



# STELLENBOSCH

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## STELLENBOSCH MUNICIPALITY

### 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)**, has made 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.

## LIQUOR TRADING HOURS BY-LAW

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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);

**"agricultural area"** means an area predominantly zoned agriculture or any other equivalent zoning with the purpose of promoting and protecting agricultural activity on a farm as an important economic, environmental and cultural resource, where limited provision is made for non-agricultural uses to provide owners with an opportunity to increase the economic potential of their properties, without causing a significant negative impact on the primary agricultural resources;

**"agricultural land"** (*landbougrond*) means land used for farming purposes, including forestry;

**"business premises"** means a property from which business is conducted and may include a restaurant, pub, bar, tavern or other buildings for similar uses, but excludes a place of entertainment, guest accommodation establishment, hotel, sports and community club;

**"general business area"** means an area predominantly zoned as general business or any other equivalent zoning, with the purpose of promoting activity in a business district and development corridor;

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

**"guest house"** (*gastehuis*) means an owner-managed commercial accommodation establishment of not more than 16 bedrooms or suites, which has as its primary source of business the supply of tourist accommodation and a substantial breakfast for resident guests; provided that –

(i) the individual bedrooms or suites may be marketed by means of short term renting only;

(ii) the building may, in terms of the **Liquor Act, 1989 (Act 27 of 1989)**, be licensed only for the purposes of on-consumption and subject to any conditions or restrictions which the Council may impose; and

(iii) a hotel, hostel and accommodation establishment are not included in the definition;

**"hotel"** (*hotel*) means a purpose-built building in which lodging, meals and beverages are provided, which is readily accessible to the public and which qualifies for membership of the National Grading and Classification Scheme of the South African Tourism Board;

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

**"licensed business"** means the business that may be conducted upon licensed premises as authorised by the Liquor Authority;

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

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

**“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 5642** dated **4 December 2000** and includes any political office-bearer, councillor, or any employee thereof 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, or employees.

**“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, and includes a cinema, theatre, amusement park, dance hall, gymnasium, totalisator or facility for betting, gambling hall, karaoke bar and nightclub;

**“place of recreation”** (*ontspanningsplek*) means a sports field, amusement park or similar public place intended for communal recreation, mainly in the open air;

**“residential area”** means an area, predominantly zoned informal, single or general residential or any equivalent zoning, with the purpose of accommodating predominantly single family dwelling houses in low to medium density neighbourhoods, as well as higher density living accommodation, and which includes controlled opportunities for home employment, additional dwellings and low intensity mixed use development;

**“specific business”** (*spesifieke besigheid*) means a business use of a particular nature, but within the compass of section 10.7, that is prescribed for a specific site by the Council<sup>2</sup>;

**“sports and community club”** means premises of a facility used for the gathering of community and civic organisations or associations, sports clubs or other social or recreational clubs run mostly not for profit and may include community service clubs and community centres or similar amenity facilities, but excludes a night club;

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

- (a) a license for the micro-manufacture and sale of liquor for consumption **both on and off the premises** where the liquor is sold;
- (b) a license for the sale of liquor for consumption **on the premises** where the liquor is sold;
- (c) a license for the sale of liquor for consumption **off the premises** where the liquor is sold;
- (d) in exceptional circumstances, a license for the sale of liquor for consumption both **on and off the premises** where the liquor is sold;
- (e) a license for the sale of liquor for consumption **on or off the premises** upon which liquor is sold at **special events**; and
- (f) **a temporary liquor licence** for the sale of liquor for consumption **on or off the premises** upon which liquor is sold.

<sup>2</sup> Definitions of Stellenbosch Zoning scheme regulations

**“the Act”** means the **Western Cape Liquor Act, 2008 (Act 4 of 2008)** as amended;

**“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 industry”** (*wynbedryf*) means a site or building, or portion of a site or building utilised or intended to be utilised for the manufacture of liquor in the form of wine or spirits from grapes;

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

This by-law applies to all-

- (a) licensees licensed to sell liquor in terms of the Act or any other applicable legislation;
- (b) licences renewed in terms of the Liquor Act, 1989 (Act 27 of 1989) within the jurisdiction of Stellenbosch;
- (c) the approval of the Liquor Trading Hours By-law, should not be interpreted as the sanctioning of any trade, which had not been approved in terms of relevant legislation.

## **3. TRADING HOURS<sup>3</sup>**

### ***Consumption on the licensed premises***

(1) A licensee may sell liquor for consumption on the licensed premises on the following days and hours:

- (a) on any day of the week;
- (b) during the hours of trade as set out in the Schedule.

(2) Despite subsection (1) a hotel or guest house licensed to sell liquor may offer a room service facility at any time of the day.

(3) Despite the provisions of this by-law, a licensee as contemplated in subsection (1), may serve sparkling wine-

- (a) from 8h00 to 11h00 for seven days a week;
- (b) as part of a meal; and
- (c) to guests who are part of an organised function where admittance is controlled.

### ***Consumption off the licensed premises***

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<sup>3</sup> The trading hours in respect of **all** categories of licenses are grouped together as ‘on consumption’, ‘off consumption’ and ‘on and off consumption’.

(4) 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, provided such exception does not apply to a winery; and
- (b) from 9h00 to 18h00.

#### ***Consumption on and off the licensed premises***

(5) 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 subsections (3) and (4).

#### **4. DEPARTURE FROM TRADING HOURS**

(1) The Council may, in the interests of the community and on application by a licensee of premises upon which liquor may be sold for consumption on the licensed premises, grant consent to that licensee to sell liquor between other times than those determined by section (3) and (4), but only if the following requirements are complied with:

- (a) submission of a written application for a departure to the Office of the Municipal Manager;
- (b) payments of the requisite administration cost of such an application;
- (c) provision of complete reasons for the departure;
- (d) provision of any other information requested by Council.

(2) Council, in considering the application referred to in subsection (1) shall take into account the following factors:

- (a) outcome of any community consultation or objection/submission;
- (b) impact on the environment;
- (c) any other relevant factor that Council considers relevant.

#### **5. OFFENCE**

Subject to section 7, a licensee who sells, supplies or allows the consumption of liquor on the licensed premises at a time when the sale of liquor is not permitted by the licence, is guilty of an offence.

#### **6. PENALTIES**

Any person who commits an offence referred to in section 5 is upon conviction liable to a fine or imprisonment, or to both a fine and imprisonment<sup>4</sup>.

## 7. TRANSITIONAL PROVISIONS

The trading hours in respect of any licence for premises upon which liquor may be sold for consumption either on or off the licensed premises, issued prior to the commencement of this By-law will continue to apply until such license has lapsed as contemplated in section 62(2) of the Act<sup>5</sup>.

## 8. SHORT TITLE

This by-law is called the “Stellenbosch Liquor Trading Hours By-law”.

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<sup>4</sup> **Alternatively:** Any person who commits an offence referred to in section 5 is upon conviction liable to a fine not exceeding R 2500.00 or to a term of imprisonment not exceeding 3 (three) years, or to both a fine and imprisonment, after approval by the Local Magisterial divisions.

<sup>5</sup> A license lapses-

- (a) on the date on which the licensee abandons it in writing;
- (b) on 1 January of the year in respect of which the applicable fees prescribed are not paid on or before 31 December of the preceding year;
- (c) on the date determined by the Liquor Licensing Tribunal when it revokes the license;
- (d) where the license has already acquired validity, on the date on which a court sets aside the decision to grant or issue the license; or
- (e) on the date on which it is converted into another license in terms of section 89.

## SCHEDULE

Trading hours for selling of liquor on licenced premises is enclosed below:

<b>LOCATION CATEGORY &amp; LICENSED PREMISES TYPE</b>	<b>MAXIMUM PERMITTED TRADING HOURS</b>
<b>1. RESIDENTIAL AREA</b>	
General accommodation establishment/Guest house	11h00 to 22h00
Business premises/Specific business	
Place of entertainment/Place of recreation	
Sports and community club excluding special events requiring temporary licences	
Hotel	11h00 to 2h00 the following day
<b>2. LOCAL OR NEIGHBOURHOOD BUSINESS AREA INCLUDING MIXED USE AREAS</b>	
Guest house accommodation establishment/Guest house	11h00 to 23h00
Business premises/Specific business	
Place of entertainment/Place of recreation	11h00 to 24h00
Sports and community club excluding special events requiring temporary licences/	
Hotel	11h00 to 2h00 the following day
<b>3. GENERAL BUSINESS AREA</b>	
Guest house accommodation establishment/	11h00 to 2h00 the following day
Business premises/ Specific business	
Place of entertainment/ Place of recreation	
Sports and community club excluding special events requiring temporary licences/	
Hotel	
<b>3A. GENERAL BUSINESS AREA INCLUDING MIXED USE AREAS</b>	
Guest house accommodation establishment/	11h00 to 23h00 the following day
Business premises/ Specific business	
Place of entertainment/ Place of recreation	
Sports and community club excluding special events requiring temporary licences/	
Hotel	
<b>4. INDUSTRIAL AREA</b>	
Business premises/ Specific business	11h00 to 2h00 the following day
Place of entertainment/ Place of recreation	
Sports and community club excluding special events requiring temporary licences/	

<b>4A. INDUSTRIAL AREA INCLUDING MIXED USE AREAS</b>	
Business premises/ Specific business	11h00 to 23h00 the following day
Place of entertainment/ Place of recreation	
Sports and community club excluding special events requiring temporary licences/	
<b>5. AGRICULTURAL AREA</b>	
Guest house accommodation establishment/	11h00 to 2h00 the following day
Business premises/ Specific business	
Place of entertainment/ Place of recreation	
Sports and community club excluding special events requiring temporary licences/	
Winery/Wine industry	
Hotel	
<b>6. SMALL HOLDING OR RURAL AREA</b>	
Guest house accommodation establishment/	11h00 to 24h00
Business premises/	11h00 to 24h00
Place of entertainment/	
Sports and community club excluding special events requiring temporary licences/	
Winery/Wine industry	
<b>7. OTHER AD HOC LOCATIONS</b>	
Special events or temporary licensed premises	As determined by special application

**Note : Determination 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 (eg. 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.