

LOCAL AUTHORITY NOTICE 23 OF 2020

Buffalo City Metropolitan Municipality
East London | Bhisho | King William's Town
Province of the Eastern Cape
South Africa

Website: www.buffalocity.gov.za



Office of the City Manager
Legal Services Department
PO Box 134, East London, 5200
1st Floor, Trust Centre, East London, 5201

Tel: 043 705 1006 | **Fax:** 043 722 3448

BUFFALO CITY METROPOLITAN MUNICIPALITY Email: SiphathoH@buffalocity.gov.za

**BY-LAW RELATING TO DILAPIDATED
BUILDINGS AND UNSIGHTLY NEGLECTED
STRUCTURES AND PROPERTIES**

TABLE OF CONTENTS

1. PREAMBLE	PAGE 3
2. PURPOSE.....	PAGE 4
3. SCOPE.....	PAGE 4
4. PRINCIPLES, OBJECTIVES AND APPLICATIONS.....	PAGE 4
5. DEFINITIONS.....	PAGE 5
6. ENTRY BY AUTHORISED OFFICIALS OF BUILDINGS AND LAND	PAGE 7
7. DECLARATION OF A BUILDING, A PROBLEM BUILDING.....	PAGE 8
8. COMPLIANCE NOTICE.....	PAGE 8
9. SERVICE OF A NOTICE.....	PAGE 9
10. RESTRICTION OF LIABILITY.....	PAGE 10
11. OFFENCES AND PENALTIES.....	PAGE 10
12. REPEAL OF BY-LAWS.....	PAGE 11
13. SHORT TITLE.....	PAGE 11

1. PREAMBLE

The Buffalo City Metropolitan Municipality enacts a By-Law relating to Dilapidated Buildings and unsightly neglected structures and properties in terms of Section 156 (2) of the Constitution of the Republic of South Africa, 1996 which provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer. This section of the Constitution must be read together with Section 11 (3) (m) of the Local Government: Municipal Systems Act 32 of 2000 which states that a Municipality exercises its Legislative and its Executive Authority by passing by-laws and taking decisions on any matter falling within its competence and within its area of jurisdiction.

WHEREAS the Council of the Buffalo City Metropolitan Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Buffalo City Metropolitan Municipality in the exercise of its functions has the right to provide for the control of advertising signs in the municipal area for the benefit of the public residing in or visiting the Municipality;

NOW THEREFORE it is enacted by the Council as follows:

2. **PURPOSE**

The main purpose of this By-law is to provide for the identification, control and management of dilapidated and problem buildings and land in its area of jurisdiction.

3. **SCOPE**

This By-law sets out the procedures to be followed when dealing with dilapidated buildings. It provides, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its constitutional and other legislative obligations to manage dilapidated buildings.

4. **PRINCIPLES, OBJECTIVES AND APPLICATION**

4.1 The municipality adopts this by-law to provide for the identification, control and management of dilapidated and problem buildings and land in its area of jurisdiction with the aim of protecting and promoting the interests of all people in the Buffalo City Metropolitan area, area by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its constitutional and other legislative obligations.

4.2 In the development and management of its obligations and the implementation of this by-law, the municipality also recognises the infrastructural, social and economical disparities and inequalities resulting from previous local government dispensations and shall strive to overcome such disparities and inequalities by supporting the new goals for local government as laid down in section 152 of the Constitution.

4.3 In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Buffalo City Metropolitan

area, the different customs, cultures, circumstances, geographical areas, kinds of premises levels of development and conventions and the municipality may from time to time determine the areas in which the by-law will be applicable.

4.4 This By-law applies to all problem buildings situated within the area of jurisdiction of the municipality.

5. DEFINITIONS

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

“authorised official” means an employee of the Municipality authorised by the Municipality to implement and enforce the provisions of this By-law;

“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 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, including a building as defined in paragraph (a);
- (c) a unit as defined in the Sectional Title Act, 1986 (Act No. 95 of 1986); and;
- (d) any vacant, unoccupied erf;

“Municipality” means the Buffalo City Metropolitan 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 thereof or any employee thereof 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;

“National Building Regulations” means regulations issued in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

“owner” in relation to a building or land means the person in whose name the land on which such building was or is erected, as the case may be, is registered in the deeds office in question and includes a person in charge of such building: 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 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 1073), 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, 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 who is responsible there for;
- (d) the mortgage bond is registered in favour of a financial institution, that financial institution;
- (e) in the case of a sectional title scheme, a sectional title unit is registered in the name of a person, that person;
- (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) the Municipality in question is unable to determine the identity of such person, any person who is entitled to the benefit of the use of such building who enjoys such benefit;

“problem building” includes any:

- (a) building or land that have been abandoned or appears to have been abandoned by the owner with or without the consequence that rates or other service charges are not being paid;
- (b) building or land that is derelict in appearance, overcrowded or is showing signs of becoming unhealthy, unsanitary, unsightly or objectionable;
- (c) building or land that is the subject of numerous complaints from the public including complaints in respect of any criminal activity;
- (d) building or land that is illegally occupied;
- (e) building or land where refuse or waste material is accumulated, dumped, stored or deposited; or
- (f) building partially completed, abandoned or structurally unsound and that shows signs of any of the risks contemplated in paragraphs (a) to (e).

6. ENTRY BY AUTHORISED OFFICIALS OF BUILDINGS AND LAND

6.1 Any authorised official may enter any building or land at any reasonable time with a view to -

- (a) inspect or determine whether the building or land complies with any provision of this By-law; or
- (b) serve the owner of the building or land with a compliance notice contemplated in section 5.

6.2 No person shall hinder or obstruct the authorised official in the exercise of his or her powers in terms of the By-law.

6.3 An authorised official shall, when entering the building or land, produce a valid identification document issued to him or her by the Municipality to the owner of such building or land.

7. DECLARATION OF A BUILDING, A PROBLEM BUILDING

7.1 The authorised official may, subject to subsections (2), (3) and (4), if a building falls within the definition of problem building as defined in section 1, declare such building a problem building.

7.2 The authorised official shall, before declaring such building a problem building, inform the owner of his or her intention to declare such building a problem building.

7.3 The authorised official shall give the owner a period of seven days to make representations on why the building should not be declared a problem building.

7.4 The owner shall, in respect of a declaration made 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).

8. COMPLIANCE NOTICE

8.1 The authorised official may serve a written notice on the owner of any building or land which has been declared a problem building as referred to in section 4, requiring such owner within a specified period to -

- (a) clean, repair, renovate, repaint, alter, close, demolish or secure such problem building;
- (b) complete the problem building or any structure of such building;
- (c) enclose, fence or barricade such problem building or land;
- (d) instruct, at the cost of such owner, an architect or other registered person, to investigate such problem building and to report to the authorised official on the nature and extent of the steps to be taken to render such problem building safe or to rectify the deficiency which caused the building to be declared a problem building;
- (e) dispose of, destroy or remove any material or article accumulated, dumped, stored or deposited in any building, which is refuse or waste and which is unsightly or is likely to constitute an obstruction; or
- (f) comply with any provision of this By-law.

8.2 The Municipality may, if an owner fails to comply with a notice served on him or her in terms of subsection (1), clean, repair, renovate, repaint, alter, close demolish or secure any problem building at the cost of the owner.

8.3 The Municipality may, if the owner fails to pay the cost contemplated in subsection (2), recover the cost in terms of the Customer Care and Revenue Management By-law.

8.4 If the condition of any building is such that it poses a danger to life or the building itself, the authorised official may take any steps necessary to prevent the danger to life or the property without serving the notice contemplated in subsection (1) on the owner of such building and the municipality may recover the cost of such steps taken from such owner.

8.5 If the authorised official deems it necessary for the safety of any person, he or she may be notice in writing -

- (a) order the owner of any problem building to remove, within the period specified in such notice, any person who, for whatever purpose is in such problem building, and to take care that no person who is not authorised by the Municipality enters such problem building; and
- (b) order any person who for whatever purpose is in any problem building, to vacate such building.

8.6 No person shall occupy, use or permit the occupation or use of any problem building or continue to occupy, use or permit the occupation or use of any problem building in respect of which a notice of compliance was served in terms of subsection (1) or steps were taken by the Municipality in terms of subsection (2) without the written approval of the Municipality.

9. SERVICE OF A NOTICE

9.1 Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served –

- (a) when it has been delivered to that person personally;

- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
- (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
- (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
- (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
- (g) when it has been delivered, at the request of that person, to his or her e-mail address.

9.2 When a compliance notice as aforesaid is authorised 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.

10. RESTRICTION OF LIABILITY

No authorized employee of the municipality shall be liable in respect of anything done in good faith in the exercise of a power or the performance of a duty conferred or imposed in terms of this by-law.

11. OFFENCES AND PENALTIES

11.1 Any 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.

11.2 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, and in the case of a continuing offence, an additional fine not exceeding R1 000.00 or an additional fine not exceeding 30 days or to both such additional fine and additional imprisonment for each day during which such failure or offence continues.

11.3 In addition to any penalty imposed in terms of subsection (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.

12. REPEAL OF BY-LAWS

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

13. SHORT TITLE

This By-law may be cited as the Buffalo City Metropolitan Municipality: Dilapidated Buildings and unsightly neglected structures and properties By-law, 2018.

