

SCHEDULE OF OFFENCES AND PENALTIES

In terms of section 107 the Nelson Mandela Bay Municipality Spatial Planning and Land Use Management By-Law, 2022.

PART A

- (1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding twenty (20) years or both a fine and such imprisonment if she contravenes or fails to comply with the below-mentioned provisions:
- a. utilises land in a manner other than prescribed by the land use scheme or any of its predecessors without the approval of the municipality; or
 - b. upon registration of the first land unit arising from a sub-division, fails to transfer all common property arising from the sub-division to the home owners' association or the municipality, as the case may be; or
 - c. supplies particulars, information or answers in an application, or in an appeal against a decision on an application, or in any documentation or representation related to an application or an appeal, knowing it to be false, incorrect or misleading or whilst he, she or it does not reasonably believe them to be correct; or
 - d. falsely holds him or herself out to be an authorised employee or the assistant of an authorised employee; or
 - e. contravenes or fails to comply with a compliance notice issued in terms of section 103 or 104 of this by law; or
 - f. hinders or interferes with an authorised employee, Tribunal member or an authorised official in the exercise of any power or the performance of any duty of that employee; or

- g. sub-divides land without the approval of the Tribunal or an authorised official, unless the sub-division is exempted in terms of section 48 of the by-law; or
 - h. consolidates land without the approval of the Tribunal, or authorised official unless the consolidation is exempted in terms of the by-law; or
 - i. constructs a building or structure which extends over the boundaries of two (2) or more properties without the prior written approval of the Tribunal or authorised official; or
 - j. erects a building or commence with the construction of work before the approval of the site development plan.
- (2) An owner who permits her land to be used in a manner set out in sub-section 107(1)(b) of the by-law and who does not terminate that use or take reasonable steps to ensure that the use is terminated, or who permits a person to contravene the land use scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding twenty (20) years or to both a fine and such imprisonment.
- (3) A person convicted of an offence in terms of the by-law who, after conviction, continues with the action or inaction in respect of which he was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three (3) months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he, she or it so continues or has continued with that act or omission.
- (4) An owner:
- (a) who permits her land to be used, or fails to take reasonable steps to ensure that such land is not used in a manner which constitutes an offence under the by-law is guilty of an offence and upon conviction is liable to the penalties contemplated in sub-section 107(1) of the by-law;
 - (b) who is convicted of an offence contemplated in paragraph (a) who, after conviction, continues with the conduct in respect of which he was so convicted, is guilty of a continuing offence and upon conviction is liable to the penalties contemplated in sub-section 107(1) of the by-law.

- (5) Subject to the provisions of sub-sections 107(1) to (4) of this section, the municipality may develop a schedule of fines and penalties for minor infringements to be imposed in terms of sections 56 or 334 of the Criminal Procedures Act 1977 (51 of 1977) in the enforcement of the by-law.

PART B

- (1) The degree of sanction in respect to the contravention of section 107 (1)(a) to (k) of the by-law will be sanctioned accordingly to the below-mentioned table.

THE DEGREE OF SANCTION		
Infringement	Penalty	Fine
Utilisation of land in non-prescribed manner		
Failure to transfer all common property to the home owners' association or municipality		
Supplies incorrect, false and misleading information, particulars or answers		
Falsely holds herself as an authorised employee		
Failure to comply with compliance notice		
Interferes or hinders with an authorised employee, a Tribunal member or authorised official		
Sub-divides or consolidates land without approval		
Constructs or erects a building or structure without requisite approvals		

- (2) A person guilty of contravening sections 107(1)(j) and (k) of the by-law will be liable in accordance with the below-mentioned table.

<p style="text-align: center;">THE DEGREE OF SANCTION In terms of section 107(1)(j) and (k) of the by-law, read together with Table A of the Port Elizabeth Zoning Scheme Regulation</p>		
Building/ Structure	Penalty	Fine
Dwelling house/ unit Dwelling parking		
Shops (Business purposes) Malls, Supermarkets		
Places of Public Worship Places of Assembly Funeral Parlours		
Places of Instructions Universities Colleges		
Public garages Building yards Workshops Noxious uses		
Offices Medical uses Dwelling units Residential buildings		
Railways Harbour Airport		