ETHEKWINI MUNICIPALITY: NOISE CONTROL AND NOISE MANAGEMENT BY-LAW, 2024

Adopted by Council on the:

ETHEKWINI MUNICIPALITY: NOISE CONTROL AND NOISE MANAGEMENT BY-LAW, 2024

To provide for control measures for the prevention, minimisation and management of noise pollution and noise nuisance; to prohibit certain activities or conduct that cause noise pollution or noise nuisance; to provide for times when noise is prohibited; to provide for guidelines for decibel limits for the specified categories of noise; to provide for guidelines for noise originating from various noise sources; to provide for noise nuisances and disturbing noise; to provide for the use of generators and to provide for matters incidental thereto.

PREAMBLE

WHEREAS there is a need for the eThekwini Municipality to control and regulate the levels of noise pollution within its jurisdiction;

WHEREAS the Municipality has competence in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa, relating to such the matters as to regulate noise pollution.

AND WHEREAS the eThekwini Municipal Council has competence in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 to make and administer By-laws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the Municipal Council of the eThekwini Metropolitan Municipality, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1
INTERPRETATION

Definitions

1. In this By-law, unless the context indicates otherwise –

"ambient sound level" means the reading taken at the end of a period at least 10 minutes, uninterrupted by an alleged disturbing noise, or an integrating impulse sound level meter placed at a measuring point during which period the said meter has been in operation at all times;

"animal" means, for the purposes of this By-law, a horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile, dog, cat or other domestic animal, indigenous animal and other wild or exotic animals, excluding poultry, but including birds;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or Metropolitan Police Officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) 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;

"Controlled area" means a piece of land designated by the Municipality 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 on any day, during which period the said meter has been in operation at all times, exceeds 65 dBA; or

(ii) the outdoor equivalent continuous "A" – weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SANS 10210, and projected for a period of 15 years

following the date on which the Municipality has made such designation exceeds 65 dBA;

(b) Aircraft noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the Municipality has made such designation, exceeds 65 dBA;

(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 while such meter is in operation, exceeds 61 dBA; or

(ii) the calculated outdoor equivalent continuous "A" weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours, exceeds 60 dBA; or

(d) Noise from any other source in the vicinity of that source -

(i) the reading on an integrating sound level meter, set on impulse or faster acquisition rate, taken outdoors at the end of a period extending from the time when such source of noise became active until the time when it was no longer active, while such meter was in operation, exceeds 65 dBA; or

(ii) the outdoor equivalent continuous "A"-weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground, as calculated in accordance with acceptable mathematical/acoustic methods for a period extending from the time when

the source of noise became active until the time when it was no longer active and projected for a period of 15 years following the date on which the municipality made such designation,

exceeds 65 dBA: provided that methods of calculation as described in SABS ARP 020 may be used for the calculation.

"daytime" means, unless otherwise provided in this By-law, from 6 o'clock in the morning (06h00 hours) to 10 o'clock in the evening (22h00 hours);

"dBA" means the value of the sound pressure level in decibels, determined using a frequency weighting network A, and derived from the following equation:

PA 2

LPA = 10 log10 [PA/PO]2 where

PA – the 'A'-weighted sound pressure; and

PO – the reference sound pressure

(PO = 20μPa):

''disturbing noise'' means a noise, excluding the unamplified human voice, which—

(a) exceeds the rating level by 7 dBA;

(b) Exceeds the residual noise level where the residual noise level is higher than the rating level;

(c) Exceeds the residual noise level by 3 dBA where the residual noise level is lower than the rating level; or

(d) In the case of a low-frequency noise, exceeds the level specified in Annex B of SANS 10103;

''emergency'' means a situation that arises suddenly and involves imminent or actual—

(a) Danger to persons; or

(b) Damage to property or the environment, and which demands immediate action;

"Erect" also means alter, convert, extend or re-erect;

"Integrating sound level meter" means a device that integrates a function of the root mean square value of sound pressure over a period of time and indicates the result in dBA;

"Integrating impulse sound level meter" means an integrating sound level meter set on "I"– time weighting or at a sampling rate greater than "I" weighting and integrated to provide the result in dBA;

''low-frequency noise'' means sound which contains sound energy at frequencies predominantly below 100 Hz;

“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 the Municipality, shall be measured in accordance with the provisions of section 17 of this By-law;
(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 the Municipality, shall be measured in accordance with the provisions of section 17 of this By-law; and
(c) a stationary vehicle, means a point as described in SANS 10181, where a measuring microphone must be placed

“Municipality” means the eThekwini Metropolitan Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa;

‘‘NEMA’’ means the National Environmental Management Act, 1998 (Act 107 of 1998) as amended;

"nighttime" means, unless otherwise provided by this By-law, from 10 o’clock (22h00 hours) in the evening to 6 o’clock (06h00 hours) in the morning;
“**Noise consultant**” – A competent person who possesses the qualifications and technical expertise to assess, measure ,predict and provide advise on environmental and occupational noise in accordance with applicable legislation.

“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 was put into operation, and, if the alleged disturbing noise has a clearly discernible pitch, for example, a whistle, buzz, drone or music;

“Noise nuisance” means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any reasonable person;

‘‘Noise sensitive activity” means any activity that could be negatively impacted by noise, including residential, healthcare, educational or religious activities;

“Noisiness index” means a number expressed in dBA as defined in SANS 10117;

“non-exempted vehicle” means a vehicle not listed in Annexure A to SANS 10281;

“Plant” means a refrigeration machine, air conditioners, fan system, compressor, and power generator or pump or mechanical driven device;

“Poultry” for the purposes of this By-law means any fowl, goose, ostrich, duck, Muscovy, duck, pigeon, dove, turkey, guinea-fowl, peacock, or pea-hen;

“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” means –
(a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
(b) a model aircraft, vessel or vehicle;
(c) any aircraft or helicopter used for sport or recreational purposes;
(d) a vessel used on water; or
(e) any other vessel or model which is used for sport or recreational purposes.

“Residual noise” means a totally encompassing sound in a given situation at a given time and usually composed of sound from many sources, both near and far, excluding the noise under investigation;

"Restaurant" means, for the purposes of this By-law, the use of premises for the primary purpose of selling, supplying and serving of prepared food, meals or refreshments to the public during all hours of operation, and where live entertainment, including the use of non-amplified or amplified musical instruments and disc jockey mixing turntables and patron participation such as karaoke, dancing and open microphone performing may be available;

“SANS 10103” means South African Bureau of Standards publication No.10103 entitled: “The measurement and rating of environmental noise with respect to annoyance and to speech communication” published under Government Notice No. 718 in Government Gazette No. 18022 of 30 May 1997, as amended from time to time or its corresponding replacement;

"SANS 10117" means South African Bureau of Standards publication No. 0117 – 1974 titled: "Code of Practice for the determination and limitation of disturbance of the Act; around an aerodrome due to noise from aeroplanes" published under Government Notice No. 151 of 01 February 1985, as amended from time to time or its corresponding replacement;

"SANS 10181" means South African Bureau of Standards publication No. 0181 – 1981 titled: "Code of Practice for the measurement of noise emitted by road vehicles when stationary" published under General Notice No. 463 of 09 July 1982, as amended from time to time or its corresponding replacement;

"SANS 10210" means South African Bureau of Standards publication No. 0210 – 1986 titled: "Code of Practice for calculating and predicting road traffic noise" published under Government Notice No. 358 of 20 February 1987, as amended from time to time or its corresponding replacement;

"SANS 10281" means South African Bureau of Standards publication No. 0281 – 1997 titled: "Engine speed (S values), reference sound levels and permissible sound levels of stationary road vehicles" published under Government Notices 761, 762 and 763 in Government Gazette No. 18040 of 06 June 1997, as amended from time to time or its corresponding replacement;

"Sound level" means the reading on a sound level meter taken at a measuring point at the end of the measurement period;

"Sound level meter" means a device measuring sound pressure while it is set on "F"-time weighting or at a sampling rate greater than "I" weighting and integrated to provide the result in dBA;

"The Act" means the Environmental Conservation Act. 1989 (Act 73 of 1989)

Interpretation of By-Law

2. If there is a conflict in the interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of the By-law

3. The objects of this By-law are to–

(a) regulate and control the noise levels for—

(i) public places used for entertainment;

(ii) vehicles which exceed the required noise standard;

(iii) open air events;

(iv) residential sources excluding humans; and

(v) industrial noise;

(b) impose penalties for the contravention of this By-law.

Application of the By-law

4. This By-law applies to all areas which fall under the jurisdiction of the eThekwini Metropolitan Municipality and is binding on all persons to the extent applicable.

CHAPTER 2

NOISE CONTROL AND MANAGEMENT

Prohibition of disturbing noise and noise nuisance

5. No person may cause a disturbing noise or noise nuisance, or allow it to be caused by any person, animal, machine, device, vehicle, recreational vehicle, apparatus, generator, pump or by the use of a premises or any combination thereof.

Machinery noise in a residential area

6. (1) No person may-

(a) use a pool pump, irrigation pump, refrigeration or condensing unit, or any heating, ventilation or air-conditioning equipment, or any similar device in a residential area if the noise on the property projection plane exceeds 50 dBA or exceeds the residual noise level by more than 5 dBA except if authorised by the Municipality or the equipment is used in an emergency; or

(b) build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft, or object, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, in or near a residential area, zone or premises;

(c) operate, use or caused to be used any lawnmower, grass-cutting machine, power tool, chainsaw, leaf blower, compressor, hedge cutter or any power equipment that may cause a noise nuisance.

Noise emanating from a residential or commercial premises

7.(1) Subject to the provisions of section 5, no person may operate a radio, audio equipment, television set, gramophone, recording device, drum, musical instrument, sound amplifier or a similar device producing, reproducing or amplifying sound, or allow it to be operated or played in a public place or private premises, if the noise level measured at any point which may be occupied by a member of the public or at one meter from the sound source, exceeds the prescribed typical rating levels for noise in districts as provided for in the applicable SANS guideline.

(2) A person in charge or in effective control of a commercial premises may not place any amplified sound equipment outside of their business premises in such a manner that is audible from outside of the business premises with the purpose of playing music, sound or making any announcement, unless it is for an emergency purpose only.

(3) Any person or business who intends on using amplified sound or equipment outside of their business premises for promotional purposes must obtain permission from the Municipality specifying the time and date for such promotion.

Public events, open-air festivals, music concerts or similar gatherings

8. (1) A person may not stage a public event, an open-air music festival, concert or similar gathering without the prior approval from the Municipality.

(2) A person must make an application to the Municipality on the prescribed form prior to the staging of the public event, open-air music festival, concert or similar gathering for an approval to host such event and the application must be accompanied by–

(a) the consent referred to in subsection (3) and (4) of this section; and

(b) a noise impact assessment.

(3) Any person intending to host an event shall –

(a) consult with neighbours or neighbouring properties who are likely to be affected by the intended event; and

(b) obtain consent from the Municipality and adjacent properties, in writing, before any event is staged.

(4) The written consent referred to in subsection (3)(b) shall detail the start and end time of the event, date and type of event that is to be staged.

(5) An authorised official must, prior to the commencement of the public event, open-air music festival or similar gathering–

(a) request that a sound check be done;

(b) measurements of the sound levels be taken at the level that the sound shall be amplified during such an event;

(c) confirm that a noise consultant is present at the event; and

(d) ensure that the sound emitted is in accordance with the noise impact assessment.

(6) If an authorised official has reason to believe that any music or amplified sound emanating from the event causes or may cause a noise nuisance or disturbing noise, the authorised official at the event may instruct that such music or amplified sound be adjusted, moderated or discontinued until conditions as the Municipality may deem necessary and as per the sound projection assessment have been complied with.

(7) The Municipality may seize any instrument or equipment used to generate music or amplified sound at a public event if–

(a) approval has not been granted by the Municipality;

(b) a noise impact assessment has not been submitted; or

(b) where approval has been granted, the conditions imposed in such an approval have not been met;

(8) The sound equipment or instrument seized in terms of subsection (7) must be kept in safe custody by the Municipality and an inventory be compiled for equipment or instruments in custody.

(9) A copy of the inventory list must be given to the owner of the seized property stating the address at which the equipment or instruments are kept.

(10) Where the Municipality has reason to believe that a proposed event, other than a public event, could cause a disturbing noise or a noise nuisance, it may request the person or entity intending to host the event in writing to make an application to the Municipality for approval in terms of subsection (2).

(11) Any open-air event, festival, concert, public event or gathering may not cause amplified sound or disturbing sound to continue beyond the hours of 00h00 during nighttime, unless an exemption has been granted by the Municipality for that specific open-air event, festival, concert, public event or gathering to continue beyond prescribed time.

Entertainment Zones and Night-Clubs

9.(1) A person may not conduct the business of a nightclub, or any similar late-night entertainment involving amplified sound, on or from any premises, unless the premises has been soundproofed sufficiently by a competent person so that a disturbing noise or noise nuisance will not be caused outside the property's projection plane of the premises.

(2) The Municipality may require a person referred to in subsection (1) to provide proof of the soundproofing or may require access to the premises to assess the efficacy of the soundproofing.

(3) The Municipality may request that the person in charge of the premises submit a noise impact assessment for the nightclub or similar late-night entertainment.

(4) A nightclub or any similar late-night entertainment establishment may not place speakers or any sound generating device outside of the establishment that may amplify the sound beyond the projection plane of the premises.

(5) A nightclub or any similar late-night entertainment establishment that intends on holding an outdoor event must do so in accordance with the provisions of section 8 of this By-law

Animals

10. (1) A person may not allow or cause an animal controlled or owned by him or her to make noise in such a manner that it causes a noise nuisance.

(2) No person being the owner or occupant of any premises shall cause, allow, or permit the cry of an animal, poultry or bird which can easily be heard by a person not on the same premises and which disturbs or tends to disturb unreasonably the quiet, peace, rest, enjoyment, comfort or convenience of that person, subject to the provisions of the Municipality's By-law dealing with animals.

(3) if noise emanating from a building, premises or street is a disturbing noise or noise nuisance caused by an animal or may in the opinion of the Municipality concerned be a disturbing noise or noise nuisance the Municipality must instruct in writing-

(a) the person in charge or in control of the animal causing such noise or who is responsible thereof; or

(b) the owner or occupant of such building or premises from which or from where such noise emanates or may emanate, or all 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 this By-law within the period stipulated in the written notice.

(4) if the owner or person in charge of the animal responsible for the noise fails to comply with a lawful instruction or written notice referred to in subsection (3), subject to the provisions of any other law, the Municipality may impound or cause to be impounded such animal.

(5) An animal that has been impounded in terms subsection (4) must be dealt with and handled in terms of the provisions of the Municipality's Animal By-laws or any other applicable law.

Noise emanating from construction or maintenance works

11. (1) A person may not-

(a) use any power tool or power equipment used for construction purposes, drilling or demolition work, or allow it to be used in or near a residential area unless permission has been granted by the Municipality to conduct normal construction or repair to public or private property and the neighbours within the vicinity of the intended construction have been notified;

(b) erect, demolish or alter a building or structure or allow it to be erected, demolished or altered if it affects a residential zone or premises unless permission has been

granted by the Municipality to conduct building operations within the hours specified in SANS 10400 for the control of noise and if building operations are to be carried outside of these hours, then an exemption is required.

(2) Any emergency construction or maintenance work shall be conducted within reasonable hours and concluded within a reasonable period, provided that such works are required to guard the health and safety of the public.

(3) This section does not apply where such work is being undertaken by the Municipality or its appointed service providers in the restoration or provision of basic services to the public.

Land Use

12.(1) A person shall not-

(a) establish any zone unless a Noise Impact Assessment has been undertaken in accordance with SANS 10328. The assessment must indicate that either the outdoor equivalent continuous day/night rating level (LR,dn), the outdoor equivalent continuous daytime rating level (LR , d) or the outdoor continuous equivalent night time rating level (LR , n) appropriate for the particular district will not be exceeded at any position within the boundaries of the proposed zone;

(b) construct or erect any building or make changes to existing facilities on a premises which will house an activity which does not conform with the dominant land use specified in the applicable zoning scheme;

(c) construct or erect any building or make changes to existing facilities on premises which will house an activity which produces more noise with respect to that of the dominant land use specified in the applicable zoning scheme or will create a disturbing noise unless it has been proven that precautionary measures will be implemented. Such measures must be to the satisfaction of the municipality in that the premises, after being erected or developed or changes made, will be adequately insulated against the transmission of sound to the outside, so that either the outdoor equivalent day/night rating level (LR,dn), the outdoor equivalent continuous daytime rating level (LR , d) and/or the outdoor equivalent continuous night time rating level (LR , n), will not exceed the appropriate rating level for outdoor noise specified in SANS 10103 at any position on the property projection plane of the premises; or

(d) undertake any activity which constitutes a noise source referred to in SANS 10328 and any of the listed activities requiring an EIA in terms of the NEMA Regulations, as amended, which are considered to have a potential noise impact unless a Noise Impact Assessment has been undertaken in accordance with SANS 10328.

(2) A municipality may-

(a) 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 be conducted to the satisfaction of the municipality by the owner, developer, tenant or occupant of the facilities, land or buildings concerned. Such reports or certificates must be submitted by such owner, developer, tenant or occupier to the municipality. The report should prove that either the outdoor equivalent continuous day/night rating level (LR,dn), the outdoor equivalent continuous daytime rating level (LR , d) and the outdoor equivalent continuous night time rating level (LR , n) at any position on or outside the property projection plane of the existing facility, use of land or building will not exceed values for the appropriate level given in SANS 10103. The Noise Impact Assessment, if required shall be conducted in accordance with SANS 10328 or other applicable documentation and the tests, if required, shall be conducted in accordance with SANS 10103 or other applicable documentation; or

(b) if excavation, earthmoving, pumping, drilling, construction, or demolition, or any similar activity, power generation or music causes or may cause a noise nuisance or disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the municipality may deem necessary have been complied with.

Motor Vehicles

13.(1) No person may drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured, when stationary, in accordance with the procedure prescribed in SANS 10181 exceeds—

(a) in the case of a non-exempted vehicle, the stationary sound level specified in SANS 10281 for that type of vehicle; or

(b) in the case of an exempted vehicle, by more than 5 dBA the applicable reference sound level indicated in SANS 10281, for that type of vehicle.

(2) No person or owner of a vehicle may cause a noise nuisance or disturbing noise by–

(a) revving or causing their vehicle to be revved without any justifiable cause on any public road or within any residential area, unless such revving is necessary to test the vehicle after a break down or repair;

(b) revving or causing the vehicle to be revved, unless such activity is conducted in an approved soundproofed facility; or

(c) spinning, drifting, drag racing or skidding their vehicle on any public road or within a residential area except at a place that has been designated for such purposes.

(3) The municipality may, in order to determine whether a vehicle being used on any road in the area of jurisdiction of the Municipality, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of the bylaw, instruct the owner, driver or person in control of the vehicle:

(a) to stop the vehicle or cause it to be stopped; and

(b) to have any appropriate inspection or test, as the Municipality may deem necessary, conducted on the vehicle on the roadside where it was stopped or on a place, date and time determined by the municipality in writing.

(4) The authorised person must, prior to any testing being undertaken in terms of subsection (2)(b) inform the driver of the vehicle that—

(a) the vehicle has been stopped to test it in terms of this bylaw for noise nuisance;

(b) the vehicle is being detained for the purpose of such testing;

(c) if the results of such testing indicates noise nuisance from the vehicle or if the driver concerned fails or refuses to assist with such test, it will constitute an offence under this By-law; and

(d) A person who fails to comply with a direction given under subsection (3) commits an offence.

(5) The Municipality may, subject to the provisions of this By-law and any other law, attach and remove a vehicle if the sound level of such vehicle exceeds the sound level referred to in the SANS 10281 by more than 5 dBA.

(6) A vehicle that has been attached and removed under subsection (5) must be kept in safe custody by the Municipality and entered into the inventory register kept by the Municipality.

(7) The Municipality may lift the attachment contemplated in subsection (5) if the owner, driver or person in control of the vehicle concerned has been instructed in writing by the Municipality to –

(a) repair or to modify the vehicle concerned or cause it to be repaired or to be so modified; and

(b) have any inspection or test, as the Municipality may deem necessary, conducted on the vehicle on a date, time and place mentioned in the written instruction or notice.

Use, control or operation of generators or electricity generating equipment

14(1) Any person who intends to install a permanent generator on any land or premises must apply to the Municipality for prior written authorisation of such installation and must include a noise assessment plan.

(2) Where a generator has been permanently installed on any premises or a portable generator is being used on a premises, such generator must be placed in such manner as may be prescribed and away from any immediate neighbouring property in order to minimise any disturbing noise or noise nuisance that may be caused to any of the neighbouring properties.

(3) No person may use, control or operate any generator in a residential area or any area abutting a residential area, unless such use, control or operation is during a power outage, emergency repairs or is necessary for the carrying out of services.

(4) Any generator, whether permanently installed or portable may not exceed a maximum noise level of 20 dB when measured indoors from any neighbouring properties and such noise measurements being conducted with windows of the neighbouring properties being opened.

(5) Where a person uses, controls, operates or causes such generator to be used, controlled or operated, the measured noise level measured within a distance of 8 meters may not exceed 55dB.

(6) A person may only control, operate or cause to be operated a generator during the times that the power outage subsists and until such time that the power has been restored.

(7) Where a generator is being used for emergency repairs or for the carrying out of necessary services, such use, control or operation may only take place between the hours of 9h00 and 17h00 on a weekday.

(8) The provisions of subsection (5) and (6) shall not apply where the use of a generator is necessary for the delivery of basic services, maintenance of infrastructure, or repairs by the Municipality, a Municipal service provider or government department.

(9) Where power has not been restored due to a community wide power outage, a person may only use, operate or control a generator until the hours of 22h00 if such outage occurs on Sunday to Thursday and until the hours of 00h00 if such outage occurs on a Friday to Saturday.

(10) The provisions as envisaged in subsections (3), (6), (7), and (9) of this section shall not apply where such use of a generator during a power outage is for emergency use in a hospice, old age home, clinic or mobile clinic, hospital, the operation of a medical homecare device or oxygen ventilator, school, and any other use or place considered as being essential services to the protection of life, health and security of persons.

General noise nuisances

15. (1) No person may –

(a) cause a noise nuisance, or allow it to be caused, by operating or playing any radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;

(b) offer any article for sale by shouting or ringing a bell, or by allowing shouting, the ringing of a bell or placing of a loudspeaker system or similar outside any premises in a manner which may cause a noise nuisance;

(c) 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 from Municipality and subject to such conditions as the Municipality may deem necessary;

(d) on a piece of land designated by a Municipality by means of a notice on that piece of land, or in the air-space above that piece of land-

(i) move about on or in recreational vehicle;

(ii) exercise control over a recreational vehicle; or

(iii) as owner or person in control of the piece of land concerned, allow that on that piece of land, or in the airspace 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.

(e) 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;

(f) 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) before 07h00 and after 18h00 from Monday to Saturday; and

(ii) at any time on any Sunday or Public Holiday;

(g) 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; and

(h) drive a vehicle on a public road in such a manner that it may cause a noise nuisance

Designation of Controlled Areas

16.(1) The municipality may –

(a) by notice in the provincial gazette, designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area; and

(b) designate zone sound levels for specific areas and for specific times in its area of jurisdiction or amend or cancel such designation;

(2) No person may –

(a) erect educational, residential, flat, hospital, church or office buildings in an existing township in a controlled area or area for which a zone sound level has been designated in terms of subsection (1)(b), unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA or to such level as may be determined in accordance with subsection (1)(b): Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;

(b) locate educational, residential, hospital or church erven within a controlled area in an area that has been rezoned: Provided that such situation may be allowed by the municipality in accordance with the acoustic screening measures mentioned by the municipality in the approved building plans.

Use of Measuring Instruments

17.(1) The Municipality must ensure that all measuring equipment has been correctly calibrated and readily available for use by the authorised officials.

(2) Any person who is taking a reading must ensure that –

(a) the acoustic sensitivity of sound level meters is checked before and after every series of measurements by using a sound calibrator, verified every two years by an accredited calibration laboratory for compliance with the specifications for accuracy of national codes of practice for acoustics, to comply with the Measuring Units and National Measuring Standards Act 2006 (Act No. 18 of 2006);

(b) the microphones of sound measuring instruments are at all times provided with a windshield;

(c) the sound measuring instruments are operated strictly in accordance with the manufacturer's instructions;

(d) the equipment complies with the requirements for type 1 instruments as indicated by SANS 658; and

(e) the measurement and calculation procedures comply with SANS 10103, SANS 10328, SANS 10117 and SANS 10210, as the case may be.

(3) The measuring of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of this By-law 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 metres, but not more than 1,4 metres, above the ground and at least 3,5 metres away from walls, buildings or other sound reflecting surfaces; and

(b) indoor measurements in a room or enclosed space which is not ventilated mechanically: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the floor and at least 1,2 metres away from the wall, with all the windows and outer doors of the room or

enclosed space entirely open: Provided that windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.

(4) Any deviation from heights and distances referred to in subsection (2) shall be reported and for reasons to be provided on the deviation.

(5) The person taking a measurement may in his or her discretion determine the measuring or calculation point as—

(a) a point where the complainant is most affected by the noise; or

(b) a point on the property projection plane of the premises concerned that is representative of the noise matter concerned.

Procedure for the control of noise

18.(1) When a person lodges a complaint of a suspected disturbing noise or noise nuisance to the municipality, an authorised official must—

(a) investigate the complaint and determine by calculation or measurement in accordance with SANS 10103 whether it is a disturbing noise or noise nuisance;

(b) apply the rating level, except where the residual noise level differs by more than 10 dBA from the rating level; and

(c) if a noise is a disturbing noise, issue written instructions to—

(i) the person causing the noise or who is responsible for the noise; or

(ii) the owner, tenant, occupant or person in charge of the premises concerned, to cease the disturbing noise or to mitigate it to a level conforming to the requirements of these By-laws within the period specified in the instructions.

(2) If a person is found to be responsible for or creating a disturbing noise, the Municipality

may hold that person liable for the cost incurred in conducting an investigation as contemplated in subsection 21(4) of this By-law.

(3) A complaint to the Municipality on an alleged noise nuisance or disturbing noise must be in the form of an affidavit, specifying—

(a) the nature of the alleged noise nuisance;

(b) when the noise nuisance was first noticed;

(c) the duration of the noise nuisance;

(d) if applicable, how often the noise nuisance has occurred;

(e) the origin of the noise nuisance; and

(f) if obtainable, the name and address of the occupant of the premises from which the nuisance originates.

CHAPTER 3

EXEMPTIONS

Cultural and Religious Practices or events

19.(1) Any person who wishes to conduct any religious gathering or religious ceremony at any other place including a public place, other than a place designated for religious or cultural purposes, that may create a disturbing noise or noise nuisance must make an application to the Municipality for an exemption from the provisions of this By-law.

(2) An exemption granted by the Municipality may contain conditions and the period for which the exemption has been granted.

(3) If any condition of the exemption has not been complied with, the Municipality may withdraw the exemption on notice to the person in control of the gathering and issue a fine as determined by the Municipality.

(4) New and old buildings used to worship must have noise attenuation measures in place to prevent disturbance or nuisance to neighbouring properties.

(5) A competent person must be engaged from the outset to design, advise and make recommendations for implementing appropriate acoustic treatment to the building. A report with the recommendations should be submitted together with the building plan application.

(6) The use of public address systems, to call members to worship, will generally only be accepted outside residential areas subject to conditions imposed by the Municipality restricting the time and duration of use of the public address system.

(7) The use of private houses or residences in a residential area for worshiping and holding religious meetings or gatherings that may result in noise nuisances is prohibited in terms of these By-laws

Equipment used for emergencies or emergency announcements

20.(1) The provisions of this By-law shall not apply if the emission of the sound from a device, speaker, amplifier, vehicle, apparatus or machine is used for the purposes of—

(a) warning people of a dangerous situation;

(b) an emergency; or

(c) making an official and lawful announcement.

(2) Notwithstanding any provision of this By-law, a person may make or cause a noise or sound which exceeds the sound levels set out in this By-law when performing works of an emergency nature for the preservation or protection of property, life or health.

CHAPTER 4

ENFORCEMENT

Compliance Notice

21.(1) The Municipality may enforce any provision of this By-law by issuing a compliance notice to the owner or the person in control of the premises who has contravened any provision of this By-law, requiring such person to comply with the notice in a manner and within the time specified in the notice.

(2) If the owner or the person in control fails or refuses to comply with such notice, the Municipality may –

(a) act as contemplated in section 22 of this By-law; or

(b) cause such person to be prosecuted for an offence as contemplated in section 23 of this By-law.

(3) A compliance notice remains in force until it has been complied with and the Municipality has issued a compliance certificate stating that the Municipality is satisfied that the matter giving rise to the issue of the compliance notice has been resolved.

(4) Where the Municipality has to remedy the cause of complaint or to use resources to impound any equipment, the Municipality may recover such costs from the person responsible for the offence.

Powers of authorised officials

22.(1) The authorised official may, in respect of 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 occur or to have occurred and–

(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.

(2) 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.

(3) 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 enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.

(4) When issuing a warning notice the authorised official must procure the signature of the offending person confirming receipt of a warning notice.

(5) The authorised official must inform the offending person that–

(a) a signature of the offending party in terms of subsection (3) 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 warning notice issued by an authorised official.

Offences

23.(1) A person commits an offence if he or she—

(a) contravenes any provision of this By-law;

(b) contravenes any conditions, restrictions, or prohibitions imposed in terms of this By-law;

(c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;

(d) obstructs, hinders or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or

(e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.

Penalties

24.(1) Any person or persons who contravenes this By-law and is found guilty of an offence shall be liable on conviction to–

(a) a fine not exceeding R100 000;

(b) imprisonment for a minimum period of 2 years ; or

(c) both a fine and imprisonment.

(2) In the case of a continuing offence, an additional fine or imprisonment period not exceeding three months, for each day that such offence continues or both such fine and imprisonment, shall be imposed.

(3) All fines and sentences imposed are subject to the discretion of the chief magistrate.

Appeals

25.(1) A person whose rights are affected by a decision taken by the Head of Health or any authorised official in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within 6 weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Delegations

26.(1) Subject to the Constitution and applicable national and provincial laws, any –

(a) power, excluding a power referred to in section 160(2) of the Constitution;

(b) function; or

(c) duty conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

(a) entity or person issuing the delegation or sub-delegation;

(b) recipient of the delegation or sub-delegation; and

(c) conditions attached to the delegation or sub-delegation.

Repeal of laws and savings

27. The laws mentioned in the first and second column of schedule 1 to this By-law are hereby repealed to the extent set out in the third column of the said schedule.

Short title and commencement

28. This By-law is called the eThekwini Municipality: Noise Control and Noise Management By-law, 2024 and takes effect six months from the date of publication thereof in the Provincial Gazette or such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.

SCHEDULE 1
REPEALED LAWS

Number and year of law	***Title***	***Extent of Repeal***
Provincial Gazette no. 1490 on 11 September 2015	eThekwini Municipality: Nuisances and Behaviour in Public Places By-law, 2015	Section 8