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LOCAL AUTHORITY NOTICE

**NOTICE 62 OF 2010
DRAFT BY-LAW****NXUBA MUNICIPALITY: LIQUOR SELLING
HOURS BY-LAW**

It is hereby published for general information that the Council of the Nxuba Municipality, acting under the authority of Section 11(3) (m) of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000), read with Sections 22(2) (d) and 42(b) of the Eastern Cape Liquor Act, 2003 (Act No. 10 of 2003), is intending to pass a by-law on liquor selling hours and Ward Committee meetings

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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 Liquor Act;

"Community" means the resident, governing body of Schools or Places of Worship situated within a 100 m radius of the premises in respect of which the application or registration is made;

"Council" means the Nxuba Municipality or any other committee, official or Councillor acting by virtue of the powers delegated to it by Council, as well as any powers and duties delegated in terms of this By-law;

“**Hotel**” means premises wherein or whereon the business of supplying lodging and meals for reward is or is intended to be conducted, and includes a motel, inn, bed-and-breakfast concern, caravan and camping park, farmhouse, guest-house, a lodge, boatel boat and a house boat;

“**Official**” means any person authorized by Council to perform the function of an officer under these regulations 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 of any part thereof which is registered for seeking to be registered, to permit trade in liquor;

“**Regulations**” means the regulations, published as Notice NO. 1143 of 8 April 2004, made under the Act

“**Residential premises**” means premises zoned to permit residential purposes in accordance with the applicable Zoning Scheme Regulations;

“**Selling hours**” means the time at which a trade must cease to sell liquor to any person in terms of Schedule 1;

“**Trade**” means a person who is registered in terms of Section 19 of the Act, or any other words or expression to which a meaning has been assigned in the Act and the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000);

“**Ward Committee**” means a committee as contemplated in the Local Government: Municipal Structure 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 to regulate the hours during which liquor may be sold.

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 the selling of 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 –

- 1) Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

- 2) Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- 3) Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998)
- 4) Eastern Cape Liquor Act, 2003 (Act No. 10 of 2003)

5.- Selling Hours

- 1) The Council has determined the selling hours of the different types of registrations as listed in the first column of Schedule 1 as the selling hours listed in the second column of the said Schedule.
- 2) A departure from the hours stipulated in Schedule 2 and upon approval by Council.
- 3) Council reserves the right to depart from the stipulated selling hours, in the interests of the community.

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 Liquor Act, consult the community of the area within a radius of 100 m of premises in respect of which an application for registration has been lodged.
- 2) The Ward Committee must submit a report to the Board and the Council within 30 days (in terms of item 3(2) of the Regulations, Notice No. 1143 of 8 April 2004, made under the Act), that contains the details of the consultative process with the community, objections to the application, and recommendations.

7. Enforcement

- 1) Members of the South African Police Service and Liquor Inspectors appointed in terms of the Act may enforce this By-law.
- 2) The Council may appoint and mandate officials to enforce this By-law
- 3) An official, acting within the powers vested in him or her by this By-law must, if so requested 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.

- 4) An official, acting in terms of the mandate contemplated in Subsection 7(1) or 7(2) may –
 - a) enter upon premises on which a business is being or is intended to be carried on; and
 - b) request any person to provide such information as the official deems necessary.

8. Offences relating to official

1. A person commits an offence if he or she –
 - a) hinders or interferes with an official in the execution of his or her official duties;
 - b) falsely professes to be an official;
 - c) furnishes false or misleading information when complying with a request of an official; or
 - d) fails to comply with a request of an official.

9. Penalties

Any person who contravenes or fails to comply with any provision of the By-law is guilty of an offence and upon conviction may be liable to a fine or imprisonment, or to both fine and imprisonment.

10. Short title and commencement

This By-law may be cited as the Liquor Selling Hours By-law

11. Repealed

The by-law set out in Schedule 3 are hereby repealed to the extent set out in the third column of that Schedule.

SCHEDULE 1

COLUMN 1 TYPE OF REGISTRATION	COLUMN 2 SELLING HOURS
Sec. 20(a) – Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold <i>(bottlestore, retails shop, wholesaler),</i>	Monday to Saturday: 09h00 to 20h00 Sunday: 09h00 to 15h30
Sec. 20(b) – Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. <i>(restaurant, sports club, pool bar, pub)</i> <i>Night club</i> <i>Hotels and casino's</i>	Sunday to Sunday 10h00 to 02h00 18h00-02h00 24 hours
Sec. 20(c) – Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. <i>(taverns, shebeens)</i>	<u>On and off consumption</u> Sunday to Thursday: 10h00 to 22h00 Friday to Saturday: 10h00 to 02h00
Sec. 20(d) – Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events <i>(beer festival, fetes, fundraising events)</i>	<i>Selling hours to be determined by the Council</i>
Sec. 20(e) – Registration in terms of the Liquor Act for licensed micro-manufacturing.	Monday to Saturday: 09h00 to 17h00 Sunday: 09h00 to 13h00

SCHEDULE 2

APPLICATION FOR DEPARTURE WITH RESPECT TO SELLING HOURS OF LIQUOR OUTLETS

(In terms of section 5(2) of Liquor By-law 10 of 2003)

Name of Applicant:

Allotment Area: Erf No. of Premises:

Address of Premises:
.....

Postal address of applicant:
.....
.....

Contact telephone no. (.....) Fax no. (.....).....

Type of business operating:

Full detail of departure requested:
.....
.....
.....
.....

Do the premises have Special Land Use Consent? (provide proof)	YES	NO
Do premises have a business licence? (provide proof)	YES	NO
Do premises have noise attenuation equipment installed? (provide details)	YES	NO
Does applicant possess a Liquor Licence? (provide copy)	YES	NO

Distance to nearest residentsmeters

Official use

Does The Business Meet The Following Requirements

- | | | |
|---|-----|----|
| 1. Land use permission | YES | NO |
| 2. Valid business licence (if applicable) | YES | NO |
| 3. Compliance with noise regulations | YES | NO |
| 4. Possession of a valid liquor licence | YES | NO |
| 5. Premises suitably located | YES | NO |

INSPECTION REPORT:

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Name of official: Date of inspection:

RECOMMENDATION BY ENVIRONMENTAL HEALTH DIVISION

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Name of Official: DATE:

Designation:

RECOMMENDATION OF BUSINESS UNIT MANAGE

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.....

 Business Unit Manager
 Environmental Services

 DATE

SCHEDULE 3

Number and year of by-law	Title	Extent of repeal
P.N 122/2004	Nxuba Municipality: Liquor Trading By-law	The whole