



Building a prosperous and caring Municipality for a better life for all.

POLICY DOCUMENT
REVISED POLICY ON
SPAZA AND TAVERNS, 2000

REVISED POLICY ON SPAZA AND TAVERNS

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1. INTRODUCTION

This policy serves to provide a mechanism through which spazas and taverns across the whole TLC could be managed. This policy document must be read together with stipulations and scheme clauses of the Pietersburg/Seshego Town Planning scheme, 1999 herein later referred to as the Town Planning Scheme.

2. DEFINITIONS

2.1. SPAZA

For purposes of this policy a building designed for a portion of a building used for the purpose of selling and proving basic groceries (daily convenience goods) and fresh produce, excluding alcoholic refreshments, where the residential use of the property remains the primary use of the property(also see clause 6.87 of the Town Planning Scheme)

2.2. TAVERN

For purposes of this policy a building designed for a portion of a building used for the purpose of selling and serving liquor, other beverages and prepared food/ snacks, to be consumed on the premises, subservient to the residential use of the property which remains the primary use of the property (also see clause 6.93 of the Town Planning Scheme)

3. APPLICATION AND PROCEDURE

3.1. SPAZAS (Clause 21 of the Town Planning Scheme)

Step 1

The applicant shall obtain the prescribed application form from the local municipality, which shall be fully completed by the applicant or his or her authorized agent. All the requirements and conditions stipulated in the application form and stipulations of the Town Planning Scheme shall be complied with to the satisfaction of the local municipality before the submission can be deemed an application.

Step 2

The applicant shall put an A3 size notice on the premises in English and any other language dominant in the surrounding area regarding the intent to submit an application. The notice shall be displayed and maintained for a period of not less than 14 consecutive days in a conspicuous position, visible from the street to the general public.

The applicant shall submit proof to the Town Planning Division that the notices referred to above was published and displayed.

Step 3

The applicant shall acquire signatures of all occupants and owners of the properties within distance of 50m from the application site confirming that they have been informed of the proposed use and will submit their comments either to the applicant or the TLC in person within 14 days from the date the notice was displayed on the site.

Step 4

The applicant shall submit to the offices of the Town planning division a fully completed application form and all the documentation as prescribed in the form.

Step 5

The Town Planning Division shall acknowledge receipt of the application and request any additional information and/or documents, if reasonably required.

Step 6

The Town Planning Division shall consider the application, and may approve of it in the case where no objections have been received. If any objection are received, or it is the opinion of the Town Planning Division that the application has no merits, the division's recommendations together with the application shall be submitted to the local municipality's section 60 committee, who will either approve of or refuse the application during a hearing (as stipulated by Pietersburg/Seshego Town Planning Scheme,1999). Appeals will be handled in terms of the provisions of Ordinance 15 of 1986, as amended from time to time or any other regulation, which may succeed it thereafter.

Step 7

Every applicant shall take cognizance that, he or she will after approval by the local municipality, of the application envisaged in the clause, be obliged to, on an annual basis, in the month, during which the applicant was notified of such an approval as envisaged in clause 21.6 of the Pietersburg/ Seshego Town Planning Scheme, 1999, to the satisfaction of the local municipality, submit an affidavit from the police in confirmation of, inter-alia the fact that the conditions pertaining to such approval and use, are fully complied with.

3.2. **TAVERNS** (Clause 21 of the Town Planning Scheme)

Step 1

The applicant shall obtain application form from the local Authority, which shall be fully completed by the applicant or his or her authorized agent. All the requirements and conditions stipulated in the application form shall be complied with to the satisfaction of the local municipality before the submission can be deemed an application.

Step 2

The applicant shall acquire signatures from the ward councilor of the area; from all occupants and owner within a distance of 50m and from the governing body of each educational institution and a place of public worship within a radius of 250m from the application site confirming that they have been informed of the proposed use and will submit their comments either to the applicant or the local municipality in person within 28 days from the date of the letter.

Step 3

The applicant shall publish a notice in English and any other language dominant in the surrounding area for two consecutive weeks in a local newspaper, circulating in the area of the application site. The notice shall clearly indicate its intent to establish the use on the site. A 14-day objection period is applicable from the date of the publication.

Step 4

The applicant shall put an A3 size notice in English and any other language dominant in the surrounding area on the premises regarding the intent to submit an application, on the same date that the notice appeared on the newspaper. The notice shall be displayed and maintained for a period of not less than 14 consecutive days in a conspicuous position, visible from the street to the general public.

The applicant shall submit proof to the Town Planning Division that the notices referred to above was published and displayed.

Step 5

The applicant shall lodge, within 28 days from the date of the first publication in the newspaper and an A3 size notice on the site, a fully completed application form including all required documentation as prescribed in the application form with the local municipality, failing which could be deemed as non-compliance with application procedure.

Step 6

The Town Planning Division shall acknowledge receipt of the application and request any additional information and/or documents, if reasonably required

Step 7

The Town Planning Division shall submit the application to the local municipality's section 60 committee for consideration. The committee shall consider and hear any objections or representations received within aforementioned period of 28 days, at a hearing arranged by the local municipality (in terms provisions of the Pietersburg/Seshego Town Planning Scheme, 1999 read together with Ordinance 15 of 1986, or as amended from time to time). The committee will either approve or refuse the application. Appeals will be handled in terms of the provisions of Ordinance 15 of 1986, as amended from time to time or any other regulation, which may succeed it thereof.

Step 8

Every applicant shall take cognisance that, he or she will, after approval by the local authority, of the application envisaged in this clause, be obliged to, on an annual basis, in the month, during which the applicant was notified of such an approval as envisaged in clause 20.8 of the Pietersburg/ Seshego Town Planning Scheme, 1999, to the satisfaction of the council, submit an affidavit from the police in confirmation of, inter-alia the fact that the conditions pertaining to such approval and use, are fully complied with.

4. CONDITIONS TO BE IMPOSED ON APPROVED APPLICATIONS

4.1. SPAZAS

- 4.1.1. The floor area of the business shall not exceed 30m²
- 4.1.2. At least one parking space shall be provided on the site
- 4.1.3. The primary use of the site shall remain residential
- 4.1.4. No selling of liquor shall be allowed on the site
- 4.1.5. Trading hours shall be determined if it is of the opinion of the local municipality that due to change in Circumstances the activity needs to be limited to certain hours of operation.
- 4.1.6. The business shall be conducted from within a built up structure which complies with National Building Regulations.
- 4.1.7. A signs may not exceed 600x 450mm and may not be illuminated.
- 4.1.8. Conditions laid down by any of the local municipality's departments shall be complied with to the satisfaction of the relevant department.
- 4.1.9. The local municipality shall impose any condition, which it deems fit prior and/ or after the consent have been granted.
- 4.1.10. This consent is subject to annual renewal as prescribed in terms of clause 21.6 of the Pietersburg/ Seshego Town Planning Scheme, 1999
- 4.1.11. The consent shall lapse if it is of the opinion of the council that:
 - i. The residential amenity, health and safety and character of the area are being disturbed
 - ii. The property has been sold to another owner
 - iii. The owner does not stay on the premises
 - iv. The hours of operation are being violated
 - v. The consent has not been renewed or confirmed annually by submitting the necessary affidavit.
 - vi. Any conditions or stipulations of the Pietersburg/ Seshego Town Planning Scheme, 1999 are being violated.

4.2. TAVERNS

- 4.2.1. The floor area of the business shall not exceed 50m²
- 4.2.2. At least one parking space shall be provided on the site
- 4.2.3. The primary use shall remain residential
- 4.2.4. The residential amenities, health and safety and character of the area shall not being disturbed.
- 4.2.5. Trading hours shall be limited to the hours between 06:00 and 22:00 each day as determined by the Liquor Act in existence.
- 4.2.6. The liquor license shall be obtained and proof submitted to the council within 3 months of the date of the approval of this consent.
- 4.2.7. Selling and/ or serving and consumption of liquor and other beverages including prepared food shall be conducted from within a building structure which complies with National Building Regulations.
- 4.2.8. Advertising signs shall not exceed 600x 450mm and may not be illuminated.
- 4.2.9. Additional toilet facilities for both sexes shall be provided as required by the local municipality.
- 4.2.10. The requirements of the liquor Act in operation and of any of the local municipality departments shall be complied with to the satisfaction of relevant departments.
- 4.2.11. The local municipality shall impose or remove any condition it deem fit due to changes and/ or unforeseen circumstance prior and/or after the consent have been granted.
- 4.2.12. This consent is subject to annual renewal as prescribed in terms of clause 20.8 of the Pietersburg/ Seshego Town Planning Scheme, 1999
- 4.2.13. The consent shall lapse if it is of the opinion of the council that:
 - i. The residential amenity, health and safety and character of the area are being disturbed
 - ii. The owner does not stay on the premises
 - iii. The hours of operation are being violated
 - iv. The consent has not been renewed or rights annually confirmed by submitting the necessary affidavit.
 - v. Any conditions or stipulations of the Pietersburg/ Seshego Town Planning Scheme, 1999 are being violated.

5. CRITERIA FOR EVALUATING THE APPLICATION

- 5.1. The application as submitted shall be complete. For the purpose of this policy, an application shall be deemed complete if the application form is fully completed and submitted to the council with, at least the following documentation:
 - 5.1.1. Comments and/ or signatures of all affected parties as defined in terms of the policy's application procedures (Annexure 1C and 1D)
 - 5.1.2. In the case of taverns/shebeens, a specimen of the pages of the newspapers in which notice appeared (Annexure 1B)
 - 5.1.3. A copy of the A3 size notice that was displayed on the premises and a sworn statement (affidavit) to the effect that the notice was displayed and maintained as required in terms of the policy (Annexure 1B)
 - 5.1.4. A motivational memorandum describing the site, the nature of the application, and proving the merits of the proposed use(also see paragraph 5.2)
 - 5.1.5. A locality map indicating the site in question in relation to the surrounding area. The site shall be clearly marked on the map.
 - 5.1.6. An application fee for both spazas and taverns shall be determined by the Council from time to time
 - 5.1.7. A copy of a title deed/deed of grant/ affidavit from the police declaring that applicant is the owner and occupant of the site.
 - 5.1.8. A power of attorney in the case of an authorized agent.

- 5.2. Whether criteria stipulated in clause 19.1 of the Pietersburg/ Seshego Town Planning Scheme, 1999 has been successfully proven:
 - 5.2.1. The amenities of the area;
 - 5.2.2. Health and safety of the area;
 - 5.2.3. The character of other uses in the area;
 - 5.2.4. LDO/IDP, as well as the following other criteria relating to the need and desirability:
 - i. How far are schools and churches and any other business nodes;
 - ii. How far are similar uses and how will the approval of the application impact on other spazas and taverns in the area. It is recommended that within a circle with a radius of 400m, 4 similar uses be permitted in Seshego, 2 in westernburg, 1 in any of the other townships. The Town Planner shall use his or her discretion as to whether allowing the

circle to overlap will results in undesirable circumstances from a town planning point of view.

- iii. What the impact on the adjacent and surrounding residential environment will be.
 - iv. The town planner shall be open minded enough by considering the socio-economic situation of the community of the TLC at large while at the same time striving to promote sustainable development.
 - v. The Town Planner shall consider population density and target market.
- 5.3. Whether the proposed use complies with the definition of either the spaza or a tavern as contained both in the policy and in the existing town planning scheme.
- 5.4. Whether the proposal complies with the policy and if not what can be done if any to improve the situation.
- 5.5. Uses which existed and application submitted before the commencement of the Pietersburg/ Seshego Town Planning Scheme, 1999, be given special consideration and exemption with regard to the maximum floor area prescribed elsewhere in this policy. Therefore such uses shall be regarded as uses contemplated in clause 24.4 of the Pietersburg/ Seshego Town Planning Scheme, 1999, and be considered to be approved in terms of previous schemes and/or regulations. Such further conditions as imposed in clause 24.4 shall therefore also apply.
- 5.6. Any other relevant criteria may be used to the discretion of the town planner.

6. ADMINISTRATIVE ARRANGEMENTS

6.1. NON-COMPLIANCE WITH CONDITIONS

The applicant must obtain an occupation certificate from the local municipality within a period of 6 months of the date of the consent being issued, in order for the local municipality's officials to assure that all of the conditions set have been met. The public, community structure, Police, etc can also inform the local municipality of non-compliance to the conditions of the consent.

As the consent will be subject to the conditions set, the consent will automatically lapse if any or all of the conditions have not been met. The Town planning Division will inform the applicant accordingly.

Upon non-compliance to the set conditions, the owner of the business/ property will be issued with a notice informing him or her of the cancellation of the consent. The police and Liquor Board will also be informed accordingly. Thereafter, the use will be treated as a land use in contradiction with the Town Planning Scheme.

Owners of the businesses closing down must notify the local municipality thereof in order to keep the department's records up to date.

6.2 . REGISTRATION OF APPLICATION FOR CONSENT

The Town Planning Division of the local municipality must design and maintain a register for spazas and tavern applications. The register is open for inspection during normal office hours to other applicants, neighborhood committees, councilors, the police, the Liquor Board and any member of the public upon request.

7. CONCLUSION

The policy, as amended should not be seen as a mechanism of promoting spazas and taverns to the detriment of the city, but rather to manage them for the achievement of a sustainable development and good order in Pietersburg/Polokwane.