

## BUILDING CONTROL BY-LAW, 2023

*This bylaw is supplementary to the Act and the NBR to ensure uniformity with regard to building standards, the erection of buildings and the submission, consideration and approval of building plans in the jurisdictional area of the municipality.*

*This by law aims to promote compliance and address the means by which a developer can comply with the National Building Regulations and standards and ensure due diligence is followed to safeguard the health and safety of the property owners and neighbouring property owners or any interested parties.*

*All persons, including organs of state, must submit building plans and specifications for consideration and approval by the municipality in respect of buildings as provided for in this bylaw, the Act and the NBR and shall pay the required fees as contemplated in section 9*





## **GEORGE MUNICIPALITY**

### **GEORGE MUNICIPALITY: BUILDING CONTROL BYLAW, 2023**

Promulgated in the Western Cape Provincial Gazette on 11 August 2023, terms of Section 13(a) of the Local Government Municipal Systems Act, No.32 of 2000, as approved by the George Municipality at a meeting of Council, held on 27 July 2023, under item 11.5.

In terms of Section 156 of the Constitution of the Republic of South Africa, 1996, the George Municipality enacts as follows:

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

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## Definitions

1. In this By-Law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned to in the National Building regulations and Building Standards Act, 1977 or another By-Law of the Municipality, has the meaning assigned to it in that Act or By-Law: -

**“Act”** means the National Building Regulations and Building Standards Act, 1977, (Act 103 of 1977 and any provision in this bylaw relating to procedures for the submission of and consideration of applications for approval of the erection of a building as well as compliance requirements, must be interpreted as a reference to applicable corresponding provisions in the Act and the NBR.

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

**“building”** 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-
  - (i) the accommodation or convenience of human beings or animals;
  - (ii) the manufacture, processing, storage, display or sale of any goods;
  - (iii) the rendering of any service;
  - (iv) the destruction or treatment of refuse or other waste materials;
  - (v) the cultivation or growing of any plant or crop;
- (b) any wall, fence, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c);
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply, or other similar service in respect of the building.

**“competent person”** means a person who is qualified by virtue of his/her education, training, experience and contextual knowledge to make a determination regarding the performance of a building or part thereof in relation to a functional regulation or to undertake such duties as may be assigned to him in terms of this bylaw and the NBR;

**“erect”** means, in relation to a building, the alteration, extension, re-building, re-erection, subdivision of, or addition to, or repair of any part of the structural system of any building;

**“municipality”** means the George Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in

connection with this bylaw 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;

**“National Building Regulations”** means regulations issued in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), hereafter referred to as the **NBR**;

**“organ of state”**

- (a) any government department or administration in the national, provincial or local government sphere; or
- (b) any other functionary or institution-
  - (i) that performs a power or function in terms of the Constitution or a provincial constitution; or
  - (ii) that performs a public function or power in terms of legislation but excludes a court or judicial officer.

**“owner”** in relation to a building or land, means the person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deed’s office in question, provided that if-

- (a) such person, in the case of a natural person, is deceased or was declared by any court to be incapable of managing his own affairs or a prodigal or is a patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973), or if his estate has been sequestrated, the executor or curator concerned, as the case may be;
- (b) such person, in the case of a juristic person, 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 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 land or who is responsible therefore;
- (d) 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 land or who enjoys such benefit,

shall be deemed to be the owner of such building or land;

**“person”** includes any natural person, juristic person, association or organ of state;

**“storm water retention and disposal plan”** means the stormwater retention and disposal plan required in terms of Section 26(3) of the Municipality’s By-law relating to Stormwater;

**“structural system”** means, in relation to a building, the system of constructional elements and components of any building which is provided to resist the loads acting upon it and to transfer such loads to the ground upon which the foundation of the building rests;

**“temporary buildings/structures”** means any structure or erection or part of structure or erection which is intended to be used only for temporary purpose for a definite period and which is made of temporary and quickly removable building material such as canvas cloths, straw, mat, lay tarpaulin, fibre cement sheets/ plastic sheets, etc, without any permanent foundation, wall, beam, column, concrete and such other material of permanent nature. These structures are multi-purpose, portable structures that offer protection under all weather conditions;

### **Purpose of bylaw and application**

2. (1) This bylaw is supplementary to the Act and the NBR to ensure uniformity with regard to building standards, the erection of buildings and the submission, consideration and approval of building plans in the jurisdictional area of the municipality.
- (2) This by law aims to promote compliance and address the means by which a developer can comply with the National Building Regulations and standards and ensure due diligence is followed to safeguard the health and safety of the property owners and neighbouring property owners or any interested parties.
- (3) All persons, including organs of state, must submit building plans and specifications for consideration and approval by the municipality in respect of buildings as provided for in this bylaw, the Act and the NBR and shall pay the required fees as contemplated in section 9.

### **Interpretation**

3. Any provision in this bylaw relating to procedures for the submission of and consideration of applications for approval of the erection of a building as well as compliance requirements, must be interpreted as a reference to applicable corresponding provisions in the Act and the NBR.

### **Application for approval required in respect of buildings to be erected**

4. A person who wishes to erect a building as contemplated in section 5, shall submit an application on the prescribed form and must simultaneously submit the building plans or documents as required in terms of this By-law for consideration and approval by the municipality prior to commencement with the erection of such building.

### **Buildings that require approval of the municipality**

5. (1) Without derogating from the provisions of section 4(1) of the Act, the NBR or any other law, the undermentioned require approval of the municipality and may include, but are not limited to-
  - (a) containers, irrespective of the materials used in the erection thereof, used temporarily or permanently for purposes including but not limited to storage or habitable purposes;
  - (b) storage tanks, irrespective of the materials used in the erection thereof, used temporarily or permanently for purposes including but not limited to storage of water, fuel, gas or any other liquid;
  - (c) air conditioning units;
  - (d) pool pumps;
  - (e) Structures, irrespective of the materials used in the erection thereof, used temporarily or permanently for purposes including but not limited to storage or habitable purposes;
  - (f) grey water systems used for the reticulation of grey water as defined in the municipality's Water and Sanitation Services Bylaw;

- (g) bore holes;
  - (h) recreational equipment, irrespective of the materials used in the erection thereof, used temporarily or permanently for amusement or recreational purposes;
  - (i) alternative energy systems whether free standing or attached to a building;
  - (j) wind turbines whether free standing or attached to a building;
  - (k) communication infrastructure, including but not limited to cellular masts, antennae, satellite dishes, radio masts, whether free standing or attached to a building;
  - (l) Informal structures, irrespective of the materials used in the erection thereof, used temporarily or permanently for purposes including but not limited to storage or habitable purposes;
  - (m) fencing, irrespective of the material used in the erection thereof
  - (n) electrical fencing as contemplated in the Electrical Machinery Regulations, published under GN R250 in GG 34154 of 25 March 2011;
  - (o) vibracrete structures;
  - (p) tents or shade structures, or hydroponic tunnel structures, or similar structures, whether free standing or attached to a building, irrespective of the materials used in the erection thereof, used temporarily or permanently for purposes including, but not limited to storage, production or habitable purposes;
  - (q) temporary buildings as contemplated in Regulation A23 of the NBR;
  - (r) wood fired or gas installation fire pits, fireplace for space heating or preparation of food, pizza ovens etc, but not limited to;
  - (s) surface installations such as mini-substations;
  - (t) meter kiosks; and
  - (u) service pillars.
- (2) The authorised official may, in respect of the erection of certain structures such as, but not limited to, air conditioning units, pool pumps, communication infrastructure and alternative energy systems, or any other building considered by such official as a minor building work, upon application, in writing-
- (a) exempt the owner of such building from the obligation to submit a plan in terms of this By-law to the municipality for approval;
  - (b) grant authorization for the erection of such building in accordance with the conditions and directions specified in such authorization.

### **Certificate of occupancy**

6. (1) Subject to the provisions of section 14(1A) of the Act, a certificate of occupancy as contemplated in section 14 of the Act shall not be issued by the municipality unless the owner, has provided the municipality with the following information,- where applicable -
- (a) electrical compliance certificate;
  - (b) plumbing certificate (COC) – PIRB or IOPSA registered;
  - (c) glass certificate issued by a competent person;

- (d) engineer's structural completion certificate (form 4) or (form 3 –applicable on element);
  - (e) mechanical engineer's compliance certificate;
  - (f) gas installation certificate issued by a competent person;
  - (g) lift installation certificate issued by a competent person;
  - (h) architectural completion certificate (Form 4);
  - (i) energy efficient certificate (form 4);
  - (j) in relation to fire safety, a certificate by a competent person certifying that the fire protection system, equipment and the fire installation system has been designed and erected in accordance with the application;
  - (k) beacon certificate issued by a professional land surveyor;
  - (l) engineer's drawings relating to reinforced or structural works;
  - (m) notification and execution of A22 completion inspection;
  - (n) Home/property owner's association compliance certificate (HOA);
  - (o) OSCA/E compliance certificate; (Outeniqua Sensitive Coastal Area / Extension)
  - (p) coastal engineer compliance certificate;
  - (q) compliance certificate for storm water disposal as per the approved building and site plans;
  - (r) proof of payment of all monies due to the Municipality, that includes but is not limited to the payment of Development Contributions, connection fees, municipal rates, taxes or other charges;
  - (s) universal accessibility measures for buildings that will be accessible to the public, i.e. not exclusively for private use;
  - (t) certification confirming compliance with the water demand management strategy of the Municipality.
- (2) The following will be required by the Municipality for commencement or completion of building work where the owner has failed to notify the municipality of an inspection in terms of regulation A22 of SANS 10400 when applying for a Certificate of Occupancy: -
- (a) A valid approved building plan;
  - (b) Beacon certificate by registered land surveyor;
  - (c) Structural Engineers certification;
  - (d) Plumbing certification;
  - (e) Declaration form of the commencement date of building work;
  - (f) SANS 10400-part XA and SANS 204 certification by competent person;
  - (g) Fire protection (part T of SANS 10400) certification;
  - (h) Fire installation (part W of SANS 10400) certification - competent person;
  - (i) Civil Engineer compliance certificate for storm water disposal;
  - (j) Proof of compliance with all land use approval conditions and any other statutory requirements;
  - (k) Universal accessibility measures for buildings that will be accessible to the public, i.e. not exclusively for private use;
  - (l) Compliance with the water demand management strategy of the Municipality.

- (3) The following will be required when applying for a certificate occupancy for existing buildings for which no certificate of occupancy was issued in the past: -
  - (a) An approved building plan in terms of section 7 of the Act;
  - (b) Relevant A22 inspection to be conducted and approved;
  - (c) COC's i.e. electrical, plumbing, structural, fire protection and fire protection, any other service or installation to building;
  - (d) Appointment of competent person for a rational assessment of the existing structures;
  - (e) Proof of approval of all land use approval conditions and any other statutory requirements;
  - (f) Universal accessibility compliance for buildings that will be accessible to the public, i.e. not exclusively for private use;
  - (g) Compliance with the water demand management strategy of the Municipality
- (4) The following will be required for deviations identified during the completion inspections prior to the application for Certificate of Occupancy
  - (a) Revised building plan to be submitted and approved;
  - (b) All relevant certificates of compliance as indicated in sub-section (1) to be submitted as part of the application for Certificate of Occupancy.
- (5) The requirements listed in subsections (1) to (4) above are not exhaustive and the Municipality reserves the right to request additional information before a Certificate of Occupancy is issued.

### **Cancelled applications**

7. (1) Any application in respect of which the Municipality refused to grant its approval in accordance with subsection 7(1)(b) of the Act, may, notwithstanding the provisions of section 22 of the Act, and subject to the provisions of subsection 7(1) of the Act be submitted anew to the Municipality within a period not exceeding one year from the date of such refusal-
  - (a) (i) if the plans, specifications and other documents have been amended in respect of any aspect thereof which gave cause for the refusal; and
  - (ii) if the plans, specifications and other documents in their amended form do not substantially differ from the plans, specifications or other documents which were originally submitted; or
- (b) where an application is submitted under section 18 of the NBR.
- (2) Failure to submit an amended application as per sub-section 7(1), shall result in the application being deemed as cancelled and a new application must be submitted to the Municipality.

### **Application and requirements**

8. (1) An application for approval, referred to in section 4, shall be in a format prescribed by the municipality and made available for that purpose.



- (2) An application must-
  - (a) contain the name and address of the applicant who must be the owner of the land on which the building in question is to be erected;
  - (b) be accompanied by-
    - (i) such plans, drawings and documentation or any additional information in the scale or format as prescribed by the municipality and, if required by the municipality, a stormwater disposal and retention plan; and
    - (ii) the fees determined by the municipality for the scrutiny of such plans, drawings or documentation.
- (3) Damaged or dilapidated buildings: -
  - (a) The requirements as indicated in subsection 8(2) will be applicable to all applications, including, but not limited to, applications in respect of: -
    - (i) buildings with fire damage;
    - (ii) buildings with flood damage;
    - (iii) replacement of existing structures.

### **Tariffs and fees**

- 9. Tariffs and fees as per the municipality's Tariff By-law and Tariff list will be applicable to all applications in terms of this By-law.

### **Compliance and enforcement**

- 10. (1) Where an authorised official has reasonable grounds to believe that a person has failed to comply with any requirement of this bylaw, or that such a person is in contravention of any provision of this bylaw, he or she may serve a notice of compliance on the person which notice must state: –
  - (a) the name and residential or postal address of the person;
  - (b) the requirement which has not been complied with or the provision which has been contravened;
  - (c) that the person must within a specified period take measures to comply with the notice and to complete the measures before a specified date; and
  - (d) that the person may within the period specified in the notice respond in writing to the alleged offence.
- (2) The municipality, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of this bylaw, the nature of the non-compliance, and other relevant factors.

- (3) Where the person served with a notice contemplated in sub section (1) fails to comply with such notice, the municipality may institute criminal proceedings, or where applicable, approach a competent court for an order-
  - (a) prohibiting any person from proceeding with the erection of such building;
  - (b) authorising the municipality to demolish such building if the court is satisfied that such erection is contrary to or does not comply with the provisions of this bylaw or any approval or authorisation granted there under; or
  - (c) any other form of relief the court may deem applicable, including an order regarding cost.
- (4) A person may not submit an application in terms of section 4 in the event that the actions in terms of subsection (3) have been instituted by the Municipality.

### **Offences and penalties**

- 11.** (1) A person commits an offence if he or she: –
- (a) erects or allows a building to be erected, or occupies a building contrary to the provisions of this bylaw;
  - (b) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an authorised official in the exercise of his or her powers or execution of his or her duties;
  - (c) falsely pretends to be an official;
  - (d) furnishes false or misleading information when requested to do so by an authorised official; or
  - (e) fails to comply with a request of an authorised official; or
  - (f) fails to comply with a notice issued in terms of section 10 of this bylaw.
- (2) Failure to comply with a notice, direction or condition referred to in this bylaw constitutes a continuing offence.
- (3) A person who contravenes any of the provisions of sub section (1) commits an offence and shall on conviction be liable to: -
- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
  - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

- (4) In addition to any fines imposed in terms of sub paragraphs (3)(a) and (b), a further amount equal to any costs or expenses found by the court to have been incurred by the municipality as result of such contravention or failure, may be imposed by the court.
- (5) The provisions of subsections (1) to (4) shall not apply to an organ of state.
- (6) Contravention penalties and fines to be read in conjunction with the Magistrate approved fines and contravention schedule.

### **Appeal**

- 12.** A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore 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.

### **Short title and commencement**

- 13.** This bylaw shall be known as the George Municipality: Building Control Bylaw and shall come into operation of the date of promulgation thereof in the Provincial Gazette.