

**LAINGSBURG LOCAL MUNICIPALITY: CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC  
BY-LAW**

To provide for the control of undertakings selling liquor to the public in order to ensure a safe and healthy environment in the area of jurisdiction of Laingsburg Local Municipality; to provide for days and hours of trade in liquor by licensed undertakings that sell liquor to the public; and to provide for matters related thereto.

**BE ENACTED by the Council of the Laingsburg Local Municipality as ~~follows:—~~follows: —**

1. Definitions
2. Application and Interpretation
3. General Prohibition
4. Standard Trading Times: On-Consumption Premises
5. Standard Trading Times: Off-Consumption Premises
6. Extended Trading Times: Application for extended days and hours
7. Reduced trading hours
8. Compliance Notice
9. Revocation of Extended Liquor Trading Days and Hours
10. Prevention of Sale of Liquor and Seizure of Liquor
11. Display of signage, population certificate and other obligations of license
12. Safety and Security
13. Nuisances
14. Offences and Penalties
15. Administration and Enforcement

16. Right of Appeal
17. Repeal of By-laws
18. Short title and commencement
19. Schedule (Trading Days and Hours for Licensed Businesses)

## Definitions

### 1. In this By-Law, unless the context indicates otherwise –

**“authorised official”** means any person authorised by the Municipality to perform the function under this By-law and includes any member of the South African Police Services;

**“compliance notice”** means written instruction of an authorised official as contemplated in section 8;

**“Council”** means the Council of Laingsburg Local Municipality as referred to in Section 157 (1) of the Constitution of the Republic of South Africa, 1996 and “Municipal Council” shall have a corresponding meaning;

**“guest accommodation establishment”** means premises used as temporary residential accommodation and includes the provision of meals for transient guest for compensation and includes a backpacker’s lodge, 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 residents or guests, but excludes a hotel;

**“hotel”** means premises used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes-

- (a) a restaurant forming part of the hotel;
- (b) a conference and entertainment facility that is subservient and ancillary to the dominant use of the premises as a hotel; and
- (c) premises licensed to sell liquor for consumption on the property, but excludes an off-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

**“licensee”** means a person who is licensed to sell liquor in terms of the Act and includes the manager who is responsible for the management of the business and the manager is subject to the same duties, obligations and liabilities as the licensee;

**“liquor”** means liquor as defined in the Liquor Products Act, No. 60 of 1989;

**“Municipality”** means the Laingsburg Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and includes -

- (a) its successors-in-title;
- (b) any political structure or political office bearer;
- (c) subject to the provisions of any other law and only of expressly or impliedly required or permitted by this By-law, the Municipal Manager or his/her delegate in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms of this By-law or any other law;
- (d) an authorised agent of the Municipality; or
- (e) 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);

**“Municipal Manager”** means a person as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“off-consumption premises”** means the place of business from which a licensee sells liquor to be consumed at a location removed from the place or business;

**“on-consumption premises”** means the place of business and location in which liquor is sold and consumed;

**“person”** means a natural person or a juristic person;

**“revocation notice”** means a written notice to revoke extended liquor trading days and hours as contemplated in section 9;

**“Schedule”** means the Schedule for trading days and hours for licensed businesses attached to this By-law;

**“sell”** includes –

- (a) to supply, exchange, offer for sale, display for the purpose of sale; or
- (b) to authorise, direct or allow a sale, supply, exchange, offer for sale or display for sale; for the exchange of money or any other type of consideration and “sale” and “sold” have corresponding meaning;

**“standard trading”** means trading days and trading hours as contemplated in sections 4 and 5 of this By-law, and excludes extended or reduced trading days and hours that may be approved by the Municipality in terms of sections 6 and 7 of this By-law;

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

**“zoned”** means zoned as the case may be in terms of the Municipality’s Zoning Scheme By-law; and  
**“zoning”** has a corresponding meaning

### **Application and interpretation**

~~2.~~**(2.1)** This By-law applies to the sale of liquor by any person to the public within the jurisdiction of the Municipality.

(2) In the event of an inconsistency between the English, Afrikaans or Xhosa text, the English text shall prevail.

### **General prohibition**

3. No person may sell liquor to the public for on consumption or off consumption –
- (a) outside of the days and hours that have been determined by the Municipality; and
  - (b) without a valid liquor ~~licence~~license that has been issued as contemplated in the Act.

### **Standing trading times: On-consumption premises**

4. (1) A licensee may sell liquor for consumption on the licensed premises on the days and hours as set out in the Schedule.

(2) A licensee may allow a patron to complete the consumption of liquor on the premises at a time when the sale of liquor is not permitted by this By-law but may not allow such consumption on the premises for more than 30 minutes after the time permitted by this By-law.

(3) A hotel or guest accommodation establishment licensed to sell liquor for on consumption, may provide access to a bar facility inside each private suite or room for the enjoyment of a guest occupying such private suite or room, and may offer a room service facility,

**Standard trading times: Off consumption premises**

5. A licensee may sell liquor for consumption off the licensed premises on the days and hours as set out in the Schedule.

**Extended trading times: application for extended trading days and hours**

6. (1) Subject to subsection (5), (6) and (7) a licensee may upon payment of the required fee as determined by Council, submit a written application to the Municipality to extend the liquor trading days and hours of licensed premises for a maximum period of one year.

(2) The Municipality may approve, amend or refuse an application for an extension of liquor trading days and hours for both on and off-consumption premises.

(3) An application for extension of trading days and hours is not automatically renewable and –

(a) must be submitted to the Municipality for consideration on an annual basis;

(b) may be approved by the Municipality, subject to the imposition of conditions for extended liquor trading days and hours.

(4) Applications and yearly renewals will only be considered or processed for approval by the Municipality during the period starting 1 January and ending 31 October of the same year.

(5) The Municipality may approve, amend or refuse an application for the extension of liquor trading hours -

(a) Up to 02:00 the next day for on-consumption premises from Monday to Sunday; and

(b) Up to 22:00 for off-consumption premises from Monday to Saturday.

(6) No rights accrue to any licensee who has submitted an application for extension of trading days and hours before the proof of written approval is received from the Municipality by such licensee.

(7) The Municipality must, before approving an application for the extension of trading days and hours, reasonably and fairly consider further factors which may include, inter alia –

- (a) the validity of the liquor ~~licencelicense~~;
- (b) where applicable, the validity of a business ~~licencelicense~~ issued in terms of the Business Act of 1991 (Act no. 71 of 1991);
- (c) location of the establishment of the licensee;
- (d) previous suspension, amendment or revocation of extended trading days and hours including previous records of complaints investigated and confirmed in respect of the last twelve months preceding a current application for extension;
- (e) the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities;
- (f) outcome of community consultation and the recommendation of the relevant ward committee;
- (g) the potential impact on the surrounding environment;
- (h) whether it is in the public interest to approve and grant an extension of trading days and hours;
- (i) the period for which application is made; and
- (j) a motivation from the applicant dealing with the impact of – the risk to and nuisance on the surrounding community; mitigation measures to assist the control of risks and nuisances; and possible benefits of extended liquor trading days and hours on the surrounding community.

### **Reduced trading hours**

7. The Municipality may on application or recommendation and in its discretion, reduce the trading hours as set out in the Schedule for certain on and off-consumption premises, after taking into consideration the zoning and location of the premises, as well as any other factors it may deem relevant.

### **Compliance notice**

8. (1) An authorised official may serve a compliance notice on a licensee thereby instructing such licensee to comply with the provisions on this By-law.

(2) The compliance notice must specify –

- (a) the contravention and expected remedy of the contravention;
- (b) the time frame in which the licensee must remedy the contravention and comply with any lawful instruction contained in the compliance notice; and
- (c) the consequences of failure to comply with paragraphs (a) and (b).

(3) A licensee commits an offence if such licensee fails to adhere to the instructions contained in a compliance notice.

### **Revocation of extended liquor trading days and hours**

9. (1) An authorised official may –

- (a) after the time frame specified in the compliance notice has lapsed; and
- (b) upon delivery of a revocation notice to the licensee, immediately revoke the licensee's extended trading days and hours.

(2) No person may continue selling liquor to the public during the extended days and hours of liquor trading which have been revoked.

(3) The Municipality may not be held responsible for any loss of income suffered by a licensee due to the revocation of extended trading days and hours.



### **Prevention of sale of liquor and seizure of liquor**

10. (1) The Municipality may, in the instance that the licensee has contravened any provisions of this By-law and failed to adhere to a compliance or revocation notice that was served.

- (a) cause the prevention of sale of liquor; and
- (b) seize any liquor on the premises in accordance with the procedures as contemplated in the Criminal Procedure Act, 1977 (Act no. 51 of 1977).

(2) Where the sale of liquor is prevented and liquor is seized as contemplated in subsection (1), the Municipality may recover any costs incurred by the Municipality from the licensee.

### **Display of signage, population certificate and other obligations of licensee**

11. (1) The licensee must ensure that the relevant approval relating to hours of trade together with the population certificate, for on consumption premises, are always present and displayed on the premises.

(2) Licensee must ensure that the licensed premises meet and complies with all environmental, health-, planning and safety laws together with business licenses and conditions imposed by the Municipality.

### **Safety and security**

12. The licensee must ensure that reasonable safety and security measures are in place for the protection of patrons of the licensed premises by ensuring that, inter alia –

- (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 adhere to the requirements of the National Buildings Regulations and Building Standards Act, 1977, (Act 103 of 1977); the Laingsburg Local Municipality By-law Fire and Safety and any other permission granted by the Municipality; and

- (c) there is adequate lighting on the outside of the premises where patrons and staff access and exit the licensed premises.

### **Nuisances**

**13.** A licensee who is 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 nuisances emanating from the premises.

### **Offences and penalties**

**14. (1)** Any person or licensee who –

- (a) contravenes or fails to comply with any provision of this By-law;
- (b) fails to comply with the terms of a notice served upon him in terms of this By-law;
- (c) interferes, obstructs, hampers or handicaps or furnishes false or misleading information to any authorised official in the execution of any power or the performance of any duty or function in terms of any provision of this By-law,

is guilty of an offence and on conviction, is liable to a fine or imprisonment, or to both such fine and such imprisonment.

(2) In the case of a continuing offence, and on conviction, a person or licensee referred to in subsection (1) is liable to an additional fine or an additional period of imprisonment, or to both such additional fine and imprisonment for each day on which such offence is continued.

(3) A person or licensee referred to in subsection (1) is liable to further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

### **Administration and enforcement**

**15.** (1) The Council may, with exclusion of Sections 4 and 5, delegate in writing, the responsibility for the administration and enforcement of this By-law to Senior Manager: Community Services.

(2) The Senior Manager: Community Services may sub-delegate in writing, any power or duty granted to him or her in terms of this By-law to an official in his or her Department.

### **Right of appeal**

**16.** Any licensee or objector whose rights have been affected by a final decision taken with regards to –

- (a) an application for extended trading days and hours;
- (b) the amendment or revocation of extended trading days and hours, or
- (c) the reduction of trading hours,

may appeal against that final decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

### **Repeal by-laws**

**17.** The Laingsburg Municipality: Liquor Trading Hours By- Law is hereby repealed.

### **Short title and commencement**

**18.** (1) This By-law is called the Laingsburg Local Municipality: Control of Undertakings that sell Liquor to the Public By-law, 2021.

(2) This By-law shall come into operation on the date of publication thereof in the Provincial Gazette.

## SCHEDULE FOR TRADING DAYS AND HOURS FOR LICENSED BUSINESSES

Trading days and hours of liquor for licensed businesses selling liquor for consumption on and off the licensed premises. Licenses granted in terms of section 33 of the Act.

TYPE OF LICENSE	TRADING HOURS
Section 33(a) license – Micro production and sale of liquor both on and off consumption (cellars, winemakers, home distillers)	<p><b>ON-CONSUMPTION</b>  <b>09:00 – 22:00 Monday to Saturday</b>  <b>09:00 – 15:00 Sunday</b></p> <p><b>OFF-CONSUMPTION</b>  <b>09:00 – 18:00 Monday to Saturday</b>  <b>Sunday closed</b></p>
Section 33(b) licenses for the sale of liquor for consumption on the premises Sport clubs, bar, sports bar, night club, jazz club, pub and grub, tavern, restaurants  Hotel, B&B's	<p><b>09:00 – 23:00 Monday to Thursday</b>  <b>09:00 – 02:00 Friday to Saturday (the next day)</b>  <b>09:00 – 22:00 Sunday</b></p> <p><b>24 hours per day</b></p>
Section 33(c) licenses off consumption sales, (Liquor stores, general dealers, supermarkets, boutiques, food stores, wholesalers)	<p><b>09:00 – 20:00 Monday to Friday</b>  <b>09:00 – 18:00 Saturday</b>  <b>09h00 – 14h00 Sunday</b></p>

<p>Section 33(d) licenses for sale of liquor both on and off consumption (Exceptional Circumstances)</p>	<p><b>ON-CONSUMPTION:</b>  <b>09:00 – 00:00 (Monday to Thursday)</b>  <b>09:00 – 02:00 (Friday to next day Saturday)</b>  <b>09h00 – 14h00 Sunday</b></p> <p><b>OFF-CONSUMPTION</b>  <b>09:00 – 20:00 Monday to Friday</b>  <b>09:00 – 18:00 Saturday</b>  <b>CLOSED Sunday</b></p>
<p>Section 33(e) licenses for sale of liquor for both on and off consumption at special events (concerts, festivals, sport and entertainment events)</p>	<p><b>ON-CONSUMPTION</b>  <b>09h00 – 00h00 Monday to Thursday</b>  <b>09h00 – 02h00 Friday to Saturday (the next day)</b>  <b>09h00 – 14h00 Sunday</b></p> <p><b>OFF CONSUMPTION</b>  <b>09h00 – 20h00 Monday to Friday</b>  <b>09h00 – 18h00 Saturday</b>  <b>Sunday Closed</b></p>
<p>Temporary License in terms of section 33(f) for sale for liquor for both on and off consumption</p>	<p><b>The trading hours will be similar to those contained in this Schedule, depending on the type of license applied for.</b></p>