

GENERAL NOTICE NO. 67 OF 1997

THE MBABANE MUNICIPAL PARKING BYE-LAWS
(Under Section 77 of Act No. 8 of 1969)

It is hereby notified for general information that in exercise of the powers conferred by Section 77 of the Urban Government Act No. 8 of 1969, the City council of Mbabane has resolved to make the following Municipal Bye-Laws.

The Mbabane Municipal Parking Bye-Laws

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THE MBABANE MUNICIPAL PARKING BYE-LAWS

(Under Section 77 of the Local Government Act 8/1969)

A set of Bye –laws from the establishment and regulation of motor vehicle parking facilities by the City Council of Mbabane within the City of Mbabane and providing for matters incidental thereto and connected therewith in terms of powers conferred on it.

Part 1

Preliminary

Citation.

1. These Bye-laws may be cited at the Mbabane Municipal Parking Bye-laws, 1997.

Interpretation

2. In these Bye-laws, unless the context otherwise requires:
3. “Court” means the Magistrates Court as established in terms of Act No. 66 of 1938.

“Director of Public Prosecutions” means and includes the authorised prosecuting officers in the Directorate of Public Prosecutions exercising powers in terms of the provisions of the Constitution of Swaziland and any other relevant laws;

“Inspectors” means officer employed by the Local Government in terms of these Bye-laws.

“Local authority” means the Municipal Council established in terms of the provisions of the Local Government Act. No. 8 of 1969, responsible for the city of Mbabane;

“Magistrate Court” means the Court established in terms of Act No. 66 of 1938;

“Mbabane Municipality” means the area designated as such in terms of the provisions of the Local Government Act No. 8 of 1969;

“metered spaces” means the area for parking of motor vehicles declared and constituted by the Local Government for use as such in terms of these Bye-Laws, and at which parking metres are installed.

“Minister” means the Minister for Housing and Urban Development;

“Motorist” means any person using a motor vehicle under such circumstances or within such areas as are regulated in terms of these Bye-laws and shall include the owner, possessor for the time being, employee or any other person in control of the vehicle at an such given time; “motor vehicle” means any vehicle designed or adapted for propulsion or haulage on a road by means of any power (not being exclusively human or animal power) without the aid of rails, and includes any trailer of such a vehicle, but does not include a vehicle which is specially constructed for the use of a person who suffers from a physical defect or disability, and which is designed to carry only one person, whether or not at any given time such vehicle is capable of such propulsion or haulage.

“notice” means the document issued by an Inspector in terms of these Bye-laws;

“owner” shall include a person in charge of the vehicle as possessor, driver, owner’s employee, or user at the time of commission of an offence in terms of these Bye-laws;

“parking facility” means any such area or place established for purposes of the parking of motor vehicles by the public for payment of a fee to the Local Government, and includes metered spaces and parking stations;

“parking metre” means the device installed or placed on the side of a road or near any such space reserved for parking a motor vehicle within metered spaces the operation and use of which is to record the time spent by any motor vehicle within such metered space, and into which coins are inserted by motorists in payment of the charges prescribed by the Local Authority for the use of such metered space;

“parking station” means such parking facility as is designated as such in terms of these Bye-laws;

“parking zone” means such area of the Mbabane Municipality that the Local authority has declared and constituted as such in terms of these Bye-laws;

“permit” means the permit issued by the Local Authority in terms of these Bye-laws;

“police” means any member or members of the Royal Swaziland Police Force.

Application

3. These Bye-laws shall apply to such areas and regions as shall have been declared by the Local Authority to be parking zones within the Mbabane Municipality.

PART II

GENERAL

POWERS OF LOCAL AUTHORITY TO DECLARES AND CONSTITUTE PARKING ZONES

4. (1) The Local Authority may provide for the use by the public parking facilities within any area of the Mbabane Municipality over which it has authority.

(2) Without limiting Subsection (1), the Local Authority may declare and constitute any land, road, or portion of a road, as a parking station.

Boundaries of parking stations.

5. The Local Authority shall fix and alter the boundaries of areas for parking within the parking stations declared by it and shall have powers to regulate the use of such areas as extended, altered or re-constituted.

Parking Metres

6. The Local authority may install a parking metre within any road, portion of a road, or area that it shall have declared and constituted a parking zone, which shall be declared metered spaces.

Powers of Local Authority Regarding Parking Zones.

7. (1) Subject to the provisions of these Bye-laws and subject to the provisions of any other law, the care, control and management of all parking stations, metered spaces and parking metres established, provided or installed by the Local authority in terms of these Bye-laws within any parking zone, shall be vested in the Local Authority.

(2) The Local Authority may:

- (a) Provide, construct and maintain footways, overways and underways to facilitate the movement of pedestrians to and from parking stations;
- (b) Demand and recover such fees and charges as are prescribed for the use of any parking station, including prescribed fees on metered spaces;
- (c) Set aside and provide stands or parking spaces for the use of specified vehicles or classes of vehicles within parking zones upon such conditions as the Local authority may impose including payment of such fees as may be prescribed;
- (d) Lease to any person or persons, company or any undertaking, any parking station, or parking facility established in terms of these Bye-laws upon such terms and conditions as the Local Authority may impose;
- (e) Stipulate the days, hours and length of time during and for which parking stations, and metered spaces may be used; and
- (f) Permit the establishment of facilities for the supply of petrol, oil and other accessories at certain designated areas of the parking zones.

Permit for establishing Parking Station

8. (1) Subject to these Bye-laws, the Local Authority may issue a permit to any person, company, business or undertaking, for the establishment, operation and regulation of a parking station within a designated area of the parking zone, for the use by the public on payment of a fee.

(2) Application for the grant or renewal of a permit under Subsection (1) shall be made to the Local authority in such form and contain such particulars as the Local authority shall prescribe.

(3) The Local Authority shall impose such terms and conditions on the use of the permit as it shall deem appropriate, including:

- (a) the times during which the parking station may be used;

- (b) the length of time which vehicles may be parked in such station;
- © the number of vehicles that may be parked in the station;
- (d) the times at which vehicles may enter or leave the parking station;
- (e) the construction, paving, drainage, marketing, and maintenance of the Parking station;
- (f) the charges that may be prescribed by the permit holder for the use of the facility by the public

(4) Any condition specified in the permit may be varied from time to time by the Local Authority by notice in writing given to the permit holder, and thereupon such condition as so varied shall be deemed to be a condition specified in their permit.

Fee Payable by permit holders.

9. The Local Authority shall prescribe an annual fee payable to it by the permit holder upon the issue or renewal of a permit to establish and operate a parking station in terms of section 8.

Appeal to Minister.

10. (1) Where a person who applies for a grant or renewal of a permit in terms of Section 8 is dissatisfied with the Local authority's decision or the conditions imposed by it, such person may appeal to the Minister within thirty (30) days of receiving a notice of the decision of the Local Authority.
- (2) Such appeal shall be made to the Minister by a notice in writing a copy of which shall be served on the Local authority, setting out in full the grounds upon which it is based.
- (3) The Minister, after having sought and obtained written replies from the Local Authority, and, when he considers it necessary, hearing the appellant, shall have the power to uphold, reverse, or vary the decision of the Local authority, and his decision shall be final.

PART III

PARKING INSPECTIONS AND PARKING CONTROL

Parking Inspectors

11. (1) The Local Authority may create and administer such departments and appoint such Inspectors and other officers as the Local Authority considers necessary for purposes of exercising all or any of its powers and functions in terms of these Bye-laws.
- (2) The Parking Inspectors shall be the employees of the Local authority and the Local Authority shall regulate such employment and provide for necessary terms and conditions including:

- (a) Uniforms to be worn on duty;
- (b) Working hours;
- (c) Salaries and wages

Duties and functions of inspectors

12. An Inspector shall carry out all the duties relating to the regulation of the use of parking facilities within parking zones established in terms of these Bye-laws, including:
- (a) Directing traffic within the parking zone, except such stations as are controlled by persons issued with permits in terms of Section 8;
 - (b) Ensuring that fees payable by motorists utilising metered spaces and parking stations are paid;
 - © Enforcing parking times and other conditions attaching to the use of parking facilities by;
 - (d) Imposing fines and penalties for the non-observance of parking regulations;
 - (e) Collecting and remitting to the Local authority all monies paid in respect of parking fees, fines and penalties.

Police to Assist Inspector

13. An Inspector may request the assistance of members of the Royal Swaziland Police to assist him carry out his functions provided for in terms of these Bye-laws.

Powers of Inspectors

14. In addition to any other powers conferred upon an Inspector in terms of these Bye-laws, he shall have power:
- (a) To investigate a contravention of any provisions of these Bye-laws and take all steps necessary for the prosecution of the offender.

Provided that the prosecution shall be in the Magistrates court for the District in which the offence has been committed and shall be conducted by the office of the director of Public Prosecutions.
 - (b) To demand from the owner or possessor of any motor vehicle, or any other person connected with the vehicle, the full identity and particulars of the driver or person in charge of the motor vehicle at the time an offence was committed in respect of the driving of such vehicle within the parking facility.
 - © At all times where the Inspector deems it necessary:
 - (i) To direct any person not to cause or permit a vehicle to stand in any parking station or metered space;
 - (ii) To direct the owner or driver of a vehicle standing in a parking station or metered space to remove the vehicle from that station or space;

- (iii) Where no person appears to be in immediate charge of the vehicle so standing, himself to remove the vehicle from the station or space.
- (iv) To immobilise by use of any appropriate device any motor vehicle parked or used by any person in contravention of these Bye-laws so as to secure its detention and ensure that it remains in that place until the user thereof presents himself to the Parking Inspector for purposes of being dealt with by the Inspector in terms of the powers conferred upon him herein.

Motorists to give information required by Inspector.

15. (1) An owner, driver, possessor, or any person in charge of a vehicle in respect of the driving or use of which an Inspector alleges an offence has been committed in terms of these Bye-laws shall, when required by the Inspector, furnish the names, addresses and any other particulars of the driver of the motor vehicle or person who was in control of it at the time the offence was committed.

(2) If the Inspector is unable to obtain the information, or if the possessor or the person in charge of the vehicle does not give sufficient information to the Inspector when he requires it, the Inspector shall leave a notice in or on the vehicle, whereupon the owner of the vehicle shall be presumed to be the person who committed the offence in the course of the driving of such vehicle.

(3) If the Inspector is able to obtain the full names and addresses of the owner of the vehicle, he shall send the Notice to such owner at such address obtained.

(4) The Notice referred to in subsection (2) shall;

- i) Be in the form prescribed in the Schedule hereto;
- ii) Where such details are available to the Inspector, contain the full names and postal address of the owner of the vehicle;
- iii) Where particulars of the owner are not available to the Inspector, be addressed to the "owner"
- iv) Contain the full particulars of the offence alleged to have been committed;
- v) Specify the amount of the penalty imposed for the offence alleged to have been committed;
- vi) Where it is sent to the owner's postal address, be sent by registered post

(5) The owner to whom the Notice is sent by post or in or on whose vehicle the notice is placed, whichever is the case, shall be liable to pay the amount of the penalty specified in such Notice, unless;

- i) Within twenty one (21) days of the date on which the Notice was posted or left in or on the vehicle, furnish to the Local Authority or the Inspector the full names and address of the person in whose possession or control the vehicle was, or who was driving it at the time the offence was committed; or
- ii) He advises the Local authority or the Inspector that his vehicle was stolen from him during or about the time of the commission of the offence, giving the date and other particulars relating to his report of such theft to the royal Swaziland Police.

Penalty recoverable as a debt.

16. Where the penalty referred to in Section 15 is not paid within thirty (30) days after a Notice was posted or placed in or on the vehicle during the driving of which an offence was committed, and where none of the explanations in 15(5)(i) and (ii) are advanced, the Local authority shall recover the amount from such owner by issuing Summons against such owner out of the Magistrates Court for the district where the offence was committed, whereupon such amount shall be deemed to be a debt owed to the Local Authority.

Offences

17. (1) No person, other than the Local authority or a person permitted by it in terms of Section 8 may:

- (a) Declare or set aside any land, road, portion of a road, within the area under the control of the Local authority as a parking zone or parking facility of any kind for the use by the public on payment of a fee;
- (b) Install parking metres on any land, road or portion of a road or ground within the control of a Local authority, where, by use of such metres the public shall be charged a fee for parking vehicles.

- (2) Any person who contravenes any of these Bye-laws shall be committing an offence and upon conviction, shall be liable;

- (a) To a fine not exceeding E100 or, in default of payment, imprisonment For a period not exceeding six months; or
- (c) Imprisonment for a period not exceeding six months; and
- © in the case of a continuing offence, to a further fine not exceeding E100.00, or in default of payment thereof, to imprisonment for a period not exceeding six months, for every day during which the offence is continued after a date set by the Court.

Provided that half of the amount paid as fines imposed in terms hereof shall accrue to the Local Authority in terms of the provisions of Section 86 of the Urban Government Act No. 8 of 1969.

PART IV

MISCELLANEOUS

Vehicles exempted from parking fees

18. The vehicles listed in the Schedule hereto shall be exempted from paying the prescribed parking fees.

Forms and prescriptions

19. By a Schedule attached to these Bye-laws which may be amended from time to time by a notice published I the Government Gazette, the Local authority shall;

- (a) Prescribe fees payable for use of any parking facility established in terms of these Bye-laws;

- (b) Define the parking stations, metered spaces and the extents and boundaries thereof;
- (c) Prescribe charges payable to it by persons issued with permits to establish parking stations;
- (d) Specify days, times and periods during which any parking facility established in terms of these Bye-laws may be used for parking of motor vehicles;
- (e) Specify speed at which and the manner in which vehicles may be driven in and within parking stations;
- (f) Specify the types and classes of motor vehicles permitted to utilise any parking facility;
- (g) Prescribe the method by which fees prescribed for the use of any parking facility may be paid to it;
- (h) Prescribe any form to be used in terms of these Bye-laws;
- (i) Provide a method by which, and place to which, a vehicle may be moved by an Inspector when it is required not to stand in any area for parking regulated in terms of these Bye-laws;
- (j) Prescribe the charges payable to it by the owner of the vehicle that shall have been moved by an Inspector from the parking facility, including the costs of such removal.

Proof of certain matters not required

20. (1) In any prosecution proceedings instituted in terms of these Bye-laws, and unless evidence is produced to the contrary, it shall not be required that the Local Authority prove that;
- (a) A parking zone was duly constituted, extended or reconstituted;
 - (b) An Inspector was duly appointed;
 - (c) An Inspector had the authority to exercise any function under these Bye-laws;
 - (d) A parking station or metered space, was duly established or provided
- (2) in the event that such proof is required, the production of a copy of the Government Gazette containing these Bye-laws and Schedule shall be sufficient evidence of the existence thereof and that its contents are of full force and effect, and shall be accepted by the Court as conclusive proof of the matters the Local authority shall be required to prove in terms of Section 20(1).
- (3) The notice issued by an Inspector shall constitute prima facie evidence of the commission of the offence set out in such notice.

Compensation to owner of vehicle

21. The Local Authority shall be liable to pay any owner of a vehicle for damage caused to his vehicle by the negligent act of an Inspector in the course of removing such vehicle from a parking facility in terms of Section 14.

Provided that the Local Authority shall not be liable to pay such damages unless the owner lodges a claim not later than the expiry of ninety (90) days after such damages shall have arisen.

Provided further that no Summons shall be issued against the Local authority for such a claim unless after the expiration of a period of ninety (90) days after a formal letter of demand is sent to the Local authority by registered post, or in any event, after the expiration of a period of two (92) years after the damage shall have arisen.

SCHEDULE

Exempted Vehicles

1. Registered ambulances;
2. Vehicles bearing diplomatic registration
3. Fire and Emergency Vehicles
4. Vehicles driven by registered Medical Doctors on emergency medical attendance.

(Under Act 8 of 1969)

DECLARATION OF MBABANE MUNICIPAL PARKING FACILITIES SCHEDULE 2011 (UNDER Parking Bye-Laws of 1997)

In exercise of the powers conferred by Section 19 of the Mbabane Municipal Parking Bye-Laws, 1997, the Mbabane Local Authority issues the following Schedule:

Citation and Commencement

1. (1) This schedule may be cited as the Declaration of Mbabane Municipal Parking Facilities, Schedule 2011.

(2) This schedule shall come into force after sixty (60) days from the date of publication in the Gazette.

Declaration of parking facilities

2. The following streets and areas are declared as parking facilities:

- (a) Sheffield Road from Mbabane River to the end of Industrial Site
- (b) Siguca Crescent
- (c) Mahlokohla Street, from traffic circle to Zwide Street
- (d) Betfusile Street
- (e) Mdada Street from Polinjane River to Betfusile Street
- (f) Dabede Street from Gwamile Street to Zwide Street
- (g) Msakato Street
- (h) Gwamile Street
- (i) Dzeliwe Street
- (j) Zwide Street
- (k) Libandla Street
- (l) Makhosini Drive
- (m) Somhlolo Street opposite Lilunga House
- (n) Madibhane Street
- (o) Mandela Street;

3. A parking facility shall be marked with a white line, and a green line which shall mark the edge of the parking facility.

Parking times and periods

4. (1) For purposes of this Schedule, the parking times and periods are from 7.00am to 6.00pm on Mondays to Fridays, and from 7.00am to 3.00pm on Saturdays.
- (2) Subsection (1) shall not apply on Public Holidays and Sundays.

Parking fees

5. (1) A Motorist who parks a motor vehicle at a parking facility shall pay to the Parking Inspector a fee of Two Emalangeni and fifty cents (E2.50) per half an hour or Thirty Emalangeni (E30.00) for the whole day in respect of each parking facility occupied by such a motor vehicle.
- (2) The Parking Inspector shall issue to a motorist who pays for a parking facility a parking ticket or card to be displayed on the dashboard of the motor vehicle which occupies the parking facility.
- (3) A motorist whose motor vehicle occupies more than one parking facility shall pay the fees reflected in sub-section (1) in respect of each parking facility occupied by such a motor vehicle

- (4) A motorist who parks a motor vehicle longer than the period paid for, shall pay the accumulated fee in accordance to sub-section (1).

Clamping of motor vehicle

6. A parking Inspector may clamp a motor vehicle to ensure the collection of the parking fee and the penalty prescribed in section 5 (1) and (4).

Offenses

7. A person who:
- (a) Unlawfully damages or removes a clamp from a clamped motor vehicle;
 - (b) Removes a clamped motor vehicle without the authority of the Parking Inspector;
 - (c) Parks a motor vehicle inappropriately in such a manner that such motor vehicle occupies more than the parking facility paid for;
 - (d) Unlawfully removes an impounded motor vehicle from a waiting or detention facility; and
 - (e) Who obstruct a Parking Inspector in the exercise of the powers under this act –

Commits an offence and shall be liable on conviction to a fine not exceeding one hundred Emalangeni or imprisonment for a period not exceeding six months.

Towing, impounding of motor vehicle and damages

8. (1) Where a parking fee and penalty due have not been paid by 7.00pm. on the day on which it has been incurred, the Parking Inspector or agent shall tow the motor vehicle and impound it in a waiting or detention facility pending payment of such parking fee, penalty, towing and storage charge.
- (2) Towing and Storage charges for an impounded motor vehicle shall be paid by the owner of such motor vehicle,
- (3) Unless negligence is established, the Local Authority or agent of the Local Authority shall not become liable for damages incurred during normal vehicle towing, clamping or storage.

Disposal of unclaimed motor vehicles

9. (1) Where a motor vehicle has not been claimed after a period of seven days, the Local Authority shall advertise in the local newspaper its intention to dispose of such motor vehicle through public auction.
- (2) Where a motor vehicle has not been claimed after a period of fourteen days from the date of the publication of the first advertisement the Local Authority shall apply for a Court Order to dispose of the motor vehicle in terms of subsection (1).

Speed at which a motor vehicle may be driven in and within parking facility.

10. A person shall drive a motor vehicle within the driving speed permitted in parking facility.