

# **NEWCASTLE LOCAL MUNICIPALITY**



## **BY-LAWS**

### **PREVENTION AND SUPPRESSION OF HEALTH NUISANCES**

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## **PREVENTION AND SUPPRESSION OF HEALTH NUISANCES**

### **ENABLING PROVISIONS**

The Newcastle Municipality acting in terms of Section 156(2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996), read with Section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000) and Section 80A of the National Traffic Act, 1996 (Act no. 93 of 1996) hereby publishes the by-laws as set forth hereafter as by-laws made by the Municipality which by-law will come into effect on the first day of the month following the date of publication hereof.

### **PURPOSE**

To create a safe, healthy and peaceful living environment and to give effect to the Municipality's mandate to promote a safe and healthy environment as contained in Section 152 (d) of the Constitution of the Republic of South Africa, 108 of 1996 as amended.

### **APPLICATION**

This by-law applies to the local community as contemplated in Section 1 of the Local Government: Systems Act 32 of 2000 and legal personae existing or incorporated within the Municipal area.

### **COMMENCEMENT**

These By-laws shall come into operation on the date of publication thereof in the Provincial Gazette.

**BE IT ENACTED** by the Newcastle Local Municipality, as follows:

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## 1. DEFINITIONS –

In these by-laws any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates:

- 1.1 **"Cost"** means the amount determined by a duly authorised employee of Council;
- 1.2 **"Council"** means the council of the Newcastle Local Municipality;
- 1.3 **"Health nuisance"** means any activity, condition, premises or thing which on account of effluent, vapours, chemical effluvia, odours, noise, vibration, refuse, waste products, dirt, vermin, vegetation, lack of proper general hygiene, ventilation, lighting, situation on account of any other cause or practise whatsoever, is in the opinion of the Chief Environmental Health or a duly authorised council employee dangerous to health;
- 1.4 **"Objectionable material"** means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused machinery,, motor cars or other vehicles, as well as the disused parts thereof, and includes any solid, liquid or gas which is or may become a nuisance or which materially interferes with the ordinary comfort or convenience of the public;
- 1.5 **"Occupier"** in relation to any premises means and includes-
  - (a) Any person in actual occupation of those premises, or
  - (b) Any person having the charge or management of those premises or
  - (c) Any person having the charge or management of those premises, and includes the agent of any such person when he is absent from the Republic of South or his/her whereabouts are unknown.
- 1.6 **"Offensive"** means a state of affair which is a health hazard or which has the potential to result in a health hazard;
- 1.7 **"Owner"** include-
  - (a) The person or persons in whom from time to time shall be vested the legal title to any immovable property;
  - (b) In any case where a property is subject to a registered lease, the lessee of such property;

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- (c) In case where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee executor or assignee or administrator;
  - (d) In cases where the owner as above described is absent the agent or person receiving the rent of the property in question; and
  - (e) In any case where the property is beneficially occupied under a servitude or right similar thereto the occupier of such property.
- 1.8 **"Premises"** means any building, tent, or any other structure together with the land on which the same is situated and the adjoining land used in connection therewith and any land without buildings or tents;
- 1.9 **"Verminous"** means being infested with vermin which includes but not limited to lice, fleas, vectors and any organism which may infest or be parasitic on a person;
- 1.10 **"Night soil"** means human excrement not disposed of in an approved sanitary convenience.

2. **USE OF PROPERTY** – (1) No person shall - (a) Use, cause or permit to be used a shop or business premises, vacant land or any portion thereof which is open to the public, for the purpose of storing, stocking or keeping any waste material, refuse, crates, cartons, containers or any other articles in such a way as to cause a health nuisance.

(b) Allow any Erf to be overgrown with bush, weeds, grass, shrubs and trees to such an extent that in the opinion of council, it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or safety of any member of the community.

(c) Fail to maintain the sewer, drains, water fitting, waste water fittings and all other sanitary accessories forming part of or attached to any building or structure in good and sound repair.

(d) Deposit, keep, cause or permit to be deposited or kept any night soil or any premises, except in a proper sanitary convenience approved by council.

- (e) Allow, permit or cause to permit a swimming pool to breed mosquitos or be a health nuisance.
- (f) Carry, convey or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid which is or may become a health nuisance.
- (g) Cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises to that owned or occupied by another person, whether occupied for trade , business, manufacturing, dwelling or other purposes, onto any land into any storm water, river or canal system.
- (h) Commit, cause or permit to be committed any act which may pollute any water to which inhabitants of the area of jurisdiction of the council have the right of use or access.
- (i) Commit, cause or permit to be committed any act which may pollute air to which inhabitants of the area of jurisdiction of council have the right of use, access or inhale.
- (j) Occupy, cause or occupies any premises for inhabitable purposes so as to be a health nuisance whether by overcrowding or otherwise.
- (k) Keep, cause or suffer to be kept any factor or trade premises so as to cause or give rise to smells or effluvia that constitute a health nuisance.

3. **REMOVAL OF OBJECTIONABLE MATERIAL** - (1) Where any objectionable material , article or matter of whatsoever nature has been accumulated or stored on any erf street, thoroughfare, public square or commonage or where there is overgrowth of bush, shrubs,trees,weeds,grass or vegetation on any erf in contravention of Section 2(1)(a) the municipality shall serve a notice to abate such health nuisance on –

- (a) The person directly or indirectly responsible for such accumulation or storing; or
- (b) The owner of such material, article or thing whether or not responsible for such accumulation or storing; or
- (c) The owner of the erf on which such accumulation is taking takes place, whether or not he is responsible the erf; or
- (d) The owner of the erf on which there is an overgrowth of bush, weeds, grass, trees, shrubs or vegetation.



(2) In the event of the recipient failing to comply with the requirements of a notice served on him/her in terms of Section 3(1) within the time specified in such notice, the Council may at the expense of the recipient, together with any assistants and advisors it may require, forthwith enter upon such premises and clear from such premises any such trees, bushes, weeds, grass or vegetation. The cost of such work shall be recoverable by council, by debiting the municipal account of the accountholder of the premises.

4. **PENALTIES AND OFFENCES** - (1) Any person who –

(a) contravenes or fails to comply with the provisions of this By-law or fails to comply with the provisions of these by-laws or of any of them, conditions, requirements, any notice lawfully issued in terms thereof;

(b) causes or permits any other person to commit any of the aforesaid acts shall be guilty of an offence and shall be liable upon conviction –

i. in the case of a first conviction to a fine not exceeding R500.00 (five hundred rands)

ii. in the case of a second or subsequent conviction for the same offence, a fine not exceeding R2 000.00 (two thousand rand);

iii. or in default of payment of any fine imposed in either case mentioned in par (i) and (ii) above, imprisonment for period not exceeding 3 (three) months.

5. **SHORT TITLE** – (1) These by-laws shall be called the Prevention and Suppression of Health Nuisance By-laws 2017.