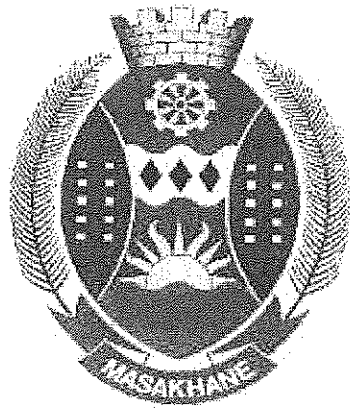


STEVE TSHWETE LOCAL MUNICIPALITY



NOISE BY-LAWS, 2021

LOCAL AUTHORITY NOTICE 93 OF 2021
STEVE TSHWETE LOCAL MUNICIPALITY
NOISE BY-LAWS, 2021

Notice is hereby given in terms of section 13 of the Local Government: Municipal Systems Act, 32 of 2000, as amended, read with Section 156 and 162 of the Constitution of the Republic of South Africa, Act 108 of 1996, that the *Steve Tshwete Local Municipality* resolved to adopt the following noise by-laws, with effect from the date of publication.

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DEFINITIONS

In this Act, unless a contrary intention clearly appears:

<i>"Air Quality Officer"</i>	means an officer appointed in terms of the National Environment Management Air Quality Act, 2004 or any person to whom an Air Quality Officer delegated a power or assigned a duty subject to such limitations or conditions as may be prescribed by the Steve Tshwete Local Municipality;
<i>"Ambient sound level"</i>	means, the reading on an integrating impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a total period of at least 10 minutes after such meter was put into operation;
<i>"Animal"</i>	also includes birds and poultry;
<i>"Authorized Official"</i>	is an Air Quality Officer as defined herein or any person in the service of the Council who has been appointed in the capacity of Peace Officer in terms of the Criminal Procedure Act, 51 of 1977;
<i>"Council"</i>	means the <i>Steve Tshwete Local Municipality Council</i> 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 or delegated to such committee or officer;
<i>"dBA" or "dB (A)"</i>	means the value of the sound pressure level in decibels, determined using a frequency-weighting network A, and derived from the following equation: $L_{PA} = 10 \log_{10} [P_A/P_0]^2$, where – P_A = the "A" – weighted sound pressure; and P_0 = the reference sound pressure $(P_0 = 20_{\mu}Pa)$
<i>"Disturbing Noise"</i>	means a noise level that causes the ambient noise level to rise above the maximum designated sound levels;
<i>"Integrating sound level meter"</i>	means a device that integrates a function of the root mean square value of sound pressure of a period of time and indicates the result in dBA;
<i>"Measuring point"</i>	relating to - (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 Air Quality Officer, a disturbing noise should be measured

- (b) in relation to a multi-occupancy building, a point in such building where, in the opinion of the Air Quality Officer a disturbing noise should be measured

"Noise" or "noise nuisance" means any sound which disturbs or impairs or may disturb or impair the convenience, peace, quiet or rest of any person;

"Recreational vehicle" means an off-road vehicle, scrambler, dune buggy or ultra-light aircraft; a model aircraft, vessel or vehicle; any aircraft or helicopter used for sport or recreational purposes; a vessel used on water; or any other conveyance vessel or model which is used for sport or recreational purposes;

"maximum designated sound levels" means the values set out in the Maximum Designated Sound Level Schedule to these by-laws, or as determined, amended and published in the *Government Gazette* and a *Provincial Newspaper* by the Council, from time to time.

1. OFFENCES

- (1) No person shall make, produce, cause or permit to be made or produced by any person, or allow it to be made, produced or caused 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.

2. NOISE DISTURBANCE

- (1) Notwithstanding the above provisions, no person shall -
- (a) Operate or play, or allow to be operated or played, a radio, television set, drum musical instrument or other musical instrument, sound amplifier, loudspeaker system or any device producing, reproducing or amplifying sound so as to cause a noise nuisance;
 - (b) Make or produce or allow to be made or produced a sound in a manner which may cause a noise nuisance;
 - (c) Allow an animal owned or controlled by him or her to cause a noise nuisance;
 - (d) Discharge fireworks in a residential area in a manner which may cause a noise nuisance;
 - (e) Build, make, construct, repair, rebuild, modify, operate or test a vehicle, vessel, aircraft or object on or near residential premises, or allow it to be built, made, constructed, repaired, rebuilt, modified, operated or tested, if this may cause a noise nuisance;
 - (f) Erect a building or structure on residential premises or allow it to be erected if this may cause a noise nuisance;

- (g) Use or discharge any explosive, firearm or similar device that emits impulsive sound and may cause a noise nuisance, or allow it to be used or discharged, except with the prior consent in writing of the Council concerned and subject to such conditions as the Council may deem necessary;
- (h) Un a piece of land or in water or in airspace above that piece of land designated by the Council by means of a notice in the press –move about on or in a recreational vehicle; or exercise control over a recreational vehicle; or as the owner or person in control of the piece of land, water or airspace, allow such activity to take place if this may cause a noise nuisance;
- (i) 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;
- (j) Operate any machinery, saw, sander, drill, grinder, lawnmower power garden tool or similar device or allow it to be operated in a residential area, if it may cause a noise nuisance;
- (k) Load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or any other article, or allow it to be loaded, unloaded, opened, shut or handled, if this may cause a noise nuisance;
- (l) Drive or use a vehicle, Motorbike or quad bike on a public road in such a manner that it may cause a noise nuisance;
- (m) Use any power tool or power equipment used for construction, drilling work or demolition work, or allow it to be used, in or near a residential area if it may cause a noise nuisance

3. MUSIC, OPEN-AIR MUSIC FESTIVALS AND OTHER GATHERINGS

- (1) No person may stage an open-air music festival or similar gathering without the prior written consent of the Council.
- (2) Consent for such open-air music festival or similar gathering will only be considered, should the Council be satisfied that a proper written application has been made.
- (3) If any music or sound causes or may cause a noise nuisance or a disturbing noise, the Council or an Authorized Official may instruct that such music be forthwith discontinued until such conditions as the Council or an Authorized Official may deem necessary have been complied with.

4. MEASURING OF AMBIENT SOUND LEVEL AND NOISE LEVEL

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 -

- (1) In the case of outdoor measurements on a piece of land with the microphone of the integrating sound level meter at least 1,2 meter but not more than 1,4 meter above the ground and at least 3,5 meter distant from walls, buildings, or other sound-reflecting surfaces;
- (2) Indoor measurements in a room or enclosed space with the microphone of the integrating sound level meter at least 1,2 meter but not more than 1,4 meter above the floor and at least 1,2 meter

distant from any wall, with all the windows and outside doors of such room or enclosed space completely open.

5. POWERS OF THE AIR QUALITY OFFICER

Notwithstanding any other provisions, an Air Quality Officer further has the following powers in terms of these regulations -

- (1) If an Air Quality Officer is satisfied that a noise emanating from any building, premises or street is a noise nuisance or a disturbing noise, he or she may, by written notice, instruct the person or persons causing or responsible for the noise nuisance or disturbing noise or the owner of such building or premises on which the noise nuisance or disturbing noise is caused, or both of them, with a period specified in necessary steps to reduce the noise nuisance or disturbing noise level to a level which complies with the provisions of these by-laws: provided that if the Air Quality Officer is satisfied that the noise nuisance or 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 of which has, in the opinion of the Air Quality Officer been reduced or muffled according to the best practicable methods 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 or she may, whether generally or specifically, after representation to the Air Quality Officer by the person who caused or was responsible for the noise nuisance or 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 the Air Quality Officer deems fit.

- (2) The Air Quality Officer may, if it comes to his or her attention that a person intends, plans or conducts a 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 Air Quality Officer, and such study must be submitted to the Air Quality Officer before commissioning any contemplated, 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.

6. RIGHT OF ENTRY

- (1) An Authorized Official may -

- (i) Should any person breach any provision of this by-law and continue in default after receiving a written notice issued by any Authorized Official requiring him or her to abate such noise within a time to be specified in such notice, an Authorized Official may enter upon the premises on which such noise exists and take such steps as may be necessary to abate such noise at the cost of the person so offending, who shall also be liable to a prosecution for a contravention of these by-laws;
 - (ii) An Authorized Official may enter upon any premises at any time to investigate whether any breach of these by-laws has been committed;
- (2) Instruct, in writing, a person or persons causing a noise, or may in the opinion of the Authorized Official be a disturbing noise or noise nuisance, order the owner or occupant of a building, premises, vehicle from which or from where such noise emanates or may emanate, or all of such persons, to discontinue or cause to be discontinued such noise or to take steps to lower the level of such noise to a level conforming to the requirements of these by-laws within the period stipulated in the instructions.
- (3) Impound or cause to be impounded any animal if the owner or person in charge of such animal fails to comply with an instructions of the Authorized Official, subject to any applicable provisions or regulations of any other law.
- (4) Impose such appropriate conditions as it deems fit when granting any permission or exemption in terms of these regulations, including the specification of times and days when activities that may cause noise are permitted or prohibited.
- (5) Subject to the applicable provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of these regulations: Provided that road traffic signs and notices shall only be placed on private property with the permission of the owner.

7. OBSTRUCTION

Any person who fails or refuses to give access to an Authorized Official to enter upon and inspect any property in order to give effect to these by-laws, or obstructs or hinders such official in the execution of his or her duties under these by-laws, or who fails or refuses to give information which he or she may lawfully be required to give, or gives to such officer or official false or misleading information knowing it to be false or misleading, commits an offence.

8. INTERDICT

- (1) Any person who feels aggrieved by any contravention of or any failure to comply with any provision of these by-laws, shall have the legal capacity to apply to any competent court of law for a peremptory or prohibitory interdict in connection with the contravention of or failure to comply with such provision of this by-law.
- (2) Any interdict referred to in subregulation (1) may, in addition to being applied for against the occupier of any premises, also be applied for against any owner thereof.

- (3) Notwithstanding any other provision, a Magistrates Court will have jurisdiction to hear any such application or action.

9. GENERAL PROHIBITION

- (1) No person may –
- (a) Fail to comply with a written condition, written instruction, written notice, written requirement or written demand issued by an Authorized Official in terms of these regulations.
- (b) Tamper with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice placed in a position by or on behalf of the Council or an Air Quality Officer;
- (c) For the purposes of these by-laws, in respect of an Air Quality Officer, Council or an Authorized Official–
- (i) Fail or refuse to grant admission to such Air Quality Officer or Authorized Official to enter and to inspect a premises to give effect to these by-laws;
- (ii) Fail or refuse to give information which may be lawfully required of him or her to such Air Quality Officer, Council or an Authorized Official, in terms of these by-laws;
- (iii) Hinder or obstruct such Air Quality Officer, the Council or an Authorized Official in the execution of its duties in terms of these by-laws; or
- (iv) Give false or misleading information to such Air Quality Officer, the Council or Authorized Official knowing that it is false or misleading.

10. EXEMPTIONS

- (1) The provisions of these regulations shall not apply, if –
- (a) The emission of sound is necessary for the purpose of warning people of a dangerous situation;
or
- (b) The emission of sound takes place during an emergency.
- (2) Any person may by means of a written application, in which the reasons are given in full, apply to the Council concerned for exemption from any provision of these regulations.
- (3) The Council may -
- (a) Grant an exemption in writing and the condition, if any, in terms of which and the period for which such exemption is granted shall be stipulated therein;
- (b) Alter or cancel any exemption or condition in an exemption;
- (c) Refuse to grant an exemption.
- (4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by a local authority under subregulation (3): Provided that if activities are

commenced before such undertaking has been submitted to the local authority concerned, the exemption shall lapse.

(5) If any condition of an exemption is not complied with, the exemption shall lapse forthwith.

11. OFFENCES AND PENALTIES

(1) Any person who

- a) Contravenes or fails to comply with a provision of these by-laws or a direction issued 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 in terms these by-laws;

Is guilty of an offence and is on conviction liable to a fine of not exceeding R 40 000,00 or in default of payment to imprisonment for a period not exceeding 24 months.

12. RESTRICTION OF LIABILITY

No authorised employee of the State shall be liable in respect of anything done in good faith or in the exercise of a power or the performance of a duty conferred or imposed in terms of these regulations.

13. REPEAL OF PREVIOUS PROVISIONS

The previous provisions published under Local Authority Notice 414, dated 13 May 1992, are hereby repealed.

14. SHORT TITLE

These by-laws will be referred to as the *Steve Tshwete Local Municipality Noise By-laws, 2021*.

15. COMMENCEMENT

These by-laws shall come into operation on the date of publication hereof.

SCHEDULE FOR THE MAXIMUM DESIGNATED SOUND LEVELS

Part I to VIII are the designated maximum sound levels set by the local authority for those categories.

PART I**Maximum Permissible Designated Sound Levels for General Environment**

COLUMN 1 FACILITY	COLUMN 2	
	NOISE LIMITS dB (A) (Leq)	
	DAY	NIGHT
A. Any building used as hospital, convalescence home, home for the aged, sanatorium and institutes of higher learning, conference rooms, public library, environmental or recreational sites.	45	35
B. Residential buildings	50	35
C. Mixed residential (with some commercial and entertainment).	55	45
D. Residential + industry or small-scale production + commerce.	60	50
E. Industrial	70	60

Time Frame: use duration

Day	-	6.00 AM	-	10.00 PM
Night	-	10.00 PM	-	6.00AM

PART II**Maximum Permissible Designated Sound Levels (continuous or intermittent noise) from a Factory or Workshop**

Column 1	Column 2	Column 3
Leq dB (A)	Duration (Daily)	Duration (Weekly)
85	8 hours	40 hours
88	4 hours	20 hours
91	2 hours	10 hours
94	1 hour	5 hours
97	30 minutes	2.5 hours
100	15 minutes	1.25 hours
103	7.5 minutes	37.5 minutes
106	3.75 minutes	18.75 minutes
109	1.875 minutes	9.375 minutes

Noise Levels shall not exceed a Leq of—

- (i) Factory/Workshops 85 dB (A)
- (ii) Offices 50 dB (A)
- (iii) Factory/Workshop Compound 75 dB (A).

PART III

Maximum Permissible Designated Sound Levels for Construction Site

Column 1 Facility	Column 2 Maximum noise level permitted (Leq) in dB (A)	
	Day	Night
(i) Hospital, schools, institutions of higher learning homes for the disabled, etc.	60	50
(ii) Buildings other than those prescribed in paragraph (i).	75	65

PART IV

Maximum Permissible Designated Sound Levels for Public Announcement System or Device

Column 1 Noise Control Zone	Column 2 Sound Level dB (A) (Leq)	
	Sound Level dB (A) (Leq)	Sound Level dB (A) (Leq)
Residential	60	40
Commercial	75	50
Industrial	85	65

Time Frame:

Day - 6.00 AM - 10.00 PM
 Night - 10.00 PM - 6.00 AM

PART V

Maximum Permissible Designated Sound Levels for Places or Establishment of Entertainment

Column 1 Noise Control Zone	Sound Level dB (A) (Leq)	
	Day	Night
Residential	60	40
Commercial	75	50
Industrial	85	65

Time Frame:

Day 6.00 AM - 10.00 PM
 Night 10.00 PM - 6.00 AM

PART VI**Maximum Permissible Designated Sound Levels for Places or Areas of Worship**

Column 1	Column 2	
Noise Control Zone	Sound Level dB (A) (Leq) Day	Sound Level dB (A) (Leq) Day
Residential	60	40
Commercial	75	50
Industrial	85	65

Time Frame:

Day 6.00 AM - 10 PM
 Night 10:00 PM - 6.00 AM

PART VII**Maximum Permissible Designated Sound Levels for Accelerating Vehicles**

Column 1	Column 2
VEHICLES CATEGORY	MAXIMUM SOUND LEVEL IN dB (A)
1. Vehicles intended for carriage of passengers and equipped with not more than nine seats, including the driver's seat	78
2. Vehicles intended for carriage of passengers, and equipped with not more than nine seats, including the drivers seat and having maximum permissible mass of more than 3.5 tones:-	
a with an engine power of less than 150KW	80
b with an engine power of less than 150 KW	83
3. Vehicles intended for carriage of passengers and equipped with more than nine seats including the drivers seat: vehicles intended for carriage of goods:-	
a with a maximum permissible mass not exceeding 2 tonnes.	79
b with a maximum permissible mass exceeding 2 tonnes but not exceeding 3.5 tonnes.	80

4.	Vehicles intended for the carriage of goods and having a maximum permissible mass exceeding 3.5 tonnes.	
a	with an engine power of not less than 75 KW	81
b	with an engine power of not less than 75 KW but less than 1.50 KW.	83
c	with an engine power of not less than 150KW	84

PART VIII

Maximum Permissible Designated Sound Levels for Mines and Quarries

Column 1		Column 2
	FACILITY	LIMIT VALUE IN Db (C)
1.	For any buildings used as a hospital, school, convalescent home, old age, home or residential building.	109dB (C)
2.	For any building in an area used for residential and one or more of the following purposes. Commerce, small-scale production, entertainment, or any residential apartment in an area that is used for purposes of industry, commerce or small-scale production or any building used for the purpose of industry commerce or small-scale production.	114 dB (C)

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**APPLICATION TO CONDUCT AN
OPEN- AIR MUSICAL FESTIVAL/GATHERING/CEREMONIAL**

The following information needs to be completed:

Name of Event			
Location of Event / Venue			
Date / starting and end time of event (duration)			
Name of Applicant / Event Manager		Cell Number	
Physical address of Applicant or Event Manager			
Name of acoustic engineer **		Cell Number	
<p>**A qualified acoustic engineer or any qualified competent person , must at all times during the event, take and record the noise levels and hand a report containing the findings, to the Steve Tshwete Local Municipality within two (2) working days after the completion of the event. The engineers cost will be borne by the applicant.</p>			

THE FOLLOWING CONDITIONS MUST BE COMPLIED TO:

1. The noise level emitted from the property may not exceed _____ dBA.
2. The location of loudspeaker equipment should be taken into account in order to minimize noise emissions into the potentially noise sensitive areas.
3. The event should be advertised by means of leaflets or the media in order to inform the residents in the vicinity of the event.
4. Should you fail to comply with any of the above mentioned conditions, the consent will lapse.

____/____/20____

APPLICATION FOR EXEMPTION

The following information needs to be completed:

Full name:	
Physical address of Applicant:	
Cell Number:	
Full reasons for application for exemption:	

NOTE:

1. Should the application for exemption be granted, it shall not take effect before the applicant has undertaken, in writing, to comply with any and all conditions imposed by the Council.
2. Should any activities be commenced with before such an undertaking has been submitted to the Council, the exemption shall lapse.
3. If any further conditions of exemption are not complied with, the exemption shall lapse forthwith.