

Swartland, South Africa

Prevention and Suppression of Nuisances

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**Swartland
South Africa**

Prevention and Suppression of Nuisances By-law, 2003

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Notice is hereby given in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000) that the Municipal Council of the Swartland Municipality has made the by-law set out in the schedule hereto:

1. Definitions

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

"**builder**" means the person who is employed to build or to execute work on a building or structure or where no person is so employed, the owner of the building or structure;

"**cost**" means the amount determined by a duly authorised employee of the Council;

"**Council**" means the council of the Swartland Municipality or its duly authorised employee;

"**erf**" means any land, whether vacant, occupied or with buildings thereon;

"**garden**" means any island or circle in any street or public parking area which has been cultivated as a rockery or garden or planted with trees or shrubs;

"**objectionable material**" means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused machinery, motor cars, or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being deposited 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, and

"**owner**" in relation to immovable property means the person in whom is vested the legal title thereto;

provided that –

- (1) if such person is dead or insolvent, has assigned his estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator, or judicial manager, as the case may be;
- (2) if such person is absent from the Republic or this address is unknown to the council, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, or
- (3) if the Council is unable to determine who such person is, the person who is entitled to the beneficial use of such property, shall be deemed to be the owner thereof.

2.

- (1) No person shall deposit, leave, spill, drop or place any fruit peels, broken glass, paper or any matter or thing likely to interfere with the cleanliness of any park, garden or camping area or cause annoyance, danger or injury to persons in such park, garden or camping area.
- (2) No person shall throw or deposit or permit to be thrown or deposited any plastic bottles, plastic bags, paper, cartons, broken bottles, glass or earthenware, or any fruit or vegetable peelings, or any refuse upon any street, erf, footpath or public place.

- (3) No owner or occupier of any shop or business premises or vacant land adjoining such shop or business premises shall use or cause or permit to be used any stoep or verandah of such shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, depositing, disposing of, displaying, keeping, selling or offering for sale any goods, articles or merchandise.
- (4) No owner or occupier of any shop or business premises or vacant land adjoining such shop or business premises shall use or cause or permit to be used such 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, depositing, disposing or keeping any waste material, refuse, crates, cartons, containers or other articles of like nature.
- (5) No owner or occupier of any shop or business premises shall enclose or cause or permit the enclosing of any stoep or verandah of such shop or business premises by means of movable or immovable structures, articles or devices, other than by means of buildings of a permanent nature which shall be erected in accordance with plans bearing the approval of the Council.

3.

Notwithstanding the provisions of any other by-law no person shall –

- (1) dump, accumulate or lace 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 concerns, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or reassemble any motor vehicle or other vehicles or apparatus on premises approved by the Council;
- (2) do work on any erf or use any building or land for purposes calculated 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;
- (3) carry on any trade, business or profession on any erf in the area of jurisdiction of the Council which may in the opinion of the Council be a source or become a source of discomfort or annoyance to the neighbourhood;
- (4) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an 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;
- (5) 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 gases to emanate from such erf;
- (6) allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
- (7) 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;
- (8) allow garden or any other waste material to be burnt on any premises except in a fuel-burning appliance;
- (9) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- (10) deposit or keep or cause or permit to be deposited or kept any nightsoil on any premises, except in a proper sanitary convenience approved by the Council and in accordance with any by-law of the Council;
- (11) keep or cause or suffer to be kept upon his or her premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;

- (12) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- (13) carry or convey, 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 in order to prevent the creation of any nuisance;
- (14) bury or dispose of any dead body in any unauthorised place;
- (15) permit the carcass of any animal, being his or her property or of which he or she is in charge and which has died on his or her premises or elsewhere in the area of jurisdiction of the Council to remain unburied;
- (16) 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 her of which he or she is in charge to be or to 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;
- (17) 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 or her, whether occupied for trade, business, manufacturing, dwelling or any other purposes, into any street or onto any land;
- (18) commit or cause or permit to be committed any act which may pollute any water to which inhabitants of the area of jurisdiction of the Council have the right to use or which is provided or reserved for the use of such inhabitants;
- (19) bathe or wash him- or herself or any animal or article of 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 such purpose;
- (20) at any time of day or night 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;
- (21) loiter in any street or public place or gather or crowd on pavements;
- (22) 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 or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;
- (23) being 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 a 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;
- (24) 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;
- (25) 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
- (26) cleanse or wash any vehicle or any offensive article or utensil in any street or public place.

4.

- (1) Where any objectionable material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, street, thoroughfare, public square or commonage or where there is an

overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 3(1) and 3(4) 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 or she is responsible for such accumulation, dumping, storing or depositing;
 - (c) the owner of the erf on which such accumulation, dumping, storing or depositing takes place, whether or not he or she is responsible therefor; 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 within a period of fourteen days from the date of such notice or such further period as the Council may grant on written application.
- (2) In the event of the owner failing to comply with the requirements of a notice served on him or her in terms of section 4(1), within fourteen days of the date of such notice, the Council may, at the expense of the owner, instead of instituting a prosecution through its employees or contractors, together with any assistants and advisers who may be required, forthwith enter upon such premises and clear from such premises any such trees, bushes, weeds, grass, stones and rubble or inflammable matter. The cost of such work shall be recoverable by the Council in any court of competent jurisdiction from the owner in default.

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 him- or herself and his employees to the satisfaction of and in accordance with any requirements specified by the Council.

6.

A builder who is erecting a building or who is making structural alterations or additions to a building or who is effecting repairs to or is renovating a building and who employs a caretaker or a nightwatchman in connection with such building operations or other work, shall not permit or allow such caretaker or nightwatchman to be accommodated in any such building or other work under construction or which is being renovated, but shall provide a temporary structure on the site of operations to the satisfaction of the Council for the accommodation of such caretaker or nightwatchman. Not more than one caretaker or nightwatchman shall be employed by the said person in connection with the works herein referred to without the prior written permission of the Council. Further, the said builder, caretaker or nightwatchman shall not, between the hours of sunset and sunrise, cause or allow any other person or persons to make use of or to sleep or to gather in the said temporary structure or without good cause to enter and/or remain on the site or premises where the building operations or other work are being carried out.

7.

No person shall, without 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 Council's by-law relating to parks for caravans and mobile homes.

8. Penalty

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 a penalty not exceeding –

- (1) a fine of one thousand Rands or imprisonment for a period of six months or either such fine or such imprisonment or both such fine and such imprisonment;

- (2) in the case of a continuing offence, an additional fine of fifty Rands or an additional period of imprisonment of ten days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and
- (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.