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PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

# Provincial Gazette Extraordinary

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*Friday, 10 June 2022*

# Buitengewone Provinsiale Koerant

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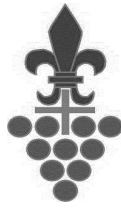
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**STELLENBOSCH MUNICIPALITY**  
**LIQUOR TRADING HOURS AND DAYS BY-LAW**

**PREAMBLE**

Stellenbosch Municipality, by virtue of the powers vested in it by **section 156 (2)** of the **Constitution of the Republic of South Africa**, as amended, read with **section 13** of the **Local Government: Municipal Systems Act, 2000 (Act 32 of 2000 )**, herewith publishes the by-law set out below.

In this by-law, words used in the masculine gender include the feminine.

All singular meanings shall include the plural interpretation and vice versa.

The English text shall prevail in the event of an inconsistency between the different texts, unless the context otherwise indicates.

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## 1. DEFINITIONS

In this by-law unless the context otherwise indicates –

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

**“adult entertainment business”** means a place where pornographic goods are displayed, hired, sold and/or live performances occur, which are characterized by an emphasis on the display or depiction of pornographic and/or erotic sexual activities, and includes an escort agency, adult shop, and/or a massage parlour where the massage and/or manipulation of the human body is administered with the purpose of obtaining an erotic response, but excludes any residential accommodation;

**“agricultural industry”** is an industry for the processing of fresh agricultural products, and where the agricultural industry activity is subservient to the dominant agricultural production on the land unit or farm, and may include ancillary buildings such as storage, a point of sale, tasting facilities, staff facilities and/or administrative offices and examples thereof include a winery, wine cellar, distillery, cheese making industry, cannery, juice factory or fruit ripening plant facility;

**“authorized official”** means a law enforcement officer appointed by the Municipality;

**“business premises”** means a place from which business is conducted and may consist of a wide range of commercial, professional and/or retail uses such as, but not limited to shops, offices, conference facilities, wellness centres, banks, postal agencies, professional services, liquor stores, conference facilities, beauty salons, restaurants, supermarkets, shopping centres, stand-alone medical consulting rooms, motor showrooms, but excludes any land use which is an additional or consent use in that zone or for which the Municipality’s permission in terms of the applicable zoning scheme is required in that zone;

**“clubhouse”** in relation to a **sports facility** or a **place of assembly** means a building or portion of a building specifically set aside where people who are normally members of an organized activity, sport or association meet with the intention of socialising and may also include a lounge, restrooms, change rooms, ablution facilities, hall, restaurant which serves members, and may include, a pro-shop which is associated with the particular sport, or a **pub** with the permission of the Municipality granted in terms of the Scheme;

**“Council”** means the Municipal Council of Stellenbosch Municipality;

**“escort agency”** means an enterprise providing escorts for financial compensation;

**“gambling place”** means a place where betting and/or gambling may be undertaken in accordance with a license issued under the relevant Act, and includes premises for totalisators, electronic payout devices and/or limited gambling machines;

**“guesthouse”** means the use of furnished bedrooms or suites in a dwelling house and/or second dwelling, for the accommodation of **transient guests**, where accommodation is rented out on an individual room-by-room basis, where no proprietor is required to live on the property as a permanent resident, and where no self-catering facilities are provided, subject to the following:

- i) in the zones where the applicable zoning scheme permits a dwelling house or second dwelling house but not flats or hotel, the scale of any one building may not exceed that of a dwelling house or second dwelling house which would ordinarily accommodate one family and must be able to revert back to a dwelling house when no longer used for a guest house;
- ii) up to one meeting room and one room for beauty treatments per land unit may be provided on properties which are zoned other than Conventional Residential zone, provided that the facilities may only serve resident guests of that specific land unit, and may not be used by residents of the same enterprise who reside on different land units;
- iii) at least one communal bathroom shall be provided to guests, but rooms may be an en-suite;
- iv) one kitchen per dwelling unit will be retained from which the establishment may serve meals to guests who are resident on that same land unit;
- v) it is not compulsory for the establishment to have staff present on a 24-hour basis, but the operation may include such staff;
- vi) a guest house premises may be licensed to sell liquor for consumption on the property in a Local Business zone, Mixed-use Zone, Agriculture and Rural Zone, and Open Space Zone. In any other zones, a consent use application must first be approved before such a license may be issued;
- vii) *a guest house may not include a shop for sale of alcohol for off-site consumption; alcohol may only be served to resident guests and the facility may not include a pub;*

**“hotel”** (hotel) means the use of an entire building, a portion of a building, or a group of buildings on the same land unit for the accommodation of **transient guests** in furnished bedrooms or suites, where the activity or buildings exceeds the scale and extent of a **guest house**, and where:

- i) meals may be served to resident guests or the public;
- ii) associated restaurants, shops, conference- and entertainment facilities, wellness centre and/or sport facilities which serve the guests and public may only be permitted as a primary right on properties which are zoned Mixed-use zone or a similar zone where those type of facilities would ordinarily be permitted as primary right. In a zone where a specific type of ancillary facility is not a primary right, any facilities which are ancillary to a hotel may be applied for as a consent use, and new activities or expansion of such ancillary facilities will also require prior approval of a consent use application;
- iii) *hotel premises may be licensed to sell liquor for consumption on the land unit in the Local Business zone, Mixed-use zone, Agriculture and Rural zone and Open Space zone. In any other zone a consent use application must first be approved by the Municipality before such a license may be issued. A hotel shall not include a shop for sale of alcohol for off-site consumption;*

It is compulsory for the hotel establishment to have at least one staff member present on the property on a full-time basis, which means a staff member shall either be employed to reside on the premises or be employed in shifts by the owners/proprietor to be present on the property on a 24-hour basis, and may be a security person, concierge, caretaker, receptionist or manager or some other similar designation. A **backpacker’s establishment** is also a **“hotel”**;

**“house tavern”** means the use of a portion of a dwelling house, second dwelling and/or outbuildings for the sale of alcoholic beverages and if permission is expressly granted by the Municipality in terms of the applicable zoning scheme, may include consumption of alcoholic beverages by customers on the land unit, and / or the preparation of meals for on-site consumption, provided that:

- i) the scale of anyone building so used shall not exceed that of a normal dwelling house which would ordinarily accommodate one family; and
- ii) the primary use of the land unit shall remain the residence of the proprietor of the establishment and his or her family if applicable, and
- iii) the proprietor of the establishment shall be resident during the period when the activity is undertaken, although he/she may be absent for holidays for periods not exceeding 30 consecutive days during which the activity may be conducted by an employee;

**“industry”** means a place, which in the Municipality’s opinion, is used for a factory and in which a product and/or article, or part thereof is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted, spray-painted, polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, bottled, chilled, brewed, distilled, fermented, frozen and/or stored, and includes any activity which is ancillary and subservient to the aforementioned activities mentioned for example an office, employee housing, point of sale, but does not include a noxious industry;

**“Less Formal Residential Zone”** the purpose of this zone is to make provision for:

- (a) the use of land for informal and/or subsidised housing, as well as group housing where more than one dwelling house may be permitted on the same cadastral land unit;
- (b) settlement of people in an informal manner for emergency purposes;
- (c) incremental upgrading of informal settlements;
- (d) where conditions so dictate, to accommodate persons residing in areas where financial constraints require that less stringent land use management and building development management provisions be applied;
- (e) the stimulation of informal-sector economic activity by making provision for an increased and appropriate mix of land use activities within residential areas;
- (f) the Municipality to take the necessary steps needed to exempt the National Building Regulations from applying in this zone.

**“licensee”** means the person who has a valid liquor license<sup>1</sup> issued in terms of the Act;

**“licensed premises”** means the premises specified in the liquor licence or certificate issued in terms the Act;

**“online sales”** means the sale of alcohol through e-mail, internet websites, interactive digital TV or like manner and such sales will be deemed to occur at the time of delivery of the ordered liquor.

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<sup>1</sup> Section 33 of the Act provides for the following categories of licences –

- (a) a licence for the micro-manufacture and sale of liquor for consumption both on and off the premises where the liquor is sold;
- (b) a licence for the sale of liquor for consumption on the premises where the liquor is sold;
- (c) a licence for the sale of liquor for consumption off the premises where the liquor is sold;
- (d) in exceptional circumstances, a licence for the sale of liquor for consumption both on and off the premises where the liquor is sold

**“liquor”** means any liquid or substance which contains or is intended to contain more than 1% of alcohol by volume or mass, but excluding: -

- (a) methylated spirits;
- (b) medicine which is subject to registration in terms of the Medicines and Related Substances Act, 1965 (Act 101 of 1965); and
- (c) products which are not intended for human consumption;

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

**“liquor store”** means a shop licensed in terms of the relevant Liquor Act, in which mainly alcoholic beverages are sold to the public for off-site consumption;

**“market”** is a place where a variety of goods and/or food such as fresh produce, prepared food, beverages, arts, crafts, clothing, plants, household goods and/or second hand goods are offered for sale to people who gather at the venue during the appointed market hours to purchase said goods, and can take place daily, or more typically take place at regular weekly intervals, but may also be less frequent. The trading area consist of booths, tables and/or stands in an outdoors and/or indoors setting and may include the use of temporary structures or permanent structures, in the case where shops are permitted in the zone. Outdoor trading of shops and restaurants are also included in this activity. Food and beverages, including alcoholic beverages if the necessary license is obtained, may also be served for on-site consumption. Other leisure and recreational activities such as live performances may accompany the market;

**“mixed use zone”** is a zone which makes provision for a variety of business uses (retail and office) and other related land uses within the central business areas of towns; a variety of higher density residential uses and tourist accommodation; a variety of community uses, creating a zone of mixed land uses that do not have a negative impact on each other;

**“Multi-Unit Residential Zone”** the purpose of this zone is to make provision for:

- (a) group housing development of medium or high density with a uniform group character and shared private services and access, which may either be subdivided or on one cadastral land unit;
- (b) development of medium and high-density conventional dwelling houses, semi-detached or row houses;
- (c) high-density residential development such as flats;  
other multi-unit high or density residential accommodation such as student, retirement and community residential buildings and limited tourism accommodation;

**“municipality”** means Stellenbosch Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), published in Provincial Notice 5643 dated 4 December 2000 and includes any political office-bearer, councillor, 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 office-bearer, councillor, or employees;

**“place of assembly”** means any place or activity where large number of people congregate to hold meetings, participate in and spectate or observe performances and may include, for example a community hall, indoor sports arena, public swimming pool, sport events spaces, general purpose halls, sports stadiums or any other similar large congregation spaces and includes ancillary uses;

**“place of entertainment”** is an indoor and/or outdoor place which is used predominantly for commercial entertainment, performances, music and/or revelry where patrons may participate in the activities or observe performances or gather for entertainment purposes, including the erection of temporary structures such as tents or marquees. The use may be approved as a permanent use on the premises or as a once-off or repeating **occasional use**. The venue may be licensed for on-site consumption of alcohol. Examples of a permanent place of entertainment include night clubs, pubs, cinemas, theatres, function venues and examples of **occasional use** as a place of entertainment include music festivals, circuses, food and wine shows;

**“tourist facilities”** describes land uses that provide facilities, amenities and activities, aimed at tourists and visitors, such as shops, markets, restaurants and places of entertainment (which may be licensed to sell alcohol), outdoor sport, conference facilities, place of assembly, wellness centres and/or open spaces, and may also include ancillary uses, limited industry only related to the manufacturing of clothing, food, beverages or making of craft items and/or art, a liquor store for the sale of alcoholic beverages for off-site consumption, provided that the alcoholic beverages are produced under license on the land unit, and examples include farm stalls, farm shops, farmer’s markets, farm deli’s, wine sales, wine tasting facilities, 4x4 or mountain bike trails, cycle and hiking trails, picnic facilities, function venues, brew-pubs, craft gin distilleries, coffee roasteries, bakeries, charcuterie but excludes tourist accommodation, guest houses, bed-and-breakfast establishments and hotels;

**“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;

**“wine”** means wine as defined in Section 1 of the Liquor Products Act 60 of 1989;

## **2. APPLICATION OF THIS BY-LAW**

This By-Law applies to all licensees that sell liquor within the Stellenbosch (WC024) Municipality on-consumption and off-consumption purposes.

## **3. INTERPRETATION**

Any authorisation in terms of this bylaw, must not be interpreted as the sanctioning of any trade, which had not been approved in terms of relevant legislation.

## **4. TRADING DAYS AND HOURS FOR SALE AND CONSUMPTION OF LIQUOR ON LICENSED PREMISES**

- (1) A licensee may sell liquor for consumption on the licensed premises on the following days and hours:
  - (a) On all days of the week,
  - (b) During the hours of trade as set out in the Schedule.

- (2) Despite subsection (1), a guesthouse or hotel (including a backpacker establishment) licensed to sell liquor may offer a room service facility at any time of the day.
- (3) Despite subsection (1), a licensee may serve sparkling wine
  - (a) from 08:00 to 23:00, 7 days a week;
  - (b) as part of a meal; and
  - (c) to guests who are part of an organized function where admittance is controlled.

#### **5. TRADING DAYS AND HOURS FOR SALE OF LIQUOR OFF LICENSED PREMISES INCLUDING ONLINE SALE OF ALCOHOL**

- (1) A licensee may sell liquor for consumption off the licensed premises on the following days and hours:
  - (a) Monday to Saturday from 09:00 – 20:00
  - (b) Sunday from 09:00 – 16:00
- (2) Despite the provisions of subsection (1) a winery, distillery and brewery or any other licensee is permitted to trade on the following days and hours:-
  - (a) Monday to Saturday from 08:00 – 20:00
  - (b) Sunday from 09:00 – 18:00

#### **6. EXTENSION OF TRADING TIMES**

Applications for extended trading days and hours pertaining to tourist facilities, special events, private functions or any other event or facility motivated by the applicant.

- (1) Council may approve or decline any application for the extension of trading days and/or hours. Council may also impose conditions should such approval for extended days and hours be granted.
- (2) A licensee must, upon payment of the required application fee, submit a written application to the office of the Municipal Manager as stipulated in 6(1).
- (3) The Municipal Manager will prepare the application in the form of an item to Council for final decision, taking into consideration the following factors: -
  - (a) Outcome of community consultation;
  - (b) Public interest and impact on the surrounding community and environment;
  - (c) The risk to the surrounding community;
  - (d) Nuisance to the surrounding community;



- (e) The possible benefits of extended liquor trading hours and days on the surrounding community;
- (f) Any other relevant factors.

## **7. OBLIGATIONS OF THE LICENSEE**

### **(1) Display of signage and certificates:**

- (a) A licensee must, to the satisfaction of the authorized official, ensure that following certificates are prominently displayed inside the licensed premises:
  - (i) A zoning certificate issued by the Municipality indicating the applicable land use rights in respect of the premises for purposes of this by-law;
  - (ii) The population certificate in respect of the premises issued in terms of the Fire Safety by-law of the Municipality;
  - (iii) Business license and/or certificate issued by the Municipality.
- (b) A licensee must, to the satisfaction of the authorized official, ensure that the following information are prominently displayed on the front door or window of the premises in characters not less than five centimetres in height:
  - (i) The liquor license number under which liquor may be sold;  
and
  - (ii) The hours during which liquor may be sold.

### **(2) Safety and Security:**

- (a) A licensee must ensure compliance with all applicable legislation.
- (b) A licensee must ensure that reasonable and adequate safety and security measures are in place for the protection of patrons by ensuring, amongst others, but not limited to, that: -
  - (i) the storage of goods and equipment and the condition of the premises and any structure thereon do not endanger the lives of patrons inside the premises; and
  - (ii) there is adequate lighting on the outside of the premises where patrons and staff enter and exit the licensed premises.

## **8. COMPLIANCE AND ENFORCEMENT**

- (1) An Authorized Official may, in the performance of his or her functions in terms of this by-law or the Act, at all reasonable times enter: -
  - (a) any licensed premises;
  - (b) any premises in respect of which a liquor license application is pending;
  - (c) any premises on which he or she on reasonable grounds suspects that liquor is being sold contrary to the provisions of this bylaw or the Act; and make such investigation, enquiries or inspections as he or she may deem necessary.
- (2) When entering a premise in terms of this section, the authorized official must on request identify himself or herself to the person in charge of the premises.
- (3) An authorized official may issue and serve a notice of non-compliance, on the licensee or any person in control of licensed premises, calling upon such person to comply with the provisions of this by-law or comply with any condition of the license or the Act within a specified but reasonable time.
- (4) A compliance notice must stipulate: -
  - (a) the provisions of the by-law, any conditions applicable to such license or the Act that must be complied with;
  - (b) the act or omission constituting non-compliance;
  - (c) the measures which must be taken to comply;
  - (d) the date or time by which compliance must be achieved, where applicable;
  - (e) the possible consequences of non-compliance.
- (5) An authorized official may issue the licensee or any person in control of licensed premises with a fine as provided in the fines schedule of this by-law or the Act.

## **9. APPEAL**

A person or judicial entity whose rights are affected by a decision of the Municipality in terms of delegated authority may appeal 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, 2000 (Act 32 of 2000) to the Municipal Manager within twenty-one (21) days of the date of notification of the decision.

## **10 OFFENCE AND PENALTIES**

A licensee who contravenes or fails to comply with any-

- (1) Provision of this by-law;
- (2) Condition or instruction in connection with this by law; or
- (3) Notice from an authorized official,

shall be guilty of an offence and is liable to pay a fine as determined by the Magistrate's Court or authorised accordingly in the fine list from time to time, by the Magistrate in the area, or the fine list in terms of the Act, whichever is applicable at the time concerned, or to imprisonment as determined by a Court, or both, or any other punishment which the Court may find appropriate in the circumstances.

## **11 TRANSITIONAL PROVISIONS**

The trading hours and days in respect of any license for premises upon which liquor may be sold for consumption either on or off the licensed premises, or both on and off licensed premises, issued prior to the commencement of this by-law will be replaced by the provisions of this by-law from the date of publication of this bylaw.

Please Note: Any promulgation of a national disaster by the President of the Republic of South Africa in terms of the National Disaster Act, Act 57 of 2002, replaces and / or supersedes any provisions as contained in this bylaw.

## **12 SHORT TITLE**

This by-law is called the "Stellenbosch Municipality Liquor Trading Hours Bylaw" and shall come into operation when published in the Provincial Gazette.

**SCHEDULE**

Trading hours for selling liquor on licensed premises according to the certificate provided for in 4(1)(a)(i) and (ii) are:

LOCATION CATEGORY & LICENSED PREMISES TYPE	MAXIMUM PERMITTED TRADING HOURS
LESS INFORMAL RESIDENTIAL & MULTI-UNIT RESIDENTIAL AREA	
(a) Guest house / Tourist Accommodation Establishment	11:00 to 23:00
(b) Business Premises / House Tavern	
(c) Place of entertainment / Place of recreation / Gathering place.	
(d) Place of Entertainment / Place of Assembly.	
2. LOCAL OR NEIGHBOURHOOD BUSINESS	
(a) Guest house / Hotel / Tourist Accommodation	11:00 to 23:00
(b) Business premises / Liquor store	
(c) Place of entertainment / Conference Facility	
3. MIXED USE ZONE (CENTRAL BUSINESS AREA)	
(a) General business / adult entertainment	10:00 to 02:00 the following day
(b) Guest house / Hotel	
(c) Place of entertainment / Place of recreation / market	
(d) Place of entertainment / Place of assembly (excluding special events requiring temporary licences)	
4. INDUSTRIAL AREA	
(a) Industrial area including mixed use area	10:00 to 02:00 the following day
(b) Business premises / Specific business	

**Note: Determine of application of applicable location category**

Where the location category as set out above is unclear or in dispute or difficult to determine or areas are not zoned homogenously (e.g. a business zoned premises in the middle of a residential area) then the actual zoning, consent use or departure rights of the subject licensed premises will take precedence in order to determine the category, and in terms of Section 6(1)(a)(i) above.

## Stellenbosch Municipality

**STELLENBOSCH MUNICIPALITY LIQUOR TRADING HOURS BY-LAW 2020****ADMISSION OF GUILT FINES**

The following Admission of Guilt fines for the enforcement of the Stellenbosch Municipality Liquor Trading Hours By-law, 2020 are approved in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act 51 of 1977 for the magisterial districts of Stellenbosch and Paarl.

<b>SECTION</b>	<b>OFFENCE</b>	<b>FINE</b>
Section 3 read with section 8(1).	Selling liquor outside of permitted hours.	R5 000
Section 6(1)(a) read with section 8(1).	Failing to display liquor license.	R500
Section 6(1)(b) read with section 8(1).	Failing to display the current renewal certificate alternatively proof of payment of renewal fee for current year.	R500
Section 6(1)(c) read with section 8(1).	Failing to display the certificate issued by the Municipality stating the zoning or land use in respect of the licensed premises.	R500
Section 6(1)(d) read with section 8(1).	Failing to display the business license and/or certificate issued by the Municipality to the licensee.	R500
Section 6(2)(a) read with section 8(1).	Failing to display the liquor license number under which liquor may be sold.	R500
Section 6(2)(b) read with section 8(1).	Failing to display the hours during which liquor may be sold.	R500
Section 7(2).	Hindering an authorised official in the execution of his or her duties.	R1500

I hereby certify that the admission of guilt fines listed above as submitted by the Municipality of Stellenbosch have been approved by me in terms of section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1877, for the magisterial districts of Stellenbosch and Paarl. This determination replaces any previous determination for the said magisterial district.

\_\_\_\_\_  
Magistrate: Stellenbosch

\_\_\_\_\_  
Magistrate: Paarl



