

BY-LAW

To provide for the prevention of crime in the EMTHANJENI municipality; and for matters connected therewith.

BE IT ENACTED by the Emthanjeni municipality, as follows:-

Definitions

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

“**car guard**” means a person rendering a service to another person for reward at a public place or at a place which is commonly used by the public or any section thereof by making himself or herself available for the protection of vehicles in accordance with an arrangement with such other person, and “**organisation for car guards**” shall have a corresponding meaning;

“**law enforcement officer**” means a person authorised by or under any law to police or enforce any by-law of the Municipality;

“**Municipality**” means the Emthanjeni municipality;

“**public place**” includes any land, park or open space, road, street, sanitary passage or thoroughfare, bridge, building or structure which is commonly used by the public and is the property of the Municipality or, of which the control, to the entire exclusion of the owner, is vested in the Municipality or to which the inhabitants of the Municipality have a common right or access;

“**public property**” includes any bridge, building, structure or permanent fixture that forms part of a public place or is to be found in, on or at a public place, or is by law public property; and

“**street**” includes a sidewalk.

Damage to public property prohibited

2. No person shall remove, damage, deface, conceal or tamper with public property.

Surface of streets may not be defaced

3. Except in the performance of his or her official duties, no person shall mark, paint or, in any manner, deface the surface of any street or part thereof.

Display of signs, posters and banners regulated

4. (1) No person shall display any sign, poster or banner that is indecent, offensive or lewd –
- (a) in, on or at a public place; or
 - (b) in such a manner that it is readily visible from a public place.
- (2) Except with the prior written permission of the Municipality and in accordance with the conditions determined by the Municipality, no person shall -
- (a) at a public place; or
 - (b) on private property (except private property zoned for business related or industrial related purposes by or under any law, guide plan, town planning scheme or title deed) in such a manner that it is readily visible from a public place,
- advertise by displaying any sign, poster or banner.

Display of street numbers

5. The owner or occupant of built up premises must display the street number allocated to such premises by the Municipality, at a prominent place, facing the street concerned in such a way that it is readily legible from the street.

Damage of street names and street numbers prohibited

6. No person shall damage, deface, remove or render illegible -
- (a) a plate displaying a street name;
 - (b) a street number contemplated in section 5; or
 - (c) any sign authorised or erected by the Municipality.

Regulation of begging in or from public places

7. (1) Except with the prior written permission of the Municipality and in accordance with the conditions determined by the Municipality, no person shall –

- (a) beg or collect alms in or from a public place;
 - (b) beg or collect alms from door to door.
- (2) Conditions contemplated in subsection (1) must include, but shall not be limited to -
- (a) delimitation of the area in which such person may beg or collect alms;
 - (b) hours during which such person may beg or collect alms;
 - (c) places prohibited for such person to beg or collect alms; and
 - (d) the period (not exceeding one year) for which the permission is granted.
- (3) A person who begs or collects alms in accordance with a written permission contemplated in subsection (1) must be in possession of such written permission and produce it on request to -
- (a) a person approached by that person;
 - (b) any person with an apparent interest in his or her conduct; or
 - (c) a law enforcement officer.

Regulation of car guards

8. (1) No person shall act as a car guard unless that person is –
- (a) registered as a security service provider in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001); and
 - (b) employed by an organisation for car guards and acts in the employ of and under the control of that organisation.
- (2) An organisation for car guards shall not render a car guard service unless that organisation -
- (a) has obtained the prior written permission of the Municipality and acts in accordance with the conditions set out in that written permission;
 - (b) is a “security business” as defined in the Private Security Industry Regulation Act, 2001, and complies with the provisions of section 20(2) of that Act;

- (c) ensures that any of its employees rendering a car guard service –
 - (i) is at all times duly registered as a security service provider in terms of the Private Security Industry Regulation Act, 2001; and
 - (ii) complies with the provisions of the code of conduct for security service providers referred to in section 28 of the Private Security Industry Regulation Act, 2001.
- (3) Conditions contemplated in subsection (2)(a) must include, but shall not be limited to -
 - (a) delimitation of the area in which such organisation for car guards may render a car guard service;
 - (b) hours during which such organisation for car guards may render a car guard service;
 - (c) places prohibited for such organisation for car guards to render a car guard service; and
 - (d) the period (not exceeding one year) for which the permission is granted.

Unlawful acts in relation to public places

- 9. (1) No person shall leave, spill, drop or place in, on or at a public place any matter or substance –
 - (a) that may impede the cleanliness of such public place; or
 - (b) that may cause annoyance or danger to any person, animal or vehicle using such public place.
- (2) No person shall spit, urinate or defecate in, on or at a public place.

Inhalation, provision or disposal of certain substances prohibited

- 10. (1) Subject to the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), no person shall inhale the fumes of any glue, adhesive or volatile substance that has an intoxicating or hallucinating effect.
- (2) No person shall dispose of any container of a substance referred to in subsection (1) -
 - (a) through the municipal refuse system; or

- (b) by leaving it in, on or at a public place.
- (3) Subject to the Drugs and Drug Trafficking Act, 1992, no person shall, for payment or otherwise, provide a substance referred to in subsection (1) to any person if it is reasonably evident that the substance is acquired with the purpose of contravention of that subsection.

Dumping, leaving or accumulation of certain objects or substances in public places prohibited

- 11. (1) No person shall dump, leave or accumulate any garden refuse, motor vehicle wreck or spare part, building waste, rubbish or other waste –
 - (a) in, on or at a public place;
 - (b) except at a place designated by the Municipality for dumping.
- (2) Except with the prior written permission of the Municipality and in accordance with any condition as may be determined by the Municipality, no person shall place or permit any object or substance referred to in subsection (1) to be placed in, on or at a public place from premises owned or occupied by such person.

Unlawful acts in relation to trees in public places

- 12. (1) No person shall –
 - (a) break or damage a tree in a public place; or
 - (b) mark or paint such tree.
- (2) Except with the prior written permission of the Municipality, no person shall -
 - (a) display an advertisement on a tree in a public place;
 - (b) lop, top, trim, cut down or remove such tree.

Gathering or obstruction of streets prohibited

- 13. Subject to the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), no person shall gather, sit, lie or walk in a street in such manner as to cause obstruction to traffic or to jostle or otherwise impede any other person using such street.

Prohibitions in relation to places of religious worship

14. (1) No person shall, without reasonable cause, linger in the immediate proximity of a place of religious worship immediately before, during or after assembly of the congregation.
- (2) No person shall vex, hinder or impede any member of a congregation attending religious worship or proceeding to or leaving from a place of religious worship.

Nuisance prohibited

15. No person shall, in, on or at a public place -
- (a) use indecent, offensive or lewd language;
 - (b) ignite or burn rubble or refuse;
 - (c) burn any matter that produces an offensive smoke;
 - (d) cause an offensive smell;
 - (e) cause a disturbance to other persons by fighting, shouting or arguing;
 - (f) cause excessive noise by –
 - (i) singing;
 - (ii) playing musical instruments;
 - (iii) the running of an engine;
 - (iv) the use of a loudspeaker, radio, television or similar device; or
 - (v) any other means.

Disturbance of peace prohibited

16. (1) No person shall disturb the peace in a residential area by causing excessive noise or by fighting, shouting or arguing in a boisterous way.
- (2) Except with the prior written permission of the Municipality and in accordance with any condition that may be determined by the Municipality, no person shall explode a firecracker or any other firework causing a loud noise.

Advertising by sound-amplifying equipment regulated

17. Except with the prior written permission of the Municipality and in accordance with any condition that may be determined by the Municipality, no person shall, by the use of any sound-amplifying equipment on business premises -

- (a) play music; or
- (b) use a microphone or recording to invite any member of the public to enter that premises or to do business there,

in such a way that it can be heard from a public place.

Touting regulated

18. Except in an area designated by the Municipality and during hours determined by the Municipality, no person shall, in or from a public place -

- (a) tout; or
- (b) in any way indicate to any member of the public his or her willingness to do for reward any work or perform any task.

Exhibition of obscene visual images regulated

19. (1) Except in a separate private room to which access can only be attained through a door on which the words "Admittance only for persons of 18 years and older" have been printed boldly and which is situated inside the business premises concerned, no person conducting business in -

- (a) the selling, hiring out or screening of films; or
- (b) the selling of publications,

shall exhibit a film or publication, the container or cover, as the case may be, of which contains a drawing, picture, illustration, painting, photograph or image or combination thereof, depicting sexual conduct.

(2) For the purposes of subsection (1) -

"film" means -

- (a) any sequence of visual images recorded on any substance, whether a film, magnetic tape, disc or any other material, in such manner that by using such substance such images will be capable of being seen as a moving picture;

- (b) the soundtrack associated with and any exhibited illustration relating to a film as defined in paragraph (a);
- (c) any picture intended for exhibition through the medium of any mechanical, electronic or other device;

“**publication**” means –

- (a) any newspaper, book, periodical, pamphlet, poster or other printed matter;
- (b) any writing or typescript, which has in any manner been duplicated;
- (c) any drawing, picture, illustration or painting;
- (d) any print, photograph, engraving or lithograph;
- (e) any record, magnetic tape, soundtrack, except a soundtrack associated with a film, or any other object, in or on which sound has been recorded for reproduction;
- (f) computer software, which is not a film;
- (g) the cover or packaging of a film;
- (h) any figure, carving, statue or model;
- (i) any message or communication, including a visual presentation, placed on any distributed network, including, but not confined to, the Internet; and

“**sexual conduct**” means the display of genitals, masturbation, sexual intercourse, which includes anal sexual intercourse, the fondling, or touching with any object, of genitals, the penetration of a vagina or anus with any object, oral genital contact, or oral anal contact.

- (3) The provisions of subsection (1) shall not apply to a person contemplated in section 24(1) of the Films and Publications Act, 1996 (Act No. 65 of 1996), who is the holder of a licence to conduct the business of adult premises, while such person conducts business on such premises.

Parking of heavy vehicles, trailers or caravans

20. No person shall park –
- (a) a vehicle with a gross mass exceeding 9000 kg, or a trailer with a gross mass exceeding 1000 kg, for longer than 2 hours; or
 - (b) a caravan for longer than 24 hours,
- in a street.

Distribution of handbills regulated

21. Without the prior written permission of the Municipality, no person shall –
- (a) place or cause a handbill or similar advertising item to be placed in or on any vehicle parked at a public place; or
 - (b) hand out or cause a handbill or similar advertising item to be handed out to any person in or at a public place.

Penalty clause

22. (1) Any person who contravenes or fails to comply with any provision of this By-law or any requirement or condition thereunder, shall be guilty of an offence.
- (2) Any person convicted of an offence in terms of subsection (1) shall be liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

Repeal of laws and savings

23. (1) The following laws are hereby repealed:

All previous by-laws with regard to this matter are hereby repealed.

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Short title

24. This By-law shall be called the Law Enforcement By-law, 2008