



DRAFT NUISANCE BY-LAW

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TABLE OF CONTENTS

1. Definitions
2. Use of Public Place
3. Use of Streets and Public Footpaths
4. Nuisance relating to Public Health
5. Use of Premises for Entertainment, Recreation or Social Activities and Functions
6. General
7. Offences and Penalties
8. Short Title and Date of Commencement

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1. DEFINITIONS

In these by-laws, unless the context otherwise indicates-

"Authorized Official" means any person authorized as such by the Council for the purpose of these by-laws to perform and exercise any or all of the functions specified therein, and any person in the service of the Council who has been appointed in the capacity of Peace Officer in terms of Criminal Procedure Act 51 of 1977;

"Municipal Manager" means the person appointed as Municipal Manager by the Councillor any other person lawfully acting in that capacity;

"Council" means the Molemole Local Municipality or its successors in law, and includes the Council of that Municipality and its Mayoral Committee and any committee or person or other body acting by virtue of any power delegated to it in terms of legislation;

"Environment" means the surrounding within which humans exist and that are made up 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 wellbeing.

"Municipal property" means any structure or thing owned or managed by or on behalf of the Council and includes buildings, lapas, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs.

"Nuisance" means any condition or conduct which is injurious or offensive to any person or which is dangerous to or compromises the health or safety of any person, or which causes an annoyance or disturbance to any person or to the residence of any area or which constitutes a threat or a potential threat to the environment or which causes harm or damage to the environment, or which may potentially harm or damage the environment;

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

"public health" means the mental and physical well-being of people in the area of jurisdiction of the Council;

"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;

"waste" means any matter, material by-product or residue of any process or activity, that has been discarded, accumulated or stored for the purpose of discarding, re-use, reclamation, or machinery or parts thereof, scrap metal, building rubble, garden refuse, refuse debris and any garbage. Waste product may be liquid or solid and may include products that contain a gaseous component and may originate from domestic, commercial or industrial activities.

2. USE OF PUBLIC PLACE

(1) A person may not advertise goods or services by shouting, hitting a gong, hooting or ringing bells or any other blaring sound, music etc. so as to constitute a nuisance, and may not, without obtaining the prior permission of the Council, advertise goods or services in a public place by means of a megaphone, public address system or similar means;

(2) A person may not conduct himself or herself in an unseemly or obnoxious manner or cause a nuisance or annoyance to other persons in or on or using any public place, or to any other person;

(3) A person may not, without lawful cause, discharge any firearm, air gun, sling, catapult, bow and arrow, crossbow or any other similar weapon within the area of jurisdiction of the Council, provided that this section does not apply to any persons engaged in authorized target practice or drill in places set aside for this purpose or to any person to whom written permission to do so has been given by the Municipal Manager;

(4) A person may not expose or exhibit any article or thing offensive to decency, unless prior permission of the Council is obtained with regard to potentially offensive items displayed in a shop window;

(5) A person may not bath or wash himself or herself or any animal or laundry in any stream, pool or water trough to which the general public has access or at any public fountain or public water feature or any other place not designated for such purpose;

(6) A person may not drink any liquor in any public place or appear to be in a state of intoxication;

(7) A person may not write, print or draw any obscene words or figures in a public place or use indecent or foul language in any public place or within the hearing of any person therein;

(8) A person may not loiter in any public place for the purpose of prostitution, or solicit or importune any other person for such illicit purpose;

(9) A person may not keep or manage or assist in the keeping or management of a brothel or knowingly permit any premises within the area of jurisdiction of the Council or any portion thereof, or any room therein, to be used as a brothel or for the purposes of prostitution, or be a party to continued use thereof for such purposes.

(10) A person may not hold any auction or sale in any public place or in or from any doorway, window or other opening of any premises abutting on any public place without the written consent of the Municipal Manager and then only subject to such conditions as may be imposed in such consent;

(11) A person may not sit or lie in or upon any public place or stand, walk, loiter or congregate or otherwise act in such manner as to obstruct free movement along any public place or to jostle or otherwise annoy the public;

(12) A person may not leave any animal belonging to him or her unattended in any public place or permit such animal to obstruct the traffic in any street or create a nuisance or danger in any public place;

(13) A person may not urinate in a public place or in public view;

(14) A person may not erect or place any structure, be it temporary or permanent, in or on any street, public footpath, verge or public place for the purpose of sale or storage;

(15) A person may not do any type of hair work in public areas or on pavements.

3. USE OF STREETS AND PUBLIC FOOTPATHS

(1) A person may not litter or throw any object upon any street or public footpath which might in any way endanger the safety of any person or cause environmental damage;

(2) A person may not allow any goods, whether it be his or her own property or under his or her control, to be or to remain in or on any public place, street or public footpath so as to cause obstruction or inconvenience to the passage of any person for a longer time than may be reasonably be necessary for loading and unloading, and in no case after being instructed by the Police or an Authorized Official requiring him or her to remove same;

(3) Unless a permit has been issued by the Council for trading purposes, a person may not, for trading or for any other purposes, place any goods, wares or articles on any stand, veranda post, stairs or ceiling projecting over any public footpath or street. For the purpose of this subsection the words "public footpath or street" shall include that area adjacent to a commercial or industrial lot which is outside the commercial or industrial building and to which the public has free access regardless whether or not the area is the property of the Council or private property. A person may not drill or any tent-peg or any other object into any road or sidewalk surface;

(4) A person may not roll any hoop or wheel or fly any kite or throw stones or ride bicycle or use any roller skates or similar device or play any game whatsoever in or upon any street or public footpath or public place in such a manner as to create a danger or nuisance to any person or animal or danger to any property;

(5) A person may not empty any vessel or throw any matter, liquid or solid, or any lighted cigar, cigarette or match, or empty any pipe from any window of any premises abutting on any street or from any veranda or balcony erected over any public place;

(6) No queue formed up outside any place of business or entertainment shall be in such a manner so as to inconvenience the general public or extend across any public footpath or street. Persons standing in such queue shall yield and give free passage to persons desiring access to or egress from any premises. No queue shall in any circumstances extend on to or across any street, and no persons joining such queue shall take any position other than at the end thereof.

(7) A person may not make or dig, or cause to be made or dug, any hole, pit, trench or excavation of any kind or for any purpose in or close to any public place without the written consent of the Manager: Town and Regional Planning. Any excavation so made or dug shall be fenced off and shall have its position indicated during hours of darkness by red lights or any other similar device which is acceptable to the Manager: Town and Regional Planning and which device shall be kept burning from sunset to sunrise;

(8) A person may not place or deposit any waste in any public place not intended for such purpose, unless such waste is placed in approved receptacles or facilities intended for such purpose.

(9) A person may not wash his/her vehicle on a public road which includes sidewalks and parking areas.

4. NUISANCE RELATING TO PUBLIC HEALTH

- (1) A person may not keep or deposit or allow on any premises owned or occupied by him or her, or which he or she is in charge, any matter or thing, solid or liquid, which is, or likely to, become offensive or dangerous or injurious to public health;
- (2) A person may not carry or convey, or cause or permit to be carried or conveyed, across or in any public place, any matter or thing, solid or liquid, which is or likely to become offensive or dangerous or injurious to public health, unless such matter or thing is carried or conveyed in a closed vehicle or receptacle closed and covered with a lid or other material approved by an Authorized Official;
- (3) A person may not keep any dead body or corpse in any premises other than a mortuary or other similar place designated for that purpose;
- (4) A person may not permit the carcass of any animal to remain on his or her premises for a longer period than is necessary to arrange for the removal of such carcass;
- (5) Any person may not place or permit to be placed, any carcass or any decomposable or offensive material or object which is his or her property or under his or her control, on his or her premises or elsewhere and to remain thereon so as to cause any nuisance;
- (6) A person may not cause or permit any stream, drain, gutter, watercourse, sink, bar, tank, water closet, urinal, compost heap or swimming bath on any land or premises owned or occupied by him or her or of which he or she is in control to be or to become so foul or in such a state or to be situated or constructed so as to be offensive or dangerous or injurious to public health;
- (7) A person may not cause or permit any foul or polluted water or any foul liquid or matter to run or flow from any premises occupied by him or her, into any street or onto any land so as to be offensive or dangerous or injurious to public health;
- (8) A person may not commit or cause or permit to be committed, any act causing or contributing to the pollution of any water;
- (9) A person may not deposit human excrement or urine in any place not designated for such purpose;
- (10) A person may not foul or misuse any public convenience or any convenience provided in any public building or place of public entertainment;
- (11) Every person who is the owner or occupier or in charge of any premises or vacant land shall take all possible precautions to prevent conditions favouring the multiplication and prevalence of, and shall take steps for the eradication of rodents, mosquitoes, flies, fleas, bugs, cockroaches or other vermin or pests on such premises or vacant land and shall, when so required by an Authorized Official, comply with any requirements relating to the preventing or eradication of any such vermin or pests within a time specified in such notice;
- (12) A person may not burn any rubbish or refuse on any premises or do anything to cause any offensive smells or excessive smoke, or by burning or any other action cause ash, excessive smoke or any other dirty or offensive dust or matter;
- (13) A person, being the owner or occupier or in control of any premises or vacant land, whether such premises or land are fenced or not, may not deposit or store thereon and within the public view, any disused vehicle(s), machinery or parts thereof, building materials, refuse or similar objects unless he or she has obtained written consent of the Council;

(14) Any consent given in terms of subsection (13) may be amended or cancelled by the Council at any time by giving written notice to that effect;

(15) Any person, being the owner or occupier of any premises or vacant land upon whom a notice in terms of subsection (14) has been served, shall within the time specified in such notice, remove or cause to be removed, any object contemplated in subsection (13) from the public view.

5. USE OF PREMISES FOR ENTERTAINMENT, RECREATION OR SOCIAL ACTIVITIES AND FUNCTIONS

(1) A person using any premises or permitting any premises to be used for entertainment, recreation or social activities or functions, whether public or private, and any person who participates in or who attends any such activities, may not conduct himself or herself in an unseemly or obnoxious manner or cause a nuisance or annoyance to any person;

(2) An Authorized Official who is of the opinion that a person is committing a breach of subsection (1) may direct that person to cease any such act or may take such other steps as he or she deems necessary to reduce, remove or minimize the unseemly or obnoxious conduct, nuisance or annoyance.

6. GENERAL

(1) A person may not produce or permit to be produced, any excessively bright or intermittent light, thereby creating a nuisance or annoyance to any person;

(2) A person may not cause or permit to be caused a nuisance or annoyance to any person by doing repair work or panel beating to any vehicle or part thereof on a premises designated for residential purposes or a public place or any other work thereby creating noise pollution which causes discomfort or annoyance to persons or animals, provided that this subsection does not apply to emergency repairs necessary to remove any vehicle after a breakdown;

(3) A person may not permit any rank weeds or grass or undergrowth or bush to grow upon any premises or vacant land owned or occupied by him or her. The Council may serve a notice on such a person requiring him or her within the time specified in such notice to destroy, cut down or remove such rank weeds, grass, undergrowth or bush;

(4) Should any person breach any provision of this By-laws and continue in default after receiving a written notice issued by any Authorized Official requiring him or her to abate such nuisance within a time to be specified in such notice, an Authorized Official may enter upon the premises on which such nuisance exists and take such steps as may be necessary to abate such nuisance at the cost of the person so offending, who shall also be liable to a prosecution for a contravention of these By-laws;

(5) An Authorized Official may enter upon any premises at any time to investigate whether any breach of these By-laws has been committed;

(6) A person may not park any vehicle, including trucks, on an open space, park or pavement. Trucks over nine (9) ton may not be parked anywhere in residential areas, except for delivery purposes;

(7) A person may not spin his/her vehicle.

(8) A person may not trade at an intersection or within 5 metres of/from an intersection.

(9) A person/company other than the company who has a legal contract with the Municipality, may not operate or act as a car guard or collect money by assisting parking users to park.

7. OFFENCES AND PENALTIES

- (1) Any person who contravenes or fails to comply with a provision of these By-laws or a direction issued by the Council in terms of these By-laws, or a condition imposed under these By-laws;
- b) obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these By-laws; or
- c) furnishes false, incorrect or misleading information when applying for permission from Council in terms of the provision of these By-laws; is guilty of an offence and is on conviction liable to a fine of R6 000,00 or in default of payment to imprisonment for a period not exceeding six (6) months.

8. SHORT TITLE AND DATE OF COMMENCEMENT

- (1) These By-laws shall be called the Municipal Nuisance By-Laws and will take effect on the day of publication.

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