

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

EZULWINI ENVIRONMENTAL MANAGEMENT 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 -

Arrangement of Bye-laws

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PART I

PRELIMINARY PROVISIONS

Citation and commencement

1. (1) These Bye-laws may be cited as the Ezulwini Environmental Management 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 -

“Authority” means the Eswatini Environment Authority established in terms of the Environment Management Act, 2002;

“authorized officer” means -

- (a) any person authorized by the Municipality to perform the duties of the Municipality in terms of these Bye-laws;
- (b) an employee of the Municipality who is responsible for the performance of any function or the exercise of any power in terms of these Bye-laws; or
- (c) any employee of the Municipality assigned or delegated to perform any function or exercise any power in the enforcement of these Bye-laws;

“Council” means the governing body of the Municipality;

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

“environment” means the whole or any component of -

- (a) nature, including air, land, water, soils, minerals, energy other than noise, and living organisms other than humans;
- (b) the interactions between the components of nature and between those components and humans;
- (c) physical, aesthetic and cultural qualities or conditions that affect the health and well-being of people,

and unless the context otherwise requires, refers only to the environment within the territory of Eswatini or over which Eswatini exercises rights of sovereignty, and “environmental” has a corresponding meaning;

“environmental management” means the planning, monitoring, regulation, and conservation efforts aimed at protecting and enhancing the environment and mitigating adverse impacts;

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

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

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

“waste” means any substance or thing that the holder discards or disposes of, or intends or is required to discard or dispose of, irrespective of its value to anyone, and any substance or thing deemed by a regulation to be waste; and for the purposes of this definition: “holder” means a person in possession of the waste,

or a person whose activities produced the waste, or a person who carried out pre-processing, mixing or other operations that changed the nature or composition of the waste;

Objects

3. The objects of these Bye-laws are to -
 - (a) to promote environmental sustainability, protect natural resources, and regulate activities that may impact the environment within the municipality.
 - (b) to safeguard the health and well-being of residents and ecosystems.to regulate waste generation, collection, disposal, and recycling within the municipality, promoting public health, and community cleanliness; and
 - (c) ensure compliance with international and national waste management standards.

Application

4. (1) These Bye-laws shall apply to all individuals, businesses, establishments, industries, and activities within the jurisdiction of the Municipality.

(2) These Bye-laws shall be read as one with applicable national environment management legislation including but not limited to the Environment Management Act, 2002, the Air pollution Control Regulations, 2010, the Water Pollution Control Regulations, 2010 and Waste Regulations, 2000 and applicable Bye-laws

(3) Where these Bye-laws are inconsistent with the provisions of the Act and Regulations referred to in sub bye-law (2), the provisions of the Act and Regulations shall apply.

PART II

ENVIRONMENTAL MANAGEMENT

Preparation and adoption of a local environmental action plan

5. (1) Municipality shall prepare an environmental action plan for the area under its jurisdiction in terms of the Environment Management Act, 2002

(2) In developing the environmental action plan, the Municipality shall -

- (a) ensure that the process is participatory by consulting all relevant stakeholders including residents, the business sector, civil society, the informal business sector, community based environmental groups and

government departments, among others, during the development of the environmental action plan;

- (b) place on public exhibition a copy of the proposed environmental action plan for inspection by any of the residents of the Municipality inhabitants of the area;
- (c) call upon any residents who have contributions to the proposed environmental action plan to submit their contributions with the Municipality within thirty (30) calendar days from the date of publication of the proposal;
- (d) take into account any comments or contributions received in terms of sub bye-law (2)(c).

(3) The Municipality shall -

- (a) make the approved plan available for inspection, during normal working hours at the offices of the Municipality or at any place or places considered by the Municipality to be convenient; and
- (b) forward the approved plan to each department of the Municipality.

Principles and contents of a plan

6. In developing and formulating an environmental action plan, the Municipality shall take into account the following key principles and objectives -

- (a) adequate stakeholder consultation and participation;
- (b) identification of environmental priorities and objectives;
- (c) preparation of strategies and action plans;
- (d) institutionalisation of the process;
- (e) monitoring and evaluation;
- (f) access to environmental infrastructure and services;
- (g) control and prevention of pollution from urban wastes and emissions;
- (h) resource degradation;
- (i) hazardous waste;
- (j) economic factors;
- (k) demographic factors; **and**

(l) natural and spatial factors; and

(m) recommendations for Environmental Management in SZNS ISO 14001:2015 - Environmental Management Systems Requirements with guidance for use .

Environmental zoning

7. When formulating an environmental action plan, the Municipality may consider designating certain areas for particular environmental activities and operations and in including but not limited to -

- (a) waste management sites; and
- (b) conservation of natural resources in urban areas.

Bio-diversity protection

8. All persons in the Municipal area shall protect and conserve the biological diversity and the Municipality shall -

- (a) prepare an inventory of the biological diversity of the Municipal area or in areas that are specifically set aside for biodiversity conservation;
- (b) set aside biodiversity conservation areas in the Municipal area;
- (c) fence and maintain biodiversity or environmental conservation works within the Municipal area.

Conservation of natural resources

9. (1) The Municipality shall within its financial and administrative capacity endeavour to conserve and sustainably manage natural resources such as water, forests, wildlife, and biodiversity, through measures such as habitat protection, reforestation, wildlife conservation, and sustainable land use planning.

(2) In respect of any area set aside in a plan for environmental and natural resources conservation, the Municipality may specify -

- (a) natural resources to be conserved in the area and measures to protect and conserve the natural resources;
- (b) contour ridging schemes and other land and soil protection and conservation measures;
- (c) measures that may be taken to protect and conserve the environment and natural resources.

Protection of water sources

10. (1) All residents in the Municipal area have shall protect and conserve water resources and other water sources such as boreholes, dams, rivers, weirs and in particular against pollution to promote sustainable use of water resources.

(2) Municipality may make orders controlling the protection and conservation of water resources in the Municipal area.

Land use planning

11. The Municipality shall within its financial and administrative capacity endeavour to ensure that land use activities, including development, construction, zoning, and infrastructure projects, are planned and managed to minimize adverse environmental impacts, protect sensitive ecosystems, and promote sustainable urban development.

Environmental impact assessment

12. (1) A developer or project proponent as the case may be of any project in the Jurisdiction of the Municipality, for which an environmental impact assessment is required shall -

- (a) consult the Municipality during the consultation process leading to the development of an environmental impact assessment;
- (b) involve the Municipality in organising public consultations meetings in the area regarding the proposed development project;
- (c) submit to the Municipality -
 - (i) the name, contact details and other relevant particulars such as qualifications of any consultant hired or engaged by the project developer to carry out the environmental impact assessment on his behalf and submit proof of their registration with the Authority;
 - (ii) a copy of the environmental impact assessment report for the proposed project;
 - (iii) a copy of the environmental impact assessment authorization letter issued for the project by the Authority; and
 - (iv) a copy of the annual environmental management plan, where applicable.

(2) The Municipality may request all relevant information related to quarterly environmental monitoring reports produced by project developers operating in the Municipality area as and when there is need, from the Authority.

(3) The Municipality shall take measures to make environmental impact assessment reports submitted by project developers available and open for public inspection at all reasonable times at the Municipal offices.

(4) A person who wishes to use any information contained in the environmental impact assessment reports for personal benefit shall acknowledge the source of that information.

(5) A person who uses information sourced from an environmental impact assessment report and fails to acknowledge the source of that information commits an offence.

(6) Where any project causes adverse effects to the environment the developer or project proponent as the case may be of any project shall remedy those adverse effects and where that developer or project proponent as the case may be of any project fails or refuses to remedy those adverse effects that developer or project proponent as the case may be of any project shall pay the full social and environmental costs of avoiding, mitigating, and or remedying those adverse effects.

Environmental rehabilitation works on closure or abandonment of project

13. (1) Any person who undertakes any project which causes environmental damage or environmental degradation or harm in the jurisdiction of the Municipality area shall -

- (a) submit to the Municipality a rehabilitation plan for approval by the Municipality containing rehabilitation works that will be undertaken before abandonment or closure of the project;
- (b) rehabilitate the environment before abandonment or closure of the project.

(2) The Municipality shall approve, monitor and advise on the implementation of rehabilitation plans of projects in collaboration with the Authority.

Environmental works carried out by the Municipality

14. (1) Where a land owner or occupier, as the case may be, requests the Municipality to carry out environmental works on their land, or in the event that

the owner fails to do so on their own, the Municipality may undertake such environmental works as may be necessary to rehabilitate the environment and recover the costs associated with such works from the land owner or occupier of the land.

(2) Where a person fails to undertake rehabilitation works, the Municipality shall undertake the rehabilitation works and the cost of such works shall be borne by the developer.

(3) Prior to undertaking the rehabilitation works in terms of bye-law (2) the Municipality shall request the developer in writing to take steps to rehabilitate the environment as necessary stipulating the date by which the rehabilitation should have been done and the date on which the Municipality intends to undertake the rehabilitation works in the event that the developer fails to undertake the rehabilitation works.

Protection of wetlands

15. (1) Any person who intends, in a Municipality area to reclaim or drain, drill or make a tunnel, introduce any exotic animal or plant species, cultivate, or licence the cultivation of, or destroy any natural vegetation on, or dig up, break up, remove or alter in any way the soil or surface of -

- (a) a wetland;
- (b) any water canal or other water works;
- (c) land within thirty (30) metres of the naturally defined banks of a public stream;
- (d) land within 30 metres of the high flood-level of any body of water conserved in artificially constructed water storage work on a public stream; or
- (e) bed, banks or course of any river or stream; shall, furnish and submit to the Municipality a licence issued by the Authority in terms of the Environment Assessment Regulations, 2022 to perform any of the aforesaid activities.

(2) In order to promote the protection of wetlands, the Municipality may take additional measures and make orders for the protection of wetlands in the Municipality area of jurisdiction.

Collection or removal of gravel, stones, sand or pit sand, slates, pebbles, clay or lime

16. (1) A person shall not excavate, remove, possess, transport or licence the removal of sand, stones, pit sand, slate, pebbles, clay and lime for commercial or any other purposes without seeking the written permission of the Municipality and furnishing the Municipality with a licence issued by the Authority.

(2) Any person who intends to extract sand, stones, pit sand, slate, pebbles, clay and lime on his or her land or on the Municipality land, shall apply to the Municipality stating the details of the excavation works to be conducted and submit an environmental rehabilitation plan to the Municipality, which shall also be forwarded to the Authority for consideration before any extraction or excavation is done.

(3) Where there is a site for the extraction of gravel, stones, pebbles, slates, river sand or pit sand for commercial or non-commercial purposes on Municipal land in the jurisdiction of the Municipality, the Municipality shall in collaboration with the Authority, the Ministry responsible for mining and water affairs and any other relevant entity with interest in environmental management as the Municipality may identify ensure that the extraction is done in compliance with the provisions of these Bye-laws and the relevant environmental Laws and Regulations and in compliance with the conditions or any licence or permit issued for that purpose in terms of the Minerals and Mining Act, 2011 or its successor.

(4) The Municipality shall periodically monitor the collection or removal of gravel, stones, river sand or pit sand, slates, pebbles, clay, lime for non-commercial purposes.

(5) Any person who extracts sand, stones, pit sand, slate, pebbles, clay and lime on their land or on Municipal designated land shall take the necessary steps to make good of the land as prescribed by the Municipality.

(6) All provisions related to the abstraction of sand and clay as envisaged in the relevant natural resources and environmental management laws and Regulations shall apply to the Municipal area and all residents and any person who wishes to engage in commercial or non-commercial extraction of clay and sand in the Municipal area shall be to comply with the provisions of those laws and regulations.

Brick making

17. (1) A person shall not mould or make bricks for domestic or commercial purposes in the Municipal area without a permit from the Municipality.

(2) In the event that a person intends to mould or make bricks for domestic or commercial purposes, that person, shall rehabilitate the environment or pits created by their activities.

(3) Municipality may set aside land for domestic or commercial brick making in the Municipal area, which land shall be used by brick makers under specified terms and conditions as Municipality may determine from time to time.

(4) The selling of bricks shall be done at the registered brick making site or other site approved by the Municipality.

Pollution control

18. (1) The Municipality shall ensure -

(a) that all persons carrying on any activity within its jurisdiction do not cause pollution of air, water, or land,

(b) emissions to air, discharges to water and land, or waste generation are minimized and comply with acceptable thresholds and amounts.

(2) In exercise of its duties under sub-bye-law (1), the municipality shall be guided by the environmental management laws including the Water Pollution Regulations, 2020, Air Pollution Control Regulations, 2010, and the Waste Regulations, 2000.

(3) The Municipality may impose emission limits, discharge standards, or waste management requirements to prevent or minimize pollution.

Air pollution

19. (1) A person shall not emit any substances which cause air pollution in the Municipal area without a licence issued in terms of the Environment Management Act, 2002 and the Air Pollution Control Regulations, 2010.

(2) A person shall not engage in any of the following activities -

(a) the burning of waste at the landfill;

(b) the burning of vehicle tyres;

(c) the burning of bitumen;

(d) the burning of metallic wire coated with any material;

(e) the burning of oil in the open air;

(f) the operation of an incinerator; or

(g) any activity that causes the emission of a pollutant into the atmosphere.

which has the potential of, in the course of that activity emitting any substance into the atmosphere in excess of the amount prescribed in the Third Schedule of the Air Pollution Control Regulations, 2010.

(3) All air polluters in the Municipal area shall register with the Municipality in order to assist the Municipality in the development of its environmental action plan and the Municipality shall maintain a database of all air polluters in the area.

(4) All air polluters in the Municipal area shall submit copies of their emission licences and any other reports related to their emissions that are required by the Authority or that are issued by the Authority to the Municipality.

(5) In addition to notifying all relevant authorities and all persons who may be affected by any accidental emission of hazardous emissions as prescribed in the Air Pollution Control Regulations, 2010, the person who is licenced by the Authority, shall also notify the Municipality about the accidental emission within the time frame prescribed by the Regulations.

Energy efficiency

20. The Municipality shall within its financial and administrative capacity endeavour to promote energy efficiency, conservation, and renewable energy sources to reduce greenhouse gas emissions, combat climate change, and enhance environmental sustainability.

Waste management

21. (1) The Municipality shall within its financial and administrative capacity endeavour to regulate waste generation, collection, recycling, treatment, and disposal to minimize environmental impacts, promote resource recovery, and prevent pollution of land, water, and air.

(2) For the management of waste in the jurisdiction of the Municipal area, the local environmental action plan shall specify -

(a) the areas designated as waste management sites in the Municipality in line with on solid waste and effluent management;

(b) the designated areas that may be leased or donated to community-based waste management groups for purposes of recycling, reusing, sorting, treatment, selling and marketing waste materials;

(c) roles and responsibilities of the Municipality and area residents regarding waste management; and

(d) the development of a waste management plan by the Municipality.

(3) The Municipality shall prepare its own waste management plan not later than the 31st of December of each year consisting of the matters specified in the Waste Regulations, 2000 in relation to waste generated by it or under its control.

(4) In preparing its waste management plan the Municipality may also request in writing that all generators of solid and effluent waste operating within its jurisdiction submit their waste management plans not later than the 31st of November of each year.

Hazardous substances and toxic chemicals

22. (1) A person shall not generate, store, sell, transport, use, recycle, discharge or dispose of hazardous waste to the environment except under a licence approved by the Authority.

(2) A register of every licence holder in the Municipal area shall be kept by the Authority and the register shall, upon payment of an appropriate fee, be open to inspection by members of the public at all reasonable times.

(3) The Municipality shall designate suitable sites within its area of jurisdiction as waste collection sites for the management of waste based on a report assessing the anticipated impact on the environment.

(4) Hazardous waste shall not be disposed of at any other place except in a licensed hazardous waste disposal site or landfill.

(5) The Municipality shall keep records and registers of every waste collection and management enterprise operating within its jurisdiction.

(6) a license holder shall submit periodic reports to the Municipality indicating collection data including types, frequency of hazardous waste collections, as well as the persons, within the Municipality from whom the hazardous waste is collected.

PART III

ENVIRONMENTAL EDUCATION, OUTREACH AND COLLABORATION

Public awareness

23. The municipality shall conduct public awareness campaigns, educational programs, and outreach activities to raise awareness about environmental issues, rights, responsibilities, and sustainable practices among residents, businesses, schools, and community organizations.

Collaboration and partnerships

24. The municipality shall collaborate with relevant stakeholders, including government agencies, non-profit organizations, educational institutions, businesses, and community groups, to address environmental challenges, share resources, and promote collective action for sustainability.

PART IV

ENFORCEMENT

Enforcement

25. These Bye-laws shall be enforced by authorized personnel, including environmental inspectors, municipal law enforcement officers, and regulatory agencies, who may conduct inspections, investigations, and enforcement actions against persons who contravene these bye-laws.

Offences and penalties

26. (1) A person who -

- (a) carries out urban agriculture and cultivation without a licence;
- (b) carries out any activities that cause the degradation of natural resource;
- (c) causes deforestation or soil erosion;
- (d) abandons or causes to be abandoned any project without rehabilitation;
- (e) uses any wetland without a permit;
- (f) collects or causes the collection of sand, pit sand, gravel, pebbles, clay, lime or stone without a licence;
- (g) carries out or causes to be carried out the illegal moulding of bricks without permit from the Municipality;
- (h) causes contamination of water sources;

- (i) removes or causes to be removed, a fence erected for protection of biodiversity;
- (j) deposits or abandons waste on open spaces;
- (k) illegally dispose or causes the illegal dumping of industrial waste;
- (m) generates, stores, sells, transport, use, recycle, discharge or dispose hazardous substances and toxic chemicals without a licence;
- (n) causes littering;
- (o) causes a nuisance by operating machinery, traffic or a public address system, or conducting church proceedings in undesignated areas;
- (p) burns waste, causes veld fire and does any act that causes emission of a pollutant into the atmosphere;
- (q) stores and sells liquified petroleum (LP) Gas without permit from Municipality; or
- (r) contravenes any provision or section of these by-laws,

contravenes these Bye-laws commits an offence and shall upon conviction, be liable -

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

(2) Half of the amount paid as fines imposed for a continuing offence shall accrue to the Municipality in terms of the provisions of Section 86 of the Urban Government Act No. 8 of 1969 or its successor.

Objections and appeals

27. (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 objection 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 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 schedules

28. The Municipality may amend the schedules to these Bye-laws by Notice in the Gazette, for the better carrying out of the purposes and provisions of these Bye-laws.

Amendment of Bye-laws

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