

**SALDANHA BAY MUNICIPALITY
BY-LAW RELATING TO HOUSE SHOPS**

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

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1. Definitions

In this by-law, unless the context otherwise indicates:

“**authorised official**” means an employee of the Council appointed by the Municipal Manager to exercise the powers of an authorised official in terms of the provisions of this by-law;

“**approval period**” means a maximum of five years in terms of the Standard Bylaws for Municipal Land Use Planning, after which an extension for the period must be applied for;

“**convenience goods**” means goods which are bought frequently, including, but not limited to, sweets, groceries, cigarettes, magazines, medicines, and toiletries;

“**Council**” means the municipal Council of the municipality;

“**house shop**” means the operation of a business from a dwelling for the sale of convenience goods to the immediate community by the registered owner of the dwelling or tenant registered as a municipal services account holder, who must occupy the dwelling; provided that the primary use of the dwelling shall remain residential;

“**municipal manager**” means a person appointed by the Council in terms of section 54A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“**municipality**” means Saldanha Bay Municipality, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee 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, councillor, agent or employee;

“**national building regulations**” means the National Building Regulations promulgated in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

“**public nuisance**” means any act, omission or condition which is offensive to the public, which is detrimental to or dangerous for public health, which materially interferes with the ordinary comfort, convenience peace or quiet of the public or which adversely affects the safety of the public;

“**zoning scheme**” means a zoning scheme promulgated in terms of the municipality’s Land Use Planning by-law or Ordinance 15 of 1985;

“**zoning scheme regulations**” means Section 7 and Section 8 of the Scheme Regulations in terms of the Land Use Planning Ordinance 15 of 1985 or the municipality’s Land Use Planning By-law;

2. Purpose and application of this by-law

(1) The purpose of this by-law is to identify, classify and regulate house shops within the municipality’s area of jurisdiction and shall be applicable to the entire area of jurisdiction of the Saldanha Bay municipality.

(2) The provisions of this by-law do not derogate from the provisions of any other legislation.

3. Classification of house shops

A house shop is classified to include a combination of the following, but not limited to-

- (a) a profit-seeking house shop;
- (b) a house shop with an identified shop area in a structure approved by the municipality;
- (c) a house shop where formal advertising takes place in accordance with the municipality’s Outdoor Advertising and Signage by-law;
- (d) a house shop where convenience goods are purchased and delivered;
- (e) a house shop where business hours are maintained;
- (f) a house shop where the primary use of the premises is residential and the secondary use is for the purposes of a house shop.

4. Applications for house shops

- (1) Only the registered owner of property or tenant registered as the municipal services account holder, who resides on the property may apply to operate a house shop.
- (2) A registered owner of property or tenant registered as the municipal services account holder, may only operate one house shop in the jurisdictional area of the municipality.
- (3) An application for approval of a house shop shall be made in terms of the municipality's Land Use Planning By-law.
- (4) The following documents must accompany an application for a house shop:
 - (a) a completed application form;
 - (b) a site development plan indicating the business component of the proposed house shop;
 - (c) proof of the written consent of all surrounding or adjacent owners, as determined by the municipality, for a house shop to be operated on the relevant premises;
 - (d) a motivation by the applicant for the establishment of a house shop on the premises; and
 - (e) any other documentation that may be required by the municipality.
- (5) The application shall be submitted per registered letter to all surrounding or adjacent property owners if paragraph (c) above has not been complied with.
- (6) The application shall only be processed upon payment of the required application fee, as determined by the municipality.

5. Requirements for a house shop

- (1) A house shop must meet the following requirements –
 - (a) it may only be operated from a dwelling or approved outbuilding that complies with the Scheme Regulations applicable to the specific area and the National Building Regulations;
 - (b) the business component may not exceed 20 m² of the total floor area of the dwelling or approved outbuilding;
 - (c) the property on which the house shop is operated must contain a dwelling as a primary residential property;
 - (d) it may not encroach on the road reserve or any public place; and
 - (e) a house shop shall not be located closer than a 300 meter radius from existing business zoned property or another house shop.

(2) Should any of the aforementioned provisions not be complied with or contravened, the municipality reserves the right to withdraw the approval at any time after reasonable notice being served.

6. Restrictions

(1) Any alterations to the existing dwelling must blend in with the residential character of the area concerned.

(2) All legislation, regulations, environmental health and safety measures regarding the operation of the house shop and merchandise therein must be adhered to by the owner.

(3) The operation of a house shop may not cause a public nuisance;

(4) No explosive or flammable substances may be kept or sold.

(5) Consent to operate a house shop is granted to the registered owner or tenant registered as the municipal services account holder of the premises and is not transferable.

(6) The business activities may only take place between 06:00 and 22:00.

(7) Should an owner wish to erect advertising signage –

(a) an application must be submitted in advance to the municipality;

(b) only one unlighted sign or notice, no larger than 2m² in extent, indicating the name of the owner, business and the nature thereof only, may be displayed;

(c) the prior written approval of the municipality must be obtained.

(8) No temporary structures, caravans, prefabricated container structures or “zinc” structures are allowed to be used for a house shop in formal residential suburbs, except in circumstances the municipality may approve, provided that such structure does not aesthetically detract from the main dwellings appearance .

(9) House shops within informal areas require the municipality’s consent.

7. Non-liability of the municipality

The municipality shall not be liable for any direct or consequential loss or damage suffered or sustained by the owner of the house shop premises as a result of or arising from the approval of the house shop.

8. Compliance notices

(1) An authorised official may serve a notice on any person whom he or she reasonably believes is likely to commit or has committed an offence under this by-law, calling upon that person-

(a) to abate the nuisance or transgression within a period specified in the notice;

- (b) to take all necessary steps to prevent a recurrence of the nuisance or transgression; and
 - (c) to comply with any other conditions contained in the notice.
- (2) Should a notice be served, it must contain the following –
 - (a) the provision of the by-law that is being or will be contravened, should the situation be allowed to continue;
 - (b) the measures to be taken to rectify the situation; and
 - (c) the timeframe for compliance with the notice.
- (3) The enforcement provisions of the municipality's Land Use Planning By-law may be applied in addition to the provisions of sub sections (1) and (2).

9. Transitional arrangements

A person who can prove that the municipality has already granted approval for the operation of a house shop at the time of implementation of this by-law, may continue to act in accordance with such approval, provided that-

- (a) approval is not transferred from the original applicant to another person; and
- (b) the owner of the house shop provides proof of the municipality's approval if requested to do so.

10. Delegation

The municipal manager may delegate any power or function conferred on him or her in terms of the provisions of this by-law in writing to another official of the municipality.

11. Penalties

- (1) A person who contravenes any of the provisions of sections 4, 5, or 6 of this by-law, or fails to comply with a notice issued in terms of section 8, commits an offence and shall on conviction be liable to-
 - (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
 - (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;
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

(2) The enforcement provisions of the municipality's Land Use Planning By-Law shall apply in addition to the provisions of sub section (1).

12. Short title and commencement

This by-law shall be known as the Saldanha Bay Municipality By-law Relating to House Shops and shall come into operation on the date of publication thereof in the Provincial Gazette.