



EMALAHLENI LOCAL MUNICIPALITY BY-LAW FOR THE PREVENTION OF PUBLIC NUISANCE

The Council of Emalahleni Local Municipality acting in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) hereby publishes the By-laws relating to Public Nuisance:

TABLE OF CONTENTS:

- 1. Definitions**
- 2. Objects of the By-Law**
- 3. Scope and limitations in the applications of these By-Laws**
- 4. Principles**
- 5. General Duty of Care**
- 6. General prohibition and nuisance behaviour**
- 7. Vegetation**
- 8. Animals**
- 9. Excavation in public places**
- 10. Weed-killers, herbicides, poisons or pesticides**
- 11. Municipal Property**
- 12. Service delivery Arrangements**
- 13. Provisions on the powers and functions of the Municipality**
- 14. Offences and penalties**
- 15. Short title and commencement**

1. Definitions

In this By-law any word or expression to which a meaning has been assigned in the By-law, unless the context otherwise indicates:

“animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“authorised official” means a person authorised as such by the Council for the purposes of this By-law to perform, exercise and implement any or all of the functions specified therein, including but not limited to:

- (a) peace officers and EMIs as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
- (b) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer or an EMI;

“bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“construction” means any building work or demolition and any activity ancillary to such building work or demolition;

“environment” means the surrounding within which humans exist and that are made of:

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing and influence human health and well-being.

“executive director: Environmental and Waste Management” means the person appointed as Executive Director by the Council or any person lawfully acting in that capacity;

“motor-vehicle” means any self-propelled vehicle having an engine or motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such engine or motor for the purposes of transportation on any road of one or more persons or any material, item, substance or object, and includes a trailer, motor bike, quad bike or earth-moving or earth-working vehicle, but excludes any vehicle which is controlled by a pedestrian, or any vehicle with a mass not exceeding 230 kilograms which is specially designed and constructed solely for mobility of

any person suffering from some defect or disability;

“municipal council” or council means the Emalahleni municipal council, a municipal council referred to in section 157(1) of the Constitution;

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as the head of the administration of the municipal council;

“municipal property” means any structure or thing owned or managed by or on behalf of the Council;

“nuisance” means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case maybe, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or creating any situation or condition in or on private property or in a public place or anywhere in the Municipality which causes damage, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights to all or of any person;

"owner"

- (a) in relation to an animal contemplated in the definition of nuisance, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to any item, substance, matter, material, equipment, tool, vegetation contemplated in the definition of nuisance, includes the person having the possession, charge, custody or control of same;
- (c) in relation to a public nuisance
the person or persons in whom from time to time shall be vested the legal title to any immovable property.

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

“person” means a natural or juristic person and includes an organ of state;

“pet” means a tame animal which is kept in a household for companionship or amusement;

"poultry" means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea- fowl, peacock or peahen or bird whether domesticated or wild;

“public nuisance” means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely effects the safety of the public;

“public space” includes any square, park, any area or centre, whether incorporating a community hall or not, at which group facilities of a sporting, cultural or recreational nature can be pursued, garden, enclosed or open space within the area of jurisdiction vested in the Council and includes any open or enclosed space vested in the Council to which the public has the right to

access, public road and lane, foot pavement, overhead bridge, footpath, sidewalk, and any other municipal property;

“**street**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“**structure**” means any container, stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

“**waste**” means any substance, whether or not that substance can be reduced, reused, recycled and recovered-

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purpose of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sector, but:
 - (i) a by-product is not considered waste; and
 - (ii) any portion of waste, once reused, recycled and recovered, ceases to be waste;

2. Objects of the By-law

The objects of this By-law are:

- (1) To provide measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public space, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, that it is minimized and managed; and
- (2) To provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate public nuisances.

3. Scope and limitations in the application of this By-law

- (1) This By-law shall be read with any relevant and applicable provisions of the Provincial and National legislation including the Constitution of the Republic of South Africa, Act 108 of 1996 and shall not override any of these legislation;
- (2) This By-law shall apply to all areas which fall under the jurisdiction of

the Emalahleni Local Municipality and is binding on all persons to the extent applicable; and

- (3) In the event of any conflict with any other municipal By-law which directly or indirectly, regulates the control of nuisances, the provisions of this By-law shall prevail to the extent of the inconsistency.

4. Principles

- (1) The Municipality has the responsibility to ensure that all activities which may create public nuisances within the municipal area are regulated in a manner that takes into account the rights of all citizens of Emalahleni Local Municipality; and
- (2) Any person exercising powers in accordance with this By-law must, at all times, seek to promote rights of all citizens of Emalahleni Local Municipality.

5. General Duty of Care

- (1) Every person has a duty to ensure that his or her actions or behaviour does not cause any harm to human health or damage to the environment;
- (2) Any person subjected to the duty imposed in subsection (1) may be required by the Municipality, or an authorised official, to take measures to ensure compliance with the duty;
- (3) The measures referred to in subsection (1) that a person may be required to undertake include:
 - (a) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment and human health;
 - (b) eliminating or mitigating any source of damage to the environment and human health; or
 - (c) rehabilitating the effects of the damage to the environment.

6. General prohibition and nuisance behaviour

- (1) Notwithstanding the provisions of any other law, no person shall:
 - (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person. Should the Municipality be of the opinion that this provision is being contravened, the Municipality may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
 - (b) carry on any trade, business, profession or hobby on any premises in the municipal area which may, in the opinion of the Municipality, be or become a source of discomfort or annoyance to other people lawfully present;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely

- to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
- (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated or pose a threat to the health and safety of any person;
 - (e) allow any building or structure, or any portion thereof, on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain, in good and sound repair, the roof- water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure, or fail to ensure the walls of any building or structure are free from dampness;
 - (f) use or cause or permit to be used any stoep and/or veranda of any shop or business premises, or vacant land adjoining such shop or business premises, for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
 - (h) enclose or cause or permit the enclosing of any stoep or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the Municipality may approve;
 - (i) cause or allow the disturbance of the ordinary wellbeing, comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment;
 - (j) be foul, misuse or damage a toilet provided in a public building or public place;
 - (k) carry or convey, or cause or permit to be carried or conveyed, through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
 - (l) accumulate, dump, store or deposit any article or thing of whatsoever nature which, in the opinion of the Municipality, is waste material or likely to create an obstruction in any street, public place or built-up or vacant premises or land. Where such action takes place with the consent of the Municipality and any conditions of approval are ignored or complaints are received from the general public, the Municipality may take action in terms of sub-section 6 (2)(a);
 - (m) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (n) directly or indirectly, or by any negligence, allow that a nuisance be created or continued;

- (o) urinate or defecate, except in a facility provided for such purpose;
 - (p) perform any sexual act in a public place;
 - (q) start or keep a fire unless for the purpose of making a braai in an area where such activity is permitted, unless that person is authorised to make and keep such fire by the Municipality or in terms of law;
 - (r) lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it;
 - (s) beg for money or goods whether by gesture, words or otherwise;
 - (t) bathe or wash himself or any animal or article or clothing or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the Municipality for such purpose;
 - (u) at any time, disturb the public peace in any public or private place or premises by making unseemly noises, or by shouting, or by insistently hooting, or by wrangling or quarrelling, or by illegally organising any demonstration, or by fighting or challenging others to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon, or by conducting any other riotous, violent or unseemly behaviour, or by loitering in any street or public place, or by gathering in crowds on pavements;
 - (v) advertise products or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (w) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people;
 - (x) in any street or public place use any abusive or threatening language or commit any act which may cause a breach of the public peace;
 - (y) cleanse or wash any vehicle or part thereof in any street or public place; and
 - (z) discharge any fire-arm, fireworks, airgun or air pistol on any premises except premises zoned for the purpose.
- (2) In the event of a contravention of subsections 1(a) to (z), the Municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to remove the nuisance created.
- (3) In the event of non-compliance with such a notice to terminate the action or to remove the nuisance:-
- (a) the Municipality may take the necessary steps to remove the cause or source of the nuisance and may recover any costs incurred in connection therewith from the person responsible for the nuisance

or the owner or occupier or the premises on which the nuisance originates or is being continued; and

(b) serve a summons on the alleged offender for the prosecution of such person in accordance with the applicable provisions of the Criminal Procedure Act No. 51 of 1977.

(4) Where the Municipality has evidence that any vacant or developed premises or land is being used for any unauthorised purposes by persons or in contravention with any of the provisions of this By-law, it may serve notice in writing on the owner or occupier thereof requiring him to enclose or fence such premises or land, at their own cost, to the Municipality's satisfaction by a date specified in the notice. Every such enclosure or fence shall be not less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.

(5) For the application of this By-law, any action on or condition of any premises, including any building, structure or vegetation thereon, which in the opinion of the Municipality endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance; and

(6) Any person who contravenes or fails to comply with any of the provisions of this section, or fails to comply with any notice lawfully given there under, shall be guilty of an offence.

7. Vegetation

(1) No person may allow any tree or other growth on any premises under his or her control to interfere with any public service infrastructure, communal services infrastructure, or to become a source of annoyance, danger, inconvenience or discomfort to persons using a public road;

(2) The Municipality may, by written notice, direct the owner, occupier or person in control of premises contemplated in subsection (1) to prune or remove such tree or growth to the extent and within the period specified in such a notice;

(3) If the person contemplated in subsection (2) fails to take the measures contemplated in the notice issued in terms of that subsection, the Municipality may act and recover costs from that person; and

(4) No person other than a duly authorised official of the Municipality may plant, mark, cut, remove or damage a tree or shrub in a public place, except with the written permission of the Municipality.

8. Animals

(1) No person, including animal breeders, pet shops, pet parlours, shall keep or permit to be kept on any premises or property any animals, excluding pets as defined or service animals, without the written permission issued by the Municipality and, where necessary, in consultation with the

Nkangala District Municipality;

- (2) For the purpose of managing the keeping of animals on premises, the Municipality may determine the number as well as the kind and sex of animals that may be kept and the areas within which the keeping of such animals shall be prohibited;
- (3) In order to consider an application in terms of sub-section (1), the Municipality may obtain the input or comments of the owners or occupants of surrounding premises before permission is granted or refused;
- (4) Where consent is refused, the Municipality must furnish the applicant with the reasons for such refusal, within 30 days of a request for such reasons, and at the same time advise him or her of the right of appeal;
- (5) Where consent is granted, the Municipality may impose any conditions and/or restrictions as the Municipality, in consultation with another responsible authority, may deem fit to impose;
- (6) Whenever animals kept on any premises, whether or not such premises have been approved by the Municipality under this By-law, are a public nuisance, the Municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not less than 24 hours after the date of such notice, to remove the cause of and/or to abate such nuisance and to carry out such work or take such steps necessary for the said purpose;
- (7) No person may permit an animal owned or kept by him or her to be in a street or public place without supervision or permit such animal to behave in any other manner that interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours or permit such animal to be a source of danger or injury to any other person, including employees of the Municipality entering upon such premises for the purpose of carrying out their duties;
- (8) The Municipality may:
 - (a) order the destruction of an animal, in accordance with the Animal Protection Act (No.71 of 1962), which is dangerous or ferocious; injured or diseased to such an extent that it would be humane to do so; and
 - (b) seize, impound or surrender an animal found in a street or public place in contravention with the provisions of sub-section (7) to the nearest Society for the Prevention of Cruelty to Animals .
- (9) An animal impounded in terms of sub-section (8)(a) may be released to the owner of such animal upon payment of a fee determined by the Municipality;
- (10) No person may hawk an animal in a street or public place; or in or from a movable structure or vehicle; and

- (11) A person who contravenes any of the provisions of this section commits an offence.

9. Excavation in public places

- (1) No person may make, or cause to be made, an excavation, a pit, trench or hole in a public place except with the written permission of the Municipality and/or otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-laws of the Municipality or any other law; and
- (2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place: 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.

10. Weed-killers, herbicides, poisons or pesticides

- (1) No person, other than an authorised official or an authorised person, who administers legally approved weed-killers, herbicides, poisons or pesticides may set or cast such substances in any public place without the prior written permission of the Municipality.

11. Municipal property

- (1) No person, unless authorised by the Municipality or in terms of any other law, may within a public place:
 - (a) deface, damage, destroy or remove any property or part thereof which is affixed, placed or erected in or on a public place;
 - (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
 - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - (d) affix or place or distribute any printed matter on any municipal property; or
 - (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.
- (2) The provisions of subsection (1) do not apply to any person who is employed or authorised by the Municipality for the purposes of fixing, repairing, demolishing, renovating or providing any such services for or on behalf of the Municipality.

12. Service Delivery Arrangements

In an effort to achieve optimal service delivery in terms of this By-law, the Municipality may enter into agreements with the district municipality with which legislative and executive powers are shared, in respect of the following:

- (a) the practical arrangements with regard to the execution of the provisions of this By-law;
- (b) the imposition and enforcement of conditions with regard to any

application in terms of this By-law, insofar as such conditions pertain to the functions and powers performed by the district municipality;

- (c) the recovery of costs and expenses related to any action in terms of this By-law;
- (d) the mechanisms for the settlement of disputes with regard to the execution of powers or functions in terms of this By-law or the matters on which have been agreed, subject to the provisions of section 86 of the Municipal Structures Act (No.117 of 1998); and
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this By-law.

13. Provisions on the powers and functions of the Municipality

- (1) The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to protect any aspect of the environment within a public place, improve the administration of a public place and/or undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of this By-law.
- (2) The Municipal Manager may delegate an employee or employees within the municipal administration as an authorised official to exercise the powers and functions that fulfils the objective of this By-law.
- (3) An authorised official may, in respect of any premises, at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to have occurred –
 - (a) inspect or monitor the land or premises;
 - (b) question the owner, occupier or person in control of the land or premises;
 - (c) serve any compliance notice to the owner, occupier or person in control;
 - (d) take photos of any items used on the land or in the premises to cause a nuisance; and
 - (e) take samples or other evidence in respect of any nuisance caused.
- (4) When entering a premises in terms of sub-section (3), the authorised official must, on request by any person, identify him-/herself by producing written proof of authorisation.
- (5) The authorised official may be accompanied by a person reasonably required to assist in conducting the inspection.
- (6) Any person who fails or refuses to give access to any authorised official to any land or premises pursuant to such lawful request, or obstructs or hinders him in the execution of his duties under this By-law, or who fails or refuses to give information that he may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.
- (7) A duly authorised official may, in respect of a nuisance caused or alleged

to be caused in a public place, instruct a person to cease an act or conduct which causes such nuisance, with immediate effect.

- (8) If it appears to the authorised official that it is not possible for the offending person to comply with his or her instructions forthwith, the official must issue a compliance notice in the format prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.
- (9) When issuing a compliance notice the authorised official must procure the full name and signature of the offending person, the owner, occupier or person in control confirming receipt of a warning notice or erect such notice in a prominent place on the land or premises concerned, where no person is available to accept receipt;
- (10) The authorised official must inform the offending person that:
 - (a) a signature of the offending person, the owner, occupier or person in control in terms of subsection (10) does not on its own constitute an admission of guilt; and
 - (b) it is an offence in terms of this By-law to refuse to sign a compliance notice issued by an authorised official.
- (11) An authorised official may remove and seize any item, substance, matter, material, equipment, tool causing a nuisance in a public place in contravention of this By-law or in terms of a court order.
- (12) An authorised official who seizes property as envisaged in subsection (11) shall forthwith delivery such seized property to a police station within the jurisdiction of the Municipality for safe keeping to be duly entered into the SAPS13 register as an exhibit.
- (13) Any authorised official who seizes property in terms of subsection (11) must issue the owner or person in control with a seizure notice which-
 - (a) captures the full name, identity number or passport number, and contact details of the person;
 - (b) confirm whether the property is owned by the person in whose possession the property was found or, where such property was only under such person's control, provide the full name of the owner;
 - (c) states the relevant section of the By-law contravened;
 - (d) itemises and describes the property to be seized;
 - (e) provides the address where the seized property will be kept;
 - (f) states the terms and conditions which must be met to secure the release of the property;
 - (g) states that the person may elect to refer the matter to Court for adjudication;
 - (h) states where representations may be made and/or the payment of an admission of guilt;
 - (i) contains an acknowledgement signed or marked by the person confirming receipt and that they understand the contents thereof.

- (14) An authorised official must, immediately upon removing the seized property, transport such property to the applicable police station, state depot or facility stated on the notice issued.
- (15) The Municipality must -
 - (a) keep a register of seized goods and all places of storage;
 - (b) immediately enter in the register the-
 - (i) details of the offending person, the owner, occupier or person in control;
 - (ii) details of the property removed and seized, including the condition of such property;
 - (iii) details of the place and area where such property were removed from;
 - (iv) name of the authorised official who attended to the seizure of the property; and
 - (v) time and date of such removal and seizure, upon the presentation of such property at the place of storage.
- (16) Upon payment of an admission of guilt fine, possession of the property seized shall be granted to the rightful owner thereof provided that he or she may legally possess such property. Where the owner is not entitled to possess such property, it shall be forfeited to the State in accordance with the provisions of section 32 of the Criminal Procedure Act No. 51 of 1977.
- (17) The disposal of any property shall be in accordance with a Court Order granted in favour of the Municipality.

14. Offences and penalties

- (1) A person commits an offence if he or she contravenes any provision of this By- law;
- (2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence;
- (3) Any person who is convicted of an offence by a Court of law under this By-law shall be liable for a fine, or to imprisonment for a period not exceeding 2 years, or both such fine and imprisonment; and
- (4) In the case of a continuing offence, an additional fine of an amount not exceeding R2000.00 or imprisonment for an additional period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

15. Short title and commencement

This By-Law shall be called the Emalahleni Local Municipality By-laws for the Prevention of Public Nuisances and takes effect on the date of publication thereof in the Provincial Gazette or on such date as may be determined by the

publication of a commencement notice in the Provincial Gazette.

**EMALAHLENI LOCAL MUNICIPALITY
BY-LAW ON THE PREVENTION OF PUBLIC NUISANCES**

**Schedule of Offences and Fines Determined in terms of Section
14 (3) of the By-Law**

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
6 (1) (a)	No person shall do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person.	R1500		EMC 0001
6 (1) (b)	No person shall carry on any trade or business, profession or hobby on any premises which may be a source or become a source of discomfort or annoyance to other people lawfully present.	R500		EMC 0002
6 (1) (c)	No person shall deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place.	R500		EMC 0003
6 (1) (d)	No person shall allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated or pose a threat to the health and safety of any person.	R500		EMC 0004
6 (1) (e)	No person shall allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain, in good and sound repair, the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness.	R2 000		EMC 0005
6 (1) (f)	No person shall use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise.	R1 500		EMC 0006

6 (1) (g)	No person shall use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature.	R1 500		EMC 0007
6 (1) (h)	No person shall enclose or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;	R1 000		EMC 0008
6 (1) (i)	No person shall cause or allow the disturbance of the ordinary wellbeing, comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment.	R1 000		EMC 0009
6 (1) (j)	No person shall be foul, misuse or damage a toilet provided in a public building or public place.	R1 500		EMC 0010
6 (1) (k)	No person shall carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance.	R1 500		EMC 0011
6 (1) (l)	No person shall accumulate, dump, store or deposit any article or thing of whatsoever nature, which in the opinion of the municipality is waste material or likely to create an obstruction in any street, public place or built-up or vacant premises or land. Where such action takes place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of sub-section 6 (2) (a).	R1 000		EMC 0012
6 (1) (m)	No person shall allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community.	R2 000		EMC 0013

6 (1) (n)	No person shall by directly or indirectly or by any negligence allow that a nuisance be created or continued.	R1 000		EMC 0014
6 (1) (o)	No person shall urinate or defecate, except in a facility provided for such purpose.	R1 500		EMC 0015
6 (1) (p)	No person shall perform any sexual act in a public place.	R1 500		EMC 0016
6 (1) (q)	No person shall start or keep a fire unless for the purpose of making a braai in an area where such activity is permitted, unless that person is authorised to make and keep such fire by the Municipality or in terms of law.	R500		EMC 0017
6 (1) (r)	No person shall lie or sleep on any bench, seating place, street or sidewalk, or use it in such a manner that it prevents others from using it.	R500		EMC 0018
6 (1) (s)	No person shall beg for money or goods whether by gesture, words or otherwise.	R500		EMC 0019
6 (1) (t)	No person shall bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for any purpose.	R500		EMC 0020
6 (1) (u)	No person shall, at any time, disturb the public peace in any public or private place or premises or a street by making unseemly noises or by shouting, or by insistently hooting, or by wrangling or quarrelling, or by illegally organising any demonstration or by fighting or challenging others to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by conducting any other riotous, violent or unseemly behaviour at any time of the day or, or by loitering in any street or public place or by gathering in crowds on pavements.	R500		EMC 0021
6 (1) (v)	No person shall advertise products or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells.	R500		EMC 0022

6 (1) (w)	No person shall in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people.	R1 000		EMC 0023
6 (1) (x)	No person shall in any street or public place use any abusive or threatening language or commit any act which may cause a breach of the public peace.	R500		EMC 0024
6 (1) (y)	No person shall cleanse or wash any vehicle or part thereof in any street or public place.	R500		EMC 0025
6 (1) (z)	No person shall discharge any fire-arm, fireworks, airgun or air pistol on any premises except premises zoned for the purpose.	R500		EMC 0026

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
7 (1)	No person may allow any tree or other growth on any premises under his or her control to interfere with any public service infrastructure, communal services infrastructure, or to become a source of annoyance, danger, inconvenience or discomfort to persons using a public road.	R1 000		EMC 0027
7 (4)	No person other than a duly authorized official of the Municipality may plant, mark, cut, remove or damage a tree or shrub in a public place or, except with the written permission of the Municipality.	R1 000		EMC 0028

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
8 (1)	No person, including animal breeders, pet shops, and pet parlours shall keep or permit to be kept on any premises or property any animals, excluding pets as defined or service animals, without the written permission issued by the municipality in consultation with the Nkangala District Municipality.	R1 000		EMC 0029
8 (7)	No person may permit an animal owned or kept by him or her to be in a street or public place without supervision or permit such animal to behave in any other manner that interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours or permit such animal to be a source of danger or injury to any other person including employees of the municipality entering upon such premises for the purpose of carrying out their duties.	R500		EMC 0030
8 (12)	No person may hawk an animal in a street or public place; or in or from a movable structure or vehicle.	R1 000		EMC 0031

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
9 (1)	No person may make or cause to be made an excavation, a pit, trench or hole in a public place except with the written permission of the Municipality and/or otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-laws of the Municipality or any other law.	R2 000		EMC 0032

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
10 (1)	No person other than an authorized official or an authorized person who administers legally approved weed-killers, herbicides, poisons or pesticides may set or cast such substances in any public place without prior written permission obtained from the municipality.	R2 000		EMC 0033

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
11 (1)	<p>No person, unless authorized by the Municipality or in terms of any other law, may within a public place-</p> <ul style="list-style-type: none"> (a) deface, damage, destroy or remove any property of part thereof which is affixed, placed or erected in or on a public place; (b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place; (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage; (d) affix or place on any municipal property, or distribute, any printed matter; or (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations; 	R500		EMC 0034

Section contravened	Description of offence	Proposed fine	Approved fine	Offence code
13 (6)	<p>Any person who fails or refuses to give access to any authorised official to any land or premises pursuant to such lawful request, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.</p>	R1 000		EMC 0035