



## LOCAL GOVERNMENT NOTICE

### BY-LAW RELATING TO NEGLECTED BUILDINGS AND PREMISES

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-Law Relating to Neglected Buildings and Premises.

#### Purpose of By-law

The purpose of this by-law is to promote the habitat and environment of the communities residing within the municipal boundaries of the municipality by regulating the appearance and condition of buildings and premises.

- 1. Definitions** - In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates -

**"administrative action"** means any action taken by the municipality in the exercise of a power or performance of a function;

**"building"** has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended;

**"calendar day"** means a 24 hour period, reckoned from one midnight to the next and includes a Saturday, Sunday or public holiday;

**"improvement"** means any work carried out on a building or premises so as to result in a better appearance or condition;

**"municipality"** means the Municipality of \_\_\_\_\_, established in terms of Section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

**"municipal area"** means the area under the jurisdiction and control of the municipality;

**"occupier"** means a person who resides in a building or on a premises but who is not the owner thereof;

**"owner"** means -

- [a]** the person in whom from time to time is vested the legal title to premises;
- [b]** in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- [c]** in a case where the municipality is unable to determine the identity of such person, a person who is entitled to the benefit of any building located on such premises;
- [d]** in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- [e]** in relation to –
  - [i]** a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act ,1986 [Act No. 95 of 1986] the developer or the body corporate in respect of the common property; or
  - [ii]** a section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; and
- [f]** any legal person, including but not limited to:
  - [i]** a company registered in terms of the Companies Act, 1973 [Act No. 61 of 1973], a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 [Act No. 69 of 1984] and a voluntary association;
  - [ii]** any department of national, provincial or local government;
  - [iii]** any council or board established in terms of any legislation applicable to the Republic of South Africa; and
  - [iv]** any embassy or other foreign entity; and

**"premises"** means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

**2. Responsible ownership of buildings and premises** – An owner of a building or premises situated within the municipal boundaries of the municipality shall exercise responsible ownership and maintain such building or premises in such a manner so as to ensure that –

- [a]** The appearance of the building or premises does not become unsightly, neglected or offensive; and
- [b]** The building or premises does not detract from the appearance of surrounding buildings or premises.

**3. Municipality may serve written notice-**

**[1]** Where there is, upon any premises and in the reasonable opinion of the municipality -

- [a]** a building which is unsightly, neglected or offensive and which causes the value of surrounding premises to be detrimentally affected;
- [b]** neglected lawns, trees, shrubs or other cultivated vegetation;
- [c]** an unsightly accumulation of papers, cartons, garden refuse, rubble or other waste material;
- [d]** an accumulation of motor wrecks or used motor parts, which -
  - [i]** detracts from the appearance of surrounding properties; or
  - [ii]** is offensive to the owners or occupiers of adjacent premises-

the municipality may serve a notice in writing on the owner or occupier of such premises, requiring the owner or occupier to improve such building or the condition of such premises to a standard reasonably acceptable to the municipality, which standard shall be stated in the notice and attained by the owner or occupier within a specified period and by not later than 90 (ninety) calendar days from the service of the notice.

**[2]** Service of the written notice in terms of subsection [1] may be effected by-

- [a]** delivering a copy thereof personally to the owner or occupier;
- [b]** attaching a copy thereof to the outer or principal door or security gate of the building or premises; or
- [c]** placing a copy thereof in the post box of the building or premises.

**[3]** For the purposes of this section, the owner or occupier shall be deemed to have received the written notice within 5 (five) calendar days of the date upon which service was effected in terms of section 3[2][b] or [c].

**[4] Lodging of objection to written notice –**

- [1]** Upon the receipt of a written notice contemplated in terms of section 3[1], the owner or occupier may lodge an objection with the municipality, setting out the reasons why the owner or occupier should not be required to comply with the written notice.
- [2]** The objection must be lodged with the municipal manager or duly delegated official no later than 14 (fourteen) calendar days after receipt of the written notice, as contemplated in terms of section 3[3].
- [3]** The municipality shall consider the objection, whereupon it shall, within 30 (thirty) calendar days of its receipt of the objection, either confirm or retract the written notice.
- [4]** In the event of –
  - [a]** the municipality's confirmation of the written notice, it may adjust the period within which the owner or occupier shall be required to effect the necessary improvements in accordance with the stated standard; or
  - [b]** the municipality's retraction of the written notice, it may issue a further written notice, stating such adjusted period or standard or both, as may be reasonably necessary to promote the purposes of this by-law.
- [5]** The municipality shall inform the owner or occupier of its decision in writing and within the time limit prescribed by subsection [3].
- [6]** Where the owner or occupier has failed to lodge an objection in terms of the provisions of subsection [2], the municipality may refuse to consider the objection, provided that such refusal shall not amount to unjust administrative action.

**5. Failure to comply with written notice –** If the owner or occupier fails to comply with the requirements of the written notice contemplated in terms of section 3[1] then –

- [1]** The owner or occupier, as the case may be, shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or imprisonment for a period not exceeding 6 (six) months or to such imprisonment without the option of a fine or to both such fine and such imprisonment; and
- [2]** In the case of a continuing offence, the owner or occupier shall be liable on conviction to an additional fine of R100 or an additional period of imprisonment of 1 (one) day or to such additional imprisonment without the

option of a fine or to both such additional fine and imprisonment, for each calendar day on which such offence is continued.

**6. Improvements may be effected by municipality –**

- [1]** Notwithstanding the provisions of section 5, the municipality may undertake the improvement of buildings or premises in accordance with the standard stated in the written notice contemplated in terms of section 3[1], provided that –
- [a]** such undertaking by the municipality shall not absolve the owner or occupier from any criminal liability;
  - [b]** the period specified in the written notice, contemplated in terms of section 3[1], has lapsed without the owner's or occupier's having complied with the requirement set out therein; and
  - [c]** no objection has been lodged by the owner or occupier within the period specified in the written notice for the improvements to be effected.
- [2]** Where an owner or occupier has lodged an objection in accordance with sections 4[1] and [2], the municipality may not undertake the improvement of buildings or premises unless the municipality has –
- [a]** complied with the provisions of sections 4[3] and [5]; and
  - [b]** ensured that any adjusted period has lapsed consequent to the application of section 4[4].
- [3]** In the event that an owner or occupier has failed to lodge an objection within the period specified in the written notice for the improvements to be effected then the municipality may assume that the owner or occupier has no objection and agrees to permit the municipality to undertake the improvements.
- [4]** The municipality may appoint a service provider to undertake improvements, in which event –
- [a]** the municipality shall be responsible for the actions and conduct of the service provider and its employees on the premises of the owner or occupier in question;.
  - [b]** the service provider shall be responsible and accountable to the municipality for the work undertaken;
  - [c]** neither the municipality nor the service provider shall permit a sub-contractor to undertake any aspect of the work on the premises; and

- [d] any improvements undertaken by a service provider shall be –
  - [i] in accordance with the standard stated in the written notice contemplated in terms of section 3[1]; and
  - [ii] of a nature so as not to detract from the appearance of surrounding buildings or premises.
- [5] All reasonable costs incurred by the municipality in effecting improvements to the buildings or premises may be recovered from the owner or occupier in question, provided that –
  - [a] a certificate endorsed by the municipal manager and stating the total amount of reasonable costs incurred shall constitute *prima facie* proof thereof; and
  - [b] the owner or occupier shall be entitled to set off against any amount claimed by the municipality such damages as may actually have been caused by the municipality or duly appointed service provider in undertaking any improvements.

## 7. Regulations –

- [1] The municipality may make regulations regarding –
  - [a] The contents of a written notice contemplated in terms of section 3[1], including –
    - [i] the determination of standards with which a building or premises must comply, subject to the provisions of national legislation; and
    - [ii] the period within which improvements must be effected;
  - [b] the lodging of an objection to a written notice, including –
    - [i] the place at which such objection may be lodged and the municipal official authorised to deal with such objection; and
    - [ii] the prescription of time limits in terms of section 4[2] and [3] and any amendments thereto;
  - [c]
    - [i] the prescription of penalties in terms of section 5 for failure to comply with a written notice; and
    - [ii] the amendment of such penalties from time to time;
  - [d] improvements effected by the municipality, including –

