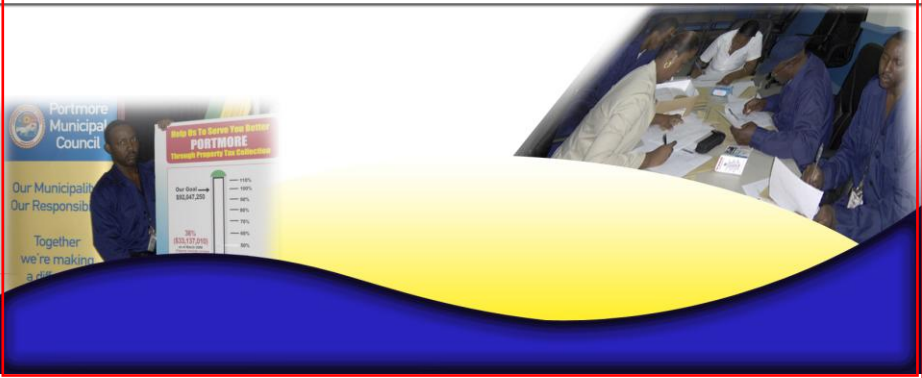


# PORTMORE MUNICIPAL COUNCIL



A Pocket Guide for:

Compliance and Enforcement  
in Portmore



## Acknowledgements



Special thanks to all those who contributed:

Enforcement Department



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## **Introduction**

This booklet was prepared by Compliance of Enforcement Department in an effort to guide the Municipal Officers as well as residents of Portmore.

## **Beach Control Act (1956)**

### **Beach Control (Amendment) Act (2004)**

The Beach Control Acts and Regulations ensure the proper management of Jamaica's coastal and marine resources by a system of licensing of activities on the shoreline, and other rights associated with Control Acts and Regulations are administered by the Natural Resources Conservation Authority/National Environment and Planning Agency.

The Act makes it an offence to:

SEC	OFFENCE	PENALTY
5	Encroach on or use the foreshore or floor of the sea or a public or commercial purpose, trade, business or commercial enterprise without a licence.	IMP 1yr w/out HL or \$500,000. In default : IMP 1year w/or or w/out HL or both fine and IMP
7(5)	Conserve, protect or rehabilitate protected area without licence	\$500,000
52(4)	Prevent any member of the public who is behaving in a proper manner from entering or using public recreational beach or adjoining lands	\$500,000 or IMP 6 mths w/HL
	Charge more than prescribed fee to enter public recreational beach	\$500,000
	Eject paying member of the public from beach for reason other than misconduct	\$500,000
	Annoy paying member of public to the extent that they leave beach	\$500,000

## The Country Fires Act (1942)

The Country Fires Act is designed to Control and prevent the occurrence of fire which may be harmful to the surrounding environment. The Country Act is administered by the Ministry of Agriculture.

SEC	DESIGNATED PERSONNEL	POWER
14	“Agricultural Warden” means any such person appointed under the Praedial Lerceny (prevention) Act; or agriculture extension officer of RADA or under the forest Act.	Enter land containing fire or where it may spread to extinguish or prevent spread of fire Call on all able –bodied males within reasonable distance of fire to assist in extinguishing or preventing

SEC	OFFENCE	PENALTY
3	Set fire to any crop except sugar cane to get rid of vines or pests	\$40 or IMP 3 mths w/or w/out HL
4	Set fire to trash without serving officer of nearest police station and occupiers of adjoining land with notice or fails to clear open space around trash.	\$40 or IMP 3 mths w/ out w/out HL
5	Set fire to trash between 6 p.m. and 6 a.m. Leave open-air fire unattended.	\$40 or IMP 3 mths w/ out w/out HL
7	Knowingly give false information or make false statements to obtain permit.	\$40 or IMP 3 mths w/ out w/out HL
8	Set a fire contrary to order not to set fire or permit.	\$40 or IMP 3 mths w/ out w/out HL

<b>SEC</b>	<b>OFFENCE</b>	<b>PENALTY</b>
9	The Act provides an exemption to set fire for eradicating diseases designated by Ministry of Agriculture and for any lime or charcoal kiln.	\$40 or IMP 3 mths w/ out w/out HL
11(12)	Failure by occupier of land to take reasonable steps to extinguish fire on his land.	\$40 or IMP 3 mths w/ out w/out HL
12	Carry insufficiently protected lit torch or material in/adjoining plantation.	\$40 or IMP 3 mths w/ out w/out HL
13	Negligently uses manage fire. Smoke pipe, cigar cigarette to endanger property or plantation.	\$40 or IMP 3 mths w/ out w/out HL
15(2)	Aid or abet the commission of an offence against Act.	\$40 or IMP 3 mths w/ out w/out HL

## The National Solid Waste Management Act (2001)

The National Solid Waste Management Act provides for the management of solid waste in an environmentally sound manner. This Act repeals the Litter Act, 1985. The National Solid Waste Management Act is administered by the National Solid Waste Management Authority.

SEC	DESIGNATED PERSONNEL	POWERS
21(a)	Inspector appointed by the National Solid Waste Management Authority.	Enter and inspect disposal facility
39(2)	Person authorized by the NSWMA	Enter premises to carry out work under a licence
53(2)	“Authorized officer” means Traffic Warden; Authorized officer under Marine and National Park Regulations or person authorized by the Minister or the NRCA; Public Health Officer; member of JCF or ISCF; person designated as Authorized Officer by NSWMA; Inspector.	Serve fixed penalty notice
55(6)	Officers servants of the Authority.	Enter premises and remove litter or restore premises
57(2)/ 59(1)	Authorized Officer.	Ensure cessation of activities to comply with cessation/enforcement notice
63	Authorized Officer.	Enter at reasonable time premises of solid waste disposal operation and inspect books, seize and detain equipment or articles used in contravention of Act
64	Authorized Officer.	May seize and detain vehicle article, device or apparatus, on reasonable suspicion of use in commission of offence

It is an offence to:

<b>SEC</b>	<b>OFFENCE</b>	<b>PENALTY</b>
42(6)	Fail to comply with directions for receptacles for the storage of waste.	\$100,000 and/or IMP 9 mths
42(7)	Interfere with, destroy or damage solid waste receptacle	\$1,000,000
44	Unlawfully remove waste from disposal facility or place under the Authority's control. Interfere/tamper with disposal facility or place where solid waste is stored by the Authority.	\$500,000 and/or IMP 6 moths
45	Dispose of solid waste in an unauthorized area or manner. Operated solid disposal facility or collect, transfer/ manage solid waste without valid operating licence/certificated. Impede collection or disposal of solid waste.	
46	Throw, drop, leave or deposit litter in public place Erect, display, affix or deposit anything in public place or on a public building/wall/fence to cause defacement.	Prescribed Fixed Penalty \$2,000 \$3,000
47	Throw, drop, or deposit litter on another's persons premises without consent.	Prescribed Fixed Penalty \$5,000
48	Wilfully break bottle/glass in public place without lawful authority or reasonable excuse.	Prescribed Fixed Penalty \$5,000
49	Make false/misleading statement/declaration/document to authorized person to get licence.	\$1,000,000 and/or IMP 1yr

EC	OFFENCE	PENALTY
50(1)a	Obstruct an authorized officer in the execution of duty.	\$500,000 and/or IMP 6mths
50(1)b	Fail to comply with a requirement made by an authorized officer.	\$500,000 and/or IMP 6mths
50(1)c	Fail to disclose the true name and address to an authorized officer	\$500,000 and/or IMP 6mths
50(1)d	Impersonate an authorized officer.	\$500,000 and/or IMP 6mths
50(1)e	Assault/threaten/intimidates/records under the Act.	\$500,000 and/or IMP 6mths
51(a)	Fail to keep books, documents/records under the Act.	\$500,000 and/or IMP 6mths
51(b)	Fail to produce such books, documents or records at the request of an authorized officer.	\$500,000 and/or IMP 6mths
55(5)	Fail to comply with notice to remove litter left on any public place or private premise.	\$100,000
58(3)	Fail to comply with a notice requiring information from an owner or operator of any sewage treatment plant, industrial waste treatment facility or any other treatment facility that generates sludge on: The performance of solid waste disposal facility. Quantity, type and condition of solid waste handled. Quantity, quality and method of treatment and disposal of leachate and other waste.	\$500,000; or IMP 6mths in default
59(6)	Fail to comply with an enforcement notice to discontinue a specific offending activity and for taking the required steps to ameliorate the effect of such activity and restore if possible.	\$1,000,000 and/or IMP 1yr

68(2)	Fail to comply with the regulations governing solid waste management.	\$500,000 and/or IMP 6mths
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### Definitions

**Litter**” means solid waste in any public place and includes any refuse, rubbish, bottles, glass, debris, dirt, rubble, ballast, stones, noxious or contained substances or waste matter or any other matter likely to deface, make untidy, obstruct or cause a nuisance in a public place

**“Solid waste”** includes medical and hazardous waste and: a) refuse or sludge from a waste treatment facility, water supply plant, air pollution control facility and garbage; b) solid, semi-solid or contained gaseous or liquid matter resulting from industrial, commercial, mining or agricultural operations or required by law, to be disposed of **but does not include** i) animal manure and absorbent bedding used for soil enrichment; ii) suspended solid or dissolved material in sewage; and iii) industrial discharges from pipeline conveying such **waste**.

**“Public Place”** includes a) every public highway, street, road, square, court, alley, lane, bridle way, footpath, parade, wharf, jetty quay, bridge, sidewalk, verge b) public garden, park, or open space, theatre, stadium, place of public entertainment of any kind c) beach, foreshore, bank of river, or stream, lake, pond, lagoon, gully etc... any other open space without payment of a fee.

## The National Solid Waste Management (Public Cleanliness) Regulations (2003)

The Regulation makes it an offence to:

SEC	OFFENCE	PENALTY
3(2)	Fail to comply with a requirement to state the name, and address and produce proof of identity for inspection when served with and produce proof of identity for inspection when served with a fixed penalty notice by an authorized officer	\$50,000

### Definitions

A “**fixed penalty notice**” is a prescribed notice in writing offering the discharge of any liability to conviction by fixed payment.

## **The Natural Resources conservation Authority Act (1991)**

The Natural Resources Conservation Authority Act provides for the management, conservation and protection of the natural resource of Jamaica. The Act also addresses sewage and trade effluent discharges as well as air emissions. The Natural Resources Conservation Authority (NRCA) Act is administered by the Natural Resources Conservation Authority/National Environment and Planning Agency.

<b>SEC</b>	<b>DESIGNATED PERSONNEL</b>	<b>POWERS</b>
13(3) 18(6)	A member of the JCF authorized by the Minister.	Use force to ensure compliance with cessation order/enforcement notice.
20(1)	Any person duly authorized by the Natural Resources Conservation Authority.	Enter premises at reasonable times to ensure compliance with NRCA Act or other laws pertaining to the protection of the environment

The Act makes it an offence to:

<b>SEC</b>	<b>OFFENCE</b>	<b>PENALTY</b>
9(2)	Undertake a development, construction or enterprise without permit or not in accordance with the terms and conditions of the permit.	\$50,000 or IMP 2 yrs and/or IMP 1 yr in default <u>Continuing offence:</u> \$3,000per day
10(4)	Refuse/fail to submit an EIA.	\$30,000
12(1)	Without, or not in compliance with a licence:	\$50,000 or IMP 2 yrs and/or IMP 1 yr in default <u>Continuing offence:</u> \$3,000per day
13(3)	Hinder or obstruct a member of the JCF from ensuring compliance with a cessation order as ordered by the Minister.	\$10,000 or IMP 1yr
15(2)	Refuse or fail to comply after service of a notice to abstain from agricultural practice.	\$20,000 or IMP 2 yrs and/or IMP 1 yr in default <u>Continuing offence:</u> \$3,000per day
16(4)	Obstruct authorized person in exercise of power	\$10,000 or IMP 1yr
17(2)	Fail to comply notice in writing requiring information on: Performance of facility. Quantity and condition of discharged effluent. Area affected by effluent discharge	\$20,000 or IMP 2 yrs and/or IMP 1 yr in default <u>Continuing offence:</u> \$3,000per day
18(4)	Allow the continuation of an offending activity while an enforcement notice is in affect or after an appeal has been dismissed.	\$50,000 or IMP 2 yrs and/or IMP 1 yr in default <u>Continuing offence:</u> \$3,000per day
32(4)	Contravene provision of order of the Minister.	\$10,000 or IMP 1yr
32(5)	Contravene provision of order of the Minister.	\$50,000 or IMP 2 yrs and/or IMP 1 yr in default <u>Continuing offence:</u> \$3,000per day

Under section 37 prosecutions for offence under this Act should commence without one year from discovery of the offence.

The Authority may serve an enforcement notice where an activity may pose a serious threat to natural resources or to public health specifying the offending activity and requiring that:

This be rectified to ameliorated the effect of the activity; or

The natural resources be restored to their condition before the activity took place; or

The offending activity be stopped immediately

An Enforcement Notice should specify the period within which an appeal may be

An enforcement notice remains in effect during the process of appeal.

The Authority may issue a cessation order in writing to such person directing him to cease the activity in respect of which a permit, licence, or environmental impact assessment, as the case may be, is required.

## The Public Health Act (1985)

The Public Health Act provides the protection of public and environmental health, waste management and pollution control. The Public Health Act is administered by the ministry of health through Local Boards, namely the Kingston and St. Andrew Council and the Parish Councils for the other parishes.

<b>SEC</b>	<b>DESIGNATED PERSONNEL</b>	<b>POWERS</b>
20	Medical Officer (health): any medical practitioner appointed by the Governor-General or any other person authorized in writing by the Minister or by a Local Board	Enter any premises at a reasonable time to ensure compliance with the Act and take any necessary action to protect public health

The Act makes it an offence to:

SEC	OFFENCE	PENALTY
18()	Attend, promote, aid or assist in the promotion of any prohibited assembly	\$2,500; IMP 3mths in default <u>continuing offence</u> : \$12,500 for each 6 mths non-payment
18()	Refuse to disperse from a prohibited assembly Fail to comply with an order closing any public place or school	\$2,500; IMP 3mths in default <u>continuing offence</u> : \$12,500 for each 6 mths non-payment
19()	Fail to comply with an order closing any public place or school	\$50,500; IMP 6mths in default <u>continuing offence</u> : \$12,500 for each 6 mths non-payment
22	Assault or obstruct a medical officer (health) or authorized person in the pursuance of his duties Failing to give required information or knowingly providing false information	\$2,500 or IMP 1yr <u>continuing offence</u> : \$12,500 for each 6 mths non-payment

## The Public Health (Nuisance) Regulations (1995)

The Regulations makes it an offence to:

SEC	OFFENCE	PENALTY
6	Fail to comply with a notice within a reasonable time requiring a person to: <ul style="list-style-type: none"> <li>a) abate a nuisance or</li> <li>b) perform such act to prevent the recurrence of nuisance</li> </ul>	\$2,000 or IMP 1 yr

The Resident Magistrate can order that any money spent by the designated agency in abating or clearing up the nuisance can be recovered via a civil suit.

A nuisance is defined as:

- A building or structure, which is or likely to become a health hazard due to structural defects or unsanitary conditions.
- Premises or other place where unsanitary conditions are or is likely to become a health hazard.
- Accumulation or deposit of solid waste, human or animal excreta.
- Dust, smoke, fumes, gasses or effluvia emitting from any manufacturing process or caused from any trade or business.
- An animal kept in a manner as to become hazardous to health.
- A carcass of any animal that is not buried or destroyed within twenty-four hours of death.
- A tree, bush or structure that interferes with the flow of air or sunlight into any building or premises.
- Lack of water or water supply system.

- Water supply system that or not maintained in a sanitary condition.
- Wasting of water from the tap, pipe or pump or any other device from which water is obtained.
- Accumulation of stagnant water.
- Any sanitary convenience that is so designed located or kept which is or is likely to become a health hazard.
- Infestation of flies, fleas, cockroaches, lice, rats, mosquitoes, mosquito larvae and vermin on any premises.
- Excess vegetation or overgrowth of bush on any building, land or structure that harbours or is likely to harbour vermin.

Discharge of sewage, industrial waste or any other noxious matter into the sea or any watercourse unto any land.

## The Town and Country Planning Act (1958)

The Town and Country Planning Act is administered by the Town and Country Planning Authority and Local Planning Authorities. The Act designates specific personnel who are giving the responsibility of and the required power to ensure compliance

SEC	DESIGNATED PERSONNEL	POWERS
28	Person authorized in writing by a local planning authority, the government Town Planner or the Town and Country Planning authority	Serve notice on owner/ occupier
29(1) (a)	Same as 28 above	Enter land at reasonable time to: <ul style="list-style-type: none"> <li>a) Observe breach of development</li> <li>b) Serve notice or inspect work being done under enforcement notice</li> </ul>

Section 25 of the Town and Country Planning Act provides for the local planning authority to preserve trees or woodlands where necessary by way of making a tree preservation order in respect of such trees woodlands.

The Town and Country Planning (tree preservation) Regulations 1967 stipulates the contents of a tree Preservation order and the procedure by which representations or objections to the order may be made.

It is an offence to:

<b>SEC</b>	<b>OFFENCE</b>	<b>PENALTY</b>
22(7)	Fail comply with a stop notice	Not less than \$25,000 or more than \$1, 000, 00. Indult IMP 6mths
24(3)	Use, permit/cause use of land contrary to an enforcement notice requiring the discontinuance of an activity; or not comply with the conditions of the enforcement.	\$25,000 or IMP 1 yr w/ HL use continued after conviction \$5000 per day.
25(5)	Contravene a tree Preservation order	\$100 or IMP 3 mths w/HL. <u>Continuing offence:</u> \$4 per day
27(3)	Display advertisement contrary to Regulations	\$10,000 or IMP 1 yr w/ HL <u>continuing offence:</u> \$10,000 per day
29(3)	Willfully obstruct authorized person in execution of duty.	\$10,000 or IMP 1 yr w/HL in default
29(4)	Disclose trade secrets discovered during survey	\$10,000 or IMP 1 yr
32	<p>a) Willfully or recklessly make false statement or not provide information requested by authorized officer</p> <p>b) Use building or land in prohibited manner</p>	\$100 or IMP 3 mths w/HL. <u>Continuing offence:</u> \$10 per day or IMP 3 mths w/HL in default

## **22 Power of local planning authority to revoke or modify planning permission**

- (1) subject to the provisions of this section, if it appears to the local planning authority that it is expedient, having regards to the provisions of the development order and to any other material considerations that any permission to develop land granted on an application made in that behalf under Part III should be revoke or modified, they may by order revoke or modify the permission to such extent as appears to them to be expedient as aforesaid; Provided that no such order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.
- (2) Where a local planning authority submit an order to the Minister for his confirmation under this section, that authority shall serve notice on the owner and on the occupier of the land affected by the order; and if within such period as may be prescribed in that behalf in the notice (not being less than twenty-eight days from the service thereof) any person on whom the notice is served so requires, the Minister shall before confirming the order, afford to him, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (3) The power conferred by this section to revoke or modify permission to develop land may be exercised-
  - (a) Where the permission relates to carrying out of building or other operation, at any time before those operations have been completed;
  - (b) Where the permission relates to a change of the use of any land, at any time before the change has taken place: Provided that the revocation or modification of permission for carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.

- (4) Where permission to develop land is revoke or modified by an order made under this section, then, if, on a claim made to the Authority within the time and in manner prescribed by regulations under this Act, it is shown that any person interested in that land has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, has otherwise sustained loss or damage which is directly attributable to the revocation or modification, the Authority shall pay to that person compensation in respect of that expenditure, loss or damage: Provided that no compensation shall be payable under this subsection in respect of loss or damage consisting of the depreciation in value of any interest in the land virtue of the revocation or modification.
- (5) for the purpose of this section, any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory thereto shall be deemed to be included in the expenditure incurred in currying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the permission which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of permission.
- (6) Where permission for the development of land granted by a development order has been withdrawn, whether by the revocation or amendment of the order or by the issue of directions under powers in that behalf conferred by the order then, if, on an application made in that behalf under Part III permission for that development is refused or is granted subject to conditions other than those previously imposed by the development order, the provisions of subsections (4) and (5) shall apply as if the permission granted by the development order had been granted by the local planning authority under Part III and has been revoke or modified under subsections (1), (2) and (3).

- (7) Where the permission which is revoked or modified by an order under this section is permission such as is mentioned in subsection (1) of section 17 the provision of that section shall apply as if for references therein to the refusal of the permission or the imposition of conditions on the grant thereof there were substituted references to the revocation of permission or the modification thereof by the imposition of conditions and subsection (1) shall have effect as if for the words ‘if the permission had been granted, or had been granted unconditionally’ and there were substituted the words “if the permission had not been revoked or had not been modified”
- (8) Where by virtue of the provisions of this section compensation is payable in respect of expenditure incurred in carrying out any work on land, then if the Minister takes steps for the purchase of such land, or claim for compensation is made under subsection (1) of section 17 any compensation payable in respect of the acquisition of the land or, as the case may be, the claim for compensation under subsection (1) of section 17, shall be reduced by the amount equal to the value of the works in respect of which compensation is payable under section.

## Stop Notice

22 A

(1) where it appears to local planning authority, the Government Town Planner or the Authority that a development specified in subsection (2) is unauthorized or a hazardous or otherwise dangerous to public, the local planning authority, the Government Town Planner or the Authority, as the case maybe, shall serve or cause to be served on any of the person specified in subsection (3), a stop notice requiring that person to immediately cease the development

(2) a development referred to in subsection (1) is a development-

(a) which being carried out in breach of a condition subject to which planning permission was grant. Or

(b) which being carried out without grant of planning permission

(3) the person on which whom a stop notice may be served are-

(a) the owner occupier of the land where on the development is taking place or has taken place, or

(b) any person who engaged in development, or

(c) any other person appearing to have interest in the land.

(4) a stop notice-

(a) shall state-

(I) the name of the person whom it is directed

(II) the basis on which the stop order is made

(III) the address on which the development is taking place,

(IV) the nature of the development,

(V) that the notice take effect from the time it served, and

(VI) the period for which the notice take effective

(b) shall be for a period not exceeding ten days and may be extended for such further periods as the local planning authority, Government Town Planner or the Authority may determine.

(5) where a stop notice is served on person referred to in subsection (3), a copy thereof shall be posted into conspicuous place-

(a) on the premise where the relevant development is taking place or taken place, and

(b) a court house, police station or other public place in the place in which the development is taking place or has taken place.

(6) where the persons suffer any loss resulting from service of a stop notice, compensation shall only be payable where in any action brought by him against a local planning authority, the Government Town Plan or the Authority, as the case maybe, he expressly alleage that service of the notice was done without reasonable or probable cause at the trial of such action he proves such allegation

## **Enforcement of planning control**

- 23** (1) If it appears to the local planning authority, the Government Town Planner or the Authority that any development of land had been carried out the coming into operation of development order relating to such land without the grant of permission required in that behalf under Part III, or that any conditions subject to which such permission was granted in respect of any development have not been complied with, then subject to any directions given by the Minister, the local planning authority may within five years of such development being carried out, if they consider it expedient so to do having regard to the provisions of the development order and to any other material considerations, serve on the owner and occupier of the land and any person who carries out takes steps to carry out any development of such land and any other person concerned in the preparation of the development plans or the management of the development or operations on such land, a notice under this section.

## **The Town and Country (Control of Advertisements) Regulations 1978**

It is an offence to:

<b>SEC</b>	<b>OFFENCE</b>	<b>PENALTY</b>
22	Display an advertisement contrary to the Regulations	\$100 or IMP 3mths if continued use after conviction \$10per day

# THE PAROCHIAL ROADS ACT

## ENCROACHMENTS

**51.** The following shall be deemed to be encroachments on a parochial road-

- (a) any fence, building, or construction, erected on or over any part of the road;
- (b) any tree, or any branch, bough, or other part of a tree, fallen upon or over any part of a road;
- (c) any tree, branch, bough, or other part of a tree or any shrub, projecting upon or overhanging the road, or planted, or placed upon the road without authorization from the Parish Council;
- (d) any debris or refuse, or on behalf of, the obstruction of any part of the road, remaining or resulting from anything done, by, or on behalf of, the owner or occupier of any land, fence, building, or construction, adjoining the road;
- (e) any tree, or any branch, bough, or other part of any tree fallen from any land or fence adjoining a river, or stream, or watercourse, which shall cause, or tend to cause, the water to flow over, or otherwise to injure the road;
- (f) any pit, cutting, or excavation, in upon, or under any land adjoining the road, which may be, or may become dangerous to persons or animals using the road, and which is not sufficiently fenced or otherwise made safe;
- (g) any stone, earth, timber, or other substance, thrown into or placed in any river, stream, or watercourse, which shall cause, or tend to cause the water to flow over or otherwise to injure the road;
- (h) any stone, earth, timber, or other substance, thrown into, or placed in any drain or watercourse, which shall impede the drainage of water from the road;

- (i) any artificial canal, conduit, or pipe, from which any water escapes on to any road, owing to the defective construction or maintenance of the same in any part of its course. In any such case the encroachment shall be deemed to proceed from the land on which the canal, conduit, or pipe, is defectively constructed or maintained;
  - (j) any earth, stone timber, metal, or any article of any description whether similar to the foregoing or not, left upon or deposited upon the road without the authority of the Parish Council;
  - (k) any gate erected or maintained on the road without permission of the Parish Council, or after such permission shall have been revoked by such Council, or without a watchman being kept constantly near to the gate, whensoever the same shall be shut, for the purpose of opening it when required by any person using the road;
  - (l) any penguin fence erected after the tenth day of April, 1896, abutting on the road and not having the penguins planted on the top of a wall or earthen bank not less than two feet in height, or a fence of wood, or iron wire, between the penguins and the road;
  - (m) any penguins spreading themselves from any penguin fence, as so to extend over any part of a road;
  - (n) any pipe, drain, or conduit, discharging water onto the roadway of any Parochial Road from any house or premises adjoining such road.
- (2) **52.** Whenever there shall exist any encroachment on a parochial road, the owner occupier of the land, fence, or construction, from which such encroachment proceeds or the owner of the thing constituting the encroachment was left upon or deposited upon the road, shall, after receiving a notice signed by or on behalf of the Superintendent of Parochial Roads and Works, requiring him so to do, forthwith remove or abate the same at his own cost.

- (3) The notice shall specify the nature of the encroachment, and state a reasonable time within which it must be removed.
  
- (4) At the expiration of the time specified in such notice, or without any such delay, if the encroachment endangers, or impedes, or threatens or is likely to endanger or impede the traffic on the road, or the drainage of the road, the Superintendent of Parochial Roads and Works may remove the encroachment or cause it to be removed in such manner as he may think fit.

### **53. Where the Parish Council directs the removal of any encroachment**

- (a) if the encroachment cannot be conveniently removed without entering on the land from which it comes, the Superintendent of Parochial Roads and Works may, with any necessary assistants, enter for the purpose without giving any further notice;
- (b) neither the Parish Council, nor the superintendent of Parochial Roads and Works, nor any person acting under the authority either of the Parish Council or such Superintendent in the removal, shall be liable for damage occasioned thereby, unless the same is caused by their or his neglect or default;
- (c) the cost of the removal shall be paid by the owner or the occupier of the land which the encroachment proceeds, or of thing constituting the encroachment was placed upon or deposited upon the road, and shall be recoverable, together with the costs of recovery, in the same way as penalties are recoverable under section 100 of the lands Clauses Act;
- (d) anything constituting the encroachment shall be forfeited, and the Parish Council may sell or otherwise dispose of it, unless the owner previously redeems it by payment of the full costs of removal;
- (e) whenever such thing constituting the encroachment is disposed by the Parish Council, the net proceeds, after deducting all costs removal and disposal, shall be credited to the person liable for costs of removal and shall be allowed in the settlement of such costs, any excess of net proceeds over costs shall be paid to the owner or occupier of land, fence or construction from which such encroachment proceeds or to the owner of the thing placed upon or deposited upon the road, as the case any be.

**The Parish Council (Sales of goods in public places) Regulations,  
2004 St. Catherine**

**3.-**(1) No person shall sell or offer or expose for sale any goods-

(a) in any thoroughfare or public place; or

(b) on any piazza opening unto any thoroughfare or public place, unless that person is the holder of a valid licence granted by Council for that purpose.

(2) Any person who contravenes paragraph

(1) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court-

- (a) In respect of a first offence, to a fine not exceeding five thousand dollars.
- (b) In respect of a second offence, to a fine not exceeding ten thousand dollars;
- (c) In respect of a third and subsequent offence, to forfeiture of the goods.

## THE PARISH COUNCILS BUILDING ACT

3. No person shall erect or re-erect any building or remove, alter or extend any building or any part thereof unless the plan of such building, alteration or extension has been approved by the council.

4.-(1) Every person who proposes to erect or re-erect any building or any part thereof or to remove, alter or extend any building or any part thereof shall give notice in writing to the Council on such notice shall be accompanied by full set of plans, in duplicate, indicating the type of building, location, method of construction, system of drainage and water supply. Every notice shall be accompanied by-

(a) a site plan (in duplicate) drawn to a scale of not less than 40feet to inch showing the site and any access or proposed access between the site and existing or proposed roadway, the frontage line of any building whether standing or in ruins adjacent to each boundary thereof and the full width of the existing or proposed roads, streets or lines immediately in front and at the sides or back thereof and existing trees, lamp standards, telegraph poles or any other fixtures within the road width;

(b) a plan draw to a scale of not less than 8 feet to an inch showing the several floors of such building, lines of drainage, the front and other elevations sections thereof sufficient to indicate the construction of every part of the building, and such other particulars as Council may in any particular case require.

(2) The Council shall approve or disapprove such plans within sixty days and shall-

(a) in case of approval, issue a building permit authorizing the proposed erection, re-erection, removal, alteration or extension, as the case may be; and

(b) in case of disapproval, inform the person submitting such plans in writing of such disapproval and the reason or reasons therefore, and, where amendments to any plans submitted are required, shall specify such amendments in writing.

(3) If work is not commenced within six months of the date of issue of the building permit such building permit shall be deemed to lapsed and shall be null and void.

(4) The Council may, in a particular case, obtain the advice of the chief Technical Director as to the design and structural safety of any

proposed building and in any such case the Council shall be obliged to act upon the advice of the Chief Technical Director,

**5. -----** (1) Any person aggrieved by the refusal of the Council to issue a building permit to such person shall have a right of appeal to the Chief Technical Director, whose decision shall be final.

(2) Every person desiring to appeal shall, within fourteen days of the refusal of the Council to issue a building permit to him, give notice in writing to the Chief Technical Director, setting out the grounds of his appeal, and shall lodge with such notice the copy of the plans originally submitted by him to the Council and shall serve on the Council a copy of the notice, together with a copy of the plans.

(3) The Chief Technical Director shall, if he considers it desirable, require the parties to attend at such place and time as he shall specify in a notice in writing, and shall upon the date and time so specified proceed to hear if necessary and to determine the appeal.

(4) The Chief Technical Director shall, within seven days of the determination of an appeal, notify the parties in writing, of the result of such appeal.

**6. -----** (1) A notice describing the use to which a proposed building is to be put shall be posted up in a conspicuous part of the proposed building site as from the date of the lodgment with the Council of an application for a building permit.

(2) Any person wishing to object to the erection of any such building for the purpose specified in such notice may, within fourteen days of the posting up of such, deliver to the Council a notice in writing (hereinafter to as a “notice of objection”) stating the grounds of his object and a copy of such notice shall be served by the Council on the person intending to erect the building.

(3) upon receipt of any such notice of objection the Council shall, within seven days, cause the applicant and the party objecting to the erection of such building to be notified of a date upon which the Council will meet to hear and determine the issue. The decision of the Council shall be final.

**30. --**(1) Subject to sub-paragraphs (2) and (3), every applicant for a building permit or approval of any building works or plans as required by these by these By-Laws shall, at the time of application, pay to the Secretary of the parish council the fees specified in Part I of the seventh Schedule.

(2) Where an applicant for a building permit is an approved charitable organization, the Council may grant to such applicant a concession on the fees to be paid.

(3) Where an application for a building permit or for the approval of any other building works for plans is refused by the council, the Council shall refund to the applicant an amount not exceeding fifty per centum of the fees paid in respect of such application.

# THE NOISE ABATEMENT ACT

1. This Act may be cited as the Noise Abatement Act.

2. in this Act-

“Political meeting” means any assembly or gathering of persons-

(a) Convened by-

(i) a member of Parliament; or

(ii) a member of a Parish Council or a councilor of the Kingston and St. Andrew Corporation; or

(iii) a political party or any member of a political party,

For the purpose of the transaction of matters of public interest or the discussion of such matters or the purpose of the expression of view upon such matters; or

(b) convened-

(i) for the purpose of furthering or criticizing the aims, objects action or programmed of any political party; or

(ii) for the purpose of supporting or opposing the candidature of any individual as against any other or others at an election for a member of Parliament or a member of a Parish Council or a councilor of the Kingston and St. Andrew Corporation, and if any speaker at any assembly gathering held as aforesaid refers to or discusses the aims, objects, action or programme of any individual at such election, such assembly or gathering shall, until the contrary is proved, be deemed to be a political meeting;

“public meeting” includes any meeting in a public place any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise;

‘specified meeting’ means any instrument or device mentioned in paragraph (a) or (b) of subsection (1) of section 3.

3.-(1) Subject to subsection (2) and section 5, no person shall, on any private premises or in any public place at any time of day night-

(a) sing, or sound or play upon any musical or noisy instrument; or

(b) operate, or permit or cause to be operation, any loudspeaker, microphone or any device for the amplification of sound,

in such a manner that the sound beyond a distance of one hundred meters from the source of such sound and is reasonably capable of causing annoyance to persons in the vicinity so, however, that where during the

period specified in subsection (4) such sound is audible beyond that distance in the vicinity of any dwelling house, hospital, nursing home, infirmary, hotel or guest house, such sound shall be presumed to cause annoyance to persons in that vicinity.

(5)1. when a person intends to operate any specified equipment to provide music for dancing or any other form of entertainment in a public place in circumstances where such music is reasonably capable of disturbing any person occupying or residing in any private premises, such person shall make a written application to the Superintendent of Police in charge of the division in which the activity will be held for permission to do so, not later ten clear days before the date on which it is proposed to hold such activity.

2. Every application under subsection (1) shall contain particulars of the nature and purpose of the proposed activity, the place at which and the hours during which it will be held.

3. Where any specified equipment is used to provide music for dancing or any other form of entertainment in the vicinity of any hotel, dwelling house or guest house, such activity shall not continue later than 2 o'clock in the morning.

4. The superintendent of Police may upon receipt of an application under subsection (1) refuse to grant permission or may or may grant such permission subject to such conditions as he may specify in writing, so, however, that no permission shall be granted for the operation of specified equipment in the vicinity of any hospital, nursing home or infirmary.

## **THE PUBLIC HEALTH ACTS**

### **The Public Health (Hairdressers, Beauty Therapists, Cosmetologists and Beauty Salons) Regulations, 2004**

#### **PART II. Beauty Salons**

**3-** (1) a person shall not operate a beauty salon unless he has a valid licence issued by the Local Board in relation to such beauty salon.

(2) Any person who desires to operate a beauty salon shall apply to Local Board in the form set out as form A in the first Schedule for a licence to do so.

(3) An application under paragraph (2) shall be accompanied by-

(a) the application fee specified in the second Schedule; and

(b) two attested photographs of the applicant taken no earlier than one month prior to the date of the application.

(4) Where a person operates a beauty salon in which barbering take place, the person shall pay the fee prescribed in the second Schedule.

(5) Where a person operates more than one branch of a beauty salon, an application for a licence shall be made in respect of branch.

(6) where there is a change in the ownership or operation of a beauty salon the new owner or operator shall apply for a licence in accordance with paragraph(2).

#### **PART III. Beauty Therapists, cosmetologist or hairdressers.**

**7.**(1) A person shall not hold himself out to be, or perform the functions of a beauty therapist, cosmetologist or hairdresser unless he has a valid licence in the form set out as form D in the first schedule issued by the Local Board.

- (1) An application for a licence under this regulation shall be in the form set out as form C in the First Schedule and shall be accompanied by-
- (a) a health certificate issued by the medical officer (Health) for the parish in which the applicant resides and shall be dated no earlier than two week prior to the date of the application,
  - (b) two attested photographs of the applicant taken no earlier than one month prior to the date of the application,
  - (c) a certified copy of the relevant certificate or diploma granted to the applicant by a professional training institution, and
  - (d) the appropriate fee specified in the second schedule.

## **The Trespass Act**

3.If any person shall enter upon and occupy any lands belonging to, or in the possession of, any person, without the leave of the proprietor or person into lawful possession thereof, it shall be lawful of any Justice of the Parish in which the offences was committed, by warrant under his hand and seal, and which warrant the said justice is hereby require to grant, upon oath being made before him charging any such trespasser with having, without just claim, or apparent title, enter upon and occupied, or taken possession of any such land, to cause trespasser to be brought before Resident Magistrate's Court which his hereby authorized and empowered, on conviction, to cause such trespasses to be removed from the possession of the said land, and to inflict a penalty, not exceeding five hundred thousand dollars, upon on such offender.

## THE KEEP OF THE ANIMALS ACT

2. No person shall in a restricted area specified in the first column of part I of the First Schedule, keep any prescribed animal specified in the second column of that Schedule, unless he has first obtained a licence issued, pursuant to section 5 of the Act, under this Order.

3. No person shall in a prohibited area specified in the first column of part II of the First Schedule, keep any prohibited animal specified in the second column of that Schedule.

**5-**(1) Every application for a licence shall be considered on its merits by the Competent Authority which may, in its discretion having regard to the provisions of section 5(3) of the Act, grant or refuse such licence or may grant such licence subject to such condition or limitations as it may fit.

(2) the competent Authority may, on any application for renewal of a licence, vary the conditions or limitations as it considers necessary or desirable and may at any time revoke or refuse to renew such licence for any contravention, if notice has been give the opportunity to make representations in accordance with that subsection.

**6-**(1) the Competent Authority may require an authorize officer to examine the premises in which prescribed animals are to be kept with a view to satisfying itself that the premises are suitable for the purpose; and the authorized officer may also inspect the premises from time to time to ensure compliance with the Act or any conditions specified in the licence.

(2) Any person who obstructs the authorized officer in the execution of his duties shall incur the penalties prescribed by section 12 of the Act.

11. Any animal seized pursuant to section 10 of the Act shall, within a period of twenty-four hours of such seizure, be conveyed to nearest pound.

## The Property Tax

2.-(1) There shall be pay every year upon all property in the parishes specified in the First Schedule, a tax to be called “property tax” at the rates respectively so specified.

3.-(1) The property tax shall be due and payable on the first day of April in each year in respect of the period of twelve calendar months commencing on that date, so, however, that-

- a. where payment of the tax is made at any time within the month of April aforesaid such payment shall be deemed to satisfy the requirements of this subsection; and
- b. nothing in this subsection shall be construed as precluding the payment of property tax by moieties or instalments in accordance with tax Collection Act.

(2) The Commissioner of Inland Revenue shall cause to be assessed the property tax payable by every person in possession of property liable to property tax, and shall cause to be served on each such person a notice of assessment addressed to him at his usual place of abode or business stating the amount of property tax at which he is assessed and which is payable by him.

- (3) A notice of assessment may be served upon any person –
- (a) by causing it to be personally served on him; or
  - (b) by leaving it at his address for service; or
  - (c) by posting it by registered letter post addressed to him at his address for service,

and in the case of paragraph (c), service thereof shall be deemed to have been effected at the time when it would in the ordinary course of the post have arrived at the place to which it was addressed or the town or post office nearest to that place.

4. The property tax shall be payable by the person in possession of the property made liable there to, at date when the tax becomes due, and shall be paid to the Collector of Taxes of the parish wherein the said property receive the same, and shall be carried to the credit of the Parochial Revenue Fund established under the parochial Rates and Finance Act. Until paid the said tax shall be a first charge and lien upon the real property liable thereto.

**10-(1)** there shall be exempt from the property tax-

- a) all buildings held in trust exclusively for public religious worship or for religious worship and for use as schoolrooms, together with the lands immediately attached to them used as churchyards or burial grounds;
- b) all buildings and lands used solely for charitable or educational purposes and supported solely by charitable or missionary funds;
- c) all buildings and lands belonging to and used by the University of the West Indies;
- d) all buildings and lands belonging to Primary School, inspected by an officer designated by the Minister, responsible for education, or to Agricultural Industrial or Vocational Schools approved by the Minister, or to the endowed schools specified in the Second Schedule;
- e) all buildings and lands, belonging to Secondary Schools receiving any payment out of the consolidated fund;
- f) all buildings and lands belonging to Secondary Schools Commercial Schools Preparatory schools with not less than twelve scholars, in average attendance, each such Secondary, Commercial or Preparatory school being certified by an officer designated by the Minister responsible for education to be efficient;
- g) all unoccupied property belonging to, all property belonging to and in the actual occupation of, the crown, the Government of this Island, or any Parish Council, or the Kingston and St. Andrew Corporation;
- h) all freehold property vested in the Commissioner of lands and in the actual occupation of, the Crown, the Government of this Island, a Parish Council, the Kingston and St. Andrew Corporation or the holder of a public office by Virtue of his employment;
- i) all buildings and lands belonging to and used by the Council of Legal Educational;
- j) all buildings, belonging to any church, which are used as church rectories, caretaker cottages or church halls together with the lands immediately attached to them and belonging to such church, so however, that the area the area of land so exempt in each case shall not exceed one acre;

- k) all buildings and lands belonging to, and used solely for the purposes of, any private hospital approved by the Minister;
- l) all buildings and lands, belonging to any social, charitable or cultural organization approved by the Minister and used solely for the purposes of such organization:

Provided nevertheless that exemption under this section of buildings and lands belonging to a school shall not extend to any such building or land unless the same is used primarily for School purposes.

**11.**-(1) The Minister may remit the whole or any part of the property tax payable by any person or any class of person if he is satisfied that it would be just and equitable to do so.

(2) Notice of any remission of property tax made pursuant to subsection (1) shall be published in the *Gazette*.

## THE LICENCE ON TRADE AND BUSINESS ACT

3. -- (1) Subject to subsection (1A), every person carrying on a trade or business specified in the First Schedule shall, on the first day of April in each year, take out a licence according to the classification in that Schedule of such trade or business:

Provided that the following person shall not be compellable to take out licence under this Act-

- (a) any person taken out licence to retail spirits or to keep a tavern or a hotel under the spirit Licence Act in respect of the premises and in regard to the commodities mentioned in such licence, and in respect of the sale on the same premises of wine, malt liquors, and all other description of distilled or fermented liquor;
- (b) any person occupying a stall or a stand in any public general market under the Parochial Markets Law, and paying market fees in respect of such stall or stand; and any person paying market fees under the provisions of the sections of the sections of part VIII of the Kingston and St. Andrew Corporation Act, relating to markets in respect of the stalls or premises in respect of which such fees are paid;
- (c) any person licensed under the Agricultural Produce Act, or any amendment thereto in respect of the premises and in regard to the commodities mentioned in such licence;
- (d) any person either by himself, member of his family, his known agents or servants, selling any bread, fresh fish, milk, fruit, vegetables, ground provisions, vegetable roots or other vegetable commodity known as bread kind, or any other article of farm agricultural produce of this Island or ice, or the real worker or workers, maker or makes of goods, wares or manufactures of this Island, selling by themselves or their own making;
- (e) any corporation which proves to the satisfaction of the Minister that it has been formed for any purpose connected with social or public services, religion, charity, education, art or science, and that it applies its income and profits solely for promoting all or any of

such purposes, and that it does not permit the payment of any dividends to its members.

(1A) A person who takes out any licence subsequent to the first day of April in any year but prior to the first day of May in that year, shall be regarded for the purposes of subsection (1) of this section and of section 23 as having taken out a licence in the prescribed time.

(2) The Minister responsible for finance may order revoke, increase, reduce or alter any licence duty thereto.

(3) An order made under subsection (2) may contain such consequential, supplemental or ancillary provisions as appear to the said Minister to be necessary or expedient for the purpose of giving due effect to the order.

(4) An order made under subsection (2) shall be subject to affirmative resolution of the House of Representatives.

**4.** --- (1) Every person carrying on a trade or business specified in the First Schedule shall, within the time fixed by this Act for taking out a licence, make out and submit to the Collector of Taxes of the parish in which such person carries on his trade or business, a return in the form set out in the Second Schedule.

(2) Where two or more persons are liable to be charged as in partnership, one return only is required, and such return shall be made by them jointly or by one or more, on behalf of himself, or themselves, and the rest of the persons so liable.

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