, 2022 read together with the Polokwane Municipal Planning By-laws, 2017, for:

The Special Consent of the municipality on the mentioned erf/land, for

(Proposed Use and purpose)

and generally affecting the aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes, as I might or could do if personally present and acting herein hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my said Town Planner and Agent shall lawfully do, or cause to be done, by virtue of these present.

Signed at _____ on this _____ day of _____ 20 _____ in _____

the presence of the undersigned witnesses.

(Signed)

As witnesses:

1. _____

2. _____

POLOKWANE INTEGRATED LAND USE SCHEME 20226

SPECIAL CONSENT FOR A TAVERN

Notice is hereby given in terms of provisions of Clause 36 of the Polokwane Integrated Land Use Scheme, 2022, that I/we, the undersigned,

_____ *(Full names of owner/s and/or authorized agent)*

intend applying to the Polokwane Municipality for the Special Consent for a Tavern for purposes of selling and serving liquor and other beverages and prepared food, to be consumed on

_____ *(Property description, e.g. Erf 1001 Bendor Extension 9)*

located in _____
(Street address, e.g. 123, Outspan Drive, Polokwane)

As you are an owner within a distance of 50 meter, or an Educational Institution, or Place of Public Worship within a radius of 250 meter, you are specifically notified of the proposed use in order to comment and/or be provided with the opportunity to lodge any objection.

Particulars of the application will lie for inspection during normal office hours at the applicant at the address mentioned herein, and at the offices of the Town Planners, first floor, west wing, Civic Centre, Polokwane, for the period of 28 days from *(date)*.

Any objections to or representations in respect of the application shall be lodged in writing simultaneously with the applicant and with the Municipal Manager, Polokwane Municipality at the above address or at PO Box 111, Pietersburg, 0700, within a period of 28 days from *(date)*.

Should no comments and/or objections be received as set out above, the municipality will assume that you are in support of the application and may approve the proposed land use rights.

Address and contact detail of applicant/agent:

DATE OF NOTICE: