

PRINCE ALBERT MUNICIPALITY

Control of Undertakings that Sell Liquor to the Public, By-law, 2025

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The Municipality of Prince Albert ("the municipality") hereby publishes the Prince Albert Municipality: Control of Undertakings that Sell Liquor to the Public, By-Law 2025 as set out below. This By-Law has been promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

PREAMBLE

To provide for the control of undertakings selling liquor to the public, including the control of trading times, to ensure a safe and healthy environment in the Prince Albert Municipal area; and to provide for enforcement and other matters related thereto.

1. Definitions

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.

"Authority" means the Western Cape Liquor Authority, established in terms of the Act;

"compliance notice" means a written instruction by an authorised official as contemplated in section 8;

"guest accommodation establishment" means premises used as temporary residential accommodation to transient guests for compensation, and includes a backpacker's lodge, a bed-and-breakfast establishment, guest house and guest farm or lodge;

"licensee" means any 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 any licensed premises, business, outlet or land use activity from which liquor is sold;

"licensed premises" means any place, land, building or part of a building in respect of which a liquor licence has been issued by the Authority in terms of the Act and includes a vehicle or vessel which is mainly used for the conveyance of tourists or passengers;

"liquor" means liquor as defined in section 1 of the Act;

"municipal manager" means the person appointed by the municipal council as the

municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No 117 of 1998) and includes any person to whom the municipal manager has delegated a power, function or duty but only in respect of that delegated power, function or duty

“nuisance” means any act or omission or condition on any premises, vehicle, street or public place, including any building, structure, vehicle or vessel which is offensive or dangerous, or which interferes with the ordinary comfort, convenience, peace or quiet of other people or which may adversely affect the safety or comfort of people;

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

“population certificate” means an occupancy certificate aimed at the prevention and control of overcrowding;

“Prince Albert Municipality” means the Prince Albert Local Municipality established in terms of Section 12 of the Act on Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, and “Municipality” has a corresponding meaning;

“sell” includes –

- (a) to supply, exchange, offer for sale, display for the purpose of sale; and
- (b) to authorise, direct or allow a sale, supply, exchange, offer for sale or display for sale; and
- (c) for the exchange of money or any other type of consideration

and “selling”, “sale”, “sold”, “trade” and “trading” have corresponding meanings;

“sparkling wine” means an effervescent wine resulting from the fermentation of grapes, whether by natural or artificial process, and includes champagne;

“special event” means a fundraising event in aid of an educational or welfare organisation, any exhibition, sports meeting, cultural meeting or artistic performance as provided for in the Act;

“tourism facility” means a tourism attraction, tourist facility, farm stall, wine production facility, craft brewery and craft distillery or similar, licenced establishment aimed at serving visiting tourists;

“temporary license” means a temporary license issued by the Authority to—

- (a) the holder of an on consumption license; or
- (b) in exceptional circumstances, the holder of an on and off consumption license as provided for in the Act:

“the Act” means the Western Cape Liquor Act, 2008 (Act No. 4 of 2008), with its regulations, as amended from time to time;

"zoning", when used as a noun, means a category of directions regulating the development of land and setting out the purposes for which the land may be used and the land use or land use provisions applicable in respect of the said category of directions, as determined by the Zoning Scheme;

"zoning scheme" means the zoning scheme or -schemes applicable to the area and in force within the area of jurisdiction of the municipality.

2. Purpose of by-law and application

- (1) To provide for the control of undertakings selling liquor to the public in order to ensure a safe and healthy environment in the Prince Albert 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.
- (2) This by-law applies to all licensees, business owners and managers of licensed premises within the jurisdiction of the municipality.

3. General prohibition

No person may sell liquor to the public for consumption on the licenced premises, or for consumption off the licenced premises, or both, outside of the days and hours that have been determined by the Municipality and / or without the required certificates being displayed and / or without a valid liquor license that has been issued as contemplated in the Act.

3. Trading days and hours for sale and consumption of liquor on licensed premises

- (1) A licensee for consumption on the licensed premises may sell liquor for consumption on the licensed premises only on:
Monday to Thursday: 10h00 - 23h00
Friday to Saturday: 10h00 - 24h00
Sunday: 12h00 - 20h00
- (2) A licensee may not allow a patron to complete the consumption of liquor at a time more than 30 minutes after the time permitted by this By-Law.
- (3) Despite subsection (1), guest accommodation establishments, licensed to sell liquor, may offer a room service facility, with limited stock which may not be replenished outside of the times as determined by subsection (1).
- (4) Despite the provisions above, a licensee for consumption on the licenced premises, may serve sparkling wine from 08:00 to the closing times in subsection (1) as part of a meal to guests who are part of an organised function where admittance is controlled.

4. Trading days and hours for sale of liquor for consumption off licenced premises

- (1) A licensee for the consumption of liquor off the licensed premises may sell liquor for consumption off the licensed premises only on:
Monday to Thursday: 09h00-18h00
Friday: 09h00 - 19h00
Saturday: 10h00-17h00
Public holidays which are not on a Sunday: 10h00 - 17h00
- (2) A tourism facility, licensed for consumption off the licenced premises, may, in addition to subsection (1), sell wine and beer on Sundays from 10h00 to 17h00.

5. Special events and temporary licenses

Where the Authority refers an application for a special events license or a temporary license in terms of the Act to the municipality for comments or recommendation, the municipality may recommend a deviation from the trading hours stated above.

6. Display of signage, population certificate, safety, the prevention of nuisances, and other obligations.

- (1) All licensees must ensure that the population certificate is always present and displayed on the premises.
- (2) All licensees must ensure that the number of patrons and / or persons allowed by the population certificate is not exceeded.
- (3) If the trading hours have been amended by the municipality, the relevant approval relating to trading hours must always be present and displayed on the premises,
- (4) The licensee must ensure that reasonable safety and security measures are in place for the protection of patrons at the licensed premises by ensuring that, inter alia –
 - (a) that the storage of goods and equipment and the condition of the premises and any structures thereon do not cause a danger to the safety of patrons inside the premises;
 - (b) that the premises adheres to the requirements of the National Building Regulations and Building Standards Act, 1977, (Act 103 of 1977); the Prince Albert Municipality By-Law Relating to Community Fire and Safety and any other municipal by-law;
 - (c) that the premises and operations meet and complies with all environmental-, health-, planning- and safety laws; business licenses and similar;
 - (d) that, in respect of licences for on consumption, there is adequate lighting on the outside of the premises where patrons and staff access and exit the licensed premises.
- (5) A licensee must take reasonable steps to ensure that the residents of the surrounding community are not unreasonably affected and/or inconvenienced by noise or other nuisances emanating from the premises, in that:-

- (a) No noise nuisance is created or caused (as a result of patrons shouting or using their vehicles to make a noise, or music being played loudly, or noise from extractor fans, etc);
- (b) No nuisance for any neighbouring property owner is created (as a result of loitering, vehicles parking in the street, drunk patrons in the street, damaging neighbours' properties, cars hooting/spinning, revving, stopping, etc);
- (c) No refuse is visible at any time on the licenced erf or premises;
- (d) A licensee for off consumption is not allowed to avail seating inside or outside the premises.

7. Appointment of authorised officials

- (1) The municipality appoints its Law Enforcement officials, Traffic Enforcement officials, Fire and Rescue officials and any official overseeing any of them, to implement and enforce the provisions of this by-law and to issue fines, as determined, for a transgression of this by-law.
- (2) The municipality delegates the authority to enforce this by-law also to liquor inspectors of the Western Cape Liquor Authority and members of the South African Police delegated to the area or performing official duties in the area.

8. Compliance and enforcement

- (1) An authorised official may, for the purposes of ensuring compliance with this by-law, at reasonable times and at all times when there is trade or consumption on the premises, enter any liquor licenced premises or a premises in respect of which an application for a liquor license is pending.
- (2) When entering premises in terms of this section, the authorised official must identify himself or herself to the person in charge of the premises.
- (3) An authorised official may issue and serve a notice of 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.
- (4) A compliance notice must stipulate—
 - (a) the provisions of the by-law that is contravened;
 - (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; and
 - (e) the possible consequences of non-compliance.
- (5) An authorised official may issue a control document with fines, as determined, for a transgression of this by-law to the licensee or any person in control of licensed premises.

9. Application for extended trading hours

- (1) Notwithstanding the provisions of—

- (a) section 3, the holder of an on-consumption license may, upon payment of the required fee, apply to the municipality to trade up to 02h00 of the following day.
- (b) section 4, the holder of an off-consumption license may, upon payment of the required fee, apply to the municipality to trade for extended hours.
- (2) Applications must be made in the prescribed manner and must be submitted at least thirty days prior to the date on which extended hours are needed. Late applications shall not be considered.
- (3) No rights accrue to any licensee who has applied for extension of trading days and hours before the written approval, to be displayed, is received from the Municipal Manager.
- (4) An application for extension of trading days and hours is valid for the remainder of the calendar year and is not automatically renewable.
- (5) Applications for extended trading hours shall be restricted to a maximum of two per premise per calendar year.
- (6) No application in terms of subsection (1) shall be considered or processed during the period 1 December and 15 January of the following year.
- (7) The municipality must, when considering an application for the extension of trading hours, consider applicable factors which may include—
- (a) the validity of the liquor licence;
 - (b) where applicable, the validity of a business licence issued in terms of the Businesses Act of 1991 (Act No. 71 of 1991);
 - (c) the location of the premises;
 - (d) previous records of complaints in respect of the licensee and / or licenced premises;
 - (e) the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities;
 - (f) the potential impact on the surrounding environment;
 - (g) whether it is in the public interest to approve and grant an extension of trading hours;
 - (h) a motivation from the applicant dealing with—
 - (i) the possible risks to the surrounding community and the creation of noise or other nuisances;
 - (ii) measures to control or alleviate possible risks and nuisances; and
 - (iii) possible benefits for the surrounding community if the liquor trading hours is extended.
- (8) The municipality, in considering the application for extended trading hours, may request input from—
- (a) the relevant ward committee;
 - (b) adjacent residents which may be affected;
 - (c) the local Community Policing Forum;
 - (d) the designated liquor officer of the SA Police Service; and

(e) any relevant community organisation such as church groups, ratepayers or business forums.

- (9) The municipality may issue an approval for extended trading hours' subject to any conditions.

10. Reduced trading hours

The municipality may, on application or on own initiative, in its discretion, revoke an extension of trading hours and / or reduce the trading hours as set out in this By-Law for an 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.

11. Objection against renewal of licenses

The Municipal Manager is authorised to lodge representations against the automatic renewal of a liquor license within the geographical area of the Municipality.

12. Appeal

A person or judicial entity whose rights are affected by a decision of the municipality in terms of delegated authority 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.

13. Offences and penalties

- (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 liable on conviction to:
- (a) to community work, a fine or imprisonment, or to both such fine and such imprisonment; and
 - (b) in the case of a continuing offence, to an additional fine or additional period of imprisonment, or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (c) a 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.
- (2) While delegated municipal law enforcement officials are authorized to issue spot fines and refer matters for prosecution at the courts or the Western Cape Liquor Authority, the courts are not limited to the issue of fines.

14. Repeal

The previous By-laws on Liquor Trading Days and Hours applicable to the Municipality is hereby repealed.

15. Short title

This by-law shall be known as the Prince Albert Municipality: By-law Relating to Control of Undertakings that sell Liquor to the Public and shall come into operation on the date of publication hereof in the Provincial Gazette.

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