

Mbizana, South Africa

Unsightly and Neglected Buildings and Premises

Legislation as at 24 April 2017

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Unsightly and Neglected Buildings and Premises
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Mbizana South Africa

Unsightly and Neglected Buildings and Premises By-law, 2017

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The Municipal Manager of Mbizana Local Municipality hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 ([Act 32 of 2000](#)) read with Section 162 of the [Constitution of the Republic of South Africa Act 1996 \(Act 108 of 1996\)](#) the By-Laws Relating to Unsightly and Neglected Buildings and Premises which shall come into operation on the date of publication thereof.

1. Purpose

To provide for the prevention of neglected and unsightly buildings and premises within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of Mbizana Local Municipality, as follows:

2. Definitions

In these by-laws:-

"**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;

"**Council**" means the Municipal Council of Mbizana Local Municipality and includes any employee to whom the Council has delegated powers to enforce and/or perform duties in terms of these by-laws;

"**Municipality**" means Mbizana Local Municipality and its legal successors, and when referred to as-

- (a) "**a legal entity**", means Mbizana Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, ([Act No. 32 of 2000](#)); and
- (b) "**a geographic area**", means the municipal area of the Mbizana Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 ([Act No 27 of 1998](#));

"**Municipal area**" means the area under the jurisdiction and control of the Council;

"**Nuisance**" means any conduct or condition which brings about or may bring about a state of affairs or condition which is obnoxious and, or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

"**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 Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;

- (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 95 of 1986](#)), and without restricting the above, 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
- (f) any legal person including but not limited to:
 - (i) A company registered in terms of the Companies Act, 1973 ([Act 61 of 1973](#)), a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 ([Act 69 of 1984](#)) and a Voluntary Association.
 - (ii) Any Department of State.
 - (iii) Any Council of Board established in terms of any legislation applicable to the Republic of South Africa.
 - (iv) Any Embassy or other foreign entity.

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

3. Control of neglected and unsightly buildings and premises

- (1) Where upon any premises there is, in the opinion of the Council-
 - (a) a building which is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected;
 - (b) a growth of neglected lawns, trees shrubs or other cultivated vegetation.
 - (c) An unsightly accumulation of papers, cartons, garden refuse, rubble and/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 Council shall serve a notice in writing on the owner or occupier of such premises requiring him or her or it to improve such building or the condition of such premises to a standard acceptable to the Council which standard shall be stated in the notice within a specified period which shall not exceed ninety (90) days from the date of the notice.

- (2) If the owner fails to comply with the requirements of the notice served on him or her or it in terms of Section 2 of these by-laws within the period specified in such notice, such owner shall be guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.
- (3) Alternatively and instead of instituting legal action against the owner in terms of Section 3 of these by-laws and provided no written objections from such owner have been received before the expiry date of the period specified in the notice served on him, her or it, the Council shall assume that such owner has no objection and tacitly agrees that the Council may, without any further notice to him or her or it, enter upon such premises and, at his or her or its cost and through its officials or a contractor appointed by the Council on a tender or quotation basis, execute the work necessary to comply with the requirements of the said notice.

- (4) The Council shall be entitled to recover the cost of the work undertaken in terms of Section 4 in any court of law from the owner so in default.
- (5) A certificate under the hand of the Municipal Manager of the Municipality stating the cost of the work referred to in Section 5 shall be conclusive proof thereof.

4. Offences and penalties

- (1) If the owner fails to comply with the requirements of the notice served in terms of section 2 within the period specified in such notice, such owner is guilty of an offence and, on conviction, be liable to a fine as determined by a competent court.
- (2) The Municipality may, instead of instituting a prosecution and unless written objection from such owner has been received before the expiry date of the period specified on the notice served on him or her, assume that such owner has no objection and tacitly agrees that the Municipality may, without further notice, enter upon such premises and through its officials or a contractor whose tender the Municipality has accepted, and at the cost of such owner execute the work necessary to comply with the requirements of the said notice.

5. Repeal of by-laws

All Municipal By-Laws, and amendments thereto, relating to Unsightly and Neglected Buildings and Premises are repealed.

6. Short title and commencement

By-laws Relating to Unsightly and Neglected Buildings and Premises will come into operation on the date of publication in the *Provincial Gazette*.