



**RAYMOND MHLABA LOCAL MUNICIPALITY:
LIQUOR TRADING HOURS BY-LAWS**

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Under the provisions of section 156 of the Constitution of the republic of South Africa, 1996, section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and sections 22(2)(d) and 42 of the Eastern Cape Liquor Act, 2003 (Act 10 of 2003), the Raymond Mhlaba Local Municipality, enacts as follows:-

(1)

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1. Definitions

In this By-law, unless the context otherwise indicates –

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

"**hotel**" means premises wherein or whereon the business of supplying lodging and meals is conducted or is intended to be conducted, and includes a motel, inn, bed and breakfast concern, caravan and camping park, guest-house, a lodge and a house boat;

"**licensee**" means the person to whom a licence has been issued in terms of section 46 or transferred in terms of section 65 or who is deemed to be a licensee in terms of section 89 of the Act;

"**Liquor Board**" means the Eastern Cape Liquor Board established in terms of section 4 of the Act;

"**municipality**" means the Raymond Mhlaba Local Municipality and includes any political structure, political office bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated, to such political structure, political office bearer, agent or employee;

"**official**" means any person authorised by Municipality to perform the function of an officer under this By-law and includes any member of the South African Police Services and any person appointed in terms of the Act;

"**premises**" includes any place, land, building or conveyance or any part thereof which is registered or which is seeking to be registered to trade in liquor;

"registered premises" means premises on or from which a licensee conducts his or her business;

"sell" includes supply, exchange, offer for sale, display for the purposes of sale or authorise to sell, direct to sell, or to allow a sale;

"selling hours" means the time during which a licensee is allowed to sell liquor in terms of Schedule 1;

"ward committee" means a committee as contemplated in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

2. Purpose of By-law

The municipality, acting in terms of the powers granted to it in the Act, adopts this By-law with the aim of regulating the hours during which liquor may be sold and matters related thereto.

3. Application of By-law

This By-law applies to all premises, situated within the area of jurisdiction of the municipality, on which a business in the trading of liquor is carried on or intended to be carried on.

4. Public participation and duties of municipality

(1) Upon receipt of a copy of the application to sell liquor from the designated liquor officer as contemplated in section 22(2)(d) of the Act, and in order to comply with the requirements of section 42 of the Act, the municipality must –

- (a) allow the public to have access to the application by posting a copy of the application on all municipal notice boards; and
- (c) make available copies of such application when requested by a member of the public against payment of a fee as determined by the municipality from time to time; and
- (b) subject to subsection (2), instruct the ward councillor in whose ward the proposed premises is situated to submit written comments.

(2) The ward councillor who receives an instruction as contemplated in subsection (1)(b) must, within 7 days, –

- (a) convene a ward committee meeting to solicit the ward committee members' views with regard to the application that the applicant lodged with the Liquor Board;
- (b) convene a consultative meeting with members of the community of the area within a radius of 100 metres of the premises that are sought to be registered to discuss and solicit their views with regard to the application that the applicant lodged with the Liquor Board;
- (c) compile and submit a report to the municipality stipulating the date of the meetings referred to in subsections (2)(a) and (b), the time of the meetings, the names and the addresses of the people who attended, indicate whether he or she objects to or recommends the application and what additional conditions he or she proposes, if any; and
- (d) attach the minutes of the meetings referred to in subsections (2)(a) and (b).

(3) The municipality must, within 7 days, of receipt of the ward councillors report consider such report and submit to the Board, within the prescribed period, the documents as contemplated in item 3(2) of the Regulations, Notice No. 1143 of 8 April 2004, that

contains the details of the consultative process with the community, objections to the application, and recommendations.

(4) For the purpose of considering a report as contemplated in subsection (3), an official may undertake such investigation or request such information as he or she may deem necessary for consideration by the municipality, and must submit his or her findings to the municipality.

5. Hours and days of trading

(1) The trading hours and days, of the different kinds of licences, as listed in column 1 of the Schedule, have been determined by the municipality as listed in column 2 of the Schedule and may, subject to section 4, be reviewed by the municipality from time to time.

(2) No licensee may sell liquor from any of the premises listed in column 1 of the Schedule to a person at a time or day other than those listed in columns 2 and 3 of the Schedule.

(3) A licensee who contravenes subsection (2) commits an offence.

6. Vicarious responsibility

(1) If the manager, agent or employee of a licensee sells liquor in contravention of section 5(2) of this by-law, the licensee is deemed to have sold such liquor, except where -

- (a) the licensee neither connived at, permitted or allowed such sale;
- (b) the licensee took such steps as he or she was reasonably able to take in order to prevent the sale; and
- (c) the sale did not fall within the scope of the employment or authority of the manager, agent or employee.

(2) The fact that a licensee has issued instructions prohibiting such sale is not in itself sufficient to prove that he or she took the steps required by subsection (1)(b).

(3) When a licensee is liable in terms of subsection (1) the manager, agent or employee is also liable as if he or she was the licensee.

7. Appeal

A person whose rights are affected by a decision of the Municipality 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, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

8. Offences and penalties

A person who contravenes the provisions of section 5(2) is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

9. Repeal

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
	Nxuba Local Municipality:	

P.G. 2024 dated 05/12/2008	Nkonkobe Local Municipality: Liquor Trading Hours By-law	The whole
P.G 2222 dated 23/10/2009	Nkonkobe Local Municipality: Reviewed Liquor Trading Hours By-laws	

10. Short title and commencement

This By-law may be cited as Raymond Mhlaba Local Municipality: Liquor Trading Hours By-laws, and come into force upon publication in the Provincial Gazette. **By-law published in Provincial Gazette number 4184 dated 11 February 2019**

SCHEDULE 1

(Section 5(1))

COLUMN 1	COLUMN 2
TYPE OF LICENCE	TRADING HOURS
Licence in terms of Section 33(a) of the Act for micro-manufacturing and sale of liquor for consumption both on and off the premises. <i>(cellars, wine makers, home distillers)</i>	For consumption on the premises: 11:00-18:00 Monday-Sunday For consumption off the premises: 09:00-18:00 Monday-Sunday
Licence in terms of Section 33(b) of the Act for the sale of liquor for consumption on the premises where liquor is sold. <i>(restaurant, sports club, pool bar, pub, sports bar, discotheque, jazz club, escort agency, pub and grub, tavern)</i> <i>(Night club)</i> <i>(Hotel, casino)</i>	11:00-02:00 Monday – Saturday 11:00-23:00 Sunday 24 hours every day
Licence in terms of Section 33(c) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold. <i>(Bottle store, retail food store, wholesaler, off-sales, boutiques)</i>	09:00-18:00 Monday-Saturday 09:00-16:00 Sunday
Licence in terms of Section 33(d) of the Act for the sale of liquor for consumption on and off the premises where liquor is sold. <i>(Exceptional circumstances)</i>	For consumption on the premises: 11:00-24:00 Monday-Thursday 11:00-02:00 Friday-Saturday 11:00-22:00 Sunday For consumption off the premises: 09:00-18:00 Monday-Saturday 09:00 -16:00 Sunday
Licence in terms of Section 33(e) of the Act for the sale and consumption of liquor on and off the premises at a special event . <i>(Concert, festival, sporting event, and entertainment event)</i>	For consumption on the premises: 11:00 – 23:00 Monday – Thursday 11:00 – 24:00 Friday – Saturday 11:00 – 20:00 Sunday
A temporary licence in terms of Section 33(f) of the Act for the sale and consumption of liquor on or off the premises. <i>(Temporary pending approval of application – See section 48(1) of the Act)</i>	The hours will be the same as contained in this schedule depending on the type of licence applied for.

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AND FINES**

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Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
5(2) r/w 5(3) r/w 8	Selling liquor at hours other than stipulated	R1000	R1000

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour

This determination replaces any previous determination for the said Magisterial District.

Signed	04/2019
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Magistrate: Middledrift	Date Stamp

Signed	04/2019
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Magistrate: Fort Beaufort	Date Stamp

Signed	04/2019
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Magistrate: Adelaide	Date Stamp

Signed	04/2019
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Magistrate: Bedford	Date Stamp

Signed	04/2019
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Magistrate: Cathcart
Signed

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Date Stamp
04/2019

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Magistrate: Alice

Signed

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Date Stamp

04/2019

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Magistrate: Seymour

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Date Stamp