

LEGAL NOTICE NO. OF 2024
THE URBAN GOVERNMENT ACT 1969
(ACT NO. 8 OF 1969)
EZULWINI FOOD SAFETY 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 Food Safety 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 -

“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;

“food” means any substance, whether processed, semi-processed, or raw, intended for human consumption, including but not limited to fruits, vegetables, grains, meats, dairy products, beverages, and prepared foods;

“food establishment” means any facility, premises, or location where food is handled, processed, prepared, stored, distributed, served, or sold, including restaurants, food stalls, markets, grocery stores, catering or braai or *shisanyama* facilities, mobile food unit and food processing plants;

“food handler” means any person involved in the handling, preparation, cooking, serving, or selling of food, including chefs, cooks, servers, vendors, the supervisor and kitchen staff;

“kitchen” includes any part of a food service establishment wherein food is manufactured, prepared, handled or packaged, and includes equipment used for these purposes;

“linear workflow” means checking food through the kitchen or processing area in a continuous flow from its raw to cooked stages (a process also known as ‘dirty to clean’);

“mobile food unit” means a trailer, cart or vehicle-mounted food service establishment designed to be readily movable;

“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 Bye-laws;

“operator” means any person occupying, in possession of, or in charge of any food serving establishment;

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

“temporary food service establishments” means a food service establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration;

“unwholesome” means any condition of food or beverage which renders same unfit for human consumption; and without limiting the generality of the foregoing, shall include conditions of decay, spoilage, pollution, damage, immaturity, over-maturity, infestation, infection, dirtiness, contamination, adulteration and shall apply to food which has been improperly handled, processed, treated or refrigerated, and food from unsanitary premises.

Objects

3. The objects of these Bye-laws are to -
- (a) ensure that the Municipality keeps an up-to-date list of all food premises within the municipality so that the premises are all inspected from time to time;
 - (b) design drawings are appropriate for the type of food premises;
 - (c) allow for a natural flow of work to minimise cross contamination;
 - (d) ensure the safety and hygiene of food products, promote public health, and regulate food handling practices within the Municipality; and
 - (e) to regulate food handling, storage, preparation, and sale within the Municipality, ensuring the safety, hygiene, and quality of food products consumed by residents and visitors.

Application

4. These Bye-laws shall apply to all individuals, businesses, establishments, or entities engaged in the production, processing, distribution, sale, or serving of food within the jurisdiction of the Municipality including temporary food service establishments and mobile food units.

PART II

REGISTRATION OF FOOD ESTABLISHMENTS

Registration of food establishments

5. (1) All food establishments situated within the Municipality shall be subject to annual registration as stipulated by the Municipality.

(2) A food establishment owner or operator shall apply for registration renewal within three (3) months before the expiry of the registration.

(3) Where the Municipality is satisfied that a food establishment meets the registration requirements, it shall grant the registration and issue a permit for the food establishment to operate in the Municipality.

(4) An inspection of food establishments premises shall be conducted by the Municipality a month before the expiry of the registration.

Requirements for food premises prior to construction

6. (1) A person who intends to apply to operate food establishments in premises constructed by that person shall prior to construction of the food premises, submit building plans to the Municipality in terms of provisions of the Building Act, 1968 and a completed registration form attached to the building plan.

(2) A building plan for new food premises shall be designed in such a way that it allows a natural flow of production from raw to ready to eat food which will minimise cross contamination.

(3) Upon approval of the building plans, the owner of the food establishment shall be issued with a provisional registration which shall be subject to approval of the completed building structure.

(4) Upon approval of the building, a food establishment shall be registered and given a grading.

Requirements for operating a food establishment in existing building

7. (1) A food establishment owner or operator who intends to operate a food establishment in an existing building shall -

- (a) ensure that the layout of the premises is designed in such a way that there will be a linear flow process to avoid contamination; and
- (b) submit drawings to the municipality, showing the design of the food establishment premise.

(2) On approval of the design drawings, the food establishment owner or operator shall be registered provisionally pending completion of any necessary renovations.

(3) Where renovations are not necessary, the food establishment premise shall be registered unconditionally.

(4) Design drawings of a food establishment premise that are not in a linear flow shall be rejected.

Registration of existing food premises

8. (1) An operator of an existing a food establishment shall -

- (a) register that food establishment with the Municipality to ensure that it is graded and inspected in terms of these Bye-laws;
- (b) fill in a registration form which shall be made available on line in the official website of the Municipality and at the civic offices of the Municipality; and
- (c) annex the designs of the food premise to the registration form.

(2) A food establishment which does not meet the requirements specified in these Bye-laws shall not be registered.

Registration conditions

9. (1) A food establishment owner or operator shall ensure that the food establishment complies with the Public Health (Food Hygiene) Regulations of 1973, the Occupational Safety and Health Act, 2001, Town Planning Act, 1961, the Building Act, 1968, Liquor Licences Act, 2023 and the relevant Town Planning Scheme.

(2) Where the owner of a food establishment which is already operating and has been registered in terms of these Bye-laws applies for renewal of registration that owner or operator shall ensure that the food premises are not below the required grade for the type of food establishment as stipulated in the grading of food premises standards.

(3) Registration shall be valid for a period of a year and shall be renewable on the 31st of December every year.

(4) The Municipality shall from time to time develop guidelines for registration conditions, which guidelines shall be premised Eswatini Standards on Food Safety Management (SZNS SANS 10330:2020) and Prerequisite programmes on food safety Part 1: Food manufacturing (SZNS ISO/TS 22002-1:2009).

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Change of use

10. (1) A food establishment owner or operator who desires to change the style of business shall submit an application to the Municipality for purposes of appropriate grading and registration of the premises.

(2) In the event of death bankruptcy or unsound of mind of a permit holder, the widow or the widower or the trustee or any other person approved by the Municipality in writing shall continue with the food establishment business without any transfer of the registration.

Food establishment grading

11. (1) All food establishments operating within the jurisdiction of the Municipality shall be graded by the Municipality in accordance with the grading standards specified in the Schedule and the owner or operator shall be issued with a grading card which shall be displayed in a conspicuous place and position in the establishment.

(2) A person shall not remove a grading card issued by the Municipality without prior approval from the Municipality.

PART III

FOOD SAFETY REGULATION

Requirements for food establishment premises

12. (1) The restaurant kitchen design structure of a food establishment shall have adequate fire lighting facilities located strategically within and be approved by the Municipality.

(2) A food establishment owner or operator shall -

- (a) provide adequate refrigeration for maintenance of stored food;
- (b) maintain the premise to the satisfaction of the customer and contain adequate sanitary facilities; and
- (c) not allow any indecent behaviour on the premise and
- (d) provide a hand washing basin in the dining or eating area.

(3) Where the premises have an open-air eating place, design structure of that open-air eating place shall be approved by the Municipality and shall contain adequate sanitary facilities and be operated in terms of the provisions of these Bye-laws.

(4) The premises of a food establishment shall be kept clean and free from litter and rubbish, and rooms occupied as a food establishment shall not be used as a place of domestic use, sleeping, lounging, laundering.

(5) A food establishment owner or operator shall not sell alcohol without a valid liquor licence.

(6) A food establishment owner or operator shall not conduct business without a valid trading licence.

Health clearance certificate

13. (1) A food establishment owner or operator shall apply for an annual food health certificate from the Municipality.

(2) The Municipality shall issue the owner or operator with a health clearance certificate which shall be displayed in a conspicuous place and position in the food establishment.

Food Handler Medical certificates

14. A food handler shall not be allowed to be in the kitchen or prepare food with the purpose of sale without a valid medical certificate issued by a medical practitioner registered in terms of the Medical and Dental Practitioners Act, 1970, which shall be conducted every six (6) months.

Protective clothing for food handlers

15. A food establishment owner or operator shall provide a food handler with proper protective clothing in accordance with the Public Health (Food Hygiene) Regulations, 1973, which shall be light in colour.

Hygiene practices

16. (1) A food handler shall -

- (a) maintain high standards of personal hygiene, including frequent handwashing, proper grooming, wearing clean and appropriate attire, and refraining from handling food when ill or contagious.
- (b) refrain from spitting and smoking while cooking;
- (c) cover any cut or bruise on an exposed part with a clean water proof dressing; and
- (d) wear hair nets or head bands or caps, which keep their hair behind the shoulders, or cut above the collar, at all times while engaged in the preparation, processing, manufacture, handling or serving of any food or beverage to ensure that food is not contaminated by hair.

(2) An owner or operator of a food establishment shall not permit any person suspected to be suffering from, or be the carrier of, a disease communicable through food to come into contact with any food, equipment, utensils or food contact surfaces on the food premises.

Food handling practices

17. A food establishment owner, operator or food handler shall adhere to safe food handling practices, including proper storage, refrigeration, thawing, cooking, reheating, and cooling of food products, to prevent contamination and spoilage.

Spoilt, expired and left over food

18. (1) A food establishment owner, operator or food handler shall -

- (a) not sell any food which is unwholesome; and

(b) monitor food shelf life dates to prevent use of spoiled or expired food or food that is otherwise unfit for human consumption.

(2) A food establishment owner, operator or food handler shall not re-sell, re-serve or re-use leftover or unsold food that has been subjected to possible contamination for human consumption.

(3) A food establishment owner, operator or food handler shall ensure that food is kept in such a manner as to avoid deterioration and spoilage.

Sanitation standards

19. A food establishment owner or operator shall -

- (a) maintain clean and sanitary conditions in all areas where food is handled, stored, or served, including kitchens, dining areas, restrooms, and storage facilities, and shall regularly clean and disinfect or sanitize surfaces, equipment, utensils, and food contact surfaces;
- (b) ensure that the water used in the establishment meets sanitary or hygiene standards; and
- (c) ensure environmentally acceptable waste disposal.

Pest Control

20. A food establishment owner or operator shall implement effective pest control measures to prevent the presence, harbouring or breeding of pests such as insects, rodents, and birds, which may contaminate food products, compromise hygiene, and pose health risks to consumers, in accordance with the Health Act, 2023 and the Public Health (Food Hygiene) Regulations, 1973.

Food safety training

21. A food establishment owner or operator shall ensure that a food handler receives adequate training in food safety principles, practices, and procedures, including proper food handling techniques, hygiene requirements, allergen awareness, and emergency response protocols to enhance their knowledge and skills.

PART V

FOOD QUALITY ASSURANCE

Inspections

22. (1) An authorized officer of the Municipality may at any reasonable time as deemed necessary enter any food establishment premises for the purpose of

inspecting and examining any food on the premises or any ingredient used on the premises in the manufacture or preparation of food, any equipment or vehicle used in connection with the food business, the premises and any person employed in the food business to assess compliance with these Bye-laws, sanitary standards, and food safety regulation, and to address any contravention or deficiencies identified.

(2) The authorized officer of the Municipality shall -

- (a) take samples of all or any food found in any food establishment;
- (b) take swabs from dishes and utensils for bacteriological examination;

- (c) take samples from wash water to be examined for chemical and bacterial content; and
- (d) seize and take possession of all spoilt, expired food or food that is otherwise unfit for human consumption found in a food establishment and dispose of such food in a manner that is deemed appropriate taking into account environmentally sound waste disposal.

(3) The required samples for examination shall be provided free of charge by the owner or operator of the food establishment from and the results of any tests of same shall be supplied on request to the owner or operator of the food establishment.

(4) The authorized officer shall in writing prohibit the person in charge of the food establishment premises from selling or disposing of any food then upon the premises and of the same nature as that seized.

Food Testing

23. The Municipality may conduct periodic testing of food products to ensure compliance with quality standards, labelling requirements, and regulatory limits for contaminants, additives, and adulterants.

PART VI

MISCELLANEOUS PROVISIONS

Public Awareness

24. The Municipality shall conduct public awareness campaigns, and outreach activities to raise awareness about food safety issues, rights, responsibilities, and available resources for consumers, food handlers, and food establishments.

Enforcement

25. (1) These Bye-laws shall be enforced by authorized personnel, including municipal health inspectors or environmental health officers, who may conduct inspections, investigations, and enforcement actions against violators of these Bye-laws.

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

Offences and Penalties

26. (1) A person who wilfully -

- (a) fails to register a food establishment upon coming into operation of these Bye-laws; or
- (b) fails to register a food establishment existing within the Municipality up to three (3) months after the expiry of the registration;
- (c) refuses an authorized officer, entry into a food establishment for purposes of carrying out inspections;
- (d) fails to comply with any provisions of these Bye-laws or permits any act or thing to be done in contravention of these Bye-laws,

commits an offence and shall be liable to -

- (a) a fine not exceeding five thousand Emalangeneni (E 5000.00); 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 (1) year, for every day during which the offence is continued after a date set by the Court.

(2) A person who fails to register a food establishment after the lapse of the one (1) month referred to in sub-bye-laws (1) shall be liable to cancellation of registration of that food establishment.

Registration Fee Payable by food establishments

27. The Municipality shall charge a registration fee or renewal of a fee for registration of food establishments, in accordance with the rates contained in the applicable Municipality user fees and charges.

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 food safety concerns, technological advancements, or legislative developments.

Schedules

30. The Municipality may -

- (a) prescribe fees for registration of food establishments;
- (b) charges for late renewal of registration;
- (c) prescribe forms applicable to these Bye-laws; and
- (d) prescribe grading criteria and requirements.

Amendment of schedules

31. 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.

Schedule

(under bye-law 11)

Grading Standards

SZNS 067:201,9 - Guidelines for inspection and grading of food premises