

## SENQU MUNICIPALITY MUNICIPAL NOTICE

LOCAL AUTHORITY NOTICE NO...

2017

### BY-LAW ON LIQUOR TRADING HOURS

The Municipal Council of Senqu Local Municipality in the Schedule hereto publishes, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with section 162 of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) the By-law on Liquor Trading Hours.

### SCHEDULE

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#### 1 Objective

The objective of this By-law is to regulate the hours during which liquor may be sold by a registered person

#### 2 Definitions

In this By-law unless the context otherwise indicates –

“**Act**” means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003);

“**council**” means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

**“community”** means the residents, school governing bodies or places of worship within a 100m radius from the premises in respect of which the application for registration is made;

**“Council”** means the Senqu municipal council, a municipal council referred to in section 157(1) of the Constitution;

**“departure application”** means a written application in duplicate made on the form approved by the Municipality for the purposes of this By-law;

**“compliance officer”** means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

- (a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;
- (d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (e) appointment by the Municipality as a compliance officer or an inspector;

**“form”** means a form approved by the Municipality for the purposes of this By-law;

**“Municipality”** means the Senqu Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-law by virtue of a power vested in the Municipality and delegated to such employee or agent;

**“premises”** includes any place, land, building or conveyance, or any part thereof, which is registered in terms of the Act, or in respect of which registration is sought in terms of the Act, to permit trade in liquor;

**“registered person”** means a registered person as defined in section 1 of the Act; and

**“trading hours”** means the hours during which trade in liquor on premises is permitted in accordance with Schedule 1.

### **3 Applicability of By-law**

This By-law shall be applicable in respect of all premises situated within the area of jurisdiction of

the Municipality where trade in liquor is conducted or is intended to be conducted.

#### **4 Trading hours**

(1) The Municipality has determined the liquor trading hours for the different types of registered persons and premises, listed in the first column of Schedule 1, as the trading hours listed in the second column of the said Schedule 1.

(2) A registered person may apply to the Municipality for a departure from the trading hours referred to in subsection (1) on the approved form.

(3) The Municipality may, upon an application by a registered person and after consultation with the South African Police Services, grant written approval for the departure from trading hours referred to in Schedule 1 in the form referred to in Schedule 2 and 3.

(4) The Municipality may, upon application in the form approved by the Municipality, determine the trading hours for the retail sale and consumption of liquor at a special event contemplated in section 20(d) of the Act for each special event.

(5) An application for a determination of the trading hours of a special event must be submitted to the Municipality at least 14 days before the special event is to take place.

(6) The Municipality may depart from the trading hours referred to in Schedule 1 in the interests of the community.

#### **5 Appointment of compliance officer**

(1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.

(2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.

(3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

#### **6 Powers and functions of a compliance officer**

(1) A compliance officer may, subject to subsection (2) and (3), at any reasonable time, and without prior notice, enter any land property, building or premises for purposes of ensuring compliance with this By-law.

(2) An inspection of a private dwelling may only be carried out by a compliance officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the

building, or with a warrant issued in terms of the Criminal Procedure Act, 1977.

(3) The compliance officer is not required to give any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:

- (a) he or she believes on reasonable grounds that a warrant would be issued to him or her on application; and
- (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.

(4) A compliance officer shall show proof of his or her written appointment or identification card contemplated in section 5(3) when required to do so by any person affected by the exercising of a power or show proof that he or she is a law enforcement officer.

(5) A compliance officer may not investigate a matter in which he or she has a direct or indirect personal interest.

(6) In ascertaining compliance with this By-law, a compliance officer may:

- (a) be accompanied by an interpreter, a police officer or any other person who may be able to assist with the inspection;
- (b) question any person who is or was on that property, who in the opinion of the compliance officer, may be able to furnish information on a matter to which this By-law relates;
- (c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:
  - (i) an offence in terms of this By-law; or
  - (ii) a breach of an approval or a term or condition of such approval
- (d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of investigating any matter in connection with this By-law;
- (e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;
- (f) require a person to produce or to deliver to a place specified by him or her, any document, book, record, or any written or electronic information referred to in paragraph (e) for inspection;

- (g) require from such person an explanation of any entry in such document, book, record or written or electronic information;
- (h) inspect any article, substance, plant or machinery which is or was on the property, or any work performed on the property or any condition prevalent on the property, or remove for examination or analysis any article, substance, plant or machinery or a part or sample;
- (i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his or her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;
- (j) direct any person to appear before him or her at such time and place as may be determined by him or her and question such person either alone or in the presence of any other person on any matter to which this By-law relates; and
- (k) take photographs or make audio visual recordings or tape recordings of any person or anything for the purposes of his or her investigation.

(7) When a compliance officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he or she shall issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

(8) Where a compliance officer enters any land in terms of subsection (1), a person who controls or manages the land shall at all times provide such facilities as are reasonably required by the compliance officer to enable him or her to perform his or her functions effectively and safely under this By-law.

(9) A compliance officer who enters and searches any property or private dwelling under this section, shall conduct such search with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

## **7 Offences and penalties**

- (1) A person shall be guilty of an offence if such person
  - (a) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.

- (a) operate a registered premises contrary to the trading hours referred to in Schedule 1;
- (b) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
- (c) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;
- (d) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
- (e) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
- (f) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
- (g) impersonates a compliance officer;
- (h) contravenes or fails to comply with any provision of this By-law; or
- (i) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.

(2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine or imprisonment or to both such fine and imprisonment.

(3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

## **8 Temporary exemption pending decision on departure application**

The trading hours specified in Schedule 1 shall not apply to a registered person and a registered person shall be exempt from compliance pending the decision on a departure application in respect of the registered premises, provided that –

- (a) a copy of the departure application in respect of the registered premises, endorsed by the Municipality, is kept on the premises; and
- (b) the copy referred to in paragraph (a) is produced for inspection on request of a compliance officer.

## **9 Appeals**

Any person may appeal against any decision taken under this By-law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

## **10 Repeal of by-laws**

The Liquor By-laws published in the *Provincial Gazette* by Notice Number 192 of 2005 is hereby repealed.

## **11 Short title and commencement**

This By-law shall be known as the Senqu Municipality: Liquor Trading Hours By-law, 2017 and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

## SCHEDULE 1

<b>COLUMN 1</b>	<b>COLUMN 2</b>
<b>CATEGORIES OF REGISTRATION</b>	<b>TRADING HOURS</b>
Section 20(a) of the Act Registration in terms of the Act for the retail sale of liquor for consumption off the premises where the liquor is being sold	Monday to Saturday: 08:00 to 20:00 Sunday- 8:00 to 13:00
Section 20(b) of the Act Registration in terms of the Act for the retail sale of liquor for consumption on the premises where the liquor is being sold	Monday to Saturday: 10:00 to 24:00 Sunday- 10:00 to 22:00
Section 20(c) of the Act Registration in terms of the Act for the retail sale and consumption of liquor on and off the premises where the liquor is being sold	OFF-CONSUMPTION Monday to Saturday: 08:00 to 20:00 Sunday: 08:00 to 13:00 ON-CONSUMPTION Monday to Saturday: 10:00 to 24:00 Sunday: 10:00 to 22:00
Section 20(d) of the Act Registration in terms of the Act for the retail sale of liquor and consumption at special events	Trading hours to be determined by the Municipality
Section 20(e) of the Act Registration in terms of the Act for micro-manufacturing.	Monday to Saturday: 08h00 to 17h00 Sunday: 08h00 to 13h00

## SCHEDULE 2

### APPROVAL FOR DEPARTURE FROM LIQUOR TRADING HOURS [SECT 4(3)]

Trading hours approved in terms of Section 4(3)

A APPROVAL IN RESPECT OF:

Full Names: .....

I.D. Number: .....

Trading Name: .....

Company Name: .....

Physical Address: .....

.....

Erf No: .....

Registration Certificate No. ....

[Act No. 10 of 2003 : Eastern Cape Liquor Act, 2003]

#### B HOURS APPROVED

Monday ..... to .....

Tuesday ..... to .....

Wednesday ..... to .....

Thursday ..... to .....

Friday ..... to .....

Saturday ..... to .....

Sunday ..... to .....

#### C APPROVED BY:

SIGNATURE: .....

INITIALS & SURNAME: .....

CAPACITY: .....

DATE: .....

PLACE: .....

### **SCHEDULE 3**

#### **APPROVAL OF TRADING HOURS FOR THE SALE OF LIQUOR AT SPECIAL EVENTS [SECT 4(3)]**

Trading hours for the sale of liquor at special events.

**A APPROVAL IN RESPECT OF:**

Full Name: .....

I.D. Number: .....

Physical Address: .....

Telephone No: .....

Company Name: .....

Registration certificate number .....

[Act No 100 of 2003 : Eastern Cape Liquor Act, 2003]

**B LOCALITY OF SPECIAL EVENT**

Type of special event: .....

Physical Address: .....

.....

.....

Erf No: .....

**C TYPE OF LIQUOR TO BE SOLD**

.....

.....

**D DATES AND TIMES LIQUOR AUTHORISED TO BE SOLD**

**DATE DAY TIME**

.....

.....

.....

.....

.....

**E APPROVED BY:**

SIGNATURE: .....

INITIALS & SURNAME: .....

CAPACITY: .....

DATE: .....

PLACE: .....