

# **LEKWA LOCAL MUNICIPALITY**



## **DRAFT NUISANCE BY-LAW**

The Council of Lekwa Local Municipality has in terms of section 156 of the Constitution, 1996, read in conjunction with Section 11 and 98 of the Local Government: Municipal Systems Act, 2000, , as amended, made the following By-law:

## **NUISANCE BY-LAW**

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1. **DEFINITIONS**

(1) For the purpose of this By-law, unless the context otherwise indicates

**“Act”** means the National Building regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

**"building"** means the meaning attached to the word by the Act and dwelling shall have a corresponding meaning;

**"Environmental Health Officer"** means the Municipal Official appointed by the Municipality with authority delegated in terms of Section 59 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) to enforce this By-law and shall include any officer authorised by Council resolution to administer this By-law;

**"Municipality"** means the Lekwa Local Municipality;

**“Municipal Council”** means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996:

**“Municipal Manager”** means the person appointed by the municipal council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act No. 117 of 1998 and includes any person –

- a) acting in such a position;
- b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;

**"Nuisance"** means any act or circumstance which is a public nuisance including but not limited to any:

- (a) activity, condition, premises or thing which, on account of effluent, smoke, vapours, gas, dust, chemical effluvia, odours, noise, vibration, radiation, refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper hygiene, ventilation, lightning, design situation or any other cause or practice whatsoever, is dangerous to health or which is offensive;

(b) other hazard or condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, order, peace or health of residents of the Municipal area; or

(c) activity, condition or premises or thing which adversely affects the rights or reasonable comfort convenience or peace and quiet of any neighbourhood in the Municipal area; and

(d) private nuisance which effects persons within the Municipal area.

**"Public Place"**

shall mean and include all public streets and places, public conveyances and places of public entertainment or resort or open to public view and includes any area, owned by or vesting in the Municipality to which the public has access.

- (2) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

**2. DISTURBANCE OF THE PEACE**

- (1) No person shall disturb the public peace in any public place by making unseemly noises or by shouting, roaring, wrangling or quarrelling, or by collecting a crowd, or by fighting or challenging to fight, or by striking with or bandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behaviour, at any time of the day or night.

**3. SUBJECT TO OBTAINING PRIOR WRITTEN APPROVAL OF THE COUNCIL**

- (1) No person shall advertise any wares or services in any public place by means of any megaphone, loudspeakers or other similar device, or ringing of bells in such manner to constitute a public nuisance in the neighbourhood.
- (2) No person, being in or on any private premises, shall disrupt the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noise, shouting, quarrelling, wrangling or singing or the continuous playing of musical instruments, radios or the like or by the continuous or over-loud use of loudspeakers, or the like.
- (3) Any itinerant vocalist or musician performing in any public place shall, when so required by any protection officer or police officer or by any person residing in the neighbourhood where such vocalist or musician is performing, depart from such neighbourhood.
- (4) No person shall discharge fireworks or light any bonfire in any public space, without prior written permission of the Council.
- (5) No person shall, without lawful cause, discharge any firearm or air gun within the

Municipality, provided that this By-law shall not apply to any persons engaged in authorised target practice in places set aside for that purpose or to any person to whom written permission to do so has been given by the Council.

- (6) No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this By-law shall not apply to the following:
  - (a)
    - (i) Any person in the Military or Police service when on duty.
    - (ii) Any security officer or police officer.
    - (iii) Any person who shall have obtained from the police a written exemption from the operation of this By-law, which exemption the police are hereby authorised to grant.
  - (b) No persons armed with lethal weapons shall be permitted to congregate in any part of the Municipality for any purpose or in any manner liable or calculated to cause a breach of the peace.
- (7) No person shall, in any public place, use any abusive or threatening language or commit any act which is liable or calculated to cause a breach of the peace.

## **5. OFFENCES AGAINST DECENCY AND MORALITY**

- (1) No person shall, in any public place, commit any indecent or immoral gesture or act or willfully and obscenely expose his person.
- (2) No person shall appear in any public place without being decently clothed.
- (3) No person shall be or appear in any public place in a state of intoxication.
- (4) No person shall write, print, or draw any obscene or indecent words or figures in any public place or upon any wall, door, window or other part of premises in or within sight of any public place, nor use any foul, obscene or indecent language in any public place within the hearing of any person therein.
- (5) No person shall litter upon any street or footpath, which might in any way endanger the safety of pedestrians, or pollute the environment.
- (6) No person shall allow any goods or other articles, whether they be his own property or in his charge or custody, to be or remain in or on any street or footpath so as to cause obstruction or inconvenience to the passage of any person for a longer time than may be necessary for loading and unloading, and in no case after receipt of a notice requiring him to remove same given by any security officer, police officer or authorised official.
- (7) No person shall, for trading or any other purpose, place any goods, wares or articles on any stand or support on or overhanging or protruding over any pavement or street, nor place such goods, wares or articles upon any pavement, nor place, fix or hang such goods, wares or articles upon any verandah post, stays or ceiling on or over any public footpath or street.
- (8) No person shall carry on or take part in any trade or calling nor open, unpack or pack any cases, furniture, goods, materials or merchandise in any street.
- (9) No person shall place any flower pot or box or other heavy article in any window

or upon any window sill in any building abutting on any street or pavement unless proper precautions are taken to prevent such flower pot box or other heavy article from being blown or falling into or on to such street or pavement.

- (10) No person shall hold any auction sale in any street or in or from any doorway, window or other opening of any premises abutting on any street without the written consent of the Municipality and then only subject to such conditions as may be imposed in such consent.
- (11) No person shall place or deposit any slops, trimmings of hedges, fences or trees or any garden or other refuse or waste material of any kind on any street or pavement unless same is placed in approved boxes or receptacles for the purpose of removal by the Municipality's employees or contractors.
- (12)
  - (a) No person, other than a person appointed for the purpose by a registered welfare organisation which has been authorised by the Municipality to cause a collection of money to be taken or to hold a cake sale on its behalf in any public place, shall collect or attempt to collect money or hold such cake sale in any public place.
  - (b) Every welfare organisation desiring to obtain the authority of the Council for any such collection or cake sale on his behalf shall, make a written application to the Municipality therefor, and shall, if required by the Municipality, forward the following documents:
    - (i) A certificate of registration.
    - (ii) A copy of its balance sheet for the preceding financial year.
  - (c) The Council upon receipt of any such application may either grant the application or refuse it. If granted, the authority shall be subject to such conditions as the Council may prescribe.
- (13)
  - (a) No person, being the owner or occupier of any premises abutting on any street or footpath shall permit any tree, branch or shrub growing on such premises to overhang or extend onto such street or footpath in such manner as to cause an obstruction or discomfort to the public, or to come into contact, or to be likely to come into contact with any wire, pole or public work in or over such street or footpath, nor permit the roots of any such tree or shrub to grow to such an extent that they cause or are likely to cause, any damage to the surface of any footpath or street or to any drain, sewer, water main, underground cable or pipe laid in or under the surface of such footpath or street.
  - (b) The owner or occupier of any such premises shall upon receipt of a notice signed by the Municipal Manager requiring him to cut down or back or remove any such tree or shrub or the roots thereof within a time specified; and if such owner or occupier shall fail to comply with such notice within such time specified therein the Council may cause such tree or shrub or the roots thereof to be cut down or back or removed, and may recover the cost of executing such work from such owner or occupier.

## 6. OFFENCES AGAINST PUBLIC HEALTH

(1) No person shall keep or deposit on any premises owned or occupied by him, or of which he is in charge, any matter or thing, solid or liquid, which is or is liable to become offensive or dangerous or injurious to health.

(2) No person shall:-

- (a) throw, deposit or drop or cause or suffer to flow any solid waste or waste water or rubbish whether liquid or solid, in or onto any street, highway, lane or other public place, or in or onto any vacant land, whether publicly or privately owned, or in or into any river, stream or watercourse;
- (b) leave any hay, paper, straw, forage, reeds or any such like materials in or on any such street, highway, lane or other public place, or in or into any such river, stream or watercourse;
- (c) allow any such materials as are described in (a) and (b) above to obstruct any gutter, drain or watercourse;
- (d) throw, deposit or drop or cause to be thrown, deposited or dropped any litter, handbills, placards, notices, pamphlets or books in or onto any street, highway, lane or other public place, or in or onto any vacant land, whether publicly or privately owned, or in or into any river, stream or watercourse, or allow any such materials as aforesaid to obstruct any gutter, drain or watercourse; provided always that this By-law shall prevent any person handing or distributing any handbills or other things aforesaid to persons in any street, highway, lane or public place;
- (e) carry on convey or cause or permit to be carried or conveyed through or in any public place or through or in any vacant land, whether publicly or privately owned, any matter or thing, liquid or solid, which is or is liable to become offensive or dangerous or injurious to public health unless such matter or thing is carried or conveyed in receptacles closed and covered with a lid or other material approved by the Environmental Health Officer or the health to prevent the cause of any nuisance;
- (f) No person shall permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the Municipality, to remain on his premises for a longer period than is necessary to arrange for the removal of the carcass in an approved manner without causing a health nuisance;
- (g) No person shall cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, earth closet, privy, urinal, cesspool or ash pit on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or to be dangerous or injurious to health;
- (h) No person shall cause or permit any foul or polluted water or any foul liquid or matter to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or

any other purposes, into any street or on to any land so as to be offensive or dangerous or injurious to public health;

- (i) No person shall commit or cause or permit to be committed, either within or without the Municipality, any act tending to the pollution of any water which the inhabitants of the Municipality have the right to use or provided or reserved for the use of such inhabitants;
- (j) No person shall cleanse or wash any vehicle or any offensive article or utensil on any street;
- (k) No person shall commit a nuisance, by depositing human excrement or urine, in any place which is not set aside or appointed for the purpose.
- (l) No person shall spit in any public place.
- (m) No person shall foul or misuse any public convenience or any convenience provided in any public building or place of public entertainment.
- (n) Every person, who is the occupier or in charge of any premises or the owner of any vacant land in the Municipality shall take all possible precaution 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 a notice signed by the Environmental Health Officer and served upon him, comply with any requirements in regard to the prevention or eradication of any such vermin or pest within a time to be specified in such notice.
- (o) No person shall permit any noxious or rank weeds or invader or alien vegetation to grow upon any premises or vacant land owned or occupied by him, and any person shall, when served with a notice signed by the Municipal Manager requiring him to do, destroy or cut down and remove or cause to be removed any such noxious or rank weeds or invader or alien vegetation within a time to be stated in such notice.
- (p) No person shall burn any rubbish or refuse on any premises in the Municipality or create any offensive smells or any smoke nuisance thereon.
- (q) Any person who burns sugar cane as part of harvesting shall comply with the provisions of the burning requirements of the Forestry Act 1984 and the Code of Burning practice of the South African Sugar Association as issued for the South African sugar industry from time to time.
- (r) No person shall make any fire which causes a nuisance due to the omission of smoke in the jurisdiction of the Municipality unless such fire is intended to be used for the preparation of food. In all other areas within the Municipal area of jurisdiction fires may only be lit if:



- (i) it remains attended at all times;
  - (ii) it does not pose a danger to any property or traffic;
  - (iii) it does not cause a nuisance to anyone.
- (s) No person, being the owner or occupier of any vacant land or of any premises within the Municipality, whether such premises or land are fenced or not, shall deposit or store within the public view thereon any disused vehicles or machinery or parts thereof or any second-hand building materials or any rubbish or refuse or any other like thing unless he shall have obtained the written consent of the Municipality.

## **7. OFFENCES AND PENALTIES**

Any person who:

- (1) contravenes or fails to comply with any provision of this By-law or of any term, condition, restriction, requirement notice or order imposed or issued in terms thereof;
- (2) resists, hinders, obstructs, molests, or interferes with any officer or employee of the Municipality in the performance of his duties or the exercise of his powers under this By-law; or
- (3) causes or permits any other person to commit any of the aforesaid acts -

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand (R 5000.00) rand, or in default of payment of any fine imposed, imprisonment for a person not exceeding six months.

## **8. APPLICATION**

(1) The Municipal Council may by notice in the *Provincial Gazette*, determine that the provision of this By-law do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

## **10. REPEAL**

- (1) Any by-law adopted by the Municipal Council or the Municipal Council of any municipality now forming an administrative unit of the Lekwa Local Municipality and relating to Nuisance are hereby repealed.

## **11. SHORT TITLE**

- (1) This By-law shall be called the Nuisance By-law 2015.