

LEGAL NOTICE NO. OF 2024
THE URBAN GOVERNMENT ACT, 1969
(ACT NO. 8 OF 1969)

EZULWINI ACCOMMODATION ESTABLISHMENTS BYE-LAWS,
2024

(Under Section 77)

In exercise of the powers conferred by section 77 of the Urban Government Act, 1969, the Minister for Housing and Urban Development makes the following Bye-laws -

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PART I

PRELIMINARY PROVISIONS

Citation and Commencement

1. (1) These Bye-laws may be cited as the Ezulwini Accommodation Establishments Bye-laws, 2024.

(2) These Bye-laws shall come into force on the date of publication in the Gazette.

Interpretation

2. In these Bye-laws, unless the context otherwise requires -

“accommodation establishment” means any premise in or upon which the business of providing overnight lodging, accommodation or shelter with or without meals and whether or not at a fee, is conducted, including accommodation listed on any online accommodation platform, hotels, motels, guesthouses, bed and breakfast establishments, inns, lodges, and similar accommodations, which are graded in terms of the Swaziland Tourism Authority (Grading of Accommodation Establishments) Regulations, 2012 and the Swaziland Tourism Authority (Grading of Accommodation Establishments) (Amendment) Regulations, 2015 or successors;

“certificate” means an accommodation establishment certificate issued for the operation of an accommodation establishment as contemplated in bye-law 5(1);

“certificate holder” means the person in whose name a certificate contemplated in bye-law 5 has been issued;

“court” means the Magistrate’s Court established in terms of the Magistrate’s Court Act No. 66 of 1938.

“disaster” means a serious disruption of the functioning of society, causing widespread human, material or environmental losses, which exceed ability of the affected society to cope, using its own resources;

“guest” means any individual who stays or lodges at an accommodation establishment, whether for business, leisure, tourism, or other purposes;

“license or permit” means the license or permit issued by the Municipality in terms of these Bye-laws;

“Minister” means the Minister responsible for Urban Government Administration;

“Municipality” means the Ezulwini Town Council established in terms of section 4 of the Urban Government Act. No. 8 of 1969;

“notice” means a document issued by an authorized officer in terms of these By-laws;

“nuisance” means public nuisance envisaged in the Urban Government Act, 1969 or its successor, including -

- (a) any conduct, condition, activity, or behaviour that interferes with the reasonable and lawful enjoyment of property, health, safety, or comfort of the public, including but not limited to noise, odours, pollution, unsanitary conditions, obstructions which is likely to cause damage, annoyance, inconvenience or discomfort to the public or to any person in the exercise of rights common to all persons;
- (b) the use, keeping, producing, by-producing, harbouring of, or otherwise dealing with or in, as the case may be, any item, substance, matter, material, equipment, tool, vegetation or animal; or
- (c) the causing, creating or permitting of any situation or condition, in or on the premises, which causes or is likely to cause damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person;

“overcrowding” refers to the situation where the number of people in a space exceeds the allowable numbers in terms of the certificate;

“owner” in respect of the premises, means the -

- (a) owner, operator, manager, or person in charge of an accommodation establishment.
- (b) person in whose name the premises are registered with the Registry of Deeds;
- (c) the purchaser of the premises, whether or not the premises have been registered in the name of the purchaser;
- (d) person in control of the premises;
- (e) usufructuary, if the premises are subject to a usufruct;
- (f) occupier, tenant or user of the premises;
- (g) authorized agent, assignee, curator, executor, judicial manager, legal representative, liquidator or trustee, as the case may be, of any person contemplated in paragraphs (a) to (d); or

(h) the person who receives or who is entitled to receive the benefit of the premises, if the Municipality is unable to establish the identity of any of the persons contemplated in paragraphs (a) to (e);

“premises” means the land and the buildings on it used or to be used as an accommodation establishment; and

“prospective holder” means the new owner or operator of an accommodation establishment in whose name the certificate may be transferred as contemplated in bye-law 6; and

Objects

3. The objects of these Bye-laws are to -

- (a) provide for measures to regulate and control the use of land for the purposes of accommodation establishments located within the area of jurisdiction of the Municipality;
- (b) ensure the safety, comfort, well-being of guests, and quality of accommodation provided by an accommodation establishment and other lodging establishments, within the of jurisdiction of the municipality;
- (c) promote tourism and hospitality standards in the jurisdiction of the Municipality;
- (d) ensure that all accommodation establishments located within the area of jurisdiction of the Municipality are managed and operated in a manner that -
 - (i) is not harmful to the environment, health and safety of the occupants of such facilities and the public;
 - (ii) does not create a nuisance; and
 - (iii) does not contravene or undermine the relevant laws relating to municipal planning and land use; and
- (e) to provide -
 - (i) requirements for an accommodation establishment and premises operated as an accommodation establishment; and
 - (ii) for conduct of the owners of the establishment.

Application

4. (1) These Bye-laws shall apply -

- (a) within the entire area of jurisdiction of the Municipality and are binding on all persons to the extent applicable to all accommodation and lodging establishments within the Municipality;
 - (b) to all hotels, motels, guesthouses, bed and breakfast establishments, inns, lodges, and similar accommodation establishment within the jurisdiction of the Municipality.
- (2) These Bye-laws shall not -
- (a) apply to residences or a home for the aged which is operated as such or registered as such in terms of the laws of Eswatini;
 - (b) affect or impede the applicability or enforceability of any Bye-laws of the Municipality or any other law in respect of -
 - (i) any premises contemplated in these Bye-laws; or
 - (ii) the conduct of the owner or the person in charge or of any occupant of such premises.
 - (c) apply in respect of any premises used temporarily or on a one-off basis as accommodation or shelter for people during or as a result of a national or local disaster or emergency declared by the Municipality in which case these Bye-laws shall be applied in line with the Disaster Management Act, 2001 or applicable Disaster Management laws or Regulations.

PART II

OPERATING AN ACCOMMODATION ESTABLISHMENT

Certificate to operate an accommodation establishment

5. (1) A person shall not operate or conduct any business intended to operate as an accommodation establishment unless that person is in possession of a valid registration certificate issued by the Municipality as contemplated in sub bye-law (3).

(2) An application for a certificate contemplated in sub bye-law (1) shall be made to the Municipality on a prescribed form and upon payment of a prescribed fee, and shall be accompanied by following requirements or any other documents that may be prescribed by the Municipality –

- (a) approved building plan;
- (b) a valid rates clearance certificate;

- (c) the dimensions and floor area of each room or other distinct part of the premises and the use to which it is to be put;
- (d) the maximum number of persons to be accommodated in each room intended for use as a bedroom as specified in the accommodation establishment certificate;
- (e) the location of cooking facilities, bathrooms, showers, toilets and laundry facilities;
- (f) the position of lighting and electrical socket outlet points, electric cooking appliances and electric water heaters, if applicable, including an electrical certificate of compliance issued by a registered electrician;
- (g) the sitting of hose reels, fire hydrants and portable fire extinguishers in compliance with the requirements of the Building Act 1968;
- (h) the location of emergency escape routes provided in accordance with the Building Act, 1968 for escape from the building in the event of fire, reflecting –
 - (i) all doors, passages, ramps and stairs which are components of such routes and indicating their widths; and
 - (ii) the fire resistance of the elements constituting such components; and
- (i) the sitting of all sanitary fixtures as contemplated in the Building Act, 1968;
- (j) a copy of special or rezoning approval letter together with a decision notice including its conditions;
- (k) a copy of the approved fire plan read in relation to the building use;
- (l) a copy of the certificate of occupancy for the building plan application submitted for the accommodation establishment;
- (m) any other information or documentation which the Municipality may deem necessary for it to consider the application;

(3) The Municipality shall grant the certificate or endorse the transfer thereof on the certificate as contemplated in sub-bye-law (6), if it is satisfied that

the use or the proposed use of the premises is not likely to cause a nuisance and will not contravene these Bye-laws or any other law.

(4) A person who at the date of commencement of these Bye-law, conducts a business contemplated in sub bye-law (1) shall, within six (6) months of that date, apply for a certificate as contemplated in sub bye-law (2).

(5) A person contemplated in sub bye-law (4) may, prior to the expiration of the period contemplated in that sub bye-law, apply inwriting for an extension of within which that person should comply with the provisions of the said sub bye-law.

(6) Where a person fails to apply for an extension as contemplated in sub bye-law (5), or where such application is refused, that person shall not continue to operate such business.

(7) The operation of an accommodation establishment shall be conducted subject to any limitations, restrictions, terms and conditions that may be contained in the certificate.

(8) A certificate issued in terms of this bye-law -

- (a) shall apply only to the premises specified in such certificate;
- (b) shall not be transferrable from one premises to another; and
- (c) may only be transferred from one person to another as contemplated in bye-law (6), provided that the transferee will conduct an accommodation establishment of a similar nature as that of the certificate that was granted.

(9) A certificate issued as contemplated in sub bye-law (3) shall contain the following information -

- (a) the full names and surname of the certificate holder or full particulars of the person in control of the premises;
- (b) the identity number of the certificate holder or in the case of a juristic person the registration number of such person;
- (c) the position or capacity of the certificate holder in the business or operation concerned;

- (d) the street address and other relevant details regarding the location of the premises;
- (e) the description of the nature of the premises;
- (f) the provision of these Bye-laws under which the certificate is issued;
- (g) the use or activity authorized in terms of the certificate;
- (h) the terms and conditions subject to which the certificate is issued, if any;
- (i) the date of issue of the certificate;
- (j) the period of validity of the certificate;
- (k) the applicable category that the accommodation establishment falls under; and
- (l) any other information which the Municipality deems necessary to be included in the certificate.

(10) The Municipality shall not be liable for any harm, damage or loss caused to or incurred by any person as a result of it granting or refusing to grant a certificate in terms of sub bye-law (3).

(11) The granting of a certificate as contemplated in this sub bye-law shall not absolve the certificate holder from any accountability, responsibility or liability in law relating to the business or premises concerned.

(12) The certificate granted shall be signed by an authorized officer.

Transfer of certificate

6. (1) In the event that ownership of the business or premises for which a certificate has been issued in terms of these Bye-laws has changed, the prospective holder shall -

- (a) with the written consent of the certificate holder; and
- (b) within sixty (60) days of such transfer or change of ownership, apply for a transfer of certificate from the certificate holder to their name.

(2) An application contemplated in sub bye-law (1) shall be made to the Municipality on the prescribed form and subject to the payment of the prescribed fee.

(3) In considering an application contemplated in sub bye-law (1), the Municipality may require any documentation or information from the prospective holder which it deems necessary and may request an inspection to be conducted for the Municipality it to consider such application.

Suspension or revocation of certificate

7. (1) In the event that the Municipality is, on reasonable grounds, of the opinion that the premises are being used –

(a) in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created; or

(b) in contravention of the provisions of these Bye-laws, any condition of the certificate, or any other law, the Municipality may issue a compliance notice as contemplated in bye-law 5 informing the certificate holder of its intention to revoke or suspend such certificate for a specified period where the certificate holder fails to comply with the notice within the period stipulated in such notice.

(2) If the certificate holder fails to take the necessary measures to comply with the notice as contemplated in sub bye-law (1) within the period stipulated in such notice, the Municipality shall suspend or revoke the certificate concerned without further warning to the certificate holder.

(3) A person whose certificate has been revoked or suspended in terms of sub bye-law (2) shall cease to operate as an accommodation establishment from the date of written notice of such suspension or revocation.

(4) The person to whom the certificate was issued shall return the original certificate to the Municipality within five (5) days of receipt of notice of suspension or revocation of the certificate as contemplated in sub bye-law (3).

(5) The certificate holder may in writing make application to the Municipality on a prescribed form for the reinstatement of a certificate which has been suspended or revoked in terms of sub bye-law (2), setting out the extent to which the conditions which led to such suspension or revocation have been rectified.

(6) In the event that the Municipality is satisfied that any condition that gave rise to the suspension or revocation of a certificate has been rectified or addressed as specified in sub bye-law (5), it shall reinstate such certificate by endorsement on the certificate concerned, and then cause the certificate to be returned to the certificate holder within five (5) days of such reinstatement.

(7) Despite anything to the contrary in this sub bye-law, the Municipality may irrevocably annul the certificate for a period of two (2) years where the certificate has been suspended or revoked on three or more separate occasions as a result of non-compliance with the provisions of these Bye-laws.

(8) Upon such certificate being revoked the certificate holder shall seek immediate alternate accommodation for all occupants.

Period of validity of certificate

8. (1) A certificate issued in terms of these Bye-law is valid for a period of two (2) years from the date of its issue, unless it is revoked or suspended as contemplated in bye-law 7 or by an order of court.

(2) If the certificate holder wishes to continue operating an accommodation establishment after the expiration of the period contemplated in sub bye-law (1), the certificate holder shall apply for a new certificate in accordance with the provisions of sub bye-law 5(2), at least ninety (90) days before the date of expiry of the certificate.

(3) An application for a renewal as contemplated in sub bye-law 7 (5) shall be made to the Municipality on the prescribed form and shall be accompanied by

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- (a) a valid rates clearance certificate
- (b) certified identity document of the certificate holder;
- (c) company registration document, if the holder is the juristic person;
- (d) an undertaking that the business activity has not changed;
- (e) valid accommodation establishment certificate; and
- (e) valid proof of registration with the Eswatini Tourism Authority.

(4) In the event that the Municipality has not finalised processing the application contemplated in sub bye-law (2) within ninety (90) days of receiving the application, and the applicant is not the cause of the delay, the applicant's certificate that has expired is deemed to be valid until the Municipality finalises the application.

(5) A certificate that has not been renewed after six (6) months of its expiry date shall be deemed invalid and the certificate holder shall apply for a new certificate in accordance with the provisions of sub bye-law 5(2).

Requirements for premises

9. (1) The premises of an accommodation establishment shall, at all times, be in a good structural condition outside and inside in accordance with approved building plans in terms of the Building Act, 1968, and shall -

- (a) be kept in a proper state of repair and in a hygienic condition; and
- (b) have walls or rationally designed structures, floors, roofs, doors and windows which are constructed and maintained in a manner that prevents wind, rain or dampness from entering the interior of the premises.

(2) The premises shall be provided with -

- (a) adequate showers or baths; sanitary facilities in accordance with the Building Act, 1968;
- (b) an adequate supply of hot and cold running potable water;
- (c) adequate sleeping facilities with a bed at least the size of a single bed for every person housed therein, manufactured of durable material and equipped with a suitable mattress;
- (d) adequate ventilation and lighting;
- (e) a separate room with bins or canvas laundry bags for the storage of dirty articles pending removal thereof to be laundered, provided that if such articles are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose shall be provided;
- (f) a store-room for the storage of furniture and equipment, and a separate linen room with cupboards or shelves for the storage of clean bed and other linen, towels, blankets, pillows and other such articles;
- (g) adequate changing, ablution and other facilities for staff;

(h) an adequate and suitable waste management system.

(3) If any room in the premises used for sleeping has one or more beds and is occupied by two or more occupants, -

- (a) each bed therein shall be placed such that its sides are at least one meter away from any other bed; and
- (b) a separate locker shall be provided for each occupant or shared cupboard for safeguarding his or her personal clothing and other belongings.

(4) If food is provided on the premises, the premises and the storage, preparation and provision of such food, shall comply with the applicable provisions of the Bye-laws dealing with food safety, public health and any other applicable law.

(5) Food may not be prepared in any part of the premises other than in an approved kitchen subject to the provisions or requirements of –

- (a) any zoning restrictions;
- (b) the Building Act, 1968;
- (c) the Municipality's Bye-laws dealing with fire;
- (d) the Municipality's Bye-laws dealing with nuisances and public health; and
- (e) any other applicable law.

(6) The owner or person in charge of the premises shall not cause or allow -

- (a) a room used by persons for sleeping to be occupied by a greater number of persons than is contemplated in the certificate;
- (b) a toilet, bathroom, passage, staircase, landing, cupboard, garage, stable, kitchen, storeroom, lean-to, shed, cellar, loft or temporary structures to be used as sleeping accommodation; and
- (c) overcrowding in or on the premises at any time.

(7) An owner, operator or person in charge of an accommodation establishment shall make all the necessary arrangements and take all reasonable measures relating to the storage and disposal of waste accumulated on the

premises in accordance with the Municipality's Bye-laws dealing with waste management.

(8) An owner, operator or the person in control of the premises shall operate and keep the premises in accordance with the applicable provisions of these Bye-laws, all the relevant Municipal Bye-laws, and any other applicable law.

(9) Where there is a swimming pool on the premises the owner, operator or the person in control of the premises shall adhere to the applicable law and safety standards.

Display of certificate on premises

10. The owner, operator or the person in charge of the premises shall at all times display the original valid certificate issued in terms of these Bye-laws in the office, reception or in the entrance area of the premises, in such a manner that it is clearly visible to any member of the public or authorized official upon entering such premises.

Compliance notice

11. (1) The Municipality may enforce any provision of these Bye-laws by issuing a thirty (30) days compliance notice to the owner, operator or the person in control of the premises who has contravened any provision of these Bye-laws, requiring such person to comply with the notice in a manner and within the time specified in the notice.

(2) If the owner, operator or the person in control fails or refuses to comply with such notice, the Municipality may -

(a) act as contemplated in bye-law 7 of these Bye-laws; or

(b) cause such person to be prosecuted for an offence as contemplated in these Bye-laws.

(3) A compliance notice remains in force until it has been complied with and the Municipality has issued a compliance certificate stating that the Municipality is satisfied that the matter giving rise to the issue of the compliance notice has been resolved.

Powers of entry and inspection

12. (1) An authorized official may enter the premises at any reasonable time and -

- (a) serve any notice in terms of these Bye-laws;
- (b) inspect such premises in order to ensure compliance with these Bye-laws;
- (c) question the owner or the person in control on any information relevant to the inspection;
- (d) require the owner or the person in control to produce any document which the authorized official deems necessary to confirm compliance with these Bye-laws;
- (e) take copies of any documentation or samples of any substance that is relevant to the inspection; and
- (f) take one or more photographs on any part of the premises for the purposes of evidence.

(2) An authorized officer who removes any item other than the photocopies of any documentation as contemplated in bye-law (1)(e) shall -

- (a) issue a receipt for such item to the person in charge of the premises; and
- (b) subject to the Criminal Procedure Act, 1939 return it as soon as practicable after achieving the purpose for which it was removed.

Municipal remedial work and recovery of costs

13. The Municipality may, to the extent practicable and necessary, act in order to avert or remedy any harm as a result of non-compliance with the provisions of these Bye-laws or any other applicable Bye-laws or legislation and may recover any associated costs from the owner, operator or the person in control of the accommodation establishment premises.

Indemnity

14. The Municipality shall not be liable for any harm, damage or loss suffered or incurred by any person as a result of the Municipality or authorized officer lawfully acting in terms of these Bye-laws.

PART II

REGISTRATION

Registration of Accommodation Establishments

15. (1) Owners or operators of accommodation establishments shall apply for a registration certificate from the Municipality to operate legally, subject to compliance with applicable Laws, Regulations, standards, and fees.

(2) A registration certificate issued under sub bye-law (1) shall be valid for a period of two (2) years.

Registration Requirements

16. In registering an accommodation establishment under this bye-law, the Municipality shall ensure that the accommodation establishment has complied with Laws and Regulations applicable to the type of accommodation establishment.

Registration of guests

17. Owners or operators of Accommodation establishments shall maintain a register of guests, including their names, contact information, identification details, and dates of stay, for security, safety, and regulatory compliance purposes subject to the provisions of the Data Protection Act, 2022 or its successor.

PART III

SAFETY AND HEALTH STANDARDS

Health and Safety Inspections

18. The Municipality shall subject all Accommodation Establishments to regular health and safety inspections -to assess compliance with hygiene standards, fire safety laws and Bye-laws, building codes, and other relevant requirements.

Room Requirements

19. Guest rooms shall meet minimum standards for cleanliness, comfort, and safety, including adequate ventilation, lighting, heating, cooling, furnishings, bedding, and sanitary facilities.

Fire and safety measures

20. Owners or operators of Accommodation Establishments shall implement fire safety measures, including smoke detectors, fire alarms, emergency lighting, fire extinguishers, and evacuation plans, to ensure the safety of guests in case of fire emergencies.

Sanitary Standards

21. Owners or operators of Accommodation Establishments shall maintain high standards of cleanliness and hygiene throughout the premises, including guest rooms, bathrooms, kitchens, dining areas, and common areas, and shall adhere to regulations for food handling, waste disposal, and pest control.

PART IV

GUEST SERVICES AND FACILITIES

Guest Services

22. Owners or operators of Accommodation Establishments shall provide essential services and amenities to guests, including reception, check-in or check-out services, information desk, concierge services, luggage storage, and assistance with transportation, tours, and activities.

Recreational Facilities

23. Owners or operators of Accommodation Establishments may offer recreational facilities and amenities to enhance the guest experience, such as swimming pools, fitness centres, spas, sports courts, and entertainment areas, subject to safety and operational standards.

PART V

DUTIES OF THE MUNICIPALITY

Consumer Information

24. The Municipality shall provide consumer information, guidelines, and resources to inform guests about their rights, responsibilities, and available assistance in relation to accommodations, reservations, complaints, and dispute resolution.

Collaboration and Awareness

25. (1) The Municipality shall conduct awareness programs for accommodation establishment operators, staff, and managers to enhance their knowledge and skills in guest services, hospitality management, safety, and regulatory compliance.

(2) The Municipality shall collaborate with stakeholders including residents and the business community.

PART VI

ENFORCEMENT

Enforcement

26. These Bye-laws shall be enforced by authorized personnel, including Municipal inspectors, health officers, fire safety inspectors, and law enforcement officers, who may conduct inspections, investigations, and enforcement actions against persons who contravene these Bye-laws.

Offences and Penalties

27. (1) A person who contravenes these Bye-laws shall be liable to penalties as prescribed by any Act or Regulations, including fines, suspension or revocation of operating licenses, closure orders, or legal action where necessary.

(2) A person who -

- (a) contravenes any provision of these Bye-laws;
- (b) contravenes any condition, restriction or prohibition of a certificate issued in terms of these Bye-laws;
- (c) fails to comply with a notice issued in terms of these Bye-laws; or
- (d) threatens, resists, hinders, obstructs or uses foul, abusive or insulting language towards an authorized official in the exercise of any duty or function in terms of these Bye-laws,
- (e) continues with an offence after -
 - (i) notice has been served on that person in terms of these Bye-laws requiring that person to cease committing such offence; or
 - (ii) the person has been convicted of such offence,

commits an offence and shall upon conviction, be liable -

- (a) to a fine not exceeding five thousand Emalangeneni (E5000.00) or imprisonment for a period not exceeding one year (1) year; or
- (b) in the case of a continuing offence, to a further fine not exceeding five thousand Emalangeneni (E5000.00), or imprisonment for a period not exceeding one year (1) year, for every day during which the offence is continued after a date set by the Court.

PART VII

MISCELLANEOUS PROVISIONS

Objections and appeals

28. (1) A person who is affected or aggrieved by a decision made by the Municipality in terms of these Bye-laws in respect of any matter or the conditions imposed by the Municipality under a duty or power which has been delegated or sub-delegated may object against that decision by giving written notice of the objection to the Municipality, setting out the grounds thereof and the remedy sought within twenty-one (21) days of the date of the notification of the decision of the Municipality.

(2) The Municipality shall commence with an objection within six (6) weeks from the date of lodgement and shall decide the appeal within a reasonable period.

(3) The Municipality shall confirm, vary or revoke the decision, but no such revocation or variation of a decision may detract from any rights that may have accrued as a result of the decision.

(4) The Municipality shall furnish written reasons for its decision on all objection matters.

(5) A person who is aggrieved by a decision of the Municipality may within thirty (30) days of receipt of the decision on the objection appeal in writing to the Minister who after making such enquiries as the Minister deems fit and giving due consideration to any representations made by the interested parties may make such order as the Minister deems just in the circumstances.

Amendment of Bye-laws

29. The Municipality may amend or modify these Bye-laws as necessary to address changing circumstances, emerging hospitality trends, technological advancements, or legislative developments.

Transitional Provisions

30. A person who at the date of commencement of these Bye-laws, conducts a business of an accommodation establishments shall, within six (6) months of that date, apply for a registration certificate as contemplated in sub bye-law (5).