

NOISE ABATEMENT BY-LAWS

The Municipal Manager hereby publishes in terms of The Municipal Systems Act, Act No. 32 of 2000, the by-laws as set forth hereafter, which have been approved by the Council in terms of Section 13 of the said Act. -

DEFINITIONS

1. For the purposes of these by-laws, unless the context otherwise indicates: -

“ambient sound level” means the reading of an integrating sound level meter measured at the measuring point at the end of a total period of at least 10 minutes after such integrating sound level meter has been put into operation, during which period a noise alleged to be a disturbing noise is absent;

“Council” means the Mbombela Local Council and includes the management committee and any officer of the Council acting by virtue of any power vested in the Council by these by-laws and delegated to such committee or officer in terms of section 58 of the Local Government (Administration and Elections) Ordinance, 1960;

“Disturbing noise” means a noise level which exceeds the ambient sound level by 7dB(A) or more, and “disturbing”, in relation to a noise, shall have a corresponding meaning;

“Integrating sound level meter” means a device integrating a function of sound pressure over a period of time and indicating the result in dB(A), which dB(A) indicating is a function of both the sound level and the duration of exposure to the sound during the period of measurement;

“measuring point” means: -

- (a) in relation to a piece of land from which a disturbing noise is emitted, a point beyond the vertical boundaries of the land concerned where, in the opinion of the Deputy Director : Health Services, a disturbing noise should be measured in accordance with the provisions of section 3; or
- (b) in relation to a multi-occupancy building, a point in such building where, in the opinion of the Deputy Director : Health Services a disturbing noise should be measured in accordance with the provisions of section 3;

“Deputy Director : Health Services” means the Health Officer of the Council or any person authorized by the Council to give effect to the provisions of these by-laws;

“noise” means any sound which disturbs the quiet or rest of a person or impairs or may disturb or impair or create a nuisance;

“noise level” means the reading on an integrating sound level meter taken at the measuring point at the end of a reasonable period after the integrating sound level meter has been put into operation during which period the noise alleged to be a disturbing noise is present, to which reading 5dB(A) is added if the disturbing noise contains a pure tone component or is of an impulsive nature.

OFFENCES

2. (1) No person shall make, produce, cause or permit to be made or produced by any person, machine, animal, bird, device or apparatus or any combination of these, a noise, which is a disturbing noise.

- (2) Any person who contravenes subsection (1), shall be guilty of an offence.

MEASURING OF AMBIENT SOUND LEVEL AND NOISE LEVEL

3. (1) When the ambient sound level or noise level is measured and read in terms of these by-laws such measurement and reading shall be done in the case of: -
- (a) outdoor measurement on a piece of land which the microphone of the integrating sound level meter at least 1,2 m but no more than 1,4 m above the ground and at least 3.5 m distant from walls, buildings, or other sound-reflecting surfaces.
 - (b) Indoor measurements in a room or enclosed space with the microphone of the integrating sound level meter at least 1,2 m but not more than 1,4 m above the floor and at least 1,2 m distant from any wall, with all the windows and outside doors of such room or enclosed space completely open.
- (2) The microphone of an integrating sound level meter shall at all times be equipped with a windshield.

POWERS OF THE DEPUTY DIRECTOR : HEALTH SERVICES

4. (1) If the Deputy Director : Health Services, is satisfied that a noise emanating from any building, premises or street is a disturbing noise, he may, in a written notice, instruct the person causing or responsible for the disturbing noise or the owner of such building or premises on which the disturbing noise is caused, or both of them within a period specified in such notice to stop such noise or have it stopped or take the necessary steps to reduce the disturbing noise level to a level which complies with the provisions of these by-laws: Provided that if the Deputy Director : Health Services is satisfied that the disturbing noise is due to or caused by: -
- (a) the working of: -
 - (i) a machine or apparatus which is necessary for the maintenance or repair of property, or the protection of life, property or public services;
 - (ii) garden equipment;
 - (iii) a machine or device, the noise level which has, in the opinion of the Chief Officer of Health been reduced or muffled according to the best practical method and which continues to be disturbing;
 - (b) a sports meeting; or
 - (c) circumstances or activities beyond the control of the person responsible for causing the disturbing noise,

he may, whether generally or specifically, after written representation to the Deputy Director : Health Services by the person who caused or was responsible for the disturbing noise, permit the working of such machine, apparatus or device, or such sports meeting or circumstances or activities, to continue subject to such conditions as he deems fit.

- (2) The Deputy Director : Health Services may, if it comes to his attention that a person intends, plans or constructs business or trade, which may create a noise in the normal commissioning thereof or at any time in the future may instruct such a person to conduct a noise impact study or have such study carried out which complies with the conditions of the Deputy Director : Health Services and such study must be submitted to the Deputy Director : Health Services before commissioning any contemplate planned or constructed operation.
- (3) Any person who fails to comply with an instruction in terms of subsection (1) or (2) shall be guilty of an offence.

NOISE DISTURBANCE

5. Notwithstanding the foregoing provisions of the by-laws, no person shall: -
 - (a) in any street or public place in or on any premises between 22:00 and 06:00 shout, sing otherwise make any loud noise;
 - (b) operate, play or sanction the operation or performing of any radio, television set, phonograph drum, musical instrument, sound amplifier or similar device which produces, reproduces amplifies sound;
 - (c) operate or sanction the operation of any warning device, siren, hooter, or any similar device other than in an emergency or when required by law;
 - (d) sanction or passively allow any burglar alarm device to sound either continuously or intently for more than 20 minutes after it begun sounding;
 - (e) keep, possess or harbour in or on any premises any animal or bird, or sanction the keeping, session or harbouring in or on any premises any animal or bird which in a manner may disturb or hinder the comfort, convenience, or quiet of the public;
 - (f) operate or sanction the operation of any lawnmower, other garden machinery or power rated tool between 14:00 and 16:00 on any day which may, or in a manner which may disturb or hinder the comfort, convenience or quiet of the public;
 - (g) cause a noise or permits a noise to be caused.

RIGHT OF ENTRY

6. Any authorized officer of the Council may, for any purpose connected with the enforcement of these by-laws, and without previous notice, enter any property and make such examination, enquiry and inspection thereon as he deems fit, and he or any person instructed by him may take such steps as may be necessary to silence any noise for the purpose of determining the ambient sound level.

OBSTRUCTION

7. Any person who fails or refuses to give access to any officer of the Council authorized by the Deputy Director : Health Services or by the Council to enter upon and inspect any property, or obstructs or hinders such officer in the execution of his duties under these by-laws, or who fails or refuses to give information which he may lawfully be required to give, or, gives to such officer false or misleading information knowing it to be false or misleading, commits an offence.

OFFENCES AND PENALTIES

8. Any person who: -

- (a) contravenes or fails to comply with any provision of these by-laws; or
- (b) fails to comply with an instruction given or condition imposed in terms of section 4,

shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding R300-00 or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment, and in the case of a continued offence, to a fine not exceeding R200-00 for each day on which such offence continues.