

LOCAL GOVERNMENT ACT
(Cap. 40:01)

JWANENG TOWN COUNCIL (NUISANCE CONTROL) BYE-LAWS, 2015
(Published on 19th June, 2015)

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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SCHEDULE

IN EXERCISE of the powers conferred by sections 44 and 45 of the Local Government Act, and after consultation with the community living within the council area, and with the approval of the Minister of Local Government and Rural Development, the Jwaneng Town Council hereby makes the following Bye-laws —

1. These Bye-laws may be cited as the Jwaneng Town Council (Nuisance Control) Bye-Laws, 2015. Citation

2. In these Bye-laws, unless the context otherwise requires — Interpretation

“Abatement notice” means a written legal communication to a violator requiring the stoppage of a nuisance with immediate effect or placing restrictions on when and how long an activity can occur or place other restrictions as necessary;

“musical instrument” includes a wireless, loudspeaker, record player, amplifier or any similar device;

“noise licence” means the written permission issued by the Council, with or without conditions;

“nuisance” means any disturbance that materially interferes with another person’s enjoyment of his or her own home or habitation and it may be experienced by one person or group of persons in a neighbourhood; and

“undesignated area” means an area designated by the Council as an area where the issue of a noise licence is likely to cause disturbance or nuisance to the premises in the neighbourhood.

3. (1) A person shall not make, cause or allow to be made any disturbance which causes nuisance in the enjoyment of another’s premises or neighbourhood. Nuisance prohibited

(2) In determining whether an activity causes nuisance the following factors may be considered —

- (a) the time of day;
- (b) duration;
- (c) location;
- (d) frequency;
- (e) loudness; and
- (f) type of noise or disturbance.

(3) The following activities may constitute a nuisance —

- (a) noise;
- (b) odour;
- (c) smoke from bonfires; or
- (d) any other activity which may be deemed by the Council to be falling within sub bye-law (1).

Restriction on operating sound systems

4. (1) A person shall not in the township —

- (a) operate, cause or permit to be operated any musical instrument to the annoyance of the inhabitants of any premises in the neighbourhood; or
- (b) operate, cause or permit to be operated any musical instrument for the purpose of advertising on or adjacent street,

without the written permission of the Council or any authority delegated so by the Council for the purpose.

(2) Any person who contravenes the provisions of this bye-law commits an offence.

Restriction on certain loud noise, disturbances and other activities

5. (1) A person shall not —

- (a) operate or cause or allow the continuous hooting of a vehicle horn, or use of a siren from the person's vehicle or his or her visitor vehicle parked next to their premises to the annoyance of other occupants adjacent thereto or nearby;
- (b) after being requested to stop the noise by a law enforcement officer by a way of an abatement notice, or police officer or by an inhabitant of the neighbourhood so annoyed or whose rest, peace or tranquillity has been disturbed or interfered with, continue to make any loud or unseemly noise or disturbance by —
 - (i) shouting, screaming or yelling, or
 - (ii) blowing upon a horn, or other instrument or beating upon any drum,

so as to annoy or disturb or interfere with the rest, peace and tranquillity of the inhabitants of the neighbourhood;

(c) in a street or other public place —

- (i) continue to ring any bell, sound any horn, blow any whistle, use any noisy instrument or shout, or play loud music or loud speaker in his or her motor vehicle, or
- (ii) continue to hawk, sell or distribute any article or thing,

to the disturbance or inconvenience of any person using the street or other public place after having been requested to desist by a law enforcement officer by way of abatement notice, or by a police officer or by the person so annoyed, disturbed or inconvenienced; or

- (d) for the purpose of carrying on any business, trade or industry involving the use of machinery which by the noise created by the machine constitutes a nuisance or disturbs the comfort or peace of the inhabitants or a section of the inhabitants of the township between the hours of 6pm and 8am, or on a Sunday or on any public holiday.

(2) Any person who contravenes the provisions of this bye-law commits an offence.

6. (1) A person may make an application to the Council, seeking authorisation to carry out activities under bye-laws 3, 4 and 5.

Application for noise licence

(2) The Council may, where it considers expedient, necessary and not against public interest, issue the applicant under sub bye-law with a noise licence.

(2) An application under sub bye-law (1), shall be made in Form A set out in the Schedule and be accompanied by an application fee of P40.

(3) The Council may, upon receipt of an application form under sub bye-law (1) —

- (a) issue a licence on such conditions as may be provided in the licence; or
(b) refuse an application.

(4) The Council may refuse to issue a licence where it is satisfied that —

- (a) the applicant has been convicted of an offence under these Bye-laws;
(b) the conditions of the licence have not been complied with;
(b) the issue of a licence is likely to cause nuisance; or
(c) the information provided in the application form is insufficient.

(5) A noise licence shall not be issued to a person who intends to make or cause making of noise in an undesignated area.

(6) Where a person violates the conditions of a noise licence, he or she shall not be eligible for issuance of a new and subsequent noise licence within 72 hours.

7. (1) Where an application under bye-law 6 is approved, the Council shall issue a noise licence in Form B set out in the Schedule.

Issue of licence

(2) A noise licence shall be issued in accordance with the following times —

- (a) 8am to 6pm; or
(b) 6pm to 12 midnight only.

(3) The Council shall extend hours of the noise licence under sub bye-law (2) upon application by the applicant.

8. (1) A person shall not operate, cause or harbour any material substance or waste that emits a foul or strong or noxious odour or smoke from a bonfire in their premises to the disturbance of other inhabitants of the neighbourhood.

Odour and smoke control

(2) Any person who contravenes this bye-law shall be issued with an abatement notice by a law enforcement officer and required to remove the material, substance or waste so complained of or to stop the smoke.

(3) The abatement notice shall specify the period within which such odour emitting material substance or waste should be removed.

(4) A person who contravenes the provisions of this bye-law commits an offence and is liable to a fine not exceeding P300.

Abatement notice	<p>9. (1) A law enforcement officer shall issue an abatement notice for any violation or offence under these Bye-laws which shall specify —</p> <ul style="list-style-type: none"> (a) the violator’s full names and address; (b) the nature of the offence and time of the occurrence of the offence; (c) corrective steps or instructions; or (d) any restrictions. <p>(2) Any person who contravenes an abatement notice commits an offence and is liable to a fine not exceeding P1 000.</p>
Power to confiscate	<p>10. A police officer or a law enforcement officer may confiscate any musical instrument or similar device used in contravention of the provisions of these Bye-laws.</p>
Appeals	<p>11. Any person aggrieved by any decision of the Council under these Bye-laws may appeal in writing, to the Minister within 14 days of notification of that decision.</p>
Offences and penalties	<p>12. Any person who commits an offence under these Bye-laws for which no other penalty is provided for is liable to a fine —</p> <ul style="list-style-type: none"> (a) in the case of an individual, not exceeding P150, or to imprisonment for a term not exceeding 21 days, or to both and for a second or subsequent offence, to a fine not exceeding P300 or to imprisonment for a term not exceeding two months or to both; and (b) in case of body corporate or an unincorporated body, not exceeding P1 000.

SCHEDULE

FORM A

APPLICATION FOR NOISE LICENCE
(bye-law 2, 6 (2), 6 (5) and 6 (7))

JWANENG TOWN COUNCIL (NUISANCE CONTROL) BYE-LAWS

Particulars

1. Name of the company/applicant
2. Age.....
3. Postal Address.....
4. Physical Address.....
5. Telephone Numbers(Work)
.....(Home)
.....(Cell)
6. Identity Number..... Passport

Details of Activity

1. Type of Activity.....
.....
.....
.....
2. Venue or place of activity
3. Date: from.....to.....
4. Time: from.....to.....

I,(Name of Applicant), certify that the information given in this application form is true to the best of my knowledge and belief.

.....
Signature of Applicant

.....
Date

FORM B
NOISE LICENCE
(bye-law 7)

JWANENG TOWN COUNCIL (NUISANCE CONTROL) BYE-LAWS

(Ref. application No. Dated 20))

The applicant:..... (Full Names) is hereby issued with a Noise
Licence to engage in.....
.....(Description of Activity)

Venue or place of activity

Times Approved(Start)
.....(End)

Conditions (if any) applicable

(Filled in by Law Enforcement Officer)

Council Stamp.....

Date of issuance.....

Law Enforcement Officer.....

MADE this 6th day of May, 2015.

DICK KALANTLE,
Council Secretary,
Jwaneng Town Council.

APPROVED this 4th day of June, 2015.

SLUMBER TSOGWANE,
Minister of Local Government and
Rural Development.