

HESSEQUA MUNICIPALITY
LIQUOR TRADING DAYS AND HOURS BY-LAW

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Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and section 59 of the Western Cape Liquor Act, 4 of 2008, as amended, the Hessequa Municipality, enacts as follows:

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Schedule

Annexure A

1. Definitions

In this By-law, unless the context otherwise indicates:

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

“hotel” means premises wherein or whereon the business of supplying lodging and meals is conducted or is intended to be conducted, and includes a motel, inn, bed and breakfast concern, caravan and camping park, guest-house, a lodge, a backpackers and a house boat;

“licensee” means the person to whom a licence has been issued in terms of section 46 or transferred in terms of section 65 of the Act;

“Liquor Authority” means the Western Cape Liquor Authority established in terms of section 2 of the Act;

“municipality” means the Hessequa Municipality and includes any political structure, political office-bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated, to such political structure, political office-bearer, agent or employee;

“**official**” means any person authorised 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;

“**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;

“**registered premises**” means premises on or from which a licensee conducts his or her business;

“**sell**” includes supply, exchange, offer for sale, display for the purposes of sale or authorise to sell, direct to sell, or to allow a sale;

“**selling hours**” means the time during which a licensee is allowed to sell liquor in terms of Schedule 1;

“**ward committee**” means a committee as contemplated in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

2. Purpose of By-law

The municipality, acting in terms of the powers granted to it in the Act, adopts this By-law with the aim of regulating the hours during which liquor may be sold and matters related thereto.

3. Application of By-law

This By-law applies to all premises, situated within the area of jurisdiction of the municipality, on which a business in the trading of liquor is carried on or intended to be carried on.

4. Hours and days of trading

(1) The trading hours and days, of the different kinds of licences, as listed in column 1 of the Schedule, have been determined by the municipality as listed in column 2 of the Schedule and may, subject to section 4, be reviewed by the municipality from time to time.

(2) No licensee may sell liquor from any of the premises listed in column 1 of the Schedule at a time other than those hours listed in column 2 of the Schedule.

(3) No licensee, who sells liquor for consumption off the premises, in accordance with a licence obtained in terms of Sec 33(1)(c) of the Act, may sell liquor on Sundays or any of the following public holidays:

(i) Good Friday

(ii) Christmas Day (25 December)

(4) A licensee who contravenes subsection (2) and/or (3) commits an offence.

5. Application for extended trading hours

(1) A licensee may, upon payment of the required fee and on the prescribed form, submit a written application to the Municipal Manager or his/her delegated official to extend the trading hours in respect of a licensed premises.

(2) The Municipality may refuse or approve such application with or without terms and conditions.

(3) No rights accrue to any person who has applied for an extension of trading hours before the receipt of approval from the Municipality.

(4) The application must be submitted to the Municipal Manager or his/her delegated official, **30 days** before the proposed effective date of the extended trading hours, on the prescribed form, together with all the required documents.

(5) The Municipality may, when considering an application for the extension of trading hours, consider the following factors:

- (i) Comments from the owners/person in charge of the neighbouring properties
- (ii) Comments from the Planning Department within the Municipality
- (iii) Validity of the applicant's liquor license
- (iv) Comments from the Western Cape Liquor Authority
- (v) Comments from the local liquor officer
- (vi) previous suspension, amendment or revocation of extended trading days or hours
- (vii) Comments from the ward councillor
- (viii) any other relevant factor

(6) The Municipality will not approve an application referred to in sub section 1, unless it is satisfied, on a balance of probabilities, that the granting thereof

(a) is in the public interest;

(b) does not prejudice-

- (i) the residents of a residential area;
- (ii) the residents of an institution for the aged or frail;
- (iii) the learners of an educational institution who are under the age of eighteen (18) years;
- (iv) the patients of an institution for drug or alcohol related dependencies; or
- (v) the congregants of a religious institution located in the vicinity of the licensed premises concerned.

6. Revocation, suspension and amendment of approved extended liquor trading days and hours

(1) An authorised official may with immediate effect, by written notice revoke consent for extended trading hours, upon failure by the licensee to comply with any condition of the consent for the extended trading hours.

(2) An authorised official must, within 48 hours of revoking the consent for extended trading hours, deliver copies of such revocation to the Western Cape Liquor Authority, the designated liquor officer for that area and the Municipal Manager of the Municipality.

(3) The Municipality is not liable for any loss of income suffered by a licensee as a result of a revocation of consent.

7. Public participation and duties of municipality

(1) Upon receipt of a copy of the application to sell liquor from the designated liquor officer as contemplated in section 37(4) of the Act, and in order to comply with the requirements of section 40 of the Act, the municipality must:

(a) allow the public to have access to the application by posting a copy of the application on all municipal notice boards; and the Municipality's website.

(b) make available copies of such application when requested by a member of the public against payment of a prescribed fee as determined by the municipality from time to time; and

(c) obtain the comments from the ward councillor;

(d) submit its comments on the application to the Liquor Authority; and

(e) allow for the consideration of the planning application in relation to the application for a liquor licence.

8. Penalties

A person who has committed an offence in terms of this by-law is, on conviction, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

9. Repeal of by laws

This by-law repeals all previous versions of the Hessequa Municipality Liquor Trading Hours By-Law.

10. Short title and commencement

This By-law may be cited as Hessequa Liquor Trading Days and Hours By-law and come into operation on 12 December 2016.

**SCHEDULE 1
(SECTION 5(1))**

COLUMN 1	COLUMN 2
TYPE OF LICENCE	TRADING HOURS
Licence in terms of Section 33(1)(a) of the Act for micro-manufacturing and sale of liquor for consumption both on and off the premises. (cellars, wine makers, home distillers)	For consumption on the premises 11:00 – 18:00 Monday – Sunday For consumption off the premises: 09:00 – 18:00 Monday - Sunday
Licence in terms of Section 33(1) (b) of the Act for the sale of liquor for consumption on the premises where liquor is sold. (restaurant, sports club, pool bar, pub, sports bar, discotique, jazz club, escort agence, pub and grub, tavern) Nightclub (Hotel, casino)	11:00 – 02:00 Monday – Saturday 11:00 – 23:00 Sunday 24hours everyday
Licence in terms of Section 33(1) (c) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold. (bottle store, retail food store, wholesaler, off-sales, boutiques)	09:00 -18:00 Monday – Saturday Trading is prohibited on Sundays and on the following public holidays: Good Friday Christmas Day(25 December)
Licence in terms of Section 33(1)(d) of the Act for the sale of liquor for consumption on and off the premises where liquor is sold. (exceptional circumstances)	For consumption on the premises: 11:00 – 24:00 Monday – Thursday 11:00 – 02:00 Friday – Saturday 11:00 – 22:00 Sunday For consumption off the premises: 09:00 – 18:00 Monday – Saturday 09:00 – 16:00 Sunday
Licence in terms of Section 33(2)(a) of the Act for the sale and consumption of liquor on and off the premises at a special event (concert, festival, sporting event, and entertainment event)	As per trading hours in the schedule applicable to the sale of liquor for consumption on and off the premises . Subject to terms and conditions imposed by the liquor Authority in terms of Section 48 of the Act
A Temporary licence in terms of Section 33(2)(b) of the Act for the sale and consumption of liquor on or off the premises. (Temporary pending of approval of application – See Section 48(1) of the Act)	As per trading hours in the schedule applicable to the sale of liquor for consumption on and off the premises . Subject to terms and conditions imposed by the liquor Authority in terms of Section 48 of the Act.