



WALTER SISULU LOCAL MUNICIPALITY

MUNICIPAL BY-LAW ON LIQUOR TRADING, 2025

PROPOSED DRAFT BY-LAW

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1. PREAMBLE OF THE BY-LAW

WHEREAS a municipality, in terms of Section 156(1)(a) and (b) of the Constitution of the Republic of South Africa (of 1996), has the executive authority in respect of, and right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5, and any other matters assigned to it by national or provincial legislation.

WHEREAS a municipality may, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, make and administer by-laws for the effective administration of the matters which it has the right to administer.

WHEREAS it is the intention of the Walter Sisulu Local Municipality to regulate and control establishments and undertakings that sell liquor to the public within the jurisdiction of the municipality;

AND NOW THEREFORE, BE IT ENACTED by the Council of the Walter Sisulu Local Municipality, as follows:

2. DEFINITIONS

WORD	DEFINITION
Act	In these By-laws, unless the context otherwise indicates, Act means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003)
Bar/Sports Bar/Pool Bar	any open bar or any part of licensed premises exclusively or mainly used for the sale and consumption of liquor which shall include any counter or barrier across which drink is or can be served to the public or in relation to any hotel, pub or tavern, includes any part of the hotel, pub or tavern that is used principally or exclusively for the sale, supply or consumption of liquor
Business premises	means a property on which business is conducted and may include a restaurant, pub, bar or taverns or other building with similar uses, but exclude a place of entertainment, guest accommodation establishment, hotel, sports and community club
Business hours	means part of the day in which business is conducted inclusive of short and lunch breaks for employees in compliance with the 45 hours per week normal time as per Section 9 of BCEA.
By-law	means a legislation of a municipality intended to give effect to and regulate a municipal policy
Council	means the Municipal Council of the Walter Sisulu LM
Designated liquor officer or inspector	means a person designated as such in terms of the Act and/or this By-laws
Exceptional circumstances	means any circumstances which is not made provision for in this By-laws
Guest house	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 meeting, conferences, events or training sessions of resident guests, but exclude a hotel
Hotel	means a property used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes: (a) a restaurant or restaurants forming part of a hotel; (b) Conference and entertainment facilities that are subservient and ancillary to the dominant use of a 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

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
Liquor	means liquor as defined by the Act
Liquor Board	means the Eastern Cape Liquor Board established by Section 4 of the Act
Micro manufacturer	a producer of liquor who in a calendar year does not produce more than the prescribed volume
Municipality	means the local municipality of Walter Sisulu, and includes any political structure, political office bearer, municipal official, or duly authorised agent/representative thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipal official, or agent or employee
Night club	means any place of entertainment which may generate noise from karaoke, amplified or live music or revelry, and includes a theatre, amusement park and dance hall
Off-consumption license	a license entitling the licensee to sell liquor for consumption only away from the licensed premises and "off-consumption" has a corresponding meaning
Official	means any person authorized by the Authority to perform the function of an officer under this By-law and includes any municipal official, any member of the South African Police Services and any person appointed in terms of the Act
On-consumption license	a license entitling the licensee to sell liquor for consumption only on the licensed premises and "on-consumption" has a corresponding meaning
Outside trading house	means trading in liquor outside the regulated trading hours, loosely known as extended (trading) hours
Person	means a natural person or a juristic person which may include: (a) a licensee or any person in charge or managing the licensed premises for the purposes of the sale of liquor; (b) anybody of persons corporate or unincorporated, (c) any company incorporated or registered as such under any law or any village management board, or like authority
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
Place of entertainment	means a place used predominantly for commercial entertainment (which may operate on a daily basis or as scheduled) 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, facility for betting, gambling hall, karaoke

	bar and night club
Place of recreation	means a sport field, amusement park or similar public place intended for communal recreation, mainly in the open air
Registered premises	means premises on or from which a trader conducts his or her business
Regulations	means the regulations published as Notice No. 1143 of 8 April 2004 made under the Act
Restaurant	any premises where the sale and supply of food to the public for consumption on the premises is the principal purpose of business which may include a bar/pub (where the supply of liquor is for on-consumption only);
Sell	includes supply, exchange, offer for sale, display for the purpose of sale or authorize, direct, or allow a sale
Selling hours	means the time during which a licensee is allowed to sell liquor in terms of the Schedule;
Special event	a fundraising event (organised from time to time) in aid of an educational / welfare organisation, any exhibition, sports meeting, cultural gathering or artistic performance
Sport and Community club	means premises or facility used for the gathering of community or civic organization or associations; and sports clubs or other social or recreational clubs run mostly not for profit and may include community service clubs and community centres or similar amenities, but excludes a night club
Standard trading	means trading days and trading hours as contemplated in this By-law, and excludes extended trading days and hours that may be approved by the municipality in terms of this By-law
Tavern or Shebeen	a place whose main business is the supply/serving of liquor, food and various forms of entertainment
Trader	means a person who is registered in terms of Section 19 of the Act, and any other word or expression to which a meaning has been assigned in the Act and the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), carries that meaning
Trading days	means the days on which liquor may be sold during trading hours
Trading hours	means the hours during which liquor may be sold during trading days
Mqombothi, Umqombothi	<p>means a traditional beer produced/manufactured using maize (corn), maize malt, sorghum malt, brown bread flour, used sorghum malt or igwele/tomosos that excludes yeast and clean water only – any other product shall be regarded as an illegal liquor.</p> <p>Production of this liquor for trading purposes falls under the classification of micro-manufacturing, provided that the trader does not manufacture more than 100 Litres per week.</p>

	A micro-manufacture who produces less than 400 Litres per month is required to apply and possess a municipal business operating permit.
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3. Purpose of the By-laws

The Council, acting in terms of the powers granted to it by the Act, and with the aim of reserving its right to make proposals to the Eastern Cape Provincial Administration regarding an application for registration in terms of Section 20 of the Act, and to undertake investigations and gather information regarding the premises on which a business in the trading of liquor is intended to be carried on, adopts these By-laws with the aim of regulating the hours during which liquor may be sold.

4. Application of By-laws

These By-laws apply to all premises, situated within the area of jurisdiction of the Council, on which a business in the trading of liquor is intended to be carried on.

5. Role of a Ward Committee and the Municipal Council

- (1) The Ward Committee must, upon receipt of a notice of application for registration, in terms of Section 22(2) (d) (1) of the Act hold a consultative meeting with the owners of immovable property and residents within a radius of 100 meters of premises that is sought to be registered to discuss and solicit their views with regard to the application that the applicant intends to lodge with the Liquor Board.
- (2) The Ward Committee must compile a report and submit it to the **Municipal Council and the Liquor Board**, stipulating the date, time, the names and the addresses of the people who attended, and indicate whether it objects to or recommends the application and what additional conditions, if any, it proposes.
- (3) The Municipal **Council** must consider a report submitted to it by a ward committee in terms of Section 22(2) (d)¹ of the Act and item 3(2)² of the Regulations, and may submit proposals to the Board regarding an application for registration in terms of section 20 of the Act within the period of thirty days.
- (4) For the purpose of considering a report as contemplated in subsection (2), an official may undertake such investigation or request such information as he or she may deem necessary for consideration by the Council, and must submit his or her findings to the Council.

6. Trading hours

- (1) The trading hours, as listed in Column 2 of Schedule 1 to this By-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the Schedule, have been determined by the Municipality and may be reviewed by the Municipality from time to time.
- (2) Subject to Section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection (1).
- (3) A trader who contravenes subsection (2) commits an offence.

7. Selling of liquor outside the stipulated trading hours

- (1) The municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5(1), and a trader who wishes to sell liquor at such hours must, before he or she sells such liquor, obtain such written consent of the municipality.
- (2) A trader who wishes to obtain the consent of the municipality must complete a form similar to the Application for Consent to Sell Liquor outside Trading Hours Form as contained in Schedule 2 and submit the form and other particulars as the municipality may request, to the Office of the Municipal Manager.
- (3) The municipality may, after consideration of the application, refuse to grant consent or grant consent, and should the municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, shall be entered in item C of the form contained in Schedule 2.
- (4) A trader who has been granted consent in terms of subsection (3) must display, in a conspicuous place on the premises regarding the consent which has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the municipality has been entered.
- (5) A trader who contravenes subsection (1) or (4), or who sells liquor in contravention of a condition or restriction imposed in terms of subsection (3), or who displays a forged form, commits an offence.

8. Liquor Trading Liaison Forum

- (1) The municipality shall establish a Liquor Trading Liaison Forum
- (2)** A liaison forum shall consist of:
 - (a) Portfolio Chairperson or designated Councillor responsible for Planning and Economic Development as Chairperson;
 - (b) Ward Councillors (x 11)
 - (c) Municipal officials responsible for: Local Economic Development, Public Participation, Law Enforcement, and any other official as may be deemed necessary;
 - (d) Representative of the Eastern Cape Liquor Board;
 - (e) SAPS representatives (each police station to be represented by a designated officer);
 - (f) Representatives of the town-based liquor traders (1 representative per each town under Walter Sisulu Local Municipality's jurisdiction); and
 - (g) Any other public, private or civil society formation representative as may be deemed necessary by meeting of the forum (for invitation to the next forum meeting).
 - (h) Will convene once in three months and/or when deemed necessary by the municipality.
 - (i) The primary purpose of the liaison forum is to involve the relevant stakeholders in municipal affairs that affect them.

9. Right to appeal against decision (not to grant extended hours/days)

- (1) Any licensee or objector to an application for extended trading hours whose rights have been affected by a final decision taken by a Committee established in terms of this By-Law or any authorised official(s) of the municipality may appeal against that final decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000, as amended).
- (2) The appeal must be lodged in writing to the Municipal Manager within 24 hours of receipt of the decision referred to in (1) above.
- (3) When the appeal is against the decision taken by the Municipal Manager or Acting Municipal Manager (in the absence of the Municipal Manager), such an appeal shall be addressed to the Mayor or Acting Mayor in writing within 24 hours of receipt of the decision referred to in (1) above.
- (4) When the appeal is against the decision of the Mayor/Acting Mayor, such an appeal shall be addressed in writing to the Municipal Council through the Speaker of Council within seven (7) working days of receipt of the decision of the Mayor/Acting Mayor.
- (5)** The appeal authority referred to in 2 to 4 above must commence and decide with the appeal within a reasonable time not to prejudice the trader.

10. Offences and Penalties

- (1)** Any person/trader who contravenes or fails to comply with any –
 - (a)** provision of this By-law;
 - (b)** condition or instruction served in connection with this By-law; or
 - (c)** written notice from an authorised official, is guilty of an offence and is liable to a fine not exceeding the amount of R30 000.00 (Thirty Thousand Rands).
- (2)** Any person/trader who commits a continuing offence shall be guilty of an offence for each day during which that person/trader fails to comply with this By-law.

11. Nuisance

- 11.1 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.
- 11.2 Any person selling liquor to the public must take reasonable steps to ensure that the residents of the surrounding community are not unreasonably affected and inconvenienced by noise or other nuisances emanating from the premises.
- 11.3 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.
- 11.4 The licensee shall maintain visible security to prevent consumption of liquor does not take place outside the liquor premises' jurisdiction.

12. Safety and Security

- 12.1 Licensees must ensure that the licensed premises meets and complies with all environmental, planning, safety laws and that the conditions imposed by the municipality are adhered to.
- 12.2 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.

13. Application for the extended trading hours

- A. A prescribed application form for the request for extension of trading days and/or hours must be submitted:
 - A minimum of seven (7) working days before the said date (applicable only to Section 20(b&c) traders)
 - A minimum of 30 working days before the said date (applicable only to Section 20(d) special events).
- B. Not more than 2 application for extension of trading days and/or hours may be granted per month per trader.
- C. The Liquor Trading By-Law Controls Committee will be empowered to consider additional applications from traders during festive seasons e.g. Easter Weekend, December long holidays, etc.

Further,

- 13.1 Any licensee may submit an application to the municipality to extend the trading days and hours in respect of licensed premises and upon approval, the applicant will be liable for payment of the required fee (as determined by the Municipal Council),
- 13.2 The municipality may approve or refuse an application for an extension of trading days and hours.
- 13.3 The Municipality may, in writing forthwith refuse –
 - (a) an application for an extension of liquor trading hours beyond the stipulated trading hours and/or set limit of applicable hours that maybe be extended for on-consumption and for off-consumption.
- 13.4 No rights accrue to any person who has submitted an application for extension of trading days and hours before the proof of written approval is received from the municipality by such person.
- 13.5 The municipality may, upon written notice to the applicant, impose conditions for trade during extended days and hours.
- 13.6 The municipality must, before approving an application for the extension of trading days and hours, consider factors which may include, *inter alia* –
 - (a) outcome of stakeholder consultation and whether it is in the public safety interest to approve and grant an extension of trading days or hours in respect of outdoor special events;
 - (b) the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities;
 - (c) the planning and zoning requirements of the municipality;
 - (d) where applicable, the validity of a business license issued in terms of the Businesses Act of 1991 (Act No. 71 of 1991);
 - (e) the potential impact on the surrounding environment;
 - (f) previous suspension, amendment or revocation of extended trading days and hours;
 - (g) the validity of the Liquor license;
 - (f) reports from the Provincial Liquor Authority; and
 - (i) a motivation from the applicant dealing with the facts mentioned aboveAnd the impact of –
 - (a) the risks to and nuisances on the surrounding community;

- (b) mitigation measures to assist the control of risks and nuisances;
and
- (c) possible benefits of extended liquor trading hours and days on the surrounding community.

14. LIQUOR TRADING BY-LAW CONTROLS COMMITTEE

14.1 An application for extension of trading hours by a trader that falls under Section 20(a) to 20(C) shall be considered by a Liquor Trading By-Law Controls Committee.

14.2 The Committee to consist of the following:

Stakeholder	Number of representatives	Status
Councillors responsible for economic development and Mayor shall designate one (1) Councillor to be the Chairperson	3	Member
Municipal official (LED)	1	Member
Municipal official (peace officer)	1	Member
Designate SAPS officer (from the affected policing area)	1	Ex-officio
EC Provincial Liquor Board	1	Ex-officio
Joe Gqabi District Municipality (EHP - by invitation only)	1	Ex-officio

14.3 Application for extension of trading hours/days by an organiser or trader that falls under Section 20(d) shall be considered by a Liquor Trading By-Law Controls Committee, and the Committee to consist of the following:

Stakeholder	Number of representatives	Status
Councillors responsible for economic development and Mayor shall designate one (1) Councillor to be the Chairperson	3	Member
Ward Councillor (of the affected Ward area)	1	Member
Municipal official (LED)	1	Member
Municipal official (peace officer)	1	Member
Municipal official (traffic law enforcement)	1	Member
Designate SAPS officer (from the affected policing area)	1	Ex-officio

EC Provincial Liquor Board	1	Ex-officio
EC Provincial Traffic Control Department	1	Ex-officio
Joe Gqabi District Municipality (EHP & Disaster)	2	Ex-officio

15. SUSPENSION OF THE APPLICATION OF THIS BY-LAW

15.1 This By-Law may be rendered not applicable or suspended for a determined period under exceptional circumstance, namely:

- A) By decision of a court of law (subject if it is not appealed) and/or,
- B) By decision of the Municipal Council after it has consulted with all relevant stakeholders.

There shall be a recorded general agreement by majority (50% + 1%) of stakeholder representatives present in the meeting or meetings of the Liquor Trading Liaison Forum or any meeting called for this purpose.

The municipality will publish (notice boards, website, local newspaper, etc.) the said Council Resolution for public comments for a period not less than 21 working days.

16. SHORT TITLE AND COMMENCEMENT

This By-law may be cited as Walter Sisulu Local Municipal By-law on Liquor Trading, and come into force upon publication in the Eastern Cape Provincial Gazette.

SCHEDULE 1

(Section 5(1))

WSLM MUNICIPAL BY-LAW LIQUOR TRADING HOURS

COLUMN 1	COLUMN 2
TYPE OF REGISTRATION	TRADING HOURS
Registration in terms of Section 20(a) <ul style="list-style-type: none">- Retail sale of liquor for consumption off the premises where liquor is sold	Mon to Fri: 9am to 20h00 Sat: 9am to 20h00 Sun: 9am to 15h00 Public Holiday: 9am to 15h00
Registration in terms of Section 20(b) <ul style="list-style-type: none">- Retail sale of liquor for consumption on the premises where liquor is sold	Mon to Thurs: 8am to 22h00 Fri and Sat: 8am to 02h00 Sunday: 8am to 22h00
Registration in terms of Section 20(c) <ul style="list-style-type: none">- Retail sale of liquor for consumption on and off the premises where liquor is sold	Mon to Thurs: 9am to 22h00 Fri to Sat: 9am to 02am Sunday & Public Holiday: 9am to 00h00
Registration in terms of Section 20(d) <ul style="list-style-type: none">- Retail sale and consumption of liquor at a special event	9am to 06am dependent of the type of event and security/disaster management protocols in place
Registration in terms of Section 20(e) <ul style="list-style-type: none">- Micro manufacturing	Mon to Thurs: 8am to 18h00 Fri and Sat: 8am to 18h00 Sunday & Public Holiday: 8am to 18h00

SCHEDULE 2

(Section 6(2))

WSLM APPLICATION FORM TO SELL LIQUOR OUTSIDE THE TRADING HOURS

Applicant's Name	
Trading Name	
Trading License Number	
Trading License Holder (Name)	
Applicant's ID Number	
Applicant's Physical Address	
Contact Telephone Number	
Contact Mobile Number	
Liquor Trading Street Address	

Specify type of trading business (Section A, B, C or D)	
Specify dates and hours on which liquor will be sold or supplied	
Reason(s) for this application	

Nature of liquor to be sold or supplied	
Furnish other particulars (as requested by the municipality)	
Applicant's signature and date	

FOR OFFICE USE ONLY

Name of person receiving this application, date and time received	
Municipal unit location (town)	

DECISION OF THE LIQUOR TRADING CONTROLS COMMITTEE

Date of the meeting	
Status of the application (approved or not approved)	
Reasons for none approval	
Conditions or restrictions on approval in terms of this By-law and Section 5(3) of the Act	

Other conditions or restrictions	
Fees or payment due to the municipality	
MUNICIPAL DATED STAMP AND SIGNATURE OF DESIGNATED OFFICIAL	

NOTE:

1) Once the Liquor Trading Controls Committee has reached a decision on this application, a copy of this application is to be given to the applicant (upon signing to confirm receipt of this copy).

2) If the application is approved, the applicant must first (1st) pay fees due to the municipality as indicated above and provide proof of payment to be attached to this form.

SCHEDULE 3

FEES FOR EXTENDED TRADING HOURS and PENALTIES FOR TRANSGRESSION

APPLICATION FOR EXTENSION FEES:

AFFECTED TRADERS	FEE PER HOUR	FEE PER DAY
Section 20(a)(b)(c)	R500.00	R1000.00 (to a maximum of 2 trading hours)
Section 20(d)	R1500.00	R3000.00 (to a maximum of 2 trading hours)

PENALTIES FOR TRANSGRESSION:

TRANSGRESSION OCCURANCE	PENALTY
1 st transgression	Written warning
2 nd transgression (same offence in the same month on top of a written warning)	R1 500.00
3 rd transgression (additional offence on top of a written warning and a fine)	R5 000.00
4 th transgression (a serious offence as per the decision of the Control Committee)	R10 000.00
5 th transgression (a grave offence as per the decision of the Control Committee)	R30 000.00
6 th transgression (any offence that happened a three (3) months after the payment of a penalty imposed under the 5 th transgression)	Payment of a R30 000.00 and recommended revoking of the trading license

NB: A written warning is effective and applicable for a period of 3 (three) months.

CLASSIFICATION OF OFFENCES

SERIOUS OFFENCE	GRAVE OFFENCE
More than 4 written warning on non-compliance with liquor trading hours, complaint by members of the public, selling liquor to underage children, selling illegal liquor, etc.	Failure to comply with municipal building controls, more than 2 incidents happening in premises breaching security measures (e.g. stabbing with a knife, gun shooting, etc.), bridging municipal electrical meter, damage to municipal property (e.g. stop sign, surfaced or paved road, etc.), failure to cooperate with law enforcement officer's investigation on a criminal matter that happened in the premises, employing an illegal foreign national, trading or allowing trading of illegal drugs in the premises, human traffic, etc.

REFERENCES

¹ Section 22(2)(d) of the Act reads as follows:

"An application for registration contemplated in subsection (1) must be made by submitting to the board –
(d) proof of service of the notice contemplated in the prescribed manner on the –

- (i) ward committee which must on receipt of the notice consult the community of the area where the premises are situated and simultaneously submit a report to the board and the relevant municipal council; and
- (ii) Governing body of every education institution or place of worship within a radius prescribed by the MEC from the premises in respect of which the application is made."

² Item 3 of the Regulations reads as follows:

"(1) An applicant must within seven days of lodgment, serve a notice substantially in the form of Form 2 of Annexure 2 on the ward committee of the area where the premises is situated, every governing body of every educational institution and place of worship within a radius of 100 metres from the premises in respect of which the application for registration is made.

(2) A ward committee contemplated in sub-regulation (1) must, within thirty days of receipt of the notice, submit a report on the consultation with the community to the board and to the relevant municipal council."

The following serve as examples of outlets or establishments:

- (a) Section 20(a): Retail warehouse, retail liquor or bottle store, shop, off-sales, house shop. (b) Section 20(b): Nightclub, sports bar, sports club, pool bar, discotheque, jazz club, escort agency, pub and grub, pub, bar, casino, licensed restaurant, guest house, hotel, motel.
- (c) Section 20(c): Tavern, shebeen.
- (d) Section 20(d): Concert, festival, sporting event, and entertainment event. (e) Section 20(e): Wholesale warehouse and micro manufacturing.