

LEGAL NOTICE NO. OF 2024
THE URBAN GOVERNMENT ACT 1969
(ACT NO. 8 OF 1969)
EZULWINI NOISE CONTROL 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 Noise Control 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;

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;

“construction equipment” means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

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

“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;

“motorcycle” means a self-propelled vehicle having a seat or saddle for the use of the driver and designed to travel on not more than three (3) wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle;

“motor vehicles” means any vehicle designed or adapted for propulsion or haulage on a road by means of any power (not being exclusively human or animal power) without the aid of rails, and includes any trailer of such a vehicle, but does not include a vehicle which is specially constructed for the use of a person who suffers from a physical defect or disability, and which is designed to carry only one person, whether or not at any given time such vehicle is capable of such propulsion or haulage; “noise” means any unwanted, excessive, or disruptive sound that is of such a nature that it is likely to disturb the peace, tranquillity, or well-being residents of the Municipality;

“nuisance” means any sound which disturbs or impairs or may disturb or impair or is deemed to disturb or impair the convenience or peace of any person;

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

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

“police” means any member or members of the Royal Eswatini Police Service.

Objects

3. The objects of these Bye-laws are to -
 - (a) manage and prevent noise pollution within the Municipality, protect the health and well-being of residents, and promote a peaceful and liveable environment;
 - (b) regulate noise emissions within the Municipality, minimize noise pollution, protect public health and welfare, and promote a conducive living environment for residents; and
 - (c) regulate unusual noises, or noises that are likely to disturb the public and residents of the Municipality.

Application

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

PART II
NOISE REGULATION

Prohibition of noise

5. A person shall not -

- (a) cause or permit to be caused a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound; or
- (b) permit noise or sound from a private residence or business to be audible in a public place

which disturbs or is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of individuals in the vicinity.

Prohibited Noise Sources

6. (1) A person shall not emit or cause the emission of sound from the following activities, equipment, or behaviours which have the potential to generate excessive noise -

- (a) operation of loudspeakers or amplified sound systems beyond permissible limits;
- (b) construction activities, including demolition, excavation, or heavy machinery operation, during quiet hours;
- (c) use of motor vehicles, motorcycles, or off-road vehicles with modified exhaust systems producing excessive noise; and
- (d) commercial or industrial activities emitting noise beyond permissible levels.

(2) A person shall not operate or cause to be operated any power equipment such as a chainsaw, power lawnmower, leaf blower, a power tool or other similar device, between 9 a.m. of one day and 7 p.m. of the next day, the noise from which disturbs or tends to disturb the residents of the neighbourhood, or persons in the vicinity.

(3) Notwithstanding sub bye-law (2) a person shall not operate or cause to be operated any power equipment before 9:00 a.m. on any Saturday, Sunday, statutory or public holiday.

(4) A person shall not cause or permit unnecessary motor vehicle noise such as the sounding of the horn, revving of engine and the squealing or spin and drift of tires of any motor vehicle on any property or other than a highway.

(5) A person shall not operate or permit the operation of go-kart activities on a property other than a highway within the Municipality, whether or not an admission fee is charged, unless -

- (i) the activities are held at a permanent go-kart facility;
- (ii) all go-karts are equipped with effective mufflers; and
- (iii) such activities are not carried out between 11:00 p.m. of one day and 7:00 a.m. of the next day.

Exemptions

7. (1) Notwithstanding anything contained in these Bye-laws a person may apply in writing for exemption from the provisions of these Bye-laws.

(2) An application made in terms of sub-bye-law shall contain the following particulars -

- (a) the name, postal address, physical address and contact details of the applicant;
- (b) a written description of the source and location of the sound in respect of which the exemption is sought;
- (c) a statement of the particular provision or provisions of this bye-law from which the exemption is sought;
- (d) the period of time, of a duration not in excess of six (6) months, for which the exemption is sought;
- (e) the reason why the exemption should be granted; and
- (f) a statement of the step, if any, planned or presently being taken to bring about compliance with the bye-law.

(3) The Municipality may grant an application for exemption of certain activities or events from the application of these Bye-laws provided that the exempted activities or events do not pose a significant disturbance to residents or violate public nuisance laws or Bye-laws.

(4) Where the Municipality grants an exemption in terms of this bye-law, it shall impose such terms and conditions as it deems necessary.

(5) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under sub-by-law (4).

(6) Where the activities for which exemption is sought are commenced before an undertaking has been submitted to the Municipality, the exemption shall lapse.

(7) Where the applicant fails to comply with any condition of exemption, the exemption may be withdrawn by the Municipality after notice to show cause against the proposed withdrawal has been given to the applicant, and the representations, if any, made by the applicant have been considered.

(8) Activities or events which may be exempted under this bye-law may include, but may not be limited to, sporting, recreational, entertainment or similar events or gatherings.

Permissible Noise

8. (1) Noise emissions from any source shall not exceed permissible noise levels or standards as specified in these Byelaws, particularly during designated quiet hours, typically between 7 p.m. and 6a.m.

(2) The provisions of these Bye-laws shall not apply where the emission of sound -

- (a) is for the purposes of warning people of a dangerous situation;
- (b) takes place during an emergency;
- (c) is from a police, fire or ambulance service personnel operating vehicles or equipment responding to an emergency;
- (d) from vehicles or equipment used to make emergency repairs to public utilities and services;
- (e) from the operation of a public address system, or alarm system, required under a building or fire code;
- (f) from any construction, maintenance or repair or cleaning of any highway, bridge, or land, or of any water, sewer or other utility works;
- (g) from public grounds maintenance;
- (h) from the reasonable operation of a solid waste removal truck;

- (i) from the reasonable operation of loading or unloading of goods, material, machines, or equipment;
- (j) from the use of bells or chimes for the announcing of public worship services;
- (k) from the use of parks or other areas for permitted special events within the hours of operations of the event;
- (l) from sounds made by the voices of children playing; and
- (m) from noise ordinarily associated with the operation of a restaurant, bar, outdoor patio that occurs between 8p.m. and 5:30 a.m. on weekdays and between 11:00 p.m. and 7:30 a.m. on weekends.

Noise Mitigation Measures

9. Operators of noisy activities or establishments shall implement reasonable noise mitigation measures, such as sound barriers, acoustic insulation, or scheduling noisy activities during non-quiet hours, to minimize noise impact on the residents of the Municipality and surrounding areas.

PART III

MISCELLANEOUS PROVISIONS

Enforcement

10. (1) These Bye-laws shall be enforced by authorized officers, including municipal law enforcement officers or environmental health inspectors.

(2) A person who contravenes these Bye-Laws shall be liable to a fine, cessation of activities, or revocation of permit or licence.

Offences and Penalties

11. (1) A person who unlawfully emits or cause the emission of sound prohibited by these Bye-laws or wilfully fails to comply with any provisions of these Bye-laws commits an offence and shall upon conviction, be liable -

- (a) to a fine not exceeding five thousand Emalangeni (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 Emalangeni (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

12. (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

13. The Municipality may amend or modify these Bye-laws as necessary to address changing circumstances, technological advancements, or community needs.