

GEORGE MUNICIPALITY

BY-LAW ON LIQUOR TRADING DAYS AND HOURS

To provide for the days on which and the hours during which the holder of a liquor license may sell liquor and for related matters.

Preamble

WHEREAS a municipality has competence in terms of Section 156(1) (a) read with Part B of Schedule 5 to the Constitution of the Republic of South Africa, 1996, to control undertakings that sell liquor to the public;

WHEREAS a municipality may, in terms of section 156(2) of the Constitution, make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS the Municipality can, in terms of the Western Cape Liquor Act, 4 of 2008, as amended by the Western Cape Liquor Amendment Act, 10 of 2010, which came into effect on 1 April 2012, set trading days and hours for all licensed premises situated within George district that sell liquor to the public;

NOW THEREFORE, the Council of the George Municipality, enacts as follows:-

Definitions

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

“accommodation establishment” means and consist of the one or more of the following types of accommodation undertakings licensed to sell liquor in terms of the Act, to sell liquor for consumption on the licensed premises of such undertaking-

(i) **“backpacker accommodation”** means residential accommodation, which provides budget accommodation to transient guests whose primary needs are for sleeping facilities in a residential house, flat or other suitable building providing only bed and pillow and a communal kitchen for self- help;

(ii) **“bed and breakfast”** means a dwelling house in which the occupant of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere, provided that:

(a) the dominant use of the dwelling house concerned shall remain for the living accommodation of a single family, and

- (b) the property complies with the provisions pertaining to a bed and breakfast establishment, as stipulated in the scheme regulations or relevant approved policy of the Municipality;
- (iii) **“guest house”** means a dwelling house which is used for the purpose of letting individual rooms for residential transient accommodation, with or without meals, and which exceeds the restrictions of a bed and breakfast establishment, provided that:
 - (a) the property is retained in a form which can easily be re-used by a family as a single dwelling house, and
 - (b) all amenities and provision of meals shall be for the sole benefit of bona fide lodgers;
- (iv) **“holiday accommodation”** means a harmoniously designed and built development, used for holiday or recreational purposes, whether in private or public ownership, which:
 - (a) consists of a single enterprise in which accommodation is supplied by means of short term rental or time sharing only;
 - (b) may include the provision of a camping site and mobile home park;
 - (c) may also include a restaurant and indoor and outdoor recreation facilities; but
 - (d) does not include a hotel;
- (v) **“holiday housing”** means dwelling units, mobile homes or camp sites that are harmoniously designed and built, for holiday or recreational purposes, and which may be separately alienated by means of sectional title division, the selling of block shares or the subdivision of property, subject to establishment of a governing body as required in terms of the applicable legislation;

“bottle store” means an establishment where the dominant use is the retail sale of alcoholic beverages for consumption off the property, and includes an off sales facility which is under the same management as a licensed hotel;

“Council” means the Municipal Council of the Municipality;

“hotel” means a property used as a temporary residence for transient guests, where lodging and meals are provided, and may include-

- (i) a restaurant or restaurants forming part of the hotel;
- (ii) conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as a hotel; and
- (iii) premises which are licensed to sell liquor for consumption on the property;

but does not include an accommodation establishment, off-consumption facility, a dwelling house or dwelling unit.

"house tavern" means an enterprise, conducted from a dwelling house or outbuilding, by the occupant of the dwelling house concerned, for the sale of alcoholic beverages and may include consumption of alcoholic beverages by customers on the property, provided that the dominant use of the dwelling house concerned shall remain for the living accommodation of a single family (house tavern will not be considered a place of entertainment);

"liquor" means liquor as defined in section 1 of the Act;

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

"licensee" means the person to whom a liquor licence has been issued in terms of the Act and includes any licensed undertaking;

"Municipality" means the George Municipality duly established in terms of section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this bylaw by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"place of entertainment" means a place used predominantly for commercial entertainment which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis, which includes a cinema, theatre, amusement park, dance hall, gymnasium, nightclub, sports club, pool bar, sportsbar, discotheque, jazz club, pub, grub and adult entertainment, (excluding house taverns);

"restaurant" means a commercial establishment where meals and liquid refreshments are prepared and/or served to paying customers for consumption on the property, and may include licensed provision of alcoholic beverages for consumption on the property;

"room service facility" includes a mini bar or self-help facility for the consumption of liquor situated in guest rooms and a call-up service for registered guests;

"the Act" means the Western Cape Liquor Act, 2008 (Act No. 4 of 2008), as amended; by the Western Cape Liquor Amendment Act 10 of 2010.

"undertaking" includes any premises, business, outlet or land use activity from which liquor is sold; and

“zoning scheme” means the zoning scheme applicable to the area and in force within the area of jurisdiction of the George Municipality; and

- (2) (a) In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act, has that meaning.
- (b) This By-law applies to all licensee`s who sell liquor in terms of the Act or any other applicable legislation within the area of jurisdiction of the George Municipality.

Administration and enforcement

- (3) (a) The Council with the exclusion of sections 2 and 3, hereby delegates the responsibility for the administration and enforcement of this By-law to the Director: Community Services.
- (b) The Director: Community Services may delegate in writing any power or duty granted to him in terms of this By-law to an official in his Directorate.

Trading days and hours for consumption of liquor on licensed premises

- 2. (1) A licensee may sell liquor for consumption **on** the licensed premises of such undertakings on the following days and hours-
 - (a) on any day of the week from Monday to Sunday; and
 - (b) during the hours of trade as set out in the Schedule; or
 - (c) any such days or hours as the Council may determine, as set out in the Schedule.
- (2) Despite the provisions of sub-section (1), a hotel and an accommodation establishment licensed to sell liquor may offer a room service facility.

Trading days and hours for consumption of liquor off licensed premises

- 3. A licensee may sell liquor for consumption off the licensed premises of such undertakings on the following days and hours-
 - (a) on any day of the week with the exception of Sundays and Religious Public Holidays (Christmas and Good Friday), unless otherwise indicated in the Schedule; and
 - (b) during the hours of trade as set out in the Schedule; or
 - (c) on any such days or hours as the Council may determine, as set out in the Schedule.

4. Application for the extension of trading hours (except for trading off the premises on Sundays and Religious Public Holidays)

- (1) Notwithstanding the trading hours determined in the schedule (except for trading off the premises on Sundays and Religious Public Holidays) a licensee may, upon payment of the required fee, submit an application to the Council for an extension of the hours during which they may trade.
- (2) Council, in considering the application referred to in subsection (1) shall take into account the following factors:
 - (a) outcome of community consultation;
 - (b) impact on the environment;
 - (c) comment from the ward councillor;
 - (d) any other relevant factors.

Penalties

5. (1) Any person or licensee-

- (a) who interferes, obstructs, hampers or handicaps or furnishes false or misleading information to any official in the execution of any power or the performance of any duty or function in terms of any provisions of this By-law; or
- (b) who contravenes or fails to comply with a provision of this By-law or Schedule, a notice issued or a condition imposed under this By-law,

shall be guilty of an offence and liable upon conviction to a fine or imprisonment, or both such fine and such imprisonment.

6. Appeal

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

7. Repeal of By-laws

The George Municipality By-law on Liquor Trading Days and Hours promulgated in Provincial Gazette 7107 dated 8 March 2013, is hereby repealed

Short title

8. This By-law is called the George Municipality By-law on Liquor trading days and hours, and shall come into operation on the date of publication thereof in the Provincial Gazette.

33.2(a) **Special events:** Sale of liquor for consumption both **on** and **off** premises.

As approved by the Presiding Officer of the Liquor Licensing Tribunal. The Liquor Officer may consult with the Municipality when considering the recommendation for approval of these licenses.

33.2 (b) **Temporary license:** Sale of liquor for consumption both **on** and **off** premises.

As approved by the Presiding Officer of the Liquor Licensing Tribunal. The Liquor Officer may consult with the Municipality when considering the recommendation for approval of these licenses.

