

## **NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAW**

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### **Noise Abatement and Prevention of Nuisance By-Law**

The Municipal Manager of Fetakgomo Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Noise Abatement and Prevention of Nuisance By-Law for the Fetakgomo Municipality, approved by the Council, as set out hereunder.

#### **Purpose of By-Law**

- To promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the municipality;
- To provide for procedures, methods and practices to regulate nuisances.

#### **Definitions**

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, unless the context otherwise indicates: -

“**Council**” means the council of the Municipality or any political structure, political office bearer, councillor, or any staff member acting under council’s delegated or sub-delegated authority;

“**Erf**” means any land, whether vacant, occupied or with buildings thereon;

“**Municipal Area**” means the municipal area of the Municipality;

“**Municipality**” means the Municipality of the established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000;

“**Objectionable Material**” means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof,

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refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

**“Public Nuisance”** means any act, omission or condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely effects the safety of the public;

**“Public Place”** means any 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;

**“Public Road”** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

### **Enforcement**

2. The council may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

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### **Behaviour and conduct**

3. Notwithstanding the provisions of any other by-law no person shall:
- (a) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the council may from time to time set aside or approve for such purposes, provided however that the council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;
  - (b) do work on any erf or use any building or land for purposes calculated to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours or to become a source of danger to any person should the council be of the opinion that this provision is being ignored, the council may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
  - (c) carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighbourhood;
  - (d) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
  - (e) allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorised employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;

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- (f) allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
- (g) allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
- (h) allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- (i) use or cause or permit to be used any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise;
- (j) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- (k) enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;
- (l) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;

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- (m) deposit or keep or cause or suffer to be deposited or kept any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;
- (n) keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
- (o) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- (p) carry or convey, or cause 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 offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (q) bury or dispose of any dead body in any unauthorised place;
- (r) permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- (s) cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;
- (t) cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;
- (u) commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;

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- (v) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;
- (w) disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- (x) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;
- (y) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;
- (z) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
- (za) solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or
- (zb) cleanse or wash any vehicle or part in any street or public place.

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### **Failure to comply with provisions**

4. (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 2(a), (d) and (e) the council may serve a notice on -
- (a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
  - (b) the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;
  - (c) the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefore, or
  - (d) the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation, requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the council.
- (2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection (1)(a), (b), (c) and (d).
- (3) Where on any erf there is a contravention of section 2(f), (g), (h) and (t) the council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance.

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### **Sanitary facilities at construction sites**

5. Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.

### **Unlawful occupation**

6. (1) No person shall, without the permission of the council, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the By-Law relating to such caravan parks or camping sites.  
  
(2) The council may serve notice on any person who is occupying a caravan, tent or shelter in contravention of subsection (1) to vacate such caravan, tent or shelter within 3 days after the service of such notice, failing which, such person shall be guilty of an offence.

### **Penalties**

7. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to -
  - (1) a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
  - (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days 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,

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- (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.