

fLEGAL NOTICE NO. OF 2024
THE URBAN GOVERNMENT ACT 1969
(ACT NO. 8 OF 1969)
EZULWINI INFORMAL TRADING 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 Informal Trading 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 Magistrates Court established in terms of the Magistrate’s Court Act No. 66 of 1938;

“informal trader” means any individual or entity engaged in informal trading activities, including street vendors, hawkers, peddlers, and artisans, within the municipality;

“informal trading area” means designated locations or zones within the municipality where informal trading activities are permitted, subject to regulation and oversight by municipal officers;

“informal trading” means the buying, selling, or exchange of goods or services in public spaces, streets, sidewalks, squares, or other informal trading areas, without formal business premises or licenses;

“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;

“motor vehicle” 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;

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

“pedestrian mall” means a section of a street, typically in the downtown area of a city, from which vehicular traffic is excluded.

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

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

“trading bay” means an individual spaces designated and outlined by the Municipality on which a trading stall may be established or placed within an informal trading area for use by a registered permit holder;

“trading plan” means a trading plan adopted by the Municipality to govern informal trading within a trading area.

Objects

3. The objects of these Bye-laws are to -
 - (a) regulate informal trading within jurisdiction of the municipality; and
 - (b) ensure fair and orderly conduct of trading, promoting public safety and hygiene, protecting the rights of informal traders and members of the public, and facilitating their integration into the local economy.

Application

4. These Bye-laws shall apply to individuals, businesses, or entities engaged in informal trading activities within the jurisdiction of the Municipality.

PART II

REGULATION OF INFORMAL TRADING

Types of informal trading

5. Informal trading may include by are not limited to the types listed in the Schedule.

Designated trading areas

6. The Municipality may designate specific locations or zones for informal trading activities, taking into account factors such as pedestrian traffic, public safety, access to amenities, and compatibility with surrounding land uses.

Registration

7. (1) An informal trader shall not engage in any trading activity without a valid permit issued by the Municipality authorizing the informal trader to engage

in trading activities within designated trading areas, subject to compliance with applicable regulations, fees, and conditions.

(2) An informal trader who wishes to engage in trading any trading activity within the jurisdiction of the Municipality shall apply for a permit from the Municipality in the prescribed form.

Trading hours

8. Trading hours for informal traders shall be prescribed by the Municipality, taking into consideration factors such as peak demand, public safety, and the needs of surrounding businesses and residents.

Health and safety standards

9. (1) Informal traders shall comply with health and safety standards prescribed by the Municipality, including requirements for food handling, hygiene, waste disposal, and fire safety, to ensure the health and well-being of consumers and the public.

(2) An informal trader shall -

- (a) maintain the allocated informal trading site in a clean and sanitary condition;
- (b) on a daily basis and at the conclusion of trading, collect and remove from any public road or public place all waste, packaging material, stock and equipment that are utilised in connection with or produced by the informal trader's business, unless the Municipality grants a written exemption in this regard; and
- (c) carry on business in a manner which does not cause a threat to public or public safety; and

Compliance inspections

10. The Municipality shall conduct regular inspections of informal trading areas to ensure compliance with these Bye-laws, licensing conditions, health and safety standards, and other relevant Laws and Regulations.

Rights of informal traders

11. Informal traders have the right to engage in trading activities within designated trading areas, subject to compliance with applicable Laws and Regulations, licensing requirements, and conditions.

Responsibilities of informal traders

12. (1) An informal traders shall adhere to the rules, Laws and Regulations governing informal trading, maintain cleanliness and orderliness in their trading areas, cooperate with municipal authorities and law enforcement officers, and contribute positively to the local community.

(2) An informal trader shall, at the request of an officer or duly authorized employee of the Municipality, move or remove any object so that the area or site from which informal trading is conducted may be cleaned.

(3) In the event of the sale of foodstuffs prepared in a trading bay, the informal trader shall obtain a valid certificate of acceptability from the Municipality.

PART III

INFORMAL TRADING PERMIT

Eligibility for informal trading

13. A Person shall qualify for an informal trader permit where that person -
- (a) is a citizen of Eswatini or is in possession of a valid residence permit;
 - (b) is not a holder of a permit in respect of the trading area in respect of which a permit is being applied for; and
 - (c) does not actively utilise the services of or have more than 5 (five) persons under their employ.

Criteria for granting permit

14. The Municipality shall take into account the following factors when considering an application for a permit -
- (a) the applicant's ability to meet the trading hours for the relevant trading area as the Municipality may determine;
 - (b) the need to give preference to applicants that are historically disadvantaged individuals;
 - (c) nature and variety of the trading goods which the applicant intends selling, or the services which the applicant intends rendering, bearing in mind the nature of the businesses within that trading area or in its immediate vicinity;

- (d) the need to give preference to unemployed applicants;
- (e) the need to give preference to applicants who do not share a household with an existing permit-holder, unless -
 - (i) the number of available trading bays for the relevant trading area is more than the number of applicants seeking permits for those trading bays;
 - (ii) the applicant who shares a household with a permit-holder is not a dependant or financially reliant upon such permit-holder; or
 - (iii) the applicant who shares a household with a permit-holder is not a dependant or financially reliant upon such permit-holder.
- (f) where trading plans are adopted in areas previously not subject to such plans, the need to give preference to applicants who have an established informal trading operation in the location for which a new trading area is adopted.

Conditions for grant of permit

15. The Municipality may impose the following conditions in respect of permits as it deems fit, subject to the provisions of the applicable trading plan, including but not limited to the right to -

- (a) the trading hours during which the permit-holder may trade;
- (b) the nature of the goods or services the permit-holder is permitted to trade;
- (c) a permit-holder's trading bay number;
- (d) allocate the informal trader an alternative bay in the same trading area;
- (e) specify the type of structure(s), if any, which may be erected on a trading bay or in a trading area;
- (f) impound trading goods in the event of a contravention of any provision of these Bye-laws or any other law;
- (g) suspend a permit for a special event on reasonable prior notice with no compensation payable to the informal trader, notwithstanding that informal trading may be permitted by the Municipality at the special event, provided that two (2) written warnings have been issued to the

informal trader and after affording the relevant informal trader an opportunity to make written representations,

- (h) revoke or suspend a permit where the informal trader -
 - (aa) has breached any provisions of the permit or the Bye-law or any other law;
 - (bb) is convicted of trading in illegal goods or providing a service unlawfully; or
 - (cc) wilfully supplying incorrect information when required to provide the Municipality with information.

(2) The Municipality shall be guided by the SZNS CAC/GL22t1997 standard in relation to Guidelines for the design of control measures for street - vended foods in determining conditions for permit for food informal trading.

Rights of the Municipality

16. (1) Notwithstanding the contents of the relevant trading plan, the Municipality shall, upon reasonable prior notice to the informal trader and with no compensation payable by the Municipality to the permit-holder, temporarily -

- (a) relocate a permit-holder;
- (b) suspend the validity of a permit; or
- (c) prohibit a permit-holder from trading at the relevant trading bay; should it be necessary to do so because of the performance of activities which renders the continuation of trading from the relevant trading bay impractical or severely inconvenient;
- (d) increase annual fees after prior notice has been issued; or
- (e) revoke a permit where conditions are not met.

(2) The activities referred to in sub bye-law (1) (c) shall include, but not be limited to, maintenance or construction of infrastructure or buildings performed by the Municipality, property developments, alterations or refurbishments by any entity, or activities by public entities conducted in terms of their powers and functions.

Permit not transferable

17. A permit-holder shall not transfer a permit to any other person in any manner, including but not limited to, by way of lease or sale.

Special events

18. The Municipality may permit or prohibit informal trading for purposes of special events on such terms and conditions as it may deem fit, notwithstanding the terms of any trading plan or any permits issued in respect of the relevant trading area.

PART IV PROHIBITIONS

Places where informal trading is prohibited

19. A person shall not conduct trading -
- (a) in a garden or park under the control of the Municipality and to which the public has the right of access, unless such area has been declared by the Municipality as a trading area;
 - (b) on a verge or sidewalk next to a building belonging to or occupied solely by the Government or Municipality, unless the Municipality has given its prior written consent after it has duly considered any relevant trading plan; and consulted with the relevant property owner and, where relevant, the tenant of such property;
 - (c) a place of worship such as a church, synagogue or mosque unless a trading plan permits informal trading at that area;
 - (d) a national monument as determined in accordance with the provisions of the National Trust Commission Act, 1972;
 - (e) on the part of a public road which is next to a building that is being used for residential purposes, if the owner or occupier of that building objects to the informal trading taking place at th location;
 - (f) at a place where trading obstructs -
 - (i) access to fire-fighting equipment;
 - (ii) any entry to or exit from a building;
 - (iii) substantially obstructs pedestrians in their use of a sidewalk;

- (iv) vehicular traffic and in a manner by which it creates a traffic hazard;
- (v) access to street furniture, bus passenger benches and shelters, queuing lines, refuse disposal bins or other facilities intended for the use of the general public;
- (vi) the visibility of a display window of business premises, and if the person carrying on business in that business premises objects thereto;
- (vii) access to a pedestrian crossing;
- (viii) access to a vehicle;
- (ix) or obscures any road traffic sign;
- (x) access to an automatic teller machine;
- (xi) or limits access to parking or loading bays or other facilities for pedestrian or vehicular traffic;
- (xii) access to an arcade or mall;
- (xiii) the view of CCTV cameras or falls below the high-water mark, unless a trading plan expressly provides for informal trading at that area.

Prohibited conduct in informal trading

20. A person shall not -

- (a) obstruct access to any service of the Municipality or municipal service works, unless prior written approval is granted by the Municipality, at any public road or public place;
- (b) stay overnight at the place where informal trading is conducted or erect any structure, other than as stipulated in the relevant trading area plan or permit conditions, for the purpose of providing shelter;
- (c) carry on business as an informal trader in a manner which creates a nuisance;
- (d) damage or deface the surface of any public road or public place or any other property belonging to the Municipality in a manner that creates a traffic hazard;

- (e) attach an object to any building, structure, pavement, footway, tree, parking meter, lamp pole, electricity pole, telephone booth, post-box, traffic sign, bench or any other street furniture or device in or on a public road or public place that is generally intended for public use;
- (f) make a fire at any place or in circumstances where it could harm any person or damage a building or vehicle or any structure referred to in bye-law 19 (e), unless authorized to prepare foodstuffs by utilising open-flame fire or gas-fired equipment;
- (g) deliver or provide goods or equipment to an informal trader if that trader trades in contravention of these Bye-laws, after having been requested to do so by any person carrying out an activity contemplated in bye-law 19 (a) who requires access to a facility or area, fail to remove or move any goods, or refuse to do so,
- (h) use bells, hooters, amplified equipment or similar devices, which emit sound, in order to attract customers; if permitted to conduct street trading to sell or promote alcoholic products; or
- (i) use any electrical supply or power generator, unless expressly approved and provided for in the relevant permit.

PART V

DUTIES OF THE MUNICIPALITY

Guidelines and policies

21. The Municipality may at any time publish or amend guidelines or policies in respect of informal trading in the municipal area.

Powers and functions

22. (1) The Municipality shall be responsible for all functions and decisions contemplated in these Bye-Laws and the administration of these Bye-Laws.

(2) An authorized officer may delegate any of the powers and functions of the authorized officer to an appropriate official with the power to sub-delegate in order to maximise administrative and operational efficiency.

(3) The decisions contemplated in sub bye-law (2) shall be taken by Council.

(4) The Municipality may-

- (a) prescribe fees for application and issuance of an informal trading permit;
- (b) define and demarcate the extent and boundaries of trading bays;
- (c) prescribe charges for the establish of trading bays;
- (d) prescribe days, times and periods during which trading bays may be used for business;
- (e) prescribe the types and classes of trading bays;
- (f) determine the method for prescribing fees payable in a trading bay;
- (g) prescribe forms applicable to these Bye-laws;
- (h) designate places for impounding goods for purposes of these Bye-laws; and

PART VI

MISCELLANEOUS PROVISIONS

Awareness and collaboration

23. The Municipality shall –

- (a) conduct public awareness campaigns, educational programs, and outreach activities to raise awareness on informal trading;
- (b) provide support services to informal traders to enhance their business skills, improve their understanding of regulation and compliance requirements, and facilitate their integration into the formal economy; and
- (c) collaborate with stakeholders including the residents and the business community.

Enforcement

24. (1) These Bye-laws shall be enforced by an authorized officer, including municipal law enforcement officers or inspectors, who may issue warnings, fines, suspension or revocation of trading licenses, confiscation of goods or other enforcement actions for persons who contravene these Bye-laws.

(2) An authorized officer may issue a person with a written warning if, in the opinion of the officer, that person has traded in goods or provided services in contravention of these Bye-laws or that person has contravened these Bye-laws in any other manner, including but not limited to, in violation of a permit condition, or any other applicable law.

(3) In the event of a person continuing or repeating a contravention in respect of which two (2) written warnings have already been issued to that person, then an officer may impound, in the case of an informal trader, any property used by the informal trader in conducting the informal trade, and in the case of any other person, any property, including but not limited to, goods, equipment, structures and motor vehicles, in which case the officer shall -

(a) complete a full inventory of all the property that has been impounded and such inventory shall include information on the consequences of such impoundment should the person fail to pay the impoundment costs and collect the goods; and

(b) provide the person with a copy of the inventory and immediately store the impounded property in an area designated by the Municipality for the storage of impounded property.

(4) Property which has been impounded from a person may be released after the presentation by the person of the inventory contemplated in sub bye-law (1) (a) and the payment of the impoundment costs, provided that the Municipality is reasonably satisfied that the person from whom the goods are impounded will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded.

(5) Where the Municipality is not so satisfied that the person from whom the goods are impounded will not, upon the release of the property, continue to commit any contravention which led to the goods being impounded, it may withhold the goods for up to three (3) days after payment of any fine or impoundment costs.

(6) Perishable goods that have been impounded may, at any time after the impoundment, be sold or otherwise disposed of by the Municipality.

(7) The Municipality may destroy the goods if the condition of those goods renders them unfit for human consumption.

(8) Impounded property other than perishable goods, may be sold by the Municipality if the owner does not, or is unable to, pay the impoundment costs within one (1) month from the date of impoundment of that property.

(9) In the event of the impounded property being sold by the Municipality in terms of sub bye-law (6) and (8), and upon the presentation of the inventory as contemplated in sub bye-law (3) (a) by the owner, the Municipality shall pay to that owner the proceeds of the sale less the impoundment costs.

(10) Where the owner has previously paid the impoundment costs, the proceeds shall be paid to the owner free of any such deduction.

(11) Where the owner does not claim the proceeds derived from the sale of the impounded goods within three (3) months from the date of impoundment, then the proceeds will be forfeited to the Municipality.

(12) Where in the reasonable opinion of an officer, an informal trader is suspected of trading in illegal goods or that a supplier is supplying the trader with illegal goods, then such goods may be immediately confiscated.

(13) In the event of such a confiscation, the Municipal officer shall complete a full inventory of all the property that has been confiscated and provide the informal trader or supplier with a copy of the inventory and immediately surrender the suspected illegal goods to the possession of the Royal Eswatini Police Service to be dealt with accordingly.

Offences and Penalties

25. (1) A person who -

- (a) engages in informal trading without a permit issued by the Municipality;
- (b) conducts any informal trading in an area which is not designated as an informal trading area;
- (c) wilfully conducts informal trading in a prohibited area;
- (d) contravenes these the provisions of these Bye-laws or fails to comply with any condition imposed in terms the Bye-laws;
- (e) threatens, resists, interferes with or obstructs any authorized officer or any employee of the Municipality in the performance of official duties or functions in terms of or under these Bye-Laws;
- (f) deliberately furnishes false or misleading information to an officer or an employee of the Municipality;
- (g) wilfully refuses at the request of an officer or duly authorized employee of the Municipality, to move or remove any object so

that the area or site from which informal trading is conducted may be cleaned,

commits an offence and shall on conviction be liable to -

- (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

26. (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 such receipt of the decision on the objection arising 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

27. These bye-laws may be amended or modified by the municipal government as necessary to address changing circumstances, community needs, or regulatory developments related to informal trading.

Transitional provisions

28. (1) Notwithstanding the provisions of these Bye-laws, any declaration of an area within the jurisdiction of the Municipality as an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted or prohibited, shall remain valid until such time as the Municipality adopts a trading plan in respect of such area in terms of these Bye-laws.

(2) Where an informal trader had been issued with a lease or permit prior to the enactment of these Bye-laws which permits trading from a particular bay, such lease or permit shall remain valid until an integrated permit system is adopted by the Municipality which complies with the permit system as contemplated in these Bye-laws.

Amendment of schedule

29. The Municipality may amend the schedule to include other types of informal trading as necessary to address changing circumstances, community needs, or regulatory developments related to informal trading.

Schedule

(under bye-law 5)

Types of informal trading

- (a) street trading;
- (b) trading in pedestrian malls;
- (c) trading at markets;
- (d) trading at transport interchanges;
- (e) trading in public open spaces;
- (f) mobile trading, such as from mobile food units, caravans, and light delivery vehicles;
- (g) roving traders; and
- (h) trading at special events.