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SWARTLAND MUNICIPALITY

BY-LAW RELATING TO CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC

Under section 156 of the Constitution of the Republic of South Africa, 1996, the Swartland Municipality enacts as follows:-

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1. Definitions

In this by-law, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context indicates otherwise–

“agricultural area” means an area predominantly zoned agriculture or any other equivalent use, with the purpose to promote and protect agricultural activity on a farm as an important economic, environmental and cultural resource, where limited provision is made for non-agricultural uses to provide owners with an opportunity to increase the economic potential of their properties, without causing a significant negative impact on the primary agricultural resource;

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

“business premises” means a building or land from which business is conducted and includes a shop, supermarket, restaurant, office, financial institution and buildings for similar uses, but does not include a place of assembly, place of entertainment, institution, service station, motor repair garage, industry, industrial hive, noxious trade, risk activity, adult entertainment or bottle store;

“closed days” means Christmas Day and Good Friday;

“general business area” means an area predominantly zoned general business or any other equivalent use, with the purpose to promote economic activity in a business district and development corridor, and includes a wide range of land uses such as business, residential and community uses;

“guest accommodation establishment” means premises used as temporary residential accommodation for, and includes the provision of meals to, transient guests 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 resident guests, but excludes a hotel;

“hotel” means a property used as a temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes –

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

“industrial area” means an area predominantly zoned general industry or any other equivalent use, with the purpose to accommodate all forms of industry including manufacturing and related processing, but excludes noxious or hazardous risk activity;

“licensee” means any person who is licensed to sell liquor in terms of the Act and includes 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 license 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;

“neighbourhood business area” means an area predominantly zoned neighbourhood business or mixed use or any other equivalent use, with the purpose to accommodate low intensity commercial and mixed use development serving local needs of convenience goods, personal service or small scale business nature or serve as an interface between general business, industrial and adjacent residential area;

“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;

“place of entertainment” means a place used predominantly for commercial entertainment which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis, and includes a cinema, theatre, amusement park, dance hall, gymnasium, totalisator or facility for betting, gambling hall, karaoke bar and nightclub;

“residential area” means an area predominantly zoned residential or general residential or any other equivalent use, with the purpose to accommodate predominantly single-family dwelling houses in low to medium density neighbourhoods, as well as higher density living accommodation and which includes controlled opportunities for home employment, additional dwellings and low intensity mixed use development;

“small holding” means an area predominantly zoned rural or any other equivalent zoning, with the purpose to accommodate smaller rural properties that may be used for agricultural purposes;

“**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;

“**sports and community club**” means premises or a facility used for the gathering of community or civic organisations or associations, sports clubs or other social or recreation clubs run mostly not for profit and may include community service clubs and community centres or similar amenity facilities, but excludes a night club;

“**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;

“**Swartland Municipality**” means the Swartland Municipality established by the Establish Notice published in Provincial Notice No. 5589 of 2000, as amended, and “**Municipality**” has a corresponding meaning;

“**the Act**” means the Western Cape Liquor Act, 2008 (Act No. 4 of 2008), as amended, read together with relevant Regulations;

“**weekday**” a day of the week, excluding Saturday and Sunday;

“**winery**” includes premises or facilities which are used in the production of wine and such premises or facilities include facilities for crushing grapes and fermentation and aging of wine, wine sales and tasting rooms, barrel and storage rooms, bottling rooms, tank rooms, laboratories or offices and other accessory or ancillary facilities incidental to the production of wine, which may include –

- (a) restaurants and other food services; or
- (b) subsidiary retail facilities to tours or visitors

“**wine shop**” means a place to sell packaged liquor for consumption off the premises;

“**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 zoning scheme regulations which have been approved in terms of the Landuse Planning Ordinance, Ordinance 15 of 1985 Swartland Municipality: Land Use Planning By-law published in Provincial Notice Nr. 8226 of 2020.

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 Swartland; 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 premises, situated within the area of jurisdiction of the municipality, on which a business trading in liquor is operated, including:

- (a) undertakings selling liquor to the public for consumption on the licenced premises;
- (b) undertakings selling liquor to the public for consumption off the licensed premises;
- (c) undertakings selling liquor to the public for consumption on and off the licensed premises.

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

(1) A licensee may sell liquor for consumption on the licensed premises on the following days and hours:

- (a) on any day of the week; and
- (b) during the hours of trade as set out in the Schedule.

(2) Despite subsection (1), a hotel or guest accommodation establishment licensed to sell liquor may offer a room service facility at any time of the day.

(3) Despite the provisions of this by-law, a licensee as contemplated in subsection (1), may serve sparkling wine –

- (a) from 08:00 for seven days a week;
- (b) as part of a meal; and
- (c) to guests who are part of an organised function where admittance is controlled.

(4) A licensee who sells liquor for consumption on licensed premises may not allow any consumption of liquor on the licensed premises at a time when the sale of liquor is not permitted.

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

(1) A licensee, excluding wineries and wine shops, may sell liquor for consumption off the licensed premises from Monday to Saturday from 09:00 to 20:00, but not on Sundays and closed days.

(2) Licensed wineries and wine shops may sell liquor for consumption off the premises on the following days and hours:

- (a) from Monday to Saturday from 09:00 to 20:00; and
- (b) on Sundays from 09:00 to 17:00,
but not on closed days.

5. Trading days and hours for sale and consumption on and off the licensed premises

A licensee of premises upon which liquor may be sold for consumption on and off the licensed premises may sell liquor in terms of the trading hours prescribed in section 4 and 5.

6. Special events and temporary licenses

Where the Authority refers an application for a special events license or a temporary license in terms of section 48 of the Act to the municipality for comments or recommendation, the municipality may recommend a deviation from the trading hours as determined in the Schedule to this by-law.

7. Appointment of authorised officials

The municipality may appoint any official to implement and enforce the provisions of this by-law.

8. Determination of licensed premises type

Where the definition or category of any licensed premises type as reflected in items 1 to 6 of the Schedule to this by-law is uncertain or difficult to determine, an authorised official as contemplated in section 6 may determine the definition thereof in order to determine the trading hours applicable thereto.

9. Compliance and enforcement

- (1) An authorised official may, for the purposes of ensuring compliance with the trading hours determined in terms of this by-law, at reasonable times enter any licensed premises or any premises in respect of which an application in terms of this by-law has been submitted;
- (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 or unlicensed 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.

10. Application for extended trading hours

- (1) Notwithstanding the provisions of sections 3, the holder of an on-consumption license may, upon payment of the required fee, apply to the municipality to trade on weekdays preceding a public holiday, excluding closed days, during the hours set in the Schedule for trading on a Friday and a Saturday.
- (2) The provisions of subsection (1) shall not apply to holders of on-consumption licenses on premises located in categories 1 en 2 of the Schedule.
- (3) Applications must be made in the prescribed manner and must be submitted at least fourteen days prior to the date on which extended hours are needed. Late applications shall not be considered.
- (5) Applications for extended trading hours shall be restricted to a maximum of three per premises per calendar year.
- (6) No application in terms of sub section (1) shall be considered or processed during the period 1 December and 15 January of the following year.
- (6) No rights shall accrue to any licensee who has submitted an application for extension of trading hours before the written proof approval is received from the municipality by such licensee.
- (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) location category as per the Schedule;
 - (d) previous records of complaints in respect of the twelve months preceding the application for extension of hours;
 - (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 of extended liquor trading hours on the surrounding community.
- (8) The municipality, in considering the application, 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 S A 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 and the basis and rational behind all decision-making must be recorded.

11. Prevention of illegal sale of liquor and seizure of liquor

- (1) An authorized official may prevent or seize the illegal sale of liquor –
- (a) where liquor is sold from a premises where the sale of liquor is not permitted in terms of the municipal zoning scheme; or
 - (b) where liquor is sold in contravention of this By-law;
 - (c) where liquor is sold outside the hours and days as specified by this By-law or the conditions, imposed by the Western Cape Liquor Authority of the municipality, in respect of that business; and
 - (d) cause the temporary closure of the premises and/or seize any liquor on the premises in accordance with the Standard Operating Procedure on Impoundment of the municipality and the Search and Seizure provisions 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 or person in control of the premises.

12. Display of signage and other obligations of the licensee

- (1) The licensee or person in charge must ensure that inside the business, to the satisfaction of the municipality, a certificate issued by the municipality stating the zoning or land use for purposes of this By-law and stating the approved hours of trade, are prominently displayed.
- (2) The licensee or person in charge must ensure that on the outside of the business, to the satisfaction of the municipality, the following are prominently displayed on the front door or window of the premises in characters not less than five centimeters in height;
- (i) the hours of trade of the business as approved by the municipality; and
 - (ii) the liquor license number under which the business trade.

13. Safety and security

- (1) Licensees must ensure that the licensed premises meets and complies with all environmental, planning and safety laws and that the conditions imposed by the municipality are adhered to.

(2) The licensee or person in charge must ensure that reasonable and adequate safety and security measures are in place for the protection of the public/clients of the likened premises by ensuring, amongst others but not limited to, that –

- (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 adheres to the requirements of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and any other permission granted or by-law promulgated by the municipality; and
- (c) there is adequate lighting on the outside of the premises where the public/clients and staff access and exit the licensed premises.

14. Liquor premises must be weapon free

Right of admission to liquor premises is reserved and no weapons or sharp objects are permitted inside on consumption liquor premises. A safe should be available at all times on on consumption liquor premises in case persons in possession of guns or sharp objects need access to the premises.

15. Nuisances

(1) Any person selling liquor to the public must take all reasonable steps to ensure that noise from the liquor premises remain within the walls of such liquor premises at all times.

(2) Any person selling liquor to the public must take reasonable steps to ensure that the residents of the surrounding community are not unreasonable affected and inconvenienced by noise or other nuisances emanating from the premises.

(3) The licensee remains liable and responsible for all land pollution and littering within the liquor premises. The licensee is also responsible for all land pollution and littering outside the liquor premises flowing from the licensed premises. The liquor premises and surrounding areas must be kept clean at all times.

(4) The licensee is responsible to ensure that there shall be no loitering by patrons outside the liquor premises and that all sales and consumption of liquor shall be confined to the liquor premises.

16. Objection against renewal of licenses

(1) The municipality or any of the institutions or persons contemplated in section 9(9) shall have the right to lodge representations against the automatic renewal of a liquor license within its jurisdictional area-

- (a) where the licensed premises is not zoned for such use in terms of the municipality's town planning scheme regulations; or
- (b) where the licensed premises has, since the last renewal of such license, been the subject of a complaint or complaints received by the municipality.

(2) The municipal manager must lodge such representations in writing with the Authority before 31 July of the year preceding the year in respect of which the renewal will apply.

17. 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.

18. Offences and penalties

(1) A licensee who contravenes sections 3, 4 or 5 of this by-law or fails to comply with a notice issued in term of section 9, commits an offence.

(2) A person who hinders or obstructs an authorised official in the execution of his or her duties commits an offence.

(3) Any person contravening the provisions of this by-law shall upon conviction be liable to-

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment;
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine 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 that have been incurred by the municipality as result of such contravention or failure.

19. Repeal

The By-law relating to Control of Undertakings that sell Liquor to the Public as published in Provincial Gazette No 7394 on 22 May 2015 is hereby repealed.

20. Short title

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

SCHEDULE

Trading hours for consumption of liquor on licensed premises

Location category & licensed premises type	Maximum permitted trading hours
1. Residential area	
Guest accommodation establishment	Monday – Thursday : 09h00 – 23h00
Business premises	Friday – Saturday : 09h00 – 24h00
Sports and community club excluding special events	Sunday : 11h00 – 23h00
2. Neighbourhood business area including mixed use areas	
Guest accommodation establishment	09h00 – 24h00
Business premises	
Place of entertainment	
Sports and community club excluding special events	
3. General business area	
Guest accommodation establishment	Monday – Thursday : 09h00 – 24h00 Friday – Saturday : 09h00 – 02h00 next day Sunday : 09h00 – 24h00
Business premises	
Place of entertainment	
Sports and community club excluding special events	
Hotel	
4. Industrial area	
Business premises	Monday – Thursday : 09h00 – 24h00 Friday – Saturday : 09h00 – 02h00 next day Sunday : 09h00 – 24h00
Place of entertainment	
Sports and community club excluding special events	
5. Agricultural area / Small holdings	
Guest accommodation establishment	09h00 – 02h00 next day
Place of entertainment	
Sports and community club excluding special events	
Winery	
Hotel	
6. Other ad-hoc locations	
Vehicles or mobile undertakings used for tourist or entertainment or recreational purposes as per definition of ‘premises’ in section 1 of the Act, except where any other Swartland Municipality By-law determines otherwise	09h00 – 24h00
Special events or temporary licenses	As determined by the authorisation issued by the Authority in terms of section 48 of the Act after consultation with the municipality.

SWARTLAND MUNISIPALITEIT**VERORDENING INSAKE BEHEER OOR ONDERNEMINGS WAT DRANK AAN DIE
PUBLIEK VERKOOP**

Kragtens die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal Swartland Munisipaliteit as volg:-

Inhoud

1. Woordomskrywing
2. Doel van verordening en toepassing
3. Handelsdae en -ure vir verkoop en verbruik van drank op gelisensieerde persele
4. Handelsdae en -ure vir verkoop van drank vir verbruik buite gelisensieerde persele.
5. Handelsdae en -ure vir die verkoop en verbruik van drank op en weg van gelisensieerde persele
6. Spesiale geleenthede en tydelike lisensies
7. Aanstelling van gemagtigde beamptes
8. Bepaling van tipe gelisensieerde perseel
9. Nakoming en afdwinging
10. Aansoek om verlengde handelsure
11. Voorkoming van onwettige drankverkope, en beslaglegging op drank
12. Vertoon van naamborde, en ander verpligtinge van lisensiehouer
13. Veiligheid en sekuriteit
14. Drankpersele moet wapenvry wees
15. Stoomnisse
16. Beswaar teen hernuwing van lisensies
17. Appèl
18. Oortredings en boetes
19. Herroeping
20. Kort titel en inwerkingtrede

1. Woordomskrywing

In hierdie verordening, geniet die Engelse teks voorrang in die geval van 'n teenstrydigheid tussen die verskillende tekste, en tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenis-

“algemene sakegebied” 'n gebied hoofsaaklik gesoneer as algemene sake of enige ander ekwivalente gebruik, met die doel om ekonomiese aktiwiteit in 'n sakegebied en ontwikkelingskorridor te bevorder, en sluit 'n wye reeks grondgebruike soos sake-, residensiële en gemeenskapsgebruike in;

“die Wet” die Wes-Kaapse Drankwet, 2008 (Wet No. 4 van 2008), soos gewysig, saamgelees met relevante Regulasies;

“drank” drank soos gedefinieer in artikel 1 van die Wet;

“gelisensieerde” enige persoon wat gelisensieer is om drank ingevolge die Wet te verkoop en sluit enige gelisensieerde perseel, sakeonderneming, afsetpunt of grondgebruiksaktiwiteit van waar drank verkoop word, in;

“gelisensieerde perseel” 'n plek, grond, gebou of deel van 'n gebou ten opsigte waarvan 'n lisensie om drank te verkoop ingevolge die Wet uitgereik is en sluit 'n voertuig of vaartuig wat hoofsaaklik vir die vervoer van toeriste of passasiers gebruik word in;

“geslote dae” Kersdag en Goeie Vrydag;

“hotel” ’n eiendom gebruik as tydelike residensiële huisvesting vir verbygaande gaste waar verblyf of maaltye teen vergoeding verskaf word, en sluit in–

- (a) ’n restaurant of restaurante wat deel uitmaak van die hotel;
- (b) konferensie- en vermaakfasiliteite wat ondergeskik is aan en bykomstig is tot die hoofgebruik van die perseel as ’n hotel;
- (c) persele wat gelisensieer is om alkoholiese drank te verkoop vir verbruik op die eiendom, maar sluit ’n buiteverbruikfasiliteit, instelling vir gaste-akkommodasie, woonhuis of wooneenheid uit;

“instelling vir gaste-akkommodasie” perseel gebruik as tydelike residensiële huisvesting vir, en sluit die voorsiening van maaltye aan, verbygaande gaste teen vergoeding in, en sluit ’n oorblyplek vir rugsakstappers, ’n bed-en-ontbyt-instelling, gastehuis en gasteplaas of lodge, asook fasiliteite vir besigheidsvergaderings, konferensies, byeenkomste of opleidingsessies van inwonende gaste in, maar sluit ’n hotel uit;

“kleinhoewe” ’n gebied hoofsaaklik as landelik gesoneer of enige ander ekwivalente sonering, met die doel om kleiner landelike eiendomme wat vir landboudoeleindes gebruik kan word te akkommodeer;

“landbougebied” ’n gebied hoofsaaklik vir landbou gesoneer of enige ander ekwivalente gebruik, met die doel om landbou aktiwiteit op ’n plaas as ’n belangrike ekonomiese, omgewings- en kulturele hulpbron te bevorder en te beskerm, waar beperkte voorsiening gemaak word vir nie-landbougebruike om aan eienaars ’n geleentheid te bied om die ekonomiese potensiaal van hulle eiendomme te vergroot, sonder om ’n beduidend negatiewe uitwerking op die primêre landbouhulpbron te veroorsaak;

“nywerheidsgebied” ’n gebied hoofsaaklik gesoneer as algemene nywerheid of enige ander ekwivalente gebruik, met die doel om alle vorme van nywerheid te huisves met inbegrip van vervaardiging en verwante verwerking, maar sluit skadelike of gevaarlike risiko-aktiwiteit uit;

“oorlas” enige handeling, versuim of toestand op ’n perseel, openbare plek of straat met inbegrip van enige gebou, struktuur, voertuig of vaartuig wat aanstootlik of gevaarlik is of wat inbreuk maak op die gewone gerief, gemak of vrede van ander persone of wat die veiligheid of gerief van persone nadelig kan beïnvloed;

”Owerheid” die Wes-Kaapse Drankowerheid ingestel ingevolge die Wet;

“residensiële gebied” ’n gebied hoofsaaklik gesoneer as residensiële of algemene residensiële of enige ander ekwivalente gebruik, met die doel om hoofsaaklik enkelgesinwoonhuise in lae- tot mediumdigtheidsbuurte te huisves, asook woongebiede van hoër digtheid en wat insluit beheerde geleenthede vir werkverskaffing van die huis af, addisionele wonings en gemengde gebruiksentwikkeling van lae intensiteit;

“sakeperseel” ’n gebou of eiendom vanwaar sake bedryf word en sluit dit ’n winkel, supermark, restaurant, kantoor, finansiële instelling en geboue vir dergelike gebruik in, maar nie ’n plek van samekoms, plek van vermaak, inrigting, diensstasie, openbare garage, nywerheid, nywerheidskorf, hinderbedryf, risiko-aktiwiteit, volwassevermaaklikheidsbedryf of drankwinkel in nie;

“sonering” wanneer dit as ’n selfstandige naamwoord gebruik word, ’n kategorie van riglyne wat die ontwikkeling van grond reguleer en wat die doel waarvoor die grond gebruik mag word en die grondgebruike of ontwikkelingsbestuurbepalings wat van toepassing is op die gemelde kategorie van riglyne, soos deur die Soneringskema bepaal word, uiteensit;

“soneringskema” ‘n soneringskema wat ingevolge die Swartland Munisipaliteit: Verordening insake Munisipale Grondgebruikbeplanning, soos gepubliseer in Provinsiale Kennisgewing No. 8226 van 2020 goedgekeur is;

“spesiale geleentheid” ’n fondsinsamelingsgeleentheid ten bate van ’n opvoedkundige- of welsynsorganisasie, enige vertoning, sportbyeenkoms, kulturele byeenkoms of kunsuitvoering;

“sport- en gemeenskapsklub” ’n perseel of ’n fasiliteit gebruik vir die byeenkom van gemeenskaps- of burgerlike organisasies of verenigings, sportklubs of ander sosiale of ontspanningsklubs wat meestal nie vir wins bedryf word nie en gemeenskapsdiensklubs en gemeenskapsentrums of soortgelyke geriefasiliteite kan insluit, maar ’n nagklub uitsluit;

“Swartland Munisipaliteit” die Swartland Munisipaliteit gestig deur die Instellingskennisgewing gepubliseer in Provinsiale Kennisgewing No. 5589 van 2000, soos gewysig, en **“Munisipaliteit”** het ’n ooreenstemmende betekenis;

“tydelike lisensie” ’n tydelike lisensie wat deur die Owerheid uitgereik word aan-

- (a) die houer van ’n binneverbruiklisensie; of
- (b) in buitengewone omstandighede, aan die houer van ’n lisensie vir verbruik op en weg van die perseel;

“vermaaklikheidsplek” ’n plek hoofsaaklik gebruik vir kommersiële vermaak wat moontlik ’n relatief groot aantal mense kan lok, buite normale sake-ure bedryf word of op ’n gereelde grondslag musiek speel of joligheid veroorsaak, en sluit in ’n bioskoop, teater, pretpark, danssaal, gimnasium, totalisator of fasiliteit vir weddenskappe, dobbelsaal, karaoke-kroeg en nagklub;

“vonkelwyn” ’n bruiswyn verkry deur die gis van druiwe, hetsy deur natuurlike of kunsmatige proses, en wat sjampanje insluit;

“weeksdag” ’n dag van die week, uitgesonderd Saterdag en Sondag;

“woonbuurt sakegebied” ’n gebied hoofsaaklik gesoneer as plaaslike sake of gemengde gebruik of enige ander ekwivalente gebruik, met die doel om kommersiële en gemengde gebruiksentwikkeling van lae intensiteit te akkomodeer wat in plaaslike behoeftes aan geriefsgoedere, persoonlike diens of klein sakeondernemings voorsien of as ’n koppelvlak tussen algemene sakeonderneming, aanliggende residensiële gebied dien;

“wynmakery” sluit in persele of fasiliteite wat gebruik word by die vervaardiging van wyn en sodanige persele of fasiliteite sluit in fasiliteite vir die pars van druiwe en gis en veroudering van wyn, wynverkope en proelokale, vat- en stoorkamers, botteleerlokale, tenklokale, laboratoriums of kantore en ander bykomende of bykomstige fasiliteite verbonde aan die vervaardiging van wyn, wat kan insluit –

- (a) restaurante en ander voedseldienste; of
- (b) ondergeskikte handelsfasiliteite vir toergroepe of besoekers.

“wynwinkel” ’n plek waar verpakte drank verkoop word vir verbruik van die perseel af.

2. Doel van verordening en toepassing

(1) Om voorsiening te maak vir die beheer van ondernemings wat drank aan die publiek verkoop ten einde ’n veilige en gesonde omgewing in die Swartland te verseker; om voorsiening te maak vir dae en ure vir drankhandel deur gelisensieerde ondernemings wat drank aan die publiek verkoop; en om voorsiening te maak vir sake wat daarmee verband hou.

(2) Hierdie verordening is van toepassing op alle persele wat binne die regsgebied van die munisipaliteit geleë is en waarop 'n drankhandelonderneming bedryf word, wat insluit:

- (a) ondernemings wat drank aan die publiek verkoop vir verbruik op die gelisensieerde perseel;
- (b) ondernemings wat drank aan die publiek verkoop vir verbruik weg van die gelisensieerde perseel; en
- (c) ondernemings wat drank aan die publiek verkoop vir verbruik op en weg van die gelisensieerde perseel.

3. Handelsdae en -ure vir verkoop en verbruik van drank op gelisensieerde persele

(1) 'n Gelisensieerde mag drank vir verbruik op die gelisensieerde perseel op die onderstaande dae en ure verkoop-

- (a) op enige dag van die week; en
- (b) gedurende die handelsure soos in die Bylae uiteengesit

(2) Ondanks subartikel (1), mag 'n hotel of instelling vir gaste-akkommodasie wat gelisensieer is om drank te verkoop, 'n kamerdiensfasiliteit te enige tyd van die dag aanbied.

(3) Ondanks die bepalings van hierdie verordening, mag 'n gelisensieerde soos bedoel in subartikel (1), vonkelwyn bedien –

- (a) van 08:00 vir sewe dae per week;
- (b) as deel van 'n maaltyd; en
- (c) aan gaste wat deel uitmaak van 'n georganiseerde funksie waar toegang beheer word.

(4) 'n Lisensiehouer wat drank vir verbruik op die gelisensieerde perseel verkoop, mag nie enige drankverbruik op die gelisensieerde perseel toelaat gedurende die tye wat drankverkope verbode is nie.

4. Handelsdae en -ure vir verkoop van drank vir verbruik weg van gelisensieerde persele

(1) 'n Gelisensieerde, met die uitsondering van wynmakerye en wynwinkels, mag drank vir verbruik buite die gelisensieerde perseel verkoop vanaf Maandag tot Saterdag vanaf 09h00 tot 20h00, maar nie op Sondag en geslote dae nie.

(1) Gelisensieerde wynmakerye en wynwinkels mag drank vir verbruik buite die perseel op die onderstaande dae en ure verkoop-

- (a) vanaf Maandag tot Saterdag vanaf 09:00 tot 20:00; en
- (b) op Sondag vanaf 09:00 tot 17:00, maar nie op geslote dae nie.

5. Handelsdae en -ure vir die verkoop en verbruik van drank op en weg van gelisensieerde persele

'n Lisensiehouer van 'n perseel waar drank vir verbruik op en weg van die gelisensieerde perseel verkoop mag word, mag drank gedurende die handelsure in artikel (3) en (4) verkoop.

6. Spesiale geleenthede en tydelike lisensies

Waar die Owerheid 'n aansoek om 'n spesiale geleentheidslisensie of 'n tydelike lisensie ingevolge artikel 48 van die Wet na die munisipaliteit verwys vir kommentaar of aanbeveling, mag die munisipaliteit 'n afwyking van die handelsure soos bepaal in die Bylae tot hierdie verordening, aanbeveel.

7. Aanstelling van gemagtigde beamptes

Die munisipaliteit mag enige beampte aanstel om die bepalings van hierdie verordening te implementeer en af te dwing.

8. Bepaling van tipe gelisensieerde perseel

Waar die definisie of kategorie van enige gelisensieerde perseeltipe, soos weerspieël in items 1 tot 6 van die Bylae tot hierdie verordening, onseker is of moeilik bepaal kan word, mag 'n gemagtigde beampte, soos bedoel in artikel 6, die definisie daarvan bepaal ten einde die handelsure wat daarop van toepassing is, te bepaal.

9. Nakoming en afdwinging

(1) 'n Gemagtigde beampte mag, vir die doeleindes om nakoming te verseker van die handelsure soos bepaal in hierdie verordening, op redelike tye enige gelisensieerde perseel of enige perseel ten opsigte waarvan 'n aansoek ingevolge hierdie verordening ingedien is, betree.

(2) Wanneer die gemagtigde beampte 'n perseel ingevolge hierdie artikel binnegaan, moet hy of sy hom- of haarself aan die persoon in beheer van die perseel identifiseer.

(3) 'n Gemagtigde beampte mag 'n voldoeningskennisgewing aan die gelisensieerde of enige persoon in beheer van 'n gelisensieerde of ongelisensieerde perseel bedien en 'n beroep op sodanige persoon doen om die bepalings van hierdie verordening na te kom.

- (4) 'n Voldoeningskennisgewing moet die volgende stipuleer-
- (a) die bepalings van die verordening wat oortree word;
 - (b) die handeling of versuim wat op nie-nakoming neerkom;
 - (c) die stappe wat geneem moet word om die bepalings na te kom;
 - (d) die datum of tyd waarop die bepalings nagekom moet word, waar van toepassing; en
 - (e) die moontlike gevolg van nie-nakoming.

10. Aansoek om verlengde handelsure

(1) Ondanks die bepalings van artikel 3, mag die houer van 'n binneverbruiklisensie teen betaling van die voorgeskrewe fooi by die munisipaliteit aansoek doen om op 'n weeksdag (wat 'n publieke vakansiedag voorafgaan, uitgesonderd geslote dae) handel te dryf gedurende die ure soos neergelê in die Bylae vir 'n Vrydag en 'n Saterdag.

(2) Die bepalings van subartikel (1) is nie van toepassing op houers van binneverbruik lisensies op persele in kategorieë 1 en 2 van die Bylae nie;

(3) Aansoeke moet op die voorgeskrewe wyse ingedien word en moet ten minste 14 dae voor die datum waarop verlengde ure benodig word, ingedien word. Laat aansoeke sal nie oorweeg word nie.

(4) Hoogstens drie aansoeke om verlengde handelsure sal per perseel per kalenderjaar sal oorweeg word.

(5) Geen aansoek ingevolge subartikel (1) sal oorweeg of geprosesseer word gedurende die tydperk 1 Desember tot 15 Januarie van die volgende jaar nie.

(6) Geen regte word verkry deur die gelisensieerde wat aansoek gedoen het om verlengde handelsure alvorens skriftelike goedkeuring deur hom of haar ontvang is nie.

(7) Die munisipaliteit moet tydens oorweging van 'n aansoek vir verlengde handelsure oorweging skenk aan tersaaklike faktore wat die volgende mag insluit-

- (a) die geldigheid van die dranklisensie;
- (b) waar van toepassing, die geldigheid van 'n besigheidslisensie wat ingevolge die Wet op Besighede van 1991 (Wet 71 van 1991) uitgereik is;
- (c) liggingskategorie volgens die Bylae;
- (d) vorige rekords van klagtes wat ondersoek en bevestig is ten opsigte van die twaalf maande wat 'n aansoek vir verlenging voorafgaan;
- (e) die nabyheid van die gelisensieerde perseel aan omliggende residensieel- gesoneerde areas, kulturele-, godsdienstige- en opvoedkundige fasiliteite;
- (f) die potensiële impak op die omliggende omgewing;

- (g) of dit in die openbare belang is om 'n verlenging van handelsure goed te keur;
 - (h) 'n motivering van die aansoeker wat aandui –
 - (i) die moontlike risiko's vir die omliggende gemeenskap en die veroorsaking van geraas en ander oorlaste;
 - (ii) maatreëls om moontlike risiko's en oorlaste te beheer of te verminder; en
 - (iii) moontlike voordele wat verlengde handelsure vir die omliggende gemeenskap mag inhou;
- (8) By oorweging van die aansoek bedoel in subartikel (1) mag die munisipaliteit insette verkry vanaf-
- (i) die betrokke wykskomitee;
 - (ii) omliggende inwoners wat geaffekteer mag word;
 - (iii) die plaaslike Gemeenskapspolisieringsforum;
 - (iv) die aangewese drankoffisier van die S.A. Polisiediens; en
 - (v) enige gemeenskapsorganisasie soos kerkgroepe, belastingbetalers-, of sakeforums.
- (9) Die munisipaliteit mag 'n goedkeuring vir verlengde handelsure goedkeur onderhewig aan voorwaardes en die grondslag van en beweegrede vir alle besluitneming moet genotuleer word.

11. Voorkoming van onwettige drankverkope, en beslaglegging op drank

- (1) 'n Gemagtigde beampte kan die onwettige verkoop van drank voorkom of op drank beslag lê:
- (a) waar drank verkoop word vanaf 'n perseel waar drankverkope nie ingevolge die munisipale soneringskema toegelaat word nie; of
 - (b) waar drank in stryd met hierdie verordening verkoop word; of
 - (c) waar drank verkoop word buite die ure en dae wat in hierdie verordening neergelê word, of in stryd met die voorwaardes wat die Wes-Kaapse Drankowerheid of die munisipaliteit met betrekking tot daardie onderneming vasgestel het; en
 - (d) deur die tydelike sluiting van die perseel en/of beslaglegging op enige drank op die perseel ingevolge die munisipaliteit se standaardbedryfsprosedure vir beslaglegging en die bepalinge oor deursoeking en beslaglegging in die Strafproseswet, 1977 (Wet 51 van 1977).
- (2) Waar die verkoop van drank voorkom word en daar beslag gelê word op drank ingevolge subartikel (1), kan die munisipaliteit enige koste wat die munisipaliteit hiervoor moes aangaan, van die lisensiehouer of persoon in beheer van die perseel verhaal.

12. Vertoon van naamborde, en ander verpligtinge van lisensiehouer

- (1) Die lisensiehouer of persoon in beheer moet toesien dat 'n sertifikaat wat deur die munisipaliteit uitgereik is en wat die sonering of grondgebruik vir die doeleinde van hierdie verordening sowel as die goedgekeurde handelsure bepaal, op 'n opvallende plek binne-in die onderneming en tot bevrediging van die munisipaliteit vertoon word.
- (2) Die lisensiehouer of persoon in beheer moet toesien dat die volgende opvallend en in letters van minstens vyf sentimeter hoog buite die perseel op die voordeur of –venster vertoon word, tot die bevrediging van die munisipaliteit:
- (i) die handelsure van die onderneming, soos wat die Munisipaliteit dit goedgekeur het; en
 - (ii) die dranklisensienommer waaronder die onderneming handel dryf.

13. Veiligheid en sekuriteit

- (1) Lisensiehouers moet toesien dat die gelisensieerde perseel aan alle omgewings-, beplannings- en veiligheidswette voldoen en dat die voorwaardes wat die munisipaliteit neerlê, nagekom word.

(2) Die lisensiehouer of persoon in beheer moet toesien dat redelike en voldoende veiligheid- en sekuriteitsmaatreëls getref word vir die beskerming van die publiek/klante van die betrokke perseel, deur onder meer te verseker dat:

- (a) die berging van goedere en toerusting en die toestand van die perseel en enige struktuur daarop nie 'n gevaar vir die veiligheid van klante binne die perseel inhou nie;
- (b) die perseel voldoen aan die vereistes van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet 103 van 1977) en enige ander toestemming of verordening wat die Munisipaliteit toestaan of uitvaardig; en
- (c) daar voldoende verligting buite die perseel is waar die publiek/klante en personeel die gelisensieerde perseel binnegaan of verlaat.

14. Drankpersele moet wapenvry wees

Die reg van toegang tot drankpersele word voorbehou, en enige wapens of skerp voorwerpe is verbode op binneverbruikpersele. 'n Kluis behoort te alle tyd beskikbaar te wees op binneverbruikpersele indien persone wat in besit is van wapens of skerp voorwerpe toegang tot die perseel moet verkry.

15. Stoornisse

(1) Enige persoon wat drank aan die publiek verkoop, moet alle redelike stappe doen om toe te sien dat geraas vanaf die drankperseel te alle tye binne die mure van sodanige drankperseel bly.

(2) Enige persoon wat drank aan die publiek verkoop, moet redelike stappe doen om toe te sien dat geraas of ander stoornisse vanaf die perseel nie die inwoners van die omliggende gemeenskap op onredelike wyse raak en verontrief nie.

(3) Die lisensiehouer bly aanspreeklik en verantwoordelik vir alle grondbesoedeling en rommelstrooiing binne die drankperseel. Die lisensiehouer is ook verantwoordelik vir alle grondbesoedeling en rommelstrooiing buite die drankperseel wat uit die gelisensieerde perseel spuit. Die drankperseel en omliggende gebiede moet te alle tye skoongehou word.

(4) Die lisensiehouer is verantwoordelik om toe te sien dat geen klante buite die drankperseel rondhang nie en dat drankverkope en drankverbruik tot die drankperseel beperk word.

16. Beswaar teen hernuwing van lisensies

(1) Die munisipaliteit, of enige van die instansies of persone vermeld in artikel 9(9), sal die reg hê om verhoë te rig teen die outomatiese hernuwing van 'n dranklisensie binne sy jurisdiksiegebied-

- (a) waar die gelisensieerde perseel nie gesoneer is vir sodanige gebruik ingevolge die munisipaliteit se soneringskema-regulasies nie; of
- (b) waar die gelisensieerde perseel, sedert die laaste hernuwing van sodanige lisensie, die onderwerp was van 'n klagte of klagtes wat deur die munisipaliteit ontvang is.

(2) Die munisipale bestuurder moet die verhoë voor 31 Julie van die jaar voor die jaar ten opsigte waarvan die hernuwing van toepassing sal wees, skriftelik by die Owerheid indien.

17. Appèl

'n Persoon of regsentiteit wie se regte deur 'n besluit van die munisipaliteit ingevolge 'n gedelegeerde gesag geraak word, mag appèl aanteken teen daardie besluit deur binne 21 dae van die datum van kennisgewing van die besluit skriftelik aan die munisipale bestuurder kennis te gee van die appèl en die

redes daarvoor ingevolge artikel 62 van die Wet op Plaaslike Regering: Munisipale Strukture, Wet 32 van 2000.

18. Oortredings en boetes

- (1) 'n Gelisensieerde wat artikel 3, 4 of 5 van hierdie verordening oortree, of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge artikel 9, pleeg 'n misdryf.
- (2) 'n Persoon wat 'n gemagtigde beampte in die uitvoering van pligte verhinder of belemmer, pleeg 'n misdryf.
- (3) Enige persoon wat die bepalings van hierdie verordening oortree, sal by skuldigbevinding blootgestel wees aan-
 - (a) 'n boete of gevangenisstraf, of aan òf sodanige boete òf gevangenisstraf, of aan sodanige boete sowel as sodanige gevangenisstraf;
 - (b) in die geval van 'n voortgaande oortreding, aan 'n addisionele boete of aan 'n addisionele tydperk van gevangenisstraf of aan sodanige addisionele gevangenisstraf sonder die opsie van 'n boete, of aan sodanige addisionele boete en gevangenisstraf vir elke dag waarop sodanige oortreding voortgaan; en
 - (c) 'n verdere bedrag gelyk aan enige kostes en uitgawes wat deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.

19. Herroeping

Die Verordening insake Beheer oor Ondernemings wat Drank aan die Publiek verkoop soos gepubliseer in Provinsiale Koerant No. 7394 op 22 Mei 2015 word hiermee herroep.

20. Kort titel

Hierdie Verordening word genoem die Swartland Munisipaliteit se Verordening insake Beheer oor Ondernemings wat Drank aan die Publiek verkoop en neem 'n aanvang op die datum van publikasie hiervan in die Provinsiale Koerant.

BYLAE

Handelsure vir verbruik van drank op gelisenseerde persele

Liggingskategorie & tipe gelisenseerde perseel	Maksimum toegelate handelsure
1. Residensiële gebied	
Instelling vir gaste-akkommodasie	Maandag – Donderdag : 09h00 – 23h00 Vrydag – Saterdag : 09h00 – 24h00 Sondag : 11h00 -23h00
Sakeperseel	
Sport- en gemeenskapsklub met die uitsondering van spesiale geleenthede	
2. Woonbuurtsakegebied met inbegrip van gemengde gebruiksaareas	
Instelling vir gaste-akkommodasie	09h00 – 24h00
Sakeperseel	
Vermaaklikheidsplek	
Sport- en gemeenskapsklub met die uitsondering van spesiale geleenthede	
3. Algemene sakegebied	
Instelling vir gaste-akkommodasie	Maandag – Donderdag : 09h00 -24h00 Vrydag – Saterdag : 09h00 -02h00 volgende dag Sondag : 09h00 – 24h00
Sakeperseel	
Vermaaklikheidsplek	
Sport en gemeenskapsklub met die uitsondering van spesiale geleenthede	
Hotel	
4. Nywerheidsgebied	
Sakeperseel	Maandag – Donderdag : 09h00 -24h00 Vrydag – Saterdag : 09h00 - 02h00 volgende dag Sondag : 09h00 – 24h00
Vermaaklikheidsplek	
Sport en gemeenskapsklub met die uitsondering van spesiale geleenthede	
5. Landbougebied / Kleinhoewes	
Instelling vir gaste-akkommodasie	09h00 – 02h00 volgende dag
Vermaaklikheidsplek	
Sport- en gemeenskapsklub met die uitsondering van spesiale geleenthede	
Wynmakery	
Hotel	
6. Ander ad hoc-liggings	
Voertuie of mobiele ondernemings gebruik vir toeriste of vermaak of ontspanningsdoeleindes ooreenkomstig die definisie van ‘perseel’ in artikel 1 van die Wet, tensy enige ander Verordening van die Swartland Munisipaliteit anders bepaal	09h00 – 24h00
Spesiale geleenthede of tydelike lisensies	Soos bepaal ingevolge die goedkeuring uitgereik deur die Owerheid in terme van artikel 48 van die Wet na oorlegpleging met die munisipaliteit

