

MANGAUNG METROPOLITAN MUNICIPALITY
BY-LAW RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES
as promulgated in Provincial Gazette
№ 96 of 14 March 2014

UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES BY-LAW

1. Definitions

1.1 In this By-law, unless the context otherwise indicates –

“enforcement officer” means an employee of the Municipality authorized by the Municipality to implement and enforce the provisions of this By-law;

"building" has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and includes—

- (a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with the—
 - (i) accommodation or convenience of human beings or animals;
 - (ii) manufacture, processing, storage, display or sale of any goods;
 - (iii) rendering of any service;
 - (iv) destruction or treatment of refuse or other waste materials;
 - (v) cultivation or growing of any plant or crop;
- (b) any wall or part of a building; or
- (c) a unit or common property as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986);

"municipality" means Mangaung Metropolitan Municipality established by the Provincial Notice No. 261 of 28 March 2011, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"municipal area" refers to the area under the jurisdiction and control of the Municipality;

“owner” in relation to a building or premise means the person in whose name the land on which such building was or is erected, as the case may be, is registered with the deeds office and includes a person in charge of such building or premise: Provided that if—

- (a) such person, in the case of a natural person, is deceased or was declared by a court of law to be incapable of managing his or her own affairs or a prodigal or is a patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973),

or if his or her estate has been sequestrated, the executor or curator concerned, as the case may be;

- (b) such person, in the case of a juristic person or trust, has been liquidated or placed under judicial management, the liquidator or judicial manager concerned, as the case may be;
- (c) such person is absent from the Republic or if his or her whereabouts are unknown, any person who, as agent or otherwise, undertakes the management, maintenance or collection of rentals or other moneys in respect of such building or premise, or who is responsible there for;
- (d) in the case of a sectional title scheme, a sectional title unit is registered in the name of a person, that person;
- (e) in the case of a trust, the trustees of such trust;
- (f) in the case of a sectional title scheme, a body corporate responsible for the control, administration and management of the common property; or
- (g) where the Municipality is unable to determine the identity of such person, any person who is entitled to the benefit of the use of such building or who enjoys such benefit;

"premise" refers to any land or erf whatsoever, whether vacant or occupied with or without buildings thereon, situated within the jurisdictional area of the Municipality.

"unsightly and neglected building or premise" refers to any building or premise or a portion thereof—

- (a) that appears to have been abandoned by the owner with or without the consequence that rates or other service charges are not being paid;
- (b) that is derelict in appearance, overcrowded or is showing signs of becoming unhealthy, unsanitary, unsightly, neglected, overgrown, objectionable or offensive and which causes the value of surrounding properties to be detrimentally affected;
- (c) that is the subject of written complaints in respect of criminal activities, including drug dealings and prostitution;
- (d) that is illegally occupied;
- (e) where refuse or waste material is accumulated, dumped, stored or deposited with the exception of licensed waste disposal facilities;
- (f) that is partially completed or structurally unsound or unsafe and is a threat or danger to the safety of the general public; or

- (g) has an accumulation of motor wrecks or used motor parts thereon which –
 - (i) detracts from the appearance of surrounding properties, or
 - (ii) is offensive to the owners or occupiers of adjacent premises,

2. Purpose of this By-law

- 2.1 This By-law provides for the identification, monitoring and control of dilapidated, unsightly and neglected buildings or premises within the area of jurisdiction of the Mangaung Metropolitan Municipality; and to provide for matters incidental thereto.

3. Enforcement Officers

- 3.1 The Municipality should appoint authorized employees as enforcement officers for the purposes of implementation and enforcement of the provisions of this By-law.

4. Inspection of Building or Premise

- 4.1 Enforcement officers may enter any building or premise at any reasonable time with a view to—
 - (a) inspect and determine whether the building complies with the provisions of this By-law subject to notice of such intended inspection having been given to the owner; or
 - (b) serve the owner of the building or the premise with the compliance notice as referred to in section 6.
- 4.2 No person must hinder or obstruct the enforcement officer in the exercise of his or her powers in terms of this By-law.
- 4.3 An enforcement officer shall, when entering the premise or building, produce a valid identification document issued to him or her by the Municipality to the owner of such building or premise.

5. Determination of a Building or Premise as Unsightly and Neglected

- 5.1 The enforcement officer may, subject to subsections (2) to (5), if a building or premise falls within the definition of “unsightly and neglected building or premise” as defined in section 1, determine such building as unsightly and neglected.
- 5.2 The enforcement officer shall, by written notice of seven (7) days, before determining such building or premise as unsightly and neglected, inform the owner of his or her intention to determine such building or premise as unsightly and neglected, giving the reasons for such determination.
- 5.3 The enforcement officer may carry out an investigation in respect of a building or premise which he or she intends to determine as unsightly and neglected as contemplated in

subsection (2), provided that he or she must display a notice of such investigation on the building or premise concerned.

- 5.4 The enforcement officer shall give the owner a period of seven days to make representations on why the building or premise should not be determined as unsightly and neglected.
- 5.5 The enforcement officer shall, after considering the representations referred to in subsection (4), take a decision either to determine or not to determine the building or premise as unsightly and neglected.
- 5.6 The owner shall, in respect of a determination in terms of subsection (1), have a right of appeal in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

6. Compliance Notice

- 6.1 The enforcement officer shall serve a written notice on the owner of any building or premise which has been determined as unsightly and neglected as referred to in section 5, requiring such owner within a specified period of thirty(30) days to—
- (a) repair, renovate, repaint, alter, close, demolish, secure, or remove all refuse from, such building or premise;
 - (b) complete the construction of a unsightly and neglected building or any structure of such building;
 - (c) enclose, fence or barricade such unsightly and neglected building or premise to the satisfaction of the Municipality;
 - (d) appoint and instruct, at the cost of such owner, an approved competent person referred to in Part A 19 of the National Building Regulations, to examine a condition that gave rise to the determination of a building or premise as unsightly and neglected and to report to the enforcement officer on the nature and extent of the steps to be taken, which in the opinion of such approved competent person needs to be taken in order to render such unsightly and neglected building or premise safe and clean;
 - (e) dispose of, destroy or remove any material or article accumulated, dumped, stored or deposited in any building or premise, which is refuse or waste and which is showing signs of becoming unsightly, insanitary, unhealthy or objectionable or is likely to constitute an obstruction; or
 - (f) comply with any provisions of this By-law.
- 6.2 The Municipality may, if such owner fails to comply with a notice served on him or her in

terms of subsection (1), repair, renovate, repaint, alter, close, demolish, remove all refuse or secure any unsightly and neglected building or premise at the cost of the owner.

- 6.3 The Municipality may, if the owner fails to pay such cost, recover the cost in terms of the Municipality's Credit Control and Debt Collection By-law of 2013.
- 6.4 Despite subsection (1), section 5 and subject to any applicable legislation, if the enforcement officer has reason to believe that the condition of any building is such that steps should forthwith be taken to protect life or property, he or she may take such steps as may be necessary in the circumstances without serving or delivering such notice on or to the owner of such building or premise and may recover the cost of such steps from such owner.
- 6.5 If the enforcement officer deems it necessary for the safety of any person, he or she may by notice in writing—
- (a) order the owner of any unsightly and neglected building or premise to remove, within the period specified in such notice, any person occupying or working, or who for any other purpose is in such building, and to take care that no person who is not authorized by the Municipality enters such building;
 - (b) order any person occupying or working, or who for any other purpose is in any unsightly and neglected building, to vacate such building.
- 6.6 No person shall occupy, use or permit the occupation or use of any unsightly and neglected building or premise or continue to occupy, use or permit, the occupation or use of any unsightly and neglected building or premise in respect of which a notice was served or delivered in terms of this section or steps were taken by the Municipality in terms of subsection (2), unless he or she has been granted permission by Municipality in writing that such building may be occupied or used or continue to be occupied or used, as the case may be.

7. Service of Compliance Notice

- 7.1 Whenever a compliance notice is authorized or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such person—
- (a) when it has been delivered to him or her personally;
 - (b) when it has been left at his or her place of residence or business in the Republic with a person apparently over the age of 18 years;
 - (c) when it has been posted by registered or certified mail to his or her last known residential or business address in the Republic and an acknowledgment of the posting thereof is produced;

- (d) if his or her address in the Republic is unknown, when it has been served on his or her agent or representative in the Republic in the manner contemplated in paragraph (a), (b) or (c); or
- (e) if his or her address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

7.2 When a compliance notice as aforesaid is authorized or required to be served on a person by reason of his or her being or having been the owner or holding some other right in respect of immovable property, it shall not be necessary to name him or her, but it shall be sufficient if he or she is therein described as the owner or holder of such immovable property or other right, as the case may be.

8. Indemnity

8.1. The Municipality or any enforcement officer of the Municipality shall not be liable to a third party for any damage caused by anything lawfully done or omitted by the Municipality or an enforcement officer in carrying out any function or duty in terms of this By-law.

9. Offences

9.1 A person who contravenes any provision of this By-law, or fails to comply with a compliance notice issued in terms of this By-law shall be guilty of an offence.

10. Penalties

10.1 A person who is guilty of an offence in terms of this By-law is upon conviction liable to a fine not exceeding R3 000.00 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

10.2 In the case of a continuing offence, an additional fine not exceeding R 1,000 or an additional period of imprisonment not exceeding 30 days or to both such additional fine and additional imprisonment for each day during which such failure or offence continues.

10.3 In addition to any penalty imposed in terms of subsections (1) and (2), the person so convicted shall be liable to pay the cost of repair of any damage caused or costs incurred in remedying any damage resulting from such an offence.

11. Repeal

11.1 Any by-laws relating to Unsightly and Neglected Buildings and Premises, previously adopted by the Council are hereby repealed from the date of promulgation of this By-law.

12. Application of this By-law

- 12.1 This By-law applies to all unsightly and neglected buildings and premises situated within the area of jurisdiction of the Municipality, except those situated in areas exempted from the application of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

13. Short Title and Commencement

- 13.1 This By-law is called the *Mangaung, Unsightly and Neglected Buildings and Premises By-law* and shall come into effect upon the date of promulgation in the Provincial Gazette.