

MBOMBELA LOCAL MUNICIPALITY BY-LAW ON LIQUOR TRADING

To provide for the control of undertakings selling liquor to the public within the Mbombela Local Authority in order to ensure a safe and healthy environment.

Preamble

WHEREAS a Municipality has the executive authority, in terms of Section 156(1)(a) read with Part B of Schedule 5 of 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 a Municipality may, in terms of Section 11(3)(m) read with sections 12 and 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), pass by-laws;

WHEREAS it is the intention of the Municipality to set trading days and hours subject to certain conditions for all licensed premises, business or outlets situated within the Mbombela municipality that sell liquor to the public, in terms of Section 35(2)(b) of the Mpumalanga Liquor Licencing Act, 2006 (Act 5 of 2006);

NOW THEREFORE, BE IT ENACTED as follows:

1. Definitions

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

“**Act**” Means the Mpumalanga Liquor Licencing Act, 2006 (Act 5 of 2006);

“**Agricultural areas**” means an area predominately zoned agriculture or any other equivalent zoning, with the purpose to promote and protect agricultural activity on a farm, where limited provision is made for non-agricultural uses;

“**Authority**” means the Mpumalanga Liquor Authority established by Section 4 of the Act;

“**Business areas**” means an area predominantly zoned Business 1, 2 of 3 in terms of the Land Use Scheme, with the purpose to promote economic activity in a business district and development corridor, and includes a wide range of land uses such as business, residential and community uses;

“**Industrial Area**” means an area predominantly zoned industrial that accommodate 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 in Section 1 of the Act;

“**Municipality**” means the Mbombela Local Municipality established by the Establish Notice published in Provincial Gazette;

“**micro-manufacturer**” – means micro manufacturer as defined in terms of the Act;

“**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 include vehicles designed or adapted to transport passengers;

“official” means any person authorized by the Municipality to perform the function of an officer under this By-law and includes any member of the South African Police Services and any person appointed in terms of the Act;

“person” means a natural person or a juristic person which may include –

(a) a licensee or any person in charge or managing the licensed premises for the purposes of the sale of liquor;

(b) any body of persons corporate or unincorporated,

(c) any company incorporated or registered as such under any law or any village management board, or like authority.

“Place of amusement” means land used or a building designed or used for the sale of alcohol and/or food for consumption on the premises and may include live entertainment or entertainment generated by way of mechanical, electronic or electrical contrivances, instruments, apparatus or devices which are designed or used for the purpose of the playing of any game or for the purpose of recreation or amusement. A place of amusement includes a beer hall, public hall, theatre, cinema, drive-inn movie, music-hall, concert hall, sports bar, ladies bar, cocktail bar, billiard saloon, sports stadium, skating ring, dance hall, night club and an amusement park or any other recreational purpose with or without a view to profit. A Place of amusement does not include adult entertainment.

“premises” includes any place, land, building or conveyance or any part thereof which is registered or which is seeking to be registered to trade in liquor;

“Residential area” means an area predominantly zoned Residential 1, 2 or 3 or any other equivalent zoning, with the purpose of accommodating predominantly single-families which include controlled opportunities for home employment, additional dwellings and low intensity mixed use development;

“sell” means sell as defined in terms of the Act;

“tariffs” is an amount annually determined by the Municipality in terms of Section 75A of the Municipal Systems Act, Act 32 of 2000

“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 during trading days;

“undertaking” means a business involved with the sale of liquor to the public;

“zoned” means zoned and zoning as the case may be in terms of the applicable zoning scheme;

(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

The Municipality aims to regulate the hours and days during which liquor may be sold and matters related thereto.

3. Application for comments from the Municipality

(1) An application for comments from the Municipality in terms of section 35(2)(b) of the Act shall be accompanied by;

(a) an application fee of R1500 or as subsequently approved in the municipality’s yearly tariff schedule;

(b) a plan indicating the locality of the application premises in relation to educational institutions and places of worship situated within a radius of 300 metres from the application premises. The 300 meter radius must be measured from the centre of the main customer entrance door of the application premises;

- (c) comments on the application from the principal and the governing body of any educational institution, and the leadership of any place of worship, situated within a radius of 300 metres from the application premises. The educational institution and/or place of worship shall be deemed to be within the 300 meter radius if any part of the property on which the educational institution and or place of worship is situated falls within the 300 meter radius as measured in (b).
- (2) Comments may in terms of Section 35 of the Act contain terms and conditions as deemed necessary by the Municipality.
- (3) All comments, terms and conditions provided by the Municipality in support of an application shall only be valid for the period the licence is granted, and be subject thereto that any renewal application must be resubmitted for comments to the Municipality prior to the renewal application being submitted to the Authority.

4. Trading days and hours

A licensee may sell liquor in terms of the type of licence applied for on the days and hours as set out in the schedule to this By-law

5. Display of signage and other obligations of the licensee

The licensee or person in charge must ensure that the hours of trade of the business as determined by the Municipality are prominently displayed on the outside of the business on the front door or window of the premises in characters not less than five centimetres in height , to the satisfaction of the Municipality.

6. Safety and Security

- (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.
- (2) The licensee or person in charge must ensure that reasonable and adequate safety and security measures are in place for the protection of the public/clients of the premises by ensuring, amongst others but not limited to, that –
 - (a) the storage of goods and equipment and the condition of the premises and any structure thereon do not cause a danger to the safety of patrons inside the premises;
 - (b) the premises adheres to the requirements of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and any other permission granted or by-law promulgated by the Municipality; and
 - (c) there is adequate lighting on the outside of the premises where the public/clients and staff access and exit the licensed premises.

7. On-consumption Liquor premises must be weapon free

Right of admission to an on-consumption liquor premises is reserved and no weapons or sharp objects are permitted inside an on-consumption liquor premises. A safe should be available at all times at an on-consumption liquor premises for the storage of firearms in the possession of patrons.

8. Nuisances

- (1) Any person selling liquor to the public must take all reasonable steps to ensure that noise from the liquor premises remain within the walls of such liquor premises at all times.

- (2) Any person selling liquor to the public must take reasonable steps to ensure that the residents of the surrounding community are not unreasonably affected and inconvenienced by noise or other nuisances emanating from the premises.
- (3) The licensee remains liable and responsible for all land pollution and littering within the liquor premises. The liquor premises must be kept clean at all times.
- (4) There shall be no loitering or littering by patrons inside or outside the liquor premises and all sales and consumption of liquor shall be confined to the liquor premises.

9. 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.

10. 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.

11. Offences and Penalties

- (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 authorised official,is guilty of an offence and is liable to a fine not exceeding the amount as approved by the local Magistrate or in default of payment to any fine imposed, imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.
- (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.
- (3) A court convicting a person of an offence under this By-law may impose alternative sentencing in place of a fine or imprisonment.

12. Short title and commencement

This By-law shall be called the Mbombela Local Municipality By-law on Liquor Trading, and shall come into operation on the date of publication thereof in the Provincial Gazette.

SCHEDULE

TRADING DAYS AND MAXIMUM PERMITTED TRADING HOURS

TYPE	DAYS	HOURS
1. Manufacturers:		
All Manufacturers	7 days a week	24 hours for both macro and micro
Tasting	Monday – Sunday including Public Holidays	10:00 – 18:00
2. Distribution:		
Distribution	Monday – Saturday	06:00 – 18:00
	Sundays including Public Holidays	09:00 – 17:00
3. Off Consumption licences:		
Off-Consumption licences	Monday - Saturday	09:00 – 20:00
	Sundays including Public Holidays	09:00 – 17:00
4. On Consumption (Business and Industrial areas):		
Other on-consumption licences	Monday – Sunday	10:00 – 00:00
Places of Amusement	Monday – Sunday	10:00 – 06:00
5. On Consumption (those in residential areas):		
Other on-consumption licences	Monday – Saturday	10:00 – 21:00
	Sundays	10:00 – 17:00
Places of Amusement	Monday – Saturday	10:00 – 00:00
	Sundays	10:00 – 00:00
Accommodation Establishments	Monday – Sundays	10:00 – 00:00
6. Special Events:		
Business and Industrial areas	On the day of the event	10:00 – 00:00
Residential areas	On the day of the event	10:00 – 22:00