



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

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(Extraordinary)

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LOCAL AUTHORITY NOTICE

No. 70

BUFFALO CITY METROPOLITAN MUNICIPALITY

LIQUOR TRADING HOURS BY-LAW

It is hereby published for general information that the Council of Buffalo City Metropolitan Municipality, acting under the authority of section 11 (3) (m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), read with sections 22(2) and 42(b) of the Eastern Cape Liquor Act, 2003 (Act No. 10 of 2003), has taken a decision on, and passed, by-law on liquor trading hours.

Definitions

1. Purpose of By-law
2. Application of By-law
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4. Trading hours
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7. General Offences
8. Penalties
9. Transitional provisions
10. Repeal of By-law
11. Short title and commencement

1. DEFINITIONS

In this by-law unless the context otherwise indicates –

“**Act**” means the Eastern Cape Liquor Act, 2003 (Act No. 10 of 2003);

“**board**” means the Eastern Cape Liquor Board established by section 4 of the Act;

“**Council**” means the municipal council of the Buffalo City Metropolitan Municipality or any other committee, official or councillor acting by virtue of powers delegated by the municipal council;

“**community**” means the group of people residing, working or operating within a 300m radius of the premises in respect of which application for registration, in terms of the Act, is made;

“**departure application**” means a written application in duplicate made in accordance with Schedule 2 or Schedule 3, as the case may be;

“**Minister**” means the Minister of Environmental Affairs and Tourism, as defined in terms of section 1 of the Tourism Act, 1993 (Act 72 of 1993);

“**operator**” means the owner, manager or person responsible for any premises where trade in liquor is conducted or is intended to be conducted;

“**official**” means any person authorized by Council to perform the function of an officer under this by-law and includes any member of the South African Police Services or a traffic or a law enforcement officer as appointed by Buffalo City Metropolitan Municipality or an inspector as appointed or designated in terms of section 46(1) of the Act;

“**premises**” includes any place, land, building or conveyance, or any part thereof;

“**regulations**” means the regulations, published as Provincial Notice No. 17 of 28 May 2004, as amended, and made under the Act;

“**retail**” means the sale of liquor for use or consumption but not for resale;

“**trade**” means the buying and selling of liquor on a retail basis, and “**trading**” shall have a corresponding meaning;

“**trading hours**” means the hours during which trade in liquor is permitted in accordance with Schedule 1; and

“**ward committee**” means a committee as contemplated in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

2. PURPOSE OF BY-LAW

The Council, acting in terms of the powers granted to it in the Act, adopts this by-law with the aim of determining the hours during which liquor may be traded.

3. APPLICATION OF BY-LAW

This by-law shall be applicable in respect of all premises situated within the area of jurisdiction of the Council where trade in liquor is conducted or is intended to be conducted.

4. LEGISLATIVE FRAMEWORK

This by-law falls within the following legislative framework, including any other relevant legislation –

- (a) Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (b) Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (c) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);
- (d) Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (e) Eastern Cape Liquor Act, 2003 (Act No. 10 of 2003).

5. TRADING HOURS

- (1) The Council has determined the trading hours for the different types of registrations, listed in the first column of Schedule 1, as the trading hours listed in the second column of the said Schedule 1.
- (2) Council reserves the right to depart from the stipulated trading hours, provided that such departure is lawful, reasonable and procedurally fair.

5A DEPARTURE APPLICATIONS

- (1) An operator may apply for a departure from the trading hours stipulated in Schedule 1 by completing and submitting an application in accordance with Schedule 2 or 3 to Council.

- (2) Council shall decide on the application within a period of three months, calculated from the date of submission, provided that Council may extend the period once for a further period of not more than 30 days where the application requires a search for information or consultation with the community that cannot reasonably be completed within the original period.
- (3) An operator who is adversely affected by a decision taken by Council in terms of sub-section (2) may appeal against such decision within 21 days, subject to the provisions of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000).
- (4) No departure shall be effective until Council has granted an application and issued its written approval in accordance with Schedules 2a or 3a.
- (5) The trading hours specified in Schedule 1 shall continue to apply and an operator shall not be exempt from compliance, pending a decision on a departure application.

5B ACCOMMODATION ESTABLISHMENTS

- (1) The trading hours specified in Schedule 1 shall not apply to accommodation establishments that are members of the grading and classification scheme established by the Minister in terms of section 18 of the Tourism Act, 1993 (Act No. 72 of 1993).
- (2) Council may require proof of membership upon reasonable request to any person conducting an accommodation establishment.

6. REPORT BY WARD COMMITTEE

- (1) The ward committee must, upon receipt of a notice of application for registration in terms of section 22(2)(d)(i) of the Act, consult members of the community.
- (2) The ward committee must submit a report to the board and the Council within 28 days, in terms of item 5 of the regulations, in which it contains the details of the consultative process with the community, advises on objections to the application and makes recommendations.

7. ENFORCEMENT

- (1) The Council may appoint and mandate officials to enforce this by-law.
- (2) An official, acting within the powers vested in him or her by this by-law, must, on demand by a member of the public, produce proof of identity and the capacity in which he or she purports to conduct his or her business.
- (3) An official, acting in terms of the mandate contemplated in sub-section (1) may –
 - (a) enter premises where trade in liquor is being or is intended to be carried on; and
 - (b) request the operator or person apparently in charge of the premises to provide such information as he or she reasonably deems necessary for purposes of enforcing this by-law.

8. GENERAL OFFENCES

No person shall-

- (a) hinder or interfere with an official in the execution of his or her official duties;
- (b) falsely present him- or herself to be an official;
- (c) furnish false or misleading information when complying with a request of an official;
- (d) fail to comply with a reasonable request of an official; or
- (e) trade contrary to the hours that appear in Schedule 1, subject to the provisions of sections 5A, 5B and 10.

9. PENALTIES

Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and shall be liable, on conviction, to a penalty not exceeding R10,000 or imprisonment not exceeding three years or to both such fine and imprisonment.

10. TRANSITIONAL PROVISIONS

- (1) The implementation of the trading hours specified in Schedule 1 shall be delayed for a period of six months, calculated from the date of publication of this by-law in the Provincial Gazette.
- (2) An operator who submits a departure application in terms of section 5A within the six month period contemplated in sub-section (1) shall be exempt from the trading hours specified in Schedule 1, pending a decision on the said application.
- (3) No exemption from the trading hours specified in Schedule 1 shall exist in respect of any operator who submits a departure application after the six month period contemplated in sub-section (1).

11. REPEAL OF BY-LAW

Local Authority Notice 125 of 28 October 2008 is hereby repealed in its entirety.

12. SHORT TITLE AND COMMENCEMENT

This by-law shall be known as the Buffalo City Metropolitan Municipality Liquor Trading Hours By-law and takes effect upon publication in the Provincial Gazette.

COLUMN 1	COLUMN 2
TYPE OF REGISTRATION	TRADING HOURS
<p>Sec. 20(a)- Registration in terms of the Act for the retail sale of liquor for consumption off the premises where the liquor is being sold (e.g. liquor store, grocer's wine, etc).</p>	<p>Monday to Saturday- 08:00 to 20:00</p> <p>Sunday- 10:00 to 13:00</p>
<p>Sec. 20(b)- Registration in terms of the Act for the retail sale of liquor for consumption on the premises where the liquor is being sold (e.g. restaurant, night club, pool bar, pub, hotel, lodge, accommodation establishment, etc).</p>	<p>Monday to Thursday- 10:00 to 23:00</p> <p>Friday to Saturday- 10:00 to 02:00</p> <p>Sunday- 12:00 to 22:00</p>
<p>Sec. 20(c)- 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 (e.g. tavern).</p>	<p>OFF-CONSUMPTION</p> <p>Monday to Saturday- 08:00 to 20:00</p> <p>Sunday- 10:00 to 13:00</p> <p>ON-CONSUMPTION</p> <p>Monday to Thursday- 10:00 to 23:00</p> <p>Friday to Saturday- 10:00 to 02:00</p> <p>Sunday-</p>

	12:00 to 22:00
Sec. 20(d)- Registration in terms of the Act for the retail of liquor at a special event.	Trading hours to be determined by the Council on application.



Schedule 2

BUFFALO CITY METROPOLITAN MUNICIPALITY

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS

SECTION 5A(1) OF BUFFALO CITY METROPOLITAN MUNICIPALITY: LIQUOR TRADING HOURS BY-LAW

A) APPLICANT

Full Names:

I.D. Number:

[Attach copy of Identity Document]

Physical Address:

.....

.....

Postal Address:

.....

Telephone No:

B) BUSINESS PARTICULARS

Trading Name:

Company Name:

Registration Certificate . No. in terms of the Eastern Cape Liquor Act, 2003 and date [attach copy]

Physical Address of the premises from which liquor is traded.

.....

.....

Erf No:

C) REASONS FOR DEPARTURE FROM HOURS STIPULATED IN SCHEDULE 1.

[If necessary attach additional page/s]

.....

.....

.....

D) DEPARTURE APPLIED FOR:

Monday to

Tuesday to

Wednesday to

Thursday to

Friday to

Saturday to

Sunday to

E) TYPE OF LIQUOR BEING SOLD OR SUPPLIED

.....
.....
.....

.....

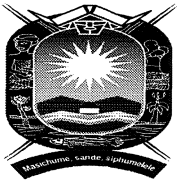
Signature of operator [owner or representative]

Date

Place

AST/hm

04/10/2011



Schedule 2a

BUFFALO CITY METROPOLITAN MUNICIPALITY

APPROVAL FOR THE SALE OF LIQUOR OUTSIDE TRADING HOURS

SECTION 5A(4) OF BUFFALO CITY METROPOLITAN MUNICIPALITY: LIQUOR TRADING HOURS BY-LAW

A Trading hours approved in terms of Section 5A(4)

A1 APPROVAL IN RESPECT OF:

Full Names:
I.D. Number:
Trading Name:
Company Name:
Physical Address:

Erf No:
Registration Certificate No.
(in terms of Eastern Cape Liquor Act, 2003)

A2 HOURS APPROVED

Monday to
Tuesday to
Wednesday to
Thursday to
Friday to
Saturday to
Sunday to

A3 APPROVED BY:

SIGNATURE:

INITIALS & SURNAME:

CAPACITY:

DATE:

PLACE:

DATE STAMP

AST/hm
04/10/2011



Schedule 3

BUFFALO CITY METROPOLITAN MUNICIPALITY

APPLICATION FOR TRADING HOURS TO RETAIL LIQUOR AT SPECIAL EVENTS.

SCHEDULE 1 OF THE BUFFALO CITY METROPOLITAN MUNICIPALITY: LIQUOR TRADING HOURS BY-LAW)

A) APPLICANT

Full Names:

I.D. Number: **[Attach copy]**

Physical Address:

.....

Postal Address:

.....

Telephone No:

B) BUSINESS PARTICULARS

Trading Name:

Company Name:

Registration Certificate No. (in terms of the Eastern Cape Liquor Act, 2003) and date **[attach copy]**

Physical Address:

.....

Erf No.:.....

C) LOCALITY OF SPECIAL EVENT

Type of Special Event:

Physical Address:

.....

Erf No:

Attach plan of area of special event indicating points of retail of liquor

D) TYPE OF LIQUOR TO BE RETAILED

.....
.....

E) DATES AND TIME OF RETAIL OF LIQUOR

.....
.....
.....

F) MOTIVATION FOR RETAIL OF LIQUOR AT SPECIAL EVENT

.....
.....
.....
.....
.....
.....

SIGNATURE OF APPLICANT:

DATE:

PLACE:

N.B. Application to be submitted at least fourteen (14) days before the special event.

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Schedule 3a

BUFFALO CITY METROPOLITAN MUNICIPALITY

APPROVAL OF TRADING HOURS FOR THE RETAIL OF LIQUOR AT SPECIAL EVENTS

SCHEDULE 1 OF THE BUFFALO CITY METROPOLITAN MUNICIPALITY: LIQUOR TRADING HOURS BY-LAW)

A. Trading hours for the sale of liquor at special events.

A1 APPROVAL IN RESPECT OF:

Full Name:
I.D. Number:
Physical Address:
Telephone No:
Company Name:
Registration certificate number
[in terms of Eastern Cape Liquor Act, 2003]

A2 LOCALITY OF SPECIAL EVENT

Type of special event:
Physical Address:
.....
.....
Erf No:

A3 TYPE OF LIQUOR TO BE RETAILED

.....
.....

A4 DATES AND TIMES LIQUOR AUTHORISED TO BE RETAILED

<u>DATE</u>	<u>DAY</u>	<u>TIME</u>
.....
.....
.....
.....
.....

A5 APPROVED BY:

SIGNATURE:

INITIALS & SURNAME:

CAPACITY:

DATE:

PLACE:

DATE STAMP

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04/10/2011

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