

## **KNYSNA MUNICIPALITY**

### **BY-LAW FOR THE CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC**

To provide for the control of undertakings that sell liquor to the public within the area of jurisdiction of the Knysna Municipality; permitted trading times; a safe and healthy environment and to provide for matters related thereto.

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## Preamble

**Whereas** a municipality may, in terms of section 156 of the Constitution, make and administer by-laws for the effective administration of matters which it has the right to administer;

**Whereas** it is the intention of the municipality to set trading times and enforcement mechanisms for the control of licensed premises that sell liquor to the public and which are situated within the jurisdiction of the Knysna Municipality.

**Now therefore, be it enacted** by the Council of the Knysna Municipality, as follows:

## Chapter 1: Interpretation

### 1. Definitions

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa. The English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates—

**“Act”** means the Western Cape Liquor Act (Act 4 of 2008) as may be amended and the regulations in terms thereof;

**“authorised official”** means an employee of the municipality who has been authorised to enforce this by-Law or an inspector appointed in terms of section 73(4) of the Act;

**“designated liquor officer”** means a person designated as such in terms of section 73(1) of the Act;

**“guest accommodation establishment”** means residential premises zoned to provide lodging, meals and other guest services for transient guests for compensation and includes:

- (a) a backpacker's lodge;
- (b) a bed-and-breakfast establishment;
- (c) a guest house and guest farm or lodge and;
- (d) facilities for business meetings, conferences, events or training sessions of resident guests, but excludes a hotel;

**“hotel”** means premises used to provide lodging, meals and other guest services for transient guests for compensation, and includes—

- (a) a restaurant or restaurants forming part of the hotel;
- (b) conference and entertainment facilities that are subservient and ancillary to the dominant use of the premises as a hotel; and
- (c) premises which are licensed to sell liquor for consumption on the property, but excludes an off-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

**“licensed premises”** means the premises upon which liquor may sold, consumed or stored in terms the Act;

**“licensee”** means a person to whom a liquor licence has been issued in terms of the Act and includes the manager appointed in terms of the Act, a person acting for or on behalf of such licence holder or manager and any person employed or in the service of such license holder or manager;

**“liquor”** means any liquor product, liquid or substance as defined in the Act or the Liquor Products Act (Act 60 of 1989) as may be amended and the regulations in terms thereof;

**“motor vehicle”** means a vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity, including a trailer or an agricultural or other implement designed or adapted to be drawn by such vehicle and vehicles designed or adapted to transport passengers;

**“Municipality”** means the Knysna Municipality, a municipality established in terms of section 12 notice issued in terms of the Local Government: Municipal Structures Act or any political structure, political office bearer or employee of the municipality acting in terms of delegated authority;

**“night club”** means any place of entertainment which may generate noise from karaoke, amplified or live music or revelry and includes a theatre, amusement park and dance hall;

**“premises”** means a place, land, building, or part of a building or motor vehicle;

**“residential”** means an area defined as residential by the Municipality and indicated as such by a certificate issued in terms of section 9 of this by-law;

**“sell”** means to—

- (a) supply, avail, offer, advertise or expose; or
- (b) exchange for money or to dispose of liquor in any way for any type of consideration,

and **“sale”** and **“sold”** have corresponding meanings;

**“special event”** means a fundraising event in aid of an education or welfare organisation, any exhibition, sports meetings, cultural gathering, or artistic performance;

**“standard trading times”** means trading days and trading hours as contemplated in sections 4 and 5 of this by-law, and excludes extended trading days and hours that may be approved by the municipality in terms of section 6 of this By-law;

**“tourist facility”** means an amenity for tourists such as a wine producing farm, liquor tasting facility, lecture room, restaurant, gift shop and liquor outlet where only liquor manufactured on the premises is sold to the public;

**“weapon”** means any object, including a firearm, capable of causing death or inflicting bodily harm;

**“Western Cape Liquor Authority”** means the independent juristic person established by section 2 of the Act; and

**“zoning”** means a method of development management that designates land in accordance with provisions and rules concerned with categorizing land according to usage and purpose, the extent of which is contained in the Municipality's Zoning Scheme Regulations;

and **“zoned”** has a corresponding meaning.

## 2. Application

This by-law is applicable to licensees that sell liquor to the public within the jurisdiction of the Knysna Municipality.

## 3. General prohibition

A licensee may not sell liquor for consumption on or off the licensed premises—

- (a) other than in accordance with this by-law;
- (b) outside the days and hours that have been determined by the municipality; or
- (c) without valid liquor licence that has been issued as contemplated in the Act.

**4. Standard trading times**

Trading days and hours for sale and consumption of liquor on the licensed premises.

- (a) A licensee may, subject to the terms as stated below, sell liquor for consumption on the licensed premises on the days of the week and during the hours as set out in Schedule 1 attached hereto.
- (b) A licensee who sells liquor for consumption on the licensed premises may not allow any consumption of liquor on the licensed premises at a time when the sale of liquor is not permitted.
- (c) A licensee in respect of a hotel or guest accommodation establishment:
  - (i) may provide access to a pre stocked bar facility inside a private suite or room for the enjoyment of a guest occupying such private suite or room; and
  - (ii) may not restock such bar facility during the hours the establishment is not allowed to sell liquor.
- (d) A licensee in respect of a hotel or guest accommodation establishment may not provide liquor to guests or visitors outside of the standard trading times unless in accordance with subsection (4);

**5. Trading days and hours for sale of liquor off the licensed premises**

A licensee for consumption off the licensed premises may sell liquor on the days of the week and during the hours as set out in Schedule 1 attached hereto.

**Chapter 2: Extended Trading Times****6. Application for extended trading days and hours**

- (a) A licensee may, upon payment of the required fee per application, submit a written application to the municipality to extend the liquor trading days and hours in respect of a licensed premises.
- (b) Above-mentioned written application must be submitted to the Municipal Manager twenty-one (21) days before the event as applied for.
- (c) Applications for extension of liquor trading days and hours which is submitted late, not within the twenty-one (21) days as referred to above, must be accompanied with an application for condonation, to be considered by the municipality.
- (d) An application for extension of liquor trading days and hours will only be considered for special events to be hosted at the licensed premises where liquor is sold, during other festivals or over long weekends; and the municipality may refuse or approve such application with or without terms and conditions.
- (e) If an event falls within the ambit of Knysna Municipality's Holding of Events By-law, such an approval of the event must accompany an application for extension of liquor trading days and hours.
- (f) No rights accrue to any person who has applied for an extension of trading days and hours before the receipt of approval from the municipality.
- (g) The municipality must, when considering an application for the extension of trading days and hours, consider factors which may include:
  - (i) the outcome of community consultation;
  - (ii) the public interest;
  - (iii) the proximity of the licensed premises to a residential area, cultural, religious or educational facility;
  - (iv) the planning and zoning requirements of the municipality;
  - (v) the validity of a business license issued in terms of the Businesses Act of 1991 (Act No. 71 of 1991) where applicable;
  - (vi) the potential impact on the tranquillity and well-being of the community;

- (vii) previous suspension, amendment or revocation of extended trading days and hours;
  - (viii) the validity of the liquor license;
  - (ix) reports from the Western Cape Liquor Authority, the South African Police Services and law enforcement section of the municipality; and
  - (x) the applicant's comments in respect of paragraphs (a) to (i) and the steps proposed to mitigate—
    - (a) the risks to the surrounding community;
    - (b) nuisances on the surrounding community;
    - (c) the possible benefits of extended liquor trading hours and days on the surrounding community.
- (h) The municipality may not grant an extension, unless it is satisfied on a balance of probabilities that—
- (i) the granting thereof is in the public interest;
  - (ii) the applicant is of good character, and not disqualified from holding a licence in terms of the Act;
  - (iii) 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 licence;
  - (iv) the applicant has the right to occupy the licensed premises; and
  - (v) the granting of the application does not prejudice—
    - (a) the residents of a residential area;
    - (b) the residents of an institution for the aged or frail;
    - (c) the learners of an educational institution who are under the age of eighteen (18) years;
    - (d) the patients of an institution for drug or alcohol related dependencies; or
    - (e) the congregants of a religious institution located in the vicinity of the proposed licensed premises.

## **7. Revocation of consent for extended liquor trading days and hours**

- (a) An authorised official may with immediate effect, by written notice, revoke consent for extended trading days and hours, upon failure by the licensee to comply with any condition of the consent for the extended trading days and hours.
- (b) An authorised official must, within 48 hours, of revoking the consent for extended trading days and hours, deliver copies of such revocation to the Western Cape Liquor Authority, the designated liquor officer for that area and the Municipal Manager of the municipality.
- (c) The municipality and / or the Western Cape Liquor Authority is not liable for any loss of income suffered by a licensee as a result of a revocation of consent.

## **8. Prevention of illegal sale of liquor and seizure of liquor**

- (a) An authorised official may temporarily close a licensed premises and / or in terms of the Criminal Procedure Act (51 of 1977) seize and / or impound any liquor offered for sale on a licensed premise in contravention of:
  - (i) the municipal zoning scheme;
  - (ii) this by-law; or
  - (iii) the conditions, imposed by the Western Cape Liquor Authority or the municipality, in respect of that licensed premises.
- (b) The municipality may recover from the licensee all costs incurred by the municipality to temporarily close the premises and to seize or impound liquor as contemplated in subsection (1).

### **Chapter 3: Obligations on the Licensee**

#### **9. Display of signage and certificates**

- (a) A licensee must, to the satisfaction of the authorised official, ensure that following certificates are prominently displayed inside the licensed premises:
  - (i) the certificate issued by the municipality stating the zoning or land use in respect of the premises for purposes of this by-law; and
  - (ii) the population certificate in respect of the premises issued in terms of the Community Fire Safety by-law of the municipality.
- (b) A licensee must, to the satisfaction of the authorised official, ensure that the following information is prominently displayed on the front door or window of the premises in characters not less than five centimetres in height:
  - (i) the liquor license number under which liquor may be sold; and
  - (ii) the hours during which liquor may be sold.

#### **10. Safety and security**

- (a) A licensee must ensure compliance with all applicable legislation and must adhere to all the safety requirement under Council's Community Fire Safety By-law.
- (b) A licensee must ensure that reasonable and adequate safety and security measures are in place for the protection of patrons by ensuring, amongst others but not limited to, that—
  - (i) the storage of goods and equipment and the condition of the premises and any structure thereon do not endanger the lives of patrons inside the premises; and
  - (ii) there is adequate lighting on the outside of the premises where patrons and staff access and exit the licensed premises.

#### **11. Provision of free drinking water**

Free drinking water, which includes tap water, must be made easily available at all on-consumption liquor outlets to the patrons.

#### **12. Provision of ablution facilities for patrons**

All on-consumption outlets must provide ablution facilities for each gender and cater for people with disabilities at no additional cost to the patrons.

#### **13. Liquor premises must be weapon free**

- (a) A licensee must ensure that no weapons or sharp objects are permitted inside on consumption liquor premises.
- (b) A licensee may not allow any person to bring a weapon or sharp object onto the licensed premises.

#### **14. Nuisances**

- (a) A licensee must take all reasonable steps to ensure that the residents of the surrounding community are not unreasonably affected or inconvenienced by noise or other nuisances emanating from the licensed premises.
- (b) A licensee must at all times keep the licensed premises clean and free from pollution and litter.
- (c) A licensee must at all times keep the licensed premise and public areas surrounding the licensed premises:
  - (i) free of litter, pollution and liquor containers; and
  - (ii) hygienic and free of noxious odours.
- (d) The licensee must at all times prevent loitering by patrons outside the liquor premises.
- (e) A licensee must ensure that all sales of liquor are confined to the licensed premises.
- (f) A licensee must in respect of off consumption premises ensure that no liquor is consumed on the premises or in public in the vicinity of the premises.
- (g) A licensee must in respect of respect of on consumption premises ensure that no liquor is taken from the premises.

#### **Chapter 4: Miscellaneous**

#### **15. Delegations**

The municipality may delegate any power or function in terms of this by-law to a political structure, political office bearer or an official of the municipality.

#### **16. Indemnity**

The municipality, Western Cape Liquor Authority and any of their employees are not liable for any damages or costs as a result of any action undertaken in the execution of their duties in terms of this by-law.

#### **17. Offences and penalties**

A licensee who contravenes or fails to comply with a—

- (i) provision of this by-law;
- (ii) condition or instruction in connection with this by-law; or
- (iii) notice from an authorised official,

is guilty of an offence and is liable to a fine, or upon conviction, to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.

#### **18. Repeal of previous by-laws**

The provisions of any by-law previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the Knysna Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

#### **19. Short title**

This by-law is called the Control of Undertakings that Sell Liquor By-Law and comes into operation on the date of promulgation thereof in the Western Cape Government Gazette.

**Schedule 1**  
**Standard Trading Days and Hours**

COLUMN 1	COLUMN 2
TYPE OF LICENSE	TRADING HOURS
Section 33 (a) license – micro production and sale of liquor both on and off consumption (cellars, winemakers, home distillers)	<b>On consumption</b> 7:00 – 2:00 Monday to Saturday 7:30 – 23:00 on Sunday <b>Off consumption</b> 7:30 – 20:00 Monday to Sunday
Section 33 (b) licenses for the sale of liquor for consumption on the premises Sport clubs, bar, sports bar, night club, jazz club, pub and grub, tavern, restaurants)  Hotel, B&B's and Casino	7:30 – 03:00 (the next day) Monday to Saturday  7:30 – 23:00 Sunday  24 hours per day
Section 33 (c) licenses off consumption sales (Liquor stores, general dealers, supermarkets, boutiques, food stores, whole sales)	07:00 – 20:00 Monday to Sunday
Section 33 (d) licenses for sale of liquor both on and off consumption (Exceptional Circumstances)	<b>On and Off Consumption</b> 7:30 – 24:00 Monday to Thursday 7:30 – 02:00 Friday to Saturday 7:30 – 22:00 Sunday
Section 33 (e) licenses for sale of liquor for both on and off consumption at special events (concerts, festivals, sport and entertainment events)	<b>On and Off Consumption</b> 7:00 – 24:00 Monday to Sunday
Temporary License in terms of section 33 (f) for sale of liquor for both on and off consumption.	The trading hours will be similar to those contained in this schedule, depending on the type of license applied for.