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LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 41

UMZIMVUBU MUNICIPALITY

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Street Trading which come into operation on the date of publication thereof.

BY-LAWS RELATING TO STREET TRADING

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate street trading in the municipal area for the benefit of the public residing in or visiting the Municipality;

NOW THEREFORE be it enacted by the Council as follows:

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[1] **DEFINITIONS**

In these by-laws, any word or expression to which a meaning has been assigned in the Businesses Act, 1991 [Act No. 71 of 1991], has the meaning so assigned and words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"approval" means approval by the municipality and "approved" has a corresponding meaning;

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"foodstuff" means any article or substance, except a drug as defined in the Drugs and Drug Trafficking Act, 1992, ordinarily eaten or drunk by persons or purporting to be suitable or manufactured or sold for human consumption and includes –

- [a] any part or ingredient of any such article or substance; or
- [b] any substance used or intended or destined to be used as a part or ingredient of any such article or substance.

"garden or park" means a garden or park where the public has a right of access;

"goods" means any movable property and includes a living thing;

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996;

"kerb line" means a kerb line as defined in section 1 of the National Road Traffic Act, 1996;

"litter" includes any receptacle, container or other matter which has been discarded, abandoned or left behind by street traders or by their customers;

"motor vehicle" means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996;

"municipal services" means any system conducted by or on behalf of a Municipality for the collection, conveyance, treatment or disposal of refuse, sewage, storm-water, or for the generation, impounding, storage, purification or supply of water, gas or electricity, or municipal services;

"municipal service works" means all property or works of whatever nature necessary for or incidental to any municipal services;

"Municipality" means the uMzimvubu Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 and includes any political structure or political office bearer as defined in the said Act, Councillor, duly authorized agent thereof or any employee thereof acting connection with these by-laws by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, Councillor, agent or employee;

"prescribed" means determined, from time to time, by resolution of the Municipality;

"property", in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods for trade;

"public building" means a building belonging to or occupied solely by an organ of state including the municipality and also includes municipal service works;

"public monument" means any one of the "public monuments and memorials" as defined in the National Heritage Resources Act, 1999 or any similar legislation;

"public place" means any square, park, recreation ground or open space that is vested in the Municipality or to which the public has the right to use or is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's Office and has been provided for the use of the public or the owners of erven in such township;

"public road" means a public road as defined in section 1 of the National Road Traffic Act, 1996;

"roadway" means a roadway as defined in section 1 of the National Road Traffic Act, 1996;

"sell" and **"sale"** have a corresponding meaning and includes –

- [a] barter, exchange or hire out;
- [b] display, expose, offer or prepare for sale;
- [c] storing on a public road or public place with intention to sell; or
- [d] providing a service for reward;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996;

"street furniture" means any furniture installed by the Council on a street for public use;

"street trader" means a person who carries on the business of street trading and includes any employee of such person;

"street trading" means the selling of any goods or the supplying or offering to supply any service for reward, in a public road or public place, by a street trader;

"the Act" means the Businesses Act, 1991 [Act No. 71 of 1991] and includes the regulations promulgated in terms thereof; and

"verge" means a verge as defined in section 1 of the National Road Traffic Act, 1996.

[2] SINGLE ACT CONSTITUTES STREET TRADING

For the purpose of these by-laws, a single act of selling or offering or rendering of services in a public road or public place constitutes street trading.

[3] ASSIGNING POWERS OF A COUNCIL EMPLOYEE TO EMPLOYEE OF A SERVICE PROVIDER, WHERE A SERVICE PROVIDER HAS BEEN APPOINTED

If any provision in these by-laws vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality and such power, function or duty has in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference in that provision to that employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.

[4] PROHIBITED CONDUCT

[1] No person may carry on the business of a street trader –

[a] at a place or in an area declared by the Municipality in terms of section 6A[2] [a] of the Act as a place or area in which street trading is prohibited;

[b] in a garden or a park to which the public has a right of access;

[c] on a verge near –

[i] a building belonging to or occupied solely by an organ of state including the Municipality;

[ii] a church, mosque, synagogue or other place of worship;

[iii] a building declared to be a public monument;

[iv] an automatic banking machine;

[d] at a place where it causes an obstruction to –

[i] a fire hydrant;

- [e]** place or stack property in such a manner that it constitutes a danger to any person or property or is likely to injure Any person or cause damage to any property;
- [f]** display goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- [g]** attach any property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- [h]** carry on business in such a manner as to –

 - [i]** create a nuisance;
 - [ii]** damage or deface the surface of any public road or public place or any public or private property; or
 - [iii]** create a traffic and/or health hazard, or health risk, or both.
- [i]** make an open fire on a public road or public place;
- [j]** interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view.
- [k]** obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
- [l]** obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- [m]** obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of these by-laws;
- [n]** carry on business, or take up a position, or place his property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the Municipality for the purposes of these by-laws;
- [o]** other than in a refuse receptacle approved or supplied by the Municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;

- [p] place on a public road or public place property that is not capable of being easily removed to a storage place away from such public road or public place at the end of the day's business;
 - [q] store property in a manhole, storm-water drain, public toilet, bus shelter or in a tree;
 - [r] handle any foodstuffs including meat in a manner contrary to applicable law;
 - [s] carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council in terms of section 6A[2] [a] of the Act.
- [2] Any person carrying on the business of a street trader must ensure that their property or area of activity –
- [a] does not cover an area of a public road or a public place which is greater than 6m² with a maximum length of 3m in extent, unless otherwise approved by the Municipality; and
 - [b] in respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5m wide when measured from any contiguous building to the property or area of activity, and not less than 0.5m wide when measured from the kerb line to the property or area of activity;
- [3] Any person carrying on the business of a street trader must –
- [a] upon request by an authorized official or supplier of telecommunication or electricity or other municipal services, move his property so as to permit the carrying out of any work in relation to a public road, public place or any such service; and
 - [b] on concluding business for the day, remove his property, except any structure permitted by the Municipality, to a place which is not part of a public road or public place;
- [6] **CLEANLINESS**
- Any person carrying on the business of a street trader must –
- [a] keep the area or site occupied by him for the purposes of such business in a clean and sanitary condition;
 - [b] keep his property in a clean, sanitary and well maintained condition;

- [c]** dispose of litter generated by his business in whatever receptacle is provided by the Municipality for the public or at a dumping site of the Municipality;
- [d]** not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- [e]** ensure that, on completion of business for the day, the area or site occupied by him for the purposes of trade is free of litter;
- [f]** take such precautions in the course of conducting his business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road or public place or into a storm-water drain;
- [g]** ensure that no smoke, fumes or other substance, odours, or noise emanating from his activities cause pollution of any kind; and
- [h]** on request by an authorized official of the Municipality, move his property so as to permit the cleansing of the space of the area or site where he is trading or the effecting of municipal services.

[7] SIGNS INDICATING RESTRICTED AND PROHIBITED AREAS

- [1]** The Municipality may, by resolution and in terms of section 6A[2] of the Act, declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating –
 - [a]** specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
 - [b]** the location of boundaries of restricted or prohibited areas;
 - [c]** the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
 - [d]** any other restriction or prohibition against street trading in terms of these by-laws;
- [2]** The Municipality must display any such sign, including a pictograph marking or device in such a position and manner as will indicate any restriction or prohibition and/or the location or boundaries of the area or stand concerned;
- [3]** Any sign erected in terms of these by-laws or any other law serves as sufficient notice to a street trader of the prohibition or restriction of the area concerned; and
- [4]** Any sign may be amended from time to time and displayed by the Municipality for the purpose of these by-laws and any such sign has the same effect as a road sign in terms of the National Road Traffic Act, 1996.

[8] PROVISION OF AND LEASE OF VERGES AND STANDS OR AREAS FOR THE PURPOSE OF STREET TRADING

- [1]** The Municipality may, by resolution, in terms of section 6A[3] [a] to [c] of the Act –
- [a]** lease any municipal land, including any verge or any portion of a verge, to the owner or occupier of contiguous land on condition that such owner or occupier must admit a specified number of street traders to trade on stands or places on such land designated by such owner or occupier for informal trading;
 - [b]** set apart municipal land in the Municipality and demarcate stands or areas on such land for the purpose of informal trading;
 - [c]** let or otherwise allocate any stand or area; and
 - [d]** extend, reduce or disestablish any stand or area referred to in the previous subsections.
- [2]** Any land leased by or allocated by the Municipality aforesaid for informal trading must be so let on an economic rental basis.
- [3]** The Municipality may, in addition to setting aside land in its municipal area for informal trading, also make available to informal traders, subject to such conditions as it may determine, suitable structures, shelters and devices for the conduct of the business of informal trading.

[9] REMOVAL AND IMPOUNDMENT

- [1]** An authorized official may remove and impound any property of a street trader –
- [a]** reasonably suspected of being used or intended to be used or that has been used in or in connection with street trading; and
 - [b]** that is found at a place where street trading is restricted or prohibited and that constitutes an infringement of any such restriction or prohibition, regardless of whether or not such property is in possession or under the control of any person at the time of such removal or impoundment.
- [2]** The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
- [3]** Any authorized official acting in terms of subsection [1] must, except where goods have been left or abandoned, issue to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must –
- [a]** itemise the property to be removed and impounded;
 - [b]** provide the address where the impounded property will be kept and the period of such impoundment;
 - [c]** state the conditions for the release of the impounded property;

- [d] state the terms and conditions relating to the sale of unclaimed property by public auction;
- [e] state the terms and conditions relating to the sale of unclaimed property by public auction; and
- [f] provide the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which this must be done.

[4] If any property about to be impounded is attached to any immovable property or a structure, and such property is under the apparent control of a person present thereat, any authorized official of the Municipality may order such person to remove the property, and any such person who refuses or fails to comply is guilty of an offence.

[5] When any person fails to comply with an order to remove the property referred to in subsection [4], any authorized official of the Municipality may take any necessary steps to remove such property.

[6] The Municipality must provide sufficient and adequate storage facilities for the storage of any property impounded in terms of this section.

[7] In the event that an authorized official removes and impounds any property in terms of the preceding subsections, all reasonable steps must be taken to ensure that such property is not damaged or lost.

[8] The Municipality is not liable for any damage or loss caused to any such property that is removed and impounded unless such damage or loss is caused as a result of the negligence of the Municipality.

[10] VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

[1] When an employee or agent of a street trader contravenes a provision of these by-laws, the street trader is deemed to have personally committed such contravention unless he satisfies the court that reasonable steps were taken to prevent such contravention.

[2] The fact that a street trader issued instructions to the employee or agent mentioned in subsection [1] to prevent a contravention is not in itself sufficient proof of reasonable steps to prevent a contravention.

[11] WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[12] COMPLIANCE NOTICE

- [1] If an authorized official reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on an offender, or any one or more of the following persons:
- [a] the owner of any premises;
 - [b] the occupier of any premises;
 - [c] any person apparently in charge of undertaking the aforesaid use on the premises.
- [2] A compliance notice must state –
- [a] why the authorized official believes that these by-laws are being contravened;
 - [b] the measures that must be taken to ensure compliance with these by-laws;
 - [c] the time period within which the measures must be taken;
 - [d] the possible consequences of failing to comply with the notice; and
 - [e] how to appeal against the notice.
- [3] If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may –
- [a] take the required action specified in the compliance notice; and
 - [b] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c] direct that a prohibition notice be served on such person in terms of section 13 of these by-laws.

[13] PROHIBITION NOTICE

- [1] An authorized official may, after inspecting any premises, thing or any place contemplated in section 12 of these by-laws, serve a prohibition notice on the owner, occupier or user of such place, premises or thing.

- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
- [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6] It is a defence for any person charged with failing to comply with a prohibition notice to prove that –
- [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[14] WITHDRAWAL OF PROHIBITION NOTICE

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2] After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[15] DELIVERY OF NOTICES

- [1] A notice, order or other document is to be regarded as having been properly served if –
- [a] it has been delivered to that person personally;
 - [b] sent by registered post to the person to whom it is addressed at his last known address;

- [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
 - [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
- [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[16] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
- [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[17] OFFENCES AND PENALTIES

- [1]** Any person is guilty of an offence who, in respect of these by-laws –
- [a]** contravenes or fails to comply with any provision;
 - [b]** fails to comply with any notice; or
 - [c]** fails to comply with any lawful instruction; or
 - [d]** fails to comply with any condition imposed by the Municipality in any authorization or permit; or
 - [e]** obstructs or hinders any authorized official of the Municipality in the execution of his duties.
- [2]** Any person guilty of an offence in terms of subsection [1] is liable on conviction –
- [a]** to a fine; or
 - [b]** in default of payment of a fine mentioned in subsection [2] [a], to imprisonment for a period not exceeding six months; and
 - [c]** in the case of a continuing offence, to a further fine not exceeding R50; or
 - [d]** in default of payment of the amount mentioned in subsection [2] [c], to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the person concerned requesting the discontinuance of such offence.
- [3]** A court sentencing a street trader who is found guilty of a contravention of these by-laws may also order the convicted street trader to pay the Municipality the reasonable costs it may have incurred in impounding and storing any goods impounded under these by-laws.
- [4]** An admission of guilt fine as contemplated in terms of sections 56 and 57 of the Criminal Procedure Act, 1977 may be paid in respect of a summons or written notice issued for any contravention of these by-laws.

[18] REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 42**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to the Impoundment of Animals that come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE IMPOUNDMENT OF ANIMALS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to establish and maintain facilities for the impoundment of animals within the area of jurisdiction of the Municipality;

NOW THEREFORE be it enacted by the Council as follows:

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SCHEDULES

[1] DEFINITIONS

In these by-laws, any word or expression importing any gender or the neuter includes both genders and the neuter, the singular includes the plural and vice versa and, unless the context otherwise, indicates:-

"animal" includes a horse, bovine, camel, donkey, sheep, goat, pig, ostrich, small bird, dog, cat or the hybrid of any such animal;

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"Court" means a Magistrate's Court as referred to in section 166[d] of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

"Gazette" means the official Provincial Gazette of Eastern Cape;

“Municipality” means the Municipality of uMzimvubu and includes the Council of the Municipality and any other duly authorized political structure, political office bearer or official thereof and, where the text so requires, also a pound keeper employed by the Municipality;

“owner” includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained and in relation to any -

- [a] animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or
- [b] land, includes the owner, lessee or lawful occupier of such land or his agent;

“pound” means a pound established as contemplated in section 3;

“pound keeper” means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound keeper;

“public place” means any place to which the public has access including, without limiting the generality of the aforesaid, any –

- [a] square;
- [b] park;
- [c] recreation ground;
- [d] sports ground;
- [e] open space;
- [f] beach;
- [g] shopping centre on municipal land;
- [h] unused or vacant municipal land; or
- [i] cemetery;

“public road” means a public road as contemplated in section 1 of the Road Traffic Act, 1996 [Act No. 93 of 1996]; and

“service delivery agreement” means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000].

[2] APPLICATION

These by-laws apply to the area of jurisdiction of the municipality; provided that nothing prevents any animal detained in terms of these by-laws from being impounded in a pound or any similar facility established by any person or body with whom the Municipality has concluded a service level agreement, another Municipality or duly authorized institution.

[3] ESTABLISHMENT OF POUND

These by-laws must be applied subject to any provincial legislation authorizing a Municipality to establish a pound or regulating a pound and in the event of conflict between these by-laws and such legislation, the provisions of such provincial legislation will apply.

[4] APPOINTMENT OF POUND KEEPER

[1] Subject to subsection [2], the Municipality –

[a] must appoint a suitably skilled and experienced person as a pound keeper; and

[b] may appoint an authorized official to administer the implementation and enforcement of these by-laws.

[2] If a pound is operated by a person or body in terms of a service delivery agreement concluded with the Municipality, the relevant contracting party is obliged to appoint a suitably skilled and experienced person as a pound keeper for each pound for which such party is responsible in terms of the relevant service delivery agreement;

[3] The provisions of these by-laws will, with the necessary changes, apply to a pound established in terms of a service delivery agreement concluded by the Municipality.

[5] GENERAL DUTIES OF THE POUND KEEPER

[1] The pound keeper must take all reasonable measures to ensure that a public health hazard or a public health nuisance does not occur on, or rise or emanate and he must take all reasonable measures to ensure that the public health hazard or a public health nuisance is eliminated or reduced as far as possible.

[2] For the purpose of subsection [1] the following measures must be taken:

[a] Fly-traps must be installed to catch or kill flies;

[b] accumulated water must be covered with oil and drained regularly;

[c] containers in which mosquitoes may breed, must be disposed of or kept in such a manner to prevent breeding of mosquitoes;

[d] ditches, gutters and pipes must be cleaned regularly so as to prevent the collection of water; and

[e] appropriately humane method of vermin control must be adopted.

[6] TRESPASSING OR STRAYING ANIMALS MAY BE IMPOUNDED

[1] The owner of land upon which any animal is found trespassing may seize such animal; provided that, if the identity of the owner of such animal is known to the owner of land upon which it is found trespassing, such animal may not be removed to a pound before notice is given to the owner thereof in writing no less than 48 [forty-eight] hours prior to its removal to a pound.

- [2] Any animal found straying unattended upon any public road or public place may be seized for impounding by –
- [a] an authorized official; or
 - [b] the owner of any land through or alongside which such road passes or which abuts on such public place.
- [3] No person may keep an animal, seized for purposes of impounding in terms of in subsections [1] and [2], for a period longer than 6 [six] hours without supplying such animal with adequate food and water.
- [4] Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in **SCHEDULE 1** to these by-laws.

[7] **ANIMALS TOO VICIOUS, INTRACTABLE OR WILD TO BE IMPOUNDED**

If a state veterinarian or official contemplated in section 6[2] [a] to [e] is satisfied that an animal found trespassing on any land, or straying unattended upon any public road or public place, is too vicious, intractable or wild to be impounded, he may authorize the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal concerned.

[8] **RELEASE OF ANIMALS BEFORE REMOVAL TO POUND**

- [1] The owner of an animal, seized in terms of section 6[1] may apply to the owner of land contemplated in such section for the release of the animal concerned prior to its removal to a pound.
- [2] The owner of land referred to in section 6[1] may –
- [a] release such animal forthwith; or
 - [b] refuse the release of the animal; and
 - [c] in the event that such owner refuses to release the animal as contemplated in subsection [b], apply to Court for authority to –
 - [i] impound the animal; or
 - [ii] claim any damages he may have suffered, in which event the Court may make such order, including an order as to costs that it deems just and equitable.
- [3] The owner of an animal seized in terms of section 6[2] may apply to the relevant person referred to in section 6[2] for the release of such animal prior to its removal to the pound.
- [4] A person referred to in section 6[2] who receives an application contemplated in subsection [3] may either permit or refuse the release of the animal.

[5] In the event that the person referred to in section 6[2] permits the release of the animal, it must be released without undue delay.

[9] CARE OF TRESPASSING ANIMALS

A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

[10] POUND TO WHICH ANIMALS MUST BE TAKEN

An animal seized for the purposes of impounding as contemplated in section 6, must be removed to the nearest accessible pound by and within the shortest practical route and within the shortest practical time; provided that animals of different species must be separated at all times according to their species.

[11] INFORMATION TO BE SUPPLIED TO POUND KEEPER

Any person sending animals to a pound must advise the pound keeper thereof in writing of –

- [a] the number and descriptions of the animals;
- [b] the land upon which they were found trespassing; and
- [c] the distance in kilometres, by the shortest practical route, between the place on such land where they were seized and the pound.

[12] ACCEPTANCE AT POUND OF ANIMALS TO BE IMPOUNDED

The pound keeper may not refuse to accept an animal for impounding.

[13] POUND REGISTER

The pound keeper must –

- [a] maintain a pound register containing the information contemplated in **SCHEDULE 2**, which register must be available for public inspection at all reasonable times; and
- [b] complete the pound register immediately upon the acceptance into the pound of any animal.

[14] NOTICE TO OWNERS OF ANIMALS

[1] The owner of an animal contemplated in section 6[1], 7, 15[4], 16[c], 18[b], 22[1] [b] and 24[a], must be notified by –

- [a] addressing a written notice to him; or
- [b] placing a copy of the notice to the owner on the official notice board of the Municipality ; and
- [c] publishing a copy of the notice on at least two consecutive days in a newspaper of general circulation in the Municipality.

- [2] A notice, order or other document is to be regarded as having been properly served if –
- [a] it has been delivered to that person personally;
 - [b] sent by registered post to the person to whom it is addressed at his, her or their last known address;
 - [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1][a], [b] or [c]; or
 - [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

- [2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
- [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[15] CARE OF IMPOUNDED ANIMALS

- [1] The pound keeper –
- [a] is responsible for the proper care of all impounded animals;
 - [b] must ensure that fresh water and sufficient food is available to impounded animals at all times; and
 - [c] is liable to the owner of an impounded animal for any damage caused by his willful or negligent acts or omissions.
- [2] A pound keeper must apply to the Court if he is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill.
- [3] A Court considering an application contemplated in subsection [2] may, if the Court is satisfied that its condition warrants its destruction or disposal, authorize the destruction or other disposal of such animal.
- [4] Where the Court authorizes the destruction or disposal of an animal on application by the pound keeper, the pound keeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal concerned.

[16] ISOLATION OF INFECTED ANIMALS

If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 [Act No. 35 of 1984], he must -

- [a] provide separate accommodation for such animal;
- [b] immediately isolate the animal and report the disease to the nearest state veterinarian; and
- [c] immediately notify the owner of the animal of such disease in writing.

[17] TREATMENT OF IMPOUNDED ANIMALS

The pound keeper -

- [a] may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- [b] must ensure that all impounded male animals are at all times kept apart from female animals.

[18] DEATH OF OR INJURY TO IMPOUNDED ANIMALS

Any pound keeper must, upon discovering that an impounded animal is injured or has died -

- [a] record the injury or cause of death in the pound register referred to in section 13; and
- [b] notify the owner of the animal in writing of its injury or death.

[19] COPIES OF BY-LAWS

The pound keeper must ensure that legible copies of these by-laws in the languages determined by the Municipality are available at the pound for perusal by interested parties.

[20] FEES AND COSTS PAYABLE

The pound keeper must -

- [a] charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000]; and
- [b] recover from the owner the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of these by-laws or in accordance with any other law.

[21] RELEASE OF IMPOUNDED ANIMALS

[1] The pound keeper must immediately release an impounded animal and give the owner thereof a receipt, upon such owner -

- [a] providing proof of ownership of such animal; and
- [b] paying the fees and costs contemplated in section 20.

- [2] The pound keeper may retain an animal contemplated in subsection [1] in order to recover such fees or costs as may be due and payable in the event that the owner of an impounded animal is unable to pay the fees or costs contemplated in section 20.

[22] SALE OF IMPOUNDED ANIMALS

- [1] The pound keeper must –
- [a] within 14 days of the impounding of an animal, apply to the Court for authority to sell the impounded animal; and
 - [b] in the application contemplated in paragraph [a], provide the Court with proof that he lodged a statement as contemplated in subsection [2] with the owner.
- [2] The statement contemplated in subsection [1] [b] must include –
- [a] the fees and costs due in terms of these by-laws; and
 - [b] the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.
- [3] The Court, whether the amounts set forth in the statement contemplated in sub-section [1] [b] are disputed or not, must –
- [a] summarily enquire into the matter;
 - [b] enquire whether notice was given to the owner of the animal by the pound keeper; and
 - [c] make such order as it considers just and equitable, including an order –
 - [i] as to costs; and
 - [ii] on the process to be followed by the pound keeper in the sale of the animal.

[23] POUND KEEPER MAY NOT PURCHASE IMPOUNDED ANIMALS

- [a] The pound keeper, or a family member, or a close associate of such pound keeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person or either directly or indirectly.
- [b] A pound keeper who contravenes subsection [a] is guilty of an offence.

[24] ANIMALS UNSUCCESSFULLY OFFERED FOR SALE

In the event that any animal is not sold in the manner contemplated in section 23 –

- [a] the pound keeper must immediately advise the Court and the owner of its estimated value and the fees and costs incurred; and
- [b] the Court may make such order as it may deem just and equitable in the circumstances.

[25] PROCEEDS

[1] All proceeds from the collection of fees and costs contemplated in section 22 must be paid into the municipal revenue fund; provided that the revenue from the sale of any impounded animal that is in excess of the fees and costs incurred and any damages awarded in terms of section 22[3] [c] must be paid to the owner of the sold animal within 30 days of the sale.

[2] The excess must be paid into the municipal revenue fund if the owner of an animal contemplated in subsection [1] cannot be established.

[26] ACTION FOR RECOVERY OF DAMAGES

Nothing in these by-laws prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any Court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

[27] PROCEDURE TO BE FOLLOWED IN APPLICATION TO COURT

[1] An application to Court for the impoundment of an animal in terms of these by-laws must comply with the following procedure contemplated in Rule 55 of the Rules of Court; and

[2] An application to Court for the sale of an impounded animal in terms of these by-laws must comply with the following procedures:

[a] Section 66 of the Magistrates' Courts Act, 1944 [Act No. 32 of 1944]; and

[b] Rule 41 of the Rules of Court made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 [Act No. 107 of 1985] and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

[28] APPEAL

[1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[3] When the appeal is against a decision taken by –

[a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;

[b] the Municipal Manager, the Executive Committee is the appeal authority; or

[c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.

[4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[29] OFFENCES AND PENALTIES

[1] A person is guilty of an offence who contravenes any provision of these by-laws or unlawfully –

- [a] releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- [b] seizes an animal for the purpose of impounding it;
- [c] impounds an animal;
- [d] makes a false entry in the pound register;
- [e] destroys or erases any previous entry in the pound register;
- [f] delivers a false copy or extract from the pound register to any person;
- [g] hinders or interferes with an authorized official in the execution of his duties in terms of these by-laws;
- [h] falsely professes to be an authorized official;
- [i] furnishes false or misleading information when complying with a request of an authorized official; or
- [j] fails to comply with a request of an authorized official.

[2] A person convicted of an offence under these by-laws is liable –

- [a] to a fine, or to imprisonment for a period not exceeding one year; and
- [b] in the case of a continuing offence –
 - [i] to an additional fine; or
 - [ii] to an additional period of imprisonment of 10 days; or
 - [iii] to such additional imprisonment without the option of a fine; or
 - [iv] to both such additional fine and imprisonment for each day on which such offence is continued; and
 - [v] to 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.

[30] SCHEDULES 1 AND 2 FORM PART OF THESE BY-LAWS

Schedules 1 and 2 to these by-laws form part thereof for all purposes.

[31] REPEAL OF BY-LAW

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

SCHEDULE 1**CODE OF GOOD PRACTICE ON THE HANDLING AND TRANSPORTATION OF IMPOUNDED ANIMALS****PART I: PADDOCK REQUIREMENTS**

- [1] Different species of animals must be kept in separate paddocks.
- [2] Animals may not be penned in overcrowded paddocks and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
- [3] Fractious animals may not be kept with other animals.
- [4] Young, weaned juvenile animals may not be penned with adult animals, except in the case of mother and offspring.
- [5] Provision must be made in paddocks for -
 - [a] facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor and which can be serviced without disturbing the animals;
 - [b] water troughs with an adequate supply of suitable fresh water at all times;
 - [c] sufficient facilities for the adequate cleaning of paddocks; and
 - [d] facilities for the safe handling of animals.
- [6] The paddocks must at all times be maintained in a good state of repair.
- [7] Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.
- [8] The floor of the entire paddock, including the off-loading banks, races and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

PART II: HANDLING OF ANIMALS

- [1] Animals must at all times be handled humanely and with patience and tolerance.
- [2] The following must be observed when handling animals -
 - [a] animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and
 - [b] herd animals respond more readily to being driven when in a group rather than singly.
- [3] Animals may not be dragged by their legs or carried by their head, ears or tail.
- [4] Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck and walked in the required direction at an appropriate and comfortable pace.

- [5] Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.
- [6] Electric prodders, sticks or goads may not be used on young calves.
- [7] Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III: MOVEMENT OF ANIMALS

- [1] Animals driven on the hoof must at all times be under proper and competent supervision.
- [2] Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal and not faster than the pace of the slowest animal.
- [3] Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.
- [4] No animal on the hoof may be moved in excess of the following distances –
 - [a] during a journey of not more than one day's duration -
 - [i] 20 kilometres for sheep and goats; and
 - [ii] 30 kilometres for cattle; and
 - [b] during a journey of more than one day's duration -
 - [i] 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and
 - [ii] 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.
- [5] Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.
- [6] Animals may not be moved in the dark.
- [7] No sick, injured or disabled animal may be moved on the hoof.

PART IV: VEHICLES USED IN TRANSPORTING ANIMALS

- [1] Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.
- [2] All vehicles and trailers referred to in item 1 must have –
 - [a] a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;
 - [b] adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;
 - [c] adequate protection from exhaust gasses, as exposure fumes could interfere with the respiration of the animal or cause distress;
 - [d] sidewalls high enough to prevent animals from escaping or falling out of the vehicle; provided that –

- [i] the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;
 - [ii] in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and
 - [iii] the minimum height must be 750 millimetres in the case of any smaller animals;
 - [e] in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the larger animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;
 - [f] floors that are solid and impervious;
 - [g] loading and off-loading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and
 - [h] gates, with or without partitions –
 - [i] of a design and construction strong enough and suitable for the conveyance of the intended consignment; and
 - [ii] that open and close freely and are able to be well-secured.
- [3] The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport and the recommended floor space per animal is –
 - [a] 1,4 square metres per large animal; and
 - [b] 0,5 square metres per small animal.

PART V: WATERING AND FEEDING OF LIVE ANIMALS PRIOR TO LOADING

- [1] Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

PART VI: LOADING AND OFF-LOADING PROCEDURE

- [1] Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.
- [2] No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.
- [3] No animals may be loaded or off-loaded otherwise than –
 - [a] by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or

- [b] at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.
- [4] Where a truck is equipped with an onboard removable loading ramp, it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.
- [5] Ramps must be correctly adjusted to the exact height of the vehicle's floor.
- [6] Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.
- [7] Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.
- [8] Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.
- [9] Adult horned cattle may not be transported with polled cattle and they must also be penned separately.
- [10] When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.
- [11] In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
- [12] In the event of –
- [a] a breakdown of the transport vehicle;
 - [b] an accident or collision in which the transport vehicle is involved; or
 - [c] injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from –
 - [i] in the case of paragraph [a], a breakdown service;
 - [ii] in the case of paragraph [b], the South African Police and the traffic authorities; or
 - [iii] in the case of paragraph [c], a veterinarian.

PART VII: RESTRAINING OF ANIMALS DURING TRANSPORTATION

- [1] Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.
- [2] No animals may be kept in restraint for more than 4 hours in any 24-hour period.
- [3] No wire or bailing twine may be used for tying the animal's legs or feet.
- [4] To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

SCHEDULE 2**POUND REGISTER INFORMATION**

A pound register must, at least, contain the following information:

- [1] Name of pound
- [2] Date of receipt of animal
- [3] Number and description of animals
- [4] Brands or markings on animal
- [5] Ear tag number assigned by the pound keeper
- [6] Name and address of person who seized the animal
- [7] Name and address of person who delivered the animal to the pound
- [8] Name and address of owner of land
- [9] Name and address of owner of animal
- [10] Name and address or description of place where animal was found
- [11] Distance from location where animal was seized to pound
- [12] Particulars of damage caused by the animal
- [13] Transport fees payable
- [14] Details of destruction or disposal of animal
- [15] Cause of death or injury of impounded animal
- [16] Description and amount of pound fees
- [17] Damages awarded by Court
- [18] Date of release of animal
- [19] Date of sale of animal
- [20] Proceeds of sale of animal
- [21] Name and address of purchaser
- [22] Excess amount [if any] paid to owner or municipality
- [23] Receipt number
- [24] Details of Order of Court with regard to animal not sold in execution.

LOCAL AUTHORITY NOTICE 43**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to Public Health Hazard and Nuisances which shall come into operation on the date of publication thereof.

BY-LAW RELATING TO PUBLIC HEALTH HAZARD AND NUISANCES**1. Definitions**

In these by-laws words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context indicates otherwise -

“compliance notice” means a notice issued in terms of section 5 to comply with these by-laws.

“council” means the Council of the Municipality of uMzimvubu or its successor in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended.

“environmental health officer” means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa;

“municipal area” means the proclaimed area jurisdiction of the Council as envisaged in Section 2 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended

“municipal manager” means the person appointed by the council in terms of Section 82 of the Local Government: Municipal Structures Act 1998 as amended and includes a person acting in this position.

“occupier”, in relation to any premises, means any person –

- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or

(d) who manages the premises or a business on the premises on behalf of a person referred to in [a], [b] or [c];

“owner” in relation to any premises, means –

- (a) the person in whose name the title to the premises is registered, and includes the holder of a stand licence; or
- (b) if the person referred to in [a] is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

“person” means a natural or juristic person,

“pest” means any animal that may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

“premises” means –

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated; or
- (c) any land that adjoins land referred to in [a] or [b] and any building or other structure on that land, if the land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in [a] or [b];

“prohibition notice” means a notice issued in terms of section 6;

“public health” means the mental and physical health and well-being of local community in the municipal area;

“public health hazard” means any actual threat to public health, and without limitations, includes –

- (a) the circumstances referred to in section 3[3];
- (b) unsanitary conditions;
- (c) circumstances that make it easier for a communicable disease to spread;
- (d) circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and
- (e) circumstances that allow pests to infest any place where they may affect public health;

“public health nuisance” means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant,

2. Purpose

The purpose of these by-laws is to enable the Council to protect and promote the long term health and wellbeing of the local community in its municipal area.

3. Prohibition of causing a public health hazard

- (1)** No person may create a public health hazard anywhere in the municipal area.
- (2)** Every owner or occupier of premises must ensure that a public health hazard does not occur on his premises.
- (3)** An owner or occupier of premises creates a public health hazard if –
 - (a)** his premises are infested with pests or if pests are breeding in large numbers on the premises;
 - (b)** there are conditions on his premises that are conducive to the spread of a communicable disease;
 - (c)** there are unsanitary conditions in any part of his premises; or
 - (d)** any water supply for domestic consumption on his premises is unsafe for human consumption.
- (4) Duty to report**
 - (1)** The owner or occupier of premises who knows of a public health hazard on the premises must within 24 hours of becoming aware of its existence –
 - (a)** eliminate the public health hazard; or
 - (b)** if the owner or occupier is unable to comply with subsection [a], take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.
 - (2)** An owner or occupier who does not comply with subsection [1] commits an offence

(5) Compliance notice

(1) If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on such premises, the environmental health officer may serve a compliance notice on one or more of the following persons:

- (a)** the owner of the premises;
- (b)** the occupier of the premises;
- (c)** any person apparently responsible for the public health hazard or public health nuisance.

(2) A compliance notice must state –

- (a)** why the environmental health officer believes that these by-laws are being contravened;
- (b)** the measures that must be taken –
 - i.** to ensure compliance with these by-laws; or
 - ii.** to eliminate or minimise any public health nuisance;
 - iii.** the time period within which the measures must be taken
 - iv.** the possible consequences of failing to comply with the notice; and
 - v.** how to appeal against the notice.

(3) If a person fails to comply with a compliance notice that requires a particular action be taken, the Council may –

- (a)** take the required action specified in the compliance notice; and
- (b)** recover, as debt, from the person to whom the notice was given, the costs and expenses reasonable incurred in taking the required action.

6. Prohibition Notice

(1) An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:

- (a) the owner or occupier of the premises if the environmental health officer reasonably believes that the premises are being used for a purpose or in a manner that is causing a public health hazard or a public health nuisance;
- (b) any person who is carrying on an activity or using premises for a purpose or in a manner that the environmental health officer reasonably believes is causing a public Health hazard or public health nuisance; or
- (c) a person on whom a compliance notice was served if the environmental health officer reasonable believes that that person has not complied with the compliance notice;
- (d) the environmental health officer must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

(2) A prohibition notice must state

- (i) the reasons for serving the notice;
- (ii) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
- (iii) the possible consequences of failing to comply with the notice; and
- (iv) how to appeal against the notice.

(3) Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

(4) The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

(5) It is a defence for anyone charged with failing to comply with a prohibition notice to prove that

- (a) He or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
- (b) He or she had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [4].

7. Withdrawal of prohibition notice

- (1) An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- (2) After completing the investigation, the environmental health officer must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.
- (3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a prescribed fee for undertaking the investigation.

8. Demolition order

- (1) If the Council believes that a public hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions contained in any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises, or from both.
- (2) The Council may not apply to court in terms of subsection [1] unless it has given the owner and the occupier of the premises not less than fourteen day's notice in writing of its intention to make the application.

9. Appeals

- (1) A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority referred to in Section 62 of the Local Government: Municipal Systems Act No. 32 of 2000 as amended.
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) An appeal authority must commence with an appeal within six weeks of its submission to the Municipal Manager and decide the appeal within a reasonable period.

10. Offences and penalties**(1) Any person who –**

- (a)** contravenes or fails to comply with any provisions of these by-laws;
- (b)** fails to comply with any notice issued in terms of these by-laws;
- (c)** fails to comply with any lawful instruction given in terms of these by-laws; or
- (d)** obstructs or hinders any authorised official in the execution of his or her duties under these by-laws –

Is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

11. Delivery of notices**(1) A notice, order or other document is to be regarded as having been properly served if-**

- (a)** it has been delivered to that person personally;
- (b)** sent by registered post to the person to whom it is addressed at their last known address;
- (c)** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;

I. If that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsection {a}, [b] or [c]; or

II. If that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

- (d)** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –

I. may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and

II. if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is posted up in some conspicuous place on the premises.

12. Repeal

Any by-laws adopted by the municipality or the council of a municipality now comprising an administrative unit of the municipality and relating to public health hazards and nuisances or any similar matter referred to or regulated in these by-laws are, from the date of promulgation of these by-laws, repealed.

13. Application to the State

These by-laws binds the state, including the municipality.

LOCAL AUTHORITY NOTICE 44**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Dumping, Littering and Waste Collection that come into operation on the date of publication thereof.

BY-LAWS RELATING TO DUMPING, LITTERING AND WASTE COLLECTION**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality and to provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof;

NOW THEREFORE be it enacted by the Council as follows:

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- [10] Garden refuse
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[1] **DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"bin" means a container as contemplated in section 5 of these by-laws;

"builder's refuse" means any waste or refuse resulting from or generated by the construction, renovation or demolition of a building or other structure or works;

"bulky refuse" means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape, size or quantity cannot be conveniently accumulated in or removed from a container with a bin liner;

"charge" means the charge prescribed by the municipality by resolution;

"container" means a standard type of refuse container as approved by the municipality.

"domestic refuse" means any refuse or waste normally emanating from or incidental to the normal occupation of a dwelling, flat, hotel, boarding-house, restaurant, guest house, hospital, school, cafe, shop, old age home or office but must not include stones, soil, gravel, bricks, waste liquids, night soil, or industrial, builder's or trade refuse;

"garden refuse" means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, trees, plants, flowers, weeds and other similar light matter;

"industrial refuse" means any refuse generated as a result of manufacturing, maintenance, production and dismantling activities;

"Municipality" means the Municipality of uMzimvubu established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal service" means, unless otherwise stated, the provision or supply of water, sewerage or electricity services;

"occupier" for the purposes hereof means the person who controls and resides in or who controls and otherwise uses immovable property and includes joint occupiers;

"owner" means and includes –

- [a] the person or persons in whom the registered title in immovable property is vested;
- [b] the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, dead or of unsound mind;
- [c] the agent or persons receiving the rental of immovable property in cases where the owner as described above is away or absent;
- [d] the beneficiary of a usufruct over immovable property, or
- [e] the fiduciaries of municipal property;
- [f] where the text so requires, includes the occupier of a property;

"premises" means residential, business and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

"waste" means **"refuse"** and includes bulky refuse, domestic garden refuse and industrial refuse;

"trade refuse" means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

[2] DOMESTIC REFUSE REMOVAL

The Municipality must provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

[3] USE OF SERVICE COMPULSORY

Every owner or occupier of immovable property must make use of the service for the removal and disposal of domestic refuse provided by the Municipality in respect of all domestic refuse which emanates from such property.

[4] MUNICIPALITY TO REMOVE REFUSE

No person other than the Municipality or person authorised thereto in writing by the Municipality may remove domestic refuse from any property or dispose of it in any manner.

[5] ACCUMULATION AND REMOVAL OF DOMESTIC REFUSE

[1] Subject to the provisions of subsection [6], the Municipality may require every occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the Municipality and with a closefitting lid and two handles for the accumulation of domestic refuse.

[2] If the Municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of

domestic refuse normally accumulated on such property, require the occupier thereof to provide as many containers as it may determine on such property.

- [3] If a container used by an owner or occupier does not comply with the requirements of the Municipality, it may instruct such owner or occupier by written notice to obtain and use some other suitable container complying with its requirements.
- [4] The Municipality may, where it considers it necessary or desirable of its own accord supply containers to particular classes of owners or occupiers, or to particular classes of properties or in particular areas, in which event the cost of such containers must be recovered from the owners or occupiers of the properties concerned.
- [5] All containers must be equipped with bin liners, unless the Municipality determines otherwise.
- [6] The Municipality may, generally or in particular, issue instructions to owners and occupiers by written notice on the manner in which or the arrangements according to which refuse or refuse bags must be placed in containers, be removed from them, be tied and thereafter be placed or deposited for removal.
- [7] Any disregard of instructions contemplated in subsection [6] constitutes a contravention of these by-laws.
- [8] No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers difficult for the Municipality's employees to handle or carry, may be placed in such bin liners or containers.
- [9] The containers or bin liners, or both, must be removed by the Municipality at such intervals as the Municipality may deem necessary but only if such containers or bin liners, or both, have been placed or deposited at the prescribed places as determined by the Municipality.
- [10] The Municipality is not liable for the loss of or for any damage to a container or bin liner.
- [11] In any case where the occupier of a property is not also the owner, the Municipality may hold the owner himself, instead of the occupier, liable for compliance with the provisions of these by-laws.
- [12] The Municipality may, in specific cases, impose different requirements, other than the use of an 85 litre container, for the removal and disposal of refuse and the owner or occupier of immovable property, as the case may be, to which such requirements relate are obliged to comply with the aforesaid directions of the Municipality.
- [13] The Municipality may prescribe policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse must be separated and disposed of.

[6] ACCUMULATION OF DOMESTIC REFUSE

The owner or occupier of any property must ensure that all domestic refuse generated on such property is accumulated only in a container as determined by section 5 and in no other manner.

[7] ACCESS TO PREMISES

Except where otherwise approved by the Municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on the premises is independent and unimpeded and the owner who fails to do so commits an offence.

[8] RIGHT OF ENTRY

- [1]** At any reasonable time on any day, or at any other time at which the service is ordinarily rendered, any authorised employee of the Municipality is entitled to enter premises in respect of which the Municipality's waste management services are rendered in order to –
- [a]** collect and supervise the collection of waste;
 - [b]** replace waste bins; or
 - [c]** inspect the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- [2]** The owner of the premises may not refuse access to the premises by an employee of the Municipality.
- [3]** An owner of premises commits an offence if he —
- [a]** denies access to the premises to an authorised employee of the Municipality in the performance of his duties; or
 - [b]** obstructs or impedes such employee of the Municipality in the performance of his duties.

[9] DUMPING, LITTERING AND OTHER CONTRAVENTIONS

- [1]** No person may –
- [a]** litter or cause or permit littering;
 - [b]** dump or cause or permit the dumping of any waste;
 - [c]** burn or cause or permit the burning of any waste, otherwise that provided for in any law;
 - [d]** accumulate or store waste, or cause or permit the accumulation and storage of waste in any way which, in the opinion of the Municipality, is unsightly or is or may become a nuisance or health hazard; or
 - [e]** deal or cause or permit the dealing with waste in any way other than provided for in any law.
- [2]** Where any of the provisions of subsection [1] are contravened, the Municipality may direct any or all of the following persons within a specified time to cease the contravention or to prevent a further contravention or the continuation of the contravention:
- [a]** any person responsible for, or who directly or indirectly contributed to, such contravention;
 - [b]** the owner of the waste, whether or not such owner is responsible for the contravention;
 - [c]** the owner of the land or premises on or at which the contravention takes place, where such owner failed to take the steps required in terms of these by-laws;

- [d] the person in control of, or any person who has or had a right to use, the land or premises on or at which the contravention takes place at the time of the contravention, where such person failed to take the steps required in terms of these by-laws;
- [e] any person who negligently failed to prevent the contravention from taking place;
- [3] Notwithstanding a direction in terms of subsection [1] from the Municipality to any or all of the persons referred to in subsections [9] [a] to [e], the Municipality may further direct such persons to take whatever steps the Municipality considers necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully.
- [4] The Municipality may itself take whatever steps it deems necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully and then recover the costs of taking such steps from any persons listed in subsection [2], who must, where applicable, be jointly held responsible.
- [5] The costs claimed in terms of subsection [4] must be reasonable and may include labour, administrative and other overhead costs.
- [6] No person who owns land or premises or who is in control of or has a right to use land or premises may use or permit the use of such land or premises for the purposes of unlawful dumping, burning or storage of waste and such persons must take reasonable steps to prevent the use of such land or premises for those purposes.
- [7] Every occupier of premises, whether the premises are residential or commercial, must keep the area immediately surrounding such premises clean, neat and free of litter to the satisfaction of the Municipality.
- [8] The Municipality must issue the notices for the purposes of giving directions in terms of subsection [2], compelling persons to comply with their obligations under subsections [5] and [6] and for any other purpose under these by-laws.
- [10] **GARDEN REFUSE**
- [1] Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the Municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the Municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period.
- [2] If it has sufficient facilities available, the Municipality may in its discretion and on application from the owner or occupier of property, remove garden refuse from such property at the cost of the owner or occupier and subject to such terms and conditions as the Municipality may determine.
- [3] No garden refuse may be dumped, kept or stored in or on any sidewalk or vacant ground.

[11] REMOVAL OF BULKY AND INDUSTRIAL REFUSE

- [1] The occupier or, in the case of premises occupied by more than one person, the occupiers of premises in which bulky or industrial refuse is generated must ensure that such refuse is disposed of in terms of these by-laws within a reasonable period after the generation thereof.
- [2] Bulky and industrial refuse must, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site for such refuse.
- [3] The Municipality is not responsible for the removal of bulky or industrial refuse.

[12] BUILDER'S REFUSE

- [1] Builder's refuse accumulated in the course of the construction, alteration, renovation or demolition of any structure or works must be removed from the property concerned according to suitable arrangements to be made by the owner of such property with the Municipality.
- [2] If there is any undue delay in the removal of the refuse contemplated in subsection [1] after the completion of the works involved, the Municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

[13] TRADE REFUSE

The Municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the Municipality at a charge fixed by the Municipality.

[14] DISPOSAL SITES FOR DOMESTIC, GARDEN AND BUILDER'S REFUSE

- [1] The Municipality must set aside and maintain a place or places where domestic, garden and builder's refuse must be deposited or dumped.
- [2] Any person dumping domestic, garden and builder's refuse in any other place is guilty of an offence.
- [3] The Municipality may, from time to time, determine tariffs for the dumping of refuse at a dumping or disposal site.

[15] OWNERSHIP OF REFUSE

All refuse removed by the Municipality and all refuse on disposal sites controlled by the Municipality are the property of the Municipality and no person who is not duly authorised by the Municipality to do so, may remove or in any manner interfere with such refuse.

[16] ABANDONED OBJECTS

Any object other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996], which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition thereof, be reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality in a manner as it may deem fit.

[17] LIABILITY

[1] Where any object has been removed and disposed of by the Municipality in terms of section 16, the owner or person responsible for such object is liable to pay the Municipality the charge fixed by it for its removal, disposal or custody.

[2] For the purposes of subsection [1], the person responsible is –

[a] the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or deposited in the place from which it was so removed, unless he can prove that he was not concerned in and did not know that it had been deposited in such place; or

[b] any person who deposits the object in the place aforesaid; or

[c] any person who knowingly permits or permitted the object to be deposited in the aforesaid place.

[18] CHARGES AND DEPOSIT

The charges payable to the Municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service must deposit with the Municipality must be determined by resolution adopted by the Municipality and reflected in its schedule of tariffs.

[19] WAIVER OF PROVISIONS

[1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws, provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.

[2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[20] DELIVERY OF NOTICES

[1] Notwithstanding section 9[2], a notice, order or other document is to be regarded as having been properly served if –

- [a] it has been delivered to that person personally;
- [b] sent by registered post to the person to whom it is addressed at his last known address;
- [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
- [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

[2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –

- [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
- [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[21] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
 - [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[22] OFFENCES AND PENALTIES

- [1] Anyone is guilty of an offence and upon conviction by a court liable to a fine or to imprisonment for a period not exceeding six months if he –

- [a]** contravenes any provision of these by-laws or fails to comply therewith or with any condition imposed in terms thereof;
 - [b]** deliberately furnishes false or misleading information to an official of the Municipality;
 - [c]** fails to comply with any condition granted or imposed in terms of these by-laws; or
 - [d]** ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these by-laws.
- [2]** In the case of a continuing offence, a person convicted in terms of subsection [1] is liable 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
- [3]** a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.
- [4]** An employer or principal commits an offence if he failed to take all reasonable steps to prevent an act or omission of a manager, agent or employee whose act or omission is in contravention of these by-laws and proof of the act or omission by the said manager, agent or employee will be prima facie evidence that the employer is guilty under this subsection; provided that no penalty other than a fine may be imposed if a conviction is based on this subsection.

[23] REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 45**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Outdoor Facilities and Municipal Buildings that come into operation on the date of publication thereof.

BY-LAW RELATING TO OUTDOOR FACILITIES AND MUNICIPAL BUILDINGS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the municipality in the exercise of its functions has the right to promote the achievement of a safe and peaceful environment and to provide for procedures, methods and practices to regulate the use and management of outdoor facilities or municipal buildings owned by or under the control of the Municipality;

NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS**CHAPTER 1: DEFINITIONS**

[1] Definitions

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CHAPTER 1: DEFINITIONS

- [1] **DEFINITIONS**

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

"appurtenance" means any installation or appliance in an outdoor facility or municipal building and includes, without derogating from the generality of the aforesaid, any keys, locks, windows, sewerage pans, basins, water taps and fittings;

"authorized official" means –

- [a] an official of the Municipality who has been authorized by it to administer, implement and enforce the provisions of this by-law;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- [d] a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"hirer" means any person who applies, pays and obtains approval for the use of the outdoor facilities or municipal buildings;

"Municipality" means the uMzimvubu Municipality established in terms of section 12 of the Local Government: Municipal Structures Act 1998, [Act No. 117 of 1998] and includes any duly authorized political structure or office bearer as defined in this Act, Councillor, agent or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure or office bearer, Councillor, agent or employee;

"notice" means an official notice displayed at every entrance to or at a conspicuous place at or on a outdoor facility or municipal building and in which the Municipality must make known provisions and directions adopted by it in terms of this by-law;

"outdoor facility" or "municipal building" means –

- [a] any land, square, camping site, swimming bath, river, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail which is the property of the Municipality, including any portion thereof and any facility or apparatus therein or thereon;
- [b] any building, structure, hall, room, or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission fees or not, but excluding –

- [i] any public road or street;
- [ii] any outdoor facility or municipal building contemplated aforesaid if it is lawfully controlled and managed in terms of an agreement concluded by any person with the Municipality; and
- [iii] any outdoor facility or municipal building hired from the Municipality;

"person" means a natural or juristic person and vice versa and includes a voluntary association of natural or juristic persons;

"prescribed fee" means the fee determined by resolution of the Municipality for the hire of outdoor facilities or municipal buildings;

"property" means the property on which the outdoor facility or municipal building or buildings of the Municipality are situated.

CHAPTER 2: USE OF OUTDOOR FACILITY OR BUILDING

[2] MAXIMUM NUMBER OF VISITORS

- [1] The Municipality may determine the maximum number of visitors who may be present at a specific time in or at an outdoor facility or municipal building.
- [2] The number contemplated in subsection [1] must be made known by the Municipality by means of a notice.

[3] ADMISSION TO AN OUTDOOR FACILITY OR BUILDING

- [1] An outdoor facility or municipal building is, subject to the provisions of this by-law, open to the public during the times determined by the Municipality and made known in a notice.
- [2] No visitor may enter or leave an outdoor facility or municipal building at a place other than that indicated for that purpose.

[4] ENTRANCE FEES

- [1] Any person entering an outdoor facility or municipal building must pay the entrance fee determined from time to time by the Municipality and such entrance fee must be made known by means of a notice.

- [2]** Entrance fees may be varied in respect of persons of different ages and the Municipality may exempt certain groups of persons from the payment of an entrance fee, provided that such exemption does not amount to unlawful discrimination.

[5] NUISANCES

- [1]** No person may perform or permit any of the following acts in or at an outdoor facility or municipal building –

- [a]** the use of language or the performance of any other act that disturbs the good order;
- [b]** the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults without the Municipality's written consent;
- [c]** the burning of rubble or refuse;
- [d]** the causing of unpleasant or offensive smells;
- [e]** the production of smoke nuisances;
- [f]** the causing of disturbances by fighting, shouting, arguing or by the use of loudspeakers, radios, television sets or similar equipment; or
- [g]** in any other manner cause a nuisance, obstruction, disturbance or annoyance to the public.

- [2]** An authorized official may, during any activity of the hirer, direct that the hirer prevent the entry into or the removal from the hired outdoor facility or municipal building of Any person who is –

- [a]** intoxicated and behaving in an unseemly or obnoxious manner; or
- [b]** causing a nuisance or annoyance to other people in or users of the said outdoor facility or municipal building, occupiers of other parts of the building or neighbouring buildings and/or the general public.

[6] HEALTH MATTERS

- No person may in or at an outdoor facility or municipal building –

- [a] dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the outdoor facility or municipal building;
- [b] pollute or contaminate in any way the water in any bath, swimming pool, dam, river or water-course;
- [c] enter any bath or swimming pool while suffering from an infectious or contagious disease or having an open wound on his body; or
- [d] perform any act that may detrimentally affect the health of any visitor to an outdoor facility or municipal building.

[7] STRUCTURES

No person may, without the written consent of the Municipality having first been obtained, erect or establish in or on an outdoor facility or municipal building any structure, shelter or anything similar, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside for that purpose by notice.

[8] LIQUOR AND FOOD

- [1] No person may, contrary to a provision of a notice, bring into an outdoor facility or municipal building any alcoholic or any other liquor or any food of whatever nature, unless stipulated in the conditions of hire.
- [2] No person may on, in or at an outdoor facility or municipal building, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice.
- [3] The preparation and cooking of food in or at an outdoor facility or municipal building must be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health.
- [4] No live animals, poultry or fish may be killed or skinned on, in or at an outdoor facility or municipal building, unless stipulated in the conditions of hire.

[9] ANIMALS

- [1] No person may bring any live animal, bird, fish or poultry into an outdoor facility or municipal building except in accordance with the directions of the Municipality.
- [2] The directions contemplated in subsection [1] must be made known by means of a notice.

[10] USE OF OUTDOOR FACILITIES OR MUNICIPAL BUILDINGS

[1] No person may, without the consent of the Municipality or contrary to any condition that the Municipality may impose when granting such consent –

- [a]** arrange or present any public entertainment;
- [b]** collect money or any other goods for charity or any other purpose from the general public;
- [c]** display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
- [d]** arrange, hold or address any meeting;
- [e]** arrange or hold a public gathering or procession, exhibition or performance;
- [f]** conduct any trade, occupation or business;
- [g]** display, sell or rent out or present for sale any wares or articles;
- [h]** hold an auction; or
- [i]** tell fortunes for compensation.

[2] For the purposes of this by-law, "**public gathering or procession**" means a procession or gathering of 15 [fifteen] or more persons and which is not regulated by existing national, provincial or local legislation.

[11] SAFETY AND ORDER

[1] No person may, subject to subsection [2], in or at an outdoor facility or municipal building –

- [a]** damage or disfigure anything within such outdoor facility or municipal building;
- [b]** use or try to use anything within such outdoor facility or municipal building for any purpose other than that for which it is designated or determined by notice;
- [c]** light a fire or prepare food, except at a place indicated for that purpose by notice;

- [d]** throw away any burning or smouldering object;
 - [e]** throw or roll down any rock, stone or object from any mountain, slope or cliff;
 - [f]** pull out, break off, pick or damage any tree, plant, shrub, vegetation or flower;
 - [g]** behave him in an improper, indecent, unruly, violent or unbecoming manner;
 - [h]** cause a disturbance;
 - [i]** wash, polish or repair a vehicle;
 - [j]** walk, stand, sit or lie in a flower bed;
 - [k]** kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
 - [l]** walk, stand, sit or lie on grass contrary to the provisions of a notice;
 - [m]** lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
 - [n]** play or sit on play park equipment, except if the person concerned is a child under the age of 13 [thirteen] years; or
 - [o]** swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond.
- [2]** The Municipality may, by way of notice and subject to such conditions as it deems necessary and stated in a notice, authorize any of the actions contemplated in subsection [1], or in the conditions of hire.

[12] WATER

No person may –

- [a]** misuse, pollute or contaminate any water source or water supply or waste water in or at any outdoor facility or municipal building; or

- [b] carry off and remove from any premises of an outdoor facility or municipal building, water from any tap, shower, toilet or ablution facility on, in or at such outdoor facility or municipal building.

[13] LAUNDRY AND CROCKERY

No person may in or at an outdoor facility or municipal building wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

[14] VEHICLES

[1] No person may bring into an outdoor facility or municipal building any truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the Municipality.

[2] The Municipality may determine the speed limit applicable in an outdoor facility or municipal building,

[3] The directions contemplated in subsection [1] and the speed limit contemplated in subsection [2] must be made known by the Municipality by way of notice.

[15] GAMES

No game of any nature whatsoever may be played or conducted in or on an outdoor facility or municipal building by any person or persons except at places set aside for that purpose by notice and in accordance with the directions of the Municipality and which is made known by way of notice.

CHAPTER 3: HIRE OF OUTDOOR FACILITY OR BUILDING

[16] CO-OPERATION BETWEEN MUNICIPAL DEPARTMENTS

Every department of the Municipality having jurisdiction over or responsibility for any outdoor facility or municipal building must cooperate with any other such department in ensuring that –

- [a] such facility or building is properly maintained in a state fit for the purpose for which it was designed and is used; and

- [b]** no part of such facility or building is made available to or hired out to more than one person at the same time.

[17] APPLICATION FOR HIRING

- [1]** Any person wishing to apply for the hire of any outdoor facility or municipal building must

–

- [a]** submit an application to the Municipality in the form prescribed by the Municipality for this purpose;

- [b]** clearly stipulate in such application the outdoor facility or municipal building, seating, accommodation and equipment required and the period for which same are required; and

- [c]** ensure that such application form is received by the Municipality not less than 30 [thirty] working days prior to the date on which the outdoor facility or municipal building concerned is first required by the applicant, provided that this time period may, depending on the demand for the outdoor facility or municipal building in question, be relaxed by the Municipality.

- [2]** The Municipality may refuse to hire out any outdoor facility or municipal building in terms of subsection [1] or may cancel any booking thereof if –

- [a]** the said outdoor facility or municipal building are to be used for any unlawful or immoral purpose; or

- [b]** the outdoor facility or municipal building being applied for is required by the Municipality for municipal purposes at the same time; provided that the Municipality must furnish at least 10 [ten] working days' notice of any cancellation of an existing booking.

- [3]** No compensation is payable by the Municipality to the hirer for any loss which the hirer may suffer by reason of the Municipality having acted in terms of subsection [2]; provided that the Municipality may, in its discretion, refund all the charges that have already been paid to it in respect of the application.

- [4]** The hirer is limited to the use of the outdoor facility or municipal building specified in the application form and may not use any other outdoor facility or municipal building in respect of which no application was made.

- [5] The hired outdoor facility or municipal building may not, except with the prior written approval of the Municipality, be used for any purpose other than the purpose indicated on the application form.
- [6] An outdoor facility or municipal building hired out by the Municipality may be used for the purpose of conducting religious worship; provided –
- [a] the consent of the Municipality to such use has been given;
 - [b] such use may be made of the outdoor facility or municipal building only at the times specified in the contract of hire or letter of approval; and
 - [c] the Municipality is entitled to refuse its approval unless it is satisfied that such use will not, by reason of singing, chanting, acclamation or other form of noise-producing worship, constitute an undue interference with the amenities normally enjoyed by other occupants of the building, occupants of neighbouring buildings or the general public.

[18] SCHEDULE OF TARIFFS

The Municipality may from time to time determine the tariff for the hire of an outdoor facility or municipal building.

[19] PAYMENT OF FEES

- [1] No person is permitted to use any outdoor facility or municipal building unless the prescribed fee has been fully paid;
- [2] Subject to section 4[2], the Municipality may exempt any person or organization, on good cause, from the payment of a portion or all the prescribed fees.

[20] PERIOD OF HIRE

Notwithstanding any determination made by the Municipality regarding the dates and period for which outdoor facilities or municipal buildings may be hired, the Municipality may allow the hirer reasonable access to such facilities or buildings before the commencement date of the period of hire, so as to enable the hirer to make the necessary preparations and arrangements in the outdoor facility or municipal building concerned but subject to the payment of the prescribed fee by the hirer.

[21] ADJUSTMENT OF PERIOD OF HIRE

- [1] Any person who makes an application for the use of outdoor facilities or municipal buildings in terms of the provisions of section 17 may, subsequent to the approval of such

application and the reservation of such outdoor facility or municipal building, apply for the postponement of such reservation to a later date, without penalty or forfeiture;

- [2] The postponement contemplated in section 21[1] may be refused if such outdoor facilities or municipal buildings have, in the meantime, been reserved for use by another or others on the dates to which the postponement is sought.
- [3] Any person who has already made an application for the reservation of outdoor facilities or municipal buildings may cancel such reservation, in which event, if a reservation is cancelled –
- [a] one month or longer prior to the commencement date of such reservation, the hirer must receive a full refund of the prescribed fee already paid; or
 - [b] fifteen days but less than one month prior to the commencement date of such reservation, then the hirer must receive a 50% [fifty percent] refund of the prescribed fee; or
 - [c] fifteen days or less prior to the commencement date of such reservation, then the hirer is not entitled to receive any refund of the prescribed fee.
- [4] Any person may extend the period of hire of outdoor facilities or municipal buildings upon written application to the Municipality in the manner provided for in subsection 17[1] [a], provided that –
- [a] the period of 30 [thirty] working days' notice, as provided for in terms of subsection 17[1] [c], will not apply; and
 - [b] the outdoor facilities or municipal buildings concerned have not, in the meantime, been reserved for use by any other person or persons.

[22] JOINT HIRE

- [1] The Municipality may let any outdoor facility or municipal building or parts thereof to different hirers for simultaneous use and in such a case, each hirer must use all the ancillary outdoor facilities or municipal buildings, which serve the different parts of the outdoor facility or municipal building, jointly with the other users and in such manner that all the different hirers, their guests, customers and patrons are able to enjoy the use of the outdoor facilities or municipal buildings without infringing on the rights of use by other users.
- [2] The provisions of this by-law, read with the necessary changes, apply to the joint users of the hired outdoor facility or municipal building.

[23] SUB-LETTING

The hirer may not sub-let any hired outdoor facility or municipal building to any other person or organization nor may the hirer cede, pledge or renounce in favour of another person any of his rights or obligations under this by-law nor allow any other person to occupy the outdoor facility or municipal building without the prior written consent of the Municipality.

[24] CONDITION OF OUTDOOR FACILITY OR BUILDING

[1] The hirer must inspect the hired outdoor facility or municipal building, including all installations, appliances, fittings, accessories and furniture, before he commences to use the same and, if the hirer finds that any of the installations, appliances, fittings, accessories and furniture on the outdoor facility or municipal building are not in a proper state of repair, he must in writing, or on any form provided by the Municipality, report this fact to the Municipality.

[2] The hirer who fails either to inspect the outdoor facility or municipal buildings in terms of subsection [1] or to report any defects found therein or therewith, is deemed upon commencement of occupation by the hirer to have consented that everything in the outdoor facility or municipal building concerned was in a proper state of repair.

[25] DUTIES OF THE HIRER

Any person hiring outdoor facilities or municipal buildings from the Municipality must –

[a] take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the outdoor facility or municipal building free from obstruction or blockage as a result of the hirer's activities;

[b] at all times keep the outdoor facility or municipal building in a clean, tidy and sanitary condition;

[c] not affix or attach to the outdoor facility or municipal building any notice or other matter without the prior consent of the Municipality; provided that upon the termination of the hire, the hirer must remove all such attachments;

[d] not obscure any plate glass windows by painting or otherwise;

[e] not drive any nails or screws into the walls or partitions or doors of the outdoor facility or municipal building;

[f] not change or interfere with or overload any electrical installation in the outdoor facility or municipal building;

- [g] not remove or take out from the outdoor facility or municipal building any furniture or other article whatsoever belonging to the Municipality;
- [h] not obstruct or interfere or tamper with any thermostats or air conditioning appliances in the outdoor facility or municipal building;
- [i] not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which, in the reasonable opinion of the Municipality, could damage the outdoor facility or municipal building or any part thereof; provided that the Municipality may impose, on the introduction of such item, such conditions as are reasonable to ensure the safety of the outdoor facility or municipal building and persons using them;
- [j] not install in the outdoor facility or municipal building any air conditioning or ventilating units or equipment without the Municipality's prior consent;
- [k] not permit the storage of motor vehicles or other movable items of any description on the pavements, entrance halls, staircases or passages of the outdoor facility or municipal building;
- [l] not do anything or allow anything to be done in non-compliance with any reasonable instruction or prohibition given or issued by the Municipality;
- [m] not park vehicles or allow the parking of vehicles by the hirer's employees, invitees, agents, directors or other representatives anywhere at the outdoor facility or municipal building except in properly demarcated parking bays or as may be pointed out by an authorized official.

[26] DAMAGE TO PROPERTY

A hirer who fails to keep and maintain the outdoor facilities or municipal buildings hired out to him and to return them to the Municipality in the same order and condition as when they were hired out to him will be guilty of an offence and in addition to any remedies available to the Municipality at common law, be liable in terms of the penalties specified in this by-law.

[27] ADVERTISEMENTS AND DECORATIONS

- [1] No person who has applied for the hire of an outdoor facility or municipal building may publicly announce or advertise any function or event in respect of which an application for the hire of such outdoor facility or municipal building has been made before the Municipality has notified that person in writing that the application has been approved.
- [2] Every hirer must, before vacating the hired outdoor facility or municipal building on the termination of the period of hire for any reason whatsoever, remove all posters, notices,

decorations, flags, emblems, signs and other forms of advertisement or direction erected or affixed by him and make good any damage caused by such removal.

[28] ADMISSIONS AND SALE OF TICKETS

The hirer is responsible for all arrangements in connection with the admission of members of the public to any cultural or other activities at the outdoor facility or municipal building and the provision of ushers and other persons necessary to control the admission of persons to the outdoor facility or municipal building and the sale of tickets.

[29] OVERCROWDING

[1] No overcrowding of the outdoor facility or municipal building may be allowed at any time during any of the hirer's activities and the hirer must comply with the Municipality's requirements prescribing the maximum number of persons allowed at the outdoor facility or municipal building during activities.

[2] Without detracting from the general requirements referred to in subsection [1], the hirer may not allow more persons admission to the outdoor facility or municipal building than the number of available seats or, where seating is not provided, the maximum number of persons prescribed by notice at the outdoor facility or municipal building or as stipulated in the contract of hire.

[30] SALE OF REFRESHMENTS

[1] No person may sell food or soft drinks at any hired outdoor facility or municipal building during any activities for which they have been hired without the prior written consent of the Municipality.

[2] The Municipality may permit the sale of refreshments or foodstuffs by such persons as it may approve after it has received written application to sell such items and the Municipality may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.

[3] The provisions of subsections [1] and [2] do not apply where the supply and sale of refreshments or foodstuffs is an integral part of the activities of the hirer.

[4] The Municipality will not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection [2] for any reason whatsoever.

[31] SERVICES

- [1]** The nature of the municipal services to be provided to an outdoor facility or municipal building must be determined at the sole discretion of the Municipality.
- [2]** The Municipality will not be liable for the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer and the Municipality will also not be liable for anything which the hirer, his employees, invitees, agents, directors or representatives may have deposited or left in the outdoor facility or municipal building or any part thereof.
- [3]** The Municipality may take such steps as it may consider necessary and in its discretion for the proper maintenance and operation of any common areas in the outdoor facility or municipal building.
- [4]** An authorized official may attend the hirer's function to ensure compliance with any provision of this by-law.
- [5]** The hirer is not entitled to the official services of an authorized official or any other representative of the Municipality who attends the hirer's function in terms of subsection [4].
- [6]** The hirer is not entitled to receive free cleaning or other services from the Municipality in connection with the hirer's activities during the preparation of a function or during a function.

[32] EXCLUSION OF LIABILITY

- [1]** The Municipality is not liable for –
- [a]** any damage or loss sustained by any person as a result of an insufficient supply or interruption in the supply of municipal services to the outdoor facility or municipal building or due to any act or omission on the part of the Municipality if the Municipality considers the interruption necessary to enable it to exercise any of its powers or perform any of its functions under this by-law or under any other law;
- [b]** any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing or other articles of any nature whatsoever kept at the hired outdoor facility or municipal building by the hirer or Any person else whether in regard to the hirer's business or not;
- [c]** any consequential loss suffered by the hirer by making use of an outdoor facility or municipal building at the hired outdoor facility or municipal building or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion or for loss of

life or injury to the hirer or Any person else at the outdoor facility or municipal building during a function or event; and

- [d]** any loss suffered by the hirer as a result of any failure or defect at any outdoor facility or municipal building provided such failure or defect is not attributable to any wilful act or omission or gross negligence on the part of the Municipality.
- [2]** Every hirer must, at the time of concluding a contract of hire for an outdoor facility or municipal building complete and sign an indemnity in a form required by the Municipality and in favour of the Municipality.

[33] DESTRUCTION OF OUTDOOR FACILITY OR BUILDING

- [1]** The Municipality may cancel the hire of an outdoor facility or municipal building if –

 - [a]** the outdoor facility or municipal building is destroyed or is damaged to such an extent as to be substantially unusable;
 - [b]** there is damage to the outdoor facility or municipal building such that it is rendered substantially unusable because of the absence of access to or supply of any necessary municipal service; or
 - [c]** there is destruction or damage to the outdoor facility or municipal building and the Municipality decides not to proceed with the hire of the outdoor facility or municipal building in order to engage in reconstruction, renovation or rebuilding or for safety reasons.
- [2]** Any decision made in terms of subsection [1] must be communicated by written notice given by the Municipality to the hirer within a reasonable period of the event referred to in subsection [1] [a] giving rise to the cancellation.
- [3]** In the case of notice given in relation to an event referred to in subsection [1] [b] or [c], such notice may be deemed to be effective as from the date on which the damage or destruction took place.
- [4]** No hirer will have any claim against the Municipality for –

 - [a]** damages arising out of the damage to or destruction of the outdoor facility or municipal building or any part thereof; or
 - [b]** the resultant loss of beneficial use of the outdoor facility or municipal building by such hirer.

[34] TERMINATION FOR NON-COMPLIANCE

- [1]** The Municipality may at any time cancel the hire of outdoor facilities or municipal buildings if the hirer fails to comply with any of the provisions of this by-law and the Municipality will not be liable for any damage or loss sustained by any person as a result of such cancellation;
- [2]** The cancellation contemplated in subsection [1] is without prejudice to any claims which the Municipality may have against the hirer under any provision of this by-law or at common law.

[35] TERMINATION OF HIRE

- [1]** On the termination of the period of hire for any reason, the hirer must –
- [a]** return an outdoor facility or municipal building to the Municipality in good order and condition; and
 - [b]** make good and repair at his own cost any damage or breakage; or
 - [c]** reimburse the Municipality for the cost of replacing, repairing or making good any broken, damaged or missing articles.
- [2]** It is lawful for the Municipality to deduct from any deposit paid by the hirer of the outdoor facility or municipal building the costs of the damage or breakage provided for in subsection [1] [c].
- [3]** Every hirer must vacate the hired outdoor facility or municipal building within such period after expiry of the period of hire as is stated on the application form or contract of hire.
- [4]** Failure by the hirer to comply with the provisions of subsection [3] entitles the Municipality to levy a further prescribed fee for such additional period during which the hirer remains in occupation of the outdoor facility or Municipal building after the expiry of the period of hire.
- [5]** The provisions of subsection [3] do not preclude the Municipality from taking lawful steps to procure the eviction of any hirer contemplated in subsection [3] from the outdoor facility or municipal building.
- [6]** Every hirer must comply with all reasonable and lawful instructions of the Municipality in respect of the cleaning of an outdoor facility or municipal building upon the hirer's vacation thereof;
- [7]** The Municipality may elect to undertake the cleaning of all crockery and cutlery used by the hirer.

- [8] Every hirer must comply with all reasonable and lawful instructions of the Municipality in respect of the vacation of an outdoor facility or municipal building and the return thereof.

[36] FIRE HAZARDS AND INSURANCE

- [1] A hirer may not at any time bring or allow to be brought or kept at an outdoor facility or municipal building, nor undertake nor permit to be done or undertaken in the outdoor facility or municipal building, any matter, thing or activity whereby –
- [a] the fire or any other insurance policy of the facility or building concerned may become or becomes void or voidable; or
- [b] the premium for any such insurance may be or is increased.
- [2] If the premiums for insurance contemplated in subsection [1] are increased as a result of any act or omission contemplated in subsection [1], then the Municipality may, in its discretion –
- [a] allow such activity and recover from the hirer the amount due in respect of any additional insurance premiums; and
- [b] notify the hirer who must pay such amount immediately on notification by the Municipality or the insurance company to the effect that such additional premiums have been charged.
- [3] The Municipality may at any time, at its discretion, require the hirer to take out insurance for the outdoor facility or municipal building hired with an insurance company, approved by the Municipality, against loss or damage by fire or any other cause during or as a result of any function for which the outdoor facility or municipal building is hired.

[37] STORAGE FACILITIES

The Municipality is not responsible for providing outdoor facilities or municipal buildings for the storage of the equipment of the hirer or the hirer's employees, visitors, supporters or agents during any period prior to, during or after a function or event.

[38] EQUIPMENT

- [1] A hirer who requires the Municipality to supply any equipment for use during a function or event may use such equipment only with the permission of the Municipality and under the supervision of an authorized official;
- [2] If the hirer causes damage to the equipment provided for in subsection [1], or removes or causes the equipment to be removed from the outdoor facility or municipal building without permission or fails to return it, then the hirer will be liable for the repair or replacement costs thereof.

[39] RIGHT OF ENTRY

- [1]** Subject to the provisions of applicable national and provincial legislation, the Municipality or an authorized official may enter an outdoor facility or municipal building at all reasonable times –
- [a]** to inspect same and carry out any repairs or alterations or additions or modifications or improvements thereto; and
- [b]** in order to ensure that the conditions of hire of same and the provisions of this by-law are being complied with.
- [2]** A hirer will have no claim for remission of any charges payable for the hire of an outdoor facility or municipal building, compensation, damages or otherwise in connection with the exercise by the Municipality or the authorized official of the rights under subsection [1].
- [3]** The Municipality is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of an outdoor facility or municipal building as well as such other devices required by law or which the municipality's architects may certify are necessary to carry out the repairs provided for in subsection [1].

[40] INSPECTION

Upon the conclusion of all the hirer's activities at the end of the period of hire or at the termination of the hire under any of the provisions of this by-law, the Municipality and the hirer or his nominee must inspect the hired outdoor facility or municipal building for the purpose of assessing any damage or loss thereto.

CHAPTER 4: GENERAL PROVISIONS**[41] APPEAL**

- [1]** A person whose rights are affected by a decision taken by an authorised official under these by-laws may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].

[3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[4] An appeal submitted in terms of this section must be dealt with in the manner prescribed by section 62 of the Municipal Systems Act, 2000 [Act No. 32 of 2000].

[42] PENALTIES

Any person who contravenes or fails to comply with a provision of this by-law, a notice issued in terms thereof or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence elsewhere in this by-law, will be guilty of an offence and liable upon conviction to –

[1] a fine not exceeding R10000 or imprisonment for a period not exceeding 6 [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 R250 or an additional period of imprisonment of 1 [one] day 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.

[43] REGULATIONS

The Municipality may make regulations not inconsistent with this by-law, prescribing –

[a] any matter that may or must be prescribed in terms of this by-law; and

[b] any matter that may facilitate the application of this by-law.

[44] REPEAL OF BY-LAWS

[1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.

[2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 46**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to Unsightly and Neglected Buildings and Premises that come into operation on the date of publication thereof.

BY-LAWS RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate practices that detract from the aesthetic appearance of areas within the jurisdiction of the Municipality and to provide for practices and procedures in relation thereto;

NOW THEREFORE be it enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Restore to acceptable standard
- [3] Waiver of provisions
- [4] Compliance notice
- [5] Prohibition notice
- [6] Withdrawal of prohibition notice
- [7] Appeal
- [8] Repeal of by-laws

[1] DEFINITIONS

In these by-laws-

"administrative unit" means a former municipality as envisaged in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"building" has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended;

"Council" means the Council of the uMzimbvubu Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998, and includes any employee to whom the Council has delegated powers to enforce and/or perform duties in terms of these by-laws;

"municipal area" means the area under the jurisdiction and control of the Council;

"owner" means -

- [a] the person in whom from time to time is vested the legal title to premises;
- [b] in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- [c] in a case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises with a building thereon;
- [d] in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- [e] in relation to –
 - [i] a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and without restricting the above, the developer or the body corporate in respect of the common property; or
 - [ii] a section as defined in such Act, the person in whose name such a section is registered under a sectional title deed and includes the lawfully appointed agent of such a person.
- [f] any legal person including but not limited to –

- [i] a company registered in terms of the Companies Act, 1973 [Act 61 of 1973], a Trust, a Closed Corporation registered in terms of the Closed Corporations Act, 1984 [Act 69 of 1984] and a Voluntary Association;
- [ii] a state department;
- [iii] a Council or Board established in terms of any legislation applicable to the Republic of South Africa;
- [iv] a Embassy or other foreign entity.

"premises" means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

[2] RESTORE TO ACCEPTABLE STANDARD

- [1]** The Municipality must serve a notice contemplated in subsection [2] on the owner of premises on which, in the opinion of the Council –
- [a]** a building is unsightly, neglected or offensive and causes the value of surrounding properties to be detrimentally affected;
 - [b]** lawns, trees shrubs or other cultivated vegetation is neglected and overgrown;
 - [c]** unsightly papers, cartons, garden refuse, rubble and/or other waste material has accumulated; or
 - [d]** motor wrecks or used motor parts have accumulated, that –
 - [i]** detracts from the appearance of surrounding properties; or
 - [ii]** is offensive to the owners or occupiers of adjacent premises.
- [2]** A notice in writing on the owner of premises contemplated in subsection 1[a] to [d] must require such owner to improve the condition of such premises to a standard acceptable to the Council which standard must be stated in the notice within a specified period that may not exceed ninety [90] days from the date of such notice.
- [3]** If the owner of premises contemplated in subsection [1] fails to comply with the requirements of the notice contemplated in subsection [2] within the specified period, that owner is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.
- [4]** Alternatively and instead of instituting criminal proceedings against the owner in terms of subsection [3] of these by-laws and provided no written objections from such owner have been received before the expiry date of the period specified in the notice, the Municipality may assume that such owner has no objection and tacitly agrees that the Municipality

may, without any further notice, enter upon such premises and, at such owner's cost and through its officials or a contractor appointed by the Council on a tender or quotation basis, execute the work necessary to comply with the requirements of the said notice.

[5] The Municipality is entitled to recover the cost of the work undertaken in terms of subsection [4] in any court of law from the owner so in default.

[6] A certificate under the hand of the Municipal Manager of the Municipality stating the cost of the work referred to in subsection [5] is conclusive proof thereof.

[3] WAIVER OF PROVISIONS

[1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.

[2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[4] COMPLIANCE NOTICE

[1] If an authorized official, after inspecting premises contemplated in these by-laws, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:

[a] the owner of the premises;

[b] the occupier of the premises;

[c] any person apparently in charge of undertaking the aforesaid use on the premises.

[2] A compliance notice must state –

[a] why the authorized official believes that these by-laws are being contravened;

[b] the measures that must be taken to ensure compliance with these by-laws;

[c] the time period within which the measures must be taken;

- [d] the possible consequences of failing to comply with the notice; and
 - [e] how to appeal against the notice.
- [3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Municipality may –
 - [a] take the required action specified in the compliance notice; and
 - [b] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c] direct that a prohibition notice be served on such person in terms of section 5 of these by-laws.

[5] PROHIBITION NOTICE

- [1] An authorized official may, after inspecting premises contemplated in and contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the conduct proscribed in these by-laws and requiring measures to be taken to ensure that this occurs.
- [2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.
- [4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

- [6] It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
- [a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [4].

[6] WITHDRAWAL OF PROHIBITION NOTICE

- [1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2] After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[7] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
 - [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[8] REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 47**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-Laws Relating to the Control over Buildings that come into operation on the date of publication thereof.

LIQUOR TRADING HOURS BY-LAWS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has an obligation in terms of section 42 of the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003] to regulate the hours during which liquor may be sold and regulate the operating hours of premises where on-site consumption of liquor takes place in the demarcated municipal area and to provide for incidental matters;

BE IT THEREFORE enacted by the Council as follows:

TABLE OF CONTENTS

- [1] Definitions
- [2] Application of By-Laws
- [3] Trading hours
- [4] Report by Ward Committee

- [5] Enforcement
- [6] Offences
- [7] Penalties Schedule
- [8] Repeal of by-laws

[1] DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates:-

"Act" means the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003];

"authorized official" means any person authorized by the Council to implement and enforce compliance with these by-laws;

"Board" means the Eastern Cape Liquor Board established by section [4] of the Act;

"Council" means the Council of the uMzimvubu Municipality or any other political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] or official including the authorized official acting by virtue of powers delegated to it or him by the Council with regard to the application and enforcement of these by-laws;

"community" means those residents, governing body of schools or places of worship occupying premises within a 100m radius from the premises in respect of which an application for registration and/or a license or authorization in terms of the Act is made;

"Municipal Manager" means the Municipal Manager of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 and includes any person acting in this position;

"liquor trading establishment" means any fixed property from which liquor is sold or supplied to the public for consumption;

"official" means an official of the Municipality;

"premises" includes any place, land, building or conveyance or any part thereof which is registered or seeking to be registered in order to permit and allow trading in liquor;

"Regulations" means the regulations made under the Act and published in Provincial Notice No. 17 of 2004, dated 28 May 2004 as may be amended from time to time;

"trading hours" means the time when a liquor trading establishment opens to the time that such establishment ceases to trade and, in the case of on-site consumption establishments, the time when they cease to operate and must close in accordance with Schedule 1 of these by-laws;

"trader" means a person trading in liquor from a liquor trading establishment ;

"ward committee" means a committee as contemplated in the Local Government: Municipal Structures Act, 1998.

[2] APPLICATION OF BY-LAWS

These by-laws are applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trading in liquor is conducted or is intended or permitted to be conducted in terms of any Town Planning Zoning Scheme of the Municipality or made applicable to the Municipality and/or consent usage granted by the Municipality and/or any title deed conditions applicable to such premises.

[3] TRADING HOURS

[1] The trading hours of the different types of registrations listed in the first column of Schedule 1 reflect the trading hours listed in the second column of the said Schedule.

[2] A departure from the hours stipulated in Schedule 1 is permissible only upon application to and with the prior written approval by Municipality.

[3] The Municipality itself reserves the right by notice in the press in such languages as the Municipality may determine to deviate from the stipulated trading hours in the interests of the community.

[4] REPORT BY WARD COMMITTEE

[1] A ward committee must, upon receipt of a notice of application for registration in terms of section 22[2][d][i] of the Act, hold a consultative meeting with the owners of immovable property and businesses and with residents in the immediate vicinity of the premises in respect of which the application applies and record in writing all comments [if any] with regard to such application;

[2] The councillor responsible for the ward in respect of which an application contemplated in subsection [1] has been made must submit a report to the Municipality within 30 days of referral of such application to the ward committee concerned and such report must contain:

[a] the details of the consultative process with the community,

including the –

- [i] dates when the consultation took place; and
 - [ii] names and addresses of persons who were consulted.
- [b] comments on the application;
- [c] details of objections received in respect of such application, if any;
- [d] comments on such application; and
- [e] a recommendation with regard to such application.

[3] The Municipal Manager must report the application and the comments of the ward committee concerned to the Council at its first meeting after receipt of the comments of such Committee and thereafter expeditiously inform the Board of the resolution of the ward committee and the Council on such application:

Provided that the Municipal Manager must provide the applicant with reasons within seven days of such referral to the Council if the application and comments of the ward committee could not, for any reason whatsoever, be considered by the Council.

[4] The Council may, when considering an application, appoint an official to conduct further investigation and obtain any further information that it deems necessary from any person deemed necessary by the Council: Provided that the Municipal Manager must notify the applicant within seven days of such referral by the Council.

[5] An official appointed in terms of subsection [4] must complete the investigation within such period as Council may have deemed necessary and report his or her findings to the Council at its next meeting.

[6] The Council must consider the findings contemplated in subsection [5] and thereafter take the steps contemplated in subsection [3].

[5] HOURS OF TRADING

[1] The trading hours, as listed in Column 2 of Schedule 1 to this by-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the Schedule, have been determined by the Municipality and may be reviewed by the Municipality from time to time.

[2] Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection [1]:

Provided that nothing contained in these by-laws –

- [a] prevents liquor trading premises from remaining open outside liquor trading hours exclusively for the sale of goods other than liquor; and
 - [b] permits a trader to sell liquor to a person who is under the age of eighteen years, or to allow a person under the age of eighteen years to consume liquor on liquor trading premises.
- [3] A trader who contravenes subsection [2] commits an offence.

[6] EXEMPTIONS

- [1] The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5[1] and a trader who wishes to sell liquor at such hours must, before he or she sells such liquor, obtain such written consent of the Municipality.
- [2] A trader who wishes to obtain the consent of the Municipality must complete a form similar to the APPLICATION FOR CONSENT TO SELL LIQUOR OUTSIDE TRADING HOURS FORM as contained in Schedule 2 and submit the form and other particulars as the Municipality may request, to the Office of the Municipal Manager.
- [3] The Municipality may, after consideration of the application, refuse to grant consent or grant consent and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, must be entered in item C of the form contained in Schedule 2.
- [4] A trader who has been granted consent in terms of subsection [3] must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.
- [5] A trader who contravenes subsection [1] or [4], or who sells liquor in contravention of a condition or restriction imposed in terms of subsection [3], or who displays a forged form, commits an offence.

[7] LIAISON FORA

- [1] The Municipality may, in respect of this by-law, establish one or more liaison forums in a community for the purposes of –
- [a] creating conditions for a local community to participate in the affairs of the Municipality; and
 - [b] encouraging a local community to participate in the affairs of the Municipality.
- [2] A liaison forum may consist of –

- [a] a member of members of an interest group, or an affected person, or affected persons;
- [b] a member or members of a community in whose immediate area a liquor outlet exists;
- [c] a designated official or officials of the municipality; and
- [d] the councillor responsible for environmental health.

[3] The Municipality, when considering liquor trading hours in terms of these by-laws, may request the input of a liaison forum and a liaison forum or any person or persons contemplated in subsection

[2] may, on own initiative, submit an input to the Municipality for consideration.

[8] ENFORCEMENT

[1] The Municipality may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these by-laws.

[2] Each official appointed in terms of subsection [1] must be issued with an identity card containing –

- [a] a photograph of that official;
- [b] the date of the Council resolution authorizing his or her appointment;
- [c] his or her designation; and
- [d] a brief reference to his or her duties and obligations in terms of these by-laws;

[3] An official, acting within the powers vested by these by-laws must, on demand by a member of the public, produce proof of identity and the capacity in which such official purports to carry out his or her duties;

[4] An official, acting in terms of the authorization or mandate contemplated in subsection [1] may –

- [a] at all reasonable times, enter upon premises on which a business is being or is intended to be carried on; and
- [b] request any person to provide such reasonable information as the official deems necessary.

[5] For purposes of these by-laws, an official appointed in terms of this section will be regarded as the authorized official.

[9] APPEAL

[1] A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[3] When the appeal is against a decision taken by –

[a] the authorised official, the Municipal Manager is the appeal authority;

[b] the Municipal Manager, the Mayor is the appeal authority; or

[c] a political structure or political officer bearer, or a Council of the Municipality is the appeal authority.

[4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[10] OFFENCES

[1] Anyone commits an offence if he or she –

[a] hinders or interferes with an authorized official in the execution of his or her official duties in terms of the Act;

[b] falsely professes to be an authorized official;

[c] intentionally furnishes false or misleading information when complying with a request of an authorized official;

[d] fails to comply with a reasonable request of an authorized official;

[e] fails, refuses or neglects to comply with the trading hours referred to in

Schedule 1

[11] PENALTIES

[1] Anyone who commits an offence contemplated in section 6[1] to [5] and

10[a] to [d] of these by-laws is, upon conviction, liable to –

- [a] a fine or imprisonment for a period not exceeding six months; or
- [b] such imprisonment without the option of a fine; or
- [c] both such fine and such imprisonment.

[2] Anyone who is found to be continuously contravening or failing to comply with section 10[a] to [d] of these by-laws is guilty of an offence and liable to –

- [a] an additional fine; or
- [b] an additional period of imprisonment of 10 days; or
- [c] such additional imprisonment without the option of a fine; or
- [d] both such additional fine and imprisonment for each day on which such offence is continued.

[3] Anyone who commits an offence in terms of section 10[a] to [d] of these by-laws is liable for 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.

[4] Anyone who commits an offence in terms section 10[e] of these by-laws is liable upon conviction, to –

- [a] a fine or imprisonment for a period not exceeding three years; or
- [b] imprisonment without the option of a fine; or
- [c] a fine and imprisonment.

[5] Anyone who is found to be continuously contravening or failing to comply with section 10[e] of this by-law is, in respect of each day on which that person contravenes or fails to comply, guilty of an offence, including the day of any conviction for an offence in terms of this subsection or any subsequent day and liable on conviction to –

- [a] a fine; or
- [b] imprisonment for a period not exceeding three months; or

[c] both such fine and imprisonment.

[3] Anyone who is convicted of a contravention of section 10[e] of this by-law within a period of five years after he or she was convicted of contravening this by-law is liable to –

[a] imprisonment for a period of six years; or

[b] double the fine for contravening this by-law; or

[c] to both such fine and imprisonment.

[12] REPEAL OF BY-LAWS

[1] Any by-laws adopted by the Municipality or of a municipality now forming an administrative unit of the Municipality and relating to crèches or nursery schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.

[2] Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these by-laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

[13] SHORT TITLE AND COMMENCEMENT

These by-laws may be cited as the uMzimvubu Municipality Liquor Trading By-Laws and come into effect upon publication in the Provincial Gazette.

SCHEDULE 1

[1] TYPE OF REGISTRATION

[2] TRADING HOURS

Section 20[a] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold. [bottle store, retail shop, wholesaler, house shop] Monday to Saturday 08:30 to 20:00, Sunday 09:00 to 13:00

Section 20[b] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. [restaurant, night club, sports club, pool bar, hotel, pub] Sunday to Thursday 10:00 to 24:00 Friday-Saturday 10:00 to 02:00

Section 20[c] - Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. [taverns, shebeens] Off-consumption Monday to Saturday 08:30 to 20:00 Sunday 09:00 to 13:00

On-consumption Sunday to Saturday 10h00 to 24:00

Section 20[d] - Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events. [beer festival, fete, fundraising event] Trading hours to be determined by resolution of the Council in respect of each application
Section 20[e] - Registration in terms of the Liquor Act for licensed wholesale warehouse. Monday to Saturday 08:00 to 17:00 Sunday 09:00 to 13:00

Section 20[e] - Registration in terms of the Liquor Act for licensed micro-manufacturing Trading hours to be determined by resolution of the Council in respect of each application

SCHEDULE 2

[Section 6(2)]

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS

A. APPLICANT

Name:

Identity Number:

Address:

Telephone number:

B. PERSONAL PARTICULARS

Address [street name and number] of the premises on which the liquor will be sold or supplied:

Dates and hours on which liquor will be sold or supplied [Be specific, e.g. 14:00 to 23:00 on 3 June, 2005]:

Reason why this application is made:

Anticipated volume of liquor that will be consumed:.....

Nature of liquor that will be sold or supplied:

Other particulars [as requested by the Council]:

Signed Date

[Applicant]

C. CONSENT

Issuing Local Authority:

OFFICIAL

DATE

STAMP

CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 5(3)

Times and date on which liquor may be supplied or sold:

Other conditions or restrictions:

.....
.....

LOCAL AUTHORITY NOTICE 48**ALLOCATION OF TAXI RANKS**

MUNICIPALITY OF UMZIMVUBU

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal System Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to Allocation of Taxi Ranks which shall come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE ALLOCATION OF TAXI RANKS

1. (a) These By-laws shall apply to all ranks and stands which have been or may hereafter be set aside by the Council as special parking places or stands for taxis authorised to use them by a permit issued in terms of these By-laws.

(b) The setting aside of special parking places or stands shall be effected and defined by the erecting, marking or placing at such places (whether on a public road or not) as the Council may determine of the appropriate road traffic signs and markings prescribed for taxi ranks on public roads by the Regulations made in terms of the Road Traffic Act 19/1989, as amended from time to time or, in the case of special parking places or stands not on a public road of signs and markings similar to such signs and markings so prescribed

2. (a) No person except the driver of a taxi in respect of which a permit to use the same has been issued under these By-laws shall cause or permit any vehicle to stand upon any such parking place at any time.

(b) It shall be unlawful for any person to cause or permit any taxi to stand upon such special parking place during the period or periods when the stopping any vehicles therein is prohibited in terms of a road traffic sign erected or displayed thereat or while such parking place is temporarily closed in terms of these Bylaws.

(c) No owner or driver of a taxi shall allow the same to stand in any public road for the purpose of plying for hire, except on a rank or stand established and demarcated as such by a traffic sign and markings in terms of the said By-laws.

(d) The driver shall remain in charge of such taxi during the whole time it

occupies such rank or stand, provided that any driver may leave his taxi unattended on the stand for a period not exceeding 45 minutes.

(e) It shall be unlawful for any person to park, or allow, cause or permit to be parked, any taxi in respect of which a permit has been issued in terms of these By-laws in any rank other than the rank allocated to it and specified in such permit; provided that such taxi may be parked in any communal rank specified in the permit without the payment of any further fee.

3. (1) Application for a permit to use any such special parking place shall be made in writing to the Chief Constable by the owner of the taxi or taxis in respect of which the permit is sought. Such application shall be made in the form prescribed in the First schedule to these By-laws and shall disclose:

(a) The full name of the applicant and address or, if the applicant is a partnership or a company, the full names of all the partners or directors thereof;

(b) The make, type, seating capacity and registration number of the taxi or taxis concerned;

(c) The length of time during which the applicant has engaged in the business of transporting passengers for reward by taxi;

(d) The number and date of the motor carrier exemption certificate issued by the Road Transportation Board in respect of the taxi or taxis concerned.

2. A sum of R210.00 shall be payable in respect of each grade A stand and R150,00 in respect of each grade B stand and R70.00 in respect of each grade C stand allocated to an applicant, provided that when application for a permit is made after the 31st January of any year, the amount shall be reduced by R17.50 in respect of grade A ranks and R8.75 in respect of grade B ranks and R4,20 in respect of grade C ranks for each completed month between the date on which application is granted and the 31st day of December immediately preceding such date.

3. Grade A ranks, grade B ranks and grade C ranks shall be those which shall be determined in terms of a schedule by the Chief Constable or as amended from time to time at the discretion of the Chief Constable in consultation with the Municipal Engineer; provided that any permit holder or applicant who is aggrieved by any amendment of the said schedule which alters the grade of a taxi rank in respect of which he is a permit holder or applicant shall have the right within fourteen days of his being notified of such alteration in grade of the rank, to appeal to the Works Committee by giving written notice of appeal to the Municipal Manager.

4. The Chief Constable shall as soon as possible report to the Council the particulars of all applications so made to him, together with his recommendations thereon, and the Council shall take such decision thereon as it may deem proper, either summarily or after such investigation as it may decide.

5. Whenever an application for a permit is granted by the Council, the Chief Constable shall forthwith issue to the applicant a permit in the form prescribed by the Third Schedule of these By-laws and a numbered disc of a design approved by the Chief Constable displaying on the face thereof the registered number of a taxi and the rank on which its use has been authorised. A permit shall be valid only for the period stated thereto.

5.(bis) A permit issued in terms of these By-laws shall not be transferred to any other person without the prior written approval of the Council.

5.(ter) The Chief Constable may replace a permit or a disc which has been lost or has become damaged on payment of a fee R20 and submission of an affidavit setting out the circumstances occasioning such loss or damage.

6. (1) A permit so issued shall at all times be carried in or upon the taxi to which it relates, and the driver thereof shall exhibit it to any member of the Municipal Police upon demand. Failure to exhibit such permit on demand shall make the driver of such taxi guilty of an offence.

(2) A disc issued in terms of section 5 shall at all times be displayed at the lower near side corner of the windscreen of the taxi to which it relates. Failure to display such disc as aforesaid shall make the driver of such taxi guilty of an offence.

7. (1) Applications for the renewal of any permit for the following year shall be made to the Chief Constable not later than the 1st day of December in each year in the same manner as provided in Section 3 of these By-laws. Applications for renewal made after 1st December aforesaid shall be treated as applications for new permits.

(2) No application for renewal lodged before the 1st day of December shall be refused except on the ground that the applicant has been guilty of misconduct.

8. The Council shall be entitled:

(a) To cancel or to refuse to renew any permit if the motor carrier exemption certificate of the vehicle to which the permit relates is cancelled or withdrawn or is not renewed; or, if the permit was granted on incorrect information furnished by the applicant in terms of sub-section (i) of Bylaw 3 of these By-laws.

(b) Temporarily to close any stand established under these By-laws and to establish elsewhere another temporary stand in lieu thereof; such temporary closure and establishment shall be deemed to have been effected by the display of notices thereof at or near to the stands concerned, without amendment of these By-laws, and during any such temporary closure any permit issued in respect of the stand so closed shall be deemed to relate to the stand established in lieu thereof.

9. If at any time the taxi to which a permit relates is under repair, or if for any other reason the owner thereof so desires, the Chief Constable may, by endorsement upon the permit, authorise the substitution of another vehicle therefor either temporarily or for the duration of the permit.

10. No rights possessed by the holder of any permit under these By-laws or under such permit shall operate to debar the Council from permanently closing or removing any stand established hereunder or from amending these By-laws or the Schedules appended hereto. Provided, however, that no stand shall be permanently closed or removed until after the expiry of three months' written notice to the holders of any current permits issued in respect thereof in terms of these By-laws.

Offences and penalties

11. (1) Any person, who -

(a) contravenes any provision of these by-laws; or

(b) contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or

(c) fails to comply with the terms of any notice served upon him in terms of these by-laws; shall be guilty of an offence and liable, upon conviction, to the maximum penalty R3000,00 or six months imprisonment.

(2) Failure to comply with the terms of any condition or notice referred to in subsection (1)(b) or (c) above shall constitute an continuing offences and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which he fails to comply with such terms.

12. In these By-laws, unless inconsistent with the context: -

"Council" shall mean the Council of the Municipality or any committee thereof to which any function of the Council under these By-laws has been lawfully delegated;

"Taxi" shall mean a public motor vehicle designed or adapted solely or principally for the conveyance of not more than nine persons including the driver.

FIRST SCHEDULE

APPLICATION FOR PERMIT TO USE TAXI RANKS OR STANDS

(Under Section 3 of the By-laws relating to the Allocation of Taxi Ranks)

Chief Constable

Umzimvubu.

Full Name of Owner of Taxi.....

Identity No

Address

.....

.....

Full Names of all Partners and/or Directors.

.....

.....

Trading Name.

Telephone: Bus:.....

Res.....

Registration number of Taxi for which Permit is sought.....

Make and Year:..... Type:.....

Colour Seating Capacity.....

Engine No:..... Chassis No

Number of Public Road Carrier Permit.....

Dated

Valid to:

Number and expiry date of Certificate of Fitness

Particulars of Rank applied for: No.....Situating at.

Period for which permit is sought.....

Other stands presently occupied

Previous stands occupied.....

(Reasons for vacating to be endorsed on rear of this application).

.....
.....
.....

State whether application is for New Permit or Renewal.

Date:.....Signature: (Owner of Taxi).....

Full details of Applicant's experience in transporting passengers for hire or reward by

A separate application must be made for each taxi for which a permit is required.

APPROVED IN PRINCIPLE/UNSUCCESSFUL PERMIT NO:

CHIEF CONSTABLE

**APPLICANT'S EXPERIENCE IN TRANSPORTING PASSENGERS FOR HIRE
OR REWARD BY TAXI**

- 1. Length of time so engaged.....
- 2. Areas to and from
- 3. Number of taxis owned
- Number of Public Road Carrier Permits held:.. ..
-
- 5. Previous Stand/s vacated : reasons

SECOND SCHEDULE

PERMIT TO USE TAXI RANK OR
STAND

(Under)

Permit No.....

Authority is hereby granted to
motor taxi.....

owned by to keep up a stand
at.

for the purpose of plying for
hire.....

during the hours of..... a.m. to daily.

This Permit expires on

Date .

CHIEF CONSTABLE

(Office Stamp)

LOCAL AUTHORITY NOTICE 49**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal System Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to Municipal Parking Ground which shall come into operation on the date of publication thereof.

MUNICIPAL PARKING GROUND BY-LAWS**Definitions**

1. (1) In these By-laws unless the context otherwise requires:

"Council" means the Council for the Municipality of uMzimvubu.

"Parking Bay" means an area within the boundaries of a parking ground demarcated by parking lines for the accommodation of one motor vehicle.

"Parking Coupon Vending Machine" means a device which upon the insertion therein of a coin or coins or upon payment of the parking fee in any other manner indicated thereon issues a coupon upon which is visibly recorded the date of issue and time of expiry of such coupon.

"Parking Ground" means any area of land under the control of the Council, not forming part of a public road which is set aside by the Council for parking of motor vehicles by members of the public and at the entrance or entrances to which a notice or notices have been posted by the Council describing the said area of land as a municipal parking ground.

"Parking Meter" means a mechanical appliance or device designed for the purpose of automatically measuring and indicating the time within which a vehicle may be parked in a metered parking bay.

"Prescribed Coin" shall mean a coin of the Republic of South Africa or any equivalent coin which is legal tender in terms of the South African Mint and Coinage Act, 1964 (Act No. 78 of 1964), and which has a token value equal to the amount of the fee prescribed in these By-laws as being payable for lawfully parking in a Parking Ground for a period of time.

Parking Hours

2. Subject to the provisions of these By-laws the Council may in its discretion permit the parking of such classes of vehicles at it may determine, on a Parking Ground during the hours when such parking ground is open for parking. The permitted classes of motor vehicles and the opening hours shall be set out in a notice posted by the Council at the entrance to such ground; provided that, notwithstanding the existence of a notice posted on a parking ground prescribing the hours during which parking will be permitted, the Council may by notice exhibited on such parking ground, close such ground or a portion thereof for the parking of vehicles either permanently or for a period stated in such notice. It may also, by notice reserve portions of the ground for the parking of Municipality owned vehicles or vehicles used by Members of its staff on the business of the Council.

Removal of Vehicles at Close of Parking Hours

3. No person having control or charge of any vehicle shall park such vehicle to remain on any parking ground or portion thereof which has been closed in terms of the provisions of Bylaw 2 hereof. or at any time other than during the prescribed hours for the parking of vehicles on such ground or park thereon any vehicle which is not of the class or classes which may use the parking ground for parking as prescribed in the notice erected at the entrance to such ground.

Fees for parking

4. The fees payable for parking on a parking ground shall be in accordance with the tariff prescribed in the First Schedule to these By-laws.

Payment of Charges for Parking

5. (1) Where the parking accommodation provided does not consist of metered parking bays, any person parking a vehicle on a parking ground shall subject to the provisions of subsection (5) below and section 5A(3)(a) at the time of parking such vehicle, pay to the Council's authorised attendant, the prescribed fee which shall entitle such person to park such vehicle on the parking ground on the day in question for the prescribed period covered by the fee.

(2) Unless there has been issued in respect of such vehicle a monthly permit under the proviso to section 5A(2) or a monthly ticket in terms of section 5A(3)(a), the attendant at such ground shall, on payment of the charge issue to the person parking a vehicle on the ground, a ticket on which shall appear a distinctive number and the charge paid in respect of such parking; and no person shall remove any vehicle until he shall have produced to the authorised attendant the ticket issued in respect of that vehicle: Provided that in the event of inability to produce the ticket, the attendant may permit the person desiring to do so remove the vehicle upon being satisfied that the person concerned is the owner or authorised by the owner to use the vehicle.

(3) Where a vehicle in respect of which a parking fee has been paid is not removed within the prescribed period for which payment has been made, no person shall remove such vehicle unless and until he has paid to the authorized attendant the further fee which is then due for each prescribed period or portion thereof during which the vehicle has remained at the parking ground after expiry of the first prescribed period for which it was parked notwithstanding the fact that he has presented the ticket issued in respect of the parking of such vehicle.

(4) (a) Where the parking accommodation provided consists of metered parking bays any person parking a vehicle on such metered parking bay shall forthwith at the time of parking such vehicle, deposit or cause to be deposited in the parking meter installed at such bay, the prescribed coin or coins for the prescribed period of time during which he desires to park his vehicle in such bay and shall set the meter in operation, either by the insertion of the prescribed coin or, where applicable, in accordance with the instructions appearing thereon. Thereupon the metered parking bay may be lawfully occupied by the vehicle for the period indicated on the parking meter but no longer; provided that the person having control or charge of the vehicle may, without payment, park the same during such time (if any) as may be indicated on the parking meter as being unexpired from its previous use.

(b) It shall be unlawful to park any vehicle or cause or allow any vehicle to be parked in a metered parking bay continuously for more than one period as indicated in the parking meter concerned, provided that any unexpired time from a previous use utilised in terms of the proviso to paragraph (a) shall be disregarded for the purpose of this paragraph.

(c) No person having control or charge of a vehicle shall cause, allow or permit such vehicle to be or remain parked in any metered parking bay while the indicator of the parking meter installed thereat shows that the time has expired or that the parking meter has not been set in operation either by the insertion of the prescribed coin or, where applicable, in accordance with the instructions appearing thereon.

(d) Where a parking meter cannot be set in operation despite compliance or attempted compliance with the procedure prescribed in paragraph (a), no driver or person in charge of any vehicle shall cause, allow, permit or suffer such vehicle to be or remain parked in the metered parking bay at which the said parking meter is installed for a continuous period exceeding the period which was indicated by the indicator of the parking meter when such vehicle was parked in the said parking bay; provided that if the said indicator shows that the time has expired or that the parking meter has not been set in operation, or if a hood has been placed over the parking meter by an official authorised by the Council to enforce the provisions of these by-laws, such hood bearing a road traffic sign R9 no such driver or person shall cause, allow or permit such vehicle to be or remain parked in the said metered parking bay.

(e) No person shall damage, disfigure or misuse any parking meter or interfere or tamper or attempt to interfere or tamper with the working operation of mechanism of any parking meter.

(f) No person shall deposit or cause to be deposited in any parking meter anything whatever other

than the prescribed coin or coins and no person shall operate or attempt to operate any parking meter by any means other than as prescribed in these By-laws.

5. If a parking coupon vending machine has been installed in a parking ground any person who parks or causes a vehicle to be parked in such ground for which parking fees are payable as indicated in a notice displayed at the entrance to the parking ground shall forthwith:

(a) obtain a coupon in the manner indicated on the parking coupon vending machine for the required parking period after such vehicle has been brought to a standstill in a parking bay;

(b) affix such coupon on the inner side of the windscreen of such vehicle on the driver's side, in such a manner that the information shown thereon shall be clearly visible from the outside of the vehicle, or, in the event of such vehicle not having a windscreen, in the aforementioned manner in a conspicuous position on a headlamp of the vehicle.

6 (a) A coupon obtained in terms of subsection (5) shall be valid until the time of expiry thereof as indicated on the coupon.

(b) If a vehicle is removed from a parking ground and returned thereto within the period of validity of the coupon, such coupon shall continue to be valid.

(c) Possession of a valid coupon in respect of a vehicle not within a parking bay does not guarantee the availability of a vacant parking bay.

7. (a) No person shall cause or permit a vehicle parked by him in a parking ground in which a parking coupon vending machine has been installed, to remain therein:

(i) without affixing a valid parking coupon in terms of subsection (5)(b);

(ii) after the coupon obtained in terms of subsection (5)(a) has ceased to be valid;

(iii) if a coupon cannot be obtained from any such machine in a parking ground in the manner indicated thereon as contemplated by subsection (5)(a) or when a notice displayed on each such machine indicates that it is out of order.

(b) No person shall:

ⓐ tamper with, deface or damage any parking coupon vending machine or appurtenance thereto or affix or attempt to affix or place any placard, advertisement, notice, list, document, board or thing on or paint, write upon or disfigure any parking coupon vending machine;

(ii) insert or cause to be inserted in a parking coupon vending machine any substitute for a prescribed coin or any object other than that prescribed by notice on the machine.

8. A vehicle in a parking ground in which a parking coupon vending machine has been installed which does not bear a coupon affixed in terms of subsection (5)(b) shall be presumed to have been caused or allowed to remain therein in contravention of sub-section (7)(a)(i) until the contrary is proved.

Fringe Parking Grounds

5A (1) In the case of a parking ground which is designed as a fringe parking ground in the First Schedule to these By-laws, payment of the prescribed fee shall entitle the holder of a ticket issued in terms of section 5(2) on presentation of the coupon issued in conjunction with such ticket to the driver or conductor of any public motor vehicle of the Council for the transportation of passengers to travel thereon from the fringe parking ground to the terminus of that vehicle in the centre of the area of the Municipality and return, and the exercise of such right shall be subject to the provisions of the Transport By-laws.

(2) Upon payment of the fee prescribed for parking in a fringe parking ground, that portion of the ticket issued which is designated for that purpose shall be displayed upon the vehicle to which it relates, by the person having control of such vehicle so that its distinctive number is readily legible from the outside of the vehicle; provided that where a person wishes to secure parking on a monthly basis for a number of unspecified vehicles he may, at the discretion of an authorised officer of the Council, and upon payment of the appropriate monthly fee for that number of vehicles, be issued with a permit for that number in lieu of a ticket referred to in section 5(2) in respect of each vehicle, in which event the provisions of this subsection shall not apply; provided further that the provisions of subsection (3)(a) shall apply in respect of the said vehicle as if such permit were a monthly ticket.

(3) (a) Notwithstanding anything hereinbefore contained a monthly ticket entitling the holder, when it is displayed in the manner prescribed in subsection (2) on the vehicle in respect of which it is issued, to park such vehicle daily, subject to parking space being available, except after 1.00 p.m. on Saturdays and except Sundays and Public Holidays, in any fringe parking ground for which a monthly fee has been prescribed in the First Schedule, may be issued on payment of the prescribed monthly fee.

(b) Where the monthly fee is prescribed to be inclusive of bus fares there shall be issued to the holder referred to in paragraph (a) above, a token or coupon entitling him on presentation thereof daily, except after 1.00 p.m. on Saturdays and except Sundays and Public Holidays, to use the travel facilities set out in subsection (1).

(4) Notwithstanding anything hereinbefore contained every vehicle parked in the Fringe Parking Ground shall be removed therefrom by not later than 18h00 on the day on which it was so parked, failing which such vehicle shall not thereafter be removed therefrom until permission for such removal has been granted by the person having lawful control of the premises upon which the said parking ground is situated, which permission shall be withheld until payment is made of the fee prescribed in the First Schedule.

(5) The provisions of subsections (5), (6), (7) and (8) of section 5 shall apply *mutatis mutandis* to a fringe parking ground; provided that when a parking coupon vending machine has been installed in

such a ground, the provisions of subsection (1) and (2) of this section shall not apply.

Method of Parking

6. (1) Where parking bays have been demarcated in a parking ground no person having control or charge of a vehicle shall park such vehicle.

(a) in any place on the parking ground which is not a demarcated parking bay unless instructed to do so by a policeman or the authorised attendant at such ground;

(b) in a parking bay across any painted line marking the bay or in such a position that the said vehicle shall not be entirely within the area demarcated as a parking bay;

(c) in a parking bay which is already occupied by another vehicle.

(2) (a) No person shall upon a parking ground carry on any business, trade or calling or perform any act in connection therewith and any person using a parking ground shall do so in a way which will avoid obstruction or inconvenience to other users of the ground, and shall comply with any instruction which may be given by a member of the Police or any authorised attendant employed by the Council, when parking or removing his vehicle and shall observe and comply with any traffic or other signs, notices or surface markings which may be placed or displayed on such ground for the purpose of directing and regulating vehicles using the parking ground or the entrances thereto or the exits therefrom and in particular, but without derogating from the generality of the foregoing, no person shall park a vehicle on a sidewalk or a roadway within a parking ground.

(b) No person shall obstruct, hinder or in any way interfere with any member of the police or authorised servant of the Council in the exercise of his duties under these By-laws.

Negligent and Dangerous Driving Prohibited.

7. No person shall, on any parking ground, drive any vehicle negligently or in a manner dangerous to the public or to any other vehicle.

Unauthorised Persons not to Enter Parking Ground or Interfere with Parked Vehicles

8. (1) No unauthorised person shall enter or be on any parking ground otherwise than for the purpose of parking thereon a vehicle or removing therefrom a vehicle in respect of which he has paid the prescribed parking fee; provided that this section shall not apply to a person in the company of a person so parking or removing a vehicle.

(2) No unauthorised person shall, on any parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle.

Council not Liable for Damage to Vehicles

9. The Council shall in no way be liable for the loss of or damage howsoever caused, to any vehicle, or any accessories or contents of a vehicle which has been parked in a parking ground.

Damage to Council's Notices

10. No person shall remove, mutilate, obscure or in any manner, damage or interfere with any notice, notice-board, sign or any other thing place by the Council on any parking ground.

Persons Parking to be Bound by these By-laws

11. (1) Any person parking a vehicle on a parking ground and any person having control or charge of a vehicle parked on a parking ground, shall, by reason of such parking be deemed to have agreed to be bound by the terms and conditions of these By-laws.

(2) For the purpose of these By-laws the person in whose name the vehicle using a parking ground is licensed shall be deemed to be the person having control or charge of such vehicle unless and until he shall prove to the contrary. "

Offences and Penalties

12. (1) Any person who:

(a) contravenes any provision of these by-laws; or

(b) contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or

(c) fails to comply with the terms of any notice served upon him in terms of these by-laws,

shall be guilty of an offence and liable, upon conviction, to the maximum penalty of six months or R3000,00

(2) Failure to comply with the terms of any condition or notice referred to in subsection (1)(b) or (c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which he fails to comply with such terms.

FIRST SCHEDULE

Parking accommodation in any municipal parking ground established by the Council may be used in terms of the By-laws for the parking of motor vehicles on payment of the fees specified hereunder for the periods specified hereunder. In the case of metered parking bays the fees shall be paid by depositing prescribed coins of the specified kind in the parking meter installed thereat.

TARIFF/PARKING FEE METERED AREAS AND ON AREAS CONTROLLED BY PARKING COUPON VENDING MACHINES

R2.00 per hour within that area bounded by and including both sides of (Street name) and R1,00 per hour in all areas other than that described above.

CHAPTER 4: PARKING GROUNDS**PART 1: GENERAL PROVISIONS****[55] MUNICIPALITY NOT LIABLE FOR LOSS OR DAMAGE**

The Municipality is not liable for the loss of or damage howsoever caused, to any vehicle, or any accessories or contents of a vehicle which has been parked in a parking ground.

[56] INTERFERENCE WITH ATTENDANT

No person may obstruct, hinder or in any manner interfere with an authorised official who is the attendant of the parking grounds in the exercise of his duties under these by-laws.

[57] PAYMENT OF PRESCRIBED FEE

- [1]** A person making use of a parking ground or parking bay must, where fees have been determined in respect of the parking ground or parking bay, pay the prescribed fee.
- [2]** The Municipality may in respect of a parking ground controlled by the issue of coupons, issue at the prescribed fee a coupon which entitles the holder for one calendar month or any lesser period stated in the coupon to park a vehicle in the ground, if a parking bay is available, at the times stated in the coupon.
- [3]** The Municipality may issue to any of its officials a coupon which entitles the holder, when using a vehicle regarding the business of the Municipality, to park the vehicle in a parking ground specified, if space in the parking ground is available.
- [4]** A coupon issued under subsection [2] or [3] –
 - [a]** may not, without the prior written consent of the Municipality –
 - [i]** be transferred to any other person; or
 - [ii]** be used in respect of a vehicle other than the specified vehicle; and
 - [b]** must be affixed by the holder of the coupon to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the coupon is readily legible from the outside of the vehicle.
- [5]** Application for consent contemplated in subsection [4] [a] must be made on a form provided for this purpose by the Municipality.

[58] TRADING

No person may, upon a parking ground carry on any business, trade or calling or perform any act in connection therewith.

[59] OBSERVANCE OF SIGNS

A person in a parking ground must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground.

[60] PARKING AND REMOVAL OF VEHICLE

[1] No person may, in any parking ground –

- [a]** park a vehicle otherwise than in compliance with an instruction or direction given by an authorised official; or
- [b]** introduce or remove a vehicle otherwise than through an entrance or exit to the parking ground demarcated for that purpose.

[2] Where parking bays have been demarcated in a parking ground, no person having control or charge of a vehicle may park the vehicle –

- [a]** in a place on the parking ground which is not a demarcated parking bay, unless instructed to do so by the authorised attendant at the parking ground;
- [b]** in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay; or
- [c]** in a parking bay which is already occupied by another vehicle.

[3] No person may park a vehicle on a sidewalk or a roadway within a parking ground.

[4] No person may in a parking ground park a vehicle in a manner which obstructs or inconveniences other users of the parking ground.

[5] No person may park or cause or permit a vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 [Act No. 93 of 1996], to be parked or to be or remain in a parking ground.

[61] ABANDONED VEHICLE

[1] The Municipality may remove, to the Municipality's pound, a vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days.

[2] The Municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of subsection [1], and if the owner of the vehicle or the person entitled to possession of the vehicle cannot be found within a period of 90 days after the vehicle

has been removed, the Municipality may, subject to the provisions of subsection [3], sell the vehicle at a public auction.

- [3] The Municipality must, 14 days before the auction contemplated in subsection [2], publish or cause to be published in at least two newspapers circulating within the municipal area, a notice of the auction.
- [4] If the owner or the person entitled to possession of the vehicle claims the vehicle before the auction commences, the vehicle may not be sold at the auction and the person must pay to the Municipality all prescribed fees payable in terms of these by-laws and the applicable costs in terms of subsection [5].
- [5] The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection [4] and thereafter to defray the following:
- [a] The costs incurred in endeavouring to trace the owner in terms of subsection [2];
 - [b] the costs of removing the vehicle;
 - [c] the costs of publishing the notice of the auction;
 - [d] the costs of effecting the sale of the vehicle; and
 - [e] the costs, calculated at a rate determined by the Municipality, of keeping the vehicle in the pound, and the balance, if any, of the proceeds must be paid, upon claim, to the owner of the vehicle or the person entitled to the vehicle if he can prove his right to the vehicle.
- [6] If no claim is established within one year of the date of the sale, the balance of the proceeds contemplated in subsection [5] is forfeited to the Municipality.
- [7] No person may leave a vehicle in the same place in a parking ground for a continuous period of more than seven days.

[62] DAMAGE TO NOTICES

No person may remove, mutilate, obscure or in any manner damage or interfere with a notice, notice-board, sign or other thing placed by the Municipality on a parking ground.

[63] NEGLIGENT AND DANGEROUS DRIVING

No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.

[64] ENTERING OR REMAINING IN PARKING GROUND

- [1] No person may enter, remain or be on a parking ground otherwise than for –
- [a] the purpose of parking on the parking ground a vehicle; or

[b] lawfully removing from the parking ground a vehicle, in respect of which he has paid the prescribed parking fee.

[2] This section does not apply to a person in the company of a person who is parking or removing a vehicle.

[65] TAMPERING WITH VEHICLE

No person may, on a parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle or set the machinery of the vehicle in motion.

[66] DEFACING COUPON

No person may in a parking ground with intent to defraud the Municipality forge, imitate, deface, mutilate, alter or make a mark upon a parking coupon issued in terms of these by-laws.

[67] DEFECTIVE VEHICLE

[1] No person may park or cause or permit a vehicle which is mechanically defective or for any reason incapable of movement, to be parked or to be or remain in a parking ground.

[2] If a vehicle, after having been parked in a parking ground, develops a defect which renders it immobile, the person in charge must take all reasonable steps to have the vehicle repaired if minor emergency repairs can be effected or removed within a reasonable time.

[68] CLEANING OF VEHICLE

No person may in a parking ground clean or wash a vehicle.

[69] REFUSAL OF ADMISSION

[1] An authorised official may refuse to admit into a parking ground a vehicle which, together with its load is longer than five metres, or is by reason of its width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience.

[2] No person may disregard an authorised official's refusal contemplated in subsection [1].

[70] PARKING HOURS AND CLASSES OF VEHICLES

[1] The Municipality may, subject to the provisions of these by-laws, permit the parking on a parking ground during the hours when the parking ground is open for parking of such classes of vehicles as it may determine.

- [2] The Municipality must, in a notice posted at the entrance to the parking ground, set out the classes of motor vehicles which may be parked in the parking ground, and the opening and closing hours of the parking ground.
- [3] The Municipality may, notwithstanding a notice posted in terms of subsection [2], by notice exhibited on a parking ground, close the parking ground or a portion of a parking ground, either permanently or for a period stated in the notice, for the parking of vehicles.
- [4] No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed under subsection [3], or at any time other than during the hours for the parking of vehicles on the parking ground as determined by the Municipality from time to time.
- [5] No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice erected at the entrance to the parking ground.
- [6] No person may, unless he is the holder of a parking coupon issued in terms of these by-laws authorising him to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.

[71] RESERVATION BY MUNICIPALITY

- [1] The Municipality may by notice exhibited in the parking ground reserve a portion of a parking ground for the parking of vehicles owned by the Municipality or vehicles used by members of its staff on the business of the Municipality.
- [2] No person may park a vehicle in a portion reserved for the parking of vehicles owned by the Municipality, or for members of Municipality's staff.

PART 2: MECHANICALLY CONTROLLED PARKING GROUND

[72] PARKING OF VEHICLE IN MECHANICALLY CONTROLLED PARKING GROUND

- [1] A person who enters a mechanically controlled parking ground in a vehicle must, after the vehicle has been brought to a standstill and in accordance with the instructions which are displayed on the parking coupon vending machine, obtain a parking coupon which is issued by the machine before he –
- [a] parks a vehicle;
 - [b] causes or permits a vehicle to be parked; or
 - [c] allows a vehicle to be parked.
- [2] A person contemplated in subsection [1] may park a vehicle only –

- [a]** in a parking bay and in compliance with such directions as may be given by an authorised official or, where no such bay has been marked, in a place indicated by the authorised official;
- [b]** if the parking period indicated on the parking coupon has not expired.

[3] A person contemplated in subsection [1] may not park a vehicle if an authorised official has indicated to the person that the parking ground is full; or

[4] A parking coupon obtained in terms of subsection [1] is valid until the time of expiry thereof as indicated on the coupon and a person may not allow the vehicle to remain in the parking ground after expiry of the parking period.

[73] REMOVAL OF VEHICLE FROM MECHANICALLY CONTROLLED PARKING GROUND

[1] No person may remove, or cause or permit the removal of, a vehicle in a parking ground, unless –

- [a]** he has produced to the authorised official a coupon authorising him to park in the parking ground and which was issued to him by the parking coupon vending machine upon entering the parking ground; and
- [b]** he has paid to the authorised official the prescribed parking fee.

[2] If a person fails to produce a coupon authorising him to park in the mechanically controlled parking ground, he is deemed to have parked the vehicle from the beginning of a period that the ground is open for parking until the time he wants to remove the vehicle and he must be charged accordingly.

[3] A person may not, after he fails to produce a coupon, remove or cause or permit the removal of a vehicle parked in the parking ground until he has produced other proof to an authorised official of his right to remove the vehicle, and the authorised official –

- [a]** must require the person to complete and sign an indemnity form as supplied by the Municipality, which form has the effect of indemnifying the Municipality against claims of whatever nature by a person relating to the removal of that vehicle; and
- [b]** may require the person to furnish such security as may be determined by the Municipality.

[4] Subsection [1] [a] does not apply where the prescribed parking fees were paid upon entering the parking ground and the person who paid such fees produces the required coupon to the authorised official on demand.

- [5] Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as may be determined by the Municipality is payable for the next parking period.

PART 3: PAY AND DISPLAY PARKING GROUND

[74] PARKING OF VEHICLE IN PAY AND DISPLAY PARKING GROUND

- [1] A person entering a pay and display parking ground must, immediately upon entering the parking ground buy, in accordance with the instructions which are displayed on or in the vicinity of the parking coupon vending machine in the parking ground, a coupon which is issued by the machine if he –
- [a] wishes to park a vehicle;
 - [b] causes or permits a vehicle to be parked; or
 - [c] allows a vehicle to be parked.
- [2] The following must be indicated on the parking coupon vending machine:
- [a] The period during which a vehicle may be parked in the pay and display parking ground; and
 - [b] The coin or other prescribed object to be inserted in respect of the parking period into the pay and display machine.
- [3] The person must display the coupon by affixing it to the inside on the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the coupon by the pay and display machine is readily legible from the outside of the vehicle.
- [4] No person may allow a vehicle to remain in a pay and display parking ground after the expiry of the departure time indicated on the parking coupon and, unless evidence the contrary is produced, the date or day and time of departure as recorded by a parking coupon vending machine is taken on the face of it to be correct evidence of date or day and time.
- [5] No person may park a vehicle, cause, permit, or allow a vehicle to be parked in a pay and display parking ground if a parking coupon cannot be obtained from the parking coupon vending machine in the manner indicated thereon or when a notice displayed on the machine indicates that it is out of order.
- [6] If a vehicle is removed from a pay and display parking ground and returned to the pay and display parking ground within the period of validity of the parking coupon, the coupon continues to be valid.

- [7]** Possession of a valid parking coupon in respect of a vehicle not within a parking bay does not guarantee the availability of a vacant parking bay.

[75] MISCELLANEOUS OFFENCES IN RESPECT OF PAY AND DISPLAY PARKING GROUND

No person may –

- [a]** insert or attempt to insert into a parking coupon vending machine –
- [i]** a counterfeit coin;
 - [ii]** where another kind of object is to be used, a false object;
 - [iii]** a coin which is not South African currency; or
 - [iv]** any object which is not meant to be inserted into the parking coupon vending machine;
- [b]** jerk, knock, shake or in any way interfere or tamper with, or damage or deface a parking coupon vending machine or appurtenance thereto, or affix or attempt to affix or place a sign, placard, advertisement, notice, list, document, board or thing on, or paint, write upon or disfigure a parking coupon vending machine; or
- [c]** remove or attempt to remove a parking coupon vending machine or any part of the machine from its mounting.
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