

5.8	PLANNING AND LOCAL ECONOMIC DEVELOPMENT AND TOURISM: (PC: CLLR C VAN WYK)
-----	--

5.8.1	RETURN ITEM: REQUEST FOR THE APPROVAL FOR THE FINAL DRAFT STELLENBOSCH MUNICIPALITY EVENTS AND OUTDOOR DINING OVERLAY ZONE IN ORDER TO BE INCLUDED WITHIN THE STELLENBOSCH MUNICIPALITY ZONING SCHEME BY-LAW, 2019
-------	--

Collaborator No: 755783

IDP KPA Ref No: Valley of Opportunity

Meeting Date: Mayco: 13 September 2023 & Special Council: 27 September 2023

**1. SUBJECT: RETURN ITEM: REQUEST FOR THE APPROVAL FOR THE FINAL DRAFT STELLENBOSCH MUNICIPALITY EVENTS AND OUTDOOR DINING OVERLAY ZONE IN ORDER TO BE INCLUDED WITHIN THE STELLENBOSCH MUNICIPALITY ZONING SCHEME BY-LAW, 2019**

**2. PURPOSE**

To provide Council with the pertinent facts in order to obtain approval of the Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone that would be included as part of the Stellenbosch Municipality Zoning Scheme By-law, 2019.

**3. DELEGATED AUTHORITY**

Council

**4. EXECUTIVE SUMMARY**

The Directorate: Planning & Economic Development compiled a Draft Events and Outdoor Dining Overlay Zone, with the assistance of Planning Partners.

The purpose of the abovementioned overlay zone is specifically to deal with land use rights associated with events and outdoor dining within the Stellenbosch Municipality, whereas the current zoning scheme by-law only permitted the land use activity of occasional use to one event per year on properties zoned Mixed Use and Agricultural. The problem arose where event organisers and coordinators spent months preparing for an event, and then get by tripped by land use issues at the late stage of planning an event. Events has become an ever-increasing activity within the Stellenbosch Municipal Area, specifically within the Central Business District Areas and on farms, and the demand has increased significant post the COVID-19 pandemic.

It must be noted that the zoning scheme was promulgated during 2019, and at the time the events activities were not as prevalent, and therefore only one event was permitted per annum on a property. Events has however become a frequent activity and therefore the municipality as noticed through request from the industry and the various tourism organisations that we must amend the land use management process, as well as the permitting process as set out in terms of the Stellenbosch Municipality Events By-law, 2016. In essence, currently there are two (2) statutory processes, which must be concluded.

The proposed overlay zone will remove to a large extent one of the processes, and therefore only the process as required in terms of the Safety at Sports and Recreational Events, Act 2 of 2010 must be obtained.

At the 15<sup>th</sup> Council Meeting dated 26 July 2023, Council resolved that the draft Stellenbosch Municipality Events and Outdoor Overlay Zone be advertised to solicit public comments, and thereafter will be evaluated and resubmitted to Council for decision. The subject overlay was advertised in the Eikestadnuus on 03 August 2023, with a closing date of 02 September 2023, it must however be noted that the closing date falls in the weekend and therefore to commenting period is extended to the Monday, 04 September 2023. Copy of the advertised attached as **APPENDIX 2** to this report.

Please note that no comments were received during the public participation process.

## 5. RECOMMENDATIONS

- (a) that Council take note of the Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone was advertised for a period of 30 days, and that copies of the proposed overlay was placed at the venues as indicated in the advertisement, copy attached as **APPENDIX 2** to this report;
- (b) that Council **approves and adopts** the Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone, attached as **APPENDIX 1**; and
- (c) that Council **approves** that the Final Draft Stellenbosch Municipality be promulgated and incorporated into the Stellenbosch Municipality Zoning Scheme By-law, 2019.

## 6. DISCUSSION / CONTENTS

### 6.1 Background

Stellenbosch Municipality submitted a proposal to Western Cape Government's Department of Economic Development & Tourism ("DEDAT") as part of the Ease of Doing Business Programme to assist the municipality in developing an Events and Outdoor Dining Overlay Zone.

DEDAT approved the Municipality's proposal and committed funding for the Compilation of the said by-law with the intension of improving the economic growth within the Municipal Area by reducing red-tape. DEDAT as part of the Ease of Doing Business Fund appointed Planning Partners, a town planning consultancy to assist the municipality with the Compilation of the said overlay zone.

The Project Inception Meeting was held on 21 November 2022, and at this meeting the problem statement was formulated and the programme to engage with the relevant stakeholder were developed. The Consultant Team with the core municipal officials held a number of stakeholder engagements with the statutory approval organisations and departments (include SAPS, Municipal permitting office, relevant internal and external commenting bodies to such applications) and also representatives involved in the events and tourism industries within the municipal area.

### 6.2 Discussion

The draft overlay zone aims to provide additional land use rights to the zoning categories as contained within the Zoning Scheme By-law, 2019. These additional rights are specifically as a result of the land use activity of events and outdoor dining, being characteristic to the Stellenbosch Municipal Area and provides the much-needed economic incentives for businesses.

The proposed overlay zone was drafted through obtaining the inputs from a number of stakeholders, which included the statutory approval bodies, and the relevant internal and external departments.

The proposed overlay zone therefore aims to reduce red-tape, by dealing with the applications through a single process, which would be the events permitting process, in the case of events and through the application to lease municipal land, in the case of outdoor dining. This overlay zone only deals with the land use rights as stipulated within the applicable zoning scheme by-law and does not exempt any applicant from applying to any other legislation applicable to said land use activities.

#### Public Participation Process

On 27 July 2023, Council resolved that the Department advertise the subject overlay zone for public comment, and during the advertising period, only a question of clarity from the Stellenbosch University was received. The comment related whether this process means that event permit still must be obtained and also enquired whether a map of the different zones is available.

Response: It must be noted that Municipality duly responded that the current events by-law is still applicable, and the process as set out in the Events By-law must still be followed. The process only deals with the land use rights.

Response: The overlay zone is applicable to the zoning category as contained within the zoning scheme, and therefore the applicable zoning of the property permits additional rights on a property(ies) in terms of this overlay zone.

It must also be noted that the above question was not directed to the email address as indicated on the advertisement but was duly responded to by the Municipality.

### **6.3 Financial Implications**

There are no financial implications in respect of the drafting, or this report and the compilation of the draft overlay zone was funded by DEDAT as part of the Ease of Doing Business Fund.

### **6.4 Legal Implications**

The recommendations in this report comply with Council's policies and all applicable legislation.

### **6.5 Staff Implications**

This report has no additional staff implications to the Municipality.

### **6.6 Previous / Relevant Council Resolutions:**

#### **15<sup>TH</sup> COUNCIL MEETING: 2023-07-26: ITEM 11.8.1**

**RESOLVED** (majority vote with 7 abstentions)

- (a) that Council takes note of the Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone. Copy attached as **APPENDIX 1** to this report; and
- (b) that Council **approves** that the draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone, be subjected to the legislative Public Participation Process in terms of the Local Government Municipal Systems Act No. 32 of 2000 for a period of thirty (30) days, whereafter such comments, if any, will be evaluated and resubmitted to Council for approval, adoption and promulgation of the overlay zone and included in the Stellenbosch Municipality Zoning Scheme By-law.

*Councillor J Andrews requested that his vote of dissent be minuted.*

**6.7 Risk Implications**

The risks are addressed through the content of the report.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO SPECIAL COUNCIL: 2023-09-18: ITEM 7.8.1**

- (a) that Council take note of the Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone was advertised for a period of 30 days, and that copies of the proposed overlay was placed at the venues as indicated in the advertisement, copy attached as **APPENDIX 2** to this report;
- (b) that Council **approves and adopts** the Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone, attached as **APPENDIX 1**; and
- (c) that Council **approves** the Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone and approves that it be promulgated and incorporated into the Stellenbosch Municipality Zoning Scheme By-law, 2019.

**APPENDICES**

Appendix 1: Advertisement

Appendix 2: Final Draft Stellenbosch Municipality Events and Outdoor Dining Overlay Zone

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Craig Alexander
<b>POSITION</b>	<b>Senior Manager: Development Planning</b>
<b>DIRECTORATE</b>	<b>Planning and Economic Development</b>
<b>CONTACT NUMBERS</b>	<b>021 808 8196</b>
<b>E-MAIL ADDRESS</b>	<a href="mailto:Craig.alexander@stellenbosch.gov.za">Craig.alexander@stellenbosch.gov.za</a>
<b>REPORT DATE</b>	<b>8 September 2023</b>

# APPENDIX 1





**NOTICE: 08/2023**

**PUBLIC NOTICE: INTERESTED AND AFFECTED PARTIES  
CALL FOR PUBLIC COMMENT ON THE DRAFT EVENTS AND OUTDOOR DINING OVERLAY  
ZONE WHICH WILL BE INCORPORATED INTO THE AMENDED STELLENBOSCH  
MUNICIPALITY ZONING SCHEME BYLAW, 2019**

Notice is hereby given that Council intends to amend the Stellenbosch Municipality Zoning Scheme Bylaw, 2019 to include the Draft Events and Outdoor Dining Overlay Zone. Interested and affected parties are hereby invited to submit written comments on the Draft Events and Outdoor Dining Overlay Zone during the 30 days advertising period.

You are hereby invited to submit written comments in connection with the aforementioned by electronic mail to the office of the Manager: Economic Development and Tourism at sharon.pedro@stellenbosch.gov.za on or before 2 September 2023.

The Draft Events and Outdoor Dining Overlay Zone, which will form part of the amended Stellenbosch Municipality Zoning Scheme Bylaw, 2019 will be available on the Stellenbosch Municipality's website ([www.stellenbosch.gov.za](http://www.stellenbosch.gov.za)) and hard copies will be available at the local libraries and at satellite offices as reflected in the table below.

AREA	PLACE
Stellenbosch CBD	Library, Plein Street, Stellenbosch PMU Building (Mark Street) Ward 7: Jan Marais Eco Centre Ward 10: Lapland (Municipal Building)
Franschhoek	Ward Office: Ward 1 (Mooiwater Building) Ward Office: Ward 2 (Groendal Community Hall)
Kylemore	Kylemore Ward Office
Pniël	Library, Main Road, Pniël Pniël Ward Office
Wemmershoek	Ward 3: Wemmershoek Ward Office (Community Hall)
Jamestown	Jamestown Library Jamestown Ward Office
Cloetesville	Cloetesville Ward Offices (Ward 16 and 17) Library, Vredelust Street, Cloetesville, Stellenbosch
Ida's Valley	Ward Office: Ward 5 (Ida's Valley Sport Ground) Ward Office: Ward 6 (Library, Rustenburg Rd.) Library, Sonnebloem Street, Ida's Valley,
Kayamandi	Kayamandi Ward Offices (Kayamandi Corridor) Library, Masithandane Street, Kayamandi, Stellenbosch
Vlottenburg	Vlottenburg Ward Office (Vlottenburg Primary School)
Klapmuts	Klapmuts Ward Office (Klapmuts Multi-Purpose Centre)
Ward 19	De Novo Ward Office (Primary School in De Novo)

Enquiries or requests for more information on the process may be directed to Economic Development and Tourism Section: Sharon Pedro Tel: (021) 808-8974 or E-mail: [Sharon.pedro@stellenbosch.gov.za](mailto:Sharon.pedro@stellenbosch.gov.za) during normal office hours.

**KENNISGEWING: 08/2023**

**OPENBARE KENNISGEWING: BELANGHEBBENDE EN GEAFFEKTEERDE PARTYE WORD  
GENOOI OM KOMMENTAAR OOR DIE KONSEPGELEENTHEDE EN BUITELUG-EET-  
OORLEGSONE WAT GEÏNKORPOREER SAL WORD IN DIE STELLENBOSCH MUNISIPALITEIT  
GEWYSIGDE SONERINGSSKEMA VERORDENING VAN, 2019**

Hiermee word kennis gegee dat die Raad van voorneme is om die Stellenbosch Munisipaliteit Soneringskema Verordening, 2019 te wysig om die Konsepgeleentehede en Buitelug-Eet-Oorlegsone in te sluit. Belanghebbende en geaffekteerde partye word hiermee uitgenooi om skriftelike kommentaar op die Konsepgeleentehede en Buitelug-Eet-Oorlegsone gedurende die 30 dae-advertensiedyperk in te dien.

U word hiermee uitgenooi om skriftelike kommentaar in verband met die bogenoemde per elektroniese pos by die kantoor van die Bestuurder: Ekonomiese Ontwikkeling en Toerisme by [sharon.pedro@stellenbosch.gov.za](mailto:sharon.pedro@stellenbosch.gov.za) voor of op 2 September 2023 in te dien.

Die Konsepgeleentehede en Buitelug-Eet-Oorlegsone, wat deel sal vorm van die gewysigde Stellenbosch Munisipaliteit Soneringskema Verordening, 2019 sal op die Stellenbosch Munisipaliteit se webwerf ([www.stellenbosch.gov.za](http://www.stellenbosch.gov.za)) beskikbaar wees en harde kopieë sal by die plaaslike biblioteke en die satellietkantore beskikbaar wees soos aangedui in die tabel hieronder.

GEBIED	PLEK
Stellenbosch Sentrale Sakekern	Biblioteek, Plein Straat, Stellenbosch PMU Gebou (Mark Straat) Wyk 7: Jan Marais Ekosentrum Wyk 10: Lapland (Munisipale Gebou)
Franschhoek	Wyk Kantoor: Wyk 1 (Mooiwater Gebou) Wyk Kantoor: Wyk 2 (Groendal Gemeenskap Saal)
Kylemore	Kylemore Wyk Kantoor
Pniël	Biblioteek, Hoofstraat, Pniël Pniël Wyk Kantoor
Wemmershoek	Wyk 3: Wemmershoek Wyk Kantoor (Gemeenskap Saal)
Jamestown	Jamestown Biblioteek Jamestown Wyk Kantoor
Cloetesville	Cloetesville Wyk Kantoor (Wyk 16 en 17) Biblioteek, Vredelust Straat, Cloetesville, Stellenbosch
Idas Vallei	Wyk Kantoor: Wyk 5 (Idas Vallei Sport Grond) Wyk Kantoor: Wyk 6 (Biblioteek, Rustenburg Straat) Biblioteek, Sonnebloem Straat, Idas Vallei,
Kayamandi	Kayamandi Wyk Kantoor (Kayamandi Korridor) Biblioteek, Masithandane Straat, Kayamandi, Stellenbosch
Vlottenburg	Vlottenburg Wyk Kantoor (Vlottenburg Laerskool)
Klapmuts	Klapmuts Wyk Kantoor (Klapmuts Veeldoeningentrum)
Wyk 19	De Novo Wyk Kantoor (Laerskool in De Novo)

Navrae en versoeke vir meer inligting oor die proses kan gerig word aan die Ekonomiese Ontwikkeling en Toerisme eenheid: Sharon Pedro Tel: (021) 808-8974 of per Epos: [Sharon.pedro@stellenbosch.gov.za](mailto:Sharon.pedro@stellenbosch.gov.za) tydens normale kantoor ure.

# APPENDIX 2

## CHAPTER 30: EVENTS AND OUTDOOR DINING OVERLAY ZONE

---

### 275. Zone name and designation on map

- (1) The Events and Outdoor Dining Overlay zone may be referred to by the code (EODO) and shall cover the entire area of the Stellenbosch Municipality's zoning map.

### 276. Purpose of the zone

- (1) The purpose of the Events and Outdoor Dining Overlay zone is to facilitate the hosting of events and outdoor dining on public streets in certain circumstances, with the aim of promoting the tourism and leisure sector as a key driver of local economic development, as well as to enhance the cultural and social cohesion of communities, while protecting the amenity on which these activities rely.
- (2) A person may only organise an event with a valid permit issued by the Municipality as regulated in the Stellenbosch Municipality Events Permitting By-Law. "Event" has the same meaning as contemplated in subject By-Law.
- (3) Provide for a clear distinction between "events" and "occasional use" events, as contemplated in section 30.
- (4) Notwithstanding the intention for the overlay zone to be less restrictive with regards to the hosting of events and promoting outdoor dining on public streets, the overlay zone gives the Municipality a mechanism whereby additional measures and conditions can be imposed which can assist to avoid potential adverse impact of events and outdoor dining on the receiving environment and mitigate such impacts where they cannot be avoided.

### 277. Definitions in this chapter

In this Chapter, unless the context indicates otherwise, the following words shall have the meaning assigned to them below:

**"calendar year" (*kalenderjaar*)** means a period of twelve months from January 1 to December 31;

**"event" (*gebeurtenis*)** means sporting, entertainment, recreational, educational, religious, cultural, exhibitional or similar activity, that is accessible to the general public and is hosted either at a specific place (i.e. on a single property) or along a specified route, and which is of a temporary nature, and which can occur on a specific day or on consecutive days for a limited period, and excludes functions such as weddings;

**"event organizer" (*gebeurtenisorganiseerder*)** has the same meaning contemplated in the Stellenbosch Municipality Events By-law;

**"linear event" (*linêre gebeurtenis*)** means an event along a route taken from a starting point to a destination during which the event takes the form of either a recreational activity or a procession, and which may traverse a single property or a number of properties, and includes marathon, trail running, cycling and mountain biking (including E-bikes) events, but excludes the use of motorized vehicles;

**"outdoor dining" (*buitelug ete*)** means dining outdoors on sidewalks or a portion of public street with tables, chairs, and other furnishings for the purpose of selling, offering for sale, and serving food and beverages in an area set up directly outside the confines of a property with land use rights for a business premises (or equivalent);



**“place-bound event”** (*plekgebonde gebeurtenis*) means an event that takes place at a specific venue, or on a specific property;

**“temporary structure”** (*tydelike struktuur*) means a non-permanent structure constructed purely on a temporary basis for a specific period, which shall require building plan approval (if applicable) and which shall be demolished on completion of the event for which it was erected.

### **277. General provisions**

- (1) The primary, additional and consent uses, and development parameters set out in the applicable base zone remain applicable to any land unit subject to this overlay zone, unless varied in the provisions provided in this chapter.
- (2) Purpose-built tracks, buildings, and infrastructure to be used for events requires land use approval for the facility or amenity as contemplated in subsection (1).
- (3) Events contemplated in this chapter are exempt from the provisions of section 30(1).
- (4) A maximum of 12 events per calendar year can be hosted on an individual property, irrespective of the event being a linear event or place-bound event as contemplated in this chapter, unless otherwise stipulated in this chapter. A calendar year means a period of twelve months from January 1 to December 31.
- (5) Any event occurring on a property that takes direct access from a proclaimed road shall provide effective traffic control for safe access off such road to the on-site parking area, to the satisfaction of the Municipality.
- (6) Any event contemplated in this chapter may involve the construction of temporary structures to facilitate the hosting of such event. Temporary structures or non-permanent structures constructed purely on a temporary basis for a specific period, shall require building plan approval and shall be demolished on completion of the event for which it was erected.
- (7) Commercial services at the same venue that are not directly associated with the event, and which is not an event-related activity shall require prior land use approval for such activity.
- (8) No event can be both a “linear event” and a “place-bound event”, and the Municipality’s Development Management Department has the sole discretion to determine the specific type of an event as contemplated in this chapter.

### **278. Linear events**

- (1) A linear event means an event along a route taken from a starting point to a destination during which the event takes the form of either a recreational activity or a procession, and which may traverse a single property or a number of properties, and includes marathon, trail running, cycling and mountain biking (including E-bikes) events, but excludes the use of motorized vehicles.
- (2) An unlimited number of linear events shall be permitted in the following zones:
  - (a) Community zone;
  - (b) Transport Facilities zone;
  - (c) Public Road and Parking zone; and
  - (d) Public Open Space zone.
- (3) An unlimited number of linear events shall be permitted in the following zones, provided that the total number of people involved in the event, including any support staff or spectators are limited to the capacity of the venue or do not exceed 1000 people, whichever is the lesser:
  - (a) Education zone;
  - (b) Private Open Space zone;
  - (c) Agriculture and Rural zone; and

- (d) Natural Environment zone.
- (4) For a linear event involving more than 1000 people, including any support staff or spectators associated with such event, a maximum number of 12 events per calendar year shall be permitted on a property with a zoning stipulated in subsection (2).
- (5) A linear event occurring on a property with a zoning stipulated in subsection (2) may not exceed:
  - (a) a maximum of 3 consecutive days; and
  - (b) a cumulative number of 12 days in a calendar year.
- (6) A linear event occurring on a property with a zoning stipulated in subsections (2)(c) and 2(d):
  - (a) must make use of existing routes, farm tracks and infrastructure;
  - (b) must include the provision of sufficient on-site parking for all vehicles associated with the event, or to the satisfaction of the Municipality; and
  - (c) may not involve any motorized vehicles.
- (7) A linear event occurring on a property with a zoning stipulated in subsection 2(a) does not include ancillary events typically associated with the primary uses thereon such as any school related functions.

### **279. Place-bound events**

- (1) A Place-bound event means an event that takes place at a specific venue, or on a specific property.
- (2) An unlimited number of place-bound events shall be permitted in the following zones:
  - (a) Community zone;
  - (b) Transport Facilities zone;
  - (c) Public Road and Parking zone; and
  - (d) Public Open Space zone.
- (3) A maximum of 12 place-bound events per calendar year shall be permitted on a property in the following zones:
  - (a) Education zone;
  - (b) Private Open Space zone; and
  - (c) Agriculture and Rural zone.
- (4) A place-bound event occurring on a property with a zoning stipulated in subsection (2) may not exceed:
  - (a) a maximum of 3 consecutive days; and
  - (b) a cumulative number of 12 days in a calendar year.
- (5) Notwithstanding subsection (2), a place-bound event occurring on a property with a zoning stipulated in subsection (2)(c) that involves any amplified music such as an outdoor music concert, rave or festival, shall not be permitted to extend beyond 18h00.
- (6) A place-bound event occurring on a property with a zoning stipulated in subsections (2)(b) and 2(c):
  - (a) must make use of existing facilities, amenities, and infrastructure; and
  - (b) must include the provision of sufficient on-site parking for all vehicles associated with the event, or to the satisfaction of the Municipality.
- (7) A place-bound event occurring on a property with a zoning stipulated in subsection (2)(a) does not include ancillary events typically associated with the primary uses thereon such as any school related functions.
- (8) All place bound events, regardless of the base zoning of the property on which such event takes place, shall not continue past 22h00 without prior written permission as part of the

event permit.

**280. Specific provisions: outdoor dining**

- (1) Outdoor dining means dining outdoors on sidewalks or a portion of public street with tables, chairs, and other furnishings for the purpose of selling, offering for sale, and serving food and beverages in an area set up directly outside the confines of a property with land use rights for a business premises (or equivalent)
- (2) Outdoor dining shall be permitted as a primary use right on a property zoned Public Road and Parking zone, subject to the following conditions:
  - (a) The location of the outdoor dining area must be directly abutting the confines of a property with land use rights in place for a business premises or equivalent.
  - (b) The outdoor dining area must be compliant with the technical specifications and guidelines provided in the Policy on Outdoor Dining, Trading and the use of Public Places for Commercial Ventures and Display, or any such subsequent policy or directive as the Municipality may adopt.
  - (c) The owner of a property incorporating an outdoor dining area as contemplated in this chapter must enter into a written agreement with the Municipality.
  - (d) Only temporary structures specified in the written agreement contemplated in paragraph (c) shall be permitted and shall be subject to building plan approval where applicable.
  - (e) Should a written agreement as contemplated in paragraph (c) not be concluded between the relevant parties, the Municipality may institute enforcement proceedings, either –
    - (i) as contemplated in section 273 of this By-law; or
    - (ii) in accordance with the Municipality's Roads and Streets By-law.