

CITY COUNCIL OF NAIROBI

**(DERELICT VEHICLE, MACHINE
AND EQUIPMENT) BY-LAWS 2009**

LOCAL GOVERNMENT ACT
(CAP 265)

IN EXERCISE of the powers conferred by Section 201 of the Local Government Act, Cap 265 the City Council of Nairobi hereby makes the following By-Laws:

CITY COUNCIL OF NAIROBI DERELICT VEHICLES BY-LAWS 2009

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| Citation | 1. These By-laws may be cited as the City Council of Nairobi Derelict Vehicles By-laws 2009. |
| Application | 2. These By-laws shall apply throughout the area of jurisdiction of the City Council of Nairobi |
| Interpretation | 3. In these By-laws unless the context otherwise requires-

“Council” means City Council of Nairobi:

“occupier” includes any person in actual occupation of premises or residential dwelling subdivided and let to lodgers or various tenants each lodger or tenant thereof.

“owner” means title holder and includes any person lawfully claiming title under him or his agent or any person receiving rent or proceeds on his behalf.

“person” means a natural person but also includes a corporation whether aggregated or sole.

“premises” includes land, building, vehicles, railway carriage or other conveyances and tent, vans, structures of any kind, drains or places open, covered or enclosed, whether maintained or not under statutory authority, of any place within the limits of the City.

“residential dwelling” means building, flat or any structure used as a private dwelling and includes undeveloped or partially developed land allotted for residential purposes;

“street” includes any street, road, highways, path, sanitary lane, sand lane, through fare or public space or public space to which the public have access and includes a bridge over which a roadway runs;

“Town Clerk” means the person for the time being holding the office of Town Clerk of the Council, his deputy and any other officer of the Council authorized by town Clerk in writing for the purpose of these By-Laws. |

“derelict vehicle” means a vehicle, located wholly or partly outside of a building which:-

- (a) has been dismantled, or which has been stripped of parts to any degree, except temporarily and only to the extent reasonably required for the purpose of routine maintenance or servicing of an operation vehicle at the actual time when such maintenance or servicing is actively being carried out
- (b) Due to its wrecked or dilapidated condition; or State of disrepair

“Derelict boat” means a boat, located wholly or partly outside of a building, which

- 1. has been dismantled , or which has been striped of parts to any degree, except temporarily and only to the extent reasonably required for the purpose of routine maintenance or servicing of an operational boat at the actual time when such maintenance or servicing is actively being carried out.
- 2. due to its
 - (a) wrecked or dilapidated condition, or
 - (b) state of disrepair,is manifestly unseaworthy or is otherwise incapable of normal operations or
- 3. is used primarily as a receptacle for storage

“Derelict homes” means a house that is structurally unsound and/or unfit to live in or a house that by its appearance is out of step with the surrounding community or a house which by virtue of being vacant is attracting unwanted/illicit activity within the community

Duty of care

- 4. a) The Council has the primary duty to ensure that the amenity values in particular visual amenity of the City is not detracted from by the storage of derelict vehicles on properties.
- b) No person shall store or allow to be stored any derelict motor vehicle, Machinery and Equipment on their property unless that vehicle Machinery or Equipment’s contained wholly within a building; or Fenced or otherwise screened from public view

Owners and

occupiers of land

- 5. Every owner or occupier of land in the city of Nairobi shall keep such land clear of
 - (a) any accumulation of filth of any kind any
 - (b) derelict boat
 - (c) any derelict vehicle
 - (d) any derelict machinery equipment

filth, discarded

material or rubbish

6. Without restricting the generality of section 6 “filth discard materials or rubbish of any kind” includes
- (a) detached parts of vehicles
 - (b) detached parts of boats, and
 - (c) detached parts of machinery and equipment
 - (d) building materials, construction equipments, or both, unless the owner of the land holds current building permit for construction on the said land.

Notice

7. where land is not kept clear in accordance to section 5, the director of city planning may cause notice to be given to:

1. (a) the owner of the land
2. (b) any other person subject to the requirements of section 6 in the relation to the land, advising that the council will be entitled to take the required remedial action at the expenses of the owner subject to the requirement if the remedial action has not been taken within 14 days of the date on which the notice is mailed or served as the case may be.
3. A notice under section 7 shall;
 - (a) describe the nature of the noncompliance with the Bylaw
 - (b) describe using apt words, measuring, sketches or photographs, or a combination thereof, the location, extent and nature of the required action ;
 - (c) indicate how the person served with the notice may contact the Director of City Planning if he or she desires further information with respect to the location, extent or nature of the required action;
 - (d) state that the person served with the notice may apply to the Council for reconsideration of the requirement to take action described in the notice;
 - (e) Indicate how the person served with the notice may obtain information regarding an application for reconsideration;
 - (f) State that if within the required time the person served with the notice applies for reconsideration by the council he or she need not take the action described in the notice until the application has been dealt with and the requirement confirmed by that body; and.
 - (g) Given by personal service or by registered mail;

Application for
Reconsideration

8. An application for reconsideration by the Council shall
- (a) be in writing
 - (b) include a return address; and
 - (c) be submitted to the Town clerk before the expiration of the time set out in the notice for the completion of the required work.
 - (d) Following receipt of an application for reconsideration under section 8 the Town Clerk shall notify the applicant of the time, date and place the application will be placed before the council.

(e) Notification from the Town clerk in accordance with Section(d) shall

- i. state that reconsideration by the Council at the time, date and place specified will include a reasonable opportunity to be heard or make a written submission on the matter either in person or through an agent, or both ; and
- ii. be mailed or otherwise deliver to the applicant at least five (5) days before the date set for reconsideration by the Council.
- iii. If the Council, upon reconsideration, has confirmed a requirement to take remedial action under this By-law, notice of such confirmation shall be given to
 - (a) the owner of the land which is the subject of the requirements and
 - (b) any other person subject to the requirements of section 2 in relation to the land, with such notice to be given by the personal service or by registered mail, and in addition to be sent by regular mail to each holder of a registered charge in relation to the land whose name is included on the most recent valuation roll, at the address set out in that valuation roll and to any later address known to the Town Clerk.

Entry

9. If the person subject to the requirement to take remedial action under this By-law does not take such action within 14 days of the date on which the notice under section 7 required remedial action including disposal as garbage or scrap of any material or object to the thing being removed from the land, the officer concerned for this purpose may enter upon the land which is the subject of the notice.

Costs

10. The Council shall keep an accurate account of the costs incurred Pursuant to Section 9 and when the required action is completed shall mail a statement of such charges to the person given notice under this By-law, with a demand for payment of same.

- (a) If the person referred to in Sections 9 and 10 does not pay the costs of the action by the Council on or before December 31 in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the land as taxes in arrears.
- (b) Where remedial action taken by the Council pursuant to Section 10 includes the removal of a derelict vehicle, derelict boat or derelict machines and equipment the Council shall, prior to disposal as garbage or scrap, keep such vehicle or boat in storage for a period of not less than 30 days following removal. During the period of storage, without limiting for payment of other costs under this Bylaw, the vehicle or machinery equipment may be reclaimed by the owner upon payment to the Council of all removal, transportation, impoundment and storage fees incurred by it, and upon the owner presenting to the Council a signed declaration that

the vehicle or boat shall not be kept or stored in a manner contrary to this Bylaw. If the vehicle, boats or machinery equipment not reclaimed during that period, it may be disposed of, and the disposal costs, net of any scrap value proceeds from the disposal, along with the Council's costs for removal, transportation, impoundment and storage, shall be added to and shall form part of the costs described in Sections 10.

- (c) The Director City Planning may at all reasonable times enter upon any land in order to determine whether regulations and directions under this Bylaw have been obeyed.
- (d) No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of the Director of City Planning

Offences
Penalties

- 11. Any person who refuses or fails to comply with any provision of these Bylaws or gives false information in relation to any requirements of these Bylaws shall be guilty of an offence, in addition to any other penalty which may lawfully be available, shall be liable on conviction to a fine not exceeding two thousand shillings or to punishment for a term not exceeding six months or to both such fine and imprisonment.

Legality

- 12. If part of this Bylaw is declared invalid by a court of competent jurisdiction; the remainder shall continue in full force and effect and be construed as if the bylaw had been adopted without the invalid portion.

Made this----- day of ----- 2009

By order of the City Council of Nairobi.

TOWN CLERK

Approved this -----day of ----- 2009

MINISTER FOR LOCAL GOVERNMENT

DATED OF PUBLICATION IN KENYA GAZETTE:
-----2009