



**BY-LAW RELATING TO LIQUOR TRADING IN
KING SABATA DALINDYEBO LOCAL
MUNICIPALITY**

Adopted by Council on the: 30 August 2023

BY-LAW RELATING TO LIQUOR TRADING**PREAMBLE**

WHEREAS a municipality, in terms of Section 156(1)(a) and (b) of the Constitution of the Republic of South Africa, 1996, has the executive authority in respect of, and right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5, and any other matters assigned to it by national or provincial legislation.

WHEREAS a municipality may, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS it is the intention of the King Sabata Dalindyebo Local Municipality to regulate and control establishments and undertakings that sell liquor to the public within the jurisdiction of the King Sabata Dalindyebo Local Municipality;

AND NOW THEREFORE, BE IT ENACTED by the Council of the King Sabata Dalindyebo Local Municipality, as follows:

12. Liquor premises must be weapon free

13. Nuisances

14. Offences & penalties

15. Appeal

16. Repeal

17. Short title & commencement

"Exceptional circumstances" means any circumstances which is not made provision for in this By-Law.

"Guest accommodation establishment" means premises uses as temporary residential accommodation for, and includes the provision of meals to, transient guests for compensation and includes a backpacker's lodge, a bed and-breakfast establishment, guest house and guest farm or lodge, as well as facilities for business meeting, conferences, events or training sessions of resident guests, but exclude a hotel;

"Hotel" means a property used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes:

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

"Industrial zones" means an area predominantly zoned industrial that accommodates all forms of industry, but do not include noxious or hazardous trade risk activities;

"Licensee" means any person who is licensed to sell liquor in terms of the Act and includes any licensed premises, business, outlet or land use activity from which liquor is sold;

"Liquor" means liquor as defined by the Act;

"Liquor License Tribunal" means the Liquor Tribunal as defined in the Act;

"rural business or neighbourhood business area" means an area predominantly zoned local business or mixed use or any other equivalent zoning, with the purposes to accommodate low density commercial and mixed use development serving local needs of convenience goods, personal service or small scale business nature or serve as an interface between general business, industrial and adjacent residential area;

"Municipality" means the King Sabata Dalindyebo Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, No 117 of 1998

“Place of recreation” means a sport field, amusement park or similar public place intended for communal recreation, mainly in the open air;

“Registered premises” means premises on or from which a licensee conduct his or her business;

“Residential zoned area” means an area predominantly zoned Residential 1, 2 or 3 or any other equivalent zoning, with the purpose of accommodate predominantly single-families in low and medium density neighbourhoods, as well as higher densities living accommodation and which include controlled opportunities for home employment, additional dwellings and low intensity mixed use development;

“Responsible Manager” means a manager that will take overall responsibility for the processing of liquor license application and appeals;

“Restaurant”- Any premises where the sale and supply of food to the public for consumption on the premises is the principal purpose of business which may include a bar/pub (where the supply of liquor is for on-consumption only);

“Room service facility” means a mini bar or self-help facility or the consumption of liquor in guest rooms and call-up service for resident guests;

“Sell” includes supply, exchange, offer for sale, and display for the purpose of sale or authorize, direct, or allow a sale;

“Selling hours” means the time during which a licensee is allowed to sell liquor in terms of the Schedule;

“small holding or rural area” means an area predominantly zoned Agriculture or any other equivalent zoning, with the purpose to accommodate smaller rural properties that may be used for agricultural purposes, but may also be used primarily as places of residence in a more country or rural setting;

“Sparkling wine” means an effervescent wine resulting from the fermentation of grapes, whether by natural or artificial processes, and includes champagne;

“Special event” – a fundraising event (organised from time to time) in aid of an educational / welfare organisation, any exhibition, sports meeting, cultural gathering or artistic performance;

"Zoning scheme" means the zoning scheme applicable to the area in force with the area of jurisdiction of the Municipality.

1.2 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 read together with the applicable Land Use Scheme Regulations and the By-Law relating to streets, public places and the Prevention and suppression of nuisances.

2. Purpose of By-law

2.1 To provide for the regulation and control of establishments and undertakings that sell liquor to the public in order to ensure legal liquor trading, a safe and healthy environment within the area of jurisdiction of the Municipality;

2.2 To provide for days and hours of trade in liquor by licensed establishments and undertakings that sell liquor to the public; and

2.3 To provide for matters related thereto.

3. Application of By-law

3.1 This By-law applies to all persons who sell liquor to the public within the area of jurisdiction of the Municipality, and refers to:

(a) Those selling liquor to the public of consumption on the licensed premises;

(b) Those selling liquor to the public of consumption off the licensed premises; and

(c) Those selling liquor to the public of consumption on and off the licensed premises.

CHAPTER II STANDARD TRADING HOURS

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

5.1 A licensee may sell liquor for consumption off the licensed premises on the following days and hours:

(a) on any day of the week with the exception of Sundays, Good Friday, Christmas day provided such exception does not apply to a winery and/or tourist facility consisting of a wine and/or liquor shop, or any other facility related to the wine industry; and

(b) during the hours of trade as set out in the schedule

5.2 No undertaking may sell liquor in excess of 150 litres in one day to any person who is not in possession of a valid liquor license in terms of the Act and a (an approval for the specified business) business permit in terms of the Municipal by-laws.

5.3 No licensee may sell liquor for consumption off the licensed premises outside the trading days set out in this bylaw in 5.1 (a) and outside the hours of trade as set out in the schedule.

6. Trading days and hours for sale and consumption on and off the licensed premises

6.1 A licensee of premises upon which liquor may be sold for consumption on and off the licensed premises may sell liquor in terms of the trading hours prescribed in subsection (4) and (5).

6.2 No licensee may sell liquor for consumption on and off the licensed premises outside the hours of trade set out in the schedule.

7. Suspension, Amendment and Revocation of Standard Liquor Trading Times

7.1 An authorized official may immediately suspend standard liquor trading for a period of not more than 7 working days, upon delivery of a written notice to the licensee or person in charge of the licensed premises.

7.2 The written notice as contemplated in subsection (7.1), must specify the reasons and the timeframes in which such suspension of standard liquor trading days and hours will be in effect.

(ii) 20000 for off-consumption.

- 8.4 No rights accrue to any person who has submitted an application for extension of trading days and hours before the proof of written approval is received from the Municipality by such person.
- 8.5 The Municipality may, upon written notice to the applicant, impose conditions for trade during extended days and hours.
- 8.6 The Municipality must, before approving an application for the extension of trading days and hours, consider factors which may include, *inter alia* –
- (a) outcome of community consultation and whether it is in the public interest to approve and grant an extension of trading days or hours;
 - (b) the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities;
 - (d) the planning and zoning requirements of the Municipality;
 - (e) where applicable, the validity of a business license issued in terms of the Businesses Act of 1991 (Act No. 71 of 1991);
 - (d) the potential impact on the surrounding environment;
 - (e) previous suspension, amendment or revocation of extended trading days and hours;
 - (f) the validity of the Liquor license;
 - (f) Reports from the Eastern Cape Liquor Authority; and
 - (i) A motivation from the applicant dealing with the facts mentioned above and the impact of –
 - (a) the risks to and nuisances on the surrounding community;
 - (b) mitigation measures to assist the control of risks and nuisances; and

- 10.1 An authorized official may prevent or seize the illegal sale of liquor –
- (a) where liquor is sold from a premises where the sale of liquor is not permitted in terms of the Municipal zoning scheme; or
 - (b) where liquor is sold in contravention of this By-law; or
 - (c) where liquor is sold outside the hours and days as specified by this By-law or the conditions, imposed by the Authority or the Municipality, in respect of that business; and
 - (d) cause the temporary closure of the premises and / or seize any liquor on the premises in accordance with the Standard Operating Procedure on Impoundment of the Municipality and the Search and Seizure provisions as contemplated in the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- 10.2 Where the sale of liquor is prevented and liquor is seized as contemplated in subsection (10.1), the Municipality may recover any costs incurred by the Municipality from the licensee.

11. Display of signage and other obligations of the licensee

- 11.1 The licensee or person in charge must ensure that inside the business, to the satisfaction of the Municipality, a certificate issued by the Municipality stating the zoning or land use for purposes of this By-law and stating the approved hours of trade; are prominently displayed.
- 11.2 The licensee or person in charge must ensure that on the outside of the business, to the satisfaction of the Municipality, the following are prominently displayed on the front door or window of the premises in characters not less than five centimeters in height:
- (i) the hours of trade of the business as approved by the Municipality; and
 - (ii) The liquor license number under which the business trade.

12. Safety and Security

- 12.1 Licensees must ensure that the licensed premises meets and complies with all environmental, planning, safety laws and that the conditions imposed by the Municipality are adhered to.

14.4 There shall be no loitering by patrons outside the liquor premises and all sales and consumption of liquor shall be confined to the liquor premises.

15. SPECIAL/MANDATORY CONDITIONS

The licensee must at all material times ensure that the following special/mandatory conditions are adhered to, with no limitations –

- (a) Ablution facilities for both females and males
- (b) No selling of alcohol to underage pupils
- (c) Availability of security at all entrances (main gate and doors)

16. Offences and Penalties

16.1 Any person who contravenes or fails to comply with any –

- (a) provision of this By-law;
- (b) condition or instruction served in connection with this By-law;
or
- (c) written notice from an authorized official,

is guilty of an offence and is liable to a fine not exceeding the amount R50 000, 00 or imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.

16.2 Any person who commits a continuing offence shall be guilty of an offence for each day during which that person fails to comply with this By-law.

16.3 A court convicting a person of an offence under this By-law may impose alternative sentencing in place of a fine or imprisonment.

17. Right of Appeal

17.1 Any licensee or objector to an application for extended trading hours whose rights have been affected by a final decision taken by Council or an authorized official of the Municipality may appeal against that final decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000):

SCHEDULE

Trading hours for selling liquor on Maximum permitted trading licensed premises Location category & hours licensed premises type

1. Residential area

Guest accommodation establishment	10:00 – 21:00
Business premises	10:00 – 21:00
Place of entertainment	10:00 – 23:00
Sports and community club excluding special events requiring temporary licences	
Hotel	10:00 – 23:00
Casino	10:00 – 22:00

2. Local business or neighbourhood business area including mixed use areas

Guest accommodation establishment	10:00 – 21:00
Business premises	10:00 – 21:00
Place of entertainment	10:00 – 21:00
Sports and community club excluding special events requiring temporary licences	10:00 – 21:00
Hotel	10:00 – 23:00
Casino	10:00 – 23:00

3. General business area

Guest accommodation establishment	10:00 – 21:00
Business premises	
Place of entertainment	10:00 – 21:00
Sports and community club excluding special events requiring temporary licences	
Hotel	10:00 – 23:00
Casino	10:00 – 22:00

4. Industrial area

Business premises	10:00 – 21:00
Place of entertainment	10:00 – 21:00

**OFFENCES OR PENALTIES FOR CONTRAVENTION OF LIQUOR TRADING
BYLAW**

SECTION	DESCRIPTION OF TRANSGRESSION	FINE
4.6	(a) No Licensee may sell liquor for consumption on the licensed premises outside the hours of trade as set out in the schedule.	R1000/Arrest
5.3	(b) No licensee may sell liquor for consumption off the licensed premises outside the trading days set out in this bylaw in 5.1 (a) and outside the hours of trade as set out in the schedule.	
6.2	(c) No licensee may sell liquor for consumption on and off the licensed premises outside the hours of trade set out in the schedule.	
7.	(d) No person may continue selling liquor to the public during the period in which the standard days and hours of trading in liquor have been suspended, amended, or revoked	Arrest
10.1 (a)(b)(c)	(e) No liquor may be sold from premises where the sale of liquor is not permitted in terms of the Municipal zoning scheme.	R5000/Seizure
	(f) No liquor may be sold in contravention with this By-law.	



OFFICE OF THE CHIEF MAGISTRATE
MTHATHA LOWER COURT

OFFENCES OR PENALTIES FOR CONTRAVENTION OF LIQUOR TRADING
BYLAW

SECTION	DESCRIPTION OF TRANSGRESSION	FINE
4.6 5.3 6.2	(a) No licensee may sell liquor for consumption on the licensed premises outside the hours of trade as set out on the schedule. (b) No licensee may sell liquor for consumption off the licensed premises outside the trading days set out in this bylaw in 5.1 (a) and outside the hours of trade as set out in the schedule. (c) No licensee may sell liquor for consumption on and off the licensed premises outside the hours of trade set out in the schedule.	R 1000/Arrest
7.	d) No person may continue selling liquor to the public during the period in which the standard days and hours of trading in liquor have been suspended, amended or revoked.	Arrest
10.1 (a)(b)(c)	(e) No liquor may be sold from premises where the sale of liquor is not permitted under the Municipal zoning scheme. (f) No liquor may be sold in contravention with this By-law (g) No liquor may be sold outside the hours and days as specified by the by-law or the condition imposed by the authority or the Municipality in respect to the sale of liquor	R 5000/Seizure
11.1 and 11.2 (i)(ii)	(h) Failure to display licence and trading hours inside and outside premises.	R1000
14.1	(a) Failure to take all reasonable steps to ensure that noise from the liquor premises remain within the walls of such liquor premises at all times (b) Failure to take reasonable steps to ensure that liquor premises and surrounding area is kept clean free from land pollution and litter.	R1000
15(a)(b)(c)	(c) Failure to comply with special / mandatory conditions	R1000

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