



# LAND USE AND BUILDING CONTRAVENTIONS, COMPLAINTS AND ENFORCEMENT

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How to register a complaint about illegal land use or building work that may be unauthorised, and how alleged contraventions are investigated

This booklet forms part of a series published by the City of Cape Town to help you understand and make better use of the planning system

#### LANGUAGE POLICY:

In line with the City of Cape Town's language policy, any booklet in this series is also available in Afrikaans and isiXhosa on request by e-mailing [lums@capetown.gov.za](mailto:lums@capetown.gov.za).

#### LEGAL DISCLAIMER:

Although based on law, the information provided in this booklet is presented in an informal and plain language format for the purposes of providing advice on development matters and procedures to customers and members of the public. Should there be any discrepancy with provisions in the underlying legislation, the actual legislation takes precedence and should be consulted directly. Alternatively, please obtain independent professional advice on the matter. The City of Cape Town does not accept any liability for any action taken on the basis of the information contained herein.

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**The development and use of both land and buildings are controlled in terms of various laws and regulations. In Cape Town, this is done primarily in terms of the City of Cape Town Municipal Planning By-law of 2015 and the National Building Regulations and Building Standards Act of 1977. In addition, landowners need to comply with the provisions of the Development Management Scheme, which is a schedule to the by-law mentioned above which sets out the rights and restrictions for a specific land unit.**

However, landowners or the occupants of premises sometimes contravene these regulations and restrictions (for example, where a neighbour operates a spray-painting business from a residential erf). Such illegal activities often have a negative impact on surrounding residents and the general amenity of the area.

If you become aware of what you believe is an illegal land use or building work, you may submit a complaint to the City, who will investigate the matter and take any necessary action to ensure compliance and rectify the situation. Such action is taken in the interest of the public and forms part of the City's obligation to ensure a healthy and safe living environment for all and to build strong communities.



## WHICH LAND USE AND DEVELOPMENT ACTIVITIES CAN YOU COMPLAIN ABOUT TO THE DEVELOPMENT MANAGEMENT DEPARTMENT?



Not all land use and development problems and complaints can be resolved by the City's Development Management Department. Various other departments in the City deal with matters such as:

- unkempt parks;
- dangerous/overhanging trees;
- fire risks, air and noise pollution;
- illegal dumping;
- informal trading;
- refuse removal/street cleaning;
- road and street lighting defects;
- safety on construction sites; and
- traffic offences.

Should you wish to complain about any of these, you are encouraged to contact the responsible City department or relevant external enforcement agency. Check the section "Other typical complaints" in this brochure for a list of additional contact numbers for the departments you may be looking for.

Also note that boundary disputes between neighbours and the unlawful occupation of buildings (where the buildings are otherwise in line with the property zoning) are considered private matters in which the City cannot intervene.

Development aspects that may however require planning approval and in respect of which the Development Management Department can indeed investigate complaints include:

- the use of land (or a change in use);
- the development of new buildings (or changes/extensions to the use of existing ones);
- alterations to buildings (and sometimes even trees) in a conservation area;
- development or building works carried out without planning permission or an approved building plan;
- structurally unsound or dangerous buildings;
- non-compliance with conditions (of approval) regulating a specific land use, activity or development; and
- advertisement signs relating to a land use activity on a property (not outdoor commercial advertising)



## HOW TO REGISTER A COMPLAINT REGARDING A LAND USE CONTRAVENTION



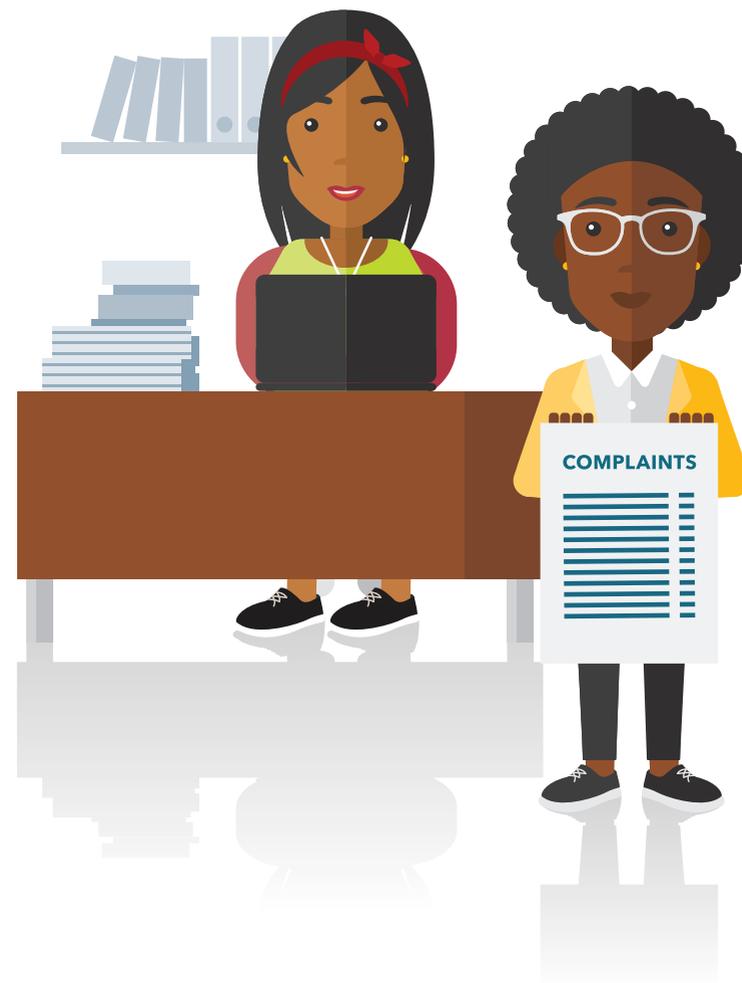
You may contact your local district planning office to determine whether a specific development or construction activity is legal. Turn to the end of this brochure for contact details.

Illegal development, building works or land use can be reported to your nearest district planning office for formal investigation. Complaints must be lodged in writing and may be sent via ordinary mail, fax, hand delivery or e-mail. Include the following information so that the matter may be properly investigated:

- The name and address of the complainant (NB: Unfortunately, no anonymous complaints are accepted, as complainants must be contactable for evidence).
- The name and address of the alleged offender, including his/her erf number, if known.
- A detailed description of the alleged contravention or illegal activity, including dates, times, frequency, intensity, extent, etc., as well as the impact that it has on you or the neighbourhood.



**A standard land use complaint form must be completed at any district planning office.**



## HOW LAND USE COMPLAINTS AND CONTRAVENTIONS ARE INVESTIGATED



Once the local district planning office has received your complaint, they will acknowledge receipt and launch an investigation, which may involve the following:

Depending on the nature of the complaint, either the building inspector or land use inspector will do a desktop investigation, and will follow up with a site inspection where it is necessary to collect detailed evidence of a possible contravention. In respect of land use contraventions, if the land use inspector cannot find evidence of a contravention, the complainant may be asked to provide an affidavit indicating the dates and times of the alleged contravention.

If a contravention clearly exists, an appropriate notice will be served on the owner and/or the operator who will be given a specified time to comply with the request in the notice. Different notices are issued for different offences. If the person does not comply with the notice, the matter will be handed over for criminal prosecution, or to apply for a high court interdict or demolition order, as the case may be. If a matter is handed over for criminal prosecution, the prosecutors will take over the matter. For more information on legal prosecution, see the following section.

In addition to the right to hand over for criminal prosecution or high court litigation, the Municipal Planning By-law and the National Building Regulations contains a number of different enforcement options in cases of contravention. These include allowing the City to withdraw a temporary approval, or issuing a demolition directive for a building that contravenes the Municipal Planning By-law or National Building Regulations in each case after giving notice of the intention to do so. The City determines the most appropriate route to follow.

A person who has contravened the Municipal Planning By-law may apply to rectify the contravention, but must first apply for an administrative penalty in respect of the contravention, which in most cases must be determined and paid before the land use application will be considered.

It is important to note that if there is a land use activity or building that is in contravention, the owner may still apply to the City for the necessary approvals in order to make the use or structure comply.



## HOW IS A LAND USE CONTRAVENTION PROSECUTED IN COURT?



If an offender does not comply with the City's instructions to stop with the unauthorised activity or development, the City will legally prosecute the offender, either by criminal prosecution or civil litigation. The court process is lengthy, and results are not quickly obtained. In addition, the offender may be called to provide evidence in court in support of the case.

Should the City succeed and the accused be found guilty, the court may impose a fine (which is sometimes suspended for a certain period) or even pass a prison sentence. In some cases, an admission-of-guilt fine may be payable. In civil cases, courts can issue a specific order, such as to refrain from the offensive activity, or rectify or demolish illegal building work.



Once a person is found guilty or an interdict or demolition order is granted, and all affected parties or complainants have been informed of the outcome in writing, the offender will be monitored to ensure that the court's instructions are complied with. If not, the offender can be charged again and the case can go back to court.



When lodging a complaint about a land use contravention, it is important that you submit as much detail possible about the alleged offence to give the City the best possible chance of resolving it. Useful details include photographs, a logbook of dates and times of the offending activities, or vehicle registration numbers of cars noticed at the site. Remember, however, this DOES NOT MEAN conducting an independent investigation (including trespassing onto private property). The alleged offender's privacy must be respected at all times.



In addition to the above, you can also assist by giving evidence in court (in case of criminal proceedings) or by giving an affidavit (in case of civil proceedings).





As mentioned above, not all complaints can be resolved by the City's Development Management Department. A number of problems and complaints fall under other City departments and services. The following is a useful list of contact numbers for these kinds of problems and complaints:



<b>For:</b>	unkept parks, dangerous or overhanging trees	<b>Please call:</b>	0860 103 089 0800 656 463
	fire risks		
	air and noise pollution		
	illegal dumping		
	informal trading		
	refuse removal or street cleaning		
	road and street lighting defects		
traffic offences			

For general law enforcement assistance or complaints, please phone the Metro Police Department on 021 596 1400.

## CONTACT DETAILS

For any further questions about land use management issues, contact your nearest development management office on the numbers provided below:

### Table Bay District

Media City Building, 2nd Floor, cnr. Adderley Street and Hertzog Boulevard, Cape Town

Postal address: PO Box 4529, Cape Town, 8000

Contact number: 021 400 6444

### Blaauwberg District

Municipal Building, 87 Pienaar Road, Milnerton

Postal address: PO Box 35, Milnerton, 7435

Contact number: 021 444 0561

### Northern District

Kraaifontein Administrative Building, Brighton Road

Postal address: PO Box 25, Kraaifontein, 7569

Contact number: 021 980 6265

### Tygerberg District

Parow Administrative Building, cnr. Voortrekker Road and Tallent Street

Postal address: Private Bag X4, Parow, 7499

Contact number: 021 938 8111

### Helderberg District

Somerset West Administrative Building, cnr. Andries Pretorius and Victoria streets

Postal address: PO Box 19, Somerset West, 7129

Contact number: 021 850 4478

### Mitchells Plain/Khayelitsha District

Stocks and Stocks Complex, Ntlazane Road, Ilitha Park, Khayelitsha

Postal address: Private Bag X93, Bellville, 7535

Contact number: 021 360 1101

### Cape Flats District

Ledger House, cnr. Aden Avenue and George Street, Athlone

Postal address: PO Box 283, Athlone, 7760

Contact number: 021 684 4369

### Southern District

Plumstead Administrative Building, cnr. Main and Victoria roads

Postal address: Private Bag X5, Plumstead, 7801

Contact number: 021 444 7721



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