

Cape Agulhas Municipality

LIQUOR TRADING HOURS BY-LAW

To provide for the days on which and the hours during which the holder of a liquor licence may sell liquor

Preamble

Whereas section 156(1) of the Constitution provides that municipalities have executive authority in respect of, and has the right to administer the local government matter: 'Control of undertakings that sell liquor to the public';

Whereas section 156(1) of the Constitution confers on a municipality the power to make and administer by-laws for the effective administration of the matters which it has the right to administer;

Whereas the Provincial Government of the Western Cape has legislative competence in respect of liquor licenses;

And Whereas the Western Cape Liquor Act 2007 acknowledges that a municipality may impose trading hours in a by-law

BE IT ENACTED by the Cape Agulhas Municipality, as follows -

TABLE OF CONTENTS

1. Definitions
2. Application of By-laws
3. Trading hours
4. Departure from trading hours
5. Offence
6. Penalties
7. Transitional provisions
8. Short Title

1. DEFINITIONS

In this by-law unless the context otherwise indicates:

“Act” means the Western Cape Liquor Act, 2008 (Act No 4 of 2008);

“licensed premises” means the premises upon which liquor may be sold, consumed or stored in terms of a licence under the Act;

“licensed business” means the business that may be conducted upon licensed premises as authorised by the Liquor Authority;

“licensee” means the person to whom a liquor license has been issued in terms of the Act;

“Liquor Authority” means the Western Cape Liquor Authority established by section 2(1) of the Act;

“municipality” means the Cape Agulhas Municipality;

“trading days” means the days on which liquor may be sold during trading hours;

“trading hours” means the hours during which liquor may be sold on trading days;

2. APPLICATION OF BY-LAW

This By-law applies to licensed businesses selling liquor for consumption within the area of jurisdiction of the Municipality:

- (a) on the licensed premises;
- (b) off the licensed premises; and
- (c) on and off the licensed premises.

3. TRADING HOURS

Consumption on the licensed premises

- (1) A licensee of premises upon which liquor may be sold for consumption on the licensed premises may sell liquor between 10:00 on any day and 02:00 on the following day.

Consumption off the licensed premises

- (2) A licensee of premises upon which liquor may be sold for consumption off the licensed premises may sell liquor on any day between 08:00 and 20:00.

Consumption on and off the licensed premises

- (3) A licensee of premises upon which liquor may be sold for consumption on and off the licensed premises may sell liquor -
- (a) for consumption on the licensed premises between 10:00 on any day and 02:00 on the following day; and
 - (b) for consumption off the licensed premises on any day between 08:00 and 20:00.

4. DEPARTURE FROM TRADING HOURS

The Council may, in the interests of the community and on application by a licensee of premises upon which liquor may be sold for consumption on the licensed premises, grant consent to that licensee to sell liquor between other times than those determined by section 3, but which shall not lie outside

- (a) a time earlier than 9:00; and
- (b) a time later than 02:00.

5. OFFENCE

Subject to section 7, a licensee who sells, supplies or allows the consumption of liquor on the licensed premises at a time when the sale of liquor is not permitted by the licence, is guilty of an offence.

6. PENALTIES

Any person who commits an offence referred to in section 5 is upon conviction liable to a fine or imprisonment, or to both a fine and imprisonment.

7. TRANSITIONAL PROVISIONS

The trading hours in respect of any licence for premises upon which liquor may be sold for consumption either on or off the licensed premises, issued prior to the commencement of this By-law will continue to apply until such license has lapsed as contemplated in section 62(2) of the Act.

8. SHORT TITLE

This by-law is called the Cape Agulhas Liquor Trading Hours By-law and comes into operation on the date of the publication in the Provincial Gazette.

KAAP AGULHAS MUNISIPALITEIT

Drank handelsure verordening

Om voorsiening te maak vir die dae en ure waarop in drank handel gedryf mag word

AANHEF

Nademaal artikel 156(1) van die Grondwet voorsiening maak dat munisipaliteite uitvoerende gesag het met betrekking tot, en die reg het om die volgende regeringsfunksie te administreer: Beheer van onderneming wat drank aan die publiek verkoop;

Nademaal artikel 156(1) van die Grondwet munisipaliteite die bevoegdheid verleen om verordeninge te maak en administreer ten einde effektiewe administrasie uit te oefen rakende die aangeleenthede wat hul die reg het om te administreer;

Nademaal die Provinsiale Regering van die Wes-Kaap oor die wetgewende bevoegdheid beskik ten opsigte van drank lisensies;

En Nademaal die Wes Kaapse Drank Wet, 2007 erken dat 'n munisipaliteit drank handelsure mag bepaal deur middel van 'n verordening

WORD AS VOLG deur Kaap Agulhas Munisipaliteit gepromulgeer:

INDELING VAN ARTIKELS

1. Woordbepaling
2. Toepassing van verordening
3. Handelsure
4. Afwyking van handelsure
5. Strafbepaling
6. Oorgangsmatreëls
7. Kort titel en inwerkingtreding

1. WOORDBEPALING

Dat die woordomsrywings in hierdie verordening, tensy anders aangedui as volg sal wees:

Wet beteken die Wes Kaapse Drankwet, 2008 (Wet No 4 van 2008);

“gelisensieërde perseel” beteken die perseel waarop drank verkoop, verbruik of gestoor mag word in terme van ‘n lisensie toegeken in terme van die Wet;

“gelisensieërde besigheid” beteken die besigheid wat bedryf mag word op die gelisensieërde perseel soos gemagtig deur die Drankraad;

“Lisensiehouer” beteken die persoon aan wie ‘n drank lisensie uitgereik is in terme van die Wet;

“Drank Owerheid” beteken die Wes Kaapse Drank Owerheid ingestel in terme van artikel 2(1) van die Wet;

“handelsdae” beteken die dae waarop drank verkoop mag word tydens handelsure;

“handelsure” beteken die ure waaarop drank verkoop mag word op handelsdae;

“munisipaliteit” beteken Kaap Agulhas Munisipaliteit.

2. TOEPASSING VAN VERORDENING

Hierdie verordening is van toepassing op gelisensieërde besighede wat drank verkoop vir verbruik:

- (a) op die gelisensieërde perseel;
- (b) van die gelisensieërde perseel; en
- (c) op en van die gelisensieërde perseel.

3. HANDELSURE

Verbruik op die gelisensieërde perseel

- (1) ‘n Lisensiehouer van ‘n perseel waarop drank verkoop mag word vir verbruik op ‘n gelisensieërde perseel, mag op enige dag drank verkoop tussen 10:00 en 02:00 die volgende dag.

Verbruik van die gelisensieërde perseel

- (2) 'n Lisensiehouer van 'n perseel waarop drank verkoop mag word vir gebruik van die gelisensieërde perseel mag op enige dag drank verkoop tussen 08:00 en 20:00.

Verbruik op en van die gelisensieërde perseel

- (3) 'n Lisensiehouer van 'n perseel waarop drank verkoop mag word vir verbruik op en van die gelisensieërde perseel mag drank verkoop –
- (a) vir verbruik op die gelisensieërde perseel op alle dae tussen 10:00 en 02:00 die daaropvolgende dag; en
 - (b) vir verbruik van die gelisensieërde perseel op enige dag tussen 08:00 en 20:00.

4. AFWYKING VAN HANDELSURE

Die Raad mag, in belang van die gemeenskap en op versoek van 'n lisensiehouer van 'n perseel waarop drank verkoop mag word vir verbruik op die gelisensieërde perseel, goedkeuring verleen dat die lisensiehouer drank mag verkoop tussen die tye, anders as die omskryf in artikel 4, maar wat nie buite:

- (a) 'n tyd vroeër as 09:00; en
- (b) 'n tyd later as 02:00

sal wees nie.

5. STRAFBEPALING

Onderworpe aan artikel 6 is 'n lisensiehouer wat drank verkoop, voorsien of die verbruik daarvan toelaat op 'n gelisensieërde perseel op 'n tyd wanneer die verkope van drank nie deur die lisensie toegelaat word nie, skuldig aan 'n misdryf en kan by skuldigebevinding 'n boete of tronkstraf, of beide opgelê word.

6. OORBRUGGINGSMAATREËLS

Die handelsure van enige lisensie vir 'n perseel waarop drank verkoop mag word vir verbruik op of van die gelisensieërde perseel, wat voor die inwerkingtreding van hierdie verordening vasgestel is, sal van toepassing wees totdat die lisensie soos omvat in artikel 62(2) van die Wet, verval.

7. KORT TITEL EN INWERKINGTREDING

Hierdie verordening word die Kaap Agulhas Munisipaliteit Verordening insake drank handelsure genoem en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.