



UMZIMVUBU
— LOCAL MUNICIPALITY —

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STANDARD BY-LAWS RELATING TO NOISE CONTROL

UMZIMVUBU LOCAL MUNICIPALITY

Noise Control By laws

The Municipal Manager wishes to publish in terms of sec 13 of Local Government: Municipal Systems Act 32 of 2000 read with section 162 of the Constitution of the Republic of South Africa 108 of 1996, the By laws relating to Noise Control will come into operation once they have been adopted, approved by the Council and are published in the Eastern Cape Provincial Gazette.

PREAMBLE

WHEREAS the Council of the Municipality with the Legislative Power in terms of the Constitution of the Republic of South Africa 108 of 1996 and **WHEREAS** the Council of the Municipality in the execution of its functions has the right to control noise in the Municipal Area for the benefit of the Citizens or Visitors of the Municipality, therefore be it promulgated by the Council as follows;

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1. Definitions

In these by laws any word or expression to which a meaning has been assigned in the Regulations of the Act shall have the same meaning so assigned to it and unless the context otherwise indicates.

REGULATIONS shall mean the Noise Control Regulations in terms of section 25 of the ENVIRONMENT CONSERVATION ACT 73 OF 1989.

The Act means the Environment Conservation Act, 1989 (Act No 73 of 1989)

Authorized official means:

- (a) An official who has been authorized by the Council to administer, implement and enforce the provisions of these by laws.
- (b) A peace officer contemplated in section 334 of the Criminal Procedure Act 51 of 1977.

Ambient sound level means the reading on an integrating impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a total period of at least 10 minutes, after such meter has been put into operation;

Animal also include bovine, birds and poultry;

Controlled area means a piece of land designated by a local authority where, in the case of-

- (a) Road transport noise in the vicinity of a road-
 - (i) The reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from 06:00 to 24:00 while such meter is in operation, exceeds 65 Dba; or
 - (ii) The equivalent continuous W- weighted sound pressure level at a height of at least 1.2 meters but not more than 1.4 meters, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SABS 0210 -1986, titled `Code of Practice for calculating and predicting road traffic noise published under Government Notice NO 358 OF 20 February 1987 and projected for a period of 15 years following the date on which the Local Authority has made such designation, exceeds 65 Dba;
- (b) Aircraft noise in the vicinity of airfield , the calculated noisiness index, projected for a period of 15 years following the date on which the Local Authority has made such designation, exceeds 65 Dba or;
- (c) Industrial noise in the vicinity of an industry-
 - (i) The reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours whilst such meter is in operation, exceeds 61 Dba;
 - Or
 - (ii) The calculated outdoor equivalent continuous W-weighted sound pressure level at height of at least 1.2 meters, but not more than 1.4 meters, above the ground for a period of 24 hours, exceeds 61 Dba;

Dba means the value of the sound pressure level in decibels, determined using a frequency weighting network.

Disturbing noise means a noise level which exceeds the zone sound level or, if no zone sound level has been designated, a noise level which exceeds the ambient sound level at the same measuring point by 7 Dba or more;

Erect means alter, convert, extend or re-elect;

Integrating impulse sound meter means a device which integrates a function of the root mean square value of sound pressure over a period of time while it is set on L- time weighting and indicates the result in Dba;

Measuring point, relating to-

- (a) **A piece of land from which an alleged disturbing noise emanates**, means a point outside the property projection plane where an alleged disturbing noise, in the opinion of a local authority shall be measured in accordance with the provisions of section 6;
- (b) **A building with more than one occupant**, means a point in or outside the building where an alleged disturbing noise, in the opinion of local authority, shall be measured in accordance with the provisions of regulation 6 and
- (c) **A stationary vehicle** means a point as described in SABS 0181-1981, titled Code of Practice for the measurement of noise emitted by road vehicles when stationary published under General Notice 463 of 9 July 1982 where a measuring microphone shall be placed;

Noise Level means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter had been put into operation, and if the alleged disturbing noise has a discernible pitch, to which 5 DbA has been added;

Noise Nuisance means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

Noisiness Index means a number expressed in DbA defined in SABS 0117-1974, titled: Code of Practice for the determination and limitation of disturbance around an aerodrome due to noise from aeroplanes published under Government Notice 151 of February 1985;

Plant means refrigeration machine, air conditioners, fan system, compressor, power generator or pump;

Property projection plane means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;

Recreational Vehicle also means-

- (a) An off-road vehicle, scrambler, dune buggy or ultra- light aircraft;
- (b) A model aircraft, vessel or vehicle;
- (c) An aircraft or helicopter used for sport or recreational purposes; or
- (d) Any other conveyance or model which in the opinion of a local authority is a recreational vehicle;

Sound level means the reading on a sound level meter taken at a measuring point.

Sound level meter means a device measuring sound pressure while it is set on W- time weighting and indicates the result in DbA;

Zone Sound Level means a derived DbA value determined indirectly by means of a series of measurements, calculations or table readings and designated by local authority for an area.

2. Application of these by laws

1. These by laws are applicable on fixed objects, buildings and or mobile instruments including vehicles where there are allegations about noise disturbance.
2. A local authority may;
 - (a) For the purpose of applying and enforcing these by laws, at any reasonable time enter any premises without prior notice;
 - (i) To conduct any appropriate examination, enquiry or inspection as it may deem expedient thereon, and
 - (ii) To take any steps it may deem necessary;
 - (b) In order to determine whether a vehicle using any road in the area of jurisdiction of the local authority, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of these by laws, command the owner or person in control of the vehicle-

- (i) To have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place determined by the local authority in writing;
- (ii) To stop the vehicle or cause it to be stopped
- (iii) To have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle.

(c) If a noise emanating from a building, premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance, or may in the opinion of the local authority concerned be a disturbing noise or noise nuisance, instruct the person causing such noise or who is responsible therefor, or the owner or occupant of such of such building or premises from which or from where such noise emanates or may emanate, or all such persons, to discontinue or caused to be discontinued such noise, or to take steps to lower the level of the noise to a level conforming to the requirements of these by laws within the period stipulated in the instruction: Provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or aircraft which are not used as recreational vehicles.

- (d) Before changes are made to existing facilities or existing uses of land or buildings, or before new buildings are erected, in writing require that noise impact assessments or tests are conducted to the satisfaction of that local authority by the owner, developer, tenant or occupant of the facilities, land or buildings, or that, for the purposes of these bylaws, reports or certificates in relation to the noise impact to the satisfaction of that local authority are submitted by the owner, developer, tenant or occupant to the local authority on written demand.
- (e) If excavation work, earthmoving work, pumping work, drilling, construction or demolition work or any similar activity, power generation or music causes a noise nuisance or a disturbing noise, instruct in writing that such work, activity, generation or music be discontinued until such conditions as the local authority may deem necessary have been complied with ;
- (f) Designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area by notice in the Official Gazette concerned;
- (g) If the owner or person in charge of an animal fails to comply with an instruction referred to in paragraph (c) subject to the relevant provisions of any other law, impound or caused to be impounded such animal;
- (h) Subject to the provisions of section 7 and the appropriate provisions of any other law, attach a vehicle if the sound level of such vehicle exceeds the sound level referred to in section 3 (j) by more than 5Dba;
- (i) In writing request the owner or the person in control of a plant referred to in section 3 (k) to furnish proof to its satisfaction that the plant shall not cause a disturbing noise;
- (j) Impose such conditions as it may deem fit when granting any permission or exemption in terms of these bylaws;
- (k) Incorporate conditions in relation to noise control with the establishment of a new township, in order to implement the objectives of the Act.
- (l) Subject to the appropriate provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of these by laws: Provided that road traffic signs and notices be placed on private property only with the permission of the owner;

- (m) Designate zone sound levels for specific areas and for specific times by notice in the Official Gazette concerned.

3. Powers of Local Authority

- (1) A Local Authority may-
- (a) For the purpose of applying these by laws at any reasonable time enter a premises without prior notice-
- (i) To conduct any appropriate examination, enquiry or inspection as it may deem expedient thereon; and
 - (ii) To take any steps it may deem necessary;
- (b) In order to determine whether vehicle using any road in the area of jurisdiction of that local authority , including a private, provincial, national road crossing its area of jurisdiction, complies with the provisions of these by laws, instruct the owner or person in control of the vehicle-
- (i) To have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle on a date and at a time and place determined by the local authority in writing;
 - (ii) To stop the vehicle or cause it to be stopped;
 - (iii) To have any appropriate inspection or test as such authority may deem necessary conducted on the vehicle;
- (c) If a noise emanating from a building , premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance, or may in the opinion of a local authority concerned be a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible therefor, or the owner or occupant of such building or premises from which or from where such noise emanates or may emanate, or such persons, to discontinue or cause to be discontinued such noise, or to take steps to lower the level of the noise to a level conforming to the requirements of these by laws within the period stipulated in the instruction: Provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or aircraft which are not used as recreational vehicles;
- (d) Before changes are made to existing facilities or existing uses of land or buildings, or before new buildings are erected , in writing require that noise impact assessments or test are conducted to the satisfaction of that local authority by the owner, developer, tenant or occupant of facilities, land or buildings or that for the purposes of regulation 3 (b) or (c) , reports or certificates in relation to the noise impact to the satisfaction of that local authority are submitted by the owner, developer, tenant or occupant to the local authority on written demand.
- (e) If excavation work, earthmoving work, pumping work, drilling work, construction work or demolition work or any similar activity, power generation or music causes a noise nuisance or disturbing noise , instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the local authority may deem necessary have been complied with;
- (f) Designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area by notice in the Official Gazette concerned;

- (g) If the owner or person in charge of an animal fails to comply with an instruction referred to in paragraph (c) subject to the appropriate provisions of any other law, impound or cause to be impounded such animal;
- (h) Subject by more than 5Dba;
- (i) In writing request the owner or the person in control of a plant referred in the by-laws to furnish proof to its satisfaction that the plan shall not cause a disturbing noise;
- (j) Impose such conditions as it may deem fit when granting any permission or exemption in terms of these by laws;
- (k) Subject to the appropriate provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of provisions of these by laws: Provided that road traffic signs and notices be placed on private property only with the permission of the owner;
- (l) Designate zone sound levels for specific areas and for specific times by Notice in the Official Gazette concerned.

4. Prohibition of Noise Nuisance

- (1) No person shall-
 - (a) Cause a noise nuisance, or allow to be caused, by operating or play any radio, television set, drum, musical instrument, sound amplifier, loud speaker system or similar device producing or amplifying sound;
 - (b) Offer any article for sale by shouting or ringing a bell, in a manner which may cause a noise nuisance;
 - (c) Allow an animal owned or controlled by him to cause a noise nuisance;
 - (d) Build, repair, rebuild, modify, operate or test a vehicle, vessel or aircraft on residential premises, or allow it to be built, repaired, rebuilt, modified, operated or tested, if it may cause a noise nuisance;
 - (e) Use or discharge any explosive, firearm or similar device which emits impulsive sound, or allow it to be used or discharged, if it may cause a noise nuisance, except with the prior consent in writing of the local authority concerned and subject to such conditions as the local authority may deem necessary;
 - (f) On a piece of land designated by a local authority by means of a notice on that piece of land and in the press in both official languages, or in the air- space above that piece of land-
 - (i) Move
 - (ii) about on or in recreational vehicle
 - (iii) Exercise control over recreational vehicle; or
 - (iv) As owner or person in control of the piece of land concerned, allow that on that piece of land, or in the air space above that piece of land-
 - (aa) is being moved about on or in a recreational vehicle; or
 - (bb) control is being exercised over a recreational vehicle, if it may cause a noise nuisance;
 - (g) Except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance

- (h) Operate any machinery, saw, sander, drill, grinder, lawnmower, power garden implement or similar device in a residential area, or allow it to be operated, if it may cause a noise nuisance;
- (i) Load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or similar article, or allow it to be loaded, unloaded, opened, shut or handled, if it may cause a noise nuisance;
- (j) Drive a vehicle on a public road in such a manner that it may cause a noise nuisance.

5. Use of measuring instruments

- (1) The measurement of Dba in respect of controlled areas, ambient sound levels or noise levels in terms of these by laws shall be done as follows;
 - (a) Outdoor measurements on a piece of land: By placing the microphone of an integrating impulse sound level meter at least 1.2 meters but not more than 1.4 meters, above the ground and at least 3.5 away from walls, buildings or other sound reflecting surfaces and;
 - (b) Indoor measurements in a room or enclosed space, which is not ventilated mechanically: placing the microphone of an integrating impulse sound level meter at least 1.2 meters but not more than 1.4 meters, above the floor and at least 1.2 meters away from the wall, with all the windows and outer doors of the room or enclosed space entirely open: Provided that the windows and doors are closed for indoor measurements rooms and enclosed space which are mechanically ventilated.
- (2) Any person taking readings shall ensure that-
 - (a) The microphone of an integrating impulse sound level meter is at all times provided with a windshield;
 - (b) The measuring instruments are operated strictly in accordance with the manufacturer` instructions and
 - (c) Sound measuring instruments are checked annually by the South African Bureau of Standards or a calibration laboratory approved by the minister in order to comply with the appropriate specifications for accuracy.

6. Exemptions

- (1) The provisions of these by laws shall not apply if-
 - (a) The emission of sound is for the purpose of warning people of a dangerous situation; or
 - (b) The emission of sound takes place during an emergency.
- (2) Any person may by means of a written application, in which the reasons are given in full, apply to Umzimvubu local municipality for exemption from any provisions of these by laws.
- (3) An exemption shall, if approved, be granted by a local authority in writing, and the conditions under which and the period for which such exemption is granted, shall be stipulated in such exemption.
- (4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by a local authority under subsection 3 above: Provided that if activities are commenced before such undertaking has been submitted to Umzimvubu local authority, the exemption shall lapse.
- (5) If any condition of exemption is not complied with, the exemption shall lapse forthwith.

7. Attachment

- (1) A vehicle attached under section 2(h) shall be kept in safe place by ULM.
- (2) ULM may lift the attachment contemplated in section 2(h) If the owner or person in control of the vehicle concerned has been instructed in writing by the municipality-
 - (a) To repair or to modify the vehicle concerned or cause it to be repaired or to be modified; and
 - (b) To have any inspection or test that the municipality deems necessary conducted on the vehicle on a date and at a time and place mentioned in the instruction.

8. Penalties

Any person who contravenes or fails to comply with provision of section 3,4 or 5 shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to an imprisonment for a period not exceeding two years, or both such fine and imprisonment, and, in the event of continuing contravention, to a fine not exceeding R250, or to imprisonment for a period not exceeding twenty days, or both such fine and imprisonment, for each day on which such contravention continues.

9. Commencement

These by laws shall come into operation once approved and promulgated.