

LEGAL NOTICE NO. OF 2024
THE URBAN GOVERNMENT ACT, 1969
(ACT NO. 8 OF 1969)
EZULWINI PUBLIC NUISANCE 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 Public Nuisance 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;

“beg” means any request made by a person for an immediate donation of money or some other thing of value or otherwise, and includes passively standing or sitting with a sign or other indication that one is seeking donations without addressing any solicitation to any specific person other than in response to an enquiry;

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

“heavy motor vehicle” includes a truck, bus, horse-and-trailer, caravan, or any other like vehicle wherein it is possible to have persons residing, sleeping or committing any unlawful act or conduct;

“kerb line” means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;

“informal settlement” means an area without formal services and with informal housing; including a settlement for residential purposes or a township for which no approval has been granted in terms of any law;

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

“motor vehicle” means any self-propelled vehicle and includes -

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include -

(i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

“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 abatement” means the prevention, elimination, or mitigation of public nuisances through regulatory measures, enforcement actions, corrective measures, and community engagement efforts;

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

“obstruction” in relation to a road, means any motor vehicle or any other thing which blocks or is likely to block traffic flow;

“overnight” means the period from 20h00 in the evening to 06h00 in the morning

“public place” means -

(a) a public road;

- (b) any parking area, square, park, recreation ground, sports ground, sanitary lane, open space, shopping centre on municipal land, unused or vacant municipal land or cemetery which has -
 - (i) in connection with any subdivision or layout of land into plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
 - (ii) at any time been dedicated to the public;
 - (iii) at any time been declared or rendered as such by the Municipality or other competent authority; or
- (c) a public transportation motor vehicle,
- (d) but will not include public land that has been leased or otherwise alienated by the Municipality;

“sidewalk” means that portion of a verge intended for the exclusive use of pedestrians;

“shoulder” means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

“verge” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“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) address various forms of public nuisances, maintain community standards, and ensure the well-being and quality of life for residents within the Municipality; and
 - (b) regulate activities and conditions that may constitute public nuisances within the Municipality, protect public health, safety, and welfare, and maintain community standards and quality of life.

Application

4. (1) These Bye-laws shall apply to all individuals, businesses, establishments, properties, and activities within the jurisdiction of the Municipality that may cause or contribute to public nuisances.

(2) The provisions of these Bye-laws shall be read as one with applicable health and environment management Laws, Regulations or Bye-laws and where they are inconsistent with those Laws, Regulations or Bye-laws, the provisions of the Laws, Regulations and Bye-laws shall apply.

PART II

PROHIBITION OF PUBLIC NUISANCES

Noise Nuisance

5. (1) A person shall not make or cause to be made any excessive or unreasonable noise from any source, including loud music, construction activities, vehicle traffic, industrial operations, or animals, that disrupts the peace and quiet of residents, particularly during designated quiet hours.

(2) 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.

Odour Nuisance

6. (1) A person shall not cause to be emitted any offensive or noxious odours emanating from residential, commercial, industrial, or agricultural activities that cause discomfort, annoyance, or health hazards to the public or nearby residents.

(2) The Municipality shall ensure that a person who causes odour nuisance takes measures to mitigate or eliminate odours.

Pollution Nuisance

7. (1) A person shall not –

(a) deposit any type of waste in a street, highway, land or other unauthorised place; or

(b) cause or allow any foul or polluted water, or any foul liquid or matter to run or flow from any factory or other premises into any public or private street, road, or lane; or allow any such water, liquid, or matter to run or flow into any land or premises so as to cause a nuisance.

(2) The Municipality shall ensure the regulations of pollution of air, water, land, soil, or environment from industrial discharges, waste disposal, emissions,

spills, or improper handling of hazardous substances so as to prevent public nuisance, risks and adverse effects to human health and the environment.

Visual Nuisance

8. (1) The Municipality shall ensure that there are no visual nuisances such as unsightly or neglected properties, littering, graffiti, abandoned vehicles, or improper signage that detract from the appearance and aesthetic appeal of neighbourhoods.

(2) A property owner or occupier shall maintain their properties and keep them in a clean and orderly condition.

Pests and infestations

9. A property owner or tenant shall maintain the necessary sanitation and hygiene standards to prevent the existence and breeding of pests and infestations, in line with national public health laws and regulations.

Stray and dangerous animals

10. The Municipality shall impound stray or dangerous animals in accordance with the provisions of the Urban Government Act, 1969 or its successor to abate public nuisance which causes or is likely to cause damage, annoyance, inconvenience or discomfort to the public or to any person in the exercise of their rights.

PART III

PROHIBITED BEHAVIOUR

Prohibited behaviour in a public place

11. (1) A person shall not

(a) when in a public place -

(i) intentionally block or interfere with the safe or free passage of a pedestrian or motor vehicle; or

(ii) intentionally touch or cause physical contact with another person, or his or her property, without that person's consent; or

(b) approach or follow a person individually or as part of a group of two or more persons, in a manner or with conduct, words or gestures intended to or likely to influence or to cause a person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other things of value;

(c) beg from a person or closely follow a person after the person has given a negative response to such begging; or block, occupy or reserve a public parking space or a public place in a manner that denies other members of the public from exercising their freedom of movement or use of a public facility.

(2) A person shall not in a public place -

(a) use abusive, profane or threatening language;

(b) fight or act in a riotous or physically threatening manner;

(c) urinate or defecate, except in a toilet;

(d) bath or wash themselves, except -

(i) in a bath or shower; or

(ii) as part of a cultural ceremony in an area where such a ceremony is taking place, as may be approved by the Municipality;

(e) spit;

(f) perform any sexual act;

(g) appear in the nude or expose his or her genitalia, except where designated by the Municipality as areas where nudity is permitted, provided that this shall not apply to children below the age of seven (7);

(h) consume any liquor or drugs;

(i) be under the influence of liquor or drugs;

(j) solicit or importune any person for the purpose of prostitution or immorality;

(k) engage in gambling;

(l) start or keep a fire, except an official or person duly authorized to do so or acting in terms of the law or in an area designated by the Municipality to do so;

(m) sleep overnight or camp overnight or erect any shelter, unless in an area designated for this purpose by, or with the written consent of the Municipality, provided that this shall not apply to cultural ceremonies or informal settlements; or

- (n) cleanse or wash any animal, or any offensive article or utensil in any street or road.

Street and door-to-door collections

12. A person shall not collect or attempt to collect money in a public place, or organise or in any way assist in the organization of such collection, except with the written permission of the Municipality and otherwise than in accordance with such conditions as may be determined by the Municipality, which shall not disbar any person or organisation from collecting money from door-to-door.

Prohibitions relating to motor vehicles

13. (1) A person in control of a heavy motor vehicle shall not park or leave such motor vehicle parked overnight in a public place or in a residential area.

(2) A person in control of a motor vehicle or passenger in the motor vehicle shall not permit any amplified noise to emanate from the motor vehicle such that it is audible at a distance of more than fifty (50) meters.

(3) A person shall not in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any object or motor vehicle.

Objects causing an obstruction

14. A person, other than an authorized officer or other official or person acting in terms of the law shall not -

(a) deposit, pack, unpack or leave any goods or articles in a public place, or cause any goods or articles to be deposited, packed, unpacked or left in a public place, other than for a reasonable period during the course of the loading, off-loading or removal of such goods or articles; or

(b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any object or motor vehicle.

Sleeping or residing in motor vehicles prohibited

15. A person shall not, in a public place -

(a) sleep in a stationary motor vehicle except in dire emergency (or where such a person is the driver of a public transportation motor vehicle or is guarding the motor vehicle) or in a designated rest area; or

(b) reside in a motor vehicle for longer than twenty-four (24) hours.

Parking and related services

16. (1) The Municipality may, after consideration and consultation, and implementing the necessary enabling licensing system, designate areas where no person shall, in exchange for money or in anticipation thereof -

(a) direct the operator or occupant of a motor vehicle to a public parking space; or

(b) provide any other parking or related services in a public place.

(2) Notwithstanding sub bye-law (1), the Municipality may, subject to applicable Parking Bye-laws or to such requirements and conditions as determined by the Municipality, on application by a person or organisation representing such a person, permit such person, upon payment of a fee, to direct the operator or occupant of a motor vehicle to a public parking space or to provide any other parking and other related service.

Trees causing an interference or obstruction

17. (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, danger or inconvenience to persons using a public road, the Municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.

(2) Any person failing to comply with a notice issued in terms of sub bye-law (1) commits an offence.

(3) If any person fails to comply with a notice in terms of this section, the Municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

Trees on public roads and streets

18. (1) A person other than a duly authorized officer shall not-

(a) plant a tree or shrub on a public road, or in any way cut down a tree or a shrub in a public road or remove it therefrom, except with the written permission of the Municipality;

(b) climb, break or damage a tree growing in a public road; or

(c) in any way mark or paint any tree growing in a public road or attach any advertisement to a tree.

(2) Any tree or shrub planted in a public road shall become the property of the Municipality.

Excavations in streets

19. (1) A person shall not make or cause to be made an excavation or dig or cause to be dug a pit, trench or hole in a public road -

- (a) except with the written permission of the Municipality; and
- (b) otherwise than in accordance with the requirements prescribed by the Municipality.

(2) The provisions of sub bye-law (1) do not prevent a person from erecting an umbrella or any other similar object in a public place during daylight, provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

Chemicals in streets and conveyance of animal carcasses and other waste

20. (1) A person other than an authorized officer or an authorized person who administers legally approved weed-killers, herbicides, poisons or pesticides shall not set or cast chemicals in any public road.

(2) A person shall not carry or convey through a public road the carcass of an animal or any garbage, refuse, litter, rubbish or manure -

- (a) unless it is properly covered; and
- (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the road.

Prohibition of certain activities in connection with objects

21. A person shall not in a public place -

- (a) including on a balcony or veranda erected beyond the boundary line of a public road, wash, clean or dry any object, including any clothing, except in an area designated by the Municipality for that purpose;
- (b) A person shall not dry or spread washing, bedding or other items in a public place or on a fence on the boundary of a public road.
- (c) effect any repairs to a motor vehicle, except where necessary for the purpose of removing such motor vehicle from the place where it was involved in an accident or has a breakdown unless -
 - (iii) the Municipality has granted its prior permission in writing thereto.

(d) wash or clean a motor vehicle in a public parking area, except in an area designated by the Municipality for that purpose.

Prohibition of skating, roller skating and dangerous acts

22. A person shall not -

- (a) on a public road skate on roller-skates or a skate-board or similar device except where permitted by the Municipality;
- (b) in a public place do anything which may endanger the life or safety of any person or animal, including -
 - (i) to shoot with a bow and arrow or catapult, or throw a stone, stick or other projectile in, onto or across a public road;
 - (ii) without the prior written permission of the Municipality or otherwise than in accordance with any conditions determined by the Municipality when granting such written permission or in contravention of any other applicable Bye-laws, to use explosives or discharge fireworks;
 - (iii) except for a lawful purpose to discharge any firearm or air, gas or alarm gun or pistol unless -
 - (aa) the firearm or air, gas or alarm gun or pistol in question is discharged in any shooting range which complies with the provisions of any applicable law; or
 - (bb) the firearm or air, gas or alarm gun or pistol in question is discharged for signalling the start of a race at an organised and controlled sports meeting, provided that blank cartridges only are fired thereby; or
 - (cc) the firearm or air, gas or alarm gun or pistol, or fireworks in question is discharged for a purpose and at a time and place approved in writing by the Municipality.

Control of goods offered for sale

23. (1) The Municipality may, after consideration and consultation and implementing the necessary enabling licensing system, designate public places, public roads or road intersections where no person shall, display or offer for sale any goods or produce except as may be prescribed by the Municipality, provided this will not apply to the selling of newspapers at intersections or to the sale of

goods by non-governmental organisations or developmental organisations which may apply for exemption for all their traders.

(2) Notwithstanding sub bye-law (1), the Municipality may issue permits for the sale of goods and produce and in so doing, the Municipality may limit the number of permits for an area and stipulate such conditions as it may from time to time prescribe.

Bridges and crossings over gutters and sidewalks

24. A private crossing, pathway, bridge or culvert shall not be made or built to or in front of any dwelling or other premises in any public place -

(a) except with the written permission of the Municipality; and

(b) otherwise than in accordance with the requirements prescribed by the Municipality.

Control of amusement shows and devices

25. A person shall set up or use in any public place any circus, merry-go-round, whirligig, roundabout or other side show or device for the amusement or recreation of the public -

(a) except with the written permission of the Municipality;

(b) otherwise than in accordance with such conditions as may be determined by the Municipality;

(c) unless suitable sanitary conveniences for both sexes of the staff and the public have been provided there; and

(d) if it is in any way dangerous or unsafe for public use.

(2) An authorized officer of the Municipality or a member of the Royal Eswatini Police Service shall, for the purposes of inspection to ensure compliance with this section, at all reasonable times have free access to such circus, merry-go-round whirligig, roundabout or other sideshow or device.

PART IV

ENFORCEMENT AND ABATEMENT

Complaints and Reporting

26. Residents, businesses, or persons affected by public nuisances may file complaints or reports with the Municipality, which shall investigate and take appropriate enforcement action to address the nuisance.

Notice and Abatement Orders

27. The Municipality may issue notices and abatement orders to property owners, businesses, or perpetrators of public nuisances, requiring them to cease the offending activities, remedy the nuisance, or take corrective measures within a specified timeframe and according to recommended standards.

Enforcement powers

28. (1) These Bye-laws shall be enforced by authorized officers, including municipal inspectors, environmental health officers, or law enforcement officers, who may conduct inspections or take enforcement actions against those who contravene the provisions of these Bye-laws.

(2) An authorized officer may, for the purposes of enforcing these Bye-laws -

(a) direct a person who is in contravention to –

(i) stop the conduct prohibited under the Bye-law;

(ii) remove any obstruction to the safe or free passage of a pedestrian or motor vehicle; or

(iii) leave and remain out of a specified public place;

(b) issue a written compliance notice on a person contravening these Bye-laws, which shall –

(i) describe the conduct constituting a contravention of the Bye-law;

(ii) indicate the section of the Bye-laws contravened;

(iii) specify the steps to be taken to comply with the notice;

(iv) specify the time periods within which the steps have to be taken;

(v) state that the failure to comply with the compliance notice constitutes an offence in addition to the contravention of the section contemplated in sub bye-law (ii); and

(vi) state that, in the event of non-compliance, that person will be liable for a fine for both the contravention and for not

complying with the compliance notice and state the amount of the fine;

- (c) cause to impound, in accordance with the Municipality's standard operating procedure on the impoundment of goods and animals, any materials used in making of transient shelter or camping overnight and personal items of persons arrested in accordance with sub bye-law (2); or
- (d) require any person to furnish their name and address and other particulars that are required for identification or for any process if the authorized officer reasonably suspects this person of having committed an offence in terms of these Bye-laws or, if in the opinion of the officer, that person is able to give evidence in regard to the commission of any such offence.

PART V

EDUCATION AND OUTREACH

Public awareness

29. The Municipality shall conduct public awareness campaigns and outreach activities to inform residents, businesses, and community organizations about public nuisance issues, regulations, responsibilities, and available resources for addressing nuisances.

Community Engagement

30. The Municipality shall promote community engagement and collaboration in identifying, reporting, and resolving public nuisance concerns through neighbourhood associations, and other community-based initiatives.

PART VI

MISCELLANEOUS PROVISIONS

Municipal remedial work and recovery of costs

31. The Municipality may, to the extent practicable and necessary, act in order to avert or remedy any nuisance 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 any person known to have caused the nuisance.

Offences

32. (1) A person who -

(a) unlawfully commits any form of nuisance or wilfully fails to comply with any provisions of these Bye-laws; or

(b) commits any of the conduct listed in the schedule,

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 one 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

33. (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 schedule

34. The Municipality may amend the schedule 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

35. The Municipality may amend or modify these Bye-laws as necessary to address to address changing circumstances, emerging public nuisance concerns, technological advancements, or legislative developments.

Schedule

(under bye-law 16)

Conduct that constitutes public nuisance

- (a) Defacing any building by writing signs or grafting;
- (b) Disposing of any type of material or waste on the streets;
- (c) Spitting in public or blows the nose aimlessly other than into any suitable cloth or tissue;
- (d) Making unusual noises, or noises that are likely to disturb the public and residents of the Municipality;
- (e) Causing any risk to users through destruction of a building, public street or road;
- (f) Wilfully blocking a free passage or removal/displacement of any council property;
- (g) Cutting down a tree without a permit from the Municipality;
- (h) Committing any act contrary to public decency;
- (i) Loitering, importuning or attempting to procure a female or male for prostitution purpose;
- (k) Defecating or urinating on a street or any other space;
- (k) Keeping any animal or poultry which cause a nuisance to any resident in the neighbourhood;
- (l) Washing, repairing or dismantling any vehicle in a prohibited area except in the case of emergency;
- (m) Touting for passengers;

- (n) Allowing hedges and tree to encroach and pose a danger to traffic movement.
- (o) hanging of clothes on fences, wall or trees visible to the public.