



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

# Provincial Gazette Igazethi Yephondo Provinsiale Koerant

Vol: 30

BISHO/KING WILLIAM'S TOWN

23 October 2023  
23 Oktober 2023

No: 5002

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

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DEPARTMENT OF HEALTH

**Prevention is the cure**

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ISSN 1682-4555



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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS****GENERAL NOTICE 107 OF 2023****NOTICE OF A BASIC ASSESSMENT (BA) AND WATER USE LICENCE APPLICATION (WULA) FOR THE PROPOSED NEW EXHIBITION COMPLEX FOR THE NELSON MANDELA MUSEUM IN QUNU, KING SABATA DALINDYEBO LOCAL MUNICIPALITY, EASTERN CAPE PROVINCE.**

**Department of Forestry, Fisheries and Environment (DFFE) Reference: 14/12/16/3/3/1/2825**

**Department of Water and Sanitation (DWS) reference: WU32774**

Notice is hereby given in terms of the Environmental Impact Assessment (EIA) Regulations, 2014 as published in Government Notice No. 982 as amended, in terms of section 24(5) of the National Environmental Management Act, 1998 (Act No 107 of 1998) (NEMA), that Nelson Mandela Museum (**the Applicant**) proposes to develop a new exhibition complex in Qunu within the Nelson Mandela Museum. The proposed exhibition centre and its associated infrastructure has a total footprint of approximately 1 ha and shall occur within (500 m) a NFEPA wetland, falling within Endangered vegetation type, the Mthatha Moist Grassland, according to the section 52 of the NEMBA Revised National List of Threatened Terrestrial Ecosystems 2022. The project requires an Environmental Authorization via a Basic Assessment (BA) prior to construction commencement. A WULA has been lodged with the DWS in terms of NWA (No. 36 of 1998) for water uses s21(c) and (i).

**Triggered Listed Activities:**

LN 1: GN . R 327 12 (ii) (a) (c), GN.R 327 19 and GN. R327 27

LN 3: GN. R324 12(a)(i)(v), GN.R 324 14 (ii)(a)(ff) and GN.R 324 15 (a)(i)

Interested and Affected Parties (I&APs) are invited to comment on the Draft BAR that is available for public comment for a 30-days period from **26 September 2023 – 27 October 2023**. A public meeting will be held at Nelson Mandela Museum hall **19 October 2023 from 11:00 am**. The DBAR is available on the EAP's website and electronic copies will be made available on request. Comments may be submitted to:

**Environmental Assessment Practitioner (EAP)**

ABANTU ENVIRONMENTAL SERVICES (PTY) LTD

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**PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS**

**PROVINCIAL NOTICE 702 OF 2023**

**BUFFALO CITY METROPOLITAN MUNICIPALITY  
(EASTERN CAPE)**

**REMOVAL OF RESTRICTIONS IN TERMS OF THE SPATIAL PLANNING AND LAND USE  
MANAGEMENT ACT, 2013 (ACT 16 OF 2013)**

ERF 976 BEACON BAY

BUFFALO CITY METROPOLITAN MUNICIPALITY

DIVISION OF EAST LONDON

PROVINCE OF THE EASTERN CAPE

IN EXTENT 2021 (TWO THOUSAND AND TWENTY ONE) SQUARE METRES

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, notice is hereby given that conditions C. 3 (a – d) and D. (1 – 3) in Deed of Transfer Number T3247/2000 applicable to Erf 976 Beacon Bay are hereby removed.

**PROVINCIAL NOTICE 703 OF 2023**

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013  
(Act 16 of 2013)

ERF 875 ALGOA PARK, PORT ELIZABETH, EASTERN CAPE.

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, notice is hereby given that conditions C.5. (a),(b), (c) and (d) in Deed of Transfer No.T96663/1994 and any subsequent Deed applicable to Erf 875 Algoa Park, Port Elizabeth are hereby removed.

**PROVINCIAL NOTICE 704 OF 2023****Nelson Mandela Bay Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 1996, NEWTON PARK, PORT ELIZABETH, EASTERN CAPE**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that conditions B.6 and B.8 in Deed of Transfer No. T24437/1968 applicable to Erf 1996, Newton Park, is hereby removed.

**PROVINCIAL NOTICE 705 OF 2023****Buffalo City Metropolitan Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) and the Buffalo City Metropolitan Municipality Bylaw pertaining to the Act****ERF 933 BEACON BAY (32 PENTLANDS PLACE)**

Under Section 47 of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning & Land Use Management Bylaw of 2016 and upon instructions of the Local Authority a notice is hereby given that condition C.4 (a - d) and D (1 - 3) found in Deed of Transfer T4608/2011 pertaining to Erf 933 Beacon Bay are hereby removed.

**LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS****LOCAL AUTHORITY NOTICE 889 OF 2023****Buffalo City Metropolitan Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 81266 EAST LONDON (22 FAIRFIELD CRESCENT, GREENFIELDS)**

In terms of Section 47(1) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management By-law of 2016 and upon instructions of by the Local Authority, a notice is hereby given that condition/s B. 1. (a) – (c) and 2. (g) found in Deed of Transfer No. T10012/2018, applicable to Erf 81266 East London are hereby removed.

**LOCAL AUTHORITY NOTICE 890 OF 2023****Buffalo City Metropolitan Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****PORTION 31 OF FARM 965, EAST LONDON**

In terms of Section 47(1) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management By-law of 2016 and upon instructions of by the Local Authority, a notice is hereby given that condition/s (A) (5) (a-d) found in Deed of Transfer No. T2341/1984, applicable to Portion 31 of Farm 965, East London are hereby removed.

**LOCAL AUTHORITY NOTICE 891 OF 2023****REMOVAL OF RESTRICTIVE TITLE CONDITIONS****ERF 6191, JEFFREYS BAY****SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016: KOUGA MUNICIPALITY**

Notice is given that the Municipal Planning Tribunal on 29 August 2023, approved the removal of restrictive Title Conditions B.(vi)(a), (b)(i) and (ii), applicable to Erf 6191 Jeffreys Bay, as contained in Title Deed T8221/1992, in terms of Section 69 of the Kouga Municipal Planning By-law, 2016.

D DE JAGER  
DEPUTY MUNICIPAL MANAGER

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**LOCAL AUTHORITY NOTICE 892 OF 2023**

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**UMZIMVUBU LOCAL MUNICIPALITY**

**DISASTER MANAGEMENT BYLAW**

UPHULISO KUMNTU WONKE



**UMZIMVUBU LOCAL MUNICIPALITY****DISASTER MANAGEMENT BYLAWS**

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**BACKGROUND**

The area of Umzimvubu Local Municipality is a disaster prone area and it has been facing different disasters every year. Due to the geographic and climatic conditions of the area, majority of the people are exposed to one or the other kind of disaster risks at any time. Available data from the past incidents demonstrate that a significant number of human lives are lost and physical infrastructure damaged every year due to disasters. Umzimvubu villages suffers annually to floods, landslides, and epidemics. In addition, it remains highly vulnerable to disasters like earthquakes, fire, draught, windstorms, hailstorms, thunderstorms, hot and cold waves etc. Several natural and human factors are responsible for the occurrence and high impact of disasters in the area. Encroachments along the riverbanks and floodplains and unplanned land use patterns in the watersheds of hills and mountains exacerbate the impacts of disaster and



accelerate soil erosion problems. The nation's development efforts and poverty alleviation programmes are being negated by frequent disasters. Hence, increased focus on mainstreaming disaster risk reduction in development plans is needed to protect lives and property, as well as to sustain development benefits.

The factors such as (i) Very little public awareness; (ii) insufficient preparedness work; (iii) lack of coordination among related agencies; (iv) inadequate financial resources; and (v) limited use of available indigenous knowledge, skills and coping capacity have inhibited mitigation of disaster impacts in the area. The community based disaster management programmes, which have been implemented in some parts of the Umzimvubu Municipality are found to be effective and therefore needs replication in other areas. Underprivileged groups of people are found to be more prone to disasters as majority of them reside in vulnerable areas.

The Council and the Umzimvubu Local Municipality has in terms of Section 156 of the Constitution, 1996 (Act No 108 of 1996, read in conjunction with Section 11-13 of the Municipal Systems Act, 2000 (Act No 32 of 2000) and the Disaster Management Act (Act 57 of 2002), made the following bylaws:

This disaster management by-law is prepared in terms of section 55 (2) of the Disaster Management Act (Act 57 of 2002) to ensure public safety before, during and or after the occurrence of a disastrous event. Where there is a conflict between this bylaw and a provincial or national legislation/ statutory document, the provincial and national legislation shall take precedence over this bylaw.

#### **PURPOSE OF THE BYLAW**

To manage hazards and reduce the vulnerability and risk of disaster to protect and minimize the loss of life and property thereby alleviating human suffering through effective responses at all levels of disaster management.

To contribute in poverty alleviation through effective disaster management. To strengthen the coping capacity of communities to mitigate the impacts of disasters through knowledge based preparedness programmes.

#### **APPLICATION OF THE BYLAW**

Umzimvubu Municipality through Citizen and Community Services Department is to provide education and training down to the grass roots level on disaster management to strengthen the coping capacity of the people.

**CHAPTER 1****1. Definitions**

**Disaster** – means a progressive or sudden, widespread or localized, natural or human caused occurrence which Causes or threatens to cause;

- i) Death, injury or disease
- ii) Damage to property, infrastructure or the environment or
- iii) Disruption of the life of a community and
- b) Is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using their own resources.

**Local disaster** – for the purposes of this by-law shall mean a disaster that affect the area of jurisdiction of the Umzimvubu Local Municipality.

**Disaster Management Memorandum of Understanding** - for the purposes of these bylaws shall mean an agreement entered into, between Umzimvubu Local Municipality with its neighbouring local municipalities ensuring a joint effort during a disaster/disastrous event that shall ensure a well-coordinated assessment and provision of disaster relief measures during such disaster.

**Disaster Management** - means a continuous and integrated multi-sectoral, multi-disciplinary process of planning and implementation of measures aimed at:

- a) Preventing or reducing the risk of disasters;
- b) Mitigating the severity or consequences of disasters;
- c) Ensuring emergency preparedness;
- d) Ensuring rapid and effective response to disasters;
- e) Ensuring post-disaster recovery and rehabilitation.

**Emergency Preparedness** - means a state of readiness, which enables organs of state and other institutions involved in disaster management, the private sector, communities, and individuals to mobilize, organize and provide relief measures to deal with an impending or current disaster or the effects of a disaster.

**Municipality** - for the purpose of this bylaw shall mean Umzimvubu Local Municipality.

**NGO** - shall mean Non-Governmental Organizations

**Mitigation** - in relation to a disaster, means measures aimed at reducing the impact or effects of a disaster.

**Post Disaster Recovery** - means efforts, including development, aimed at creating a situation where:

- a) Normality in conditions caused by a disaster is restored.
- b) The effects of a disaster are mitigated or
- c) Circumstances are created that will reduce the risk of a similar disaster from occurring.

**Prevention** - in relation to a disaster means measures aimed at stopping a disaster from occurring or preventing an occurrence from becoming a disaster.

**Response** - in relation to a disaster means measures taken during or immediately after a disaster in order to bring relief to people and communities affected by the disaster.

**Act** - shall mean the Disaster Management Act (Act 57 of 2002)

**Statutory Function** - means a person performing a function assigned to that person by National, Provincial and municipal legislation.

**Vulnerability** - means the degree to which an individual, a household, community or an area may be adversely affected by a disaster.

**Competent Person** – means a person that has the relevant qualifications or is a high ranking person and familiar with procedures of the particular organization.

## **CHAPTER 2**

### **IMPENDING, OCCURRENCE OF DISASTERS OR DISASTROUS EVENTS**

- 2.1 Where a disaster has occurred within the area of jurisdiction of the Umzimvubu Local Municipality, also affecting the boundaries of a neighbouring municipality, the Umzimvubu Local Municipality shall release any available resources of the municipality, including stores, equipment, vehicles and facilities to deal with such a disaster in an effective and prompt manner.
- 2.2 The Umzimvubu Local Municipality shall release its personnel as required to effectively render emergency services during a disaster/ disastrous event.

- 2.3 During a state of a disaster, Umzimvubu Local Municipality shall implement all or any of the provisions of its disaster management plan, framework as well as this bylaw that will be applicable in the circumstances at the point in time to effectively deal with the effects of such disastrous event.
- 2.4 Where a disaster/disastrous event has occurred and the Umzimvubu Local Municipality is of the opinion that the safety of its residents is at stake or compromised in any way and circumstances require the evacuation to temporal accommodation or shelter of all or part thereof of the population from the disaster stricken or threatened area for the purposes of preserving life, the municipality shall evacuate all the affected people to a place of safety.
- 2.5 Where the Umzimvubu Local Municipality is of no doubt that before, during or after the occurrence of a disaster or disastrous event, the flow of traffic, including people to and from the disaster stricken area poses danger, the municipality shall ensure the regulation of such traffic, people/persons and goods to, from or within the disaster stricken or threatened area in order to preserve life or ensure safety.
- 2.6 Once the Umzimvubu Local Municipality is of the opinion that, occupation of premises believed to be vulnerable to an impending disaster or already stricken by the disaster and such occupancy pose a high risk to occupiers, the municipality shall prohibit occupation of such premises and where necessary people will be evacuated to ensure their safety.
- 2.7 Where a disaster has already stricken or threatening to occur, the municipality may suspend or limit the sale, dispensing or transportation of alcoholic beverages to that area to prevent any uncontrollable behaviour of persons under the influence of alcohol, which may result in mortality/fatality rate increasing.

### **CHAPTER 3**

#### **PREPARATION, HOSTING OF PUBLIC EVENTS**

When a public event is organized either by the Umzimvubu Local Municipality, Provincial, National Government, private company within the area of jurisdiction of the Umzimvubu Local Municipality and as a result of the event members of the public more than 250 are expected to partake in such event, the following conditions shall apply in order to ensure the safety of the public during the proceedings of such event.

- 3.1 The application must be forwarded to the office of the Municipal Manager 14 days before the event shall take place. The Municipal Manager shall then forward the application to the legal officer of the Municipality.
- 3.2 Once the application of the event has been lodged to the municipality, the legal officer in the municipality shall convene a section 4 planning meeting at a date convenient enough to allow

proper planning of the event and such meeting shall consist of all relevant stakeholders to plan for the event and / or where an application to erect a marquee has been lodged such information shall be also provided to the disaster management section.

**The following must be adhered to:**

- 3.3 The person assigned as Event Co-ordinator must be a competent person.
- 3.4 Proof must be given that the applicant provides sufficient public liability insurance to cover the costs of any claims that may arise due to any accidents/incidents that may occur at this event.
- 3.5 An estimate of expected number of people to attend the event must be provided in the application to allow for proper planning by all role-players. i.e. Fire & Rescue Services, Ambulance Services, S.A.P.S., Traffic Department, Health Department. e.t.c.
- 3.6 Refuse bins and skips for waste collection and removal.
- 3.7 The number of marshals at the ration of 50: 4 must be provided to assist during the proceedings of the event.
- 3.8 Security personnel for crowd control must be made available.
- 3.9 Where a marquee has been erected to accommodate more than 250 people, the convener of the event shall be liable of producing an Engineer's Structural Certificate that certifies the facility safe for utilization, failing which no member of the public shall be allowed inside the facility.
- 3.10 Where a stage of more than one (1) meter has been erected either inside and/or outside the marquee, an Engineer's Compliance Certificate must be produced.
- 3.11 The Disaster Officer of the Umzimvubu Local Municipality or somebody acting on his behalf shall be the authorized Officer to ensure that, the contents of these by-laws are enforced diligently.
- 3.12 The convener of the event must make sure that, a layout plan indicating all permanent and/or temporal structures where the event is going to be held. This shall as well clearly indicate the emergency exit routes, assembly area and parking arrangements.

**Fire & Rescue Services / Disaster Management requirements:**

- 3.13 The time-span of the event must be provided, i.e. starting time and expected closing time of the event.
- 3.14 An emergency plan, including a complete lay-out map, indicating all the emergency entrances and exits, the Joint Operations Centre, the Forward Command Post & Triage area and Medical Station must be provided along with all the names and contact numbers of all emergency, security and safety roll players.
- 3.15 The Fire Brigade emergency telephone numbers, must be available at the Joint Operations Centre. The telephone number of the Venue Co-ordinator and his delegated subordinate must be provided to the Fire Brigade Control Room.

- 3.16 Banks of Dry Chemical Powder type fire extinguishers are to be provided at all marquees, stage area and any stall/buildings being utilised during this event and these extinguishers must be either new or have undergone a service (calibration) within the last twelve months.
- 3.17 The Fire Prevention Officer must be called and carry out a full inspection to ensure that the area is in compliance with applicable fire requirements, at which time the positioning of all fire extinguishers will be specified.
- 3.18 No open fires will be allowed except for food preparation in the designated food sale/preparation areas.
- 3.19 Gas cylinders on any designated food sale/preparation areas must be kept to a maximum of 2 x 48Kg cylinders on a manifold and the Fire Prevention Officer must be satisfied with the location and installation of the said cylinders.
- 3.20 All fire-fighting equipment and emergency exits must be kept unobstructed at all times.
- 3.21 No vehicles, with the exception of VIP's, emergency, security and organising official's vehicles shall be allowed inside the premises.
- 3.22 The Joint Operations Centre must be provided with all the necessary office equipment (tables, chairs, etc.) layout map, emergency plan, contact numbers, communications equipment, etc.
- 3.23 All functionaries representing their departments at the Joint Operations Centre shall remain at the JOC at all times until told otherwise by the person in charge of the JOC.
- 3.24 The Fire Brigade shall be present at all times, one Disaster Management Officer, one Senior Fire Brigade Officer, four Fire fighters and one medium fire engine.
- 3.25 All functionaries present at the JOC shall confirm the number of resources available at the JOC from their respective departments.
- 3.26 The Venue Co-ordinator must arrange for a final fire prevention inspection 2-hours before the gates open for the event.
- 3.27 The event organiser shall make sure or arrange for ambulance/s is/are present at the event.
- 3.28 A compulsory Disaster Management meeting must be held on site whereby all the emergency, safety and security personnel can liaise and co-ordinate the final arrangements for the event.
- 3.29 The Umzimvubu Local Municipality does not accept any responsibility for any claims of damage, loss, injury or death of any person or property that may arise as a result of the permission granted for the presentation of the above event/s.

**General**

It is important that the following points are clarified before the event in the interest of safety and security planning:

- 3.30 Will members of the public be allowed to bring alcoholic beverages onto the site and if not how will such a situation be dealt with in the event of a member of the public attempting to do so.

- 3.31 Will members of the public be allowed to enter the premises in possession of any dangerous weapons (fire-arms, knives, etc.)
- 3.32 Will any age limit be enforced on entry or is the event open to people of all ages.
- 3.33 Will there be a certified stand-by electrician on site in the event of power failure.
- 3.34 It is recommended from Disaster Management that, preferably, the S.A.P.S. helicopter be negotiated to do air support and observations of the event. (Only if necessary).
- 3.35 If the designated event area is full, how will the rest of the public be notified and turned away.
- 3.36 A competent person (Structural Engineer) shall inspect and certify the marquee and/ or stage safe and shall provide a certificate of compliance to relevant authorities before the commencement of the event.
- 3.37 Proper identification tags inclusive of the job designation must be provided to all personnel working at the event.
- 3.38 If food is provided/prepared they must comply with environmental bylaws and a Certificate of Acceptability must be submitted.
- 3.39 Adequate provision of toilets must be made that are in line with the health bylaws.

#### **CHAPTER 4**

##### **MAJOR HAZARD INSTALLATIONS**

All industrial premises situated within the area of jurisdiction of the Umzimvubu Local Municipality must:

- 4.1 Submit to the municipality an onsite Emergency Plan.
- 4.2 Such plan shall be updated/ reviewed at least once in every three years.
- 4.3 If no change has taken place that may result to the amendment of the emergency plan during the period at which such plan is to be updated, the industries shall provide correspondence to the municipality indicating the same.
- 4.4 Once the plan has been reviewed and/or updated, it shall be submitted to Disaster Management Officer, in his/her absence to the person acting on behalf of the Disaster management Officer.
- 4.5 The plan shall be signed by the company representative and witnessed by two people before submitting to the municipality.
- 4.6 The Disaster Management Officer shall evaluate the plan and either approve it or refer it back if realized that, the plan has got shortcomings.
- 4.7 The onsite emergency plan shall be tested in practice at least once a year whereby the emergency services shall be informed for presence to evaluate the simulation.
- 4.8 Conduct a risk assessment on intervals not exceeding a period of five years and submit such risk assessment to the office of the Disaster Management Officer.

- 4.9 The risk assessment shall be carried out by an approved Inspection Authority which is competent to express an opinion as to the risks associated with the major hazard installation.
- 4.10 All emergency occurrences and/or incidents that occurred shall be reported to the municipality within 48 hours by means of telephone and there-after submit a written report to the Disaster Management Officer within seven days of the occurrence of the incident.
- 4.11 The Emergency Plan shall at least contain the following minimum requirements but shall not be limited to:**
- 4.11.1 A brief description of the production of the company.
- 4.11.2 Clearly outline the risks associated with the production process of the company.
- 4.11.3 A layout plan for the company indicating all the crucial points in so far as risks are concerned and also indicating all the emergency assembly points.
- 4.11.4 The emergency team organization chart.
- 4.11.5 Communication channels in the organizations in case of an emergency.
- 4.11.6 Inventory for emergency control centre (if there is any) and /or vehicles.
- 4.11.7 Emergency Contingency Plans to deal with the different risks identified e.g. Fires, Bomb Threats, Explosions, Gas leaks, Trauma etc.
- 4.11.8 Evacuation Contingency Plan incorporating people with disabilities.
- 4.11.9 Emergency Contingency Plan addressing environmental contamination.
- 4.11.10 All emergency contact numbers.
- 4.11.10.1 Proof of induction on emergency standards for external contractors employed in the company.
- 4.11.11 Training requirements for emergency personnel.
- 4.11.12 A material safety data sheet.

The response time after a disaster incident/s has/have been reported is 24 hrs.

## **CHAPTER 5**

### **LOCAL DISASTER MANAGEMENT COMMITTEE**

- |  |                  |
|--|------------------|
| 1. Mayor, Umzimvubu Local Municipality   | Chairperson      |
| 2. Three Ward Chairpersons nominated by the Municipality   | Member           |
| 3. Ward Chairperson of the disaster affected ward/s  | Member           |
| 4. Two Ward members from among the Ward members nominated by the Municipality  | Member           |
| 5. Representatives of the municipality   | Member           |
| 6. Three persons nominated by the municipality from among nongovernmental organizations, community organizations, social institutions and distinguished social workers | Member           |
| 7. Two locally available disaster management experts nominated by Municipality   | Member           |
| 8. Manager (office of the Municipal Manager)   | Member Secretary |



**CHAPTER 6****OFFENCES AND PENALTIES**

Any person who contravenes or fails to comply with any provision of these bylaws shall be guilty of an offence and on conviction be liable to a fine or imprisonment for a period of twelve months and in the case of continuous offence, to an additional fine of R10 000.00 or additional imprisonment for each day on which the offence continues, provided that the period of such additional imprisonment shall not exceed 90 days.

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## UMZIMVUBU LOCAL MUNICIPALITY

# GATHERING AND DEMONSTRATION BYLAW

### INTRODUCTION

UPHULISO KUMNTU WONKE

Vision 2030



The objective of this gathering and demonstration by-law is the deterrence of injury, suffering or death that may occur because of poor planning or preventable catastrophe at public events. This by-law is a standard to help those who arrange events so that the event can run safely. The Safety in any public gathering or events such as public march, concerts, and other outdoor events, where members of the public are invited is the responsibility of the organizer and/or the owner of the land or property

#### **LEGISLATION**

Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) and Regulation of Gathering Act (Act 205 of 1993)

#### **PURPOSE**

The purpose of this by-law is to lay down the procedures and principles with regard to holding of gathering and demonstrations on public terrains, roads, and street.

The following aspects are dealt with in this gathering and demonstration bylaw

#### **DEFINITIONS**

Exempted gatherings

Appointment of the Responsible Officer

Application/notice procedure

Planning and co-ordination of the gathering

Conditions, general restrictions, and requirements

Gathering and demonstrations in the vicinity of any Court

Safety of the participants at the gathering

Indemnity of Council

Disorderly and littering during the gathering and demonstrations

Written agreements

#### **DEFINITIONS**

**"Gathering"** means any assembly, concourse, or procession of more than fifteen (15) persons in or on any public road or street as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), or any other public place or premises wholly or partly open to the air;

- at which the principles, policies, actions, or failure to act of any government, political party, or political organization, whether that party or organization is registered in terms of any applicable law, are discussed, criticized, promoted or propagated;

- held to form pressure groups, to hand over petitions to any person, or to mobilize or demonstrate support for or opposition to the views, principles, policies, actions or omissions of any person or body of persons or institution, including any government, administration, or governmental institution.

**"Authorized SAPS Member"** is a suitably qualified and experienced member of the SAPS appointed in terms of Section 2(2) to either in general or in a particular case, represent the SAPS at consultations or negotiations with regard to gatherings.

**“Joint Operational Centre” (JOC)** is a static or mobile Centre of which the SAPS is in control, manned by representatives from all security agencies involved as well as the organization and from where the gathering is controlled.

**“Magistrate”** means a magistrate appointed in terms of the Magistrate Act, 1993 (Act 90 of 1993)

**“Riot Damage”** means any loss suffered because of any injury to or the death of any person or any damage to or destruction of any property, caused directly or indirectly by, and immediately before, during, off, and after the holding of a gathering.

**“Organization”** means any association, group, or body of persons, whether such association, group or body has been incorporated, established, or registered in accordance with any law.

**“Council”** is the Umzimvubu Municipality, a local municipality established in terms of the Local Government Structures Act, 1998 (Act 117 of 1998).

**“Convener”** means any person who of his own accord, convenes a gathering; and in relation to any organization or branch of any organization, any person appointed by such organization branch.

**“SAPS”** mean the South Africa Police Service.

**“Marshall”** means a person appointed by the convener to control the participants in the gathering to ensure that the gathering always proceeds peacefully. Marshal shall be clearly distinguishable.

**“Responsible Officer”** means a person appointed by the Council to handle notices and applications for the conducting of gatherings and demonstrations and to co-ordinate the execution thereof.

**GATHERINGS EXEMPTED FROM THE PROCEDURE WITH REGARD TO THE REGULATION OF GATHERINGS AND DEMONSTRATIONS.**

The following gatherings are exempted from the conditions of this procedure bylaw:

- Military and SAPS parades
- Sports events
- Cultural festivals
- Religious gatherings.

The conveners and organizers of the above-mentioned gatherings must however formally apply to obtain Council's approval to present or to conduct these events in or on streets and public terrains.

**APPOINTMENT OF THE RESPONSIBLE OFFICER**

In terms of Section 2.4 (a), Council appoints Community Safety Manager as the standing Responsible Officer. The Law Enforcement Superintendent is appointed as the Deputy Responsible Officer.

**DUTIES AND RESPONSIBILITIES OF THE RESPONSIBLE OFFICER.**

The most important duties and responsibilities with regard to the regulation of gatherings and demonstrations are the following:

- Receives notices and applications for the holding of gatherings.
- Checks the applications for correctness and completeness.
- Convenes joint planning and coordination meetings and ensure that everybody concerned is notified.

- Acts as chairperson during the above-mentioned meetings and ensures that the discussions take place in good faith.
- Amends and confirms the conditions, approves, and disapproves gatherings by means of consultation and negotiation during the joint planning and co-ordinating meetings.
- Compilation and signing of written agreements between Council, the SAPS, and the convener.  
Ensures that Council is represented at the JOC, activated by the SAPS during the gathering and demonstration.  
Submits monthly reports to Council with regard to gatherings that were conducted in Umzimvubu.

## **6. APPLICATION/NOTICE PROCEDURE**

- 6.1 The convener of the gathering obtains a prescribed application form from the office of the Manager (Community Safety Section)(See Enclosure 1 for an example of the application form). The application forms are kept and controlled by Council's Responsible Officer.
- 6.2 The application form shall be completed in full by the convener and returned back to the office of the Manager (Community Safety Section) at least seven (7) days prior to the envisaged gathering. Responsible person may in highly exceptional cases, if the merits so justify and it is possible to comply with specified conditions and/or the necessary measures, accept a shorter term than the prescribed seven (7) days.
- 6.3 The Responsible Officer checks the completed application form in the presence of the convener for completeness and clarity. When the Responsible Officer is satisfied with the application form's contents, a date, time, and place are determined for the joint planning and co-ordinating meeting.

## **7. PLANNING AND CO-ORDINATION OF THE GATHERING**

- 7.1 The Responsible Officer must notify the representatives of the respective security agencies of the date, time and place of the joint planning and coordinating meeting. The representatives are:
  - 7.1.1 The respective authorized SAPS members from: Mount Frere SAPS, or Mount Ayliff SAPS.
  - 7.1.2 The Manager: Community Safety (Umzimvubu Local Municipality).
  - 7.1.3 The Superintendent: Law Enforcement (Umzimvubu Local Municipality).
  - 7.1.4 Any other institution that may be directly influenced by the gathering.
- 7.2 During this meeting the application for the proposed gathering are considered, negotiated, adapted, co-ordinated and finally approved or disapproved by the above-mentioned security agencies and the convener under the chairmanship of the Responsible Officer.

## **8. CONDITIONS, GENERAL RESTRICTIONS AND REQUIREMENTS**

- 8.1 **The following conditions, general restrictions and requirements must be brought pertinently to the attention of the convener:**
  - 8.1.1 The convener shall appoint marshals to control the participants in the gathering and to take the necessary steps to ensure that the gathering always proceeds peacefully and that the provisions of the written agreement are complied with. The convener must appoint four (4) marshals for every fifty (50) participants and must ensure that the marshals wear clearly identifiable distinguishing markings. The convener must ensure that children under the age of eighteen years do not act as marshals during marches.

- 8.1.2 The convener shall take all reasonable steps to ensure that all marshals of the gathering and participants in the gathering are informed timeously and properly of the conditions to which the holding of the gathering is subject.
- 8.1.3 The gathering shall take place at the locality or on the route and in the manner and during the times specified in the application or, if it was amended during the joint planning and co-ordinating meeting, as it is indicated in the written agreement.
- 8.1.4 Participants at a gathering shall in accordance with Section 8(4), not carry firearms, replicas thereof and/or traditional weapons. The convener and the marshals shall take all reasonable steps to ensure that this Act is complied with.
- 8.1.5 No person present at or participating in a gathering shall by way of a banner, placard, speech or singing or in any other manner incite hatred of other persons or any group of other persons on account of differences in culture, race, sex, language, or religion of order, regarding gatherings.
- 8.1.6 No person present at or participating in a gathering shall perform any act or utter any words which are calculated or likely to cause or encourage violence against any person or group of persons.
- 8.1.7 No person shall at any gathering wear a disguise or mask or any other apparel or item which obscures his/her facial features and prevents his/her identification.
- 8.1.8 No person shall at any gathering wear any form of apparel that resembles any of the uniforms worn by members of the security forces, including the SAPS and the SANDF.
- 8.1.9 No entrance to any building or premises shall be barred by participants in such a way that reasonable access to the said building or premises is denied to any person.**
- 8.1.10 No entrance to a building or premises in or on which is situated any hospital, fire or ambulance station or any other emergency services, may be barred by the participants.
- 8.1.11 No person shall, in any manner whatsoever, either before or during a gathering, compel or attempt to compel any person to attend, join or participate in the gathering.
- 8.2 The following specific conditions, general restrictions and requirements are applicable in Umzimvubu Municipality authority:**
- 8.2.1 No gatherings or marches are permitted on Sundays and Religious Public Holidays.
- 8.2.2 No gatherings or demonstrations of any nature are permitted in the N2 National Route running through the town of KwaBhaca unless a written permission to do so has been obtained from **SANRAL**. Permission can be allowed to march on the N2 by Umzimvubu Municipality if the distance to be used is less than 100m.
- 8.2.3 Gatherings, apart from picketing, may only be held on the roadway of the relevant street sections, in order not to obstruct pedestrian movement on the sidewalks. The roadway of street sections may not be obstructed in the event of picketing. The Municipal Manager will indicate the position where a picketing may be held.
- 8.2.5 Different groups will not be allowed to hold gatherings at the same time or on the same day where the possibility of conflict exists. Notices will be treated on a first come, first served basis.
- 8.3 Conditions and requirements during the gathering:**
- 8.3.1 Journalists shall not be interfered with in the execution of their duties.
- 8.3.2 The appointed marshals shall ensure that the gathering progresses in a peaceful and orderly fashion.
- 8.3.3 In the event of a march/procession it shall proceed at a reasonable pace.

8.3.4 No meetings and speeches may be held during a procession/march. Speeches will, however, be allowed during the handing over of memorandum/s at pre-established handing-over point/s, provided that such speeches/handling over ceremonies do not exceed thirty minutes.

8.3.5 No stickers or handbills of any nature whatsoever shall be attached or pasted to any vehicle or other property or be scattered around, but it may be distributed to other persons.

**9. GATHERINGS IN THE VICINITY OF COURT BUILDINGS IN THE MOUNT FRERE AND MOUNT AYLIF MAGISTRATE COURTS**

9.1 No gathering is allowed within one hundred metres (100m) radius from any court building in the Mount Frere and Mount Ayliff magistrate courts without the permission/s of the Chief Magistrates.

9.2 When it is the convener's serious intention to hold the gathering at or within the radius of forty (40) metres from a court building, the convener must obtain written permission from the Chief Magistrate of Mount Frere or Mount Ayliff Courts and present it during the scheduled joint planning and coordinating meeting.

**10. SAFETY OF THE PARTICIPANTS AT THE GATHERING**

10.1 Council accepts no responsibility for the safety of the marchers. This condition must be included in the agreement between Council and the coordinator.

**11. INDEMNITY OF COUNCIL**

11.1 The convener shall accept responsibility for any damage and/or loss which may be suffered by Council on the relevant route or place during the envisaged gathering and shall furthermore indemnify Council against any liability and/or claims of any nature because of or due to the envisaged gathering.

11.2 This acceptance of responsibility by the convener of the gathering must be included in the written agreement between Council and the convener.

**12. DISORDERLY LITTERING DURING THE GATHERING**

12.1 The convener of the gathering is to ensure that the route to and from as well as the place used for the gathering shall be left in a neat and tidy condition after conclusion thereof.

12.2 Failure by the convener to comply herewith will result in the cleaning-up of the routes/places by the Council for the account of the organization.

**13. PREVENTION/PROHIBITION OF GATHERINGS**

13.1 When credible information under oath is brought to the attention of the Responsible Officer that there is a threat that a proposed gathering will result in serious disruption, violence, injury to participants and members of the public, damage to property and that the SAPS and the traffic officers will not be able to contain this threat, the situation must be discussed and considered during the scheduled joint planning and coordinating meeting.

13.2 When the Responsible Officer, during the above-mentioned meeting, is on reasonable grounds convinced that no amendments of the prescribed conditions would prevent the situation mentioned above, the proposed gathering might be prohibited. The decision and the reasons for the prohibition must be minuted during the meeting.

**14. WRITTEN AGREEMENT**

- 14.1 After the scheduled joint planning and coordinating meeting, a written agreement between the Responsible Officer, the Authorized SAPS Member and the convener of the gathering must be compiled and signed. This agreement serves as authority for the convener to proceed with the arrangements of the gathering.

**15. GENERAL**

- 15.1 Council retains the right to, according to circumstances, put additional restrictions and/or conditions.

**16. APPLICATION PROCEDURE**

The prescribed application shall be completed in full, and the completed application shall be handed in at least seven (7) days prior to the proposed gathering. The Municipality or Council may in highly exceptional cases, if the merits so justify and it is possible to comply with specified conditions and/or the necessary measures, accept a shorter term than the prescribed seven (7) days.

**17. CONDITIONS, GENERAL RESTRICTIONS AND REQUIREMENTS**

Participation in a gathering shall be on a voluntary basis and nobody is to be forced or intimidated to do so.

Gatherings may only be held on the roadway of the relevant street sections, in order not to obstruct pedestrian traffic on the sidewalks.

The routes to and from the place used for the gathering shall be left in a neat and tidy condition. Failure to comply herewith will result in the cleaning-up of the routes and place by Umzimvubu Municipality for the account of the convener.

The convener shall accept responsibility for any damages and/or losses that may be suffered by Umzimvubu Municipality on the relevant route or place during the proposed gathering and shall furthermore indemnify Umzimvubu Municipality against any liability and/or claims of any nature because of, or due to the proposed gathering.

Diverse groups will not be allowed to hold gatherings at the same time or on the same day to prevent possible conflict. Notices will be treated on a first come, first served basis.

The convener shall provide at least one (1) marshal for every thirty (30) participants. These marshals shall not be under the age of eighteen (18) years and shall be dressed in recognisable clothing. The marshals in control of the gathering shall be pointed out to the SAPS commander beforehand and these marshals shall always during the proceedings be available for negotiations, if necessary. No person present at or participating in any gathering shall by way of a banner, placard, speech or singing incite hatred or fear of other groups based on differences in culture, race, sex, language, or religion.

No person participating in a gathering shall carry a firearm, replica(s) thereof and/or traditional weapons.

**NB: It is stressed that the presentation of the form only serves as an application and notice to hold a proposed gathering and that it does not serve as authorization to hold the gathering. The proposed gathering will be considered, where necessary be amended, and then be approved or rejected.**



**18. OFFENCES AND PENALTIES**

Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to –

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment 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
- (c) 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.
- (d) where a person is convicted of offences in disregard this bylaw, a term of imprisonment not exceeding two years, or a fine not exceeding R100 000 may be imposed.

NB: All members of public are hereby notified that whoever is engaged in unlawful gathering or demonstration in contravention of this bylaw shall be guilty of an offence as indicated above.

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# LIQUOR TRADING BY-LAW

UPHUHLISO KUMNTU WONKE

Vision 2030



**Umzimvubu Liquor Trading By-law**

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**BY-LAW                      RELATING                      TO                      LIQUOR                      TRADING**

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**PREAMBLE**

**WHEREAS** a municipality, in terms of Section 156(1)(a) and (b) of the Constitution of the Republic of South Africa, 1996, has the executive authority in respect of, and right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5, and any other matters assigned to it by national or provincial legislation.

**WHEREAS** a municipality may, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, make and administer by-laws for the effective administration of the matters which it has the right to administer;

**WHEREAS** it is the intention of the Umzimvubu Local Municipality to regulate and control establishments and undertaking that sell liquor to the public within the jurisdiction of the Umzimvubu Local Municipality;

**AND NOW THEREFORE, BE IT ENACTED** by the Council of the Umzimvubu Local Municipality, as follows:

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Umzimvubu Local Municipality, Liquor Trading By-Law

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**CHAPTER** \_\_\_\_\_ **I**  
**INTERPRETATION**

**Definitions**

1.1 In this By-law, unless the context indicates otherwise;

**"Act"** means the Eastern Cape Liquor Act No. 10 of 2003

**"Agricultural zoned areas"** means an area predominately zoned agriculture or any other equivalent zoning, with purpose to promote and protect agricultural activity on a farm as an important economic, environmental and cultural resource, where limited provision is made for non-agricultural uses to provide owners with an opportunity to increase the economic potential of their properties, without causing a significant negative impact on the primary agricultural resource;

**"Appeal Tribunal"** means an Appeal Tribunal established in terms of the Act;

**"Authority"** means the Eastern Cape Liquor Authority established in terms of the Act;

**"bar"** - any open bar or any part of licensed premises exclusively or mainly used for the sale and consumption of liquor which shall include any counter or barrier across which drink is or can be served to the public or in relation to any hotel, pub or tavern, includes any part of the hotel, pub or tavern that is used principally or exclusively for the sale, supply or consumption of liquor;

**"business premises"** means a property on which business is conducted and may include a restaurant, pub, bar or taverns or other building with similar uses, but exclude a place of entertainment, guest accommodation establishment, hotel, sports and community club;

**"Business zoned areas"** means an area predominantly zoned general business in terms of the Zoning Scheme, with the purpose to promote economic activity in a business district and development corridor, and includes a wide range of land uses such as business, residential and community uses;

**"Council"** means the Municipal Council of the Umzimvubu Local Municipality;

**"Designated liquor officer"** means a person designated as such in terms of the Act;

**"Exceptional circumstances"** means any circumstances which is not made provision for in this By-Law.

**"Guest accommodation establishment"** means premises uses as temporary residential accommodation for, and includes the provision of meals to, transient guests for compensation and includes a backpacker's lodge, a bed-and-breakfast establishment, guest house and guest farm or lodge, as well as facilities for business meeting, conferences, events or training sessions of resident guests, but exclude a hotel;

**"Hotel"** means a property used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes:

- (a) a restaurant or restaurants forming part of a hotel;
- (b) Conference and entertainment facilities that are subservient and ancillary to the dominant use of a premises as a hotel;
- (c) Premises which are licensed to sell alcoholic beverages for consumption on the property, but excludes an off-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

**"Industrial zones"** means an area predominantly zoned industrial that accommodate all forms of industry, but do not include noxious or hazardous trade risk activities ;

**"Licensee"** means any person who is licensed to sell liquor in terms of the Act and includes any licensed premises, business, outlet or land use activity from which liquor is sold;

**"Liquor"** means liquor as defined by the Act;

**"Liquor License Tribunal"** means the Liquor Tribunal as defined in the Act;

**"Rural business or neighbourhood business area"** means an area predominantly zoned local business or mixed use or any other equivalent zoning, with the purposes to accommodate low density commercial and mixed use development serving local needs of convenience goods, personal service or small scale business nature or serve as an interface between general business, industrial and adjacent residential area;

**"Municipality"** means the Umzimvubu Local Municipality established in terms of section 12 of the Local Government: Municipal Structures Act, No 117 of 1998;

**"Micro-manufacturer"** - a producer of liquor who in a calendar year does not produce more than the prescribed volume.

**"Motor vehicle"** means a vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity, including a trailer or an agricultural or other implement designed or adapted to be drawn by such vehicle and include vehicles designed or adapted to transport passengers;

**"Neighbourhood"** means a part of a town where people live;

**"Night club"** means any place of entertainment which may generate noise from karaoke, amplified or live music or revelry, and includes a theatre, amusement park and dance hall;

**"Off-consumption license"** a license entitling the licensee to sell liquor for consumption only away from the licensed premises and "off-consumption" has a corresponding meaning;

**"Official"** means any person authorized by the Authority to perform the function of an officer under this By-law and includes any member of the South African Police Services and any person appointed in terms of the Act;

**"On-consumption license"** - a license entitling the licensee to sell liquor for consumption only on the licensed premises and "on-consumption" has a corresponding meaning.

**"Person"** means a natural person or a juristic person which may include —

- (a) a licensee or any person in charge or managing the licensed premises for the purposes of the sale of liquor;
- (b) any body of persons corporate or unincorporated,
- (c) any company incorporated or registered as such under any law or any village management board, or like authority.

**"Premises"** includes any place, land, building or conveyance or any part thereof which is registered or which is seeking to be registered to trade in liquor;

**"Place of entertainment"** means a place used predominantly for commercial entertainment (which may operate on a daily basis or as scheduled) which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis, and includes a cinema, theatre, amusement park, dance hall, gymnasium, facility for betting, gambling hall, karaoke bar and

night club;

**"Place of recreation"** means a sport field, amusement park or similar public place intended for communal recreation, mainly in the open air;

**"Registered premises"** means premises on or from which a licensee conduct his or her business;

**"Residential zoned area"** means an area predominantly zoned Residential 1, 2 or 3 or any other equivalent zoning, with the purpose of accommodating predominantly single-families in low and medium density neighbourhoods, as well as higher densities living accommodation and which include controlled opportunities for home employment, additional dwellings and low intensity mixed use development;

**"Responsible Manager"** means a manager that will take overall responsibility for the processing of liquor license application and appeals;

**"Restaurant"** - Any premises where the sale and supply of food to the public for consumption on the premises is the principal purpose of business which may include a bar/pub (where the supply of liquor is for on-consumption only);

**"Room service facility"** means a mini bar of self-help facility or the consumption of liquor in guest rooms and call-up service for resident guests;

**"Sell"** includes supply, exchange, offer for sale, display for the purpose of sale or authorize, direct, or allow a sale;

**"Selling hours"** means the time during which a licensee is allowed to sell liquor in terms of the Schedule;

**"Small holding or rural area"** means an area predominantly zoned Agriculture or any other equivalent zoning, with the purpose to accommodate smaller rural properties that may be used for agricultural purposes, but may also be used primarily as places of residence in a more country or rural setting;

**"Sparkling wine"** means an effervescent wine resulting from the fermentation of grapes, whether by natural or artificial processes, and includes champagne;

**"Special event"** — a fundraising event (organised from time to time) in aid of an educational / welfare organisation, any exhibition, sports meeting, cultural gathering or artistic performance;

**"Sports and Community club"** means premises or facility used for the gathering of community or civic organization or associations, sports clubs or other social or recreational clubs run mostly not for profit and may include community service clubs and community centres or similar amenities, but excludes a night club;

**"Specific business"** is a business use of a particular nature but within Zoning scheme regulations or replacement By-Law with applicable content and that is prescribed for a specific site by the Council;

**"Standard trading"** means trading days and trading hours, and excludes extended trading days and hours that may be approved by the Municipality in terms of this By-law;

**"Tavern"** — a place whose main business is the supply/serving of liquor, food and various forms of entertainment.

**"Temporary license"** refer to its meaning in terms of the Act

**"Tourist facility"** — amenities for tourists such as lecturer rooms, restaurants, gift shops, and restrooms permitted by the Council as a consent use, but does not include overnight accommodation;

**"Trading days"** means the days on which liquor may be sold during trading hours;

**"Trading hours"** means the hours during which liquor may be sold during trading days;

**"Undertaking"** means a business involved with the sale of liquor to the public;

**"Winery"** includes premises or facilities which are used in the production of wine and such premises and facilities include facilities for crushing grapes and fermentation and aging of wine, tasting rooms, barrel and storage rooms, bottling rooms, tank rooms, laboratories or offices and other accessory or ancillary facilities incidental to the production of wine, which may include:

- (a) Restaurants and other food services; or
- (b) Subsidiary retail facilities to tours or visitors

**"Zoned"** means zoned and zoning as the case may be in terms of the applicable zoning scheme or any applicable law and **"zoning"** has a corresponding meaning;

**"Zoning scheme"** means the zoning scheme applicable to the area in force with the area of jurisdiction of the Municipality.

1.2 In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act has that meaning read together with the applicable Land Use Scheme Regulations and the By-Law relating to streets, public places and the Prevention and suppression of nuisances.

## **2 PURPOSE OF BY-LAW**

- 2.1 To provide for the regulation and control of establishments and undertakings that sell liquor to the public in order to ensure legal liquor trading, a safe and healthy environment within the area of jurisdiction of the Municipality;
- 2.2 To provide for days and hours of trade in liquor by licensed establishments and undertakings that sell liquor to the public; and
- 2.3 To provide for matters related thereto.

## **3 APPLICATION OF BY-LAW**

- 3.1 This By-law applies to all persons who sell liquor to the public within the area of jurisdiction of the Umzimvubu Local Municipality, and refers to:
  - (a) Those selling liquor to the public for consumption on the licensed premises;
  - (b) Those selling liquor to the public for consumption off the licensed premises; and
  - (c) Those selling liquor to the public for consumption on and off the licensed premises.



**CHAPTER  
STANDARD TRADING HOURS****II****4     TRADING DAYS AND HOURS FOR SALE AND CONSUMPTION OF LIQUOR ON LICENSED PREMISES**

- 4.1 A licensee may sell liquor for consumption on the licensed premises on the following days and hours:
- (a) on any day of the week; and
  - (b) during the hours of trade as set out in the Schedule.
- 4.2 A licensee who sells liquor for consumption on licensed premises may not allow any consumption of liquor on the licensed premises at a time when the sale of liquor is not permitted.
- 4.3 Despite the provisions of this By-law, a licensee as contemplated in subsection (1), may serve sparkling wine:
- (a) From 09:00 to 22:00 for seven days a week; and
  - (b) As part of a meal; and
  - (c) To guests that are part of an organized function where admittance is controlled.
- 4.4 A hotel or guest accommodation establishment licensed to sell liquor for consumption on the licensed premises may provide access to a pre stocked bar facility inside each private suite or room for the enjoyment of a guest occupying such private suite or room. Such hotel or guest accommodation establishment is prohibited restocking such bar facility during the hours the establishment is not allowed to trade in liquor.
- 4.5 A hotel or guest accommodation establishment licensed to sell liquor for consumption on the licensed premises may not provide liquor to guests or visitors outside of the standard trading hours unless it is from the pre stocked bar facility and the users are guests occupying on that day and time the private suites or rooms in accordance with (4.4);

**5     TRADING DAYS AND HOURS FOR SALE OF LIQUOR FOR CONSUMPTION OFF LICENSED PREMISES**

- 5.1 A licensee may sell liquor for consumption off the licensed premises on the following days and hours:
- (a) on any day of the week with the exception of Sundays, Good Friday, Christmas day provided such exception does not apply to a winery and/or tourist facility consisting of a wine and/or liquor shop, or any other facility related to the wine industry; and
  - (b) during the hours of trade as set out in the schedule
- 5.2 No undertaking may sell liquor in excess of 150 litres in one day to any person who is not in possession of a valid

liquor license in terms of the Act and a (an approval for the specified business) business permit in terms of the Municipal by-laws.

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**6 TRADING DAYS AND HOURS FOR SALE AND CONSUMPTION ON AND OFF THE LICENSED PREMISES**

- 6.1 A licensee of premises upon which liquor may be sold for consumption on and off the licensed premises may sell liquor in terms of the trading hours prescribed in subsection (4) and (5).

**7. SUSPENSION, AMENDMENT AND REVOCATION OF STANDARD LIQUOR TRADING TIMES**

- 7.1 An authorised official may immediately suspend standard liquor trading for a period of not more than 7 working days, upon delivery of a written notice to the licensee or person in charge of the licensed premises.
- 7.2 The written notice as contemplated in subsection (7.1), must specify the reasons and the timeframes in which such suspension of standard liquor trading days and hours will be in effect.
- 7.3 The authorised official must immediately, in writing, report such suspension of standard liquor trading days and hours to the Council.
- 7.4 Council must, upon consideration of the suspension report of the authorised official —
- (a) confirm, amend or terminate the decision of the authorised official to suspend the standard liquor trading days and hours; and
- (b) report any decision to confirm, amend or revoke the standard trading days and hours to the Authority.
- 7.5 The Municipality may not be held responsible for any loss of income suffered by a licensee during any period of suspension of trading days and hours.
- 7.6 No person may continue selling liquor to the public during the period in which the standard days and hours of trading in liquor have been suspended, amended or revoked.

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**CHAPTER**

**III**

**EXTENDED TRADING TIMES**

**8 APPLICATION FOR EXTENDED TRADING DAYS AND HOURS**

- 8.1 Any licensee may, upon payment of the required fee (as set out in the approved yearly tariff schedule of the Municipality), submit a written application to the Municipality to extend the trading days and hours in respect of licensed premises.
- 8.2 The Municipality may approve or refuse an application for an extension of trading days and hours.
- 8.3 The Municipality may, in writing forthwith refuse —

- (a) to accept an application for the extension of liquor trading days and hours if such premises falls within location category 1 or 2, as contained in the schedule for on consumption trading;
- (b) an application for an extension of liquor trading hours beyond —
  - (i) 04h00, the next day for on-consumption; and
  - (ii) 20h00 for off-consumption.
- 8.4 No rights accrue to any person who has submitted an application for extension of trading days and hours before the proof of written approval is received from the Municipality by such person.
- 8.5 The Municipality may, upon written notice to the applicant, impose conditions for trade during extended days and hours.
- 8.6 The Municipality must, before approving an application for the extension of trading days and hours, consider factors which may include, *inter alia* —
  - (a) outcome of community consultation and whether it is in the public interest to approve and grant an extension of trading days or hours;
  - (b) the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities;
  - (d) the planning and zoning requirements of the Municipality;
  - (e) where applicable, the validity of a business license issued in terms of the Businesses Act of 1991 (Act No. 71 of 1991);
  - (f) the potential impact on the surrounding environment
  - (g) previous suspension, amendment or revocation of extended trading days and hours;
  - (h) the validity of the Liquor license;
  - (i) reports from the Eastern Cape Liquor Authority; and
  - (j) a motivation from the applicant dealing with the facts mentioned above  
And the impact of —
    - (a) the risks to and nuisances on the surrounding community;
    - (b) mitigation measures to assist the control of risks and nuisances; and
    - (c) possible benefits of extended liquor trading hours and days on the surrounding community.

**9 SUSPENSION, AMENDMENT AND REVOCATION OF EXTENDED LIQUOR TRADING DAYS AND HOURS**

- 9.1 An authorized official may, upon delivery of a written notice to the licensee or person in charge, immediately suspend extended trading hours for a maximum of 7 working days for the non-compliance of a condition in terms of the Act, this By-Law or any conditions of the liquor license.
- 9.2 The written notice as contemplated in subsection (9.1), must specify the reasons and the timeframes in which such suspension of extended trading days and trading hours will be in effect.
- 9.3 The written notice as contemplated in subsection (9.1), must call on the licensee to supply written reasons within 48 hours to the Municipal Manager on why the extended trading hours should not be revoked.
- 9.4 The authorized official must, in writing, report such suspension to the Municipal Manager.
- 9.5 Council or its delegate must, upon consideration of the suspension report of the authorized official and the representation by the licensee —
- (a) determine trading hours and days in respect of the business and may impose such conditions as it may deem fit; and
  - (b) report any decision to confirm, amend or revoke the extended hours of trade to the Eastern Cape Liquor Authority.
- 9.6 No person may continue selling liquor to the public during the period in which the extended days and hours of trading in liquor have been suspended, amended or revoked.
- 9.7 The Municipality will not be held responsible for any loss of income suffered by a licensee during any period of suspension of trading days and hours.

#### **CHAPTER** **MISCELLANEOUS MATTERS**

**IV**

#### **10 PREVENTION OF ILLEGAL SALE OF LIQUOR AND SEIZURE OF LIQUOR**

- 10.1 An authorized official may prevent or seize the illegal sale of liquor -
- (a) where liquor is sold from a premises where the sale of liquor is not permitted in terms of the Municipal zoning scheme; or
  - (b) where liquor is sold in contravention of this By-law; or
  - (c) where liquor is sold outside the hours and days as specified by this By-law or the conditions, imposed by the Authority or the Municipality, in respect of that business; and

- (d) cause the temporary closure of the premises and / or seize any liquor on the premises in accordance with the Standard Operating Procedure on Impoundment of the Municipality and the Search and Seizure provisions as contemplated in the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

10.2 Where the sale of liquor is prevented and liquor is seized as contemplated in subsection (10.1), the Municipality may recover any costs incurred by the Municipality from the licensee.

#### **11. DISPLAY OF SIGNAGE AND OTHER OBLIGATIONS OF THE LICENSEE**

11.1 The licensee or person in charge must ensure that inside the business, to the satisfaction of the Municipality, a certificate issued by the Municipality stating the zoning or land use for purposes of this By-law and stating the approved hours of trade; are prominently displayed.

11.2 The licensee or person in charge must ensure that on the outside of the business, to the satisfaction of the Municipality, the following are prominently displayed on the front door or window of the premises in characters not less than five centimetres in height:

- (i) the hours of trade of the business as approved by the Municipality; and
- (ii) the liquor license number under which the business trade.

#### **12. SAFETY AND SECURITY**

12.1 Licensees must ensure that the licensed premises meets and complies with all environmental, planning, safety laws and that the conditions imposed by the Municipality are adhered to.

12.2 The licensee or person in charge must ensure that reasonable and adequate safety and security measures are in place for the protection of the public/clients of the licensed premises by ensuring, amongst others but not limited to, that -

- (a) the storage of goods and equipment and the condition of the premises and any structure thereon do not cause a danger to the safety of patrons inside the premises;
- (b) the premises adheres to the requirements of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and any other permission granted or by-law promulgated by the Municipality; and
- (c) there is adequate lighting on the outside of the premises where the public/clients and staff access and exit the licensed premises.

#### **13. LIQUOR PREMISES MUST BE WEAPON FREE**

13.1 Right of admission to liquor premises is reserved and no weapons or sharp objects are permitted inside on consumption liquor premises.

13.2 A safe should be available at all times on consumption liquor premises in case persons in possession of guns or sharp objects need access to the premises.

#### **14. NUISANCES**

- 14.1 Any person selling liquor to the public must take all reasonable steps to ensure that noise from the liquor premises remain within the walls of such liquor premises at all times.
- 14.2 Any person selling liquor to the public must take reasonable steps to ensure that the residents of the surrounding community are not unreasonably affected and inconvenienced by noise or other nuisances emanating from the premises.
- 14.3 The licensee remains liable and responsible for all land pollution and littering within the liquor premises. The licensee is also responsible for all land pollution and littering outside the liquor premises flowing from the licensed premises. The liquor premises and surrounding areas must be kept clean at all times.
- 14.4 There shall be no loitering by patrons outside the liquor premises and all sales and consumption of liquor shall be confined to the liquor premises.

#### **15. OFFENCES AND PENALTIES**

15.1 Any person who contravenes or fails to comply with any —

- (a) provision of this By-law;
- (b) condition or instruction served in connection with this By-law; or
- (c) written notice from an authorised official, is guilty of an offence and is liable to a fine not exceeding the amount R50 000, 00 or imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.

15.2 Any person who commits a continuing offence shall be guilty of an offence for each day during which that person fails to comply with this By-law.

15.3 A court convicting a person of an offence under this By-law may impose alternative sentencing in place of a fine or imprisonment.

#### **16. RIGHT OF APPEAL**

16.1 Any licensee or objector to an application for extended trading hours whose rights have been affected by a final decision taken by Council or an authorised official of the Municipality may appeal against that final decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

16.2 An appellant may not continue selling liquor to the public when their appeal against the final decision is pending in relation to standard and extended trading times that have been suspended, amended or revoked, as the case may be.

#### **17. REPEAL OF OLD BY-LAWS**

17.1 The provisions of any By-laws previously promulgated by the Municipality or by any of the disestablished Municipalities now incorporated in the Municipality area hereby repealed as far as they relate to matters provided for in this By-law.

#### **18. SHORT TITLE AND COMMENCEMENT**

19.1 This By-law is called the *Umzimvubu Local Municipality, Liquor Trading By-law* and comes into operation on the date of publication thereof in the Provincial Gazette.

**SCHEDULE**

<b>Trading hours for selling liquor on licensed on consumption premises location category &amp; licensed premises type</b>	<b>Maximum permitted trading hours</b>
<b>Residential area</b> Guest accommodation establishment Business premises Place of entertainment Sports and community club, excluding special events requiring temporary licences Hotel Casino	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00
<b>Local business or neighbourhood business area including mixed use areas</b> Guest accommodation establishment Business premises Place of entertainment Sports and community club excluding special events requiring temporary licences Hotel Casino	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00
<b>General business area</b> Guest accommodation establishment Business premises Place of entertainment Sports and community club excluding special events requiring temporary licences Hotel Casino	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00
<b>Industrial area</b> Business premises Place of entertainment Sports and community club excluding special events requiring temporary licences	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00
<b>Agricultural area</b> Guest accommodation establishment Business premises Place of entertainment Sports and community club excluding special events requiring temporary licences Winery Hotel	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00
<b>Small holdings or rural area</b> Guest accommodation establishment Business premises	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00

Place of entertainment Sports and community club excluding special events requiring temporary licences Winery	
<b>Other ad-hoc locations</b>  Vehicles or mobile undertakings used for tourist entertainment or recreational purposes as per definition of " <b>premises</b> " in the Act, except where Umzimvubu Local Municipality, Events By-law determines otherwise	Monday to Saturday: 09:00 – 22:00 Sunday: 09:00 – 18:00









# Closing times for **ORDINARY WEEKLY** **2023** **EASTERN CAPE PROVINCIAL GAZETTE**

*The closing time is **15:00** sharp on the following days:*

- **23 December**, Friday for the issue of Monday **02 January 2023**
- **30 December**, Friday for the issue of Monday **09 January 2023**
- **09 January**, Monday for the issue of Monday **16 January 2023**
- **16 January**, Monday for the issue of Monday **23 January 2023**
- **23 January**, Monday for the issue of Monday **30 January 2023**
- **30 January**, Monday for the issue of Monday **06 February 2023**
- **06 February**, Monday for the issue of Monday **13 February 2023**
- **13 February**, Monday for the issue of Monday **20 February 2023**
- **20 February**, Monday for the issue of Monday **27 February 2023**
- **27 February**, Monday for the issue of Monday **06 March 2023**
- **06 March**, Monday for the issue of Monday **13 March 2023**
- **13 March**, Monday for the issue of Monday **20 March 2023**
- **17 March**, Friday for the issue of Monday **27 March 2023**
- **27 March**, Monday for the issue of Monday **03 April 2023**
- **31 March**, Friday for the issue of Monday **10 April 2023**
- **06 April**, Thursday for the issue of Monday **17 April 2023**
- **17 April**, Monday for the issue of Monday **24 April 2023**
- **21 April**, Friday for the issue of Monday **01 May 2023**
- **28 April**, Friday for the issue of Monday **08 May 2023**
- **08 May**, Monday for the issue of Monday **15 May 2023**
- **15 May**, Monday for the issue of Monday **22 May 2023**
- **22 May**, Monday for the issue of Monday **29 May 2023**
- **29 May**, Monday for the issue of Monday **05 June 2023**
- **05 June**, Monday for the issue of Monday **12 June 2023**
- **09 June**, Friday for the issue of Monday **19 June 2023**
- **19 June**, Monday for the issue of Monday **26 June 2023**
- **26 June**, Monday for the issue of Monday **03 July 2023**
- **03 July**, Monday for the issue of Monday **10 July 2023**
- **10 July**, Monday for the issue of Monday **17 July 2023**
- **17 July**, Monday for the issue of Monday **24 July 2023**
- **24 July**, Monday for the issue of Monday **31 July 2023**
- **31 July**, Monday for the issue of Monday **07 August 2023**
- **04 August**, Friday for the issue of Monday **14 August 2023**
- **14 August**, Monday for the issue of Monday **21 August 2023**
- **21 August**, Monday for the issue of Monday **28 August 2023**
- **28 August**, Monday for the issue of Monday **04 September 2023**
- **04 September**, Monday for the issue of Monday **11 September 2023**
- **11 September**, Monday for the issue of Monday **18 September 2023**
- **18 September**, Monday for the issue of Monday **25 September 2023**
- **22 September**, Friday for the issue of Monday **02 October 2023**
- **02 October**, Monday for the issue of Monday **09 October 2023**
- **09 October**, Monday for the issue of Monday **16 October 2023**
- **16 October**, Monday for the issue of Monday **23 October 2023**
- **23 October**, Monday for the issue of Monday **30 October 2023**
- **30 October**, Monday for the issue of Monday **06 November 2023**
- **06 November**, Monday for the issue of Monday **13 November 2023**
- **13 November**, Monday for the issue of Monday **20 November 2023**
- **20 November**, Monday for the issue of Monday **27 November 2023**
- **27 November**, Monday for the issue of Monday **04 December 2023**
- **04 December**, Monday for the issue of Monday **11 December 2023**
- **11 December**, Monday for the issue of Monday **18 December 2023**
- **18 December**, Monday for the issue of Monday **25 December 2023**

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