

No. 283

KOUGA MUNICIPALITY LIQUOR TRADING HOURS BY-LAW

Under the provisions of sections 22(2)(d) and 42(b) of the Eastern Cape Liquor Act, 2003 (Act 10 of 2003), the Kouga Municipality, enacts as follows:-

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1. Definitions

In this by-law, unless the context otherwise indicates –

"**Act**" means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003);

"**Liquor Board**" means the Eastern Cape Liquor Board established by section 4 of the Act;

"**municipality**" means the Municipality of Kouga 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 or any employee acting in connection with this by-law 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;"

"**publish**" in respect of the provisions of section 5(1) means-

- (a) to publish a notice in the Provincial Gazette and local newspapers;
and
- (b) to display the notice so published on the notice boards of the municipality;

"**registered premises**" means premises on or from which a trader conducts his or her business;

"**Regulations**" means the regulations, published as Notice No. 1143 of 8 April 2004, made under the Act;

"**trader**" means a person who is registered in terms of section 19 of the Act,

and any other word or expression to which a meaning has been assigned in the Act and the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), carries that meaning.

2. Purpose of By-law

The municipality adopts this by-law with the aim of regulating the hours during which liquor may be sold.

3. Application of By-law

This by-law apply to all premises situated within the municipality's jurisdiction on which liquor is traded.

4. Ward Committee consultative meetings

(1) A Ward Committee must, upon receipt of a notice of application for registration, in terms of section 22(2)(d)(1) of the Act hold a consultative meeting with the owners of immovable property in the immediate vicinity of premises that are sought to be registered to discuss and solicit their views with regard to the application that the applicant intends to lodge with the Liquor Board.

(2) The Ward Committee must compile a report and submit it to the municipality, stipulating the date, time, the names and the addresses of the people who attended the consultative meeting, indicate whether it objects to or the recommends the application and what additional conditions it proposes, if any.

(3) The Municipality must consider a report submitted to it by a ward committee in terms of section 22(2)(d)¹ of the Act and item 3(2)² of the Regulations, and may submit proposals to the Board regarding an application for registration in terms of section 20 of the Act.

¹ Section 22(2)(d) of the Act reads as follows:

"An application for registration contemplated in subsection (1) must be made by submitting to the board –

(d) proof of service of the notice contemplated in the prescribed manner on the –

(i) ward committee which must on receipt of the notice consult the community of the area where the premises are situated and simultaneously submit a report to the board and the relevant municipal council; and

(ii) governing body of every education institution or place of worship within a radius prescribed by the MEC from the premises in respect of which the application is made."

² Item 3 of the Regulations reads as follows:

"(1) An applicant must within seven days of lodgement, serve a notice substantially in the form of Form 2 of Annexure 2 on the ward committee of the area where the premises are situated, every governing body of every educational institution and place of worship within a radius of 100 metres from the premises in respect of which the application for registration is made.

(2) A ward committee contemplated in sub-regulation (1) must, within thirty days of receipt of the notice, submit a report on the consultation with the community to the board and to the relevant municipal council."

(4) For the purpose of considering a report as contemplated in subsection (2), an official may undertake an investigation or request further information for consideration by the municipality.

5. Hours of trading

(1) The municipality may determine the hours during which liquor may be sold from registered premises for the different kinds of registrations, as contemplated in section 20 of the Act, and listed in Schedule 1.

(2) The hours determined in subsection 1 must be published.

(3) Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection (1).

(4) A trader who contravenes subsection (3) commits an offence.

6. Selling of liquor at other times

(1) The municipality may, on application, grant written consent to a trader to sell liquor at hours other than those stipulated in section 5(1), and a trader who wishes to sell liquor at such hours must, obtain the prior written consent of the municipality.

(2) A trader who wishes to obtain the consent referred to in subsection (1) must complete a form as contained in Schedule 2 and submit it to the office of the municipal manager.

(3) The municipality may, after consideration of the application, refuse or grant consent, and should the Municipality grant consent, it may impose conditions or restrictions and enter them in item C of the form contained in Schedule 2.

(4) A trader who has been granted consent in terms of subsection (3), must display, in a conspicuous place on the premises, a copy of the form on which the consent of the Municipality has been entered.

(5) A trader who contravenes subsection (1) or (4), or who sells liquor in contravention of a condition or restriction imposed in terms of subsection (3), or who displays a forged form, commits an offence.

7. Liaison Forums

(1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.

(2) A liaison forum may consist of –

(a) a member or members of an interest group, or an affected person;

(b) a designated official or officials of the municipality; and

(c) a councillor.

(3) (a) The municipality may, when considering an application for consent, permit or exemption in terms of this By-law, request the input of a liaison forum.

- (b) A liaison forum or any may on own initiative submit an input to the municipality for consideration.

8. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may –
 - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted, must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2). However, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

9. Appeal

A person whose rights are affected by a decision of 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.

10. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to the penalties prescribed in section 61(1)(b) and section 61(2) and (3) of the Act.

11. Short title and commencement

This by-law may be cited as the Liquor Trading Hours By-laws, and comes into operation upon publication in the Provincial Gazette.

SCHEDULE 1
(Section 5(1))

COLUMN 1 TYPE OF REGISTRATION	COLUMN 2 EXAMPLES OF OUTLETS OR ESTABLISHMENTS	COLUMN 3 APPROVED TRADING HOURS
Registration in terms of Section 20(a) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold.	Retail warehouse, retail liquor or bottle store, shop, off-sales, house shop	Monday to Saturday 09h00 – 20h00 Sunday 09h00 – 13h00
Registration in terms of Section 20(b) of the Act for the retail sale of liquor for consumption on the premises where liquor is sold.	Nightclub, sports bar, sports club, poolbar, discotheque, jazz club, escort agency, pub and grub, pub, bar, casino, licensed restaurant, guest house, hotel, motel	Monday to Saturday 10h00 – 24h00 Sunday 10h00 – 22h00
Registration in terms of Section 20(c) of the Act for the retail sale of liquor for consumption on and off the premises where liquor is sold.	Tavern, shebeen	OFF- CONSUMPTION Monday to Saturday 09h00 – 20h00 Sunday 09h00 – 13h00 ON- CONSUMPTION Monday to Saturday 10h00 – 24h00 Sunday 10h00 – 22h00
Registration in terms of Section 20(d) of the Act for the retail sale and consumption of liquor at a special event	Concert, festival, sporting event and entertainment event	Trading hours to be determined by Municipality per event
Registration in terms of Section 20(e) of the Act for micro manufacturing.	Wholesale warehouse and micro manufacturing	Monday to Saturday 09h00 – 17h00 Sunday 09h00 – 13h00

SCHEDULE 2
(Section 6(2))

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS

A. APPLICANT

Name:

I.D. Number:

Address:

Telephone number:

B. PARTICULARS

Address (street name and number) of the premises on which the liquor will be sold or supplied:

Dates and hours on which liquor will be sold or supplied (Be specific, e.g. 14:00 to 23:00 on 3 June, 2005):

Reason why this application is made:

Anticipated volume of liquor that will be consumed:.....

Nature of liquor that will be sold or supplied:

Other particulars (as requested by the Council):

Signed Date
(Applicant)

C. CONSENT

Issuing local authority:

..... OFFICIAL
..... DATE
..... STAMP
.....

CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 5(3)

Times and date on which liquor may be supplied or sold:

Other conditions or restrictions:

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