

Langeberg Municipality

Draft By-law

Control of Undertakings that Sell Liquor to the Public, 2015

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

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 premises that sell liquor to the public and which are situated within the jurisdiction of the Langeberg Municipality.

NOW THEREFORE, BE IT ENACTED by the Council of the Langeberg Municipality, as follows:-

INTERPRETATION

Definitions

1. In this By-law, unless the context indicates otherwise –

“**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 a business on premises zoned to provide lodging, meals and other related services for 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, but excludes a hotel;

“hotel” means a business on premises zoned

- to provide lodging, meals and other related services for 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 hotel; and
 - (c) premises which are licensed to sell liquor for consumption on the property,

but excludes an offsite-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

“licensed premises” means premises upon which liquor may be 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, the manager approved in terms of the Act, a person acting for or on behalf of such licence holder or manager, and/or any person employed or in the service of such licence 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;

“Municipality” means the Langeberg Municipality, a municipality established in terms of the Local Government: Municipal Structures Act (Act 117 of 1998), as may be amended, or any political structure, political office bearer or employee of the Municipality acting in terms of delegated authority;

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

“neighborhood business area” means an area predominantly zoned business or erf zoned for business purposes, adjacent to or across the street from residential premises;

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

“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;

“**standard trading times**” means trading days and trading hours as contemplated in section 5 and the Schedule 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 a business on a wine producing farm such as a 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 capable of causing death or inflicting bodily harm , including a firearm;

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

“**zoning**” means a category of land use as defined in the Municipality’s Zoning Scheme;
and “**zoned**” has a corresponding meaning.

Application

2. This By-law is applicable to persons and institutions that sell liquor to the public within the jurisdiction of the Municipality.

General Prohibition

3. No person or institution may sell liquor for consumption on or from any 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 a valid liquor licence that has been issued as contemplated in the Act.

STANDARD TRADING TIMES

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

4. (1) 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 the Schedule.

(2) 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.

(3) A licensee in respect of a **hotel** or **guest accommodation establishment**: -

- (a) 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;
- (b) may not restock such bar facility during the hours the establishment is not allowed to sell liquor; and
- (c) may provide a room service to guests during the hours when the sale of liquor is permitted.

(4) A licensee in respect of a **hotel** or **guest accommodation establishment** may not provide liquor to guests or visitors unless in accordance with subsection (3).

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

5. (1) A **licensee** for the sale of liquor for consumption off the licensed premises may sell liquor from 09:00 to 20:00 on any day of the week.

(2) A **licensee** operating a **tourist facility** may, despite the provisions of subsection (1), sell liquor for consumption off the licensed premises on any day of the week from 07:00 to 24:00.

EXTENDED TRADING TIMES

Application for extended trading days and hours

6. (1) A **licensee** may, upon payment of the required fee, submit a written application to the Municipality to extend the trading days and hours in respect of **licensed premises**.

(2) The Municipality may refuse or approve such application with or without terms and conditions.

(3) 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.

(4) The Municipality must, when considering an application for the extension of trading days and hours, consider all factors which may include: –

- (a) the outcome of community consultation;
- (b) the public interest ;
- (c) the proximity of the licensed premises to a residential area, cultural, religious or educational facility;
- (d) the planning and zoning requirements of the Municipality;
- (e) the validity of a business licence issued in terms of the Businesses Act of 1991 (Act No. 71 of 1991) where applicable;
- (f) the potential impact on the tranquillity and well-being of the community;
- (g) previous suspension, amendment or revocation of extended trading days and hours;

- (h) the validity of the liquor licence;
- (i) reports from the Western Cape Liquor Authority, the South African Police Services and law enforcement section of the Municipality; and
- (j) the applicant's comments in respect of paragraphs (a) to (i) and the steps proposed to mitigate –
 - (i) the risks to the surrounding community;
 - (ii) nuisances on the surrounding community;
 - (iii) the possible benefits of extended liquor trading hours and days on the surrounding community.

Revocation of consent for extended liquor trading days and hours

7. (1) An **authorised official** may with immediate effect, by written notice, revoke a 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.

(2) 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.

(3) The Municipality is not liable for any loss of income suffered by a **licensee** as a result of a revocation of consent.

PREVENTION OF ILLEGAL SALE OF LIQUOR AND SEIZURE OF LIQUOR

Prevention of illegal sale of liquor and seizure of liquor

8. (1) 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 premises** in contravention of: –

- (a) the municipal zoning scheme;
- (b) this By-law; or
- (c) the conditions, imposed by the Western Cape Liquor Authority or the Municipality, in respect of that **licensed premises**;

(2) 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).

OBLIGATIONS OF THE LICENSEE

Display of signage and certificates

9. (1) A **licensee** must, to the satisfaction of the **authorised official**, ensure that following certificates are prominently displayed inside the **licensed premises**:

- (a) the certificate issued by the Municipality stating the zoning or land use in respect of the premises for purposes of this By-law; and
- (b) the certificate in respect of the premises issued in terms of any Fire Safety By-law of the Municipality.

(2) A **licensee** must, to the satisfaction of the **authorised official**, ensure that the following information are prominently displayed on the front door or window of the premises in characters not less than five centimetres in height:

- (a) the liquor licence number under which liquor may be sold; and
- (b) the hours during which liquor may be sold.

Safety and Security

10. (1) A **licensee** must ensure compliance with all applicable legislation.

(2) 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:

- (a) 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
- (b) adequate lighting on the outside of the premises where patrons and

staff access and exit the **licensed premises**.

Liquor premises must be weapon free

11. A **licensee** must ensure that no weapons or sharp objects are permitted on premises where liquor may be consumed or sold.

Nuisances

12. (1) 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**.

(2) A **licensee** must at all times keep the **licensed premises** clean and free from pollution and litter.

(3) A **licensee** must at all times keep the **licensed premises** and public areas surrounding:

- (a) free of litter, pollution and liquor containers; and
- (b) hygienic and free of noxious odours.

(4) The **licensee** must at all times prevent loitering by patrons outside the **liquor premises**.

(5) A **licensee** must ensure that all sales of liquor are confined to the **licensed premises**.

(6) A **licensee** must in respect of premises where liquor may only be consumed off-site, ensure that no liquor is consumed on the premises or in public in the vicinity of the premises.

(7) A **licensee** must in respect of premises where liquor may be consumed on the premises, ensure that no liquor is taken from the premises, except in the case of a **tourist facility**.

DELEGATIONS

Delegations

13. 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.

INDEMNITY

Indemnity

14. The Municipality and any of its 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.

OFFENCES AND PENALTIES

Offences and Penalties

13. Any person who contravenes or fails to comply with a –

- (a) provision of this By-law;
- (b) condition or instruction issued in terms of this By-law; or
- (c) 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.

REPEAL OF PREVIOUS BY-LAWS

Repeal

14. The Langeberg Municipality Liquor Trading Days and Hours By-law dated 25 January 2013, promulgated in Provincial Gazette No 7082, is hereby repealed.

SHORT TITLE AND COMMENCEMENT

Short title

16. (1) This By-law is called the Langeberg Municipality: Control of Undertakings that Sell Liquor to the Public By-law, 2015 and will come in operation on publication in the Provincial Gazette.

(2) Trading hours applicable to a liquor licence issued before the commencement of this By-law, shall lapse and will be replaced on commencement of the provisions of this By-law.

SCHEDULE

TRADING HOURS FOR SELLING LIQUOR FOR CONSUMPTION ON LICENSED PREMISES

On-site consumption liquor licences in neighbourhood business areas

Sunday to Thursday	07:00 to 22:00
Friday and Saturday	07:00 to 24:00

On-site consumption liquor licences, including hotels and night clubs in other areas

Sunday to Saturday	07:00 to 02:00 the next day
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Special events or temporary licenced premises will comply with the hours set in Section 5 for off-site consumption premises, and with the Schedule for on-site consumption premises.



NOTICE NO : MN NO. 61/2015

PROPOSED ADOPTION OF BY-LAWS

Notice is hereby given in terms of Section 12(3)(b) of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000) that the Langeberg Municipality intends to adopt the proposed Langeberg Municipal Control of Undertakings that sell liquor to the Public By-Law.

Full particulars of the proposed Municipal By-Law are available for inspection during normal office hours at all Municipal offices and libraries.

The document is also available on the Municipal website <http://www.langeberg.gov.za/municipal-documents/municipality-by-laws>

Comments, objections and representations in connection with proposed by-laws, if any, must be lodged with the undersigned not later than 25 September 2015.

Any person needing assistance in this regard may, during normal office hours, approach the Town Planning Department, 3 Piet Retief Street, Montagu (Mr Kobus Brand – 023 614 8000) for assistance with the lodging of comments, objections and representations, if any, in respect of the proposed by-laws.

NB Please note that this standard draft by-law must still be translated into Afrikaans.

SA MOKWENI

MUNICIPAL MANAGER

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KENNISGEWING NR : MK NR. 61/2015

VOORGESTELDE AANVAARDING VAN VERORDENINGE

Kennis geskied hiermee ingevolge Artikel 12(3)(b) van die Plaaslike Regering : Munisipale Stelselwet, 2000 (Wet Nr 32 van 2000), dat die Langeberg Munisipaliteit van voorneme is om die voorgestelde Langeberg Munisipale Beheer oor Ondernemings wat alkohol aan publiek verkoop Verordening, te aanvaar.

Volledige besonderhede aangaande die voorgestelde Verordening is gedurende normale kantoorure beskikbaar by alle Munisipale kantore asook biblioteke

Hierdie dokument is ook beskikbaar op die Munisipale webblad <http://www.langeberg.gov.za/municipal-documents/municipality-by-laws>

Kommentare, besware en voorleggings met betrekking tot die voorgestelde Verordeninge, indien enige, moet deur die ondergetekende ontvang word voor of op 25 September 2015.

Persone wat bystand in dié verband benodig, kan gedurende gewone kantoor-ure, die Stadsbeplanning Departement, Piet Retiefstraat 3, Montagu, (Mnr Kobus Brand – 023 614 8000) nader vir hulp indien hulle enige kommentare, besware en voorleggings met betrekking tot die aanvaarding van die voorgestelde verordeninge wil indien.

NB Neem asseblief kennis dat hierdie standaard konsep verordening nog in Afrikaans vertaal moet word.

SA MOKWENI

MUNISIPALE BESTUURDER

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