
GEORGE MUNICIPALITY

BY-LAW RELATING TO PREVENTION OF PUBLIC NUISANCES

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the George Municipality enacts as follows:

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1. Definitions

In this by-law, unless the context otherwise indicates—

“**authorised official** ” means an employee of the municipality or any other person who is appointed or authorised thereto by the municipality to perform any act, function or duty related to the provisions of this by-law, or exercise any power in terms of this by-law;

“**drunk**” means a person who, by reason of the alcohol or other substance which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with regard to the rights of others which the law demands;

“**municipality**” means the George Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“municipal manager” means the person appointed by the municipality in terms of Section 54A of the Municipal Systems Act, Act 32 of 2000, or such person acting in his/her position or to whom any power in terms of this By-law was delegated;

“premises” means—

- (a) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

“public nuisance” means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and

“nuisance” has the same meaning;

“public place” means any land, square, building, park, recreation ground or open space which:

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“street” means any road, street or thoroughfare or any section or part thereof which is commonly used by the public or to which the public has a right of access;

“structure” means any container, stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

2. Objectives and application of by-law

The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the George area by fostering an environment in which the public in general may enjoy peaceful and harmonious living conditions.

GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

- (1) No person may—
 - (a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;
 - (b) subject to any approval in terms of the relevant Town Planning Scheme Regulations, carry on any trade, business, profession or hobby which causes discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, building rubble, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
 - (f) use any stoep, verandah or alley of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) enclose any stoep or verandah of any shop or business premises by any means otherwise than by such means as approved by the municipality;
 - (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
 - (i) defoul, misuse or damage public toilets;
 - (j) carry or convey in any street or public place, any objectionable material- or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
 - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (l) erect, or allow to be erected or use on any premises any structure in a manner that causes a nuisance to people; or
 - (m) by an action allow that a nuisance be created or continued;
 - (n) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
 - (o) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
 - (p) cause a nuisance by-
 - (i) loitering, sleeping or overnighing in or on any street,

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- premises or public place;
 - (ii) being drunk or under the influence of drugs;
 - (iii) soliciting or importuning any person for the purposes of prostitution or any other immoral act;
 - (iv) continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
 - (v) playing loud music or the use of music instruments on any premises;
- (q) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (r) in any street or public place use any abusive or threatening language;
 - (s) cleanse or wash any vehicle or part in any street or public place;
 - (t) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) In the event of a contravention of subsection 1, the municipality may issue a notice to the owner, occupier or alleged offender to terminate the action or to abate the nuisance created.
- (3) In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefor.
- (4) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (5) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under is guilty of an offence.

4. Right of entry, inspection and confiscation

- (1) Any duly authorised official of the municipality may inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law; provided that a

private dwelling may not be entered for routine inspection purposes.

- (2) When entering premises in terms of subsection (1), the authorized official must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised official may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.
- (5) An authorised official may confiscate any material used to commit an offence in terms of this By-law and shall dispose of such material in the manner determined by the municipal manager.

5. Service of documents and process

- (1) Whenever a notice, order, demand or other document is authorised 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 personally;
 - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
 - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
 - (e) if his 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.
- (2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

6 Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

7 Offences and Penalties

- (1) A person who transgresses any stipulation of this By-law is guilty of an offense.
- (2) A person who has committed an offence in terms of this by-law is, on conviction, and subject to penalties prescribed in any other law, liable to:
 - 2(1) a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or;
 - 2(2) to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment and a further amount equal to any costs and expenses incurred by the municipality as result of any contravention, or;
 - 2(3) to a sentence of community service as determined by the magistrate in consultation with the municipality.

8 Repeal of by-laws

The provisions of the George Municipality By-law Relating to Prevention of Public Nuisances and Public Nuisances Arising from the Keeping of Animals promulgated in Provincial Gazette 6816 dated 30 November 2010, is hereby repealed

9 Short title and commencement

This by-law is called the By-law on the Prevention of Public Nuisances and will come into operation on the date of publication thereof in the Provincial Gazette.