

# **NGQUSHWA MUNICIPALITY**



## **PREVENTION OF LAND INVASION POLICY**

**2015/2016**

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## **POLICY ON THE PREVENTION OF LAND INVASION**

### **1 PREAMBLE**

The Ngqushwa Local Municipality recognises the right of its residents to life and to be treated with dignity.

Council acknowledge its residents right to housing as contained in Clause 25 of the Bill of Rights of the Constitution of the Republic of South Africa, and further admit that such right may be limited as provided for in Clause 36 of the same Bill of Rights.

Council will in its efforts and endeavours (together with Department of Human Settlement) of housing and settling its residents in need of housing and accommodation take into cognisance the provision and the spirit of all legislations relevant to housing and land settlements control.

Council realizes that, there exist a great need for accommodation amongst its low income group or less fortunate residents, and that land for township development is scare within its area of jurisdiction.

Council will do all in its power to ensure orderly development of places of residents for all its residents.

This policy underpinned and based on the provision of the Prevention of illegal Eviction form and Unlawful occupation of Land Act (Act 19 of 1998) and Extension of Tenure Security Act (Act 62 of 1997).

### **2. DEFINITIONS**

In this Policy, unless the context indicates otherwise;

(i) "Building" or "Structure" means any hut, shack, tent, or similar structure or any other form of temporary or permanent dwelling or shelter;

(ii) "Consent" means the express or tacit consent, whether in writing or otherwise, of the owner or person in charge to the occupation by the occupier of the land in question;

(iii) "Court" means any division of the High Court or the magistrate's court in whose area of jurisdiction the land in question is situated;

(iii) "Evict" means to deprive a person of occupation of a building or structure, or the land on which such building or structure is erected, against his/ her will and eviction has a corresponding meaning;

(iv) "Invasion" means the illegal movement of a person or persons into ones property, land etc;

(v) "Land" includes a portion of land;

(vi) "Municipality" as defined in the Constitution of The Republic of South Africa;

(vii) "Municipal Council" means a municipal council referred to in section 157 (1) of the Constitution;

(viii) "Municipal Manager" means a person appointed on terms of section 54A;

### **3. PURPOSE OF THE LAND INVASION POLICY**

The purpose of the Land Invasion Policy is to help in the combat land invasion which tends to put the Municipality under pressure in terms of service delivery. Also if left unchecked, has a tendency of making the urban area haphazard, as the urban area becomes shapeless.

### **4. VISION**

The Land invasion Policy will ensure that there will be limited and of no invasion of land and also promote synchronised planning.

## **5. OBJECTIVES**

To assist municipality to control and manage the land available in terms of open spaces.

## **6. BACKGROUND**

- a) Council acknowledge that as a local government, land owner and the authoritative institution regulating the manner in which all areas under its jurisdiction have to develop according to its Integrated Development Plan, Spatial Development Framework and Land Development Objectives.
- b) Council has legal and moral obligation to provide land for the development of residential areas to accommodate its residents in an orderly and proper manner as far as possible and within its financial constraints.
- c) Council accepts that the immigration from rural areas to urban areas for whatever reason is a phenomenon of urbanisation and such must occur in a managed manner and must be in line with its pre-determined settlement strategy and any deviation there from is unlawful.

## **7. Status Quo**

- a) Council accepts that the various informal settlements within its area of jurisdiction which have established prior to its existence and that efforts have been made to provide rudimentary services to their respective residents.
- b) The provision of such services and the numbering of existing shacks and buildings built in bricks and mortar does not in itself mean that the residents thereof are reside there permanently.
- c) Such numbering does not itself in any manner whatsoever mean that the yard fenced in or not which a shack or building has been erected and so numbered is a stand.
- d) The occupant of a shack or building in these areas has no right to the land and cannot claim ownership of the land on whatever

basis including the period of occupation of such land. These include cases where money has been exchanged with whatever under the pretext that land acquisition is being effected by such transaction.

## **8. Legal Provisions**

- a) Council acknowledge that it has legal and moral obligation to provide alternative accommodation to residents of the said areas who have been so residing for more than six (6) months if so required to relocate as provided for by Act 19 of 1998.
- b) No person has a right to allow, encourage, motivate, organise and/or instigate the occupation of land of whatever nature without an expressed and written consent of Council.
- c) Where such concurrent as mentioned in above happen, Council reserve the right to take any appropriate legal action to rectify the situation.

## **9. Administrative Control Measures**

- a) Council will number and capture the personal details of residents of existing informal settlements into its administrative systems.
- b) Council henceforth will endeavour to demolish and impound any shack or structure that is being erected within area of jurisdiction without its consent.
- c) Council must inform the offender in writing of the offence committed, giving the offender forty-eight (48 hrs) hours to remove or demolish the illegal structure. Failure to comply with the above, section 12 of this policy will be put into effect.
- d) Where a shack or structure has been put up for more than three (3) days and the action of immediate eviction was not taken, a notice of illegal occupation of land shall be issued, advising the occupant to remove the structure or shack immediately. The Legal Section is to be notified and same must prepare and urgent application to the Court for and eviction order. This action must be accomplished within three (3) months.

- e) Council is to identify a particular area which will be a reception area for all new comers and when such an areas has been established, no new comers into the existing settlement will be allowed.
- f) The residents of the reception area will have to sign the standard service agreement and to pay for services rendered. The size of each "site" allocated to a person will be limited to 200m2.
- g) For housing opportunities Council will endeavour to prioritise the needs of residents of existing informal settlement and those leaving in the back yards at established townships. A housing opportunity include relocation to a stand in Formal Township.
- h) Persons accommodated in a reception area have a housing opportunity while living or residing in that area. If such a person move out of the area, unless same is buying a stand elsewhere, ceases to be on the list of housing opportunity.
- i) Notice boards are to be put up at entrance of effected township informing prospective migrant into the area that they must consult the local municipal office to obtain a registration permit and site allocation before relocating.
- j) Where livestock is involved, permission to bring them along and to be put in grazing farms must be obtained from the designated health officer who when deemed necessary, may require medical examination of such livestock by a registered veterinary surgeon at the cost of the owner. If such an office is satisfied that such livestock has no diseases that may be infectious to others livestock may direct that the livestock be kept in an area to be indicated by the health officer for such a duration as s/he may prescribe subject to the availability of such stock-yard or land.

## **10. Leasing and Occupation**

- a) No person is allowed to have a shack or structure that he/she does not use it or to lease it to someone else anywhere in the existing informal settlements or reception area.

- b) No person is allowed to have a shack or structure unoccupied by him/herself for more than three months, without written permission of the manager responsible for housing matters.
- c) Where it is discovered that certain instances are contrary to paragraphs above, Council shall be treated as stipulated in accordance with the provisions of this policy and Legislations.
- d) The principle of one stand per family (household) shall apply at all times

### **11. Private Property Occupation (Include Farm Land)**

- a) Where a private land owner allow or permit the occupation of land for habitation purposes by a group of people who ate in his/her employ or not, Council shall insist that its Building Health and Security Regulations be adhered to by the landowner.
- b) In an instance where a private landowner does not act against illegal occupier of his/her land, Council may act in terms of Section 6 of Act 19 of 1998 to obtain an order for eviction at the cost of the said landowner.

### **12. Contraventions and Non- Compliance**

- (a) Contravention Notices have to be issued by the Municipal Manager or delegated official. Authority for prosecution or Legal Action rests with the Administration Arm of the Municipality, unless Delegated Authority is given.
- (b) Where Notice has been issued but not obeyed, this is Non Compliance and is a Contravention. Authority for prosecution or Legal Action rests with the Administration Arm of the Municipality, unless Delegalized Authority is given

### **13. MONITORING, EVALUATION AND REPORTIN**

A report detailing the progress with the implementation of Prevention of Land Invasion Policy with specific reference to achievement of this policy has to be compiled every year by the person with the responsibility for





