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KWAZULU-NATAL PROVINSIE
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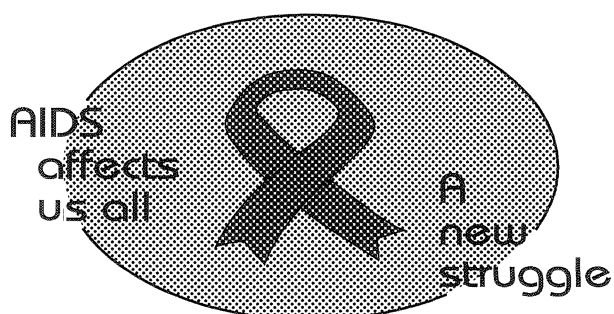
Vol. 5

PIETERMARITZBURG,

10 NOVEMBER 2011
10 KULWEZI 2011

No. 648

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MUNICIPAL NOTICES

No. 131

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

PUBLIC ROADS AND MISCELLANEOUS BYLAWS

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UMZIMKHULU PUBLIC ROADS AND MISCELLANEOUS BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Road and Miscellaneous Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-.

[PUBLIC ROADS AND MISCELLANEOUS BYLAWS]

ARRANGEMENT OF SECTIONS

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PUBLIC ROADS AND MISCELLANEOUS

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CHAPTER 1

DEFINITIONS

1. Definitions

In these By-laws, any word or expression that has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) has that meaning and, unless the context otherwise indicates –

"authorised official" means any person or official authorised in writing as such by the Council.

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"trolley" means a push trolley, push cart or any table, stand or basket on wheels; "municipal store" means the municipal store of the Council;

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

"prescribed-fee means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation.

"storekeeper" means the person in the service of the Council who holds the position of storekeeper or a person acting in that capacity;

"public road" means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way which are vested in the Council;

"token" in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

"watercourse" means a watercourse as defined in section 1 of the National Water Act, 1998 (Act No. 36 of 1998);.

CHAPTER [1] 2
PUBLIC ROADS AND MISCELLANEOUS

2. Ropes, wires or poles across public road

No person may place any rope, wire or pole on, under or across any public road, or hang, or place anything whatsoever thereon without the prior written consent of the Council.

3. Damage to trees

No person may climb upon, or break or damage or in any way mark or paint on any tree on any public road within the municipal area of the Council, and no person may, without the prior written consent of the Council, lop, top, trim, cut down or remove any such tree unless the person is authorised to do so in terms of these By-laws or any other law.

4. Barbed wire, dangerous and electrical fencing

(1) No owner or occupier of land –

- (a) other than an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road or public place;
- (b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, or after one year from the date of commencement of these By-laws, have along such public road any electrified fence, railing or other electrified barrier unless —
 - (i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; and
 - (ii) the fence, railing, or other barrier is designed and installed in accordance with any relevant specifications determined by the Council and any standard issued in terms of the Standards Act, 1993 (Act No. 29 of 1993);
- (c) may erect, or cause, or permit to be erected, any electrified fence, railing, wall or other electrified barrier mentioned in paragraph (b) without the prior written permission of the Council, which permission is granted in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

(2) The full technical details of the proposed electrified fence, railing, wall or other electrified barrier must accompany any application for permission submitted to the Council.

5. Protection of public road

No person may place upon or off-load on a public road any materials or goods, which are likely to cause, damage to a public road unless the person has taken reasonable precautions to protect the surface of the public road against damage.

6. Cleanliness of public roads

- (1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.
- (2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.

7. Article placed in building facing public road

No person may place any article likely to cause injury or damage to any person or property if it were to fall, in any building or other part of a building near any public road without taking all reasonable steps against it falling onto the public road.

8. Damaging of Council's property

Subject to the provisions of section 10, no person may deface, tamper, damage, remove, or in any way interfere with any Council's property or work on or along any public road.

9. Cleaning and repairing on public roads

No person may clean or repair any part of a vehicle or wash, dry or paint any article or object on any public road except in an emergency breakdown of a vehicle.

10. Excavations in public roads

- (1) No person may make or cause to be made any hole, trench, pit or tunnel on or under any public road or remove any soil, metal or macadam therefrom without the prior written consent of the Council unless such person is authorised to do so in terms of these By-laws or any other law.
- (2) A person, who requires the consent referred to in subsection (1), must comply with the requirements prescribed by the Council from time to time.
- (3) The Council may require a person referred to in subsection (2) to pay the prescribed fee.

11. Defacing, marking or painting public roads

No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council.

12. Races and sports events

- (1) An application for consent to hold a race or sports event on any public road in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), must be submitted in writing to the Council on the prescribed form at least 60 days prior to the envisaged event.
- (2) The applicant must pay the prescribed deposit for the costs to be incurred during the race or sports event, to the Council prior to commencement of the race or sports event and any mutual adjustment must be made after the conclusion of the race or sports event as soon as the Council has determined actual costs incurred by the Council.

13. Loitering on public roads

- (1) No person may -
 - (a) lie or sit so as to obstruct traffic on any public road;
 - (b) stand, congregate, loiter or walk, or otherwise act on any public road in any manner that may obstruct traffic; or
 - (c) jostle or loiter at or within 20 m of the entrance of any place of public worship during the time of divine service or during the assembly at the place of worship or departure from such place of the congregation so as to obstruct or annoy any persons going to, attending at, or leaving such place of worship.
- (2) Any person performing any of the prohibited acts mentioned in subsection (1) must, upon request by an authorised official, discontinue to do so, failing which the person is guilty of an offence.

14. Loitering and touting at places of public entertainment

- (1) No person may loiter or, except when forming part of a queue, congregate on any public road within 20 m of the entrance to any place of public entertainment so as to obstruct traffic or persons proceeding to, attending at, or departing from such place of entertainment.
- (2) No person may, without the prior written consent of the Council tout or solicit drivers of motor vehicles who park their motor vehicles at places of entertainment for the purpose of or under pretext of attending to the motor vehicles during the assembly thereat or the departure therefrom.

15. Public decency

- (1) No person may appear unclothed on any public road.
- (2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.

- (3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent-or- obscene-language.
- (4) No person may on any public road in any way loiter or solicit or importune any other person for
- (5) The purpose of begging.
- (6) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned.

16. Trolleys

- (1) The owner of a trolley must affix the prescribed token in a conspicuous position on the trolley.
- (2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by any person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on any public road.
- (3) Any trolley that has been left or abandoned on any public road, may be removed, or caused to be removed, by any authorised official and be placed under the care of the storekeeper.
- (4) The storekeeper must store any trolley which has been placed under his or her care in terms of subsection (3), at the municipal store and the Council must publish once a month in respect of eleven months of a year calculated from the first day of January, a notice in two newspapers circulating within the municipal area, which states –
 - (a) the name of the owner of the trolley, if known;
 - (b) the number of trolleys being so stored;
 - (c) that the trolley may be claimed by the owner from the Council on payment of the prescribe storage charge;
 - (d) that any trolley that has not been claimed after a period of three months the date of publication of the said notice, may be sold by the Council by public auction; and
 - (e) that the proceeds of the public auction shall accrue to the Council.
- (5) The Council is not liable for the theft, damage to or loss of any trolley while the trolley is stored in the municipal store or the selling thereof by public auction.

17. Public road collections

- (1) No collection on a public road may be organised or held without the prior written consent of the Council.
- (2) Application for such consent must be made on a form provided for this purpose by the Council.
- (3) Every application must be accompanied by proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or the Fund Raising Act, 1978 (Act No. 107 of 1978), as the case may be.
- (4) The Council may give the consent referred to in subsection (1) to an organisation or person to hold a collection on a specified public road, date and at a specified time and reserves the right to determine the number of collections which may be held on any one day on the public road so specified.
- (5) Every organisation or person, holding a public road collection is entitled to use its or his or her own identifiable collection boxes and if any organisation or person does not possess any boxes, the Council's collection boxes may be used upon payment of the prescribed charge.

18. Control of stormwater and watercourses-on public road

- (1) A person may not, without prior written consent of the Council, which consent may be conditional or unconditional -
 - (a) lead or discharge any water on or over or across a public road; or
 - (b) by any means whatever, raise the level of water in any river, dam or watercourse so as to cause interference with or endanger any public road.
- (2) The Council may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any -
 - (a) deviate any watercourse, stream or river if the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with belonging to a public road;
 - (b) divert stormwater from or under any public road onto private property other than land occupied by buildings, other structures or improvements; and
 - (c) pay reasonable compensation as agreed between the owner or occupier and the Council, for all damage caused as a result of any action taken under paragraph (a) or (b).

19. Obstruction on public roads

No person may deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on any portion of any public road, sidewalk or footway unless it is deposited within an enclosure in respect of which the prior written consent of the Council has been obtained.

20. Consent to hoard in footway

- (1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation, on any part of which is within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.
- (2) If the enclosure occupies or projects over any portion of a public road, the person must apply for a written permit to the Council and if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Council may determine what portion of the public road is necessary for the purpose of carrying out any building operations and in all cases where it so determines that the public road may be used for such purposes, grant a permit in writing setting forth the portion which may be occupied for such purpose and the conditions under which such permit is granted.
- (4) The Council reserves the right to withhold the issue of the permits required in terms of this section until all prescribed fees have been paid and the acceptance of any such permit by the applicant without objection, is taken to indicate that all kerbs, gutters and other works were in good order and condition on the date of such permit.

- (5) Every permit granted by the Council for the erection of a hoarding, fence, scaffolding or an enclosure or a planked shed, must specify the area and precise position of that part of the public road where the enclosure, overhanging or covering is permitted and the period for which the permit is granted.

CHAPTER [2] 3

TICKET CONTROLLED PARKING GROUND

21. Control of traffic

- (1) An authorised officer may direct all traffic by means of visible or audible signals and every person shall obey such signal.
- (2) No person may obstruct, hinder, abuse, or interfere with any authorised officer in the exercise of the powers in terms of these By-laws.

22. Clinging to moving vehicles

No person travelling upon any pedal cycle, motor cycle, coaster, sled, roller-skates, or any other similar device may cling to or attach himself or herself or his or her cycle or device to any other moving vehicle, upon any public road.

23. Prohibition of animal-drawn vehicles

No person may, on the public roads within the area prescribed by the Council from time to time, drive or cause to be driven any animal drawn vehicle along or through those portions of such public roads determined by the Council.

24. Removal of obstructions

- (1) If any person causes an obstruction on any public road or public place, an authorised may order such person to refrain from causing or to remove the said obstruction.
- (2) Where a person causing an obstruction cannot be found, or fails or neglects to remove, or to cease causing, such obstruction, an authorised officer, may take such steps as may be necessary to remove the obstruction, or to prevent its continuance and the Council may in the case where the person fails or neglects to remove or cease causing the obstruction, recover the cost of the removal of the obstruction from that person.

25. Games, throwing stones, on public roads

- (1) No person may roll any hoop or fly any kite or throw stones or use any bow and arrow, or by any means discharge any missile upon, over or across any public road, or play cricket, football or any other game whatsoever on any public road.
- (2) No person may erect a tent or place chairs or any article on a public road for the purpose of a funeral, party or any other event without the prior written consent of the Council.

26. Shoeing and cleaning of animals on public roads

No person may shoe or ferry any animal, or clean, dress, train, break-in or turn cattle loose on a public road.

27. Animals on public roads

- (1) No person may leave any severely injured, feeble, emaciated, diseased or dying animal on any public road except for the purpose of seeking assistance for the removal of such animal:
- (2) Any live stock at large on a public road within the municipal area of the Council may be taken to a place designated by the Council by any authorised officer.
- (3) Any person contravening subsection (1) is liable, in addition to payment of the penalty determined by the Council, to pay to the Council the cost incurred by it in acting in accordance with subsection 2.

28. Offences and penalties

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; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) who obstructs or hinders any authorised representative or employee of the Council 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.

29. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

30. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

31. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

32. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

33. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself;

and

(c) may at any time be withdrawn in writing by the Council.”

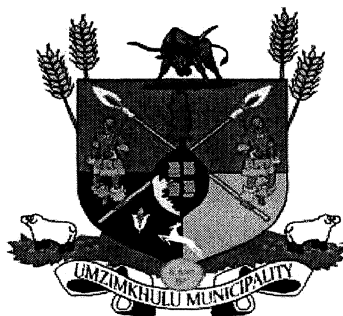
34. Short title

These By-laws are called the Umzimkhulu Local Municipality Public Roads and Miscellaneous By-laws, 2008.

No. 132

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

POUND BYLAWS

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UMZIMKHULU POUND BY-LAWS, 2008

BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

ARRANGEMENT OF SECTIONS

Section

- 1. Definitions**
- 2. Application**
- 3. Establishment of pound**
- 4. Appointment of poundkeeper**
- 5. Trespassing or straying animals may be impounded**
- 6. Animals too vicious, intractable or wild to be impounded**
- 7. Release of animals before removal to pound**
- 8. Care of trespassing animals**
- 9. Pound to which animals must be taken**
- 10. Information to be supplied to poundkeeper**
- 11. Acceptance at pound of animals to be impounded**
- 12. Pound register**
- 13. Notice to owners of animals**
- 14. Care of impounded animals**
- 15. Isolation of infected animals**
- 16. Treatment of impounded animals**
- 17. Death of or injury to impounded animals**
- 18. Copies of by-laws**
- 19. Fees and costs payable**
- 20. Release of impounded animals**
- 21. Sale of impounded animals**
- 22. Poundkeeper may not purchase impounded animals**
- 23. Animals unsuccessfully offered for sale**
- 24. Proceeds**
- 25. Action for recovery of damages**

26. Procedure to be followed in application to Court

27. Offences and penalties

28. Enforcement

29. Presumption

30. Proof of claim

31. Delegation of Council's powers

32. Schedules 1 and 2 form part of these by-laws

33. Repeal of by-laws

34. Short title

SCHEDULES

Schedule 1: Code of Good Practice on the Handling and Transportation of Impounded Animals

Schedule 2: Pound register information

Definitions

1. In these by-laws, unless inconsistent with the context:-

"animal" includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and "animals" will have a corresponding meaning;

"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 KwaZulu-Natal;

"municipality" means the Umzimkhulu Local Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"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 or her agent;

"pound" means a pound established as contemplated in section 3;

"poundkeeper" 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 poundkeeper;

"public place" means any place to which the public has access including, without limiting the generality of the foregoing any -

(a) square;

(b) park;

(c) recreation ground;

(d) sports ground;

(e) open space;

(f) shopping centre on municipal land;

(g) unused or vacant municipal land; or

(h) cemetery;

"public road" means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996);

"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).

Application

2. 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 other municipality, or other lawful authority.

Establishment of pound

3. The Municipality must establish a pound in accordance with the provisions of section 3 of the KwaZulu-Natal Pounds Act, 2006 (Act No. 3 of 2006).

Appointment of poundkeeper

4. The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a poundkeeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(2) of the KwaZulu- Natal Pound Act, 2006 (Act No. 3 of 2006).

Trespassing or straying animals may be impounded

5.(1) The owner of land upon which any animal is found trespassing may seize such animal : Provided that such animal may not be removed to a pound before notice is given to the owner in writing no less than 48 (forty-eight) hours prior to the removal to the pound.

(2) Any animal found straying untended upon any public road or public place may be seized for impounding by –

- (a) a member of the South African Police Service;
- (b) a member of the South African National Defence Force;
- (c) a member of the KwaZulu-Natal Road Traffic Inspectorate;
- (d) a member of the municipal police or protection services; or
- (e) the owner of any land through or alongside which such road passes or which abuts on such public place.

(3) A person may not 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.

Animals too vicious, intractable or wild to be impounded

6. If a state veterinarian or official contemplated in section 5(2)(a) to (d) is satisfied that an animal found trespassing on any land, or straying untended upon any public road or public place, is too dangerously vicious, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal, if possible.

Release of animals before removal to pound

7.(1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(1) for the release of such animal prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) -

(a) may release such animal forthwith; or

(b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

(3) The owner of an animal seized in terms of section 5(2) may apply to the relevant person referred to in section 5(2) for the release of such animal prior to its removal to the pound, in which event that person must release such animal forthwith.

Care of trespassing animals

8. 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.

Pound to which animals must be taken

9. An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by 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.

Information to be supplied to poundkeeper

10. A person sending animals to the pound must advise the poundkeeper 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.

Acceptance at pound of animals to be impounded

11. The poundkeeper may not refuse to accept an animal for impounding

Pound register

12.(1) The poundkeeper must –

- (a) maintain a pound register containing the information contemplated in Schedule 2, which 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.

(2) If the poundkeeper –

- (a) neglects or refuses to comply with any of the provisions of subsection (1);
- (b) knowingly makes a false entry in the pound register;
- (c) fraudulently destroys or erases any previous entry in the pound register; or
- (d) wilfully delivers a false copy or extract from the pound register to any person,

he or she is guilty of an offence.

Notice to owners of animals

13. The owner of an animal contemplated in section 5(1), 6, 14(2)(b), 15(c), 17(b), 21 (l)(b) and 23(a), must be notified by -

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

Care of impounded animals

14.(1) The poundkeeper –

- (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 or her wilful or negligent acts or omissions.

(2)(a) If the poundkeeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or terminally ill, he or she must apply to the Court, which may authorise the destruction or other disposal of the impounded animal, if the Court is satisfied that the condition of such animal warrants its destruction or disposal.

(b) Where the Court authorises the destruction or disposal of an animal on application by the poundkeeper, the poundkeeper must immediately notify the owner in writing of the order of Court and the destruction or disposal of the animal.

Isolation of infected animals

15. If the poundkeeper 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 or she 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.

Treatment of impounded animals

16. The poundkeeper -

- (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.

Death of or injury to impounded animals

17. If an impounded animal is injured or dies, the poundkeeper must -

- (a) record the injury or cause of death in the pound register referred to in section 12; and
- (b) notify the owner of the animal in writing of the injury or death.

Copies of By-laws

18. The poundkeeper must ensure that legible copies of these by-laws in English, isiZulu and isiXhosa are available at the pound for inspection.

Fees and costs payable

19. The poundkeeper 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.

Release of impounded animals

20.(1) The poundkeeper must immediately release an impounded animal, and give the owner a receipt, upon the owner -

- (a) providing proof of ownership of such animal; and
- (b) paying the fees and costs contemplated in section 19.

(2) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the poundkeeper may retain such animal in order to recover such fees or costs as may be due and payable.

Sale of impounded animals

21.(1) The poundkeeper must -

- (a) within 14 days of the impounding of an animal, apply to the Court for authority to sell the animal; and
- (b) in the application contemplated in paragraph (a), provide the Court with proof that he or she 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 subsection (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 poundkeeper; 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 poundkeeper in the sale of the animal.

Poundkeeper may not purchase impounded animals

22. The poundkeeper, or a family member, or a close associate of the poundkeeper, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

Animals unsuccessfully offered for sale

23. In the event that any animal is not sold as contemplated in section 21 -

- (a) the poundkeeper 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.

Proceeds

24. All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund: Provided that in the event that any impounded animal is sold at a price in excess of -

- (a) the fees and costs incurred; and
- (b) any damages awarded in terms of section 21 (3)(c).

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

Action for recovery of damages

25. 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.

Procedure to be followed in application to court

26. An application to Court for -

(a) the impoundment of an animal in terms of these by-laws, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
(b) the sale of an impounded animal in terms of these by-laws, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and 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.

Offences and penalties

27. A person who -

- (a) unlawfully releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- (b) unlawfully seizes an animal for the purpose of impounding it;
- (c) unlawfully impounds an animal; or
- (d) contravenes any provision of these by-laws.

is guilty of an offence and is liable on conviction to a fine, or to imprisonment for a period not exceeding one year.

Enforcement

28. (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";**
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;**
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.**
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;**

- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) The notice shall be as per the schedule;
- (9) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

Presumption

29. In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

Proof of claim

30. A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

Delegation of Council's powers

31. (1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.

Schedules 1 and 2 form part of these By-laws**32.**

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

Repeal of existing By-laws

33. The Municipality's Pound By-laws published in terms of the Eastern Cape Provincial Notice No. 1134 of 30 March 2004, are hereby repealed.

Short title

34. These by-laws are called the Umzimkhulu Local Municipality Pound By-laws, 2008.

SCHEDULE 1**Code of Good Practice on the Handling and Transportation of Impounded Animals**
(Section 5(4))**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.(a) The paddocks must at all times be maintained in a good state of repair.

(b) 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.

7. 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

8. Animals must at all times be handled humanely and with patience and tolerance.

9. The following must be kept in mind 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.

10. Animals may not be dragged by their legs, or carried by their head, ears or tail.

11. 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.

12. 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.

13. Electric prodders, sticks or goads may not be used on young calves.

14. 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

15. Animals driven on the hoof must at all times be under proper and competent supervision.

16. 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.

17. 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.

18. 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.

19. 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.

20. Animals may not be moved in the dark.

21. No sick, injured or disabled animal may be moved on the hoof.

PART IV

Vehicles used in transporting animals

22. 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.

23. All vehicles and trailers referred to in item 22 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 to exhaust fumes could interfere with the animals' respiration 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 largest 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 offloading 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.

24. 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 metre per small animal.

PART V

Watering and feeding of live animals prior to loading

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

Loading and off-loading procedure

26. 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.

27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

28. 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.

29. 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.

30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.

31. 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.

32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.

33. 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.

34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.

35. 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.

36. 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.

37. 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 VI

Restraining of animals during transportation

38. 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.

39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.

40. No wire or bailing twine may be used for tying the animal's legs or feet.

41. 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****(Section 12)**

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 poundkeeper
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

No. 133

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

PUBLIC HEALTH BYLAWS

MUNICIPAL MANAGER
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UMZIMKHULU
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UUMZIMKHULU PUBLIC HEALTH BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Health Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[UMZIMKHULU PUBLIC HEALTH BY-LAWS]

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CHAPTER I

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

1. Definition

In these By-laws, unless the context indicates otherwise -

"adequate" when used to describe a standard or manner in which anything required by these By-laws must be done, means the standard or manner that in the opinion of an environmental health officer is sufficient to safeguard public health, and to achieve the purpose and apply the principles of these By-laws;

"approved" when used to describe a particular object, measure or material, means an object, measure or material that has been approved in terms of section 12 as being adequate in specified circumstances to prevent, or reduce to a level acceptable to the Council, the risk of any public health hazard or public health nuisance occurring, continuing or recurring;

"authorised official" means an authorised official authorised by the Council for the purposes of these bylaws to perform and exercise any or all of the functions in terms of these bylaws or the provisions of any other law;

"compliance notice" means a notice issued in terms of section 20 to comply with these Bylaws or with a permit issued in terms of these By-laws;

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"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;

"Umzimkhulu area" means the area under the jurisdiction of the Council;

"municipal manager" means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"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);

"organ of state" means organ of state as defined in section 239 of the Constitution of the Republic of South Africa Act, (1996) (Act No. 108 of 1996)

"Owner", in relation to any premises, means -

- (a) (a) the person in whose name the title to the premises is registered, and *includes* the holder of a stand license; 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.

"permit" means a public health permit granted by the Council in terms of the section 11;

"person" means a natural person or a juristic person, and includes an organ of state;

"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); or
- (d) any vessel, vehicle or movable structure that is used for a scheduled use;

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(1)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209: of 1993), or any other applicable legislation;

"prohibition notice" means a notice issued in terms of section 21;

"public health" means the mental and physical health and well-being of people in the Umzimkhulu area;

"public health hazard" means any actual threat to public health, and without limitation, includes

- (a) the circumstances referred to in section 5(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,

and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of section 7;

"public place" means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in a Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to used:

"Scheduled use" means a use listed in Schedule One.

Unless the context indicates otherwise, any word or term that is defined in a schedule has the same meaning wherever it is used in these By-laws

2. Purpose

The purpose of these By-laws is to enable the Council to protect and promote the long term health and wellbeing of people in the Umzimkhulu area by

- (a) providing, in conjunction with other applicable legislation, an effective legal and administrative framework within which the Council can –
 - (i) manage and regulate activities that have the potential to impact adversely on public health; and
 - (ii) require premises to be properly maintained and managed; and
- (b) clearly defining the rights and obligations of the Council and the public in relation to this purpose.

CHAPTER II PUBLIC HEALTH PRINCIPLES

3. Principles

- (1) Every person has a constitutional right to an environment that is not harmful to their health or well-being and to have access to sufficient water and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.
- (2) The risk of a public health hazard occurring, continuing or recurring must be eliminated wherever reasonably possible, and if it is not reasonably possible to do so, it must be reduced to a level acceptable to the Council.

- (3) Any person who owns or occupies premises in the Umzimkhulu area must ensure that it is used for and maintained in a manner that ensures that public health hazards and public health nuisances do not occur on the premises.
- (4) Any person who wishes to undertake an activity that creates a risk to public health that is more than trivial or insignificant must -
 - (a) take all reasonable measures to eliminate that risk, and if that is not reasonably possible, to reduce the risk to a level acceptable to the Council; and
 - (b) bear the costs of taking those measures and of any reasonable costs incurred by the Council in ensuring that the risk is eliminated or reduced to an acceptable level.
- (5) The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that -
 - (a) avoids creating a public health hazard or a public health nuisance;
 - (b) does not make it easier for human or animal diseases to spread;
 - (c) does not give rise to unsanitary or unhygienic conditions;
 - (d) prevents unsafe food or drink from being eaten or drunk;
 - (e) avoids creating conditions favourable for infestations by pests; or
 - (f) wherever reasonably possible, improves public health in the Umzimkhulu area.
- (6) in dealing with matters affecting public health the Council must
 - (a) adopt a cautious and risk-averse approach;
 - (b) prioritise the collective interests of the people of the Umzimkhulu area, and of South Africa, over the interests of any specific interest group or sector of society;
 - (c) take account of historic inequalities in the management and regulation of activities that may have an adverse impact on public health and redress these inequalities in an equitable and non-discriminatory manner;
 - (d) adopt a long-term perspective that takes account the interests of future generations; and
 - (e) take account of, and wherever possible without compromising public health, minimise any adverse effects on other living organisms and ecosystems.

4. Application of principles

The public health principles set out in section 3 must be considered and applied by any person –

- (a) exercising a power or function or performing a duty under these By-laws;

- (b) formulating or implementing any policy that is likely to have a significant effect on, or which concerns the carrying on of activities likely to impact on, public health in the Umzimkhulu area; or
- (c) exercising a public power or function or performing a public duty in the Umzimkhulu area that is likely to have a significant effect on public health in the Umzimkhulu area.

CHAPTER III
PUBLIC HEALTH HAZARDS

5. Prohibition on causing [a] public health hazard

- (1) No person may create a public health hazard anywhere in the Umzimkhulu area.
- (2) Every owner or occupier of premises must ensure that a public health hazard does not occur on the premises.
- (3) An owner or occupier of premises creates a public health hazard if
 - (a) the premises are infested with pests or pests are breeding in large numbers on the premises;
 - (b) there are conditions on the premises that are conducive to the spread of a communicable disease;
 - (c) there are unsanitary conditions in any part of the premises; or
 - (d) any water supply for domestic consumption on the premises is unsafe for human consumption.
- (4) Any person that contravenes or fails to comply with subsections (1) or (2) commits an offence.

6. 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.

CHAPTER IV
PUBLIC HEALTH NUISANCES

7. Prohibition on causing a public health nuisance

- (1) No person may cause a public health nuisance anywhere in the Umzimkhulu area.
- (2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on the premises.

A. General nuisances

An owner or occupier of premises creates public health nuisance —

- (1) any stream, pool, marsh, ditch, gutter, watercourse, cistern, watercloset, earthcloset, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or clung heap so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;
- (2) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
- (3) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;
- (4) any public building which is so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;
- (5) any building is erected on a premises without first removing or decontaminating in an approved manner, any fiscal, animal or vegetable waste disposed of on the premises;
- (6) any occupied dwelling for which no proper and sufficient supply of pure water is available within a reasonable distance;
- (7) any factory or industrial or business premises not kept in a cleanly state and free from offensive smells arising from any drain, watercloset, earthcloset, urinal or any other source, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon;

- (8) any factory or industrial or business premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;
- (9) any area of land kept or permitted to remain in such a state as to be offensive; or
- (10) any other activity, condition or thing declared to be a nuisance by the Minister in terms of the provisions of section 39 (2) of the Health Act No. 63 of 1975.

B. Pest control

An owner or occupier of premises creates public health nuisance –

- (1) waste or plant matter is left or kept in a manner that attracts rodents or other pests to the premises;
- (2) flies are being attracted, or can breed, in significant numbers because –
 - (a) insufficiently rotted manure or any other organic material is being kept or used; or
 - (b) any other substance that attracts flies is used or kept other than for the purposes of trapping or killing flies;
- (3) Mosquitoes can breed in significant numbers because –
 - (a) containers in which mosquitoes can breed, such as bottles, crockery, and tins, have been left or are kept on the premises;
 - (b) tanks, barrels and similar containers in which mosquitoes can breed are not fitted with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them;
 - (c) gutters and down pipes are sagging or clogged so that stagnant water can accumulate in them; or
 - (d) approved measures have not been taken to prevent mosquitoes breeding in ponds, excavations or wells.
- (4) The following measures are deemed to be approved measures for the purposes of paragraph 7B(3)(d)
 - (a) draining accumulated water at least once every seven days;
 - (b) covering accumulated water with oil at least once in every seven days; and
 - (c) in the case of wells, providing a mosquito-proof cover and a pump.

C. Air pollution

An owner or occupier of premises creates public health nuisance –

- (1) Any waste is burned outside except in an approved appliance;
- (2) Ash, grit, soot or smoke is emitted from any chimney on the premises in a manner or quantity that is sufficient to have an adverse impact on public health; or
- (3) The erection or destruction of a building or structure causes dust to be discharged into the surrounding atmosphere in a manner or quantity that is sufficient to have an adverse impact

CHAPTER V

POTENTIALLY HAZARDOUS USES OF PREMISES

8. Duty to list potentially hazardous uses

If the Council reasonably believes that any premises in the Umzimkhulu area have been, or are likely to be, used from time to time for a purpose or in a manner that has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level, the Council must list the activity in a Schedule to these bylaws and must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

9. Scheduled uses

- (1) Any person who uses premises in a manner or for a purpose listed in the Schedule referred to in section 8 must comply with each of the provisions set out in the schedule relating to that use unless that person has been granted an exemption under section 10 from complying with any provision.
- (2) Any person who uses premises in a manner or for a purpose that is listed in Schedule Two must obtain a permit under section 11 before commencing the use and must comply with the terms and conditions of the permit.¹⁰

10. Exemption certificate

- (1) Any person who wants to undertake a scheduled use on any premises but wishes to be exempted from complying with one or more of the requirements of the relevant schedule, may apply to the Council in accordance with section 13 for an exemption certificate.
- (2) The Council may grant an exemption certificate, with or without conditions, if an environmental health officer is satisfied that
 - (a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant schedule; and
 - (b) the scheduled use for which the exemption is required is not likely to cause a public health hazard or a public health nuisance.

11. Public health permits

- (1) Any person who wants to undertake a scheduled use that is listed in Schedule Two must apply in writing to the Council in accordance with section 13 for a public health permit.
- (2) The Council may issue a public health permit to the owner or occupier of any premises within the area of its jurisdiction if an environmental health officer is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.
- (3) A public health permit —
 - (a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council.
 - (b) may exempt the permit holder for complying with one or more of the provisions of the relevant schedule, if the person authorised to issue the permit reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant schedule; and
 - (c) may approve any measure or material in connection with the activity authorised by the permit that must be approved in terms of these By-laws.

12. Approval of measures and materials

- (1) The Council may approve any object or Material used, or any measure taken, in specified circumstances as being adequate to eliminate the risk of any public

health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council.

(2) An object, material or measure referred to in subsection (1) may be approved by the Council in

- (a) a public health permit; or
- (b) guidelines prescribed by the Council in terms of subsection (3)

(3) The Council may publish guidelines in the Provincial Gazette which describe appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
the circumstances in which taking these measures or using these materials or objects is acceptable to the Council.

13. Application procedure

- (1) Any person that wants to obtain a permit or an exemption certificate must apply to the Council in writing in a form stipulated by the Council, prior to undertaking the relevant scheduled use,
- (2) When the Council receives an application for a permit or an exemption certificate it must ensure that the relevant premises are inspected by an environmental health officer as soon as reasonably possible.
- (3) Before deciding whether or not to approve an application referred to in subsection (1) the Council —
 - (a) must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for a scheduled use, have been Consulted and have had an opportunity to make representations; and
 - (b) may request the applicant to provide any further information which the Council considers relevant to enable him or her to make a properly informed decision.
- (4) In deciding whether or not to issue a permit or an exemption certificate, and what terms and conditions, if any, to include in it, the Council must apply the public health principles set out in section 3.

14. General terms applicable to permits and certificates

- (1) A permit or an exemption certificate —
 - (a) is not transferable from one person to another; and
 - (b) Applies only to the premises specified in the permit or certificate.
- (2) Every permit or exemption certificate-
 - (a) Must specify the address and other relevant details regarding the location of the premises concerned;
 - (b) Must describe the premises concerned;
 - (c) Must describe the activity concerned;
 - (d) May specify terms and conditions; and
 - (e) Must indicate when it expires
- (3) The Council may charge applicants a prescribed fee for considering and granting the permit or exemption certificate.
- (4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee (if any) has been paid.

15. Suspension, cancellation and amendment of permits and of exemption certificates

- (1) An environmental health officer may by written notice to the holder of a permit or exemption certificate, suspend, amend or cancel the permit or certificate.
- (2) An environmental health officer may suspend or cancel a permit or exemption certificate with immediate effect if —
 - (a) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and
 - (b) the holder of the permit or certificate fails_ to comply with a compliance notice that
 - (c) States that the permit or certificate ay be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.

- (3) An environmental health officer may suspend or cancel a permit or exemption certificate after giving the holder a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled
- (a) the environmental health officer reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
 - (b) the holder of the permit or certificate fails to comply with a compliance notice.
- (4) An environmental health officer may amend a permit or exemption certificate by endorsing the permit or certificate or by written notice to the holder, if the environmental health officer reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit or exemption certificate was issued.

CHAPTER VI

IMPLEMENTATION AND ENFORCEMENT

16. Appointment and identification of environmental health officers

- (1) The Council must issue an identity card to each environmental health officer.
- (2) The identity card must
- (a) contain a recent photograph of the environmental health officer;
 - (b) be signed by the environmental health officer; and
 - (c) identify the person as an environmental health officer.
- (3) The environmental health officer must display his or her identity card so that it is clearly visible or produce it at the request of any person in relation to whom the environmental health officer is exercising a power under these By-laws.
- (4) If, for any reason, it is not practicable to comply with subsection (4), the environmental health officer must produce the identity card for inspection by the person entitled to see it at the first reasonable opportunity.

17. General powers of [an] environmental health officer

(1)

An environmental health officer may, for the purposes of implementing or administering any power or duty under these By-laws

- (a) exercise any power afforded to such officer in terms of these By-laws or any other applicable legislation;
- (b) issue a compliance notice in terms of section 20 requiring any person to comply with the provisions of these By-laws;
- (c) issue a prohibition notice in terms of section 21 prohibiting any person from conducting an activity;
- (d) undertake measures in terms of section 23 to remove, reduce and/or minimise any public health nuisance;
- (e) apply to the magistrate's court in terms of section 19 for a demolition order;
- (f) issue:
 - (i) a public health permit in terms of section 11;
 - (ii) an exemption certificate in terms of section 10.
- (g) cancel, suspend or amend any permit or exemption certificate in terms of section 15; or
- (h) enter and inspect premises in terms of section 18;

18. Regulatory inspections

(1) An environmental health officer may, subject to subsection (3) –

- (a) enter and inspect any premises
- (b) question any person on the premises;
- (c) inspect any relevant document;
- (d) copy any document referred to in subsection (c) or if necessary remove the document to make a copy of it;
- (e) take any sample that the environmental health officer considers necessary for examination or analysis;
- (f) monitor, take readings or make measurements and;
- (g) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.

(2) An environmental health officer who removes anything other than a substance contemplated in subsection 2(e) from any premises being inspected must –

- (a) issue a receipt for it to the owner, occupier or person apparently in control of the premises; and

- (b) return it as soon as practicable after achieving the purpose for which it was removed.
- (3) An environmental health officer may conduct an inspection of any premises – with a written authorisation issued by a magistrate in terms of section 24; or without a written authorisation in the circumstances listed in section 25.

19. Demolition order

- (1) If the Council believes that a public health 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.

20. Compliance notice

- (1) If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on the premises or that the premises are being used for a scheduled use in contravention of these By-laws, 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 in charge of undertaking the scheduled use on the premises.
- (2) A compliance notice must state –
 - (a) why the environmental health officer believes that these By-laws is 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;

- (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 be taken, the Council 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.

21. 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 a public health nuisance; or
 - (c) a person on whom a compliance notice was served if the environmental health officer reasonably believes that that person has not complied with the compliance notice.
- (2) 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.
- (3) A prohibition notice must state —
 - (a) the reasons for serving the notice;
 - (b) whether or not the Council 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 environmental health officer 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 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 (5).

22. 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.

23. Municipal remedial work

- (1) The Council may enter any premises and do anything on the premises that it reasonably considers necessary
 - (a) to ensure compliance with these By-laws or with any compliance notice or prohibition notice;
 - (b) to reduce, remove or minimise any public health nuisance; or
 - (c) to reduce, remove or minimise any significant public health hazard.

- (2) The Council may only enter premises to take measures under this section
 - (a) with a written authorisation issued by a magistrate in terms of section 24; or
 - (b) without a written authorisation in the circumstances listed in section 25.

24. Procedure to undertake regulatory inspection or remedial work [without a] with written authorization

- (1) A magistrate may issue a written authorisation to enter and execute work or conduct an inspection of any premises if from information on oath, there are reasonable grounds to believe either –
 - (a) that, in the interests of the, public, it is necessary to execute work or obtain information that cannot be obtained without entering the premises; or
 - (b) that there is non-compliance with the terms of these By-laws.
- (2) A written authorisation in terms of subsection (1) may be issued at any time and must specifically-
 - (a) identify the premises that may be entered and worked on or inspected; and
 - (b) identify the authority entitled to enter and execute work or conduct the inspection.
- (3) A written authorisation issued in terms of subsection (2) is valid until –
 - (a) it is carried out;
 - (b) it is cancelled by the person who issued it or, in that persons absence, by a person with similar authority;
 - (c) the purpose for which it was issued has lapsed; or
 - (d) three months have passed since the issuing date.
- (4) A written authorisation in terms of subsection (1) may only be carried out between 07h00 and 19h00, unless the magistrate who issues it states in writing that it may be carried out at a different time reasonable in the circumstances.
- (5) Before commencing any work or conducting an inspection, any person who carries out a written authorisation must either –
 - (a) if the owner of or a person apparently in control of the premises is present
 - (i) identify themselves and explain their authority to that person or furnish proof of their authorisation; and
 - (ii) hand a copy of the written authorisation to that person.
 - (b) if the owner or person apparently in control of the premises is absent or refuses to accept a copy, attach a copy of the written authorization to the premises in a prominent place
- (6) Any inspection conducted or work undertaken in terms of this section must be conducted with strict regard to decency and order, including —
 - (a) a person's right to, respect for and protection of his or her dignity;

- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

25. Procedure to undertake regulatory inspection or remedial work without [a] written authorization

(1) An environmental health officer may enter and execute work or conduct inspections of premises without authorisation

- (a) with the consent of the owner, occupier or person apparently in control of the premises;
- (b) on a routine basis no more frequently than 6 (six) times during a 12 (twelve) month period where the environmental health officer reasonably believes that the premises are being used for a scheduled use and the purpose of the inspection is to determine whether or not the scheduled use complies with the provisions of these By-laws;
- (c) where a compliance notice relating to the premises has been issued in terms of section 20, and the purpose of the inspection is to determine whether or not the notice has been complied with;
- (d) where the owner or occupier of the premises has failed to comply with a compliance notice, issued in terms of section 20, or a prohibition notice, issued in terms of section 21, directing that relevant measures be taken; or
- (e) the environmental health officer has reasonable grounds to believe that a public health hazard or public health nuisance exists on the premises and that the delay in obtaining written authorisation
 - (i) may defeat the purpose of the inspection; or
 - (ii) is likely to endanger public health.

(2) Before inspecting any premises or commencing any work in terms of this section, persons undertaking the inspection or commencing the work must identify themselves and explain their authority to the person apparently in control of the premises or the person who gave them permission to enter.

(3) Any inspection undertaken or work commenced in terms of this section must be carried out at a reasonable time, taking into account the circumstances of the specific situation.

(4) Any inspection conducted or work undertaken in terms of this section must be conducted with strict regard to decency and order, including

- (a) a person's right to, respect for and protection of his or her dignity;

- (b) the right of a person to freedom and security; and
- (c) the right of a person to his or her personal privacy.

26. Cost orders

- (1) The Council may recover any costs reasonably incurred by it in taking measures under section 23 from any person who was under a legal obligation to take those measures, including —
 - (a) a person on whom a compliance notice or a prohibition notice that required those steps to be taken, was served;
 - (b) the owner or occupier of the premises; or
 - (c) any person responsible for creating a public health hazard or a public health nuisance.
- (2) The municipal manager may issue a cost order requiring a person who is liable to pay costs and expenses incurred by the Council in terms of subsection (1) to pay those costs by a date specified in the order.
- (3) The person on whom a cost order has been served may, within 20 days of the order being served, appeal against the order in terms of section 27.

CHAPTER VII

APPEALS

27. 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 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) 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; or
 - (b) the municipal manager, the executive mayor is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

CHAPTER VIII
GENERAL PROVISIONS

28. 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.

29. 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;
 - (d) person's agent or representative in the Republic in the manner provided for in subsection (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 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.

30. Conflict of law

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

31. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
 - (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
 - (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
 - (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
 - (5) The municipality may institute legal proceedings to recover the amount owed by the person;
 - (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
 - (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
 - (8) The notice shall be as per the schedule;
 - (9) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.
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32. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

33. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

34. Delegation of Council's powers

- (1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself;

and

(c) may at any time be withdrawn in writing by the Council.”

35. Short title

These By-laws are called the Umzimkhulu Local Municipality Public Health By-laws, 2008.

SCHEDULE 1
(Scheduled uses)

The activities and uses of premises listed in this schedule are considered to pose an unacceptable risk to public health unless the measures specified in the relevant schedule and where required, in the permit, are taken to avoid the risk or to reduce it to a level acceptable to the Council.

Schedule**Activity**

Two	private sewage works
Three	offensive trades
Four	swimming pools and spa-baths
Five	keeping of animals

SCHEDULE 2
(Private sewage works)

1. Permit for provision of service for the removal of human excrement or urine

No person may provide any service for the removal or disposal of human excrement and urine on any premises except in terms of a valid permit.

2. Permit for installation of sewage works

No person may, on any private premises, install, alter, re-site, operate or maintain any septic tank, filter installation or other works for the disposal of sewage, except in terms of a permit.

3. Maintenance of sewage works

Any person operating a sewage works must ensure that is maintained in a sanitary condition and good state of repair at all times.

4. Disposal of sewage, sewage effluent and wastewater without causing a public health nuisance

No person may dispose of sewage or waste water from baths, wash-hand basins or kitchen sinks in a way or in a location that may -

- (a) cause dampness in or on any premises;
- (b) endanger the quality of any water supply; or
- (c) create any public health nuisance.

5. Compulsory use of Council's sewage removal service

Every occupier must use any sewage removal service provided by the Council for the premises.

SCHEDULE 3
(Offensive trades)

1. Definitions

In this Schedule, unless the context indicates otherwise –

"effluent" means any waste water which may arise as a result of undertaking any schedules use or an activity causing a public health nuisance;

"offensive trade" means any business listed below or that involves an activity listed below

- (a) panel beating, spray painting;
- (b) operating a waste recycling plant;
- (c) scrap yard;
- (d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling, tripe boiling or cleaning, skin storing, bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing, tanning, glue or size making;
- (e) charcoal burning, brick burning, lime burning;
- (f) manure making or storing, compost making;
- (g) parchment making;
- (h) manufacturing malt and yeast;
- (i) cement works, coke-ovens, salt glazing works;
- (j) sintering of sulphurous materials;
- (k) viscose works;
- (l) ore and mineral smelting, calcining, puddling and rolling of iron and other metals, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion and compounding of carbon with iron and other metals;
- (m) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide, sulphur chlorides;
- (n) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enameled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride and zinc oxide; or
- (o) the refining or processing of petrol, oil or their products;

"offensive trader" means any person who owns, conducts or carries on an offensive trade.

2. Permit requirement

No person may conduct an offensive trade in or on any premises, except in terms of a valid permit.

3. Requirements for premises

No person may undertake an offensive trade in or on any premises unless -

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;

- (e) the premises are provided with adequately light and ventilation as prescribed in National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitted lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluents arising from the manufacturing process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products or articles or materials which are used in the manufacturing process and which may-
- (j) discharge offensive or injurious effluent or liquids; or
- (k) decompose in the course of the work or trade;
- (l) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gases, fumes, vapours or dust produced during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of material;
- (m) adequate toilet facilities are provided as prescribed in the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- (n) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 metres, is constructed around the premises;
- (o) all gates to the-premises are of solid-construction with a minimum height-of 2 metres;
- (p) all perimeter walls and gates adequately screen activities from public view; and
- (q) all materials are stacked or stored on the premises below the height of the perimeter screening.

4 Duties of an offensive trader

Every offensive trader must -

- (a) maintain the premises in a clean, hygienic and good condition at all times;
- (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
- (c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all time
- (d) prevent any waste accumulating on the premises; and
- (e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling, grinding process or storage of any material on the premises.

5. Liquid refuse from bone and tripe boiler

- (1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.
- (2) The cooling process referred to in subparagraph (1) must take place in a manner that prevents the generation of any noxious and injurious effluent.

6. Liquid, tanks and tubs in leather making

Every fell monger, leather dresser or tanner must –

- (a) renew and dispose of the liquid from every tank or other receptacle used on the premises to wash or soak any skin or hide, other than a lime pit, at adequate intervals and in an adequate manner;
- (b) clean the entire tank or other receptacle every time it is emptied;
- (c) clean every tub or other receptacle used to contain a solution of the material known as “puer”

7. Storage of rags, bones and waste

No trader in rags, bones and waste may place or store, or cause or permit to be stored, rags or bones in any part of his or her premises that -

- (a) is inhabited by people; or
- (b) is not adequately ventilated.

8. Safety measures

Every offensive trader must take the safety measures prescribed in the Occupational Health and Safety Act 1993, (Act No. 85 of 1993).

SCHEDULE 4**(Swimming pools and spa baths)****1. Definitions**

In this Schedule, unless the context indicates otherwise-

"spar-bath" means a structure constructed of an approved material, provided with a controlled circulating water supply and used bathing.

"spa-bath keeper" means any person who owns or controls the operation of a spa-bath;

"swimming pool" means a structure with a controlled water supply used for swimming or bathing, including children's swimming and paddling pools, but excluding a tidal swimming pool or a swimming pool at a private home that is not used for commercial purposes;

"swimming pool keeper" means any person who owns or controls the operation of a swimming

2. Requirements for premises

No person may operate a swimming pool or spa bath in or on any premises that do not comply with the following requirements —

- (a) separate and readily accessible change-rooms, showers and toilet facilities must be provided for each sex in compliance with the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended;
- (b) every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amend
- (c) the surface of the floor area surrounding the spa-bath or swimming- pool must be constructed of an impervious, non-slip material
- (d) an approved chemical gas mask must be provided at the chlorinator installation;
- (e) if notified in writing by an environmental health officer, an oxygen or air breathing apparatus must be provided; and
- (f) an adequate number of refuse receptacles must be provided on the premises

3. Duties of the spa-bath keeper

Every spa-bath keeper must-

- (a) keep the premises in a safe, clean and sanitary condition and in good repair at all times
- (b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- (c) purify, treat and maintain the spa-bath water quality to an adequate level at all times;
- (d) provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
- (e) be capable of undertaking routine tests on the water quality in the spa-bath and interpreting
- (f) maintain a daily record of the spa-bath water quality

4. Duties of the swimming pool keeper

Every swimming pool keeper must-

- (a) Keep the premises in safe, clean and sanitary condition at all times;
- (b) Provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- (c) be qualified and proficient in life saving, rendering first aid, use of the resuscitation appliance, the operation of the swimming pool and testing and maintaining the safety of the water
- (d) ensure that the water is purified, treated and maintained to an adequate quality at all times
- (e) provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
- (f) be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- (g) maintain a daily record of the spa-bath water quality

5. Water supply

- (1) No person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the level in a swimming pool or spa-bath.
- (2) An environmental health officer must –
 - (a) take samples of the swimming pool or spa-bath water, at intervals that he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination;
 - (b) submit the samples to an analyst authorised in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972) to conduct an analysis

6. Safety of water

Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath or swimming pool complies with the following requirements:

- (a) it must be free from floating, suspended or settled debris or swimming organisms and the

- walls, floor, access ladders or steps and gutters must be free from slime and algae
- (b) the pH value of the water must be not less than 7 and not greater than 8;
 - (c) where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;
 - (d) where a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of subparagraph (c);
 - (e) the total viable bacteriological count of any sample submitted for analysis must not exceed 100 organisms per ml of water; and
 - (f) *Escherichia coli* type 1 bacteria must not be present in any 100 ml of water.

7. Order and behavior

No person may-

- (a) interfere with the spa-bath keeper, swimming pool keeper or any official of the Council in the execution of their duties;
- (b) allow any dog or other pet belonging to him or under his care to enter or to remain within the premises;
- (c) use any premises where he or she knows or suspects that he or she may be suffering from any communicable or contagious disease; and
- (d) urinate, defecate, spit or blow his or her nose in the spa-bath or swimming pool.

SCHEDULE 5**(Keeping of animals)****1. Definitions**

In this Schedule, unless the context indicates otherwise-

"agricultural holding" means the same as defined in the relevant Town Planning Scheme
"aviary" means an enclosure used for the keeping of birds, other than poultry but does not include a portable cage;

"battery system" means the method of keeping poultry or rabbits in cages in either single rows or tier formation within a building or structure;

"cattery" means premises in or upon which —

- (a) boarding facilities for cats are provided; or
- (b) cats are bred for commercial purposes

"enclosure" in relation to animals, means any kraal, pen, paddock, cage or other fenced or enclosed area erected to confine an animal from escaping or roaming freely on the remainder of the premises;

"keeper" means —

- (a) in relation to any animal, the owner of the animal or any other person responsible for feeding and caring for the animal;
- (b) in relation to a battery system, cattery, kennels, pet parlour or pet shop means the person who owns the business which it forms part of and the person in charge of the premises in which the animals are kept;

"kennels" means premises in or upon which

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes
- (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or
- (d) dogs are kept for commercial security purposes;

"livestock" means horses, cattle, sheep, goats, pigs, mules, donkeys and poultry;

"pet" means a tame. Animal kept in a household for companionship or amusement;

"pet parlour" means any premises where beauty treatment is given to pets by washing, drying,

brushing, clipping, trimming or by attending to their nails or teeth;

"pet shop" means the premises on which the business of keeping and selling of pets is carried out;

"poultry" means fowls, ducks, muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowls;

"poultry house" means any roofed-over building or structure in which poultry is kept, other than one in which a battery system is operated; *

"poultry run" means any unroofed wire mesh or other enclosure in which poultry is kept, whether or not it is attached to a poultry house;

"proclaimed township" means a township approved in terms of any prior law relating to townships; "rabbit hutch" means any roofed-over building or structure in which rabbits are kept, other than one in which a battery system is operated;

"rabbit run" means any unroofed wire mesh or other enclosure in which rabbits are kept, whether or not it is attached to a rabbit hutch;

"stable" means any building or structure used to accommodate livestock other than poultry; "wild animal" means an animal of a species that is not generally domesticated and without limitation includes all animals indigenous to South Africa other than domesticated guinea-fowls.

PART 1: GENERAL PROVISIONS RELATING TO THE KEEPING OF ANIMALS

2. Application of bylaws

- (1) Subject to subparagraph (2), the provisions of this Schedule do not apply to-
 - (a) any agricultural show where animals are kept on a temporary basis;
 - (b) any laboratory where animals are kept for research purposes
- (2) Paragraph 28 of this Schedule applies to the keeping of animals at agricultural shows and at research laboratories

PART II: KEEPING OF CATTLE, HORSES, MULES AND DONKEYS**3. Requirements for premises**

- (1) No person may keep any cattle, horse, mule or donkey in a stable or enclosure that does not comply with the following requirements:
- (a) every wall and partition of the stable must be constructed of brick, stone, concrete or other durable material;
 - (b) the internal wall surfaces of the stable must be constructed of smooth brick or other durable surface brought to a smooth finish;
 - (c) the height of the walls to the wall plates of the stable must -
 - (i) if the roof is a pitched roof be 2,4 metres;
 - (ii) if the roof is a flat roof be 2,7 metres;
 - (iii) if the roof is a lean to roof be a height of 3 metres with a minimum of 2.4 metres on the lowest side;
 - (iv) in the case of a stable which has an opening along the entire length of one of its long sides be not less than 2 metres;
 - (d) the stable must have a floor area of at least 9m² for each head of cattle, horse, mule or donkey accommodated in it;
 - (e) lighting and ventilation must be provided by openings or glazed opening windows or louvers totalling at least 0,3m² for each animal to be accommodated in it except in the case of a stable open along the entire length of one of its long sides;
 - (f) the lowest point of every opening, window or louvers must be at least 1,8 metres above floor level;
 - (g) the floor of the stable must be constructed of concrete or other durable and impervious material brought to a smooth finish graded to a channel and drained *in* terms of paragraph 27;
 - (h) any enclosure must have an area of at least 10m² for each head of cattle, horse, mule or donkey accommodated in it and the fencing must be strong enough to prevent the animals from breaking out;
 - (i) no enclosure or stable may be situated within -
 - (j) 15 metres of the boundary of any land, property, dwelling or other structure used for human habitation; or
 - (i) 50 metres of any water resource or water supply intended or used for human consumption;
 - (ii) there must be a water supply adequate for drinking and cleaning purposes

next to every stable or enclosure.

4. Duties of keeper of cattles, horse, and donkeys

Any person who keeps any cattle, horse, mule or donkey must

- (a) maintain the premises, and any equipment, apparatus, container or receptacle used in connection with keeping the animal in a clean and sanitary condition and in good repair;
- (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
- (c) keep every manure storage receptacle on a platform constructed of concrete or other durable and impervious material near the stable or enclosure;
- (d) If there is so much manure and bedding that storage receptacles are impractical, provide a manure heap complying with the following requirements:
 - (i) the heap must be enclosed by three walls constructed of brick. Concrete or other durable material plastered to a smooth finish; and
 - (ii) the floor must be of smoothly finished concrete that is inclined so that it drains to a water channel along the full length of the open side, which is at least 150mm in diameter and is kept filled with water.
- (e) remove all the manure from the stable and enclosure at least once every 24 hours and place it in the manure storage receptacles or heap until it is removed from the premises;
- (f) remove the contents of the manure storage receptacles or heap from the premises at least once every second day and dispose of the manure in a way which will not create a public health nuisance;
- (g) remove all bedding from the stable at least once a week and store it in the manure receptacles or heap until it is removed from the premises;
- (h) store all saddles, bridles, harnesses and other equipment or articles used in the keeping of the animals, in a storeroom or other adequate storage facility; and
- (i) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids,

PART III: KEEPING OF GOATS AND SHEEP**5. Application**

The provisions of paragraphs 6 and 7 do not apply to the temporary keeping of a goat on any premises for the provision of milk for medical reasons.

6. Requirements for premises

- (1) No person may keep sheep or goats in
 - (a) An enclosure that does not comply with the following requirements-
 - (i) the minimum overall floor area must be 30m^2 ; and
 - (ii) at least $1,5\text{ m}^2$ of floor space must be provided for every goat or sheep
 - (b) a stable that does not comply with the following requirements:
 - (i) every wall must be constructed of brick, stone, concrete or other durable material;
 - (ii) every wall must be at least 2 metres in height and have a smooth internal finish;
 - (iii) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and grade to a channel drained in terms of paragraph 27;
 - (iv) at least $1,5\text{m}^2$ of floor space must be provided for every goat or sheep accommodated in it with an overall minimum floor area of 6m^2 ;
 - (v) lighting and ventilation openings totalling at least $0,15\text{m}^2$ per goat or sheep must be provided;
- (2) No person may keep sheep or goats in an enclosure or stable within-
 - (a) 15 metres of any boundary of any land, dwelling, building or other structure used for human
 - (b) 50 metres of any water resource or water supply intended or used for human consumption.habitation; or
- (3) Every person must provide a water supply adequate for drinking and cleaning purposes situated next to or in every enclosure or stable used to accommodate sheep or goats

7. Duties of keeper of goats and sheep

Any person who keeps goats or sheep must –

- (a) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the animal in a clean and sanitary condition and in good repair;
- (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
- (c) keep every manure storage receptacle on a platform that enables the surface underneath the receptacle to be cleaned;

- (d) remove all manure from the enclosure, building or shed at least once every seven days and place it in the manure storage receptacles;
- (e) Remove the contents of the manure storage receptacle from the premises at least once every seven days and dispose of the manure on a way that will not create a public health nuisance;
- (f) Store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids in the storeroom.

PART IV: KEEPING OF POULTRY

8. Application

The provisions of paragraphs 10(d) to (g) inclusive and 11(e), do not apply to the persons keeping ten or less poultry.

9. Permit requirements for poultry

No person may keep more than 10 poultry birds on an erf in a proclaimed township or 100 poultry birds on premises zoned for agriculture except in terms of a permit.

10. Requirements for premises

No person may keep poultry in premises that do not comply with the following requirements:

- (a) In relation to a poultry house –
 - (i) every wall must be constructed of brick, stone, concrete or other impervious material brought to a smooth internal surface;
 - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish;
 - (iii) the upper floor of a two or more storey structure must be constructed of an impervious and easily cleanable material; the minimum floor must be –
 - (aa) 0,20 m² for each grown fowl, duck, muscovy duck or guinea fowl;
 - (bb) 0,5 m² for each grown goose, turkey, peacock; and
 - (cc) 0, 14 m² for each grown pigeon;
 - (iv) the minimum aggregate floor area must be 4m²
- (b) a poultry run, if provided, must be enclosed with wire mesh or other durable material;
- (c) in relation to buildings or structure housing a battery system –
 - (i) every wall, if provided, must be at least 2,4m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;
 - (ii) if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building;
 - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by the environmental health officer, the floor surface must be graded and drained by means of a channel drained in terms of paragraph 27;
 - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its edges;
 - (v) the cages of the battery system must be made of an impervious material;
 - (vi) if required by an environmental health officer, a tray of an impervious material

must be fitted under every cage for the collection of manure;

- (d) a water supply adequate for drinking and cleaning must be provided in or next to every poultry hutch or building or structure housing an battery system;
- (e) no poultry house, poultry run, or building or structure housing a battery system may be constructed within 3 metres of –
 - (i) any dwelling, other building or structure used for human habitation;
 - (ii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iii) the nearest boundary of any land;
- (f) feed must be stored in an adequate rodent-proof storeroom;
- (g) adequate washing facilities must be provided for the cleaning of the cages;
- (h) if required by an environmental health officer, due to the amount of manure stored on the premises awaiting removal, a storage area complying with the following requirements must be provided:
 - (i) a roofed platform constructed of concrete or other impervious material;
 - (ii) the platform's outside edges must have a minimum curb of 100 mm high;
 - (iii) the platform must be graded and drained in terms of paragraph 27; and
 - (iv) the roof of the platform must extend a minimum of 1 metre beyond the edges of the base of the platform.

11. Duties of keeper of poultry

Any person who keeps poultry must:-

- (a) ensure that all poultry is kept within the poultry house, poultry run or building or structure housing a battery system;
- (b) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry in a clean, sanitary condition and in good repair;
- (c) maintain the premises free from offensive odours and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
- (d) ensure that the poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
- (e) provide portable manure storage receptacles of an impervious material and with close fitting lids and keep the manure storage receptacles on a platform;
- (f) remove all manure and other waste from a poultry house and poultry run at least once every 48 hours and once every four days from a building or structure housing a battery system;
- (g) place the manure and other waste matter in manure storage receptacles;
- (h) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a public health nuisance; and
- (i) take adequate measures to keep the premises free of flies, cockroaches and rodents to prevent offensive odours arising from the keeping of poultry on the premises

PART V: KEEPING OF RABBITS**12. Application**

The provisions of paragraphs 141(b) to (d) inclusive and 15(d) to (f) inclusive, do not apply to persons keeping ten or less rabbits.

13. Permit requirements for rabbits

No person may keep more than 5 adult rabbits on an elf in a proclaimed township or 20 adult rabbits on premises zoned for agriculture except in terms of a permit.

14. Requirements for the premises

No person may keep rabbits *in* premises that do not comply with the following requirements:

- (a) in relation to a rabbit hutch -
 - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - (ii) the floor surface must be –
 - (aa) constructed of concrete or other impervious material brought to a smooth finish;
 - (bb) situated at least 150 mm above ground level; and
 - (cc) graded to a channel drained in terms of paragraph 0, if required by an environmental health officer;
 - (iii) adequate ventilation must be provided;
- (b) any rabbit run must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
- (c) in relation to a building or structure housing a battery system -
 - (i) any wall must –
 - (aa) be a minimum of least 2,4 metres high;
 - (bb) be constructed of concrete, stone, brick or other durable material;
 - (cc) must have a smooth internal surface;
 - (ii) if walls are provided, the building must be ventilated and lighted by means of natural openings or windows of an area equal to not less than '15% of the floor area of the building;
 - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by an environmental health officer, the floor surface must be graded to a channel drained in terms of paragraph 27;
 - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its outside edges; and
 - (v) every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
- (d) a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing a battery system;
- (e) no person may erect a rabbit hutch, rabbit run or building or structure housing a battery system within five metres of –
 - (i) any dwelling, building or other structure used for human habitation;

- (ii) any place where foodstuffs are stored or prepared for human consumption; or
- (iii) nearest boundary of any land;
- (f) an adequate rodent-proof storeroom must be provided for the storage of feed; and
- (g) adequate washing facilities must be provided

15. Duties of keeper of rabbits

Any person who keeps rabbits must-

- (a) keep all rabbits within the rabbit hutch, rabbits run or building or structure housing a battery system;
- (b) maintain the premises and any equipment, apparatus, container or receptacles used in connection with keeping rabbits, in a clean, sanitary condition and in good repair;
- (c) maintain the premises free from offensive odours and every rabbits hutch, rabbit run building or structure housing a battery system and all cages clean and free from pets;
- (d) provide portable manure storage receptacles of an impervious material with close-fitting lids; and every receptacle shall be kept on a platform;
- (e) remove all manure and any other waste matter from the rabbit hutch, rabbit run or building or structure housing a battery , at least once every 48 hours
- (f) keep the manure and waste in manure storage receptacles until it is removed from the premises;
- (g) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way which will not create a public health nuisance.

PART VI: KEEPING OF BIRDS OTHER THAN POULTRY

16. Requirements for the premises

No person may keep any bird, other than poultry in an aviary that does not comply with the following requirements:

- (a) the aviary must be constructed of durable rodent-proof materials;
- (b) adequate access must be provided for cleaning purposes;
- (c) if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material and must be situated a minimum of 300mm above ground level;

- (d) the aviary may not be situated within three metres of any building or structure, boundary wall; and
- (e) a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.

17. Duties of keeper of an aviary

Any person who keep birds in an aviary must-

- (a) ensure that the aviary and the premises are kept in a clean condition and free from pests;
- (b) provide and use rodent-proof facilities for the storage of bird food; and
- (c) ensure that the birds do not disturb the comfort, convenience, peace or quiet of the public

PART VII: DOG KENNELS AND CATTERIES

18. Requirements for the premises

No person may use premises as kennels or a cattery unless the premises comply with the following requirements:

- (a) every dog or cat must be kept in an enclosure that complies with the following requirements:
 - (i) the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
 - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Council's sewer by means of a pipe 100mm in diameter; and
 - (iii) a curb 150mm high must be provided along the edge of the channel, referred to it subparagraph (ii), to prevent any storm water runoff entering the channel;
- (b) Subject to subparagraph (c) every enclosure referred to in subparagraph (a), must be situated in a roofed shelter that complies with the following requirements:
 - (i) every wall must be made of brick, stone, concrete or other impervious material;
 - (ii) the internal surface of every wall must have a smooth internal surface;
 - (iii) the floor must be made of concrete or other impervious material brought to a smooth finish; and
 - (iv) every shelter must have adequate access for cleaning and eliminating pests;

- (c) a dog kennel that complies with the following requirements may be provided instead of the shelter contemplated in subparagraph (b):
 - (i) the kennel must be constructed of moulded asbestos or other similar material;
 - (ii) the kennel must be movable;
 - (iii) the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
 - (iv) a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
- (d) a concrete apron extending at least one metre wide around the edges of the enclosure must be provided;
- (e) the apron must be graded and drained in a way that drains storm water away from the enclosure;
- (f) a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure;
- (g) any cages in which cats are kept must be constructed of durable impervious material and in a manner that they may be easily cleaned;
- (h) any shelter, enclosure or kennel may not be situated *within* five metres of any
 - (i) dwelling or other building or structure used for human habitation;
 - (ii) place where food is stored and prepared for human consumption; or
 - (iii) the boundary of the premises.

19. Food preparation area

Any keeper of kennels or a cattery who is instructed by an environmental health officer to provide a food preparation area, must provide a separate room or roofed area for the preparation of food that complies with the following requirements:

- (a) the floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;
- (b) the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;
- (c) adequate washing facilities for food bowls and utensils must be provided; and
- (d) a rodent proof storeroom must be provided for the storage of food.

20. Duties of a keeper kennels or catteries

Any person operating a kennel or cattery must —

- (a) maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennels or cattery in a clean, sanitary condition and in good repair;
- (b) provide portable storage receptacles, of an impervious material with close fitting lids, for the storage of dog and cat faeces;
- (c) remove all faeces and other waste matter from the enclosure and shelter at least on every 24 hours and place it in the receptacles referred to in subparagraph (b)
- (d) remove the contents of the storage receptacles from the premises at least twice every seven days and dispose of it in a manner that will not create a public health nuisance;
- (e) store all loose food in receptacles, with close fitting lids, in the food store;
- (f) provide adequate refrigeration facilities to store perishable foods on the premises;
- (g) provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;
- (h) keep any sick dog or cat isolated from any other animals; and
- (i) maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests.

PART VIII: PET SHOPS AND PET PARLOURS

21. Requirement for premises

No person may operate a pet shop or pet parlour in or on any premises that does not comply with the following requirements:

- (a) all walls, including any partition, must —
 - (i) be constructed of brick, concrete or other impervious material;
 - (ii) have a smooth and easily cleanable internal surface; and
 - (iii) be painted with a washable paint or other adequate finish;
- (b) all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
- (c) all ceilings must be dust proof and easily cleanable;
- (d) at least one wash hand basin, with a supply of running hot and cold potable water, must be provided for employees and the ratio of wash hand basins to persons employed on the premises must not be less than 1:15;

- (e) the wash hand basins, referred to in subparagraph (d), must be drained in terms of paragraph 27;
- (f) adequate storage facilities must be provided;
- (g) facilities for the washing of cages, trays and other equipment must be provided in the form of either -
 - (i) a curbed and roofed over platform with a minimum surface area of 1,5 m², raised at least 100 mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
 - (ii) a stainless steel sink or trough of adequate size with a drainage board and provided with a supply of running potable water;
- (h) the platform, sink or trough referred to in subparagraph (g) must be drained in terms of paragraph 27;
- (i) any wall surface within 0,5 metres of the platform, sink or trough referred to in subparagraph (g), must be permanently covered with waterproof material to a minimum height of 1,4 metres above the floor;
- (j) a-clearly designated changeroom must be provided if more than six persons are employed on the premises and every change room must
 - (i) have a floor area providing at least 0.5m² for each employee;
 - (ii) have a minimum overall floor of 6m² and width of two metres; and
 - (iii) be equipped with an adequate metal locker for each employee;
- (k) where no changeroom is required in terms of subparagraph cp, each employee must be provided with an adequate metal locker;
- (l) for the purposes of washing, clipping or grooming of pets -
 - (i) a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
 - (ii) a clipping and grooming room fitted with impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids, for the storage of cut hair pending removal, must be provided;
 - (iii) at least 50 % of the floor area of the rooms referred to in subparagraphs (i) and (ii) must unobstructed; and

(iv) the floors of the rooms referred to in subparagraphs (i) and (ii) must be graded to a channel drained in terms of paragraph 27;

(m) all buildings, including storage areas, must be rodent-proof; and

(n) the premises may not have direct internal access with any room or place-

(i) used for human habitation;

(ii) where clothing is stored or sold; or

(iii) where food is prepared, stored or sold for human consumption

22. Duties of petshop or pet parlour keeper

Any keeper of a pet shop or pet parlour must-

- (a) provide cages for housing the pets complying with the following requirements;
 - (i) the cages must be constructed of metal or other impervious material and fitted with a removable metal floor-tray to facilitate cleaning;
 - (ii) the exterior cavity of any tubular or hollow material used to construct a cage must be sealed;
 - (iii) the cages must be able to be moved easily;
 - (iv) where rabbits are kept in a cage, the metal floor-tray referred to in subparagraph (i), must be drained to a removable receptacle;
 - (v) the cages must be fitted with a drinking vessel filled with water;
 - (vi) the distance from any cage to the nearest wall must be a minimum of 150mm;
 - (vii) the cages must be kept a minimum of 450mm above floor level; and
 - (viii) the space below every cage must be unobstructed;
- (b) provide rodent-proof receptacles, of an impervious material and with close fitting lids, for the storage of all loose pet food in the store room;
- (c) provide adequate refrigeration facilities to store all perishable pet food on the premises;
- (d) ensure that in any room in which the pets are kept -
 - (i) 50% of the floor space is unobstructed; and
 - (ii) The cages are placed a minimum of 800 mm from one another
- (e) Maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment or appliances used in connection with the pet shop, in a clean and sanitary condition, free from pests and in good repair;
- (f) Provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- (g) Provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;

- (h) provide an adequate supply of potable water for drinking and cleaning purposes;
- (i) provide adequate ventilation to ensure the comfort and survival of the pets; and
- (j) ensure that the number of pets contained in each cage does not impede their free movement.

PART IX: KEEPING OF WILD ANIMALS

23. Requirements for the premises

No person may keep wild animals on premises that do not comply with the following requirements:

- (a) all wild animals must be kept in enclosures constructed and equipped as follows –
 - (i) the enclosure must satisfy the needs of the specific animal as specified by the relevant nature conservation authorities;
 - (ii) the enclosure may not be situated within 50 metres of –
 - (aa) any boundary of the premises;
 - (bb) any dwelling, building or structure used for human habitation;
 - (cc) any dwelling, building or structure where food is stored, handled or prepared for human consumption; or
 - (dd) any water resource intended for domestic consumption;
 - (iii) an adequate supply of potable water for drinking and cleaning purposes must be provided; and
 - (iv) the enclosure must be graded and drained in a way that does not pollute any water resource or create a public health nuisance;
- (b) a separate room, equipped with a preparation table and wash-up sink, supplied with running potable water and drained in accordance with paragraph 27, must be provided for the preparation of food;
- (c) adequate facilities must be provided for washing any cages, trays, crates, refuse receptacles and food containers in the form of either –
 - (i) a curbed platform constructed of concrete or other impervious material brought to a smooth finish; or
 - (ii) a stainless steel sink or trough adequate in size to accommodate the equipment to be washed;

- (d) both facilities referred to in subparagraph (c) must be provided with a supply of running potable water and be drained in accordance with paragraph 27; and
- (e) all areas and rooms in which fodder and food are stored must rodent-proof.

24. Duties of keeper of wild animals

Any person that keeps wild animals must –

- (a) maintain the premises in a clean and sanitary condition at all times;
- (b) clean all manure and food scraps from any enclosure at adequate intervals; and
- (c) prevent the soil beneath or around any enclosure from becoming saturated with urine.

PART X: KEEPING OF PIGS

25. Requirements for premises

No person may keep pigs in or on premises that do not comply with the following requirements:

- (a) every wall must–
 - (i) be constructed of brick, stone, concrete or other durable material;
 - (ii) have a minimum height of 1,5 metres; and
 - (iii) have a smooth, impervious internal surface;
- (b) the floor area must provide at least 3m² for each pig accommodated in the pigsty, with an overall minimum floor area of 6 m²;
- (c) the roof over any portion of a pigsty must have a minimum height of 1,5 metres;
- (d) except in the case of a roofed structure having one of its long sides completely open, the lighting and ventilation openings must–
 - (i) be situated opposite one another in the external walls; and
 - (ii) provide a minimum of 0,15 m² for each pig;
- (e) the floor must be –

- (i) at least 150 mm above the surrounding ground level;
 - (ii) constructed of concrete or other durable and impervious material brought to a smooth finish; and
 - (ii) graded for the run-off of liquids into an open channel outside the pigsty;
- (f) the open channel referred to in subparagraph (e)(iii) must-
 - (i) be constructed of concrete or other durable and impervious material;
 - (ii) be a minimum of 100 mm in diameter; and
 - (iii) be drained in terms of paragraph 27;
- (g) the pigsty must be strong enough to prevent the pigs breaking out;
- (h) the pigsty may not be situated within 100 metres of –
 - (i) the boundary of the premises;
 - (ii) any dwelling, building or structure used for human habitation;
 - (iii) any dwelling, building or structure in which food is prepared, stored or sold for human consumption;
 - (iv) any water resource intended for domestic consumption;
- (i) a roofed over concrete platform must be provided for –
 - (i) the storage of all swill in containers; and
 - (ii) the preparation of pig feed;
- (j) the platform referred to in subparagraph (i) must comply with the provisions of subparagraph (e) and in addition, must have a curbing of a minimum height of 100 mm on each edge; and
- (k) a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the pigsty.

26. Duties of keeper of pigs

Every person keeping pigs must–

- (a) ensure that every pig is kept within a pigsty;

- (b) maintain the premises and any equipment, apparatus, container or receptacle in a clean and sanitary condition and in good repair;
- (c) provide portable storage receptacles, of impervious material and with close fitting lids, to store manure;
- (d) keep all manure storage receptacle on a platform that complies with paragraph 26(j);
- (e) remove all manure from the pigsty at least once every 24 hours and place it in the manure storage receptacles;
- (f) remove the contents of the manure storage receptacles from the premises at least once every second day and dispose of the manure in a manner that will not create a public health nuisance;
- (g) provide a rodent-proof store-room in which all feed, other than swill, must be stored; and
- (h) provide rodent-proof receptacles, with close fitting lids, in which to store all loose feed.

PART XI: MISCELLANEOUS PROVISIONS

27. Drainage

Any person keeping animals must ensure that all sinks, wash hand basins, baths, shower-baths, troughs, floor surfaces, channels and washing platforms required to be drained in terms of this Schedule, must be drained in accordance with provisions of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

28. Dangerous animals

- (1) No person may without a permit issued by an environmental health officer, keep any wild animal of a species that is dangerous to humans, including without limitation, large carnivores, highly venomous snakes, spiders or scorpions.
- (2) Any person who keeps any animal that is known to behave in a manner that is dangerous to humans must keep it in an adequate enclosure and take adequate measures to ensure that it does not escape from the premises or pose a danger to the residents of, or visitors to, the premises.

29. Requirements for keeping of bees

- (1) No person may keep bees on any premises unless

- (a) the person is in possession of a valid permit; and
 - (b) the bee hive is situated –
 - (i) a minimum of five metres from any boundary of the premises; and
 - (ii) a minimum of ten metres from any public place or building used for human habitation;
 - (c) the bees are kept in an approved bee hive; and
 - (d) the bee hive is
 - (i) kept in an area inaccessible to children and animals;
 - (ii) kept in the shade at all times; and
 - (iii) supplied with a source of drinking water within five metres of the hive.
- (2) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive;

30. Illness attributable to animals

- (1) The illness of any person, which that may be attributed to any animal kept or handled by that person, must be reported to an environmental health officer within 24 hours of diagnosis, by the person making the diagnosis.
- (2) An environmental health officer may order the removal of the animal from the premises if he or she reasonably believes that the animal poses a public health hazard or public health nuisance.

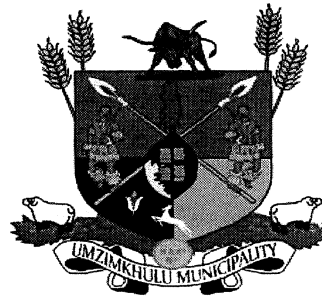
31. Keeping of and slaughtering animals for religious and ceremonial purposes

- (1) Any person who keeps an animal prior to slaughtering it for religious or ceremonial purposes must comply with the provisions of these By-laws.
- (2) A person intending to slaughter an animal in any place other than in a recognised abattoir must:
 - (a) notify the Council in writing, fourteen days prior to the event;
 - (b) notify all neighbours in writing, seven days prior to the event;
 - (c) screen the slaughtering process from the public;
 - (d) use the meat derived from the slaughtered animal solely for the purposes of the religious or ceremonial feast;
 - (e) handle the meat in a hygienic manner at all times; and
 - (f) dispose of any portions of the animal that are not used or consumed, in the manner

No. 134

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

FUNERAL UNDERTAKERS BYLAWS

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UMZIMKHULU FUNERAL UNDERTAKERS BY-LAWS

[The Umzimkhulu Municipal Council acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Funeral Undertakers Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[FUNERAL UNDERTAKERS BYLAWS]**ARRANGEMENT OF SECTIONS**

1. Definitions
2. Corpses to be prepared only at funeral undertaker's premises in respect of which a certificate of competence has been issued
3. Exemptions
4. Application for [the] issue or transfer of [a] certificate of competence
5. Issue or transfer of certificate of competence
6. Validity and transfer of certificate of competence
7. Issue of provisional certificate of competence
8. Duties of holder
9. Suspension or revocation of [a] certificate of competence or provisional certificate of competence
10. Requirements relating to funeral undertaker's premises
11. Hygiene
12. Offences and penalties
13. Conflict of laws
14. Enforcement
15. Presumption
16. Proof of claim
17. Delegation of Council's powers
18. Short title

1. Definitions

Unless the context otherwise indicates

"adequately ventilated and illuminated" means adequately ventilated and illuminated as contemplated in the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977), as amended or the health bylaws applicable within the area of jurisdiction of the Council;

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;

"certificate of competence" means a document contemplated in section 5;

"environmental health officer" means a person who is an employee of Council, or contracted by Council and who is registered with the Health Professions Council of South Africa and is designated in terms of section 31(1) of the Health Act, 1977 (Act No. 63 of 1977);

"existing funeral undertaker's premises" means exiting funeral undertakers' premises, which are used as such, on the date of commencement of these bylaws;

"funeral undertaker's premises" means that premises that are or will be used for the preparation and or storage of corpses;

"holder" means the person in whose name a certificate of competence has been issued;

"new funeral undertaker's premises" means undertaker's premises that start operating as such after the date of commencement of these bylaws;

"provisional certificate of competence" means a document as referred to in section 7; li "nuisance" means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof;

"preparation" means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and shall include the embalming of such corpse for the said purpose, and "prepare" and any work derived there from shall have a corresponding meaning;

"pure water" means clean and clear water that contains no *Escherichia coli* organisms and is free from any substance in concentrations that are detrimental to human health;

"rodent – proof" means rodent-proof as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage, etc. in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R. 1411 of 23 September 1966

"the Act" means the Health Act, 1977 (Act No. 63 1977), and any expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context otherwise indicates; and

"thermometer" means an apparatus which can give the temperature readings referred to in the bylaws, the combined accuracy of such a thermometer and its temperature - sensitive sensor being approximately 0,5°C.

2. Corpses to be prepared only at funeral undertaker's premises in

Respect of which a certificate of competence has been issued

Unless otherwise provided for in these bylaws, no person shall prepare and/or store any corpse except on a funeral undertaker's premises in respect of which a certificate of competence has been issued and is in effect.

3. Exemptions

- (1) The Council may, in writing, exempt any person from compliance with all or any of these bylaws where, in the opinion of the Council, non-compliance does not, or will not, create a nuisance.
- (2) Such exemption shall be subject to such conditions and valid for such period as the Council may stipulate in the certificate of exemption.

4. Application for the issue or transfer of a certificate of competence

- (1) (a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises shall, not less than 21 days before submitting his application to the Council, cause a notice of his intention to be published in English, Afrikaans and

Zulu in a newspaper that circulates in the area in which such premises will be or is situated.

- (b) Such notice shall contain information to the effect that an application for the issue of a certificate of competence in terms of these bylaws is to be submitted to the Council and that any person, who wishes to object to such use may lodge his or her objection, together with substantiated representations, with the Council in writing within 21 days of the date of publication of such notice.
- (2) (a) An application for the issue of a certificate of competence shall be made to the Council in writing on the prescribed form and shall be accompanied by -
- (i) a description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.
 - (ii) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system
 - (iii) a plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and

The purpose for which such premises are being utilized or are to be utilized;

- (iv) Particulars of any person other than the applicant or any of his or her employees who prepares or will prepare corpses on the premises;
 - (v) a contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown; and
 - (vi) a cleansing and disinfection programme.
- (3) The Council, when considering issuing a certificate of competence, may request from the applicant or any other person any such further information required.
- (4) The Council shall not issue or transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by an officer appointed by the Council and the officers report on such inspection,

including recommendations on such issue of transfer, is in possession of the Council.

5. Issue or transfer of certificate of competence

When the Council is satisfied that the premises concerned —

- (1) complies with all requirements laid down in these bylaws and any other applicable legislation;
- (2) are in all respects suitable for the preparation of corpses; and
- (3) will not be offensive to any occupants of premises in the immediate vicinity of such premises,

it shall, on conditions as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the applicant in such form as it may determine or shall, by endorsement, transfer an existing certificate of competence to a new holder, as the case may be.

6. Validity and transfer of certificate of competence

A certificate of competence, excluding a provisional certificate of competence, shall, on endorsement by the Council, be transferable from one holder to a new holder and such certificate shall, if so endorsed, be valid from the date of which it was issued until it is revoked or suspended in terms of these bylaws.

7. Issue of provisional certificate of competence

Notwithstanding the fact that the Council is not satisfied as contemplated in section 4 with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, the Council may, in the case of existing funeral undertaker's premises and subject to such conditions as Council may determine, issue a provisional certificate of competence in respect of such premises:

A certificate referred to in subsection (a) will only be issued if the Council is satisfied that the use, of such funeral undertaker's premises does not and will not create a nuisance, and will be issued for a maximum period of six months to enable the applicant to alter such premises in order to comply with the provisions of these bylaws.

If, after the period referred to in subsection (b), the premises does not comply with the provisions of these bylaws, the Council may revoke the provisional certificate of competence.

8. Duties of holder

The holder shall immediately inform the Council in writing if there are any changes in the particulars or circumstances supplied to the Council in the application for certificate of competence.

A funeral undertaker shall not dispose of a body in any place or premises other than a cemetery or crematoria registered in terms of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996).

The holder shall comply with the provisions of these bylaws, applicable legislation and *any conditions imposed by the Council*.

9. Suspension or revocation of a certificate of competence or provisional certificate of competence.

If the Council is of the opinion, on the strength of an inspection report and/or recommendation by a medical officer of health or environmental health officer, that there are reasonable grounds to suspect that –

the funeral undertaker's premises concerned are being used in such a way as to create a --nuisance or that conditions constituting a nuisance have been or are being created on the funeral undertaker's premises concerned; or

the premises concerned are being used in contravention of the provisions of the Health Act, 1977 (Act No. 63 of 1977), these bylaws or other applicable legislation or any conditions imposed by the certificate of competence or provisional certificate of competence, the Council may in its discretion

- (i) Revoke certificate of competence or provisional certificate of competent concerned;
- (ii) suspend the certificate of competence or provisional certificate of competence concerned for such period as the Council may determine, to enable the holder to comply with the applicable legislation and/or conditions imposed; provided that if the holder fails to comply within the period stipulated in the notice of suspension, the Council may revoke the relevant certificate without further notice.

A notice issued by the Council in terms of section 9(1) shall be issued in writing, and then served on the holder.

The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this bylaw shall have the effect that, from the date of the notice of suspension or revocation –

no preparation of any corpse shall be performed on the premises concerned; no corpse shall be received for preparation on the premises concerned; and

no corpse shall be preserved on the premises concerned and every corpse shall immediately be removed to a mortuary under the control of the State, a provincial administration or the Council or any other funeral undertaker's premises, provided that this bylaw shall not be applicable and the said notice shall not be so construed as to restrict any other business activity relating to the funeral undertaking profession including the sale of coffins and policies.

Where the Council is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this bylaw was corrected after such revocation, it shall, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

10. Requirements relating to funeral undertaker's premises

- (1) Provision for the following shall be made on a funeral undertaker's premises; a preparation room for the preparation of corpse; change-rooms, separate for each sex, for the use of the employees employed at such premises;
Refrigeration facilities for the refrigeration of corpses;
facilities for washing and cleaning of utensils and equipment inside the
facilities for loading and unloading corpses as contemplated in clause 10(6).
- (2) No room on a funeral undertaker's premises shall be used for any purpose other than the purpose for which it is intended.
- (3) The preparation room
 - (a) shall be so designed as to

be separate from all other rooms on the premises and so as not to be directly accessible from or in view of any office or salesroom; provided that, where a preparation room on existing funeral undertaker's premises is so situated, the entrance thereto must be so concealed that the interior of the preparation room is completely out of sight of any person *in* any adjoining office or salesroom;

enable obnoxious odours and vapours to be adequately treated; and be sufficiently ventilated and lighted.

- (b) shall have a floor –
covering an area of not less than 6 m² for the first table of the kind referred to in section 10(3)(e) and 8 m² for each additional table;

constructed of concrete or similar waterproof material with a smooth non-slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by the Council; and

which, if it is replaced or laid after the date of commencement of these bylaws, shall be provided with half round filling where it meets the walls;
- (c) shall have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other suitable, smooth, waterproof, light-coloured and washable material; .
- (d) shall be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust proof and painted with a light-coloured washable paint; ' -
- (e) shall contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;

- (f) shall contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;
 - (g) shall have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces; and
 - (h) shall have door openings that are not less than 0,82 m in width and 2,00 m in height so that the corpse can be taken into and out of such room without any difficulty.
- (4) Each change-room shall contain at least the following:
 - (a) One hand-basin with hot and cold running water for every six employees or part thereof.
 - (b) Disposable towels, soap, nailbrushes and disinfectant.
 - (c) Not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal shall be permissible for every 30 men or part thereof.

Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses, shall be installed in or close proximity of such preparation room and –

- (a) where refrigerators are used, it shall be constructed of a material that does not absorb moisture, shall be provided with removable trays and shall be so designed as to drain into an approved drainage system and be easy to clean;
- (b) be of such nature that the surface temperature of any corpse shall be no higher than 5°C during preparation:-An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.
- (c) In instances where cold chambers are used, it shall comply with sections 10(3)(a)(ii), (b)(ii), (c), (d) and (h) and shall be provided with shelves

manufactured from a material that does not absorb moisture and that is easy to clean;
and

- (d) Corpses are not be to be stored on top of each other and must be stored individually on the trays or shelves.
- (6) The cleansing, loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system into a gulley connected to a sewer system approved by the Council.
- (7) The loading and unloading of corpses and the cleansing of vehicles shall not take place anywhere except in the area contemplated in section 10(6),

11. Hygiene

All solid refuse on the premises of a funeral undertaking shall be kept in corrosion-resistant containers with tight-fitting lids and shall be dealt with in accordance with the requirements of the Council.

- (2) Every holder of a certificate of competence relating to funeral undertaker's premises shall
 - (a) provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the postmortems, and each such employee or other person shall, at all times when so involved, wear such clothing;
 - (b) keep such premises free of pests and insects at all times;
 - (c) clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared.
 - (d) wash and disinfect all equipment used for the preparation of corpses immediately after use;
 - (e) wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis;

- (f) keep such premises clean and tidy at all times; and
- (g) if a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

12. General offences and penalties

Any person who —

- (1) contravenes or fails to comply with any provisions of these bylaws;
- (2) contravenes or fails to comply with any notice given or condition imposed in terms of these bylaws;
- (3) for the purpose of these bylaws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or officer;
- (4) threatens, resists, interferes with or obstructs an authorized officer or employee for the Council in the performance of his powers, duties or functions under these bylaws, shall be guilty of an offence and upon conviction be liable to a fine of R1000.00 or imprisonment for a period not exceeding twelve months or to both the fine and the imprisonment.

13. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

Enforcement

14.(1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the “authorized officer”;
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.

- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) The notice shall be as per the schedule;
- (9) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

Presumption

15. In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

Proof of claim

16. A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

Delegation of Council's powers

17.(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself; and

(c) may at any time be withdrawn in writing by the Council.”

Short title

18. These By-laws are called the Umzimkhulu Local Municipality Funeral Undertakers By-laws, 2008.

No. 135

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTEBER 2011

CEMETERY BYLAWS

MUNICIPAL MANAGER
169 MAIN STREET
UMZIMKHULU
3297

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UMZIMKHULU CEMETERY BYLAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Cemetery Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[CEMETERY BYLAWS]

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Definitions

1. Unless the context otherwise indicates

'adult' means any deceased person over the age of 12 years, whose coffin will fit into the grave opening prescribed for adults in section 40(2).

"ashes" means the physical remains of a body after it has been cremated; "berm" means a concrete strip laid by the Council along a row of graves;

"caretaker" means the person holding the position of caretaker or superintendent of any cemetery or acting in such capacity in the service of the Council;

"cemetery" means any piece of land duly set aside by the Council within the Municipal area for the purpose of a public cemetery;

"child" means any deceased person of the age of 12 years or younger whose coffin will fit into the grave opening prescribed for children in section 40(2);

"Chief Executive Officer/CEO" means the Chief Executive Officer **of** the Council or any other person acting by virtue of any power delegated to him/her;

"contractor" means the person who has paid any of the tariffs contained in the tariff of charges, or who has obtained the right to have any memorial work erected or constructed or who has obtained any other rights or interests referred to in these bylaws;

"Council" means the Umzimkhulu Municipality and its successor in law and includes the Council of that Municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to who the Executive Committee has delegated any powers and duties with regard to these bylaws;

"cremation" means the incineration of any human body or remains to ashes;

"foot kerb" means the construction on which a memorial works or headstone is attached;

"funerary urn" means an urn containing the cremated remains with size 175 mm x 185 mm x 110 mm;

"garden of remembrance" means a section of a cemetery, which has been set aside for the interment or scattering of ashes;

"grave" means any grave in a cemetery in respect of which any person has obtained the right of having a single body interred therein;

"medical officer of health" means the Medical Officer of Health for the Council or any other person acting in such capacity of by virtue of any power delegated to him/her;

"memorial plate" means a plate of 305 mm x 210 mm x 15 mm manufactured in granite or marble attached to the memorial wall over niche;

"memorial wall" means a wall with Niches set out to preserve the funerary urns against which only memorial plats can be attached;

erected on any grave;

"Municipality" means the Municipality of Umzimkhulu;

"niche" means shallow recess in memorial wall to contain an urn of 385 mm x 185 mm;

"Registrar of Deaths" means any person appointed by the Government of the Republic of South Africa to register deaths;

"resident" means a person who, at the time of death, was ordinarily a resident within the area of jurisdiction of the Municipality, excluding inmates in hospitals, institutions, or other persons temporarily resident within the area of jurisdiction of the Municipality; and

"tariff" means fees payable as determined by the Council from time to time.

CHAPTER 2

GENERAL

Establishment of cemeteries

2. The Council may set aside any land for the purpose of a cemetery and no person shall be permitted to inter a body in any other place.

Hours of admission for visitors

3. Every cemetery shall be open to the public during the following hours: Mondays to Saturdays: 6:30 to 17:00; and Sundays and Public Holidays: 7:00

to 16:00. The Council shall have the power to close to the public any cemetery or part thereof for such period as it may deem fit.

Reserving of graves

4.(1) no person shall, without the written consent to the Council, sell or transfer to any other person any right relating to a grave that has been obtained in terms of these bylaws. Should the Council consent to such transfer, it will be subject to the conditions that every transfer of the rights relating to a reserved grave be registered by the caretaker and the registration fee as determined by the Council be paid to the City Treasurer by the new contractor.

(2) Any person having reserved a grave and failing to use the grave within a period of 50 years from the date of reservation, or omitting to notify the Council that he/she does not intend to use the grave, thus gives the Council the right to sell the grave. The applicable charges as determined by the Council shall be payable in respect of grave sold.

(3) The Council shall not be obliged to refund any charges paid in respect of a grave sold in terms of subsection (2).

Religious ceremonies

5. Subject to the provisions of these Bylaws, the members of any religious denomination may conduct religious ceremonies in connection with any interment or memorial service subject to the written consent of the Council.

Plans of graves, plots and niches

6. Plans indicating different graves and niches available are kept at the Council's offices for inspection free of charge.

Complaints

7. Any person wishing to lodge a complaint concerning the conditions in or the management of the cemetery shall lodge the complaint in writing to the Chief Executive Officer.

Charges/Tariffs

8. The tariff of charges as determined by the Council, shall be payable to the Council for the services rendered in terms of these bylaws.

Consent notice order

9. Any written consent, notice or order issued by the Council in terms of these bylaws, shall be signed by the Chief Executive Officer of his authorised representative and shall be *prima facie* evidence thereof.

Instructions of _____ caretaker

10. Every person taking part in any funeral procession or ceremony in the Cemetery shall obey the instruction/s of the caretaker/officer in charge.

Flowers

11. The caretaker may remove flowers and foliage placed on graves when, in his opinion, they have wilted.

CHAPTER 3
PROHIBITION ORDERS

Children

12. No person under the age of 12 years may enter any cemetery unless under the supervision of an adult.

Keeping to paths/walkways

13. Except for the purpose of permitted by these Bylaws, all persons shall

only use roads, paved walkways and demarcated turf walkways provided in the cemetery.

Entrances and exits of cemeteries

14. No person shall enter or leave a cemetery except through the official entrances provided.

Performance of activities

15. No person shall use any road, path or grass route within the cemetery for the purpose of transporting goods, parcels or any other material except if it is intended for use within cemetery.

Prohibited actions within cemeteries

16. No person shall –

commit any nuisance within any cemetery;

ride on any animal, cycle, skateboard or roller skates within the cemetery; allow any animal to wander inside any cemetery;

plant, cut, pick or remove any plant, shrub or flower without permission of the caretaker; hold or take part in any demonstration in any cemetery;

obstruct, resist or oppose the caretaker or any official employed by the Council in the performance of his/her duties, or refuse to comply with any order or request which the caretaker is entitled to make in terms of these bylaws;

mark, draw, or scribble objects on walls or erect advertisements on buildings, fences, gates and Memorial work or on anything Within any cemetery/or section or deface it in anyway,

sit, stand or climb on or over any memorial work, gate, wall, fence or building in any cemetery;

be in or remain in any cemetery or part thereof before or after the hours mentioned in section 3 or during any period when it closed to the public; and

without the written permission of the Council, tout or operate any business, order, exhibit or distribute any tracts, business cards or advertisements within or at the entrance of the cemetery.

Miscellaneous

17.(1) No person shall dispose of a body in any other manner than by interring it in a cemetery or having it cremated in a crematorium approved in terms of the provisions of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996).

(2) No person shall acquire any right to or interest in any ground or grave in any cemetery, other than such rights or interests as may be obtainable in terms of these bylaws.

Exposure of bodies

18. No person shall convey a dead body that is not covered, or expose any such body or any part thereof or remove the lid or cover of the coffin wherein such dead body or corpse is placed, in any street, cemetery or public place.

Music inside cemetery

19. No loud music shall be played in any cemetery without consent of the Council, except in case of the State, Police or military funerals.

Occupation of chapel or shelter

20. No person shall for the purpose of a funeral, occupy any chapel or shelter in a cemetery for more than 45 minutes.

Hours of internments

21. No interment shall be held before 9:00 or after 16:00 on any day without the prior consent of the Council.

Number of graves

22. No person shall fix a peg on any grave not properly allocated by the Council and no person shall intern a body in any grave on which a peg-marked number has not been lawfully fixed.

Rubble and damage to cemetery

23. No person shall at any time leave any refuse, soil, stone or any other debris within the cemetery or in any way damage or deface any part of any cemetery or anything therein.

Inclement weather

24. No person shall fix or place any memorial work during inclement weather or while the soil is, in the opinion of the Council, *in an* unsuitable condition.

Disturbance of human remains

25. Subject to the provisions of an exhumation order given in terms of the

Inquest Act, 1959; or section 20 of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996); or any other provision of any other act relating to the exhumation of bodies, no person shall disturb any mortal remains or any ground surrounding it in any cemetery.

CHAPTER 4 INTERMENTS

Application for an acquisition of the use of a grave

26.(1) Any person desiring to have a body or human remains interred in a grave shall submit the appropriate form to the caretaker before the time of interment. The next of kin or the closest surviving relative or a person of interest shall sign the application of interment.

(2) The Council, may on payment of the applicable fees, allocate the use of any grave appropriated for an interment to any person who applied for it in terms of subsection (1).

(3) No body or human remains shall be interred within any cemetery without the permission of the caretaker. This permission will only be granted on submission of a written burial order, signed by the Registrar of Deaths authorising the interment, and on presentation and submission of such a notice of interment. In all cases where a postmortem has been held, the order of the magistrate shall also be submitted to the caretaker.

(4) The Council may, upon request, inter any body free of charge, or in terms of the provisions of any applicable legislation.

Alteration of date of interment

27. Should any changes to the date, day or time previously fixed for an interment be made, notice of such changes shall be given to the caretaker at least 24 hours before such interment. For the purpose of this section, 48 hours notice should be given if the aforesaid 24 hours includes a Sunday or part thereof.

Dimensions of graves and grave apertures

28.(1) The standard dimensions of an adult gravesite shall be 2 500 mm x 1 500 mm and that of a child 1 500 mm x 1 000 mm.

(2) The standard dimensions of the aperture of an adult's grave shall be 2 200 mm in length and 900 mm in width and that of a child's grave 1 200 mm in length and 700 mm in width.

(3) Anybody requiring a grave for the interment of an adult with an aperture larger than the standard size, shall, when applying for the interment, specify the measurements of the coffin and the mountings. The appropriate fee for the enlargement of the aperture will be payable to the Council as prescribed in the tariff of charges.

When [a] child's coffin is too large

29. Should a child's coffin be too large for the aperture of a child's grave, it shall be placed in an adult grave and fees payable for an adult's interment shall apply.

Depth of grave

30. No adult grave shall be less than 1 800 mm and that of a child less than 1500 mm in depth.

Covering of earth

31. There shall be at least 1 m of earth between the coffin and the surface of the ground. In the instance of successive burials, at least 300 mm of earth shall be left between the coffins.

Coffins in graves

32. No person shall place any coffin constructed from any material other than soft wood or other perishable materials approved by the Council, unless otherwise stipulated in other legislation,

Number of bodies in one grave

33. No more than two bodies shall be buried in the same grave at the same time.

Reservation of graves

34. Any person wishing to reserve a grave or upon the death of a person to reserve an adjoining grave, if available, shall obtain the right, on payment of the fees prescribed in the tariffs of charges, to use such grave for future burial purposes.

Second interments

35.(1) Any person who wishes to apply for a second interment in the same grave may do so only after a period of two years has lapsed since the date of the first interment on condition that the grave was deepened prior or during the preparation of the grave for the first interment.

(2) The applicant who wishes to have a body interred for the purpose of a second interment shall

- (a) apply on the prescribe from at lest 24 hours before the interment shall take place; and
- (b) remove any memorial work on such grave at his own cost and comply with any requirements made by the caretaker in this regard.

CHAPTER 5

ASHES

Acquiring of niches

36. Subject to the provisions of these bylaws, a person may acquire a niche in the cemetery, if available, and by paying the prescribed fees.

Burial of ashes

37. Subject to the provisions of these bylaws, ashes may be buried in a grave in the cemetery and all prescriptions, provisions and fees applicable in terms of these bylaws pertaining to the burial of a body in a grave are *mutatis mutandis* applicable in this instance. The grave aperture may be smaller than the aperture prescribed for the burial of a body.

No ashes shall be buried in a grave without it being proved to the satisfaction of the Council as being the cremated remains of a human body and the required documentation is submitted to this effect.

Ashes buried in a grave shall be placed in a funeral effect.

There shall be at least 100 mm of earth between the urn containing in the ashes, and the surface of the ground.

Subject to the provisions of these bylaws, the burial of ashes in a grave being used already for a first interment, may take place free of charge.

Placing of ashes in Memorial Wall, Memorial Garden or Garden of Remembrance

38.(1) Any person who desires to place a funerary urn containing cremated remains in the niche in the Memorial Wall, Memorial Garden or Garden of Remembrance shall submit an application, accompanied by the Cremation Certificate, in writing or on the prescribed form, to the caretaker. If the

caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, he may, in his discretion, grant an application signed by any other person.

(2) Any person applying in terms of subsection (1) shall pay the prescribed fees as determined by the Council.

Exhumation of ashes

39.(1) No person shall exhume ashes from any grave without the prior written consent or complying with any conditions determined by the Council.

(2) Applications for the exhumation of ashes shall be submitted to the Council at least 8 working hours prior to the exhumation.

Scattering of ashes

40. The scattering in the Landscape Area or Garden of Remembrance is permitted with prior written consent of the Council.

CHAPTER 6

EXHUMATION OF BODIES AND RE-OPENING OF GRAVES

Exhumation

41.(1) Subject to the provisions of these bylaws and any other legislation, no grave shall be reopened without a written consent of the Council.

(2) Subject to the provision of these bylaws, no person shall exhume or cause any body to be exhumed without a written consent of the Medical Officer of Health and the charges for exhumation as determined by the Council shall be paid

before the exhumation takes place. Such consent shall be submitted to the caretaker at least two days before the date fixed for the exhumation or removal of the body.

Closure due to exhumation

42. At the time of an exhumation of a body, the cemetery shall be closed to the public.

Screening of activities

43. The grave from which a body is to be removed shall be effectively screened from view during the exhumation and a suitable container shall be supplied for the remains.

Medical officers of health shall be present

44. No exhumation shall take place unless the Medical Officer of Health or his/her authorised representative is present.

Transfer of body from one grave to another by [the] Council

45. Subject to the provisions of these bylaws and any applicable legislation, the Council may move a body from one grave to another.

CHAPTER 7 CARE OF GRAVES

General

46.(1) No shrub, tree or any other plant material may be planted on graves without the consent of the Council and the Council may use its discretion to prune, cut down, dig up or remove any shrub, plant or flower at any time.

(2) No person shall bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise provided for in these bylaws

Position of memorial work

47. No person shall erect a memorial on any grave except [writing unclear]

Repairs to memorial work

48. If the contractor allows the memorial work to fall or cause danger to deface the cemetery in anyway, the Council may order him to repair the damage. Should the required repairs not be done within one month of receiving such notice, the Council may carry out these or remove the memorial work without paying any compensation and recover the cost incurred from the contractor.

Supervision of work

49. Any person engaged in any work in any cemetery shall affect such work under the supervision and to the satisfaction of the caretaker.

Damaging of memorial works

50. The Council shall not accept responsibility for any damages caused or may occur which is not due to the negligence of the Council's employees.

Moving of memorial work

51. The Council may, after due notice, at any time, change or alter the position of any memorial work in any cemetery.

Bringing material into cemetery

52.[(1)] No person shall bring any material into the cemetery for the purpose of constructing any memorial work on any grave unless –

(a) a sketch plan indicating the dimensions of the memorial work, the inscription and position thereof has been submitted and approved by the caretaker;

(b) all charges due in respect of such grave have been paid; and

(c) the Council's written approval has been given to this effect.

Removal of memorial works by [the] Council

53. Any memorial work placed, built, altered, decorated, painted, in contravention of these bylaws or which, in the opinion of the Council, contravenes the good ethics and morals of society, may be removed by the Council after due notice, without payment of any compensation.

Requirements for erection of memorial works

54.[(1)] Any person erecting memorial work shall conform to the following requirements:

(a) where any part of any memorial work is to be joined to any other part, copper or galvanised iron clamps, pins or dowels of approved thickness and of sufficient length, shall be used for such purposes. The holes into which such clamps, pins or dowels must fit shall not be less than 50 mm deep.

(b) Any part such work, which rests upon the ground or stone or other foundation, shall be

- (c) The stones referred to in subsection (1) will not be of uneven thickness nor have uneven corners.
- (d) The underside of all memorial work shall be set at least 50 mm below the natural level of the ground.
- (e) No kerbstones shall be used which protrude more than 230 mm above the surface on the ground or are more than 200 mm thick.
- (f) All head and kerbstones shall be properly secured from the inside with round copper or galvanised iron pins.
- (g) All headstones up to 15 mm in thickness shall be securely attached to the base in an approved manner.
- (h) All memorial work shall be completed as far as possible before is brought into cemetery.
- (i) No soft stone shall be used for memorial work and memorial work shall be constructed or made of marble or granite or any other approved hard stone.
- (j) In the case of single graves, foot kerbs shall consist of one solid piece.
- (k) No person shall do any stonework, chiselling etc. in the cemetery which is not connected with the erection of memorial work, except if the work is expressly permitted for in the bylaw.
- (l) All memorial work shall have an adequate concrete foundation chiasitic with the headstone and where joints occur in the kerbstone, all joints shall be fitted with good cement mortar.
- (m) Where memorial work has a base on ground level, such base shall not be less than 900 mm wide by not less than 300 mm x 300 mm.
- (n) All letters on memorial work shall be engraved thereon and shall not protrude above the surface of the memorial work.

- (o) With the consent of the contractor, the name of the maker may be affixed to any memorial work; provided that no address or other particulars be added thereto.

Vehicles and tools

55. Any person engaged in any work on any grave shall provide such vehicles, tools and other appliances of his own as he may require.

CHAPTER 8

ENFORCEMENT, OFFENCES AND PENALTIES

Enforcement

56.(1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the

South African Police Service or the municipality traffic officer.

(c) The person serving the summons shall state in his or her report the manner of service or document.

General offences and penalties

57. Any person who fails to comply with the provisions of these by-laws, is guilty of an offence, and may on conviction be sentenced to a fine or term of imprisonment not exceeding six months or to both such fine and imprisonment.

Presumption

58. In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

Proof of claim

59. A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

CHAPTER 9 CONFLICT OF LAWS AND DELEGATION

Conflict of laws

60. If there is any conflict between these bylaws and any other bylaws of the Council, these bylaws will prevail.

Delegation of Council's powers

61.(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing
such duty itself; and

(c) may at any time be withdrawn in writing by the Council.

Short title

**62. These By-laws are called the Umzimkhulu Local Municipality Cemetery By-laws,
2008.**

No. 136

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

LIBRARY AND INFORMATION SERVICES BYLAWS

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UMZIMKHULU LIBRARY AND INFORMATION SERVICES BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Library and Information Services Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[LIBRARY AND INFORMATION SERVICES BY-LAWS] "ARRANGEMENT OF SECTIONS"

1. Definitions
2. Admission to library buildings
3. Membership
4. Loan of library material
5. Return of library material
6. Overdue library material
7. Reservation of library material
8. Lost and damaged library material
9. Handling of library material
10. Exposure of library material to notifiable and infectious diseases
11. Library material for special purposes
12. Reproduction of library material and objects and use of facsimile facilities
13. Library hours
14. Hire and use of auditoria and lecture rooms or library space for exhibitions, filming and programming
15. Internet viewing stations
16. Hiring of multimedia library space
17. Performing arts library
18. Positioning of By-laws and notices in [a] library
19. [Conduct in the library] General offences and penalties
20. Liability for loss or injury
21. Conflict of laws
22. Enforcement
23. Presumption
24. Proof of claim
25. Delegation of Council's powers

26. Short title

1. Definitions

in these Bylaws the following words shall, unless the context otherwise requires, have the meanings respectively assigned to them:

"a librarian" means the librarian in charge of a library operated by the Council, or any assistant or delegate of such person, and "that librarian" has a corresponding meaning;

"a library" means any one of the various libraries comprising the library and "that library" has a Corresponding Meaning;

"audio-visual material" means all films, records, compact discs, stiffys, audio books, language courses, audio and video cassettes, including digital video material, and gramophone records available for use in or borrowing from, a library, and whether the property of or on loan to the Council for that purpose;

"auditorium/lecture rooms" means an area or room or rooms at a library, which is made available for hiring under prescribed circumstances and conditions at a prescribed fee;

"charge" means an appropriate fee determined by the Council or contained in any by-law made by the Council from time to time, in accordance with the relevant legislation;

"child" means an person under the age of sixteen years who has never been married;

'Council' means the Umzimkhulu Municipality and its successors in law, and includes the . Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"indigent person" means any person in circumstances of poverty who is unable to make a monetary contribution to municipal service charges and whose total household income is below R800-00 or, in the case of a person dependent on grants, such as a pensioner, where the household income does not exceed R1080-00;

"lending period" means the period during which a member or visitor is permitted to retain any library material;

"librarian" means any official employed by the Council and who exercises control of and manages a library or a section thereof, and includes any assistant to a librarian;

"library" means any public library administered and maintained by the Council.

"library material" means all books, periodicals, newspapers, prints, pictures, documents, posters and printed music, and audio-visual material, regardless of whether it is the property of or on loan to the Council, and

which is available to be perused, studied, copied or borrowed in or from a library;

"library week" means a period of one week or more during a year as determined by the Library and Information Association of South Africa, during which information services are promoted;

"member" means any person or organisation registered as a

member of the library; "multimedia library" means a library

dedicated to the provision and/or presentation of information, in

any two or more of written, visual, audiovisual and electronic forms,

and

includes facilities within a library that are capable of presenting information in such formats;

"organisation" means a non-profit-making institution or company, or a cultural association having a constitution;

"pensioner" means any person aged 60 or over; .

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

"resident" means a person who resides in, is a property owner or rate payer, or who is employed within or is registered with an educational institution within the area of jurisdiction of the Council;

"specialised library material" means library material that needs special equipment in order to access the content of such material or the use of which is likely to inconvenience other patrons of a library if Utilised within a library;

"Systems Act" means the Local Government: Municipal Systems Act, No 32 of 2000, as amended from time to time.

"the librarian", unless the context indicates otherwise, Means the Director: Library and Information Services or his or her assistant or delegate.

"the library" means the totality of all libraries, with their contents, operated by the Council and controlled by the Director: Library and Information Services of the Council;

"visitor" means a person residing, working or studying for, a period of not more than three continuous months in the area of jurisdiction of the Council.

2. Admission to Library Buildings

- (1) Subject to the provisions of subsection (2) hereof, and of section 19, any person admitted to a library may use the facilities of that library during official library hours; provided that if a person wishes to borrow library material, such person must first become a member of the library and pay the prescribed fee for membership.
- (2) **A librarian may: -**
 - (a) in his/her discretion determine the maximum number of persons that may be allowed in any part of the library at any given time and may exercise the necessary access control for that purpose;
 - (b) for any reasonable cause, instruct a member or other person to leave the library.

3. Membership

- (1) Application for membership or visitor's rights shall be made on a form prescribed by the Council, which form must contain the undertaking referred to in subsection (2)(a)(ii).
- (2) The Council may —
 - (a) grant membership of the library to any resident, or any resident as a representative of any organisation or similar body, duly authorised by that organisation or body, provided such representative is duly authorised by that organisation, and every person referred to in this paragraph must —
 - pay the prescribed fee for membership; and
 - undertake to abide by the policies adopted by the Council from time to time for the conduct of the business of the library;
 - (b) grant, subject to such conditions as it may determine from time to time, membership of the library to a child if his/her parent or guardian so consents in writing and undertakes to ensure the observance by such child of the provisions of these By-laws;
 - (c) grant membership of the library to a person residing outside its area of jurisdiction and who is neither an owner of property within the Council's area nor a rate payer of the Council on such conditions as may be determined by the Council from time to time;

- (d) admit a person residing, working or studying for a period of not more than three months in the area of jurisdiction of the Council may as a visitor if-
 - (i) such particulars as may be determined by the Council or the librarian are submitted by such person; and
 - (ii) such person pays the applicable prescribed fee; and
 - (iii) a librarian approves the application;and upon such approval, such visitor has all the rights and privileges, and is subject to the same obligations and duties, as a member;
- (e) exempt any applicant for membership who is an indigent case wholly or partly from the payment of the prescribed fee for membership.
- (3) (a) A library membership card must be issued to each member authorising that member to borrow from the library such quantity of library materials as may be determined by the Council from time to time.
- (b) Additional membership cards, entitling the member to borrow further quantities of library material may be issued to a member in the discretion of a librarian.
- (4) A membership card is valid from its date of issue to the date of expiry stated thereon and the membership of a person to whom such a card has been issued lapses after the expiry of that period, unless it is renewed prior to the expiry date.
- (5) A member who wishes to, cancel his or her membership of the library must –
 - (a) Notify a librarian in writing;
 - (b) return the membership card or cards in his or her name; and
 - (c) simultaneously return all borrowed library material in his or her possession to a librarian
- (6) If library material is not returned in terms of section 3(5)(c), such person will be liable in terms of Section 8(2), with such adjustments as may be necessary.
- (7) When a member changes his or her address, the member must notify the librarian thereof within thirty (30) days after the change has taken place.
- (8) When a membership card is lost, the member must forthwith notify a librarian in writing, and -

- (a) the librarian must, on payment of the prescribed fee, issue a duplicate card;
- (b) should a lost membership card subsequently be found by the member, any duplicate card must be returned to a librarian immediately;
- (c) Despite the provisions of section 8(1), the member is not liable in terms of that section for any library material borrowed against the lost membership card after the date of such notice.

4. Loan of Library Material

- (1) Library material which is not available for removal-from-a-library- on- loan-in-any reference or special library will be determined by the librarian and a notice specifying such material must be displayed at the inquiry desk of each library.
- (2) (a) Library material borrowed from 'a library is the responsibility of the member against whose membership card it was borrowed.

(b) If a member borrows material from a library, that member must ascertain whether or not the material is visibly damaged, and if so, must draw a librarian's attention to the damage and that librarian shall record particulars of the damage on the date sheet and sign it.
- (c)When a member returns damaged library material, he or she will be responsible for making good the damage, or paying the prescribed fee in respect of damaged library material, as the case may be, unless the damage was previously recorded as contemplated in paragraph (b) hereof.
- (d)No person may be in possession of library Material outside a library unless it has been lent out to him or her in terms of a membership card.
- (3) A librarian may refuse to make damaged material available for borrowing, but where such material is made available for borrowing, the particulars of the damage must first be recorded in terms of section 4(2)(b).
- (4) A member may, upon payment of the prescribed fee, request that any library material not available -

- (a) at any particular library, but which is available through another library operated by the Council;
 - (b) in the library, but is available from another Library;
- be obtained from such source and made available or loaned, as the case may be, to him or her,
- (5) The loan of audiovisual-material or items from. Student Service, is be subject to the payment of the prescribed charge.
 - (6) Library material bearing the distinguishing insignia of the Council or its predecessors or the insignia of the Eastern Cape Provincial Government, with no indication that it has been officially discarded or sold, remains the property of the Council or of the Eastern Cape Provincial Government, as the case may be.

5. Return of Library Material

A member must return borrowed library material not later than the last day of the lending period provided that

- (a) If it is not required by any other member, the librarian may then extend the lending period of any library material for a further lending period;
- (b) a member who has failed to return library material by the end of the lending period allowed by a librarian may not keep it for more than seven (7) days after receipt of a written notice from a librarian that such library material is to be returned to that library.

6. Overdue Library Material

- (1) if a member does not return library material borrowed against a membership card within the applicable period stated in section 5(a), he or she is liable for payment to the Council of the prescribed fees for every week or portion thereof during which the member fails to return library material, unless -
 - (a) good cause, which may include serious illness, is shown to the satisfaction of a librarian;
 - (b) the return date falls within a National Library Week or other period when the library in question is closed to the public for any reason;
 - (c) any other period of grace lawfully given;
- (2) Every librarian must ensure that the rules and fees for overdue and lost library material are displayed at a prominent place in such library.

7. Reservation of Library Material

A member may reserve library material, provided that -

- (a) payment of the prescribed fee therefore is made in advance;
- (b) no library material will be held in reserve for a period longer than the period specified by the librarian or his or her authorised representative.

8. Lost and Damaged Library Material

- (1) it must be stated on membership card that if a member damages or loses library material, the member will be liable in terms of subsection (2) for payment to the Council of the prescribed fee therefore.
- (2) Library material not returned within one hundred (100) days from the date of borrowing must be regarded as lost, and the member who borrowed it last will immediately become liable for the replacement cost or fee prescribed in lieu thereof, at the discretion of the librarian.
- (3) The particulars of a member who has failed to return library material outstanding for a period longer than that stated in subsection (2) must, in the event of failure by the Council to retrieve such library material from the member, despite reasonable efforts to do so, be entered on a central register of unreturned library material, together with the details of the material in question, the unpaid prescribed fees fines due thereon, and the like, and such particulars must be circulated to all libraries operated by the Council, and the member's privilege of borrowing material from the library must be suspended until such library material is returned to a library or is paid for in full as prescribed.
- (4) Despite the other provisions of this section lost or damaged library material remains the property of the Council or the Eastern Cape Provincial Government as the case may be, even if the prescribed fee in respect thereof or the replacement cost, as the case may be, have been paid to the Council.
- (5) If damaged library material returned by a member is found to be repairable, the member must pay the repair or binding charge incurred by the Council, before being permitted to borrow any further library material.

9. Handling of Library Material

A member who has borrowed library material or is using library material in the library is obliged to—

- (a) keep such library material in a clean condition;
- (b) prevent such library material from being damaged in any way;
- (c) Ensure that such library material is not mutilated, defaced, marked, creased or damaged;
- (d) Ensure that no part of such library material, or any protective coverings or any identification thereof as the property of the Council or

the Eastern Cape provincial Government, as the case may be, is removed;

- (e) Ensure that any such library material is not lent to any unauthorised person.

10. Exposure of Library Material to Notifiable and Infectious Diseases

- (1) No person known by him or her to be suffering from a notifiable medical condition as proclaimed in terms of section 45 of the Health Act, No 63 of 1977 may borrow or handle library material, and no member may allow any other person suffering from such a notifiable medical condition, to handle or come into contact with library material lent to that member if such handling or contact would expose others to the danger of infection or any form of health hazard.
- (2) The provisions of subsection (1) apply also to any person supervising or in charge of a child known by such person to be suffering from such a notifiable medical condition
- (3) A notice with examples of notifiable medical conditions must be displayed at a prominent place in a library.
- (4) Any person in possession of library material which to that person's knowledge has been exposed to a notifiable medical condition, must immediately advise a librarian that such library material has been so exposed.

11. Library Material for Special Purposes

- (1) Specialised library material may be used only in areas of a library specifically demarcated for that purpose, and no such material may not be removed from that part of a library without the permission of a librarian.
- (2) No person in possession of library material drawn from the reference section of a library may keep it for longer than ten (10) minutes after a librarian has requested its surrender.

12.Reproduction-of Library Material and Objects and Use of Facsimile Facilities-

- (1) Any person may use the facsimile and photocopier facilities of a library subject to
 - (a) payment of the prescribed fee;
 - (b) the furnishing by him or her of a declaration in writing, if requested by a librarian, that the purpose for which the photocopy or photographic reproduction is needed falls within the exceptions to the protection of literary, dramatic, musical and artistic works specified in the Copyright Act, 1965, as amended, and any subsequent amending or replacement legislation.
- (2) A librarian must display the relevant sections of such legislation in a prominent place in the library in question.
- (3) The permission of a librarian must be obtained before any library material or object in the library is reproduced by means of a photograph, motion picture, transparency or any other means.
- (4) In granting or refusing permission in terms of sub-section (2), a librarian may take cognisance of the possibility of damage being caused to such material or object as a result of it being handled for the purposes of making the reproduction, and may impose such conditions as may be reasonably necessary to prevent damage being caused to the material.

13. Library Hours

The hours as determined by the Council during which any library will be open to the public must be displayed on a notice at or near the entrance to the library concerned and must state-

- (a) The days on and hours during which the library will open and close; and
- (b) The hours during which the use of such library or any section thereof will be restricted to adults or children.

14. Hire and Use of Auditoria and Lecture Rooms or Library Space for Exhibitions, Filming or Programming

- (1) The Council may hire out to members or other persons, any auditorium, lecture room or other area within a library complex against the payment of the prescribed fee therefore, for the purpose of holding a lecture, debate or presentation or staging of an exhibition or filming or programming a sequence of scenes requiring a library background or which incorporates the use of library material.

- (2) Application for the hire of any such facilities must be made in writing to the librarian.
- (3) Despite the provisions of section 14 (1), such facilities may be made available without charge –
 - (a) to organisations supporting the provision of library services;
 - (b) For such specific activities as the Council may from time to time either generally or specifically determine.

15. Internet Viewing Stations

Any person may utilize the internet viewing stations of a library, where such facilities are made available by the Council, provided that he or she -

- (a) pays the prescribed fee therefore;
- (b) obtains prior permission being obtained from a librarian;
- (c) observes the maximum period of use as determined by a librarian;
- (d) abstains from loading personal software on to any hardware comprising an Internet viewing station;
- (e) Agrees to and does bear the cost of repairing any damage caused intentionally or negligently to the Internet equipment while being operated by him or her;
- (0) agrees to and does observe the Council's policy on e-mail and Internet usage, which must be displayed at each station.

16. Hiring Of Multimedia Library Space

- (1) A multimedia library may be made available to any person applying therefore against payment in advance of the prescribed fee.
- (2) Any person who or body which wishes to hire a multimedia library must make an advance reservation with the librarian in charge thereof.
- (3) The hiring of a multimedia library shall be subject to such conditions as the librarian may determine.

17. Performing Arts Library

- (1) All printed music must be made available for loan free of charge to registered adult members and organizations.
- (2) Material not for loan may be determined by the Performing Arts Librarian in his/her discretion.
- (3) Orchestral and bulk vocal scores may be made available for loan only to orchestras, school libraries and choirs upon written application and against payment of the prescribed fee.

18. Positioning of By-Laws and Notices In a Library

- (1) A copy of these By-laws must be available for inspection and a notice to that effect must be displayed at a prominent place in every library and be brought to the attention of library users where necessary.
- (2) There must be displayed in every library a notice to the effect that the neither the Council, nor any of its office bearers or employees are liable for any loss or injury sustained by any person using library premises or library material.

19. [Conduct in The Library] General offences and penalties

- (1) Any person who -
 - (a) conducts or engages in excessively loud conversation in any part of a building housing a library in a manner which causes or is likely to cause annoyance to any other person in that library; or
 - (b) uses abusive or otherwise objectionable language or behaviour or behaves in a disorderly manner in a library; or
 - (c) hampers, disturbs, obstructs or harasses any other person in the legitimate use of a library; or
 - (d) damages any part of a library building or its contents; or
 - (e) furnishes a false name or address to a librarian for the purpose of entering any part of that library or for obtaining any benefit or privilege; or

- (f) enters or remains in the library while knowingly suffering from any notifiable medical condition or while under the influence of intoxicating liquor or habit-forming drugs; or
 - (g) smokes, eats, drinks, sleeps in any part of a library where these activities are forbidden; or
 - (h) contravenes any other provision of these By-laws; may be ordered by a librarian to leave that library, and if he or she refuses to so, may be removed from such library by the use of reasonable and necessary force.
- (2) Any person who despite being ordered to desist therefrom persists in conduct of any kind of referred to in section 19(a) or (b), is guilty of an offence and on conviction liable to imprisonment for a period not exceeding six months, or to a fine in lieu thereof or to both such fine and imprisonment.

20. Liability for loss or injury

- (1) The Council is not responsible for any damage to, loss or theft of any items brought into a library building by members of the public.
- (2) The Council is not liable for any claim for personal injury sustained by any member of the public whilst on any library premises or whilst using any library material.

21. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

22. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;

- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

23. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

24. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

25. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.”.

Short title

26. These By-laws are called the Umzimkhulu Local Municipality Library and Information Services By-laws, 2008.

No. 137

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

PUBLIC SPACES BYLAWS

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UMZIMKHULU PUBLIC SPACES BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Spaces Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-.

[PUBLIC SPACES BYLAWS]

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CHAPTER I
INTERPRETATION AND FUNDAMENTAL PRINCIPLES

1. Definitions

In these By-laws, unless the context indicates otherwise

"active game" means any physical sport, game or other activity by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, and roller-skating;

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement, and enforce the provisions of these By-laws;

"conservation public open space" means public open space that is managed by or on behalf of the Council for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

"designated area" means an area designated by the Council as an area in which an active game or any other activity, which would otherwise be prohibited under Chapter III of these Bylaws, may be undertaken;

"enforcement officer" means any peace officer, as defined in the Criminal Procedure Act who is duly appointed by the Council to enforce any provision of these By-laws;

"environment" means the surroundings which are inhabited by humans and that are made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and

- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmentally sustainable" means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that

- (a) the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- (b) the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and
- (c) legislation intended to protect the environment and human health and safety is complied with;

"local community" means that body of persons comprising –

- (a) the residents of the area in which the public open space is situated;
- (b) the ratepayers of the area in which the public open space is situated; and
- (c) any civic organisations and non-governmental or private sector organisations or bodies which are involved in local affairs in the area in which the public open space is situated;

"municipal manager" means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"municipal property" means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and Signs;

"notice" means a clear and legible official notice drawn up by the Council in English and any other official language and prominently erected in a public open space;

"nuisance" means an unreasonable interference or likely interference with

- (a) the health or well-being of any person;
- (b) the use and enjoyment by an owner or occupier of his or her property; or
- (c) the use and enjoyment by a member of the public of a public open space;

"organ of State" means –

- (a) any department of State or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution –

- (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) or a provincial Constitution; or
- (ii) exercising public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

"person" means a natural person or a juristic person, and includes an organ of State;

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

"printed matter" includes any advertisement, billboard, poster, book, pamphlet or handbill;

"prohibited activity" means any activity or behaviour that is prohibited in terms of Chapter III from being undertaken in a public open space, either completely or without permission in terms of sections 22, 23 or 24;

"public open space" means any land which –

- (a) is owned by an organ of State, or
- (b) over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- (c) is controlled and managed by the Council; and
- (d) is either –
 - (i) set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
 - (ii) predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

"public utility public open space" means public open space that is managed by or on behalf of the Council for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes council housing, clinics and other social services;

"recreational public open space" means public open space that is managed by or on behalf of the Council for public recreational purposes, and includes parks, botanical gardens, sportsgrounds and playgrounds, but excludes golf courses;

"road reserve" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or shoulder;

"service provider" means a person or institution or any combination of persons and institutions which provide a municipal service in terms- of the Local Government: Municipal Systems Act, 1998 (Act No. 32 of 2000);

"special event" means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot, photographic shoot or similar event, which requires, for that purpose, exclusive use of a part of a public open space;

"urban agricultural public open space" means public open space that is managed by or on behalf of the Council for urban agricultural purposes;

"vehicle" means a device designed or adapted mainly to travel on wheels, but excludes wheelchairs and children's pushchairs;

"waste" means any substance or article that the owner wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has either been discarded or has been accumulated, or stored so that, it can be discarded, reused, reclaimed or recycled;

"watercraft" includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device;

"water body" means any body of water within a public open space. and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river or wetland.

2. Application

These By-laws apply to all public open space that falls under the jurisdiction of the Council, but do not apply to cemeteries.

These By-laws are binding on the State.

3. Purpose

The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:

- a. to ensure that the way in which Council controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Umzimkhulu; including future generations; and
- b. that clearly defines the rights and obligations of the public in relation to public open spaces.

CHAPTER II

MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

4. Principles

- (1) Public open spaces must be managed, and where appropriate developed, in the interests whole community, and in determining the interests of the whole community
 - (a) the long-term collective interests of the people of Umzimkhulu, and of South Africa, must be prioritized over the interests of any specific interest group or sector of society;
 - (b) a long-term perspective, that takes account the interests of future generations, must be adopted; and
 - (c) the interests of other living organisms that depend on public open spaces must be taken into account.
- (2) Public open spaces must be managed in an environmentally sustainable manner.
- (3) Subject to subsection (5) and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- (4) Where necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
- (5) Access to a public open space may be restricted in a manner that does not unjustifiably discriminate against any person or class of persons
 - (a) if the restriction is authorized by these By-laws or by any other applicable legislation; or
 - (b) in order to achieve-the-purposes of-these By-laws.

- (6) The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- (7) Local communities must be encouraged to use and care for public open spaces in their areas.
- (8) The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

5. Application of principles

The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998), must be considered and applied by any person –

- (a) exercising a power or function or performing a duty under these By-laws;
- (b) formulating or implementing any policy that is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
- (c) exercising a public power or function or performing a public duty that is likely to have a significant effect on, or which concerns the use of, public open spaces.

6. General Powers

The Council may in relation to any public open space –

- (a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these By-laws may be undertaken, and erect a prominent notice to this effect at entrances to the designated area;
- (b) develop any public open space in accordance with the principles set out in section 4;
- (c) erect, construct, establish or demolish municipal property; and
- (d) exercise any other power reasonably necessary for the discharge of the Council's obligations in terms of these By-laws relating to the management of public open spaces.

7. Fees

The Council may require members of the public to pay

- (a) a reasonable prescribed fee to use recreational or other facilities that the Council provides within public open spaces;
- (b) a reasonable prescribed fee for entrance to public open spaces which are significantly more expensive to maintain than other public open spaces, such as botanical gardens;
- (c) a prescribed fee for the right to undertake a special event;
- (d) a prescribed fee for the right to exclusively use municipal property for a specific period;
- (e) a deposit prior to undertaking a prohibited activity;
- (f) an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- (g) a prescribed fee for processing applications for permits or letters of permission under these By-laws.

8. Restricting access

The Council may restrict access to any public open space or to any part of a public open space for a specified period of time

- (a) to protect any aspect of the environment within a public open space;
- (b) to reduce vandalism and the destruction of property;
- (c) to improve the administration of a public open space;
- (d) to develop a public open space;
- (e) to enable a special event that has been permitted in terms of section 23 to proceed; or
- (f) to undertake any activity that the Council reasonably considers necessary or appropriate to achieve the purposes of By-laws.

9. Procedure when exercising powers

If the rights or legitimate expectations of any person will be materially and adversely affected by the Council exercising any power in terms of sections 6, 7 or 8, before exercising the power the Council must –

- (a) give notice of the proposed administrative action, which notice must –
 - (i) be published in the *Provincial Gazette* and in a newspaper circulating in the area or areas that will be directly affected by the proposed administrative action;

- (ii) Contain a clear statement of the proposed administrative action;
 - (iii) Invite comments and objections within a specified period; and
- (b) Consider the comments and objections received in response to the notice

10. Powers of enforcement officers

In relation to any public open space, enforcement officer may-

- (a) issue a notice in terms of section 341 of the Criminal Procedure Act;
- (b) issue a notice under section 21;
- (c) order any person to leave a public open space if the enforcement officer reasonably believes that that person has not complied with any provision of these By-laws; and
- (d) Exercise any other power that may be exercised by a peace officer under the Criminal Procedure Act.

11. Obligations in relation to Public open spaces

- (1) The Council must within a public open space erect any notice required under these Bylaws.
- (2) In relation to recreational public open spaces, the Council must
 - (a) ensure that they are open to the public between sunrise and sunset , unless specified other wise in terms of a notice; and
 - (b) erect prominently displayed notice at every entrance indicating
 - (i) The opening and closing times of that recreational public open space; and
 - (ii) Any rules made in relation to that recreational public open space.

CHAPTER III

PROHIBITED CONDUCT

12. Prohibited activities

- (1) Any person who undertakes an activity or behaves in a manner that is prohibited under section 13 to 20 commit an offence unless the activity or conduction in question
 - (a) took place in a designated area within which that activity was allowed;
 - (b) is authorized in terms of a permission granted or permit issued under section 22,23,24; or
 - (c) Was deemed to have been authorized by the Council under subsection.
- (2) Subject to subsection (3), a person is deemed to have permission to undertake Prohibited activity if that person needs to undertake the prohibited activity
 - (a) to perform his or her obligations as an employee, agent or subcontractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of this by-laws
 - (b) to carry out public duties as an employee, agent or subcontractor of the council under his or her contract with, or mandate from, the Council or to achieve the purpose of this by-law;
 - (c) to fulfill his or her duties as an authorized officer implement the By- laws;
 - (d) to fulfill his or her duties as a peace officer
- (3) No person is deemed to have permission to undertake an activity that is prohibited under Section 13(1)(a), (e) or (f) or an activity that the Council has expressly refused to permit.

13. General

No person shall within a public open space –

- (a) act in a manner that is dangerous to life or property;
- (b) contravene the provisions of any notice within any public open space;
- (c) unlawfully enter a public open space to which access has been restricted in terms of section 8;
- (d) cause a nuisance;
- (e) behave in an indecent or offensive manner; or
- (f) Obstruct any authorised official who is exercising a power under these By-laws.

14. Use

Subject to subsection (2), no person shall within a public open space –

- (a) bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing in any water body;
- (b) sail, row, paddle, propel or control any watercraft on any water body;
- (c) make, light or otherwise start a fire, unless in a designated area;
- (d) camp or reside in any-public-open space;-
- (e) consume, brew, store or sell any alcoholic beverage;
- (f) use any sound equipment, including a radio, portable hi-fi or car stereo;
- (g) play an active game, except in an area designated for that purpose, on sport playing fields or on a golf course;
- (h) shoot a projectile of any nature; or
- (i) Ride a horse or motorcycle.

15. Waste

No person shall within a public open space

- (a) deposit, dump or discard any waste, unless in a receptacle provided by the Council for that purpose; or
- (b) Pollute or deposit any waste or thing in a manner which may detrimentally impact on a Water body.

16. Vehicles

No person shall within a public open space

- (a) except at times and on roads or pathways prescribed by the Council, drive, draw or Propel any vehicle;
- (b) drive, draw or propel a vehicle in excess of 10 kilometres per hour; or
- (c) Park a vehicle in a public open space.

17. Animals and vegetation

(1) Subject to subsection (2), no person shall within a public open space

- (a) disturb, damage, destroy or remove any vegetation;
- (b) plant any vegetation;
- (c) alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree
- (d) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
- (e) disturb, damage or destroy any bird nest or eggs;
- (f) walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or

- (g) Affix or place on any tree any printed matter.
- (2) The provisions of subsections (1)(a) and (b) do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

18. Municipal property and erection of structures

- (1) Subject to subsection (2), no person shall within a public open space
 - (a) deface, damage, destroy or remove any municipal property;
 - (b) disturb the surface of any land, whether by digging or undertaking any earthworks;
 - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board pole, stand or stage;
 - (d) affix or place on any municipal property, or distribute, any printed matter; or
 - (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations in any public open space
- (2) The provisions of subsection (1)(b) do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

19. Selling and special events

- (1) No person shall within a public open space
 - (a) use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
 - (b) sell, hawk, offer or display any goods or articles for sale or hire;
- (2) No person may undertake a special event, except *in terms* of a permit issued *in terms* of section 23.

20. Community service

No person shall within a public open space undertake any community or voluntary work of any description.

21. Restoration or removal notices

- (1) Unless permission or a permit to do so has been obtained under sections 22, 23 or 24, an enforcement officer may issue a restoration or removal notice to any person who has directly or indirectly in a public open space –
 - (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - (b) erected, built or assembled a structure; or
 - (c) Dumped, discarded or deposited any waste, unless in a receptacle provided by the Council for that purpose.
- (2) The restoration or removal notice may direct the person within the reasonable time stated in the notice to take stated reasonable action:
 - (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
 - (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

CHAPTER IV**APPLICATIONS FOR AUTHORISATION****22. Application for permission**

- (1) Any person who wants to undertake a prohibited activity must apply in writing to the Council for permission to do so.
- (2) The Council may, after receiving an application, request the applicant to provide additional information which the Council-reasonably requires in order to consider the application.-
- (3) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee (if any) has been paid.
- (4) Subject to subsections (2) and (3), the Council must consider the application within a reasonable time and must either:
 - (a) refuse the application; or
 - (b) grant permission in writing subject to whatever conditions the Council considers appropriate to best achieve the purposes of these By-laws, which may include payment of a deposit and/or a fee.

- (5) The Council must not grant permission for any person to behave in a manner that is prohibited under section 13(1)(a), (e) or (f).

23. Application for a special event permit

- (1) An application for permission to hold a special event in a public open space must be made at least three weeks before the proposed date of the special event.
- (2) The time period referred to in subsection (1) may be reduced on good cause at the Council's discretion.
- (3) The application must contain the following information
- (a) the name and full contact details of the applicant (including name, organisation (if any), address, telephone and fax numbers and email address, if available);
 - (b) the nature and purpose of the special event;
 - (c) the intended route or area proposed to be used by the special event; and
 - (d) The permissions, if any, required under Chapter III of these By-laws.
- (4) Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

24. Application for permission to farm in an urban agricultural public open space

- (1) An application for permission to farm in an urban agricultural public open space must contain the following information-
- (a) the name and full contact details of the applicant (including name, organisation (if any), address, telephone and fax numbers and email address, if available);
 - (b) the nature of the agricultural activity that the applicant proposes to undertake; and
 - (c) the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- (2) A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.

- (3) The holder of an urban agricultural permit may, subject to any conditions in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

CHAPTER V

CO-OPERATIVE MANAGEMENT AGREEMENTS

25. Co-operation management agreement

- (1) The Council may enter into a written agreement with any organ of State, local community or organization to provide for—
 - (a) the co-operative development of any public space; or
 - (b) the co-operative management of any public open space; and
 - (c) the regulation of human activities within a public open space.
- (2) The Council shall not enter into a co-management agreement in relation to a public open space unless it is reasonably believed that entering into the co-management agreement will promote the purpose of these By-laws.
- (3) The Council must monitor the effectiveness of the co-management agreement in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Council has reason to believe that the co-management agreement is not effective, or is inhibiting the attainment of the purpose of these By-laws.

CHAPTER VI

TREE PRESERVATION ORDERS

26. General

- (1) If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- (2) A tree preservation order:
 - (a) must indicate the tree or trees to which it relates; and
 - (b) may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.

- (3) The Council must erect a prominently displayed copy of any tree preservation order granted at the vicinity of the tree or trees to which the order relates

27. Procedure

Unless, in the Council's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order under section 26 –

- (a) give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the *Provincial Gazette* and in two newspapers circulating in the area in which the tree or group of trees is situated;
- (b) notify any affected organs of State; and
- (c) consider the comments and objections received in response to the notice.

CHAPTER VII

APPEALS

28. Appeals

- (1) A person whose rights are affected by a decision taken by any 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) 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; or
 - b. the municipal manager, the executive mayor is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

CHAPTER VII
GENERAL PROVISIONS

29. 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 not exceeding R1000,00 or to imprisonment for a period not exceeding 6 months

30. Conflict of laws

It there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail

31. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the “authorized officer”;
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.

- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
- (b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
- (c) The person serving the summons shall state in his or her report the manner of service or document.

32. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

33. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

34. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.”.

35. Short title

These By-laws are called the Umzimkhulu Local Municipality Public Spaces By-laws, 2008.

No. 138

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

REMOVAL OF REFUSE BYLAWS

MUNICIPAL MANAGER
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UMZIMKHULU REMOVAL OF REFUSE BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Bylaws Relating to the Removal of Refuse] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[BYLAWS RELATING TO THE REMOVAL OF REFUSE]

ARRANGEMENT OF SECTIONS

1. Definitions
2. Disposal of refuse
3. Removal of refuse
4. Levy by Council
5. Care of receptacles and **[the]** use of disposal bags
6. Separate refuse receptacles required for each trade, business or flat
7. Provision of extra refuse receptacles
8. Bin area to be provided
9. Location of refuse receptacles or bags for removal
10. Liquid waste matter
11. Removal of industrial, special and bulk refuse
12. Provision for **[the]** self disposal of domestic refuse
13. Garden refuse
14. Tariff of charges
15. Offences and penalties
16. Conflict of laws
17. Enforcement

18. Presumption19. Proof of claim20. Delegation of Council's powers21. Short title**1. Definitions**

"authorized official" means an official of the Council to whom it has delegated a duty, function or power under these bylaws in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

"Council" means the Council of the Umzimkhulu Municipality and its successors in law, and includes the Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any official to whom the Executive Committee has delegated any powers and duties with regards to these bylaws;

"refuse receptacle" means any receptacle, complying with the South African Bureau of Standards' specifications, for holding refuse;

"refuse bag" means a durable refuse bag suitable to be placed in a refuse receptacle

"refuse of any nature" means all types of refuse including domestic refuse, garden refuse, commercial refuse, industrial refuse, special refuse or bulk refuse; and

"special refuse" means any refuse requiring special handling treatment and / or disposal procedures, and includes abattoir waste, minerals, oils, sludges, sand, stone excavated soils, builders' rubble, hazardous or radio-active waste, and medical waste, and any other matter so deemed by the Council from time to time.

2. Disposal of refuse

- (a) No person may dispose or allow the disposal of refuse of any nature in any way other than as prescribed in these bylaws without the written approval of the authorized official.
- (b) No person may accumulate, store or allow the accumulation or storage of refuse of any nature on any property other than as prescribed in these bylaws without the written approval of the authorized.
- (c) The authorised official may direct the occupier or owner of a property on which refuse of any nature is found to be accumulating or person deemed to be responsible for the disposal of refuse of any nature on any public place or vacant land to deal with the refuse as directed and any person failing to comply

with such directive will be guilty of an offence.

- (d) In the event of the person directed to remove refuse in terms of paragraph (c) failing to deal with such refuse in the manner and within the time frame directed, the authorised official may arrange for the removal of such refuse and the Council may recover all costs in this regard from such person.

3. Removal of refuse

- (a) The Council may arrange for the removal of all or a portion of any refuse from premises situated on properties within its area of jurisdiction.
- (b) The Council may introduce the different levels of refuse removals services in different service areas within the Council's area of jurisdiction.
- (c) Where the Council selects not to render a removal service in respect of bulk garden refuse, industrial refuse or special refuse, the Council may direct the occupier or owner, as the case may be, in writing arrange at his / her own cost for the removal of such refuse and the disposal thereof at a dump site approved by the Council.
- (e) Should the owner or occupier fail to comply with a directive as contemplated in this clause [(c)], the authorised official may arrange for the removal of such refuse and recover the costs thus incurred from the occupier or owner as the case may be.

4. Levy by Council

- (a) For the purpose of these bylaws, the Council may raise -
 - (i) an annual levy against the owner; and / or
 - (ii) a monthly charge payable by the occupier, on all premises in the service area which shall be payable regardless of whether or not the refuse removal service is actually utilized; and / or
 - (iii) recover the levy for the service through the sale of municipal refuse bags;
 - (iv) a fee per service; and / or
 - (v) a deposit for any permit issued in terms of these bylaws.
- (b) The Council may differentiate in the levy, charge or fees between the different refuse removal services levels rendered in the respective service areas.
- (c) In a service area where a compulsory service has been introduced by the Council, the levy or monthly charge shall be payable by the occupier or owner, as the case may be, regardless of whether or not the refuse removal service is actually utilized.

5. Care of receptacles and [the] use of disposal bags

- (a) Every owner or occupier, as the case may be, shall, where the service introduced for the service area so requires, provide and maintain, on the premises, a refuse receptacle in such condition as not to cause or constitute a nuisance, and shall cause all commercial and domestic refuse accumulated on such premises to be deposited therein,
- (b) Every owner or occupier, as the case may be, shall, where the service introduced for the service area so requires, utilize standard plastic disposal bags or municipal refuse bags, as the case may be, for refuse removal.
- (c) Every owner or occupier shall keep such bags in such condition as not to cause or

constitute a nuisance and shall cause all commercial and domestic refuse accumulated on such premises to be deposited therein.

- (d) Every owner or occupier, as the case may be, shall cause every receptacle to be continuously covered, save when refuse is being deposited in or removed there from.
- (e) No person other than the authorized official or employees of the Council shall interfere with or remove, from any premises, any refuse receptacle except to facilitate the removal of such refuse.

6. Separate refuse receptacles required for each trade, business or flat

Where more than one trade, business or occupation is carried on in one building, or where a building is divided into separately occupied flats or suites of apartments, the owner or occupier, as the case may be, of each business premise, separate flat or suite of apartments, shall provide and maintain separate refuse receptacles in respect of each such trade or business, flat or suite of apartments.

The authorised official may waive or vary the requirements of this bylaw by reducing the number of refuse receptacles required in terms of paragraph (a) of this bylaw, provided such waiver or variation shall, in no way, affect the liability of such occupier or owner to pay for the individual services mentioned in paragraph (a).

7. Provision of extra refuse receptacles

In the event of the authorised official being satisfied that the accumulation of refuse on any premises is too large to be dealt with by the normal removal service in the area, the owner or occupier of such premises, as the case may be, shall, if so required by the authorised official, provide and maintain one or more extra receptacles and shall be liable for payment of the prescribed levy or fee proportionate to the number and type of receptacles required by the authorised official.

8. Bin area to be provided

The authorized official may direct the owner of any property on which more than one tenant or owner is accommodated to provide a bin area of a suitable size and construction on the property for the temporary storage of any refuse generated or accumulated on the property and must make suitable arrangements for the removal thereof as prescribed in these bylaws

The owner of any property on which a bin area has been provided for the temporary storage or refuse of any nature must keep such bin area in a sanitary condition at all times.

9. Location of refuse receptacles or bags for removal

The owner or occupier, as the case may be, shall –

- (a) In a service where a standard plastic disposal bag(s) or municipal refuse bags are used, place them on the street verge or pavement on the collection day; and
- (b) in a service area where refuse receptacles or other approved receptacles are used, place such receptacles on the street verge or pavement on the morning of the collection day; and

(c) if the refuse concerned is bulk refuse, industrial or special refuse, it shall be placed in such a position as the authorized official may determine and direct from time to time, in order to facilitate the removal of such refuse.

10. Liquid waste matter

No person shall, at any time or under any circumstances, deposit or cause or permit to be deposited any liquid waste matter of any kind in any refuse receptacle or refuse bag.

11. Removal of industrial, special and bulk refuse

(a) The owner or occupier, as the case may be, of any premises on which industrial, special or bulk refuse is produced or accumulated, shall package and deal with such refuse in a manner which the authorised official may determine and direct from time to time.

(b) Should the owner or occupier fail to deal with such industrial, special or bulk refuse as directed, the authorised official may arrange for the removal of such refuse, and recover the costs thus incurred from the occupier or owner as the case may be.

12. Provision for [the] self-disposal of domestic refuse

(a) Notwithstanding the foregoing provisions of these bylaws, owners or occupiers of premises whose boundary line is situated more than 100 m from any road traversed by any refuse removal vehicle provided by the Council, may apply to the authorised official for authority to bury their refuse on their premises, on the grounds of inaccessibility, in pits constructed at their expense to the satisfaction of the authorised official.

(b) All owners or occupiers, to whom authority is given in terms of this bylaw, shall be exempted from charges levied by the Council in respect of the refuse removal service, save that the Council is empowered to levy a charge for the processing of any application received, and for regular inspections of the pit which shall be stated in the Council's tariff of charges.

(c) The authorised official may grant or refuse an application in his discretion and in granting such an application may impose such conditions as to the location and the digging of the pit, the disposal of the refuse therein and the measures to be taken to prevent any nuisance or health hazard which may emanate there from, as he may deem fit: Provided that the authorised official shall not refuse an application unless he has reasonable grounds for believing that the proposed pit will constitute a nuisance or health hazard or a source of pollution of any river, stream or water supply.

(d) In granting such an application, the authorised official shall issue to the applicant a certificate on which any conditions imposed by him in terms of these bylaws shall be endorsed.

(e) The abovementioned certificate shall be valid for such period as the authorised official may determine or until its withdrawal or cancellation, whichever is the earlier.

(f) The authorized official may, at any time, by notice in writing, alter, amend or vary any condition endorsed on any certificate issued in terms of these bylaws or issues any written instructions to the holder of such a certificate to do or perform any act, matter or thing regarding a pit, the digging of a new pit or the disposal or handling of the refuse therein.

(g) Should the holder of the certificate issued in terms of these bylaws fail to comply with any of the conditions endorsed thereon or with any written instruction from the authorized official issued in terms of these bylaws, the authorized official may, by notice in writing to

the holder, require, him to comply with any such conditions within such period as he may determine, upon the failure of such holder to comply with the terms of such notice, the authorized official may cancel or withdraw his certificate in which event such holder shall be obliged to revert to the use of the refuse removal service provided by the Council, subject to the conditions pertaining thereto.

(h) The continued disposal of refuse in a pit after the cancellation of a certificate issued in terms of these bylaws shall be an offence and render the offender liable to prosecution.

(i) The provision of this section of the bylaws shall not apply to the self-disposal of refuse where such self-disposal forms part of the service introduced by the Council in a service area.

13. Garden refuse

(a) No person may place, store or dump any garden refuse or allow any person to do so, on any road, verge, public or private open space without the written approval of the authorised official having been obtained.

(b) The authorised official may, subject to such conditions as it may deem fit, issue a permit to allow the temporary storing of garden refuse, on the verge or other suitable place for a limited period of time on payment of the deposit laid down in the Council's Tariff of Charges.

(c) Should any person fail to comply with the conditions of any permit issued in terms of these bylaws for the temporary storage of garden refuse the deposit paid will be forfeited to Council and the authorised official may arrange for the removal of such refuse and the person to whom the permit was issued will be liable for all costs incurred for the removal of all the garden refuse on the spot indicated on the said permit.

(d) The Council may establish or approve garden refuse, transfer sites where garden refuse may be deposited for removal or landfill purposes subject to such conditions and on such days and during such hours as the Council may determine and displayed by notice on site.

(e) No person may enter upon a site established or approved by the Council in terms of these bylaws for the disposal of garden refuse at any time other than the days and time indicated on the notice displayed or disposes of any refuse other than organic garden refuse on such site.

14. Tariff of charges

The tariff of charges approved by the Council for refuse removal services in effect on the date of publication of these bylaws will remain effective until amended by the Council from time to time.

15. Offences and penalties

[(a) Any person who -

contravenes any provision of these bylaws, which contravention is not expressly stated to be an offence;

contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of these bylaws; or

(iii) Fails to comply with the terms of any notice served upon him or instruction to him

in terms of these bylaws shall be guilty of an offence.

(b) Any person who contravenes any of these bylaws shall be guilty of an offence and liable, upon conviction, to a fine - not exceeding one thousand rands (R1 000) or imprisonment for a period not exceeding one year or both such fine and imprisonment in the case of a first conviction, and

In the case of a second or subsequent conviction for the same offence, a fine not exceeding two thousand rands (R2 000) or imprisonment for a period not exceeding two years or both such fine and imprisonment] Any person who –

(a) contravenes or fails to comply with any provisions of these bylaws;

(b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these bylaws;

(c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these bylaws;

(d) for the purposes of these bylaws knowingly makes a false statement or deliberately furnishes false or misleading information to an authorized official or officer; or

(e) threatens, resists, interferes with or obstructs an authorized official, officer or employee of the Council in the performance of his powers, duties or functions under these bylaws.

shall be guilty of an offence and on conviction be liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

16. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

17. Enforcement

(1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

(2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the “authorized officer”;

(3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;

(4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.

- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

18. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

19. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

20. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.”.

21. Short title

These By-laws are called the Umzimkhulu Local Municipality Removal of Refuse By-laws, 2008.

No. 139

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

PARKING GROUND BYLAWS

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UMZIMKHULU PARKING GROUNDS BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Parking Grounds Bylaws]
“BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-“

[PARKING GROUNDS BYLAWS]

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CHAPTER 1

DEFINITIONS AND PAYMENT OF PARKING FEES

1. Definitions

In these By-laws, any word or expression that has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) has that meaning and, unless the context otherwise indicates -

"authorised official" means a designated officer authorised by the Council as contemplated in section 23 of that Act for purposes of these By-laws to perform and exercise any or all of the functions and powers specified in, and subject to

the provisions of that Chapter and to the provisions of any other law;

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"parking bay" means a demarcated area within which a vehicle is to be parked in terms of these By-laws, demarcated as such upon the surface of a parking ground or a floor thereof;

"parking ground" means any area of land or any building set aside by the Council as a parking ground or garage for the parking of vehicles by members of the public, whether or not prescribed fees have been determined for the use thereof;

"parking meter parking ground" means a parking ground or any part thereof where parking is controlled by means of parking meters;

"parking meter" means a device for registering and visibly recording the passage of time in accordance with the insertion of a coin or other method of payment prescribed by the Council and includes any post or fixture to which it is attached;

"parking period" means that period including a period reflected on a parking meter on any one day during which vehicles are permitted to park in a parking ground or parking bay or as indicated by a road traffic sign;

"pay and display machine" means a machine installed at a pay and display parking area for the sale of tickets on which are reflected the following:

- (a) The date or day of issue of the ticket;
- (b) the amount paid for the ticket;
- (c) the departure time; and
- (d) the machine code number;

"pay and display parking area" means a parking ground, or any part thereof

where a notice is erected by the Council at the entrance thereof indicating that the parking ground concerned or part thereof is a pay and display parking area;

"pound" means any area or place set aside by the Council for the custody of vehicles removed from a parking ground in terms of these By-laws;

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

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation.

2. Parking fees

Any person making use of a parking ground or parking bay n-lusi pay the prescribed fees.

CHAPTER [1] 2

TICKET CONTROLLED PARKING GROUND

3. Conditions of parking in a ticket-controlled parking ground

- (1) No person may park a vehicle or cause or permit a vehicle to be parked or allow it to be or to remain in a parking ground, wherein parking is controlled by the issue of tickets -
 - (a) except 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, except in a place indicated by the authorised official;
 - (b) after an authorised official has indicated to the person that the parking grounds full;
Or
 - (c) After the expiry of the parking period.
- (2) (a) No person may remove or cause or permit the removal of any vehicle in a parking ground unless -

that person has produced to the authorised official a ticket authorising him or her to park in the parking ground and which was issued to such person upon entering or leaving the parking ground; and

That person has paid to the authorised official the prescribed fee;

and if the person fails to produce a ticket authorising the person to park in such parking ground, the person shall be deemed to have parked the vehicle from the beginning of a period as prescribed until the time the person wants to remove the vehicle and he or she shall be charged accordingly.

- (b) (i) No person may, after failing to produce a ticket, remove or cause or permit the removal of *any* vehicle parked *in* the parking ground until that person has produced other proof, to the satisfaction of an authorised official, of his or her right to remove such vehicle.
- (ii) The authorised official must require the person referred to in subparagraph (i) to complete and sign such an indemnity form as is prescribed by Council, which will have the effect of indemnifying the Council against claims of whatever nature by any person relating to the removal of that vehicle.
- (iii) The authorised official may require such person to furnish such security as the prescribed by the Council.

- (3) The provisions of subsection (2) (a) does not apply where the prescribed fees were paid upon entering the parking ground and the person who paid such fees produces the required

ticket to the authorised official on demand.

- (4) 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 prescribed is payable for the next parking period.

4. Mechanical parking grounds

- (1) Where the actual parking of a vehicle is effected wholly or partly by means of a mechanical device in a parking ground, an authorised official may, if parking bays are available, issue to a person who wants to park a vehicle at the parking ground, a ticket in terms of which the Council authorises the parking of such vehicle in that parking ground.
- (2) No vehicle parked in a parking ground referred to in subsection (1) may be removed by any person unless -
- (a) payment of the prescribed fee is made to the authorised official; and
 - (b) that person has produced to the authorised official the ticket issued to him or her in terms of subsection (1) or, failing the production of such ticket the provisions of section 3(2)(b) will apply with the necessary changes.
- (3) No person who has caused a vehicle to be parked in a parking ground referred to in subsection (1) may allow it to remain therein after expiry of the parking period.

5. Monthly tickets

Notwithstanding anything to the contrary contained in these By-laws, the Council may in respect of any parking ground controlled by the issue of tickets issue at the prescribed fee a ticket which entitles the holder for one calendar month or any

lesser period stated

therein, to park a vehicle in that ground at the times stated in the ticket, if parking bays are available.

- (2) The Council may issue to any of its officials a ticket which entitles the holder, when using a vehicle regarding the business of the Council, to park it in a parking ground specified, if space in the parking ground is available.
- (3) A ticket issued in terms of subsection (1) or (2) may not be transferred to any other person or be used in respect of any vehicle other than the specified vehicle, without the prior written permission of the Council.
- (4) A ticket issued in terms of subsection (1) or (2) must be affixed by the holder of the ticket to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the ticket is readily legible from the outside of the vehicle,

6. Vehicles of excessive size

Unless a road traffic sign displayed at the entrance to a parking ground indicates otherwise, no vehicle which together with any load, exceeds 5 m in length, may be parked in a parking ground.

CHAPTER [2] 3

PARKING METER PARKING GROUNDS

7. Place of parking

No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a parking meter parking ground otherwise than in a parking bay.

8. Conditions of parking

- (1) No person may park a vehicle or cause any vehicle to be parked in a parking bay unless a coin or other prescribed object is forthwith

inserted-

- (a) into the meter allocated to such parking bay; or
- (b) if the meter controls more than one parking bay, in the meter controlling such bays as indicated by markings or signs on the road or sidewalk;

and that meter is put into operation in accordance with the instructions appearing thereon so that the meter registers and visibly indicates the parking period appropriate to the inserted coin or other prescribed object.

Provided that -

- (i) subject to subsection (4), a person may, without such payment, park a vehicle in a vacant parking bay for such part of any period as the parking meter may indicate to be unexpired; and
 - (ii) where a person has ascertained that the parking meter in any parking bay is not operating properly he or she must, subject to subsection (5), be entitled to leave a vehicle in that bay without inserting a coin or other prescribed object.
- (2) The insertion of a coin or other "prescribed object into a parking meter will entitle the person inserting it to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.
- (3) The period during which a vehicle may be parked in a parking bay and the coin or other prescribed object to be inserted in respect of such period into the parking meter allocated to any such bay, must be in accordance with the charge as prescribed and the periods and the coin or other prescribed object to be inserted in respect thereof, must at all times be clearly indicated on the parking meter itself.
- (4) Subject to the provisions of subsection (5) no person may either with or without the insertion of an additional coin or other prescribed object into a parking meter, leave a vehicle in a parking bay after the expiry of a

period as indicated by the parking meter or return the vehicle to that bay within fifteen minutes after that expiry, or obstruct the use of that bay by any other person.

- (5) If the Council displays in a parking bay, a sign prescribing a maximum period for continuous parking which differs from that specified by the parking meter, any person may, subject to the provisions of subsections (1) and (3), park a vehicle in that bay for the period so prescribed or for any shorter period, but no person may park a vehicle for any period in excess of the prescribed period.

9. Offences relating to parking meters

No person may -

- (a) Insert or attempt to insert into a parking meter a coin or object except
 - (i) A coin of South African currency of a denomination as prescribed;
 - (ii) An object which is prescribed as another method of payment.
- (b) insert or attempt to insert into a parking meter any false or counterfeit coin or prescribed
- (c) tamper with, damage, deface or obscure a parking meter;
- (d) in any way whatsoever cause or attempt to cause a parking meter to record the passage of time otherwise than by the insertion of a coin or other prescribed object;
- (e) jerk, knock, shake or interfere with a parking meter which is not working properly or at all in order to make it do so or for any other purpose;
- (f) Remove or attempt to remove or obscure a parking meter or any part thereof from the post or other fixture to which it is attached,

10. Proof of time

The passage of time as recorded by a parking meter is for the purpose of these By-laws and in any proceedings arising from the enforcement of these By-laws, deemed to be correct and may constitute evidence on the face of it of the time that the vehicle has been parked in a parking bay.

CHAPTER [3] 4

PAY AND DISPLAY PARKING AREAS

11. Parking

(1) No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a pay and display parking area unless immediately upon entering such area-

(a) The person purchases a ticket issued by means of a pay and display machine in that parking area in accordance with the instructions displayed on, or within a distance of not more than 1,5m of such machine; and

(b) The person displays such ticket by affixing it to the inside of the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the ticket by the pay and display machine is readily legible from the outside of the vehicle.

(2) (a) The period during which a vehicle may be parked in a pay and display parking area and the coin or other prescribed object to be inserted in respect of such period into the pay and display machine, must be indicated on such machine.

(b) No person may allow a vehicle to remain in a pay and display parking area after the expiry of the departure time indicated on the ticket.

12. Offences relating to pay and display machines

No person may -

- (a) insert or attempt to insert into a pay and display machine, a coin or other prescribed object which is false or counterfeit or any object other than a coin of South African currency or other prescribed object;
- (b) jerk, knock, shake or in any way interfere with, or damage or deface a pay and display machine:

Remove or attempt to remove a pay and display machine or any part thereof from its mounting.

13. Proof of date and time of departure

The date or day and time of departure as recorded by a pay and display machine is taken on the face of it to be correct evidence of date or day and time, unless the contrary is proved.

CHAPTER [4] 5 **MISCELLANEOUS**

14. Closure of parking grounds

Notwithstanding anything to the contrary contained in these By-laws, the Council may at any time close any parking ground or portion thereof temporarily or permanently and must indicate the fact and the period of such closure by a road traffic sign displayed at the entrance to the ground closed or at the portion closed, as the case may be.

15. Defective vehicles

No person may park or cause or permit any vehicle to be parked or to remain in any parking ground which is mechanically defective or for any reason incapable of movement but no offence is committed if a vehicle which, after having been parked in a parking ground, develops a defect which immobilises it and the person in control of it proves that he or she

took reasonable steps to have the vehicle repaired or removed within a reasonable time.

16. Parking of a vehicle in parking ground

No person may park or cause or permit any 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 any parking ground.

17. Cleaning and repair of vehicle

No person may in any parking ground clean, wash, work on or effect repairs except minor emergency repairs, to any vehicle or any part thereof except with the prior written consent of the Council.

18. Parking according to instruction

No person may in any parking ground park a vehicle otherwise than in compliance with an instruction or direction given by an authorised official or introduce or remove a vehicle otherwise than through an entrance thereto or exit therefrom demarcated for that purpose.

19. Tampering with vehicles

(1) No person may in any parking ground without reasonable cause or without the knowledge and consent of the owner or person in lawful control of a vehicle, enter or climb upon such vehicle or set the machinery thereof in motion or in any way tamper or interfere with its machinery or any other part of it or with its fittings, accessories or contents.

(2) No person may in any parking ground -

- (a) park any vehicle so that any part of it extends across any white line forming a boundary of a parking bay or that it is not entirely within the confines of such a bay;
- (b) do any act or introduce anything which obstructs or is likely to obstruct the movement of persons and vehicles;

- (c) With intent to defraud the Council forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of these By-laws.

(3) No person may park a vehicle or cause or permit it to be parked in any parking ground before the beginning or after the expiry of the parking period prescribed for the parking ground unless that person is the holder of a ticket issued in terms of these By-laws authorising him or her to do so.

20. Persons prohibited from being in parking ground

No person may enter or be in a parking ground otherwise than for the purpose of parking a vehicle therein or lawfully removing it therefrom unless authorised thereto by the Council.

21. Abandoned vehicles

(1) Any vehicle which has been left in the same place in a parking ground for a continuous period of more than seven (7) days may unless otherwise authorised by the Council be removed by or at the instance of an authorised officer as defined in the National Road Traffic Act, to the Council's pound.

(2) The Council must take all reasonable steps to trace the owner of a vehicle removed in terms of subsection (1) and if, after the lapse of ninety (90) days from the date of its removal the owner or person entitled to its possession cannot be found, the vehicle may, subject to the provisions of subsection (3), be sold by the Council at a public auction.

(3) Fourteen (14) days prior notice of an auction sale to be held in terms of subsection (2) must be published in at least two (2) newspapers circulating within the municipal area of the Council, but the sale may not proceed if at any time before the vehicle is sold, such vehicle is claimed by the owner or any person authorised by the owner or otherwise lawfully entitled to claim the vehicle and all prescribed fees payable in respect thereof in terms of these By-

laws and all costs referred to in subsection (4) is paid to the Council.

- (4) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (3) and 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, publishing in two (2) newspapers, and effecting the sale of the vehicle;
 - (c) The costs of keeping the vehicle in the pound which must be calculated at the prescribed rate; and any balance of the proceeds must be paid to the owner of the vehicle or any person lawfully entitled to receive it upon that person establishing his or her right thereto to the satisfaction of the Council and if no claim is established within one (1) year of the date of the sale, the balance will be forfeited to the Council.

22. Refusal of admission

An authorised official may refuse to admit into a parking ground a vehicle which is by reason of its length, width or height likely to cause damage to persons or property or to Cause an obstruction or undue inconvenience.

23. Medical practitioner exempt

A medical practitioner is exempt from paying the prescribed fees, while the vehicle used by that practitioner is parked to enable him or her to perform professional duties at any place other than a

consulting room or similar place and while a form or token issued by the South African Medical Council for that purpose is displayed on the windscreen of the vehicle concerned in a conspicuous manner.

24. Offences and penalties

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; or
- (c) Fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) Who obstructs or hinders any authorised representative or employee of the Council 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.

25. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

26. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the “authorized officer”;
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;

- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
- (b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
- (c) The person serving the summons shall state in his or her report the manner of service or document.

27. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

28. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

29. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.

30. Short title

These By-laws are called the Umzimkhulu Local Municipality Parking Grounds By-laws, 2008.

No. 140

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

NUISANCES BYLAWS

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UMZIMKHULU NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Bylaws relating to Nuisance] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[BYLAWS RELATING TO NUISANCES]

ARRANGEMENT OF SECTIONS

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2. Disturbance of [the] peace
3. [Subject to obtaining prior written approval of the Council] Use of megaphone loudspeakers or other similar devices
4. Making of unseemly noise
5. Vocalist or musician performing in public place
6. Discharge of fireworks
7. Discharge of firearm or airgun
8. Carrying of dangerous weapons
- [8] 9. Abusive language
- [9] 10. [offences against decency and morality] Obscene acts
11. Decently clothed
12. Intoxication
13. Writing or printing of indecent words or figures
14. Littering
15. Goods on street or footpath
16. Placing of goods, wares or articles
17. Unpacking of goods in street
18. Placing of flower pot or box
19. Holding of auction sale
20. Placing of slops, trimming of hedges, fences or trees
21. Collection of money and holding of cake sales
22. Overhanging or extension of tree, branch or shrub to street
23. General offences and penalties
24. Conflict of laws
25. Enforcement
26. Presumption
27. Proof of claim
28. Delegation of Council's powers

29. Short title**1. Definitions**

In these bylaws, unless the context otherwise indicates –

"Council" means the Umzimkhulu Municipality and its successor in law, and includes the Council or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws.

2. Disturbance of [the] Peace

No person shall disturb the public peace in any public place by making unseemly noises or by shouting, roaring, wrangling or quarrelling, or by collecting a crowd, or by fighting or challenging to fight, or by striking with or bandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behaviour, at any time of the day or night.

3.[Subject to obtaining prior written approval of the Council] Use of megaphone loudspeakers or other similar devices

No person shall advertise any wares or services in any public place by means of any megaphone loudspeakers or other similar device or ringing of bells in such manner to constitute a public nuisance in the neighbourhood

4. Making of unseemly noise

No person being in or on any private premises, shall disrupt the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noise shouting quarrelling wrangling or singing or the continuous playing of musical instruments, radios or the like or by the continuous or over-loud use of loudspeakers, or the like

5. Vocalist or musician performing in public place

Any itinerant vocalist or musician performing in any public place shall when so required by any protection officer or police officer or by any person residing in the neighbourhood where such vocalist or musician is performing, depart from such neighbourhood.

6. Discharge of fireworks

No person shall discharge fireworks or light any bonfire in any public space, without prior written permission of the Council.

7. Discharge of firearm or airgun

No person shall, with out lawful cause, discharge any firearm or airgun within the Municipality, provided that this bylaw shall not apply to any persons engaged in

authorised target practice in places set aside for that purpose or to any person to whom written permission to do so has been given by the Council.

8. Carrying of dangerous weapons

- (1) No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this bylaw shall not apply to the following:
- (a) Any person in the Military or Police service when on duty.
 - (b) Any security officer or police officer.
 - (c) Any person who shall have obtained from the police a written exemption from the operation of this bylaw, which exemption the police are hereby authorised to grant.
- (2) No persons armed with lethal weapons shall be permitted to congregate in any part of the municipality for any purpose or in any manner liable or calculated to cause a breach of the peace.

[8] 9. Abusive language

No person shall, in any public place, use *any* abusive or, threatening language or commit any act, which is liable or calculated to cause a breach of the peace.

10. [Offences against Decency and Morality] Obscene acts

No person shall, in any public place, commit any indecent or immoral gesture or act or wilfully and obscenely expose his person.

11. Decently clothed

No person shall appear in any public place without being decently clothed.

12. Intoxication

No person shall be or appear in any public place in a state of intoxication.

13. Writing or printing of indecent words or figures

No person shall write, print, or draw any obscene or indecent words or figures in any public place or upon any wall, door, window or other part of premises in or within sight of any public place, nor use any foul, obscene or indecent language in any public place within the hearing of any person therein.

14. Littering

No person shall litter upon any street or footpath, which might in any way endanger the safety of pedestrians, or pollute the environment.

15. Goods on street or footpath

No person shall allow any goods or other article, whether they be his own property or in his charge or custody, to be or remain in or any street or footpath so as to cause obstruction or inconvenience to the passage of any person for a longer time than may be necessary for loading and unloading, and in no case after receipt of a notice requiring him to remove same given by any security officer, police officer or authorised official.

16. Placing of goods, wares or articles

No person shall, for trading or any other purpose, place any goods, 'wares or articles on any stand or support on or overhanging or protruding over any pavement or street nor place such goods, wares or articles upon any pavement nor place, fix or hang such goods wares or articles upon any verandah post, stays or celing on or over any public footpath or street.

17. Unpacking of goods in street

No person shall carry on or take part in any trade or calling nor open, unpack or pack any cases furniture, goods, materials or merchandise in any street.

18. Placing of flower pot or box

No person shall place any flowerpot or box or other heavy article in any window or upon any window sill in any building abutting on any street or pavement unless proper precautions are taken to prevent such flower pot box or other heavy article from being blown or falling into or on to such street or pavement.

19. Holding of auction sale

No person shall hold any auction sale in any street or in or from any doorway, window or other opening of any premises abutting on any street without the written consent of the Council and then only subject to such conditions as may be imposed in such consent.

20. Placing of slops, trimming of hedges, fences or trees

No person shall place or deposit any slops, trimmings of hedges, fences or trees or any garden or other refuse or waste material of any kind on any street or pavement unless same is placed in approved boxes or receptacles for the purpose of removal by the Council's employees or contractors.

21. Collection of money and holding of cake sales

(1) No person, other than a person appointed for the purpose by a registered welfare organisation which has been authorised by the Council to cause a collection of money to

be taken or to hold a cake sale on its behalf in any public place, shall collect or attempt to collect money or hold such cake sale in any public place.

(2) Every welfare organisation desiring to obtain the authority of the Council for any such collection or cake sale on this behalf shall, make a written application to the Council therefore, and shall, if required by the Council, forward the following documents:

- (i) Its certificate of registration.
- (ii) A copy of its balance sheet for the proceeding financial year.

(³) The Council upon receipt of any such application, may either grant the application or refuse it, if granted, the authority shall be subject to such conditions as the Council may prescribe.

22. Overhanging or extension of tree, branch or shrub to street

(1) No person, being the owner or occupier or any premises abutting on any street or footpath shall permit any tree, branch or shrub growing on such premises to overhang or extend on to such street or footpath in such manner as to cause an obstruction or discomfort to the public, or to come into contact, or to be likely to come into contact, with any wire, pole or public work in or over such street or footpath, nor permit the roots of any such tree or shrub to grow to such an extent that they cause or are likely to cause, any damage to the surface of any footpath or street or to any drain, sewer, water main, underground cable or pipe laid in or under the surface of such footpath or street.

(2) The owner or occupier of any such premises shall upon receipt of a notice signed by the Municipal Manager requiring him to cut down or back or remove any such tree or shrub or the roots thereof within a time specified and if such owner or occupier shall fail to comply with such notice within such time specified therein the Council may cause such tree or shrub or the roots thereof to be cut down or back or removed, and may recover the cost of executing such work from such owner or occupier.

23. General offences and penalties

Any person who —

- (1) contravenes or fails to comply with any provision of these bylaws or of any term, condition restriction requirement notice or order imposed or issued in terms thereof;
- (2) resists, hinders, obstructs molests or interferes with an officer or employee of the Council in the performance of his duties or the exercise of his powers under these bylaws; or
- (3) causes or permits any other person to commit any of the aforesaid acts shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred rand, or in default of payment of any fine imposed, imprisonment for a person not exceeding six months.

24. Conflicts of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

25. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

26. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

27. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

28. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself; and

(c) may at any time be withdrawn in writing by the Council.”

29. Short title

These By-laws are called the Umzimkhulu Local Municipality Noise Abatement and Prevention of Nuisance By-laws, 2008.

CONTINUES ON PAGE 206—PART 2



KWAZULU-NATAL PROVINCE
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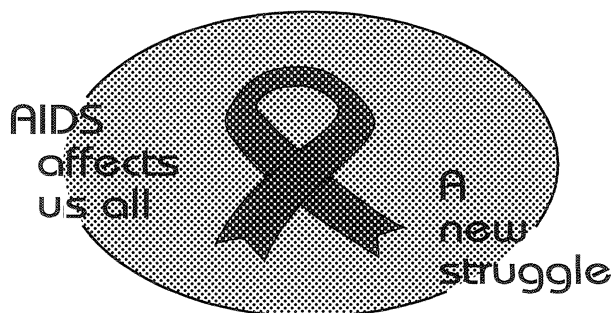
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PART 2 OF 2



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No. 141

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

WATER BYLAWS

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UMZIMKHULU WATER BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Water Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[WATER BYLAWS']

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In these bylaws, unless the context otherwise indicates –

"Approved" means approved by authorized delegate;

"Authorized delegate" means any person authorized by the Council to exercise any right or carry out any duty or function under these Bylaws;

"back-flow" means the flow of water in any pipe in a direction opposite to the normal direction of flow;

"Back siphonage" means the back-flow of water resulting from negative pressures in a water installation or in the water supply system;

"Borehole" means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring system

"Capacity" in relation to a storage tank means the volume of the tank between the operating water level of the water contained in such tank and the invert of the outlet from the tank;

"Combined installation" means a water installation used for fire-fighting and domestic commercial and industrial purposes.

"connection pipes" means a pipe, the ownership of which is vested in the Council and installed by it for the purpose of conveying water from a main to a water installation, and includes a

"Communication pipe" referred to in SABS 0252 Part 1;

“Constitution” The constitution of the Republic of South Africa (Act 200 of 1996);

“the Council” means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality, or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

“consumer” means any occupier of any premises to which the Council has agreed to supply or is actually supplying water, or if there be no occupier, then any person who has entered into a current agreement with Council for the supply of water to such premises, or, if there be no such person, then the owner of the premises; provided that where water is supplied through a single water meter to a number of occupiers, it shall mean that the occupier, or person, to whom the Council has agreed to supply water;

“Domestic purposes” in relation to the supply of water, means water supplied for drinking, ablution and culinary purpose to premises used predominantly for residential purposes;

"Fire installation" means a water installation which conveys water solely for the purpose of fire-fighting;

"Fixed quantity water delivery system" means a water installation which delivers a fixed quantity of water to a consumer in any single day;

"General installation" means the water installation which conveys water for the combination of domestic, commercial and industrial purposes

"industrial purposes" in relation to the supply of water, means water supplied to any premises which constitute a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"Installation work" means work in respect of the construction of, or carried out on, a water installation;

"Main" means a pipe, other than a connection pipe, vesting in the Council and used by it for the purpose of conveying water to customers;

"meter" means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973) or, in the case of water meters of size greater than 100 mm, a device which measures the quantity of water passing through it;

"Minister" means the Minister of Water Affairs and Forestry;

"National Water Act" means the National Water Act, 1998 (Act No. 36 of 1998), as amended from time to time;

"Occupier" means a person who occupies any premises or part thereof, without regard to the title under which he or she occupies'

"Officer" means an employee of the Council or any other person who is authorized by it to perform any act, function or duty in terms of, or exercise any power under these bylaws;

"Operating water level" means the level of water reached in a storage tank when the valve controlling the inlet of water to the tank closes under normal operating conditions;

"Owner" means –

- a) the person in whom, from time to time, is vested the legal title the premises
- b) in a case where the person in whom legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager; liquidator or other legal representative'
- c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefits of the use

of such premises or a building or buildings thereon

- d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof, and
- e) in relation to (1) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) the developer or the body corporate in respect of the common property; or (2) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointment agent of such a person;

"Owner's water installation" means all the pipe work and water fittings installed by the consumer for connecting into the water installation installed by the Council

"Pollution" means the introduction into the water supply system, or a water installation, of any substance which can make the water harmful to health or impair its quality;

"Premises" means any piece of land, the external surface boundaries of which are delineated on

- a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- b) a sectional plan registered in terms of the Sectional Title Act, 1986 (Act No. 95 of 1986);

"Prescribed" means prescribed by the Council;

"Prescribed charge" means a charge prescribed by the Council;

"public notice" means notice in a local newspaper in at least two of the official languages in general use within the area in question, and, where

possible, the notice shall be published in a newspaper appearing predominantly in the language utilized in the publication of the notice;

"Registered contractor" means a company/person registered by the SAQCC for the Water Supply Industry;

"Registered person" means a person accepted by the Council as being competent to issue the necessary certification;

"Registered plumber" means a person accepted by the Council as being competent to issue the necessary certification;

"SAQCC for Water Supply Industry" means a the South African Qualification and Certification Committee constituted in terms of Act No. 58 of 1995;

"Schedule as approved pipes and fittings" means the list of pipes and fittings approved by the authorized delegate;

"Service pipe" means a pipe which is part of a water installation and which connects with the connection pipe;

"Terminal water fitting" means a water fitting at an outlet of a water installation and which controls the discharge of water from a water installation;

"Water Service Act" means the Water Service Act, 1997 (Act No.108 of 1997), as amended from time to time;

"Water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

"water installation" means the pipes, water fittings and meter as installed by the Council or otherwise laid with the permission of the Council, which connects to the pipe installed by the consumer;

"water supply system" means the structures, aqueducts, pipes, valves, pumps, meters or other appurtenances relating thereto which are vested in the Council and are used or intended to be used by it in connection with supply of water, and includes any part of the system; and

"Working day" means a day other than a Saturday, Sunday or public holiday.

- (2) Wherever in these bylaws a word or expression which is defined in the Water Services Act, but is not defined in these bylaws, is used, such word or expression shall bear the meaning ascribed to it in the Water Services Act.

2. Exceptions to application of these bylaws

- (1) If authority was given before the date of commencement of these bylaws for installation work to be done, or if authorised work is in progress on such date, such work shall comply with any laws governing such work which were in force in the area of jurisdiction of the Council prior to such date.
- (2) The Council may, for a period of 90 days after the commencement of these bylaws, give authority for installation work to be done in accordance with any laws governing such work which were in force in the area of jurisdiction of the Council prior to such date.
- (3) No owner shall be required to comply with these bylaws by altering a water installation or part thereof which was installed in conformity with any law applicable immediately before the date of commencement of these bylaws; provided that if, in the opinion of the Council, the installation or a part thereof is so defective or in such a condition or position so as to cause, or be likely to cause, waste or undue consumption of water, pollution of the water supply, or a health or safety hazard, it may by notice in writing require the owner to comply with the provisions of these bylaws within a specified period.

3. Responsibility for compliance with these bylaws

Notice relating to breach of these Bylaws on premises shall be served-

- (a) On the owner of the premises where matters relating to the water installation are involved;

- (b) On the customer where matters relating to the use of a water installation are concerned.

4. Notices and Documents

- (1) A notice or document is to be served on the person in terms of these bylaws shall be deemed to be duly issued if it is signed by an officer
- (2) If a notice or document is to be served on a person in terms of these bylaws, such service shall be affected by delivering it to him or her duly authorized agent.
 - a) By delivering it at his residence or place of business or employment to a person apparently not less than 16 years of age and apparently residing or employed there;
 - b) If he has nominated a *domicilium citandi*, by delivering it to such domicilium;
 - c) if he has not nominated a *domicilium citandi*, by delivering it to the address given by him in his application for a supply of water, for the receipt of an account for water supplied;
 - d) in the case of a body corporate, by delivering it at the registered office or business premises of such corporate;
 - e) by registered or certified post addressed to his last known address;
or
 - f) If service cannot be effected in terms of paragraphs (a) to (f) by affixing it to a principal door of entry to the premises concerned.
- (3) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of receipt of such notice and if served in terms of subsection 3(f) four days after the posting of such notice, and if served in terms of subsection 3(g), then on the date of affixing the notice to the door of the premises.

5. Power to serve and compliance with notices

- (1) The Council may, by written notice, order a person who by act or omission commits a breach of these bylaws or of any condition imposed there under to remedy such breach within a period specified in the notice.
- (2) If a person fails to comply with a written notice served on him or her by the Council in terms of these bylaws the specified period, it may take such action or do so such work as in its opinion is necessary to ensure compliance, and recover the cost of such action or work from such person.

6. Interference with water supply system

- (1) No person other than an officer shall operate, interfere, or tamper with the water supply system.
- (2) No person other than an officer shall effect a connection to the water supply system.

7. Obstruction of access to water supply system

- (1) No person shall prevent or restrict physical access to the water supply system.
- (2) If a person contravenes subsection (1) the Council may
 - (a) By written notice, require such to restore access at his or her own expense within a specified period; or
 - (b) If it is of the opinion that the institution is a matter of urgency, without prior notice restore access and recover the cost from such people.

8. Power of entry and inspection

- (1) An officer may for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given notice of the intention to do so, or in an emergency at any time, enter premises, request information and carry out such inspection and examination as he or she may deem necessary, and for those purposes operate any water fitting of the water installation.
- (2) If the Council considers it necessary that work be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may
 - (a) by written notice require the owner or occupier of the premises at his or her own expense to do specified work within a specified period; or
 - (b) if in its opinion, the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of these bylaws has been committed and no such contravention is established, the Council shall bear the expense connected therewith together with that of restoring the premises to its former condition.
- (4) If an officer requires the presence of –
 - (a) An owner at an inspection of his or her water installation; or
 - (b) a registered plumber doing installation work at an inspection of such work, he or she may give such person written notice of not less than three working days

to that effect, indicating the date and time when and the place where he or she proposes to carry out the inspection.

9. Relaxation or waiver

The Council may, in a specific instance and for a particular owner or customer, relax or waive in writin⁹ the requirements of a provision of these bylaws upon such conditions as it may deem fit to impose, if it is of the opinion that the application or operation of that provision in that case would be unreasonable, provided that the Council shall not waive any section of these bylaws which could result in the following consequences:

- (a) The wastage or excessive consumption of water
- (b) The evasion or avoidance of water restrictions
- (c) The endangering of public health or safely
- (d) The non-payment for water or related service
- (e) The installation of pipes and fittings which are not approved in terms of section 45

10 Prescribed charges

The Council shall by resolution prescribed the charges payable under these bylaws, including the payment of additional charges or interest in respect of delayed payment of any such charges.

CHAPTER 2

PROVISIONS RELATING TO MAKING AN APPLICATION

11 Unauthorised use of water

No person shall take water from the water supply system-

- (a) Until an agreement referred to in section 12(2) or 13(1) has been concluded; and
- (b) Except through a connection pipe as provided in terms of section 18

or from a hydrant in terms of section 24

12 Application for [a] supply of water

- (1) No person shall take, or be supplied with, water from the water system unless he or she has made application to the Council on the prescribed form for a supply of water for specific purpose and such application has been granted.
- (2) An application granted by the Council shall constitute an agreement between the Council and the applicant, and such agreement shall take effect on the date referred to or stipulated therein.
- (3) A customer shall be liable for all the prescribed charges in respect of a supply of water granted to him or her until the agreement referred to in section 12(2) has been terminated in terms of section 15
- (4) The prescribed form referred to in subsection (1) may contain such condition as do inspect.

13. Special agreements for supply of water

- (1) The Council may enter into a special agreement for the supply of water to -
 - (a) an applicant inside its area of jurisdiction, if the supply necessitates the imposition of conditions not contained in the prescribed form; and
 - (b) an applicant outside its area of jurisdiction, if such application has been approved by the municipality in which the applicant resides,
- (2) If the Council provides a supply of water to an applicant outside its area of jurisdiction in terms of a special agreement, it may permit him or her to sell such water to other persons outside its area of jurisdiction, subject to such conditions as the Council deems fit

14 Purpose of supply

Water supply by the Council shall be used solely for the purpose specified in the agreement for a supply of water.

Where the purpose for which water is used changes, the consumer shall enter into a new agreement as prescribed in section 12 and 13

15. Termination of agreement for supply of water

- (1) A customer may terminate an agreement referred to in section 12(2) by giving to the Council not less than 3 working days' notice in writing of his or her intention to do so.
- (2) Unless otherwise provided in these bylaws, the Council may, by notice in writing of not less than five working days, advise a customer of the termination of his or her agreement for supply of water if
 - (a) he or she has not consumed any water during the preceding six months or has not made satisfactory arrangements for the continuation of his or her agreement
 - (b) he or she has committed a breach of these bylaws and has failed to rectify such breach within a specified period after been given written notice to do so; and
 - (c) In terms of an arrangement made by the Council with another authority supplying water, such authority has agreed to supply to the consumer.
- (3) The Council may, after having given notice, terminate an agreement for a supply of water if a customer has vacated the premises to which such agreement relates.

16. Payment of deposit

- (1) The Council may at any time require the consumer to deposit a sum of money as a security to cover the estimated costs of water to be consumed over a period of time: provided that the Council may

on written application by a consumer accept from him or

- (2) A deposit contemplated in subsection (1) shall accompany an application submitted in terms of section 12(1) and on conclusion of an agreement contemplated in section 13(1).
- (3) A deposit paid in terms of subsection (1) shall not be regarded as being in payment or part payment of an account due for the supply of water.
- (4)
 - (a) If the Council at any time is of the opinion that a deposit or guarantee is insufficient for the purpose of subsection (1), the Council may by notice in writing require the consumer concerned to increase such deposit or guarantee by an amount specified in such notice.
 - (b) If a consumer fails to comply with the notice referred to in paragraph (a) within thirty days of the issue of the notice, the Council may reduce or discontinue the consumer's supply until such time as the consumer complies with the notice.
- (5) If, on the termination of an agreement in terms of regulation 16, any amount is outstanding in respect of the supply of water to a consumer, the Council may apply the deposit in payment or part payment of the amount and refund any balance to the consumer;
- (6) The agreement referred to in regulation 12(2) or 13(1) may contain a condition that a deposit shall be forfeited to the Council if it has not been claimed within 12 months of the termination of the agreement.

CHAPTER 3
PRVISIONS RELATING TO CONNECTION

17. Provision of connection pipe

- (1) If an agreement for a supply of water in respect of premises have been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the prescribed charge for the installation of such a pipe.
- (2) If an application is made for a supply of water to premises which are so situated that it is necessary to extend the water supply system in order to supply water to the premises, the Council may agree to the extension subject to such conditions as it may impose

18 Connection pipes

- (1) A connection pipe provided and installed by the Council-
 - (a) Will be located in a position and be of a suitable size determined by the Council; and
 - (b) Terminate at the boundary of the land owned by a vested in the Council, or over which it has servitude or other right, or at the outlet of water meter if the meter is located on the property being supplied
- (2)
 - (a) The owner shall, at his own cost, effect the connection between his water installation and the communication pipe serving his premises, unless otherwise stipulated by the authorised delegate.
 - (b) The authorised delegate may specify
 - (i) the type of joint which shall be used to effect the connection referred to in paragraph (a); and
 - (ii) The material of which the portion of the service pipe

between its communication pipe and the owner's isolating valve is made and the method of installation of such portion.

- (c) The owner shall secure the portion of his service pipe referred to in paragraph (b)(ii) against movement.

19. Interconnection between premises

An owner of premises shall ensure that no interconnection exists between the water installation on his or her premises and the water installation on other premises, unless he or she has obtained prior written consent of the Council and complies with any conditions that it may have imposed.

20. General conditions of supply

- (1) The granting of a supply of water by the Council shall not constitute an undertaking by it to maintain at any time or at any point in its water supply system-
- (a) Uninterrupted supply;
 - (b) A specific standard of quality of the water,
 - (c) A specific standard of quality of the water,
- provided that, if the water supply is interrupted for more than 24 hours, then the Council shall take such steps as are reasonable to attempt to provide an alternative supply of water to meet basic needs.
- (2) The Council may, subject to the provisions of subsection (1) (b), specify the maximum height in a building, to which water will be supplied from the water supplier. If an owner requires that any of the standard referred to in subsection (1) be maintained on his or her premises, he or she shall make provision in the water installation for such maintenance.
- (3) Council may, in an emergency, interrupt the supply of water to any premises without prior notice

- (4) If, in the opinion of the Council the consumption of water by a consumer adversely effects the supply of water to another consumer, it may apply such restrictions as it may deem fit to the supply of water to the first-mentioned customer in order to ensure a reasonable supply of water to the other customer.

21. Restriction or cutting-off supply

- (1) Without prejudice to any other right it may have, the Council may, if a customer has-
 - (a) Failed to pay a sum due to it in terms of these bylaws; or
 - (b) committed a breach of these bylaws and has failed to rectify such breach within the period specified in a written notice served on him or her requiring him or her to do so, by written notice inform the consumer of its intension to cut-off or restrict the supply of water on a specified date and the Council may on or after that date so cutoff or restrict such supply.
- (2) If, in the opinion of the Council, action is necessary as a matter of urgency to prevent waste of water, damage to property, danger to life or pollution of water, it may -
 - (a) without prior notice, cut off the supply of water to any premises; and
 - (b) Enter upon such premises and do such emergency work, at the owner's expense, as it may deem necessary, and in addition by written notice require the owner to do such further work as it may deem necessary within a specified period.
- (3) The consumer shall pay –
 - (a) the prescribed charge for the cutting-off or

restricting of the supply in terms of subsection (1)
or (2); and

- (b) the prescribed charge for restoration of the water supply;

provided that, in the case of a cutting off or restriction in terms of subsection (1), both the prescribed charges required in terms of subsection (a) and (b) above must be paid prior to the restoration of the water supply.

(4) Tampering

Where a water supply is found to have been tampered with or the meter bypassed, the Council may disconnect the relevant supply immediately and without any notice what so ever, and in such a way that no further water supply at those premises is possible. The customer will be charged the applicable tampering fee

- (5) In addition to the provisions of this section, the Council may enforce ant other rights or exercise any power conferred upon it by the Water Service Act, 1997 (Act No. 108 of 1997), the Council's water bylaws and any other applicable legislation

22. Interruption of supply at customer's request

- (1) The Council may, at the written request of a consumer
- (a) Cut off the supply of water to his or her premises; and
 - (b) Restore the supply, on the dates requested by him or her
- (2) The consumer shall, prior restoration of his or her water supply in terms of this section, pay the prescribed charge for the cutting-off of his or her supply of water, and for its restoration.

23. Disconnection of water supply

The Council may disconnect water installation from the connection pipe and remove the connection pipe if-

- (a) the agreement for supply has been terminated in terms of section 15 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
- (b) The building on the premises concerned has been demolished.

24 Water supplied [the] Council's hydrants

- (1) The Council may permit a temporary supply of water to be taken from one or more fire hydrants specified by it.
- (2) A person who desires a temporary supply of water referred to in subsection (1) shall make application in the manner prescribed in section 12(1) and subject to such

CHAPTER 4**METERING****25. Metering of water supplied**

- (1) All water supplied to a consumer by the Council shall pass through a meter or other measuring device for the purpose of measuring the quantity of water consumed: provided that -
 - (i) an automatic sprinkler installation;
 - (ii) a fire installation in respect of which steps have been taken to detect unauthorised draw-off of water for purposes other than fire fighting; and
 - (iii) Special circumstances at the Council's discretion.

-
- (2) All meter referred to in subsection (1) and its associated apparatus shall be provided and installed by the Council, shall remain its property, and may be changed by the Council when it deems necessary
- (3) (a) The Council may install the meter, and its associated apparatus, serving a water installation at any point in the installation
- (b) If the Council install a meter in water installation in terms of subparagraph (a), it may install a section of pipe and associated fitting between the end of its connection pipe and the meter, and such section shall be deemed to form part of the water installation
- (4) If the Council installs a meter together with its associated apparatus in a water installation in terms of subsection (3), the owner shall-
- (a) Provide a place satisfactory to the Council in which to install it;
- (b) Ensure that unrestricted access is available to it all times;
- (c) be responsible for its protection and be liable for the costs arising from damage thereto, excluding damage arising from normal fair wear and tear;
- (d) Ensure that no connection is made to the pipe in which the meter is installed, between the meter and the connection pipe serving the installation; and
- (e) Make provision for the drainage of water which may be discharged, from the pipe in which the meter is installed, in the course of work done by the Council on the meter.
- (5) No person other than officer shall-
- (a) disconnect a meter and its associated apparatus from the pipe in which they are installed;
- (b) break a seal which the Council has placed on a meter, or
- (c) in any other way, interfere with a meter and its associated apparatus
- (6) If the Council considers that the size of a meter is unsuitable by reason of the quantity of water supplied to premises, it may install a meter of

such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed charge for the installation of the meter.

- (7) The Council shall require the installation, at the owner's expense, of a meter to each dwelling unit, in separate occupancy, on any premises, for use in determining quantity of water supplied to each such unit; provided that where fixed quantity water delivery systems are used, a single meter may be used to supply more than one unit.
- (8) All water meters shall comply with the Trade Metrology Act, 1973 (Act No: 77 of 1973), as amended from time to time

26. Quantity of Water supplied to consumer

- (1) For the purpose of assessing the quantity of water supplied through a meter to a customer over a specific period, it shall be deemed, unless the contrary can be proved, that –
 - (a) The quantity is represented by the difference between readings of the meter taken at the beginning and end of such period;
 - (b) The meter was registering correctly during such period; and
 - (c) The entries in the records of the Council were correctly made,

provided that if water is supplied to, or taken by, a consumer without it passing through a meter, the estimate by the Council of the quantity of such water be deemed to be correct.

- (2) If a contravention of section 25(5) occurs, the consumer shall pay to the Council the cost of such quantity of water as in the Council's opinion was supplied to him or her

27. Defective Meters

- (1) If a customer has reason to believe that a meter, used for measuring water, which was supplied to him or her by the Council, is defective, he or she may, against payment of the prescribed charge, make application in writing for the meter to be tested.
- (2) The prescribed charge referred to in subsection (1) shall be-
 - (a) retained by the Council if the meter is found in terms of subsections (3) or (4) not to be defective; or
 - (b) Refunded to the applicant if the meter is found in terms of those subsections to be defective.
- (3) A meter to which the regulations relating to water meters published under the Trade Metrology Act, 1973 (Act No. 77 of 1973) are applicable, shall be deemed to be defective if, when tested in accordance with such regulations, is found to have a percentage error in over-registration or under-registration greater than that permitted for a meter in use in terms of that specification.
- (4) A meter to which the regulations referred to in subparagraph (3) are not applicable, shall be deemed to be defective if it is found to have a percentage error in over-registration or under-registration greater than 5 % at any one of the said rates of flow;
 - (a) not less than 75%;
 - (b) between 50% and 55%; and
 - (c) Not more than 20%

28. Special meter reading at request of consumer

The Council shall, on receipt from the consumer of written notice of not less than seven * days and subject to payment of the prescribed charge, read a meter at a time or on a day other than that upon which it would normally be read.

29. Special metering

- (1) If the Council wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may, by written notice, advise the owner concerned of its intention to install a meter at such point in the water installation as it may specify.
- (2) The installation of a meter referred to in subsection (1), its removal, and the restoration of the water installation after such removal shall be carried out at the expense of the Council.

The provisions of section 25(4) and 25(5) shall apply insofar as they may be applicable in respect of a meter installed in terms of subsection (1).

CHAPTER 5**PROVISIONS RELATING TO PAYMENT****30. Payment for water supplied**

- (1) All water supplied by the Council shall be paid for by the consumer at the prescribed charge for that particular category of use for which the supply was granted.
- (2) A customer shall pay for all the water supplied to him or her from the date of the agreement referred to in section 12(2) or 13(1) until the date of termination thereof.
- (3) The Council may estimate a quantity of water supplied in respect of a period or periods within the interval between actual successive readings of the meter, and may render an account to a consumer for the quantity of water so estimated.
- (4) The amount of an account rendered for water supplied to a consumer shall become payable on the due date stipulated in the account.
- (5) If a consumer is dissatisfied with an account rendered for water supplied to him or her by the Council, he or she may, prior to the due date

stipulated therein, object in writing, to the account, setting out his or her reasons for such dissatisfaction; provided that the lodging of an objection shall not entitle a customer to defer payment except with the written consent of the Council.

- (6) If a consumer uses water for a category of use other than that for which it is supplied by the Council and is in a consequence not charged for water so used, or is charged for the water at a rate lower than that at which he or she should be charged, he or she shall be liable for the amount due to the Council in accordance with the prescribed charges in respect of
- (a) the quantity of water which, in the opinion of the Council, he or she has used and for which he or she has not been charged; or
 - (b) The difference between the cost of the water used by him or her at the rate at which he or she has been charged and the cost of the water at the rate at which he or she should have been charged.
- (7) No consumer who is supplied with water in terms of these bylaws shall sell such water unless provision has been made therefore in a special agreement referred to in a section 13, or has obtained the prior written permission of the Council to do so.

31. Amendments to prescribed charges for water supplied

If amendments to the prescribed charges for water supplied become operative on a date between meter readings, it shall be deemed, for the purpose of rendering an account in respect of the charges, that the same quantity of water was supplied in each period of twenty-four hours during the interval between the meter readings.

32. Water Accounts

- (a) The Council shall show on each water account rendered to a customer the actual or estimated meter reading readings in kilolitres or cubic meters,

together with the dates of the readings and the total amount due in Rands. If the readings are estimated, this shall be clearly indicated on the account.

- (b) When an estimated meter reading is used, the Council must be in a position to justify it to the consumer.

33. No reduction of amount payable for water wasted or leakage undetected

The Council may, in addition to charges authorized elsewhere in these sections, prescribe and levy any of the following charges:

34. Charges other than for water consumed

The Council may, in addition to charges authorized elsewhere in these sections, prescribe and levy any of the following charges:

- (a) A charge payable by the customer in respect of each connection pipe or meter provided by the Council to serve the premises occupied by him or her, whether or not water has been supplied to him or her, the charge being due from the date of the agreement referred to in sections 12(2) or 13(1), whichever is applicable. Such charge shall not be based on any quantity of water consumed.
- (b) A monthly charge payable by the owner in respect of premises which, in the opinion of the Council, can reasonably be connected to the water supply system but is not so connected, the charge being due from a date determined by the Council until the date of the agreement referred to in section 12(2) or 13(1).

35. Adjustment of quantity of water supplied to customer through defective meter

- (1) If a meter is found to be defective in terms of sections 27(3) or 27(4), the Council may estimate the quantity of water supplied to the consumer

concerned during the period in which, in its opinion, such meter was defective, on the basis of the average daily quantity of water supplied to him or her over –

- (a) a period between two successive meter readings subsequent to the replacement of the meter; or
 - (b) a period in the previous year corresponding to the period in which the meter was defective; or
 - (c) the period between three successive meter readings prior to the meter becoming defective, whichever it considers the most appropriate.
- (2) If the quantity of water supplied to a customer during the period when his or her meter was defective cannot be estimated in terms of subsection (1), the Council may estimate the quantity on any basis that is available to it.

CHAPTER 6

POLLUTION OF WATER

36. Owner to prevent pollution of water

- (1) An owner shall provide and maintain approved measures to prevent the entry of a substance, which may be a danger to health or adversely affect the potability of water or affect its fitness for use, into –
- (a) the water supply system; and
 - (b) any part of the water installation on his or her premises
- (2) If a person contravenes subsection (1), the Council may
- (a) by written notice, require such person to take remedial steps to prevent pollution of water in the water supply system or water installation on his or her premises within a specified period; or

- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice undertake the work required by subsection 2(a) and recover the costs from such person.

CHAPTER 7

RESTRICTION ON [THE] USE OF WATER

37. Water restrictions

- (1) The Council may, subject to other applicable legislation, by notice
 - (a) prohibit or restrict the consumption of water –
 - (i) for specified purposes or otherwise;
 - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
 - (iii) in a specified manner or otherwise than in a specified manner;
 - (b) determine and impose –
 - (i) limits on the quantity of water which may be consumed over a specified period;
 - (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subparagraph (i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of water; and
 - (c) Impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.

(2) The Council may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and classes of customers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on such grounds as it may deem fit.

(3) The Council may -

- (a) take, or by written notice, require a customer at his or her own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
- (b) cut off or, for such period as it may deem fit, restrict the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), and where the supply has been cut off, it shall only be restored when the prescribed charge for cutting off and reconnecting the supply has been paid.
- (c) Provisions of this section shall also apply in respect of water supplied directly by the Council to customers outside its area of jurisdiction, notwithstanding anything to the contrary in the condition of governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

CHAPTER 8

OBTAINING [THE] COUNCIL'S APPROVAL FOR WORK

[40]38. Approval of installation of work

- (1) If an owner wishes to have an installation work done, he or she shall first obtain the Council's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required, or for the repair or replacement of an

existing pipe or water fitting other than a fixed water heater and its associated protective devices.

(2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by

- (a) the prescribed charge;
- (b) copies of the drawings as prescribed by the Council giving information on the form required by 4.1.1 of SABS 0252: Part 1; and
- (c) A certificate from a registered person certifying that the installation has been designed in accordance with SABS 0252: Part 1 or has been designed on a rational basis.

(3) The provisions of subsections (1) and (2) shall not apply to a registered plumber who replaces a fixed water heater or its associated protective devices.

(4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of 24 months after the first day of the month succeeding the month in which the authority is given; provided that the Council on written application extend a period of validity of the approval for a period not exceeding 2 months at a time and subject to such conditions as the Council deems fit.

[41]39. Copies of drawings to be kept on site

A complete set of approved drawings or installation work shall be available at the site of the work at all times until such work has been completed.

[42]40. Unauthorised work

If installation work has been done in contravention of section 39, the Council may, by written notice, require the owner of the premises concerned to comply with that regulation within a specified period, and if work in progress, to cease the

work, and may further require the owner to remove all such work which does not comply with these bylaws.

[43]41. Persons permitted to do installation and other work

- (1) No person who is not registered with the SAQCC for the Water Supply Industry, in the category appropriate for the work to be undertaken, shall be permitted to –
 - (a) do installation work other than the replacement or repairs of an existing pipe or water fitting;
 - (b) replace a fixed water or its associated protective devices;
 - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
 - (d) service, repair or replace a backflow preventer; or
 - (e) Install, maintain or replace a meter provided by an owner in a water installation.
- (2) No person shall require or engage a person who is not a registered plumber to do the work referred in subsection (1).
- (3) The provisions of subsection (1) shall not apply to a person acting in the scope of his or her employment with a registered plumber or registered contractor.
- (4) Notwithstanding the provisions of subsection (1), a person who, in terms of any law in force immediately prior to the commencement of these bylaws, was entitled to do the work described in subsection (1), may continue to do such work for a period not exceeding 12 months after these bylaws became effective.
- (5) Notwithstanding the provisions of subsection (1), the Council may permit a person who is not a registered plumber or a registered contractor to do installation work on his or her own behalf on premises owned and occupied solely by himself or herself and his or her immediate household; provided that such work may be inspected and approved by a person registered with the

SAQCC for the Water Supply Industry, in the category appropriate to the work being undertaken, at the direction of the Council.

[44]42. Provision and maintenance of [the] owner's water installation

- (1) An owner shall provide and maintain his or her water installation at his or her own cost and, except –
 - (a) in the case of a connection to a connection pipe; or
 - (b) Where permitted in terms of section 62.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his or her premises, an owner shall obtain the written consent of the Council or the owner of the land on which such portion is situated, as the case may be.

[45]43. Technical requirements for [a] water installation

Notwithstanding the requirement that a certificate be issued in terms of section 39(2)©, all water installations shall comply with SABS 0252 Part 1 and all fixed electric storage water heaters shall comply with SABS 0254.

CHAPTER 9

PIPES AND FITTINGS USED IN [A] WATER INSTALLATION

[46]44. Use of pipes and water fittings to be authorized by [the] Council

No person shall without prior written authority of the Council, install or use a pipe water fitting in a water installations within the Council's area of jurisdiction unless it is included in the Schedule of approved pipes and fittings.

[47]45. Acceptance requirements for pipes and water fittings

- (1) A pipe water fitting may be included in the Schedule referred to in section 45 if –
- (a) it bears the standardization mark of the South Africa Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or
 - (b) it bears a certification mark issued by the SABA to certify that the pipe or water fitting complies with an SABS Mark specification or a provisional specification issued by the SABS, provided that no certification marks shall be issued for a period exceeding two years.
- (2) The Council may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions, as it may deem necessary in respect of the use or method of installation thereof.

[48]46. Labelling of terminal water fittings and appliances

All terminal water fittings and appliances using or discharging water shall be marked, or have included within the packaging of the item, the following information:

- (a) The range of pressure in kPa over which the water fitting or appliance is designed to operate.
- (b) The flow rates, in litres per minutes, related to the design pressure range; provided that this information shall be given for at least the following water pressures:
 - (i) 20 kPa
 - (ii) 100 kPa.
 - (iii) 400 kPa.

[49]47. Schedule of accepted pipes or water fitting

- (1) Applications for the inclusive of a pipe or water fitting in the Schedule referred to in section 45 shall be made on the prescribed form and be accompanied by the prescribed charge.
- (2) A pipe or water fitting shall be removed from the Schedule if it-
 - (a) No longer complies with the criteria upon which its inclusion based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (3) The current schedule shall be available for inspection at the office of the Council at anytime during working hours.
- (4) Council may sell copies of the current Schedule at the prescribed charge.

CHAPTER 10**ENSURING WATER CONSERVATION****[50]48. Waste of water**

- (1) No customer shall permit
 - (a) the purposeless or wasteful discharge of water from terminal water fittings;
 - (b) pipes or water fittings to leak
 - (c) the use of maladjusted or defective water fittings;
 - (d) an overflow of water to persist
 - (e) an inefficient use of water to persist
- (2) An owner shall repair or replace any part of his or her water installation which is in such a state of despair that it is either causing or is likely to cause occurrence listed in subsection (1).

(3) If the owner fails to take measures as contemplated in subsection (2), the Council shall, by written notice, require the owner to comply with the provisions of subsection (1)

(4) If an owner fails to comply with the notice referred to in subsection (3), the Council shall take such measures as it may deem fit without prior notice and recovery the cost of doing so from the owner.

(5) (a) A customer shall ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.

(b) The Council may, by written notice, prohibit the use by a customer of any equipment in the water installation if, in its opinion, its use of water is inefficient.

Such equipment shall not be returned to use until its efficiency has been stored and a written application to do so has been approved by the Council.

[51]49. Car washing facilities

All commercial vehicle washing facilities shall be constructed and operated in such a manner that 50 percent of the water used by such facility is recycled for reuse in the facility.

[52]50. "Grey water" practices

Any device which entails the recycling or reuse of water shall not make use of water derived from any kitchen, excluding clothes washing machines, or from toilet discharges.

[53]51. Flushing toilets cisterns

No cisterns, and related pan designed to operate with such cistern, shall be installed with a cistern capacity of greater than 6 litres.

[54]52. Low flow showerheads

In any water installation where the dynamic water pressure is more than 200 kPa at a shower control valve, and where the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve, a shower head with a maximum flow rate of no greater than 10 litres per minute shall be installed.

[55]53. Wash hand basins

The maximum flow rate from any tap installed on a wash hand basin shall not exceed 6 litres per minute

CHAPTER 11**MISCELLANEOUS PROVISIONS****[56]54. Use of water from source other than the water supply**

- (1) No person shall use or permit the use of water obtained from a source other than the water supply except rain water tanks which are not connected to the water installation, except with the prior consent of the Council and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the Council with satisfactory evidence to the effect that water referred to in that subsection complies, whether as a result of treatment or otherwise, with the requirement of SABS specification 241-1984: Water for Domestic Supplies, published in the Government Gazette under General notice No. 2828 dated 20 December 1985, or that the use of such water does not or will not constitute a danger to health.

- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the Council:
- (a) a condition imposed in terms of subsection (1) is breached: or
 - (b) water no longer conforms to the requirements referred to in subsection (2)
- (4) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the Council's sewerage system, the Council may install a meter in the pipe leading from such borehole or other source of supply to the point or points where it is so used.
- (5) The provisions of section 25 shall apply insofar as they may be applicable in respect of the meter referred to in subsection (4).

[57]55. Notification of boreholes

- (1) The Council may, by public notice, require-
- (a) the owner of any premises within the area of jurisdiction of the Council upon which a borehole exists or, if the owner is not in occupation of such premises, the occupation thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
 - (b) The owner or occupier of any premises who intends to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection there with is commenced.
- (2) The owner or occupier of any premises who intends to sink a borehole shall undertake an environmental impact assessment for such intended borehole, to the satisfaction of the Council, before sinking the borehole.

[58]56. Sampling of water

- (1) The Council may take samples of water obtained from a source other than the water supply system and cause the samples to be tested for compliance with the requirements referred to in section 55(2).

- (2) The prescribed charge for the taking and testing of the sample referred to in section (1) shall be paid by the person to whom consent to use the water was granted in terms of section 55(1)

[59]57. Supply of non-potable water by the Council

- (1) The Council may, on application in terms of section 12, agree to supply non-portable water to a consumer subject to such terms and conditions as the Council may impose.
- (2) Any supply of water agreed to in term of subsection (1) shall not be used for domestic or any other purpose which, in the opinion of the Council, may give rise to a health hazard.

[60]58. Conditions of supply of non-potable water

- (a) No warranty expressed or implied, shall apply to the purity of any non-potable water supplied by the Council or its suitability for the purpose for which the supply was granted.
- (b) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or other arising directly or indirectly therefrom, including the consequences of any bona fide fault of the Council of the malfunction of a treatment plant.

[61]59. Use of Non-Portable Water for Irrigation Purposes

- (1) If non-potable water supplied by the Council is used for the irrigation purpose, the consumer shall ensure that it is applied uniformly over the irrigated areas and in such a way as to prevent ponding.
- (2) The consumer shall, at his own expense take such steps as may be necessary to prevent any run-off of surplus non-potable water from irrigated areas

- (3) If the consumer fails to take the steps referred to in subsection (2), the authorized delegate may be written notice require him to take steps within a specified period

If the consumer fails to take such steps the authorized delegate may do so at the consumer's expense.

[62]60. Warning notices

- (1) on premises on which non-potable water is used, the owner shall ensure that every terminal water fitting and every appliance which supplies or uses the water is clearly marked with a weatherproof notice indicating that the water there from is water unsuitable for domestic purposes
- (2) In the area where treated sewage effluent is used, the owner shall erect weatherproof notices in prominent positions warning that such effluent is not suitable for domestic purposes
- (3) Every warning notice prescribed in terms of subsections (1) and (2) shall be in at least one official language and such other languages as the Council may require

[63]61. Testing of pressure in water supply systems

The Council may, on application by an owner and on payment of the prescribed charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as the owner may request

[64]62. Pipes in streets or public places

No person shall, for the purposes of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any

Council, except with the prior written permission of that Council and subject to such conditions as it may impose.

[65]63. Water Audit

- (1) Major water uses users (those more than 3650 kilolitres per annum), excluding those compromising multiple dwelling units, shall undertake as and when required by the Council, a water audit. The audits shall be carried out not later than two weeks after the end of the financial year of the Council.
- (2) The audit shall detail the following:
 - (a) An amount of water used during the financial year.
 - (b) An amount paid for the financial year.
 - (c) Number of people living on the stand or premises.
 - (d) Number of people permanently working on the stand or premises
 - (e) Comparison of the above factors with those reported in each of the previous three years (where available)
 - (f) A seasonal variation in demand (monthly consumption figures).
 - (g) Details of water pollution monitoring methods.
 - (h) Details of current initiatives to manage their demand for water.
 - (i) Details of plans to manage their demand of water.
 - (j) Comparison of the above factors with those reported in each of the previous three years (where available).
 - (k) An estimate of consumption by various components of use

[66]64. Offences

- (1) Any person who-
 - (a) fails or refuses to give access required by an officer in terms of section 8(1);

- (b) obstructs or hinders an officer in the exercise of his or her powers or performance of his or her functions or duties under these bylaws;
- (c) fails or refuses to give an officer such information as he or she may reasonably require for the purpose of exercising his or her powers or performing his or her functions or duties under these bylaws or who gives such officer false or misleading information knowing it to be false or misleading;
- (d) contravenes or fails to comply with a provision of these bylaws
- (e) fails to comply with a condition or prohibition imposed in terms of these bylaws; and
- (f) Fails to comply with the terms of a notice served upon him or her in terms of these bylaws shall be guilty of an offence and be liable, upon conviction, to the penalties prescribed in the Water Services Act.

65. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw (relating to general);
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect corrective measure as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2 500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons calling upon the person to appear before a court for prosecution.

- (b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
- (c) The person serving the summons shall state in his or her report the manner of service or document.

66. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

67. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

[67]68. Conflict of Laws

If there is any conflict between these bylaws and any other bylaws of the Council, these bylaws will prevail.

69. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.

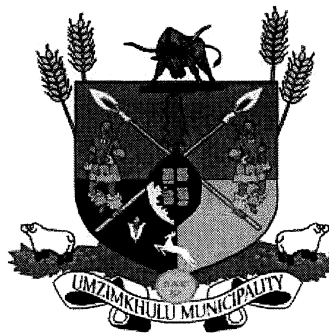
70. Short title

These By-laws are called the Umzimkhulu Local Municipality Water By-laws, 2008.

No. 142

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

PUBLIC MEETINGS, GATHERINGS AND PROCESSIONS BYLAWS

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UMZIMKHULU PUBLIC MEETINGS, GATHERINGS AND PROCESSIONS BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Meetings And Gatherings, Processions And The Like Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[BYLAWS RELATING TO PUBLIC MEETINGS AND GATHERINGS, AND THE LIKE]**ARRANGEMENT OF SECTIONS**

1. Definitions
2. Permission required
3. Application for permission
4. Grant or refusal of permission
5. Exemption
6. Offences and penalties
7. Damages
8. Conflict of laws
9. Enforcement
10. Presumption
11. Proof of claim
12. Delegation of Council's powers
13. Short title

1. Definitions

In these bylaws, unless the context otherwise indicates -

"Council" means the Council of the Umzimkhulu Municipality and its successors in law, and includes the Executive Committee or any other body acting by virtue of *any* power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regards to these bylaws;

2. Permission Required

No person shall hold, convene or organise or cause to be held convened or organised any public meeting, public gathering, procession, exhibition, performance or public address in any public street or public place or deliver or cause to be delivered any public address in any public street or public place unless-

- (1) the Council has under the hand of the Municipal Manager granted its permission in writing for the holding or delivery thereof; and
- (2) it is held or delivered in compliance with any condition requirements or restriction imposed by the Council; and
- (3) it complies with all the laws in force in the Republic of South Africa.

3. Application for Permission

- (1) Any person wishing to obtain the Council's permission as in subsection (2) required shall deliver to the Council not less than 7 days, or such lesser period as the Council may in its discretion permit before the day on which sj- "public meeting public gathering procession exhibition performance or public address concerned is to be held or delivered, a written application specifying -
 - (a) the nature thereof;
 - (b) the full names, addresses and telephone numbers of every holder, convener and organism thereof and of every person intending to deliver an address;
 - (c) the date on which, time at which, and place at, or route along which it is to be held or delivered;
 - (d) the expected maximum duration thereof;
 - (e) in the case of a procession, the number of persons expected to take part; and

(f) particulars regarding any hand, musical instruments, device for the application of sound, vehicle or temporary structure to be used in conjunction therewith.

(2) The Council may require such person to supply any additional information which it may consider necessary for the purposes of dealing with such application.

4. Grant or Refusal of Permission

(1) The Council may grant its permission if all information required has been supplied in full and if it is satisfied at the holding or delivery of the public meeting, public gathering, procession, exhibition, performance or public address concerned is not likely to -

(a) endanger, obstruct or interfere with -

i. pedestrian or vehicular traffic;

ii. any public market, auction or fair; and

iii. any other public meeting, gathering, procession, exhibition, performance or public address; or

iv. lawful use by the public of any street or public place; or

(b) endanger or be injurious to public health.

(2) The Council may, when granting its permission for the holding of any public meeting, public gathering, procession, exhibition or performance, or the delivery of any public address under this chapter, impose such conditions, requirements and restrictions as it may deem necessary in the public interests and may, without derogating from the generality of the foregoing in particular, limit the holding or delivery thereof to specified times or periods and to specify places or routes and prohibit or restrict the use of any band, musical instrument, device for the application of sound, vehicle or temporary structure in conjunction therewith.

5. Exemption

The provisions of this chapter shall not apply to any funeral, wedding, military or police procession.

6. Offences and Penalties

Any person who -

(a) contravenes or fails to comply with any provisions of these bylaws or of any term, condition, restriction, requirement, notice or order imposed or issued in terms thereof;

(b) resists, hinders, obstructs, molests or interferes with any officer or employee of the Council in the performance of his duties or the execution of his powers under these bylaws; or

(c) causes or permits any other person to commit any of the aforesaid, shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding one thousand rand, or in default of payment of any fine, imprisonment for a period not exceeding one year.

7. Damages

Notwithstanding the stipulations continued in subsection (6) above, the Council shall hold responsible any person or organiser of a public meeting and gathering or participant in such

Gathering or procession for any damage to any property of the Council and shall claim the cost to repair such damage from such a person or organiser.

8. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

9. Enforcement

(1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

(2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";

(3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;

(4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.

(5) The municipality may institute legal proceedings to recover the amount owed by the person;

(6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.

(7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;

(8) The notice shall be as per the schedule;

(9) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.

(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.

(c) The person serving the summons shall state in his or her report the manner of service or document.

10. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

11. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

12. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself; and

(c) may at any time be withdrawn in writing by the Council.”.

13. Short title

These By-laws are called the Umzimkhulu Local Municipality Public Meetings, Gatherings and Processions By-laws, 2008.

No. 143

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

HIRE AND USE OF COMMUNITY, ART AND CULTURAL FACILITIES BYLAWS

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**UMZIMKHULU HIRE AND USE OF COMMUNITY, ARTS AND CULTURAL FACILITIES BY-
LAWS**

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Bylaws for the use of Community, Arts and Cultural Facilities] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

ARRANGEMENT OF SECTIONS

1. Definitions
2. Rights and status of artists
3. Co-operation between Council departments
4. Application for hiring of facilities
5. Tariff of fees
6. Payment of charges
7. Period of hire
8. Adjustment of period of hire
9. Joint hire
10. Sub-letting
11. Condition of premises
12. Duties of [the] hirer
13. Damage to property
14. Advertisements and decorations
15. Admission and sale of tickets
16. Overcrowding
17. Sale of refreshments
18. Services
19. Exclusion of liability
20. Destruction of premises
21. Termination for non-compliance
22. Termination of hire
23. Fire hazards and insurance
24. Storage facilities
25. Equipment
26. Right of entry

27. Inspection

28. Regulations

29. Nuisance

30. Offences and penalties

31. Conflict of laws

32. Enforcement

33. Presumption

34. Proof of claim

35. Delegation of Council's powers

36. Short title

1. Definitions

In these By-laws, unless the context otherwise indicates-

"arts" means all forms and traditions of dance, drama, music, music theatre, visual arts, crafts, design, written and oral literature, film video, traditional and community art, all of which serve as means for individual and collective creativity and expression through performance, execution; presentation, exhibition, transmission and study; "artist" means anyone who is involved in the creation or production of music, dance, theatre, craft, films, video, traditional and community art, musical theatre and literature;

"Appurtenance," means any installation or appliance in the premises and includes, without derogating from the generality of the foregoing, any keys, locks, windows, sewerage pans, basins, water taps and fittings and "appurtenances" has a corresponding meaning;

"Authorised official" means an official of the Council to whom powers And/or functions have been delegated or assigned;

"Centre" means a building owned or operated by the Council, whether incorporating a community hall or not, at which group activities of an indoor sporting, cultural or recreational nature can be pursued.

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"culture" means the dynamic totality of distinctive, spiritual, material, intellectual and emotional features which characterise a society or a social group and includes language and heritage conservation (including museums, archives, libraries, historical sites and monuments);

"Cultural activity" means any cultural function, cultural meeting, festival, flea market, exhibition or any other cultural activity;

"Facilities" means the arts and culture facilities under the administration and control of the Council and includes all appurtenances;

"Group activity" means an activity of function of an artistic, cultural or indoor sporting. Nature, in which several members of a group of persons

having an interest in the nature of the activity participate either together or in sub-groups, or serially, whether as individuals or in teams;

"Hirer" means any person who applies, pays and obtains approval for the use of the facilities;

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

"Premises" means any land, building or structure or any portion of land, building or structure on or in which the arts and cultural activities regulated by these By-laws are carried out or on which a centre has been constructed;

"Prescribed fee" bears the same meaning as that set out in section 1 of these By-laws

"Property" means the property on which the premises or buildings of the Council are situated;

2. Rights and status of artists

The Council must recognise the right of all artists to practise their respective forms of art and enjoy their right to freedom of expression through such medium, consistently with the application of any other relevant law.

3. Co-operation between Council departments

Every Department of the Council having jurisdiction over or responsibility for any multipurpose community facility must cooperate with any other such Department in ensuring that –

- (a) such centre is properly maintained in a state fit for the purposes for which it was designed and is used; and
- (b) No part of such centre is made available to or hired out to more than one person at the same time.

4. Application for hiring of facilities

- (1) Any person wishing to apply for hiring of facilities must-
 - (a) submit an application in the form prescribed by the Council for this purpose;
 - (b) submit such application to the Council and must stipulate the facilities, seating, accommodation and equipment required and the period for which the premises and such other facilities as are referred to in this paragraph are required;
 - (c) Ensure that such application form is received by the Council not less than two weeks prior to the date on which the premises and facilities are first required by the applicant.
- (2) The Council may refuse to hire out any premises or facilities in terms of subsection (1), or to cancel any booking thereof if –

- (a) The premises or the facilities are to be used for any unlawful purposes;
 - (b) Or the premises or facilities being applied for are required by the Council for municipal purposes at the same time.
- (3) No compensation is payable by the Council to the hirer for any loss which the hirer may suffer by reason of the Council having acted in terms of subsection (2): Provided that the Council 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 facilities specified in the application form and may not use any other facilities for which he or she has not applied.
- (5) The facilities and accommodation so hired may not, except with the prior written approval of the Council, be used for any purpose other than the purposes indicated on the application form.
- (6) No premises or facilities hired out by the Council may be used for the purpose of conducting any form of religious worship, unless the express written consent of the Council to such use has been given in writing; provided that –
- (a) such use may be made of the premises only at the times specified in the contract of hire or letter of approval; and
 - (b) the Council 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 will not constitute an undue interference with the amenities normally enjoyed by other occupants of the building or occupants of neighbouring buildings.

5. Tariff of Fees

The Council may from time to time determine a tariff of prescribed fees for the services and facilities provided by the Council in terms of these By-laws.

6. Payment of charges

No person is permitted to use any premises or facilities unless the prescribed fee has been fully paid. The Council may exempt any person or organisation, on good cause, from the payment of portion or all of the prescribed fee.

7. Period of hire

Notwithstanding any determination made by the Council regarding the dates and period for which the premises and/or facilities may be hired, the Council may allow the hirer reasonable access to the facilities before the commencement date of the period of hire, so as to enable the hirer to make the necessary preparations and arrangements in the premises.

8. Adjustment of period of hire

- (1) Any person who makes an application for the use of premises and/or facilities in terms of the provisions of section 4 may, subsequent to the approval of such application and the reservation of such premises, apply for the postponement of such reservation to a later date, without penalty or forfeiture. The Council reserves the right to refuse such a postponement if the premises and/or facilities have in the meantime been reserved for use by another or others on the dates to which the postponement is sought.
- (2) Any person who has already made an application for reservation of premises or facilities may cancel such reservation. However, if -
- (a) a reservation is cancelled 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;
 - (b) a reservation is cancelled more than 15 days but less than one month prior to the commencement date of such reservation, the hirer must receive a 50% refund of the prescribed fee;
 - (c) a reservation is cancelled 15 days or less prior to the commencement date of such reservation, the hirer is not entitled to receive any refund of the prescribed fee.
- (3) Any person may extend the period of hire of premises and/or facilities upon written application to the Council, provided that the premises and/or facilities concerned have not in the meantime been reserved for use by any other person or persons.

9. Joint hire

(1) The Council may let any premises or parts thereof to different hirers for simultaneous use and in such a case, each hirer must use all the ancillary facilities which serve the different parts of the premises in common jointly with the other users and in such manner that all the different hirers, their guests, consumers and patrons, are able to enjoy the use of the facilities without infringing on the rights of use by other users.

(2) The provisions of these By-laws, read with the necessary changes, apply to the joint users of the hired premises.

10. Sub-letting

The hirer may not sub-let any of the hired premises or facilities 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 these By-laws nor allow any other person to occupy the premises without the prior written consent of the Council.

11. Condition of premises

- (1) The hirer must inspect the hired facilities, including all installations, appliances, fittings, accessories and furniture before he commences to use the same installations, appliances, fittings, accessories and furniture and if the hirer finds that any of the installations, appliances, fittings, accessories and furniture on the premises are not in a proper state of repair, the hirer must report this fact to the Council.

- (2) If the hirer fails either to inspect the facilities in terms of subsection (1), or to report any defects found, it may be deemed that upon commencement of occupation by the hirer, everything in the premises was in a proper state of repair.

12. Duties of the hirer

Every person hiring premises from the Council must -

- (a) take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the premises free from obstruction or blockage as a result of the hirer's activities;
 - (b) at all times keep the premises in a clean, tidy and sanitary condition;
 - (c) not affix or attach to the premises any notices or other matter without the prior consent of the Council: 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 into the walls or partitions or doors of the premises any screws or nails;
 - (f) not change or interfere with or overload any electrical installation in the premises;
 - (g) not remove or take out from the premises any furniture or other articles whatsoever belonging to the Council,
 - (h) not obstruct or interfere or tamper with any thermostats or air conditioning appliances in the premises or any building in which such premises are located;
-
- (a) Not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which in the opinion of an authorized official could damage the premises or any part thereof. Provided that an authorized official may impose on the introduction of such item, such conditions as are reasonable to ensure the safety of the premises and persons using them;
 - (b) Not install in the premises any air conditioning or ventilating units or equipment without the Council's prior consent;
 - (c) Not permit the storage of motor vehicles or other movable items of any description on the pavements outside or the entrance halts, staircases or passages of the premises;
 - (d) Not do anything on the premises, nor allow anything to be done in non-compliance with any reasonable instruction or prohibition given or issued by an authorised official;
 - (e) Not park vehicles nor allow the parking of vehicles by the hirer's employees, invitees, agents, directors or other representatives anywhere on the premises except in the properly demarcated parking bays on the premises as pointed out by an authorised official.

13. Damage to property

The hirer who fails to keep and maintain the premises and facilities hired out to him or her and to return them to the Council in the same order and condition as when they were hired out to him or her is, in addition to any remedies available to the Council at common law, guilty of an offence and liable to the penalties specified in these By-laws.

14. Advertisements and decorations

- (1) No person who has applied for the hire of premises and/or facilities may publicly announce or advertise any function or event in respect of which an application for the hire of such premises and/or facilities in terms of these By-laws has been made before the Council has notified such person in writing that the application has been approved.
- (2) Every hirer must, before vacating the hired premises 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 or her, and make good any damage caused by such removal

15. Admissions and sale of tickets

The hirer is responsible for all arrangements in connection with the admission of the members of the public to any cultural or other activities on the premises; and the provision of ushers and other persons necessary to control the admission of persons to the premises, and the sale of tickets.

16. Overcrowding

- (1) of the hirer's cultural activities and the hirer must comply with the Council's No overcrowding of the premises or facilities may be allowed at any time during any requirements prescribing the maximum number of persons allowed on the facilities during cultural activities,
- (2) Without detracting from the general requirements referred to in subsection (1), the hirer may not allow more persons admission to the premises than the number of available seats or, where seating is not provide, the maximum number of persons prescribed by notice on the premises or as stipulated in the contract of hire.

17. Sale of refreshments

- (1) No person may sell food or soft drinks on or in any hired premises during any activities for which they have been hired, without the prior written consent of the Council.
- (2) The Council 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 Council 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 cultural activities of the hirer.

- (4) The provisions of sections 40(1) and (2), read with the necessary changes, apply with regard to any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection (2)

18. Services

- (1) The nature of the municipal services to be provided to the facilities by the Council or its employees, authorised representatives of the Council or a service provider is at the sole discretion of the Council.
- (2) Neither the Council nor its employees or authorised representatives or service providers are liable for the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer, nor are they liable for anything which the hirer, his or her employees, invitees, agents, directors or representatives may have deposited or left in the premises or any part thereof.
- (3) The Council may take such steps as it may consider necessary in its discretion for the proper maintenance and operation of any common areas in the premises.
- (4) An authorised representative of the Council may attend the hirer's function to ensure compliance with any provision of these By-laws.
- (5) The hirer is not entitled to the official services of any authorised official or other representative of the Council who attends the hirer's function in terms of subsection (4)
- (6) The hirer is not entitled to receive gratuitous cleaning or other services from the Council in connection with the hirer's activities during the preparation of a function or during a function.

19. Exclusion of liability

- (1) The Council, its employees, and service providers are 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 premises, or due to any act or omission on the part of the Council, its employees, authorised officials or representatives or service providers if the Council considers the interruption necessary to enable it to exercise any of its rights or carry out its obligations under these Bylaws 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 stature whatsoever kept in the hired premises by the hirer or anyone else whether in regard to the hirer's business or not;
 - (c) any consequential loss suffered by the hirer or anyone by making use of the facilities on the hired premises 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 anyone else on or in the premises;
 - (d) Any loss suffered by the hirer or anyone else as a result of any failure or defect of any of the facilities on the hired premises: Provided such failure or defect is not attributable to any wilful act or omission on the part of the Council,

- (2) Every hirer must, at the time of concluding a contract of hire for the premises and/or facilities applied for complete and sign an indemnity form required by the Council in favour of the Council, its employees and service providers.

20. Destruction of premises

- (1) The Council may cancel the hire of facilities if-
 - (a) the facilities are destroyed or are damaged to such an extent as to be substantially unusable; or
 - (b) there is damage to the facilities such that, 'although subsection (1) (a) does not apply, the premises have been rendered substantially unusable because of absence of access or supply of any necessary municipal service or amenity; or
 - (c) There is destruction of damage to the premises or parts thereof or to neighbouring buildings, whether or not the hired premises are involved and the Council decides not to proceed with the hire of the premises 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 Council to the hirer within a reasonable period of the taking place of the event referred to in subsection -(1)-(a)-giving-rise-to-the-cancellation; provided that in the case of notice given in terms of subsection (1) (b) and (c), such notice shall be deemed to be effective as from the date on which the damage or destruction, as the case may be, took place.
- (3) No hirer has any claim against the Council, its employees or authorised representatives or service. Arising out of the damage to or destruction of the premises or any part thereof or for the resultant loss of beneficial use of the premises by such hirer.

21. Termination for non-compliance

The Council may at any time cancel the hire of the facilities if the hirer fails to comply with any of the provisions of these By-laws and the Council is not liable for any damage or loss sustained by any person as a result of such cancellation. In the event of such a cancellation, the Council is not precluded from exercising any rights or claims, which the Council may have against the hirer under any provision of these By- laws or at common law.

22. Termination of hire

- (1) Upon the termination of the period of hire for any reason. The hirer must return the premises and the facilities to the Council in good order and condition and must make good and repair at his or her own cost on demand any damage or breakages or, in the alternative, reimburse the Council for the cost of replacing, repairing or making good any broken, damaged or missing articles.
- (2) Every hirer must vacate the hired premises within such period after expiry of the period of hire as is stated on the application form or contract of hire. If the hirer fails to comply with the provisions of this subsection, the Council shall be entitled to levy a further prescribed fee for such additional period during which the hirer remains in occupation

of the premises after the expiry of the period of hire. The provisions of this subsection do not preclude the Council from taking lawful steps to procure the eviction of any such hirer from the premises.

- (3) Every hirer must comply with all reasonable and lawful instructions of the Council in respect of the cleaning of the facilities upon the hirer's vacation of the premises.

- (4) Every hirer must comply with all reasonable and lawful instructions of the Council in respect of the vacation of the premises and the return of facilities.

23. Fire hazards and Insurance

- (1) A hirer may not at any time bring or allow to be brought or kept on the premises, nor undertake nor permit to be done or undertaken in the premises, any matter, thing or activity whereby the fire or any other insurance policy of the building concerned may become or becomes void or voidable or whereby the premium for any such insurance may be or is increased.

- (2) If the premiums for such insurance are increased as a result of any act or omission contemplated in subsection (1), the Council may, in its discretion, allow such activity and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification from the Council or the insurance company to the effect that such additional premiums have been charged.

- (3) The Council may at any time at its discretion require the hirer to take up insurance of the premises hired with an insurance company approved by the Council, against loss or damage by fire or any other cause during or as a result of any function for which the facilities are hired.

24. Storage facilities

The Council is not responsible for providing facilities 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 cultural activity.

25. Equipment

- (1) A hirer who requires the Council to supply any equipment for use during a function, may use such equipment only with the permission of the Council and under the supervision of an authorised official. If the hirer causes damage to the equipment or removes or causes the equipment to be removed from the premises without permission or, having removed it with permission, fails to return it, the hirer is liable for the repair or replacement costs thereof.

26. Right of entry

- (1) Subject to the provisions of applicable national and provincial legislation, the Council or the authorized representative of the Council or a service provider may enter the premises at all reasonable times-

- (a) To inspect the premises and carry out any repairs or alterations or additions or modifications or improvements on or to the facilities or the premises.

(b) In order to ensure that the conditions of hire of the premises and the provisions of these By-laws are being complied with.

- (2) A hirer has no claim for remission of any charges payable for the hire of the facilities, compensation, damages or otherwise in connection with the exercise by the Council of the rights under subsection (1)
- (3) The Council, the authorised representative of the Council or a service provider is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of the premises as well as such other devices required by law or which the Council's architects may certify is necessary to carry out the repairs contemplated in subsection (1)(a).

27. 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 these By-laws, the authorised representative of the Council and the hirer or his nominee must inspect the premises and facilities hired, for the purpose of assessing any damage or loss.

28. Regulations

The hirer must comply with the Council's reasonable security and fire protection regulations, which may from time to time be in force in respect of the premises.

- (1) The Council, the authorised representative of the Council or a service provider is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of the premises as well as such other devices required by law or which the Council's architects may certify is necessary to carry out the repairs contemplated in subsection (1)(a).

29. Nuisance

- (1) No person attending any cultural activity in hired premises may conduct himself or other people in or users of the premises, or to occupiers of other parts of the premises in an unseemly or obnoxious manner or cause a nuisance or annoyance to building or neighbouring buildings.
- (2) An authorised official of the Council may, during any cultural activity of the hirer, direct that the hirer removes from the facilities any person who is in a state of intoxication and who is behaving in an unseemly or obnoxious manner or causing a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings-
- (3) An authorized official of the Council may, during any cultural activity of the hirer, direct the hirer to prevent the entry on the hired facilities by any person who is in a state of intoxication and who behaves in an unseemly or obnoxious manner or is causing a nuisance or annoyance to the other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings.

30. Offences and Penalties

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; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) obstructs or hinders any authorised representative or employee of the Council 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 six months.

31. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

32. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

33. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

34. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

35. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself; and

(c) may at any time be withdrawn in writing by the Council.”.

Short title

36. These By-laws are called the Umzimkhulu Local Municipality Hire and Use of Community, Arts and Cultural Facilities By-laws, 2008.

No. 144

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

CREDIT AND DEBT CONTROL BYLAWS

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UMZIMKHULU CREDIT CONTROL AND DEBT COLLECTION BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Credit Control and Debt Collection Bylaw] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[CREDIT CONTROL AND DEBT COLLECTION BYLAW]

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1. Definitions

For the purpose of these bylaws, any word or expression to which a *meaning* has been assigned in the Act shall bear the same meaning in these bylaws and unless the context indicates otherwise –

"Account" means any account rendered for municipal services provided:

"Act" means the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

"Actual consumption" means the measured consumption of any consumer; "applicable charges" means the rate, charge, tariff, flat rate, or subsidy determined by the municipal council;

"average consumption" means the average consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing that consumer's total measured consumption of that municipal service over the preceding three months by three;

"Agreement" means the contractual relationship between the municipality or its authorised agent and consumer, whether written or deemed;

"Area of supply" means any area within the area of jurisdiction of the municipality to which a municipal service or municipal service or municipal services are provided;

"Arrears" means any amount due, owing and payable by a consumer *in* respect of municipal services not paid on the due date;

"Authorised agent" means -

- (a) any person authorised by the Council to perform any act, function or duty in terms of, or exercise any power under these bylaws; and/or
- (b) any person to whom the Council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and/or
- (c) any person appointed by the Council in terms of a written contract as a service provider to provide revenue services to consumers on its behalf to the extent authorised in such contract;

"Commercial consumer" means a consumer other than household and indigent consumers, including without limitation, business, government and institutional consumers;

"Connection" means the point at which a consumer gains access to municipal services;

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"Consumer" means a person with whom the municipality or its authorised agent has concluded an agreement for the provision of municipal services;

"Defaulter" means a consumer who owes arrears;

"Due date" means the date on which the amount payable in respect of an account becomes due, owing and payable by the consumer, which date shall be not less than 14 days after the date of the account;

"Emergency situation" means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;

"Estimated consumption" means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;

"Household consumer" means a consumer that occupies a dwelling, structure or property primarily for residential purposes;

"Illegal connection" means a connection to any system through which services are provided that is not authorised or approved by the municipality or its authorised agent;

"Indigent customer" means a household consumer qualifying and registered with the municipality as an indigent in accordance with these bylaws;

"Legal costs" means legal costs on an attorney-own client scale;

"Municipal Manager" means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person –

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"Municipal services" means for purposes of these bylaws, any services provided by the municipality or its authorised agent, including refuse removal, water supply, sanitation, and electricity services;

"Occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"Owner" means –

- (a) the person in who the legal title to premises is vested;
- (b) in case where the person in whom the legal title to premises is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the premises for which a lease agreement of 30 years or longer has been entered into, the lessee of the premises;
- (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), the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
 - (iii) a person occupying land under a register held by a tribal authority;

"Person" means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"Public notice" means publication in an appropriate medium that may include one or more of the following:

- (i) Publication of a notice, in the official languages determined by the municipal council,
 - (ii) in the local newspaper or newspapers in the area of the municipality; or
 - (iii) in the newspaper or newspapers circulating in the area of the municipality determined by the municipal council as a newspaper of record; or
 - (iv) by means of radio broadcasts covering the area of the municipality; or
 - (v) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
- (b) Communication with consumers through public meetings and ward committee meetings;

"shared consumption" means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a consumer's premises is situated for the same period by the number of consumers within that supply zone, during the same period

"subsidised service" means a municipal service which is provided to a consumer as an applicable rate which is less than the cost of actually providing the service including services provided to consumers at no cost;

"Supply zone" means an area, determined by the municipality or its authorised agent, within which all consumers are provided with services from the same bulk supply connection, and

"Unauthorised services" means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

CHAPTER 2

PROVISION OF MUNICIPAL SERVICES TO CONSUMERS OTHER THAN INDIGENT CONSUMERS

Part 1: Application for Municipal Services

2. Application for services

- (1) A consumer who qualifies as an indigent consumer must apply for services as set out in Chapter 4 below.
- (2) No person shall be entitled to have access to municipal services unless application has been made to and approved by the municipality or its authorised agent on the prescribed form attached as Annexure A to these bylaws.
- (3) If, at the commencement of these bylaws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that -
 - (a) an agreement in terms of subsection (7) exists; and
 - (b) the level of services provided to that consumers are the level of services elected,until such time as the consumer enters into an agreement in terms of subsection (2).
- (4) The municipality or its authorised agent must on application for the provision of municipal services inform the applicant of the then available levels of services and then applicable tariffs and/or charges associated with each level of service.

- (5) The municipality or its authorised agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorised agent has the resources and capacity to provide such level of service.
- (6) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of services is paid by the consumer.
- (7) An application for services submitted by a consumer and approved by the municipality or its authorised agent shall constitute an agreement between the municipality or its authorised agent and the consumer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) In completing an application form for municipal services, the municipality or its authorised agent must ensure that the document and the process of interaction with the owner, consumer or any other person making such an application are understood by that owner, consumer or other person and advise him or her of the option to register as an indigent consumer.
- (9) In the case of illiterate or similarly disadvantaged persons, the municipality or its authorised agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form *and* shall assist him or her *in* completing such form.
- (10) Municipal services rendered to a consumer are subject to the provisions of these bylaws, any applicable bylaws and the conditions contained in the agreement.

If the municipality or its authorised agent -

- (a) refuses an application for the provision of municipal services or a specific service or level of service;
 - (b) is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence;
- or

- (c) is unable to render the municipal services or a specific service or level of service, the municipality or its authorised agent must, within a reasonable time, inform the consumer of such refusal and/or inability, the reason therefore and, if applicable, when the municipality or its authorised agent will be able to provide such municipal services or a specific service or level of service.

3. Special agreements for municipal services

The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant –

- (a) within the area of supply, if the services applied for necessitated the imposition of conditions not contained in the prescribed form or these bylaws
- (b) receiving subsidised services; and
- (c) if the premises to receive such service is situated outside the area of supply, provided that the municipality having jurisdiction over the premises has an objection to such special agreement. The obligation is on the consumer to advise the municipality concerned of such special agreement.

4. Change in purpose for which municipal services are used

Where the purpose or extent to which any municipal service used is changed, the onus and obligation is on the consumer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

Part 2: Applicable Charges

5. Applicable charges for municipal services

- (1) All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the Council in accordance with -
 - (a) its rates and tariff policy;
 - (b) its credit control and debt collection policy;
 - (c) any bylaws in respect thereof; and
 - (d) any regulations in terms of national or provincial legislation.

- (2) Applicable charges may differ between different categories of consumers, users of services, types and levels of services, quantities of services, infrastructure requirement and geographic areas.
- (3) Services will be terminated due to non-payment on the terms and conditions as stipulated in the credit control and debt collection policy.
- (4) Deferment for payment of service accounts can be granted to consumers in terms of council's delegated powers and conditions approved in its credit control and debt collection policy.
- (5) The municipality may consolidate any separate account of persons who are liable for payment to the municipality and may credit all payments received from such a person to any service and order of performance as determined by council from time to time in its credit control and debt collection policy.

6. Availability charges for municipal services

The Council, in addition to the tariffs or charges prescribed for municipal services actually provided, may levy a monthly fixed charge, annual fixed charge or once-off fixed charge where municipal services are available, whether or not such services are consumed or not.

7. Subsidised services

- (1) The Council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.
- (2) The Council may, in implementing subsidies, differentiate between types of household consumers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- (3) A public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy:
 - (a) the household consumers who will benefit from the subsidy;
 - (b) the type, level and quantity of municipal service that will be subsidized;
 - (c) the area within which the subsidy will apply;
 - (d) the rate (indicating the level of subsidy);
 - (e) the method of implementing the subsidy; and
 - (f) any special terms and conditions which will apply to the subsidy.
- (4) If a household consumer's consumption or use of municipal services is -
 - (a) less than the subsidised service, the unused portion may not be accrued by the consumer and will not entitle the consumer to cash or a rebate in respect of the unused portion; and
 - (b) In excess of the subsidised service, the consumer will be obliged to pay for such excess consumption at the applicable rate.
- (5) A subsidy implemented in terms of subsection (1) may at any time, be withdrawn or altered in the sole discretion of the Council, after -
 - (a) service of notice as contemplated in section 115 of the Act on the person affected by the council's intention to consider such withdrawal or alteration; and
 - (b) Consideration by the Council of any comments or requests received from the person affected.
- (6) Commercial consumers shall not qualify for subsidised services.
- (7) Subsidised services shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

8. Authority to recover additional costs and fees

The municipality or its authorised agent has the authority to, notwithstanding the provisions of any other sections contained in these bylaws, recover any additional costs incurred in respect of implementing these bylaws against the account of the consumer, including but not limited to all legal costs, including attorney and client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the consumer, and/or the or essential costs incurred relating to any action taken in demanding payment from the consumer or reminding the consumer, by means of telephone, fax, e-mail, letter or otherwise.

PART 3: PAYMENT

9. Payment of deposit

- (1) The Council may from time to time, determine different deposits for different categories of consumer, users of services, debtors, services and service standards, provided that the deposit will not be more than two and a half times the monetary value of the most recent measured monthly consumption of the premises for which an application is made.
- (2) A consumer must on application for the provision of municipal services and before the municipality or its authorised agent will provide such services, pay a deposit, if the municipal council has determined a deposit.
- (3) The municipality or its authorised agent may annually review a deposit paid in terms of subsection (2) and in accordance with such review require that an additional amount be deposited by the consumer where the deposit is less than the most recent deposit determined by the Council.
- (4) If a consumer is in arrears, the municipality or its authorised agent may require that the consumer-
 - (a) pay a deposit if that consumer was not previously required to pay a deposit; and
 - (b) pay an additional deposit where the deposit paid by that consumer is less than the most recent deposit determined by the Council.
- (5) Subject to subsection (7), the deposit shall not be regarded as being in payment of an account.

- (6) No interest shall be payable by the municipality or its authorised agent on any deposit held.
- (7) The deposit, if any, is refundable to the consumer on termination of the agreement. A deposit shall be forfeited to the municipality if it has not been claimed by the consumer within 12 months of termination of the agreement.

Methods for determining amounts due and payable

- (1) The municipality or its authorised agent must in respect of municipal services that can be metered, endeavour to, within available financial and human resources, meter all consumer connections and/or read all metered consumer connections, on a regular basis, subject to subsection
- (2) If a service is not measured, a municipality or its authorised agent may, notwithstanding subsection (1), determine the amount due and payable by a consumer, for municipal services supplied to him, her or it by calculating;
 - (a) the shared consumption, if possible; or
 - (b) the estimated consumption.
- (3) If a service is metered, but it cannot be read due to financial and human resource constraints or circumstances out of the control of the municipality or its authorised agent, and the consumer is charged for an average consumption the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- (4) Where water supply services are provided through a communal water services network (standpipe), the amount due and payable by consumers gaining access to water supply services through that communal water services network, must be based on the shared or estimated consumption of water supplied to that water services network.
- (5) Where in the opinion of the municipality or its authorised agent it is not reasonably possible or cost effective to meter all consumer connections and/or read all metered Consumer connections within a determined area, the Council may, on the recommendation of the municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the consumers within that area, irrespective of actual consumption.

- (6) The municipality or its authorised agent must inform consumers of the method for determining amounts due and payable in respect of municipal services provided which will apply in respect of their consumption or supply zones.

11. Payment for municipal services provided

(1) A consumer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the municipality or its authorised agent must recover *all* applicable charges due to the municipality.

(2) If a consumer uses municipal services for a use other than which it is provided by the municipality or its authorised agent in terms of an agreement and as a consequence is charged at a lower than the applicable charge the municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the consumer.

(3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges and the date of payment,

-

- (a) It shall be deemed that the same quantity of services was provided in each period of twenty-four hours during the interval between the measurements; and
- (b) Any fixed charge shall be calculated on a pro-rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

12. Full and final settlement of an account

- (1) Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.
- (2) Subsection (1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent made such acceptance in writing.

13. Responsibility for amounts due and payable

Notwithstanding the provisions of any other section of these bylaws, the owner of premises shall be liable for the payment of any amounts due and payable to the municipality or its authorised representative in respect of the preceding two years, where the owner is not the consumer and the municipality or its authorised agent after taking reasonable measures to recover any amounts due and payable by the consumer from the latter, could not recover such amounts.

14. Dishonoured payments

Where any payment made to the municipality or its authorised agent by negotiable instrument is later dishonoured by the bank, the municipality or its authorised agent –

1. may recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the consumer; and
2. shall regard such an event as default on payment.

15. Incentive schemes

The Council may institute incentive schemes to encourage payment and to reward consumers that pay accounts on a regular and timeous basis.

16. Pay points and approved agents

- (1) A consumer must pay his/her or its account at pay-points, specified by the municipality or its authorised agent from time to time, or at approved agents of the municipality or its authorised agent.
- (2) The municipality or its authorised agent must inform a consumer of the location of specified pay-points and approved agents for payment of accounts.

PART 4: ACCOUNTS**17. Accounts**

- (1) Accounts will be rendered monthly to consumers at the address last recorded with the municipality or its authorizing agents. The consumer may receive more than one account for different municipal services if they are accounted for separately.
- (2) Failure to receive or accept an account does not relieve a consumer of the obligation to pay any amount due and payable.

- (3) The municipality or its authorised agent must, if administratively possible, issue a duplicate account to a consumer on request upon payment of a fee as prescribed in the Council's tariff of charges.
- (4) Accounts must be paid not later than the last date for payment specified in such account, which date *will* be at least 14 days after the date of the account.
- (5) Accounts must reflect at least -
 - (a) The services rendered;
 - (b) The consumption of metered service or average, shared or estimated -consumption;
 - (c) The period stipulated in the account;
 - (d) The applicable charges;
 - (e) Any subsidies;
 - (f) The amount due (excluding value added tax);
 - (g) Value added tax
 - (h) The adjustment, if any, to metered consumption which has been previously estimated;
 - (i) The arrears, if any;
 - (j) The interest payable on arrears, if any;
 - (k) The methods, places and approved agents where payment may be made; and should ideally state that -
 - (i) the consumer may conclude an agreement with the municipality or its agent for payment of the arrears amount in instalments, at the municipality or its authorised agents offices before the final date for payment if a consumer is unable to pay the full amount due and payable;
 - (ii) if no such agreement is entered into, the municipality or its authorised agent will limit the services after sending a final demand notice to the consumer;
 - (iii) legal action may be instituted against any consumer for recovery of any amount 45 days in arrears;
 - (iv) The account may be handed over to a debt collector for collection; and
 - (v) Proof of registration as an indigent customer, in terms of the municipality or its authorized agent's indigent policy, must be handed in at the office of the municipality or its authorized agent before the final date for payment.

18. Consolidated debt

- (1) If one account is rendered for more than one municipal service provided, the amount due and payable by a consumer constitutes a

consolidated debt, and a payment made by a consumer of an amount less than the total amount due, will be allocated at the discretion of the municipality between service debt.

- (2) If an account is rendered for only one municipal service provided, any payment made by a consumer of an amount less than the total amount due, will be allocated at the discretion of the municipality.
- (3) A consumer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

PART 5: QUERIES, COMPLAINTS AND APPEALS

19. Queries or complaints in respect of account

- (1) A consumer may lodge a query or complaint in respect of an accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- (2) A query or complaint must be lodged with the municipality or its authorised agent before the due date for payment of the account.
- (3) A query or complaint must be accompanied by the payment of the average of the last three month's accounts where the history of the account is available or an estimated amount provided by the municipality, before the payment due date until the matter is unresolved.
- (4) The municipality or its authorized agent will register the query or complaint and provide the consumer with a reference number.
- (5) The Council or its authorized agent -
 - (a) shall investigate or caused the query or complaint to be investigated; and
 - (b) Must inform the consumer, in writing, of its finding within one month after the query or complaint was registered.
- (6) Failure to make such agreed interim payment or payments will render the consumer or liable for disconnection.

20. Appeals against findings of municipality or its authorised agent in respect of queries or complaints

- (1) A consumer may appeal in writing against a finding of the municipality or its authorized agent in terms of section 19.
- (2) An appeal and request in terms of subsection (1) must be made in writing and be lodged with the municipality within 21 days after the consumer became aware of the finding referred to in section 19 and must -
 - (a) Set out the reason for the appeal; and
 - (b) Be accompanied by any security determined for the testing of a measuring device, if applicable.

PART 6: ARREARS

21. Interest

- (1) Interest will be levied on arrears at the prevailing prime interest rate prescribed by the Council from time to time.
- (2) The cost associated with the limitation or disconnection of municipal services shall be for the cost of the consumer and shall be included in the account following the *reconnection*.

22. Accounts 45 days in arrears

- (1) Where an account rendered to a consumer remains outstanding for more than 45 (forty five) days the Council or its authorised agent may -
 1. institute legal action against a consumer for the recovery of the arrears; and
 2. hand the consumer's account over to a debt collector or an attorney for collection
- (2) A consumer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and penalties, including the payment -of-a higher deposit,-as may be determined by the municipal Council from time to time.

PART 7: AGREEMENT FOR THE PAYMENT OF ARREARS**23. Agreements**

(1) The following agreement for the payment of arrears in instalments may be entered into:

- (a) An acknowledgement of debt.
- (b) A consent to judgment.
- (c) An emolument attachment order.

(2) The consumer shall acknowledge that interest will be charged at the prescribed rate.

(3) Consumers with electricity arrears must agree to the conversion to a pre-payment meter if and when implementable, the cost of which, and the arrears total, will be paid off either by -

- (a) adding to the arrears account and repaying it over the agreed period; or
- (b) adding it as a surcharge to the pre paid electricity cost, and repaying it with each purchase of electricity until the debt is settled.

(4) The municipality or its authorised agent must require a consumer to pay at least its current account on entering into an agreement for the payment of arrears in instalments.

(5) The municipality reserves the right to raise the security deposit requirement of debtors who seek agreements.

Copy of agreement to consumer

A copy of the agreement shall be made available to the consumer.

24. Failure to honour agreements

If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the municipality or its authorised agent may -

- (a) disconnect the electricity service provided to the consumer;

- (b) in the event that no electricity services are provided by the municipality or its authorised agent, disconnect the water supply services provided to the consumer;
- (c) institute legal action for the recovery of the arrears; and
- (d) Hand the consumer's account over to a debt collector or an attorney for collection.

26. Re -connection of services

- (1) An-agreement for payment of the arrear amount in-instalments entered into after the electricity services was discontinued and/or the water services was limited or disconnected, will not result in the services being restored until -
 - 1. the arrears, any interest thereon, administration fees, cost incurred in taking relevant action and penalties, including payment of a higher deposit, are paid in full; or
 - 2. In addition to payments referred to in subsection (1) the consumer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality or its authorised agent.

CHAPTER 3 ASSESSMENT RATES

27. Amount due for assessment rates

- (1) The provisions of Chapter 3 shall apply in respect of the recovery of assessment rates.
- (2) All assessment rates due by owners are payable by a fixed date as determined by the municipality in its credit control and debt collection policy.
- (3) Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- (4) Assessment rates may be levied in equal monthly instalments and when levied in equal monthly instalments, the amount payable will be included in the municipal account.
- (5) A property owner remains liable for the payment of assessment rates included in
 - a) The property is not occupied by the owner thereof; and/or
 - (b) The municipal account is registered in the name of a person other than the owner of the property

CHAPTER 4

PROVISION OF MUNICIPAL SERVICES TO INDIGENT CONSUMERS

28. Qualification for registration as indigent consumer

All households where the combined gross income of all the members of the household over the age of 18 years old is less than the amount to be determined by the Council, qualify for registration as indigent consumers.

29. Application for registration

- (1) A household who qualifies as an indigent consumer must complete the prescribed application form.
- (2) Any application in terms of subsection (1) must be accompanied by -
 - (i) Documentary proof of income, such as a letter from the consumers employer, a salary advice, a pension card, unemployment fund card; or
 - (ii) An affidavit declaring unemployment or income; and
 - (iii) The consumer's latest municipal account in his/her possession;
 - (iv) A certified copy of the consumer's identity document; and
 - (v) The names and identity numbers of all occupants over the age of 18 years who are resident at the property.
- (3) A consumer applying for registration as an indigent consumer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.
- (4) The municipality or its authorised agent shall counter-sign the application form and certify that the consequences and conditions of such an application for the consumer were explained to the consumer and that the consumer indicated that the content of the declaration was understood.

30. Approval of application

- (1) The municipality or its authorised agent may send authorised representatives to premises or households applying for registration as indigent consumers to conduct an on site audit of information provided prior to approval of an application.

- (2) An application shall be approved for a period of 12 months only. Subsidies will be forfeited if the applicant fails to submit proof of income or to re-apply for the subsidy.

31. Condition

The municipality or its authorized agents may upon approval of an application or any thereafter-

1. install a pre-payment electricity meter for the indigent consumer where electricity is provided by the municipality or its authorized agents when implemented; and
2. limit the water supply services of an indigent consumer to a basic supply of not less than 6 (six) kiloliters per month.

32. Application every 12 months

- (1) An indigent consumer must re-apply for indigent support every 12 months, failing which the assistance will cease automatically.
- (2) The provisions of section 33 and 34 shall apply to any application *in* terms of subsection (1).
- (4) The municipality or its authorized agent cannot guarantee a renewal for indigent support.

33. Subsidised services for indigent consumers

- (1) The Council may annually, as part of its budgetary process, and subject to any national treasury regulations, determine services and levels thereof which will be subsidised in respect of indigent consumers in accordance with national policy, but subject to principles of sustainability and affordability.
- (2) The Council must, in the determination of municipal services which will be subsidised for indigent consumers, give preference to subsidising at least the following services:
 - (a) water supply services of 6 kiloliters per household per month;

- (b) sanitation services of daily night soil removal or an improved ventilated pit latrine per household per month whichever is the most affordable to the municipality or its authorised agent;
 - (c) refuse removal services to a maximum of one removal per household per week; and
 - (d) all rates levied on properties of which the municipal value is less than the amount determined by the Council from time to time: provided that if in the case of any property or category of properties, it is not feasible to value or measure such property, the basis on which the property rates thereof shall be determined, shall be as prescribed by the Council.
- (3) The municipality must, when making a determination in terms of subsection (1) give public notice of such determination.
- (4) Public notice in terms of subsection (3) must contain at least the following:
 - (a) the level or quantity of municipal service which will be subsidized;
 - (b) the level of subsidy;
 - (c) any special terms and conditions which will apply to the subsidy, not provided for in these bylaws
- (5) Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in subsection (1) shall be charged for and the indigent consumer shall be liable for the payment of such charges levied on the excess consumption.
- (6) The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of subsection (5).

34. Funding of subsidised services

- (1) The subsidised services referred to in section 33 shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.
- (2) The-subsidy-amount-to-be funded from revenue-raised-nationally which is allocated to the municipality shall be calculated by dividing the amount

allocated by the estimated number of consumers which may qualify for registration as indigent consumers.

35. Existing arrears

Arrears accumulated in respect of the municipal accounts of consumers prior to registration as indigent consumers will be either -

- (a) written off;
- (b) applied as a surcharge to prepaid electricity coupons; or
- (c) be attempted to be recovered through legal proceedings and/or extended arrangements.

36. Audits

The municipality may undertake regular random audits carried out by the municipality or its authorised agent to —

- (a) verify the information provided by indigent consumers;
- (b) record any changes in the circumstances of indigent consumers; and
- (c) make recommendations on the de-registration of the indigent consumer

37. De-registration

- (1) Any consumer who provides or provided false information in the application form and/or any other documentation and information in connection with the application shall automatically, without notice, be de-registered as an indigent consumer from the date on which the municipality or its authorised agent become aware that such information is false.
- (2) An indigent consumer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances have changed to the extent that he/she no longer meets the qualifications set out in section 28.
- (3) An indigent consumer shall automatically be de-registered if an application in accordance with section 29 is not made or if such application is not approved.
- (4) An indigent consumer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent

consumer has changed to the extent that he/she no longer meet the qualifications set out in 28.

- (5) An indigent consumer may at any time request de-registration.

CHAPTER 5

BUSINESSES WHO TENDER TO THE MUNICIPALITY

38. Procurement policy and tender conditions

The-procurement-policy-and-tender-conditions may provide that –

1. when inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate the tenderer obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tendered or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears;
2. a municipal account is to mean any municipal service charge, tax or other fees fines and penalties, due in terms of a contract or approved tariff or rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of the contract or any other clue date that has passed; and
3. tender conditions contain a condition allowing the municipality to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.

CHAPTER 6

UNAUTHORISED SERVICES

39.Unauthorised Services

1. No person may gain access to municipal services unless it is *in* terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.

2. The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these bylaws by written notice order a person who is using an unauthorized service to-
 - (a) apply for such services in terms of Chapter 2 part 1;
 - (b) undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these or any other relevant bylaws.

40. Interference with infrastructure for the provision of municipal services

- (1) No person other than the municipality or its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.
- (2) No person other than the municipality or its authorised agent shall effect a connection to infrastructure through which municipal services are provided.

41. Obstruction of access to infrastructure for the provision of municipal services

- (1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.
- (2) If a person contravenes subsection (1), the municipality or its authorized agents may-
 - (a) by written notice require such person to restore access at his/her own expense within a specified period; or
 - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

42. Illegal re-connection

- (1) A person who unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such consumers access to

municipal services have been limited or disconnected, shall immediately be disconnected.

- (2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

43. Immediate disconnection

The provision of municipal services may immediately be disconnected if any person -

- (a) unlawfully and intentionally or negligently interferes with infrastructure through which the municipality or its authorised agent provides municipal services;
- (b) fails to provide information or provides false information reasonably requested by the municipality or its authorised agents .

CHAPTER 7**OFFENCES****44. Offences**

Any person who –

- willfully
- (1) Fails to give access required by the municipality or its authorised agent in terms of these bylaws;
 - (2) assists any person in providing false or fraudulent information or assists in concealing information;
 - (3) uses, tampers or interferes with municipal equipment, service supply equipment, reticulation network or consumption of services rendered;
 - (4) fails or refuses to give the municipality or its authorised agent such information as may reasonably be required for the purpose of exercising the powers or functions under these bylaws or gives such the municipality or its authorised agent false or misleading information, knowing it to be false or misleading;
 - (5) contravenes or fails to comply with a provision of these bylaws;
 - (6) fails to comply with the terms of a notice served upon him/her in terms of these bylaws, -shall be guilty of an offence and liable upon conviction to a period not exceeding six months imprisonment or community service or a fine, or a combination of the aforementioned.

CHAPTER 8**DOCUMENTATION****45. Signing of notices and documents**

A notice or document issued by the municipality in terms of these bylaws and signed by a staff member of the municipality or its authorised agent shall deemed to be duly issued and roust on its mere production be accepted by a court of law evidence of that fact.

46. Notices and documents

- (1) A notice or document issued by the municipality or its authorised agent in terms of these bylaws shall be deemed to be duly authorised if an authorised agent signs it.

- (2) Any notice or other document that is served on an owner, consumer or any other person in terms of these bylaws is regarded as having been served -
- (a) if it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence business or employment in the Republic with a person over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
 - (d) If that persons address in the Republic is known, when it has been served on the person's agent or representative in the Republic in the manner provided in subsection (a) - (c); or
 - (e) if that person's address and agent or representative in the Republic is known, when it has been in a conspicuous place on the property or premises, *if any*, to which it relates.
- (3) When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document. as the owner, occupier or holder of the property or right in question, and is not necessarily the name of the person.
- (4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

47. Authentication of documents

Every order notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised officer of the municipality or the authorised agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a bylaw.

48. Prima facie evidence

In legal proceedings by or on behalf of the municipality or its authorised agent, a certificate reflecting the amount due and payable to the municipality or its authorised agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorised by the municipal manager or the manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

CHAPTER 9 GENERAL PROVISIONS

49. Power of entry and inspection

The municipality or its authorised agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

50. Exemption

- (1) The municipality may, in writing, exempt an owner, customer, any other person or category of owner, consumers, rate payers, users of services from complying with s

that application or operation of that provision would be unreasonable, provided that the municipality or its authorised agent shall not grant exemption from any section of these bylaws that may result in -

- (a) the wastage or excessive consumption of municipal services;
- (b) the evasion or avoidance of water restrictions;
- (c) significant negative effects on public health, safety or the environment;
- (d) the non-payment for services;
- (e) the Act or any regulations made in terms thereof, is not complied with.

- (2) The municipality at any time after given written notice of at least 30 days, withdraws any exemption given in terms of subsection (1).

51. Availability of bylaws

- (1) **A copy of these bylaws shall be included in the municipalities Municipal Code as required in terms of legislation.**
- (2) **The municipality or its authorised agent shall take reasonable steps to inform consumers of the contents of the credit control and debt collection bylaws.**

- (3) **A copy of these bylaws shall be available for inspection at the municipal offices or at the offices of its authorised agent at all reasonable times.**
- (4) **A Copy of the bylaws may be obtained against payment of a fee as prescribed in the Council's tariff of charges from the municipality or its authorised agent.]**

52. Offences

- (1) Any person who-
 - (a) fails or refuses to give access required by an officer in terms of section 8(1);
 - (b) obstructs or hinders an officer in the exercise of his or her powers or performance of his or her functions or duties under these bylaws;
 - (c) fails or refuses to give an officer such information as he or she may reasonably require for the purpose of exercising his or her powers or performing his or her functions or duties under these bylaws or who gives such officer false or misleading information knowing it to be false or misleading;
 - (d) contravenes or fails to comply with a provision of these bylaws
 - (e) fails to comply with a condition or prohibition imposed in terms of these bylaws; and
 - (f) fails to comply with the terms of a notice served upon him or her in terms of these bylaws, shall be guilty of an offence and be liable, upon conviction, to the penalties prescribed in the Water Services Act.

53. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw (relating to general);
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect corrective measure as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2 500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;

- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons calling upon the person to appear before a court for prosecution.
- (b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
- (c) The person serving the summons shall state in his or her report the manner of service or document.

54. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

55. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

56. Conflict of law

- (1) When interpreting a provision of these bylaws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control on Debt Collection, must be preferred over any alternative interpretation which is consistent with that purpose.
- (2) If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail

Delegation of Council's powers

57.(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.

Short title

58. These By-laws are called the Umzimkhulu Local Municipality Credit Control and Debt Collection By-laws, 2004.”

No. 145

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

ENCROACHMENT BYLAWS

**MUNICIPAL MANAGER
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ENCROACHMENT ON PROPERTY BYLAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Encroachment on Property Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-.

[ENCROACHMENT ON PROPERTY BYLAWS]

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1. Definitions

In these By-laws, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), has that meaning and, unless the context otherwise indicates—

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"encroachment" means any physical object which intrudes on municipal property, or which the Council has control over or other property in respect of which a servitude property right has been registered in favour of the Council;

"m" means metre;

"mm" means millimetre;

"prescribed" means determined by resolution of the Council made from time to time;

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation.

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

2. Council permission required

- (1) No person may, without prior written permission make or construct any colonnades, verandas, balconies, bay windows, pavement lights, showcases or other projections into or over any part of a public road, and pavement opening in or under any public road.
- (2) The Council may refuse the permission required in terms of subsection (1) or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case and subject to payment of the prescribed fee.
- (3) The prescribed fees mentioned in subsection (2) are payable in advance at the beginning of each year which is calculated from date of approval or the period

determined by the Council, and the owner is liable for the payment of prescribed fees *in* terms of these Bylaws for each encroachment.

(4) The owner of an encroachment must within three months after the date of commencement of these By-laws apply to the Council in writing for condonation of -

(a) the existence of the encroachment; and

(b) the horizontal dimension of every encroachment measured - parallel to the road boundary on or over which the encroachment exists.

(5) Until the Council is notified of the horizontal dimension of the encroachment mentioned *in* terms of subsection (4)(b), every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

3. Rules for the construction of encroachments

- (1) The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over public roads;-as well as the paving, kerb and gutter thereof must be to the satisfaction of and to the levels approved by the Council.
- (2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- (3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

4. Columns

- (1) The council may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person is permitted to place any veranda column over any pavement where such pavement is less than. 2,6 m wide.
- (3) No person may place any veranda column more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre.
- (4) No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.

-
- (5) No person may place a portion of any veranda column at a distance lesser than 600 mm back from the front edge of any kerb.
 - (6) No person may place a twin or double veranda column over any public road or pavement.
 - (7) Where verandas are supported on columns, the columns may not have square arris, no base may project more than 50 mm beyond the bottom diameter of the column and the maximum horizontal axial dimensions of such base may not exceed 350 mm.
 - (8) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.
 - (9) Columns, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.
 - (10) No person may place a column on a public road where the footway or sidewalk is, or is likely to be occupied by cables, pipes or other municipal services, without the permission of the Council.
 - (11) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
 - (12) The cost of the material deed of servitude mentioned in subsection (11) is payable by the owner of the abutting property.
 - (13) Plain piping or tubing must not be used for columns over or on public road verandas and balconies unless architecturally treated for aesthetic purposes.
 - (14) The coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.
 - (15) Nothing in these By-laws prohibits —
 - (a) The erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
 - (b) In the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are observed.

5. Balconies and bay windows

- (1) Balconies, bay windows or encroachments may not overhang a public road if they are at a height of less than 3 m above the pavement.
- (2) Balconies may not encroach more than 1,35 m over any public road.
- (3) Bay windows may not encroach more than 900 mm over any public road.
- (4) The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.
- (5) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.
- (6) No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.
- (7) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness..
- (8) A balcony over any public road may not be the sole means of access to any room or apartment.
- (9) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.
- (10) Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35 m for the full length of the building frontage to that road.

6. Plinths, pilasters, corbels and cornices

- (1) No plinths, pilasters or other encroachments beyond building lines carried up from ground level are permitted to encroach on a public road.
- (2) Any pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following encroachment over a public road:
 - (a) A pilaster : 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
 - (b) a fire-resisting ornamental hood or pediment over a door : 600 mm and in any part. not less than 2,75 m in height above the footway or pavement;
 - (c) a cornice : 1,05 m where not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

7. Verandas around corners

Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.

8. Pavement openings

- (1) No pavement opening may be the sole means of access to any vault or cellar.
- (2) No pavement opening on any public road may extend more than 1,2 m beyond the building line.

- (3) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions,
- (4) Flap openings may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.
- (5) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.
- (6) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

9. Maintenance, removal and tenancy of projections

- (1) The owner of any encroachment must maintain the encroachment in good order and repair. Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.
- (2) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and if called upon by the Council to remove any or all of them, must do so within reasonable time.

10. Encroachment erected in front of building

Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense –

- (a) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and

- (b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

11. Encroachments

- (1)
 - (a) Any person other than the owner wishing to erect or construct an encroachment or any other fixture on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form provided by the Council for that purpose.
 - (b) Where in the opinion of the Building Control Officer drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge-is-payable to the Council.-
- (2) Any person erecting, constructing or possessing any encroachment or fixtures on, under or over any public road, is regarded as a tenant in respect of the encroachment or fixture, and, if notified in writing by the Council under the hand of the Building Control Officer to remove any such encroachment or fixture, must do so within the period stated in the notice.
- (3) The owner of the building in connection with which any encroachment or fixture exists, or is proposed –
 - (a) must defray any cost incurred in connection with wires or property of the Council;
 - (b) must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities.

12. Prescribed fee for special services

Any person who requires any special service from the Council, including the attendance necessary in respect of a dangerous building, must pay to the Council the prescribed fee with regard to the special service as well as a prepaid prescribed fee for the Council to attend at a building on request or for the Council to give advice as to the effect

of these By-laws on proposals put forward by architects, builders or owners.

13. **General offences and penalties**

Any person who-

- (a) contravenes or fails to comply with any provisions of these bylaws;
- (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these bylaws;
- (c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these bylaws;
- (d) for the purposes of these bylaws knowingly makes a false statement or deliberately furnishes false or misleading information to an authorized official or officer; or
- (e) threatens, resists, interferes with or obstructs an authorized official, officer or employee of the Council in the performance of his powers, duties or functions under these bylaws.

shall be guilty of an offence and on conviction be liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

- (a) [contravenes or fails to comply with any provisions of these By-laws; or**
- (b) fails to comply with any notice issued in terms of these By-laws; or**
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or**
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,**

is guilty of an offence and liable on conviction to a fine in default payments to imprisonment for a period not exceeding 6 months.]

14. **Conflict of laws**

If there is any conflict between these bylaws and any other bylaws of the Council, these bylaws will prevail.

Enforcement

15.(1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the “authorized officer”;
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality’s decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
 - (b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
 - (c) The person serving the summons shall state in his or her report the manner of service or document.

Presumption

16. In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

Proof of claim

17. A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

Delegation of Council's powers

18.(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself; and

(c) may at any time be withdrawn in writing by the Council.”.

Short title

19. These By-laws are called the Umzimkhulu Local Municipality Encroachment on Property By-laws, 2008.

No. 146

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

WASTE MANAGEMENT BYLAWS

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UMZIMKHULU WASTE MANAGEMENT BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Waste Management Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[UMZIMKHULU WASTE MANAGEMENT BY-LAWS]

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CHAPTER 1

INTERPRETATION, PRINCIPLES AND OBJECTS

1. Definitions

In these By-laws, unless the context indicates otherwise —

"Affected person" means a person who has been issued, or who is being issued, with an enforcement notice;

"Approved", in the context of bins, bin liners, containers, receptacles and wrappers means approved by the council or service provider for the collection and storage of waste;

"authorised official" means an authorised official authorised by the Council for the purposes of these bylaws to perform and exercise any or all of the functions in terms of these bylaws or the provisions of any other law";

"Bill of Rights" means chapter 2 of the Constitution of the Republic of South Africa, 1996;

"Council services" means a municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the council or service providers in accordance with the provisions of the Systems Act and Chapter 6 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins; "Criminal Procedure Act" means the Criminal Procedure Act, 1997 (Act 51 of 1991);

"damage to the environment" means any pollution, degradation or harm to the environment whether visible or not;

"dailies" means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis, normally a daily basis, to prevent the waste from decomposing and presenting a nuisance, environmental or health risk;

domestic waste" means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;

"dump" means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the council or service provider;

"DWAF" means the National Department of Water Affairs and Forestry;

"Enforcement notice" means a notice issued by an authorized official under section 44 of these by-laws;

"Environment" means the surroundings within which humans exist made up of-

- (a) The land, water and atmosphere of the earth,
- (b) Micro-organisms, plant and animal life,
- (c) Any part or combination of (a) and (b) and the interrelationships among and between them, and
- (d) The physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmental emergency" means any unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

"Firm" includes any juristic person or any association of persons established or operating in the Republic of South Africa;

"Garden waste handling facility" means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

"hazardous waste" means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low of its inherent toxicological, chemical and physical characteristics;

Health care risk waste" means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

"industrial waste" means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business

waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;

"Land reclamation" means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

"Level of service" means the frequency of the council service and the type of service point;

"licensee" means any person who has obtained a licence in terms of Chapter 7 of these By-

"Litter" means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

"Local community" in relation to the council means that body of persons comprising-

- (a) The residents of the council;
- (b) The ratepayers of the council;
- (c) Any civic organization and non-governmental, private sector or labour organizations or bodies which are involved in local affairs within the council, and
- (d) Visitors and other people residing outside of the council who, because of their presence in the council, make use of services or facilities provided by the council;

"nuisance" means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or littering;

"occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises let to lodgers or various tenants includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"owner" includes any person that has the title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein: Provided that the "owner" in respect of the premises on the Sectional Title Register opened in terms of section 12 of the Sectional Title Act, 1986 (Act 95 of 1986), means the body corporate as defined in that Act, in relation to such premises;

"Person" means natural person or firm and includes licences;

“Pollution” means any change in the environment caused by –

- (a) Substances; or
- (b) noise, odours, dust, or heat, emitted from, any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state;

Where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

“premises” means an erf or any other portion of land, including any building thereon or any other structure utilized for business, industrial or residential purposes;

“prescribed fee” means a fee determined by the council by resolution in terms of section 10G(7)(a)(ii) of the Local Government transition Act, 1993 (Act 209 of 1993), or any other applicable legislation;

“public place” includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open, space, garden, park, enclosed space vested in council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

“Public road” means any road, street or thoroughfare or any other place (whether a thoroughfare or not which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry, or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“Radioactive material” means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

“Radioactive waste” means any radioactive material which is or is intended to be disposed of as waste;

“Recyclable waste” means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;

“Resident” means in relation to a council a person who is ordinarily resident in the council;

“road reserve” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“Service delivery agreement” means an agreement between the council and a service provider in terms of which the service provider is required to provide council services;

“special industrial waste” means waste consisting of a liquid, sludge, or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the council drainage or sanitation By-laws may not be discharged into a drain or sewer;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Sustainable development” means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

“Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Target” means any desired air, water quality or waste standards contained in any legislation;

“tariff” means the user charge for the provision of council services, determined and promulgated by the council or adjusted by a service provider in terms of tariff policy by-laws adopted under section 75 of the Systems Act;

“waste” any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, reuse, reclamation or recycling. Waste products may be liquid or solid and may include products that contain a gaseous component and may originate from domestic commercial or industrial activities, but does not include-

- (a) matter processed as part sanitation services under the Water Services Act (Act 107 of 1997)
- (b) any gas or gaseous product which may be regulated by national or provincial legislation; or
- (c) any radioactive material save where these By-laws specifically permit it to be handled;

“waste disposal facility” means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;

“Waste generator” means any person or firm that generates or produces waste;

“waste handling facility” means any facility that accepts, accumulates, handles, recycles, sorts, stores or treats waste prior to its transfer for incineration or final disposal;

“Workplace” means any place within the council on or in which or in connection with which, a person undertakes council services or commercial services;

CHAPTER 2
WASTE MANAGEMENT PLANNING, POLICY AND STRATEGY

Part 1: Local Waste Plans

5. Development of local waste plans-

(1) The council must prepare a local waste plan for the council within one year of commencement of these By-laws, which plan must be implemented within four years of the commencement of these By-laws. The objective of the local waste plan includes:

(2) establishing a means of ensuring that waste is collected, reused, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without-

(a) Risk to water, air, soil, plants or animals;

(b) Causing nuisance through noise or odours;

(c) Adversely affecting rural or urban areas or areas of special interest;

(3) Establishing an integrated network of waste disposal facilities to ensure that-

(a) Comprehensive and adequate council services and commercial services are established within the council;

(b) The disposal of waste occurs at accessible waste disposal facilities; and

(c) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;

(d) Encouraging the minimization or reduction of waste;

(e) Promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and

(f) Any other object which would enhance sustainable development.

6. Scope, preparation and amendment of local waste plan

(1) The local waste plan includes but is not to be limited to the following matters-

(a) Population and development profiles within the council;

- (b) An assessment of all significant sources and generators of waste within the council;
 - (c) An assessment of the quantities and classes of waste currently generated and projected to be generated within the council;
 - (d) An assessment of the existing markets, council services, commercial services and waste handling and waste disposal facilities for each waste category;
 - (e) An assessment of the existing option for the waste reduction, management and disposal within the council;
 - (f) An assessment of the number of persons within the council who are not receiving council services and proposed strategies and targets for providing these services to such persons;
 - (g) Proposed strategies and targets for managing and reducing waste in the council and for the efficient disposal of waste that cannot be re-used or recycled;
 - (h) Strategies for waste education and initiatives for separating waste at its source;
 - (i) Strategies for raising awareness of waste management issues;
 - (j) Strategies for establishing the information systems as required in section 7;
 - (k) An implementation programme that identifies the required time-frames, resources and responsibilities for achieving these strategies and targets;
 - (l) A mechanism for monitoring performance in light of these targets and strategies;
 - (m) Current and anticipated waste collection, transportation, transfer and disposal costs;
 - (n) A consideration of how local waste plans relate to other relevant plans of the council; and
 - (o) Such other matters as may be required by any other legislation, regulation, or guidelines.
- (2) In preparing the local waste plan, the Council must-
- (a) Take into consideration any integrated development plan to the notice of the local community by inviting comment thereon from member of the local community. Not less than two months must be allowed for submitting such comments, and the finalisation of the local waste plan must be after considering any comment received from the local community
 - (b) consult with local community, as required by the Systems Act;
 - (c) Take reasonable steps to bring its draft local waste plan to the notice of the local community by inviting comments thereon from members from local community. Not less than two months must be allowed for submitting such comments, and the finalisation of the local waste plan must be after considering any comments received from the community

- (d) send copies of the draft local waste plan to the Minister of Environmental Affairs and the Minister of Water Affairs and Forestry, and neighbouring Municipalities for their information; and
- (e) send a copy of the draft local waste plan to the Eastern Cape Province for comment and finalise the local waste plan after considering such comment.

(3) The council may amend the local waste plan from time to time and must review the plan at least every five years. Such amendments or reviews must be conducted in consultation with the local community.

(4) The council must publish a report once a year on the implementation of the plan. The report must include-

- (a) a description of activities and measures taken to achieve the objects of the plan;
- (b) an indication of whether the objects of the plan are being achieved, and if not, an explanation of problems which have undermined the achievement of the objects;
- (c) details of convictions under these By-laws; and
- (d) a description of significant incidents of dumping.

Part II: Information system

7. Establishment of [an] information system

- (1) The council must establish and maintain an information system which records how waste is managed within the council.
- (2) The information system may include any information relating to or connected to the management of waste within the council.
- (3) Details regarding the implementation of the information system will be set out in the local waste plan referred to in section 5.
- (4) The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law. In giving effect to this right, the council must-
 - (a) At the request of a member of the local community, provide information contained in the information system;
 - (b) Take steps to ensure that the information provided is in a format appropriate for lay readers; and
 - (c) May impose a fee for providing such information in order to cover the cost of providing the information requested'

8. Purpose of [the] information system

- (1) The purpose of the information system is for the council to-

- (a) Record data relating to the implementation of the local waste plan and the management of waste in the council;
- (b) Record information held by the council in relation to any of the matters referred to in subsection 6(1)(a)-(i);
- (c) Furnish information upon request or as required by law to provincial and national government;
- (d) Gather information regarding potential and actual waste generators, service providers and licensees;
- (e) Provide information to generators, service providers, licensees and the local community in order to-
 - I. Facilities monitoring of the performance of the council, service providers and licensees, and , where applicable waste generators;
 - II. Stimulate research; and
 - III. Assist the council to achieve the main objects of these By-laws.

9. Provision of information-

(1) The council may, subject to the provisions of any other law including the common law require any waste generator, licensee, service provider or person involved in or associated with the provision of council services or commercial services within the council to furnish information to the council that may reasonably be required for the information system. Such information may concern –

- (a) Significant sources of waste generation and identification of generators of waste;
- (b) Quantities and classes of waste generated;
- (c) Management of waste by waste generators;
- (d) Waste handling and waste disposal facilities;
- (e) Population and development profiles;
- (f) Reports on progress in achieving any waste management targets;
- (g) The management of radioactive waste;
- (h) Any information which has been compiled in accordance with subsection 8(1)(e);
- (i) Markets for waste by class of waste or category;
- (j) Any other information required by legislation, regulation or guidelines.

(2) the council may, at its discretion, determine when and how often information must be furnished.

10. Manner of engaging in waste minimization initiatives

Notwithstanding the need to promote waste minimization recycling and reuse of waste, no person may undertake waste minimization initiatives in such a manner that is likely to cause or increase the risk of harm to human health or damage to the environment.

COUNCIL SERVICES

Part I: Providing access to Council services

11. Duty to provide access to council services

- (1) The council has an obligation to the local community to progressively ensure efficient, affordable, economical and sustainable access to council services.
- (2) This duty is subject to —
 - (a) the obligation of the local community to pay the prescribed fee, for the provision of council services, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of council services. In exercising the right in this subsection, the council must comply with national legislation and have regard to the factors set out in subsection 3.
- (3) The council must take the following factors into account in ensuring access to council services:
 - (a) the waste management hierarchy set out in section 2;
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;
 - (d) the requirements of operational efficiency;
 - (e) the requirements of equity; and
 - (f) the need to protect human health and the environment

12. [The] Provision of Council services

- (1) The council must as far as reasonably possible and subject to the provisions of these by-laws-
 - (a) Provide for the collection of domestic waste, business waste and dailies on a regular basis, which in the case of dailies requires collection on a daily basis; and
 - (b) Provide recycling facilities,

At a cost to end user determined in accordance with the prescribed fee promulgated by the Council.

- (2) In relation to council services, the council may determine-
 - (a) the quantities of waste that will be collected;
 - (b) which residential or commercial premises require council services more frequently than the regular collection service for the reasons of health, safety and environmental protection;

- (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or imposition of an additional tariff; and
- (d) specify requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of these By-laws.

The council may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where such receptacle is provided by the council, it remains the property of the council.

In providing council services, the council or service provider may determine or designate-

- (a) collection schedules;
- (b) locations for placing approved receptacles for collection,
- (c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and
- (d) which waste items are unsuitable for collection.

The council or service provider may require a generator of dailies and business waste to compact that portion of the waste that is compactable. Such a requirement may be daily removal of more than the equivalent of eight 240 litre bins and where, in the opinion of the council or service provider, the major portion of such waste is compactable. The occupier of premises may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the council or service provider. Provided that-

The capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms;

After the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected; and

- (6) any approved receptacle used in terms of subsection 3 may be collected, emptied and returned to the premises by the council or service provider at such intervals as it may deem necessary
- (7) The council or service provider may review any decisions taken in terms of subsection 4 at any time
- (8) The council or service provider must notify all generators of domestic waste, business waste and dailies of any decisions taken in terms of subsection(4) or (5) in writing.

Part II: Using Council services

13. Obligations of generators of domestic waste, business waste and dailies-

(1) Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the council as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.

(2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.

(3) The occupier of premises must ensure that-

(a) no hot ash, unwrapped glass or other domestic waste, business waste and dailies which may cause damage to approved receptacles or which may cause injury to the council or services provider's employees while carrying out their duties in terms of these by-laws, is placed in approved in approved receptacles before suitable steps have been taken to void such damage or injury;

(b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such approved receptacles unreasonably difficult for employees of the council or service provider to handle or carry, is placed in such receptacles

(c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;

(d) the approved receptacle delivered by the council is not used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container;

(e) the approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the council or service provider by notice to the owner or occupier of the premises, except where, on written application to the council, the council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice; and

(f) the approved receptacle, placed in accordance with subsection (3)(e) must be undamaged and properly closed so as to prevent the dispersal of its contents;

(4) The owner or occupier of premises must provide space and any other facilities deemed necessary by the council or service provider on the premises for the storage of approved receptacle.

(5) the space provided in terms of subsection(4) must-

(a) Be in such a position on the premises as will allow the storage of approved receptacles without being visible from a street or public place

(b) Where dailies are generated on the premises

- i. be in such a position as will allow the collection and removal of such waste by the council or service provider's employees without hindrance; and
 - ii. be not more than 20m from the entrance to the premises used for the collection of waste by the council or service provider;
- (c) be so located as to permit convenient access to and egress from such spaces for the council or services provider's waste collection vehicles;
- (d) comply with any further reasonable requirements imposed by the council or service provider by notice to the owner or occupier of the premises; and
- (e) be constructed in accordance with the requirements of any applicable building regulations

(6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (5) and must at all times keep them there, save that-

(a) in the case of buildings erected, or buildings the building plans of which have been approved, prior to the coming into operation of these by-laws, or

(b) in the event of the council or service provider being unable to collect and remove waste from the space provided in terms of sub-section (5)(b)(ii);

The council or service provider may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed

[The] Prescribed fee for Council services

The council may either levy rates on property or determine tariffs (or both) for the provision of council services.

Liability to pay for Council services

(1) The owner of premises is liable to the council to pay the prescribed fee for the provision of council services, and is not entitled to exemption from the liability to pay the prescribed fee by reason of his not making use, or of making a partial or limited use, of council services regardless of whether the council provides such services directly or through a service provider.

(2) The prescribed fee becomes due and payable on the same date as the general assessment rate levied.

CHAPTER 4
COMMERCIAL SERVICES

Part I: Provision of commercial services by licensees and flow control

16. Provision of commercial services by licensees-

(1) Save in the case of garden waste, only a licensee may provide commercial service.

(2) Any person requiring commercial services must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that he been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.

17. Provision for council co-ordination of waste disposal

The council may direct, by a notice published in the Eastern Cape Provincial Gazette that a category of waste be disposed of at a particular depot or disposal site. No person may dispose of such waste other than as specified in the notice gazette under this section or as specified by the council under the empowering legislation prior to the coming into operation of these By-laws.

Part II: Business, industrial and recyclable waste

18. Storage of business, industrial and recyclable waste

(1) The owner or occupier of premises on which business, industrial or recyclable waste is generated must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated-

(a) the waste is stored within a bulk container or other approved receptacle; and (b) no nuisance, including but not limited to dust, is caused by the waste in the course of generation, storage, or collection.

19. Collection and disposal of industrial, business and recyclable waste

(1) The owner or occupier of premises generating business, industrial and recyclable waste must ensure that-

(a) the container in which the waste is stored may not be kept in a public place except as required for collection;

(b) the waste is collected by a licensee within a reasonable time after the generation thereof; and

(c) that the service rendered by the licensee must only be in respect of that portion of the business, industrial or recyclable waste authorized in its license.

(2) A license must dispose of business, industrial or recyclable waste at a waste handling facility

or waste disposal facility designated by the council as a waste disposal facility for that purpose in terms of section 18 above and in accordance with the provisions of section 19.

Part III: Garden Waste and Bulky Waste

20. Storage, collection and disposal of garden waste and bulky waste-

(1) the owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, provided that such compositing does not cause a nuisance.

(2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.

(3) Any person or licensee may remove garden waste and bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 28.

(4) at written request of the occupier of the premises the council or service provider may, in its sole discretion, deliver an approved receptacle delivered to the premises for the storage of domestic waste. The provisions contained in section 13, read with the necessary changes, must apply, to an approved receptacle delivered in terms of this section but which is to be used for the storage of garden waste.

(5) where, in the course of providing council services, the council or the service provider providing the service is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the council or service provider may remove such waste if such waste has been placed in an approved receptacle referred to in section 13 in the space designated for domestic waste, in which event the tariff for domestic waste, read with the necessary changes, must apply.

Part IV: Building Waste

21. Generation of building waste

(1) The owner or occupier of premises on which building waste is to be generated must notify the council, in writing, of the intention to generate building waste and of the proposed manner for its removal and disposal at least 14 days prior to the intended generation of such waste.

(2) The owner or occupier of such premises must ensure that-

(a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;

- (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
- (c) any building waste which is blown off the premises is promptly retrieved; and
- (d) pursuant to any instructions from the council, any structure necessary to contain the building waste is constructed.

22. Storage of building waste

- (1) The owner or occupier of premises may apply to the council for written consent to place an approved receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (2) Any consent given in terms of subsection (1) may be subject to such conditions as the council may consider necessary.
- (3) Every approved receptacle, authorized in terms of subsection (1) and used for the removal of building waste, must —
 - (a) have clearly marked on it the name, address and telephone number of the person in control of such approved receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

23. Collection and disposal of building waste

- (a) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of by a licensee.
- (b) All building waste must be disposed at a waste disposal facility designated for that purpose by the council in terms of a notice to be used for the purpose of land reclamation or for recycling.

Part V: Special industrial, hazardous or health care risk waste

24. Generation of special industrial, hazardous or health care risk waste

- (1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the council, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste: Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the council within 6 months of the commencement of these by-laws.

(2) if so required by the council, the notification referred to in subsection(1) may be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.

(3) The person referred to in subsection (1) must notify the council in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

25. Storage of special industrial, hazardous or health care risk waste-

- (1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial hazardous or health care risk waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding any maximum period stipulated by the council before collection.
- (4) The council may enact additional by-laws providing guidelines for the management of health care risk waste.

26. Collection and disposal of special industrial, hazardous or health care risk waste

- (1) Only licensees may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the council, stipulated as licence conditions or in additional by-laws, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the council at those intervals the council may stipulate in the license or elsewhere, about the removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the facility at which the waste has been disposed.
- (3) A license must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the council as a waste disposal facility for that purpose.

CHAPTER 5

TRANSPORTATION AND DISPOSAL OF WASTE

27. Transportation of waste

- (1) Notwithstanding the provisions of any other legislation, no person may-
 - (a) Operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - (b) Fail to maintain the vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
 - (c) Cause or permit any waste being transported in or through the council to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility;
 - (d) Knowingly dispose waste at a waste disposal facility that is not permitted to accept such

waste.

28. Disposal of waste

- 1) Waste generated within the council must be disposed of at a waste disposal facility that has been permitted to accept and dispose of such waste in terms of section 17 and in accordance with the provisions of any other law regulating the disposal of waste.
- 2) No person may burn waste either in a public or private place except at an authorized incinerator operated by a licensee, or other that at a place designated by the council for such purpose;
- 3) Notwithstanding the provisions of subsection (1), any person may dispose of those forms or recyclable waste specified by the council in a notice in terms of section 17 or elsewhere at designated garden waste handling facilities, but may do so only if all such waste is brought to the facility in vehicles able to carry a maximum load of one ton or less
- 4) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by a competent authority, be subject to such conditions as the council may from time to time be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matters which the council considers necessary to ensure the environmentally sound management of waste;
- 5) Every person who enters a waste disposal facility must-
 - (a) Enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
 - (b) On request, provide the council or the operator of the waste disposal facility with any information regarding the composition of the waste; and
 - (c) Follow all instructions issued by the operator of the waste disposal facility in regards to access to the actual place where, and the manner in which, the waste should be deposited.
- 6) No person may-
 - (a) Bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility in an intoxicated state;
 - (b) Enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorized to do so by the operator of the waste disposal facility or the council and then only at such times and on such conditions as the council or operator may from time to time determine;
 - (c) Dispose of waste at a waste disposal facility which is not permitted for such waste; or
 - (d) Light any fire upon or near any disposal area without authorization.
- 7) Any person who contravenes subsection 28(6) will be liable for all reasonable costs incurred by the council in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.
- 8) The operator of the waste disposal facility may at any time require a vehicle or a container on a vehicle that has entered the waste disposal facility for the purposes of disposing waste to be weighed at a weighbridge.
- 9) The council, the operator of the waste disposal facility, an authorized official or any other persons duly authorized by the council may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- 10) Any person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste disposal facility

CHAPTER 6
SERVICE PROVIDERS

29. Agreement, delegation and consumer charter

- 1) The council may discharge any of its obligations under section 12 of these By-laws by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.
- 2) Subject to the provisions of the Systems Act or any other legislation, the council may assign to a service provider any power enjoyed by the council under these By-laws: Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.
- 3) Any reference in these By-laws to "council or service provider" should be read as the "council" if the council has not entered into a service delivery agreement, and should be read as "service provider" if the council has entered into a service delivery agreement.
- 4) Service providers must provide services in accordance with a consumer charter which must be drawn up in consultation with the council and which must-
 - (a) Accord with the provisions of these By-laws;
 - (b) Be accessible to the public;
 - (c) Establish the conditions of the service including collection times; and
 - (d) Provide for the circumstances in which council services may be limited.

CHAPTER 7
LICENSEES

Part I: Registration

30. Registration requirements

- (1) Any person who provides or intends to provide commercial services within the council must register with the council.
- (2) Registration must be by written notification to the council, and must specify-
 - (a) the name and the residential and postal address of the person providing commercial services, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
 - (b) the nature of the waste management service provided or intended to be provided by the person;
 - (c) the scope of the service, which must specify the number of clients served or intended to be served at the time of registration, the geographical area of operation and the actual or intended capital expenditure involved, or to be involved, in rendering the service; and
 - (d) the disposal facilities it owns or intends to utilise for the disposal of waste it collects or generates.
- (3) The council must provide proof of registration specifying the name and the residential and postal address of the registered person and describing the nature of the commercial service provided or intended to be provided by that person.

(4) Where a person has registered in terms of subsection (1) and the person-

- (a) Acquires a firm providing commercial services;
- (b) Merges with other persons providing commercial services;
- (c) Changes ownership;
- (d) Changes juristic nature;
- (e) Changes the nature of the commercial services it provides;
- (f) Intends to cease providing such services;
- (g) Is involved in winding-up proceedings; or
- (h) Increase its gross revenue or client base in excess of 25%

Then that person must notify the council of that occurrence and, save in the circumstances set out in subsection (4)(f) or (g), re-register in accordance with the provisions of subsection (1).

Part II: License to provide commercial services

31. License requirements

- (1) Subject to section 35, no person may provide commercial services without having first obtained a license.
- (2) Licenses issued under these By-laws —
 - (a) are personal to the licensee and incapable of cession or assignment without the prior written consent of the council;
 - (b) are valid for the period stipulated in the license, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by the council for further periods; and
 - (c) may be suspended or revoked by the council, if the licensee is in breach of any of the provisions of these bylaws or any term stipulated in the license.

32. License application

- 1) Applications for a license to provide commercial services must be in writing on a form prescribed by the council. The form must specify the information to be included in the application and the time available for making the application, which period must not be less than two months in duration.
- 2) The council must consider each application, having regard to the following:
 - (a) The financial, technical and managerial competency and experience of the applicant;
 - (b) The environmental, health and safety record of the applicant;
 - (c) The nature of the waste management service to be provided; and
 - (d) Any other factors which the council considers relevant.
- (3) After considering the application in terms of subsection (2), the council must-
 - (a) Approve the application by issuing a license subject to terms and conditions; or
 - (b) Reject the application, which rejection must be accompanied by reasons.

33. License terms and conditions

- (1) When issuing a license in terms of section 32, the council may, subject to the provisions of subsection (2), impose any license conditions it deems reasonable necessary.
- (2) Licenses issued by the council must-
 - (a) Describe the geographical area of operation of the licensee;
 - (b) Specify the license period and the procedure for any license renewal;
 - (c) Specify the category or categories of waste the licensee may manage;
 - (d) Contain a requirement that the licensee must comply with these By-laws, and applicable provincial and national legislation;
 - (e) Require the licensee to keep monthly records in respect of-
 - I. The quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
 - II. Emission levels where the licensee manages a licensed incinerator;
 - III. Any activity related to the achievement of local, provincial or national targets where such targets have been determined, must include the results of monitoring such activity;
 - IV. Any waste minimization or recycling activities in which the licensee is involved;
 - V. Consumer supply figures; and
 - VI. Complaints received by the public;
 - (f) Require the licensee to have the appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the council under the license, which approval may not subject the council to any liability if the insurance programme proves inadequate;
 - (g) Permit the licensee to conduct any other business activity not regulated in the license, provided that any such business activity does not conflict with or adversely affect the licensee's obligations under the license, these By-laws or any other law, and provided such activities are separately accounted for;
 - (h) Stipulate procedures for amendment of license;
 - (i) Stipulate circumstances under which the license may be revoked or suspended by the council and set out an appeals procedure;
 - (j) Prescribe the payment of a license fee;
 - (k) Require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
 - (l) Require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste stream that they have been contracted to manage; and
 - (m) Contain any other term or condition that the council considers relevant.

34. Prohibited conduct

- (1) Licensees may not:
 - (a) cease operations at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;
 - (b) abandon a waste disposal facility or waste handling facility;
 - (c) operate in contravention of terms and conditions of their license

- (d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;
- (e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;
- (f) dispose of any health care risk waste otherwise than by incineration, unless prior consent has been obtained from the DWAF; or
- (g) Dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

35. Transitional provisions and exemptions

- 1) Any person lawfully providing commercial services within the council at the time an application for a license is made, may continue to provide commercial services while the license application is being considered by the council.
- 2) A council may at its sole discretion, and having regard to the main object of these By-laws and its local waste plan, exempt any form of commercial service from the provisions of Chapter 7 of these By-laws and must indicate the terms and scope of any exemption in a notice published in the Eastern Cape Provincial Gazette.

CHAPTER 8

LITTERING, DUMPING AND ABANDONED ARTICLES

36. Duty to provide facilities for litter

- 1) The council, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacle are provided for the discarding of litter by the public, in any place to which the public has access.
- 2) The council, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are-
 - a) Maintained in good condition;
 - b) Suitably weighted and anchored so that they cannot be inadvertently overturned;
 - c) Constructed in such a manner as to ensure that they are weatherproof and animal proof;
 - d) Of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
 - e) Placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
 - f) Emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be frequently frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- 3) In any public place where an approved receptacle has been placed for the deposition of litter, the council may put up notices about littering.

37. Prohibition of littering

- 1) No person may-
 - a) Cause litter;
 - b) Sweep any waste into a gutter, onto a road reserve or onto any other public place;
 - c) Disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - d) Allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- 2) Notwithstanding the provisions of subsection (1), the council or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed. For purposes of this section, a reasonable time may mean that period of time before the litter becomes a nuisance or cause for complaint.

38. Prohibition of dumping and abandoning articles

- 1) No person may, without authorization, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he is the owner or occupier except where such deposits are made in accordance with the provisions of these By-laws.
- 2) Subject to any provisions to the contrary contained in these by-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- 3) No person may dump waste.
- 4) Any article, other than motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, 1989 (Act 29 of 1989), which 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 of such article, is reasonably regarded by the council as having been abandoned, may be removed and disposed of by the council as it may deem fit.
- 5) The council may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorization as it may deem fit.

CHAPTER 9**ADMINISTRATIVE ENFORCEMENT PROVISIONS****Part I: Appointment of authorised officials****39. Appointment of authorized officials**

The council shall appoint authorized officials who shall be vested with the power to

- (a) Discharge the council's right of access to premises in terms of section 101 of the Systems Act;
- (b) issue an enforcement notice under section 44;

- (c) impose an infringement notice in terms of section 45; and
 - (d) Exercise the powers of an authorized official in terms of the provisions of any other applicable law.
- 2) An authorized official is not a peace officer within the meaning of the Criminal Procedure Act and has no powers of arrest in respect of any offence created in these by-laws.
- 3) In appointing an authorised
- (a) A person's technical understanding and experience of matters related to waste management; and
 - (b) Any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- 4) An authorized official may be an employee of the council or any service provider of the council: Provided that, in the latter case, there is no conflict of interest between the persons duty as an authorized official and as an employee of the service provider.
- (5) Upon appointment, authorized officials shall be issued with means of identification by the council (hereinafter called "an identification") which shall state the name and function of the authorized official, acting within the powers vested in him by these by-laws, is required to present identification on demand by a member of the local community.

Part II: Powers of Authorized Officials

40. Powers to execute work and inspect vehicles and premises-

- 1) In addition to the powers an authorized official has as an authorized representative of the council under section 101 of the Systems Act or any other legislation, an authorized official, may
 - a) Enter any land or premises to execute work or conduct an inspection; and
 - b) May search any vehicle or other mode of conveyance with consent of the owner or person in charge of the vehicle.
- 2) A search conducted in terms of these By-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 3) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorized official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with emergency: Provided that the entry and search be conducted in conformity with requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 4) Where, in the opinion of an authorized official, any search of a vehicle, as contemplated in these By-Laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the authorized official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.
- 5) In the event of the seizure of any vehicle under subsection (4), the council must-
 - a) Forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to human health or damage to the environment; and
 - b) Return the said vehicle, within 48 hours after disposing of such waste, to control of the licensee or person from whose possession or control it was taken.

41. Power to question

- 1) In order to monitor or enforce compliance with these By-laws, the authorized official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these By-laws relate, require that the disclosure be made on oath or affirmation.
- 2) An authorized official may be accompanied by an interpreter and any other person reasonably requires to assist the authorized official in conducting the inspection.
- 3) An authorized official must, on request, provide his identification as an authorized official.

42. Supervision of licensees

- 1) Authorized officials must inspect the workplace of licensee not less than twice a year, and an authorized official is entitled to enter the workplace of a licensee for this purpose.

- 2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorized official in conducting an inspection under subsection (1) must do so with strict regard to decency and other, respect for a person's dignity, freedom and security, and personal privacy.
- 3) If an authorized official is of the opinion, after such an inspection, that licensee is complying with these by-laws, he may subject to the provisions of subsection (2), issue the licensee with a certificate confirming compliance, which must state-
 - a) The name and residential and postal address of the licensee;
 - b) The time, date and scope of the inspection; and
 - c) Any remarks which in the opinion of the authorized official may be relevant.
- 4) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorized official may recommend that the council review the license, and should there be reasonable grounds, the council may revoke the license in terms of subsection 31(2) (c): Provided that the consecutive inspections occur at not less than four month intervals.
- 5) Authorized officials must keep a register recording for each inspection that has been undertaken.

43. Supervision of owners and occupiers

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorized official is likely to cause a nuisance, harm to human health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of their employment, from committing an act or omission that may cause a nuisance, harm to human health or damage to the environment.

Part III: Enforcement and infringement notices

44. Enforcement notices

- 1) If, in opinion of the authorized official, a person is-
 - a) Causing a nuisance, harm to human health or damage to the environment; or
 - b) As licensee, is failing to comply with the terms of a license granted in terms of these by-laws; or
 - c) As owner or occupier, has failed to satisfy an obligation in terms of section 43 of these by-laws; or
 - d) The authorized official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- 2) An enforcement notice issued under this section must state-
 - a) The name and also the residential and postal address, if either or both of these be known, of the affected person;
 - b) The nature of the nuisance, harm to human health or damage to the environmental that the affected person is causing or likely to cause;
 - c) The steps required to forestall or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
 - d) That the affected person must no later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
 - e) That failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil liability; and

- f) That written representations may be made to the council in accordance with section 47, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice
- 3) If an affected person fails to comply with an enforcement notice, the council or anyone authorized by the council, may perform the steps required in the enforcement notice, provided that council does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- 4) Where the council incurs any expenditure as a result of performing such steps, the council may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.
- 5) Any licensee which commits an offence in terms of subsection 1(1)(b) and has, within the last five years, been convicted of the same offence, may be declared a serial offender under these By-laws and have its license revoked immediately.

45. Infringement notices

- 1) If, in the opinion of the authorized official, a person is-
 - a) Contravening subsections 34(1)(a) – (g), 37(1) (a) , - 38(1) – (5), 4491) (a) – (c) of these by-laws; or
 - b) Allowing waste other than domestic waste or dailies to remain uncollected,

The authorized official may serve or cause to be served on that person an infringement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act.
- 2) The infringement notice must-
 - a) Specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
 - b) State the particulars of the infringement;
 - c) Specify the amount of the penalty payable in respect of that infringement and the place where the penalty may be paid which penalty may not exceed R5000.00 (five thousand rand); and
 - d) Inform the person on whom the infringement notice is served that, no later than 28 calendar days after the date of service of the infringement notice, he may-
 - I. Pay the penalty; or
 - II. Inform the council in writing that he elects to be tried in court on a charge of having committed an offence under section 51.
- 3) Where a person makes an election under subsection (2)(d)(ii), the procedure set out in section 46 applies.

46. Complaints

Any person may lodge a complaint with an authorised official, or through any other channel established by the council, that any other person is causing harm to human health or damage to the environment by engaging in council services or commercial services, in which event the authorised official, unless he has reasonable grounds to believe that the complaint is frivolous or an

abuse of the main objects of these By-laws set out in section 3, must investigate the complaint and must, if he is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

47. Representations

- 1) Any affected person may make representations to the council, or a designated committee or internal functionary of the council to which the council has delegated its powers, in the manner specified in the enforcement notice.
- 2) Representations must be made by submitting a sworn statement or affirmation to the council, designated committee or internal functionary within 21 calendar days of the service of the notice.
- 3) Any representation not lodged within 21 calendar days must not be considered, save where the affected person has shown good cause and the council, the designated committee or internal functionary condones the late lodging of the representation.
- 4) The council, or designated committee or internal functionary, must duly consider the representations and any response thereto by an authorized official or any other person, if there be such a response; and may, on its own volition, conduct any further investigations to verify the facts if that, in its opinion, is necessary. If the council, or designated committee or internal functionary, should conduct any further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the council, or designated committee or internal functionary, must also consider such further response.
- 5) After the council, or designated committee or internal functionary, is satisfied that the requirements of subsection (4) have been satisfied, the council or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order may-
 - a) Confirm, alter or set aside in whole or in part, an enforcement notice; and
 - b) Must specify the period within which the affected person must comply with any order made by it;
 - c) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the council, or designated committee or internal functionary, must inform the affected person that he may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.
- 6) If the affected person elects to be tried in court, he must notify the council, or designated committee or internal functionary of his election within seven days, and on receipt of such notification by the council, or designated committee or internal functionary, the provisions of section 48 apply.
- 7) If the affected person does not elect to be tried in court, he must discharge his obligations under the enforcement notice within the prescribed manner and time.
- 8) If the affected person lodges a representation or elects to be tried in Court, any requirement in terms of section 44 of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the council, the affected has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered, orally or in writing, by the council to do so.
- 9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection (8), fails to comply with such an order, the council may itself cause the environmental emergency to be stopped, reversed or abated, in which event

the council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

CHAPTER 10

JUDICIAL ENFORCEMENT PROVISIONS

48. Service of documents and process

For the purpose of the service of any notice, order or other documents relating to non-payment for the provision of council services, the address of the owner of the premises on which domestic waste and dailies is generated is deemed to be the place for service of documents and process of such owner.

49. Service of notice

- (1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings-
 - a) It must be served on him personally, failing which if it be served on any member of his household, 16 years or older, who signs for the receipt of such notice at his place of residence or business; and
 - b) If sent by registered post to the persons' address as contemplated in section 48, it constitutes service in terms of section 7 of the Interpretation Act, 1957 (Act 33 of 1957)

50. Trial

If a person who elects to be tried in court in terms of subsection 47(6) or 47(8), notifies the council of his election, the authorized official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, in order to secure the attendance and prosecution of the accused, in which event the enforcement notice or infringement notice must be cancelled.

51. Offences and penalties

Any person, including an affected person or licensee, 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; or
- c) fails to comply with any lawful instruction given in terms of these By-laws, or
- d) who obstructs or hinders any authorized representative or employee of the Council 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

CHAPTER 11

GENERAL PROVISIONS

52. Ownership

- 1) The person holding the permit to operate a waste disposal facility is deemed to be the owner

of the waste disposed at that facility.

2) Such operator has a right of recourse against —

- a) any person that causes waste to be disposed at the waste disposal facility where that person knowingly and without the knowledge of the operator disposes waste that that facility is not permitted to accept; and
- b) any waste generator that knowingly puts waste out for collection that is not the category being collected.

[54]53. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

54. Delegation of Council's powers

(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) —

- (a) must be in writing;
- (b) does not prevent the Council from exercising such power or performing such duty itself; and
- (c) may at any time be withdrawn in writing by the Council.

55. Short title

These By-laws are called the Umzimkhulu Local Municipality Waste Management By-laws, 2008.

No. 147

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

STREET TRADING BYLAWS

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UMZIMKHULU STREET TRADING BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Street Trading Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[STREET TRADING BYLAWS]

ARRANGEMENT OF SECTIONS

1. Definitions
2. Application
3. Prohibitions
4. Restrictions
5. Cleanliness of place of business and protection of public health
6. Trading in parks and gardens
7. Objects used for display of goods
8. Removal and impoundment
9. Disposal of impounded goods
10. General Offences and penalties
11. Conflict of laws
12. Enforcement
13. Presumption
14. Proof of claim
15. Delegation of Council's powers
16. Short title

1. Definitions

In these bylaws, except as otherwise expressly provided or unless the context otherwise requires-

“approval” means approval by the authorized official and “approve” has a corresponding meaning;

“association” means persons who are self employed and have organized themselves into a street trading association with a constitution and a code of conduct;

“authorized official” means an official of the council to whom it has delegated a duty,

function or power under these bylaws in relation to the exercise or performance of that duty. Function or power and includes any employee acting under the control and direction of such official;

“Council” means the Council of Umzimkhulu Municipality and includes, in relation to a duty function or power under these bylaws, a committee or official of the Council to whom it has delegated that duty, function or power **“local authority”** service means any systems conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or storm water or for the generation, impounding storage purification or supply of water, gas or electricity;

“local authority service works” means all property or works of whatsoever nature necessary or desirable for or incidental to any local authority service;

“nuisance” bears the meaning given to it by the ordinance, or any amendment thereof;

“prescribed” means prescribed by the Council by resolution;

“property” in relation to a street trader, means any goods, receptable, vehicle or movable structure used or intended to be used in connection with the carrying on of his business as such;

“public place” means any street and any square, park. Recreation ground, garden, commonage or enclosed or open space-

- (a) Which being situate in an approved private township, was set apart for the use and benefit of the public and is shown on the general plan of such township; or
- (b) Which being situate in a local authority area, the local authority is vested with the ownership, control or management thereof by law or by deed of title for the use and benefit of the public, or which the public has the right to use; or
- (c) To which, if situated in an existing private township (whether such existing private township is or is not itself situated in a local authority area), the public or the inhabitants have a common right, or to which if shown on a general plan or diagram or any plan compiled in the Office of the Surveyor General and commonly known as a lay-off or deduction plan filed or record in the Office of the Surveyor General or in the Deeds Registry, the owners of lots in such existing private township have a common right;

“public road” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes;

- (a) The verge of any such road, street or thoroughfare;

- (b) Any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
- (c) Any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“roadway” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edge of the railway;

“sell” include-

- (a) Barter, exchange or hire;
- (b) Display, expose, offer or prepare for sale;
- (c) Store with view to sell; or
- (d) Provide a service for reward and “sale” has a corresponding meaning;

“sidewalk” means that portion of a verge intended for the exclusive use of pedestrians;

“street trader” means a person who carries on the business of street trading;

“street trading” means the selling of any goods or the supplying or offering to supply any service for reward, as a street vendor, peddler or hawker in a public road or public place but does not include the sale of newspapers only; **“the Act”** means the Business Act, 71 of 1991, and includes the regulations made thereunder;

“vehicle” includes-

- (a) A self-propelled vehicle;
- (b) A trailer;
- (c) A hand-drawn or propelled vehicle and

“verge” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder.

- (1) In these bylaws unless the context otherwise indicates, any word or expression defined in the Act shall bear the meaning so given to it.
- (2) For the purpose of these bylaws a single act of offering for sale or of selling goods or services in or from a public road or public place constitutes the carrying on of the business of a street trader.
- (3) For the purpose of these bylaws a reference to a person carrying on the business of street trader shall include any employee of any such person

2. Application

No person shall carry on the business of street trader unless he or she-

- (a) Has obtained the written approval of the Council to do so, and
- (b) Is a member of a Street Traders Association recognized by the Council.

3. Prohibitions

No person shall carry on the business of the a street trader-

- (a) At a place or an area declared under section 6A(2)(a) of the Act as a place or area in which the carrying on the street trading is prohibited;
- (b) On a verge, contiguous to
 - (i) A building belonging to, or occupied solely by the State or the Council;
 - (ii) A church or other place of worship; or
 - (iii) A building declared to be a national monument under the National Monuments Act, 28 of 1969, or any amendment thereof except to the extent that the carrying on such business is permitted by a notice or sign erected or displayed by the Council and in compliance therewith;
- (c) On a verge contiguous to a building in which business is being carried on by any person who solely or mainly sells goods of the same or similar nature as goods being sold by the street trader concerned, without the consent of that person;
- (d) On that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (e) At a place where it substantially obstructs pedestrians I the use of a sidewalk or take up a position or deposit his property on the sidewalk so as to do so;
- (f) At a place where it causes an obstruction to vehicular traffic;
- (g) At a glance where it causes an obstruction in front of
 - (i) An entrance to or exit from a building
 - (ii) A fire hydrant;
- (h) On a stand or in any area contemplated in section 6A(3)(b) of the Act if he is not in possession of proof that he has has hired such stand or area from the Council or that it has otherwise been allocated to him;
- (i) In contravention of the terms and conditions of the lease or allocation to him of a

stand or area contemplated in section 6A(3)(b) and (c) of the Act.

4. Restrictions

- (1) No person carrying on the business of a street trader shall-
- (a) if such business is carried on any public road or public place
 - i. sleep overnight at the place of such business; or
 - ii. erect any permanent structure at the business site for the purpose of providing shelter; without prior written approval of the Council.
 - (b) carry on such business in such a manner as to-
 - i. create nuisance
 - ii. damage or deface the surface of any public place or any public or private property or
 - iii. create a traffic hazard;
 - (c) other than in a refuse receptacle approved or provided by the council accumulate, dump store or deposit or cause or permit to be accumulated, dumped stored or deposited any litter on any land or premises or on any public road or public place;
 - (d) obstruct access to a service works of the Council or of the State or any statutory body;
 - (e) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
 - (f) obstruct access to a pedestrian arcade or mall;
 - (g) 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 Council for the purpose of these bylaws;
 - (h) carry such business in a place or area in contravention of any restriction imposed by Council resolution in terms of section 6A(2)(a) of the Act;
 - (i) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
 - (j) obstruct access to or the use of street furniture such as bus passenger benches or shelters and queuing lines, refuse disposal bins, and other facilities designed for the use of the general public; or
 - (k) obscure any road traffic sign displayed in terms of the Road Traffic Act 1996, and regulations made there under or any marking, notice or sign displayed or made in terms of these bylaws.
- (2) The council shall reserve the right to restrict the number of street traders and street trader associations.

5. Cleanliness of place of business and protection of public health

Every street trader shall-

- (a) unless prior written approval exempting him or her from the provisions of this paragraph has been given by the Council, daily remove from any public road or public place at the end of each trading day or at the conclusion of trading all goods, moveable structures, waste, packaging material, stock and equipment of whatsoever nature which are utilized in connection with such trading.
- (b) Carry on this business in such a manner as not to be a danger or threat to public health or public safety;
- (c) At the request of an officer or an employee of the Council move or remove anything so that the place of business may be cleaned;
- (d) Keep the area or stand occupied by him for the purpose of his business as well as his property in a clean and sanitary condition and free of litter; or
- (e) If his activities involve the cooking or other preparation of food, take steps to ensure that no fat oil or substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure.

6. Trading in parks and gardens

No street trader shall do business in a garden or park to which the public has the right of access except with the prior written approval of the Council's municipal Manager or other authorized official and in compliance with the conditions imposed by him or her when granting such consent.

7. Objects used for display of goods

A street trader shall ensure that any structure, container, surface or other object used by him for the preparation, display, storage or transportation of goods-

- (a) Is maintained in a good state of repair and in a clean and sanitary condition, and
- (b) Is not so placed or stacked so as to constitute a danger to any person or so as to be likely to injure any person.

8. Removal and impoundment

- (1) For the purpose of this bylaw "goods" includes any receptacle, vehicle or movable structure.

- (2) An officer may remove and impound goods

- (a) Which he reasonably suspects are being used or have been used in or in connection with the carrying on of any business of a street trade, and
- (b) which he finds at a place where the carrying on of such business is restricted in terms of

section 3(h) or section 5 or prohibited in terms of section 2(a) to (g) and which in his opinion constitutes an infringement of such provision, whether or not such goods are in the possession or under the control of any person at the time of such removal or impoundment.

(3) Any officer acting in terms of sub-section (2) shall-

- (a) Except in the case which have been left or abandoned. Issue to the person carrying on the business of street trader a receipt of any goods so removed and impounded; and
- (b) Forthwith deliver any such goods to the authorized official.

(4) Neither the Council nor a councilor official, officer or employee of the Council shall be liable for any loss of or damage to any goods removed and impounded in terms of this section.

9. Disposal of impounded good

- (1) Any perishable goods removed and impounded in terms of section 8(2) may at any time after the impoundment thereof be sold or destroyed by the Council and in the case of a sale of such goods the proceeds thereof less any expenses incurred by the Council and in connection with the removal, impoundment and sale of such goods, shall upon presentation of relevant receipt issued in terms of section 8 (3)(a), be paid to the person who was the owner of such goods when such goods were impounded. If such owner fails to claim the said proceeds within three months of the date on which such goods were sold, such proceeds shall be forfeited to the Council.
- (2) The owner of any goods (other than perishable goods), dealt with by the Council in terms of sub section 1, impounded in terms of section 8(2) who wishes to claim the return of such goods shall, within a period of one month of the date of the impoundment of such goods, apply to the Council and shall present the relevant receipt issued in terms of section 8(3)(a), failing which such goods may be sold by the Council and in the event of sale of such goods the provisions of sub section (1) relating to the proceeds of a sale shall apply.
- (3) if the owner of any goods impounded in terms of section 8(2) claims the return of such goods from the Council and such owner is unable or refuses to refund any expenses incurred from the Council in connection with removal and impoundment of such goods, such goods may be sold by the Council and proceeds of any sale of such goods less any such expenses and the cost of such sale shall be paid to such owner.
- (4) in the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the Council in connection with the removal,

impoundment and sale of such goods, the owner of such goods shall remain liable for so much expenses as is not defrayed by the proceeds of the sale of such goods.

10. General offences and penalties

(1) Any person who-

- (a) Contravenes or fails to comply with any provision of these bylaws;
- (b) Ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these bylaws;
- (c) Contravenes or fails to comply with any approval or condition granted or imposed in terms of these bylaws;
- (d) for the purpose of these bylaws make a false statement knowing it to be false in a material respect or deliberately furnishes false or misleading information to an authorized official or officer; or
- (e) threatens, resists, interferes with or obstructs an authorized official, officer or employee of the Council in the performance of his powers, duties or functions under these bylaws, shall be guilty of an offence and on conviction be liable to a fine of five hundred rands or imprisonment for a period not exceeding three months.

(2) When an employee of a street trader performs any act or is guilty of any omission which constitutes an offence under these bylaws the employer shall be deemed to have performed the act or the be guilty of the omission himself and he can prove that-

- (i) In performing the act or being guilty of the omission the employee was acting without his knowledge or permission;
- (ii) All reasonable steps were taken by him to prevent the act or omission; and
- (iii) It was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.

(3) The fact that an employer issued instructions forbidding any act or omission referred to sub-section (2) shall not itself be accepted as sufficient proof that he took all steps referred to in paragraph (b) of the sub-section.

(4) When an employer is by virtue of the provisions of sub-section (2) liable for anything done or omitted by his employee, then that employee shall also be liable to prosecution for the offence.

11. Conflict of Laws

If there is any conflict between these bylaws and any other bylaws of the Council, these bylaws will prevail.

12. Enforcement

- (1) The municipality through its officials shall be responsible for the enforcement of the bylaw;
- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
(b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
(c) The person serving the summons shall state in his or her report the manner of service or document.

13. Presumption

In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

14. Proof of claim

A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

15. Delegation of Council's powers

- (1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.
- (2) A delegation contemplated in subsection (1) –
 - (a) must be in writing;
 - (b) does not prevent the Council from exercising such power or performing such duty itself; and
 - (c) may at any time be withdrawn in writing by the Council.

16. Short title

These By-laws are called the Umzimkhulu Local Municipality Street Trading By-laws, 2008.

No. 148

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

CREDIT MANAGEMENT BYLAWS

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UMZIMKHULU CREDIT MANAGEMENT BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Credit Management Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

[CREDIT MANAGEMENT BY-LAWS]

ARRANGEMENT OF SECTIONS

1. Definitions
2. Service agreement
3. Accounts
4. Deposits
5. Disconnection for non payment
6. Tampering
7. Agreements and arrangements with consumers in arrears
8. Acknowledgement of debt
9. Interest on arrears
10. Hand-overs
11. Consumer may not selectively nominate payment
12. Authority to appoint debt collection specialists
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14. Conflict of laws
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16. General offences and penalties
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20. Short title

1. Definitions

Unless the context otherwise indicates —

"bank guarantee" means an unconditional undertaking by a financial institution to it guarantee a specified maximum amount to be paid if the principal debtor ("the consumer") fails to pay,

"calculated amounts" means the amounts calculated by the Director of Finance to be due to the Council by a consumer in respect of the supply of the applicable municipal services for any period during which the exact quantity of the supply cannot be determined accurately for any reason, and shall be based on the average consumption figures, if available, for the service rendered to the consumer over the three months immediately prior to any such period commencing, or failing the availability of such data, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the consumer resides or carries on business;

"Chief Executive Officer" means the person appointed as Municipal Manager in terms of the Local Government: Municipal Systems Act, 2000, or any person acting in that capacity;

"consolidated account" means one combined account for all municipal services, surcharges, property tax and basic charges payable;

"consumer" means any person to whom a service is or has been rendered by the Council and "consumer services" has a corresponding meaning;

"conventional electricity and water meters" means electricity and/or water meters, as the case may be, which are used to determine the supply of electricity and water and which are read on a monthly or other fixed interval basis;

"Council" means the Umzimkhulu Municipality and its successors in law, and includes the Council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

"Director of Finance" means the Head of the Department responsible for the Council's financial affairs, and any person duly authorised by him or her to act on his or her behalf in the stated capacity;

"due date" means, in the absence of any express agreement between the Council and the consumer, the date stipulated on the account and determined by the Council from time to time as the last date on which the account may be paid;

"existing consumers" means consumers who have already entered into an agreement for the supply of municipal services;

"financial year" means 1 July in any year to 30 June of the following year; "legal costs" means legal costs on an attorney own client scale;

"meter audits" means an investigation to verify the correctness of the consumption and supply of electricity or water;

"normal office hours" means the hours when the offices of the Director of Finance are open to the public from Mondays to Fridays, excluding public holidays;

"owner" means -

- (a) the person in whom, from time to time, is vested legal title to the premises;
- (b) in a case where the person in whom legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager; liquidator or other legal representative;
- (c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof; and
- (e) in relation to (1) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or (2) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointment agent of such a person;

"property tax" means rates and/or taxes charged according to the value of a property which may be based on a tariff on the value of the land or improvements or both, and has the same meaning as assessment rates;

"rebate" means a discount on any property tax or service charge determined by the Council from time to time;

"reconnection fee" means the fee charged to reconnect the electricity/water supply when the supply has been disconnected due to non-payment, which fee will be determined periodically by the Council and will form part of the municipal tariff of charges;

"required amount" means the total calculated amount of the electricity/water consumed during any period of tampering, as well as the tampering fee:

"service accounts" means accounts in respect of electricity and/or water consumption;

"service agreement" means an agreement for the consumption of electricity and/or water;

"tampering fee" means a fee for illegal disconnection, adjustment or bypassing of a consumption meter or the siphoning of a supply of electricity or water supply to an unmetered destination, which fee will be determined annually during the budget process and will form part of the tariff of service charges;

"terminated account" means the final account for services after the consumer has left the premises, whether or not the consumer has given notice to terminate the supply of service;

"variable flow-restricting device" means a device that is coupled to the water connection that allows the water supply to be restricted or closed; and

"voluntary garnishee order/emoluments order" means a court order for the deduction of an amount of money from the salary or other income of a consumer.

2. Service agreement

- (1) Before being provided with electricity, water and or other consumer services, every consumer must enter into a service agreement with the Council in which, *inter alia*, the consumer agrees that the electricity and/or water payment system may be used for the collection of arrears in-respect of all service charges.
- (2) Where a consumer has failed to enter into a service agreement with the Council, water and/or electricity will be blocked, disconnected or restricted, as the circumstances may require, until such time as a service agreement has been entered into and the applicable deposits have been paid. The consumer shall be liable for calculated amounts.

3. Accounts

- (1) The Council will bill the inhabitants of, and property owners and property occupiers within its area for property tax and municipal

services supplied to them by the Council at regular intervals or as prescribed by law.

- (2) The owner of a property is liable for refuse and sewerage charges.
- (3) The Council will post or hand-deliver the consolidated accounts to the respective consumers at the address notified by each consumer, to reach the consumer before the due date printed on the account. Any change of address becomes effective only when notification of the change is received and acknowledged by the Council.
- (4) The consumer must pay, in full, the amount rendered on or before the due date. Failure to comply with this section will result in debt collection action being instituted against the consumer, and interest at the rate determined from time to time by the Council or in the absence of any determination, as prescribed by law, will be charged from the date upon which the amount of the account was due for payment.

4. Deposits

- (1) Deposits are to be determined by the Director of Finance, which determination is based on two and a half times, the average monthly accounts for the service in or that property, either as factually determined or as a calculated amount.
- (2) In determining the deposit described in section 4 (1), the Director of Finance will differentiate between areas to give cognisance to differences in service standards and usage.
- (3) The Director of Finance may reassess consumer deposits for *new* commercial and industrial consumers three months after the initial deposit date, and may, as a result of this reassessment require an additional deposit from any such consumer.
- (4) The Director of Finance must review all deposits biennially or when a consumer's service is disconnected or blocked as a result of non-payment. The outcome of this review will be communicated to the consumer in the event of any variation in the deposit arrangements being required. Should the deposit mentioned in section 4 (2) or 4 (3) be found to be inadequate, the consumer will be allowed to make arrangements with the Director of Finance for the payment of the additional amount.

- (5) Consumer deposits are to be paid for all separately metered services.
- (6) Consumer deposits are to be paid in respect of water and electricity services only.
- (7) Deposits must be paid in cash or by cheque. The Council will accept a bank guarantee in cases where the deposit exceeds R2 000-00. The bank guarantee has to be hand-delivered during normal office hours to the Director of Finance's offices.
- (8) All deposits have to be paid at least 2 days prior to occupation of the property or the date on which the services are required, if not required on date of occupation. Failure to comply with this bylaw may cause a delay with the connection of services, and the Council will not be liable for any loss or prejudice that may result.
- (9) No service deposit is required if a pre-payment meter is installed for the particular service.
- (10) Where new conventional electricity and/or water meters are installed for existing prepayment consumers, these consumers may enter into a written agreement with the Council to pay off; over a maximum period of 6 months, the deposits levied.

5. Disconnection for non-payment

(1) General

The reconnection fee will be charged in cases of consumers who receive other municipal services of any kind and who fall into arrears with their payment in respect of those services and whose water and/or electricity supply, whether prepayment or conventional, has been disconnected or restricted.

(2) Notices to consumers.

- (a) The Council may at its discretion issue final request notices or other reminders to consumers whose accounts are in arrears, prior to disconnection.
- (b) The Council may issue a final demand for payment of arrears in respect of all debtor accounts reflecting an amount outstanding for more than 30 days, after which the account will be referred for debt collection, *in terms of* section 10, in addition to the disconnection of the supply of services.

(3) Electricity.

- (a) Depending on the circumstances, the Council may disconnect services to consumers with conventional electricity meters in respect of which service accounts are in arrears after the due date. Should such consumers wish to have their electricity reconnected, they will be charged the applicable reconnection fee and the service will not be reinstated before the account is paid in full or satisfactory arrangements in terms of section 7 have been made with the Director of Finance.
- (b) As far as is practicable, the Council must disconnect the electricity supply before 13:00 on the day of disconnection. Reconnections will commence as soon as practically possible, but will only be done during normal working hours.
- (c) In the event of mass disconnections, the Council is not obliged to effect same day reconnections.
- (d) The Council will not be obliged to sell electricity to consumers with pre-paid meters unless the consumer's municipal account for other services and property tax, if any, is paid in full or satisfactory arrangements in terms of bylaw section 7 have been made with the Director Finance, and have been honoured.
- (e) *All disconnected electricity meters must be clearly marked when the supply is disconnected for non-payment, in order to avoid disconnected meters being reported as faulty.*
- (f) The Council will restrict the water supply of consumers whose electricity supply has been blocked or disconnected for two months in succession and from whom no payment was received or with whom no satisfactory arrangements for payment of the outstanding amount have been concluded.
- (g) The Council shall be entitled to disconnect, block or restrict, as the case may be, at the earliest opportunity, the electricity and/or water supply of consumers who have offered a cheque as payment for municipal services if any such cheque is returned or dishonoured by the Financial Institution on which it is drawn for any reason. The consumer's account will be endorsed

accordingly and no further cheque payments will be accepted.

- (h) Standby electricians, meter readers and contractors are not permitted to restore any service to consumers without written authority from the Council's Credit Control Section.
- (i) Consumers whose supply of services has been unlawfully reconnected will be regarded as having tampered with the meter or the supply, and the provisions of action shall apply.

(4) Water.

- (a) The Council will serve a written notice on consumers with conventional water meters in respect of which municipal service accounts are in arrears, stating its intention to restrict the water supply within a set number of days as contemplated in section 4 of the Water Services Act, 1997 (Act No. 108 of 1997) and/or the Water Bylaws.
- (b) The water supply to consumers with conventional water meters referred to in section 5 (4) (a), will be restricted after the period of the notice issued in terms of section 5 has lapsed. Such consumers will be charged the applicable reconnection fee.
- (c) In cases where, water supply is to be restricted or disconnected, Council may install a variable flow-restricting device to facilitate future reconnections and restrictions. The *full* service will not be re-instated before the municipal service account is paid in full or satisfactory arrangements in terms of the Credit Management Policy have been made with the Director of Finance, and only for as long as the arrangements are honoured.
- (d) The Council shall not be obliged to sell water to consumers with pre-paid meters if their Municipal services accounts are not paid in full or unless satisfactory arrangements *in* terms of section 7 have been made with the Director of Finance, and then only for as long as those arrangements are honoured.
- (e) Where possible, all disconnected or restricted water meters will be clearly marked to avoid restricted or disconnected meters being reported as faulty.
- (f) Standby plumbers, meter readers and contractors are not permitted to restore any service to consumers without written authorisation from the Council's Credit Control Section.
- (g) In cases where water leaks are discovered on the consumer's side of the water meter and he or she does not act timeously to rectify the problem, a variable flow-restricting device will be installed to curb water losses and to limit the amount of water to be charged to the consumer.

6. Tampering

- (1) Where an electrical or water supply is found to have been tampered with or the meter by-passed, the Council may, subject to these bylaws and other applicable legislation, isolate or disconnect the relevant supply, and charge the consumer the applicable tampering fee, calculated amounts due as well as a reconnection fee in instances where the supply had been isolated and a connection fee in instances where the supply has" been removed.
- (2) in instances where there is evidence of a discrepancy between the electricity or water consumption and purchase history of a specific property, transgressors will be dealt with in the following manner:
 - (i) Subject to paragraph (ii), supply will be isolated at point of supply in instances of a first offence and removed in instances of subsequent offences.
 - (ii) A written notification will be given to the consumer, informing him or her of isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
 - (iii) The Council will only re-instate services after the amounts referred to in paragraph (ii) have been paid.
- (3) In instances where physical tampering with the electricity or water supply is detected, transgressors will be dealt with in the following manner:

Supply will be isolated immediately in instances of a first offence and removed in instances of a second or subsequent offence.

 - (ii) A written notification will be given to the consumer, informing him or her of the isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
 - (iii) The Council will only re-instate services after the amounts referred to in paragraph (ii) have been paid.
- (4) In addition to the provisions of this bylaw, the Council may enforce any other rights or exercise any power conferred upon it by the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), Water Services Act, 1997 (Act No. 108 of 1997), the Council's Water Bylaws, the Electricity Act, 1987 (Act No. 41 of 1987), the Councils Electricity Bylaws and any other applicable legislation.

7. Agreements and arrangements with consumers in arrear

- (1) The Director of Finance or his delegate is authorised to enter into agreements with consumers in arrear with their accounts and to grant such persons extensions of time for payment.
- (2) The Director of Finance may determine, on the merits of each case, the initial amount to be paid as part of such agreement, as well as the number of instalments over which the arrear amount must be paid off and the term over which payment is to be made. Such term may not exceed 24 months.
- (3) The Director of Finance may, in exceptional cases and with the approval of the Municipal Manager, extend the period of repayment referred to in section 7 (2).
- (4) In instances where the Director of Finance is satisfied, at the time of making arrangements and after investigation, that a *bona fide* consumer cannot reasonably afford the payment of services, such consumer's details will be recorded and further legal steps against such consumer will either be deferred or waived, as the Director of Finance may decide.

8. Acknowledgement of debt

- (1) Only debtors with positive proof of identity or an authorised agent with a power of attorney will be allowed to complete an acknowledgement of debt agreement.
- (2) An acknowledgement of debt agreement must contain all arrangements for paying off arrear accounts. One copy of the document will be handed to the consumer and another filed at the Council's Credit Management Section.
- (3) A consumer who has already been served with summons or other legal process by the Council's attorneys may apply for credit facilities. However, all legal costs already incurred will be for his or her account and an initial payment of at least half of the total resultant outstanding debt will be required. The consumer must also sign an acknowledgement of debt, which will include legal fees due.
- (4) Failure to honour the acknowledgement of debt agreement will lead to immediate blocking, disconnection or restriction of services without further notice, and the resumption of legal action.
- (5) In all instances where the consumer in arrears is employed, the Council may obtain a voluntary garnishee order or emolument attachment order.

9. Interest on arrears

- (1) Interest will be charged on service arrears at an interest rate as determined by resolution of the Council, or in the absence of any such determination, as prescribed by law.

Interest will be charged on arrear property tax as prescribed in the applicable legislation.

10. Hand-overs

The Council will issue a final demand in respect of all consumer accounts reflecting an amount outstanding for longer than 30 days and, if such account still reflects an amount in arrears after 60 days, it will be handed over for collection by the appropriate Council department or to external debt collection specialists.

Although not obligatory, the Director of Finance should, where possible, investigate ways and means of assisting consumers before attaching movable or immovable property.

11. Consumer may not selectively nominate payment

A consumer is not entitled to allocate any payment made to any portion of the total debt due. The allocation of payments will be made at the sole discretion of the Director of Finance.

12. Authority to appoint debt collection specialists

The Director of Finance has the authority to appoint debt collection specialists and to enter into agreements with such agencies in terms of the Contingency Fee Act, if necessary.

13. Relief measures for pensioners

(1) The Council may grant a rebate on property tax to persons who own and occupy property if they submit a written request annually and they can prove to the satisfaction of the Director of Finance that they comply with the following requirements:

- (a) The applicant must be a ratepayer of 60 years or older or be a *bona fide* or a ratepayer receiving a disability pension from the public or local government service or from a registered pension or provident fund.
- (b) The applicant must be the owner of the residential property in question and the property must be registered in his or her name (Bodies Corporate do not qualify).
- (c) The total annual income of the applicant must not more than an amount pre-determined by the Council.
- (d) The applicant must provide a sworn affidavit stating that
 - (i) the declared income is the sole source of income to the pensioner;
 - (ii) his or her income does not exceed the amount in paragraph (c) and
 - (iii) he or she permanently occupies the residential property.

(2) All applications must be submitted before a pre-determined date and no applications received after this date *will* be considered.

(3) A new application must be made for each financial year.

(4) The percentage rebate mentioned in paragraph (1) (a), the maximum income limit mentioned in paragraph (1) (c) and the closing date for applications mentioned in paragraph (2), will be determined each year at the approval of the budget and must be advertised within 30 days thereafter.

14. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

Enforcement

15.(1) The municipality through its officials shall be responsible for the enforcement of the bylaw;

- (2) The municipality may designate any official to be responsible for the enforcement of the bylaw, who shall be known as the "authorized officer";
- (3) The authorized officer may issue a notice in writing directing a person to remove or effect alterations as may be prescribed in the notice in terms of the bylaw 15;
- (4) If the person fails to comply with the directive issued by the authorized official, the person will be charged a fee of R150.00 per day up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (5) The municipality may institute legal proceedings to recover the amount owed by the person;
- (6) A spot fine may be issued by an authorized officer up to the maximum amount of R2500.00 which amount may be increased by the municipality from time to time.
- (7) The decision of the authorized officer may be appealed to the municipality, the municipality's decision shall be final;
- (8) (a) The authorized officer may, on behalf of the Municipality, issue summons in terms of these by-laws calling upon the person to appear before a court for prosecution.
 - (b) The summons may be served by the messenger of the court or a member of the South African Police Service or the municipality traffic officer.
 - (c) The person serving the summons shall state in his or her report the manner of service or document.

General offences and penalties

16. Any person who –

- (a) contravenes or fails to comply with any provisions of these bylaws;
- (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these bylaws;
- (c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these bylaws;
- (d) for the purposes of these bylaws knowingly makes a false statement or deliberately furnishes false or misleading information to an authorized official or officer; or

(e) threatens, resists, interferes with or obstructs an authorized official, officer or employee of the Council in the performance of his powers, duties or functions under these bylaws,
shall be guilty of an offence and on conviction be liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Presumption

17. In any prosecution of a person for a contravention of these bylaws, the accused shall be deemed to know the provision of these bylaws and to know that the offence with which he is charged is a contravention thereof.

Proof of claim

18. A certificate issued under the signature of any designated official of the municipality shall be prima facie proof of the amount owing by the person under these bylaws.

Delegation of Council's powers

19.(1) The Council may, by resolution, delegate to the municipal manager any power or duty conferred upon it by these By-laws.

(2) A delegation contemplated in subsection (1) –

(a) must be in writing;

(b) does not prevent the Council from exercising such power or performing such duty itself;
and

(c) may at any time be withdrawn in writing by the Council.”.

Short title

20. These By-laws are called the Umzimkhulu Local Municipality Credit Management By-laws, 2004.

No. 149

10 November 2011

UMZIMKHULU LOCAL MUNICIPALITY GAZETTED BYLAWS



OCTOBER 2011

UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

MUNICIPAL MANAGER

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UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

[The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes Its Advertising Signs Bylaws] BE IT ENACTED by the Municipal Council of the Umzimkhulu Local Municipality in terms of section 156 (2) of the Constitution of the Republic of South Africa 1996 read with section 11 of the Local Government: Municipal Svstems Act, 2000 (Act No. 32 of 2000) as follows:-

To provide for the regulation and management of activities on and in respect of outdoor advertising, and to provide for matters in connection therewith

Preamble

WHEREAS the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

WHEREAS there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

WHEREAS there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

WHEREAS the Constitution authorises and empowers municipalities to administer the local government matters listed in Part B of Schedules 4 and 5, which include Billboards and the display of advertisements in public places and any other matter assigned to it by national or provincial legislation, by making and administering by-laws for the effective administration of these matters;

BE IT THEREFORE ENACTED by the Municipal Council of the **UMZIMKHULU Municipality** as follows:-

UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

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UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

**CHAPTER 1
INTERPRETATION AND APPLICATION****1. Interpretation**

In these By-laws, unless the context otherwise indicates -

“Advance sign” means a sign indicating the direction or distance to a facility, locality, activity, service or enterprise.

“Advertisement” means any visible representation of a word, name, letter, figure, object mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of transferring information.

“Advertising” means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner.

“Advertising device” means any physical device, which is used to display an advertisement or which is in itself an advertisement.

“Advertising hoarding” means a screen, fence, wall or other structure in a fixed position to be used, or intended to be used, for the purpose of posting, displaying or exhibiting any advertisement.

“Advertising Policy” means the Policy on Outdoor Advertising as adopted by the Council of Umzimkhulu Municipality, as amended from time to time.

“Advertising structure” means any physical structure primarily built for the display of advertisements.

“Advertising vehicle” means a vehicle constructed or adapted for use primarily for the display of advertisements.

“Aerial sign” means any sign which is affixed to or produced by any form of aircraft (including kites and balloons) and which is displayed in the air.

“Affix” includes “and to paint onto” and “affixed” shall have a corresponding meaning.

“Animated advertisement” means an electric advertisement that contains variable messages in which representation is made by the appearance of movement through an electric light source or beam.

“Applicant”(For the purpose of Locality Bound Advertising) means the person/s by whom an application for permission to erect a sign or display an advertisement is made, which application shall be endorsed by the owner of the premises upon which such advertisement or sign is to be located.

“Applicant” (For the purpose of Non Locality Bound Advertising) means the registered owner of the property.

“Application” in relation to advertising sign/s may include all proposed advertising signs.

“Appropriate” means that the dimensions, installation, materials, place and/or supports are suitable for- and appropriate in all circumstances of the case, in the opinion of the delegated officer for advertising signs.

“Approval” means approval by Umzimkhulu Municipality or its duly delegated officials and “authorisation” has a corresponding meaning.

“Arcade” means a covered pedestrian thoroughfare not vested in the Council, whether or not located at ground level passing wholly or partly through a building and to which the public normally has regular and unrestricted access.

UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

“Area of Control” refers to the degree of advertising control to be applied in a specific area, i.e. maximum, partial or minimum control, in accordance with the visual sensitivity of the area and traffic safety conditions. Area of control is also used to express the degree of landscape sensitivity of specific areas.

“Arterial road” means a road which, in the opinion of the Council, functions as a main carrier of traffic within an area.

“Backlight units” (backlit) means advertising structures which house illumination in a box to throw light through translucent advertising printed on plastic or heavy duty paper for a higher visibility and extended night viewing.

“Balcony” means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upper-floor door or window.

“Basic landscape sensitivity” indicates the visual or aesthetic sensitivity of the landscape with regard to outdoor advertisements and designs in terms of three basic landscape types, which are, in order of sensitivity, natural, rural and urban landscapes.

“Billboard” means any screen or board larger than 6m², supported by a free-standing structure, which is to be used or intended to be used for the purpose of posting, displaying or exhibiting an advertisement and which is also commonly known as an advertising hoarding. The main function of a billboard is to advertise non-locality bound products, activities or services, and means any screen, board, hoarding, fence, wall or free standing structures used or intended to be used for the purpose of posting, displaying or exhibiting any remote advertisement.

“Bill-sticker” also commonly referred to as a “fly poster”, means any advertisement including a poster pasted by means of an adhesive directly onto an existing surface not intended specifically for the display of a poster.

“Bit” means the basic unit for measuring the length of advertising messages and may consist of letters, digits, symbols, logos, graphics or abbreviations.

“Blind” means a vertical screen attached to shop windows or verandas in order to keep sun and rain from shop fronts and sidewalks, and which may be rolled up when not in use.

“Building” means any structure with or without walls, having a roof or canopy and a normal means of ingress and egress under such roof or canopy.

“Bus shelter display” means posters positioned as an integral part of a free-standing covered structure at a bus stop.

“Canopy” means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise than by columns or posts.

“Cantilever” means a projecting feature that is dependant for its support on the main structure of a building without independent vertical or other supports.

“Change of Face” means an alteration to the content of the advertisement displayed on an approved signage structure.

“Charge determined by the Council” means the appropriate charge set forth in a by-law and/or tariff of charges made by the Council.

“Clear height” in relation to a sign means the vertical distance between the lowest edge of the sign and the level of the ground, footway or roadway immediately below such sign.

“Combination sign” also referred to as a cluster sign means a single free-standing advertising structure for displaying information on various enterprises and services at locations such as roadside service areas, urban shopping centres and other urban complexes.

“Council” means the Council of Umzimkhulu Municipality as reflected in current legislation or its legal successor (s) in law, or any officer employed by the Council, or any committee designated by the Council, acting by virtue of a delegated authority vested in him/her or it by the Council in connection with this Policy.

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“Curtilage” is the whole of the area of land within the boundaries of the subdivision/s forming the site of any building.

“Cut-outs” means letters, packages, figures or mechanical devices attached to the face of an outdoor sign, which might extend beyond the rectangular area for greater attention value, can provide a three dimensional effect and are also commonly known as add-ons or embellishments.

“Deemed to comply” means that if an advertising signage structure meets certain specified criteria it may be deemed to satisfy the requirements of the Council for approval purposes.

“Depth of a sign” means the vertical distance between the uppermost and lowest edges of the sign.

“Designated areas” are areas of maximum, partial or minimum control that have been specifically designated in the policy for the display of various types of advertising signs as amended from time to time.

“Directional sign” means a type of guidance sign used to indicate to the road user the direction to be taken in order that they may reach their intended destination.

“Display” means to erect and/or expose an advertising sign or structure to the public view by any method whatsoever.

“Display period” means the exposure time during which the individual advertising message is on display.

“Election advertisement” means an advertisement used in connection with any national, provincial, or municipal election, by-election or referendum held from time to time.

“Electronic sign” means a sign that has an electronically controlled, illuminated display surface which allows the advertisement to be changed, animated or illuminated in various ways.

“Encroaching sign” means a sign or portion of a sign which extends more than 150mm into or over a Council controlled area.

“Environmental Impact Assessment” in relation to outdoor advertising means an assessment of the impact that an advertising sign or structure may have on the visual, social and traffic safety aspects of the specific environment.

“Erf” means any piece of land registered in a deeds registry as an erf, lot, plot, stand or agricultural holding.

“Estate agents’ board or show sign” means an advertisement that is temporarily displayed to advertise that land, premises, development or other fixed properties are for sale or to let, and to direct potential buyers to said land, premises, development or fixed properties.

“Flag” means an advertisement or sign displayed on a cloth, canvas, PVC or like material which is attached to a staff with no rigid fixings

“Flashing sign” means a sign in which the visibility of the contents is enhanced by their intermittently appearing and disappearing or being illuminated with various intensity of colours.

“Flat sign” means any sign, which is affixed to or painted directly onto any external wall of a building and which at no point projects more than 150mm in front of the surface of such wall.

“Free-standing sign” means any immobile sign which is not attached to a building or to any structure or object not intended to be used for the primary purpose of advertising.

“Gateway” means a prominent entrance to or exit from an urban area or a specific part of an urban area, consisting of man-made or natural features and creating a strong sense of arrival or departure.

“Gore” means the point at which the left edge of the main road meets with the right edge of an on-ramp or off-ramp at an interchange.

“Ground Sign” is a self-supporting sign embedded and fixed in the ground and which is not attached to a building or a wall.

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“Height of a sign” means the vertical distance between the uppermost and lowest edges of the sign.

“Human living environment” refers to all human settlements such as villages, towns or cities, which may consist of various components such as residential, employment and recreation areas and which require environmental management to provide services such as water, public spaces and waste removal and to protect the quality of the environment.

“Illuminated” means an advertising structure which has been installed with electrical or other power for the purpose of illumination of the message of such sign.

“Illuminated sign” means a sign, the continuous or intermittent functioning of which depends upon it being illuminated.

“Inflatable sign” means any hoarding erected and maintained by means of air used for the purpose of posting or displaying any advertisement.

“Locality-Bound Sign” means a sign displayed on a specific premises or site, which refers to an activity, product or service located on the premises or site.

“Main roof of a building” means any roof of a building other than the roof of a veranda or balcony.

“Main wall of a building” means any external wall of such building, but shall not include a parapet wall, balustrade or railing of a veranda or a balcony.

“Movable temporary sign” also termed as **mobile or transit sign** means an advertisement attached to or displayed on a vehicle, vessel or craft on land, in water or in air.

“Non Locality-Bound Sign” means that the content of such advertisement is unrelated to any activity, product or service being undertaken on the premises or site on which such advertisement is displayed

“Non-profit body” is a body established to promote a social goal without the personal financial gain of any individual or profit-making commercial organisation involved, which has obtained the relevant certificate from National Government.

“Occupier” includes any person in actual occupation of land or premises without regard to the title under which he/she occupies.

“On site” in relation to any advertisement means that such advertisement conveys only the name and the nature of the industry, trade, business, undertaking or activity which is carried on within the building or premises on which the advertisement is displayed.

“Overall height” in relation to a sign, means the vertical distance between the uppermost edge of the sign and the natural ground level.

“Owner” in respect of a sign means the owner of the sign or of the premises on which it is displayed or the person in possession of or having control over the sign or the premises.

“Portable board” is any self-supporting sign or any other collapsible structure which is not affixed to the ground and which is capable of being readily moved.

“Poster” means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking or to the candidature of any person nominated for election to parliament, the local government or similar body or to a referendum, or any placard advertising any product or service or announcing the sale of any goods, livestock or property.

“Premises” means any building together with the land on which such building is situated.

“Projected sign” means any sign projected by a cinematograph or other apparatus but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance.

“Projecting sign” means any sign which is affixed at right angles to a wall of a building and protrudes more than 150mm from the wall of such building.

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“Public Place” includes all property, whether movable or immovable, which is owned by, vests in or is under the control of the Municipality, Local or National Government and to which public has access.

“Pylon sign” means any sign whether stationary or actuated, displayed on or forming an integral part of a pylon or mast or similar structure other than a building or advertising hoarding.

“Remote or third party advertising” means that the content of such advertisement is unrelated to anything being undertaken on the premises on which such advertisement is displayed.

“Residential purposes” means the use of a building as a dwelling house, two or more dwelling units, a hostel, a boarding house, and a residential club.

“Return Wall” means any external wall of a building or any other wall, which faces any boundary other than a street façade.

“Road Reserve” means the area contained within the statutory width of a road.

“Road Traffic Sign” means any road traffic sign as defined in the Road Traffic Act, No. 93 of 1996, the detailed dimensions and applications of which are controlled by the regulations to this Act and the South African Road Traffic Signs Manual.

“Roof sign” means a sign on the roof of a building lower than fifteen floors and which building is used for commercial, office, industrial or entertainment purposes.

“Rotating sign” means a sign, which rotates about any axis.

“Running light sign” means a sign or portion of a sign in the form of an illuminated strip, the illumination of which varies periodically in such a way as to convey the impression of a pattern of lights moving steadily along such strip.

“SAMOAC” is the South African Manual for Outdoor Advertising Control, a national guideline document compiled and published in 1998 by the Department of Environmental Affairs and Tourism, and as amended from time to time.

“Sign” is a more comprehensive term than advertisement and refers to any advertisement or object, structure or device which is in itself an advertisement or which is used to display an advertisement.

“Signalised traffic intersection” means an intersection controlled by traffic lights.

“Sky sign” means a sign on top of a skyscraper building higher than fifteen floors located within the municipal area and which forms an important landmark.

“Specific consent” means the written approval of the Council and any other relevant Provincial or National Government which requires a submission of a formal application.

“Spectacular” is an advertising industry term and means a custom-made billboard, which incorporates special effects such as internal illumination, cut-outs and three-dimensional representations.

“Street” means any street, road or thoroughfare shown on the general plan of a township, agriculture holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vests in the Council.

“Street furniture” means public facilities and structures which are not intended primarily for but can accommodate advertising and includes seating benches, planters, sidewalk litter bins, pole-mounted bins, bus shelters, sidewalk clocks and drinking fountains, but excludes road signs, traffic lights, street lights, or any other road-related structures.

“Street name signs” means any sign or advertisement displayed in combination with street naming.

“Temporary advertisements” means signs and advertisements which are usually displayed to publicise a forthcoming event or to advertise a short term use of the advertisement site.

“Temporary sign” means sign not permanently fixed and not intended to remain fixed in one position.

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“Transit advertising” also referred to as **vehicular advertising** means all advertising on normally moving vehicles including taxis, buses, trailers, trams, vessels, etc.

“Tri-vision” means a display, which through the use of a triangular or louvre construction permits the advertising of three different copy messages in a predetermined sequence.

“Under-awning sign” means a sign suspended or attached to the soffit of a canopy or verandah.

“Verandah” is a roofed structure attached to or projecting from the façade of a building and supported along its free edge by columns or posts.

“Visual zone” means the road reserve of a road and any area that is visible from any spot on such road reserve, but does not include an area situated at a distance of more than 250m from the road reserve boundary of a freeway in an urban area.

“Window signs” are signs, which are permanently painted on, or attached to, the window-glass of a building.

“Zone” means the land use zone as defined in Umzimkhulu Town Planning Scheme in course of preparation.

2. Purpose of By-laws

The Umzimkhulu Municipality must exercise its powers under these By-laws in the interests of amenity, public safety and business interests, and must take into account the considerations that -

- (a) signs or advertisements may not constitute a danger or nuisance to members of the general public, whether by way of obstruction, interference with traffic signals or with the visibility of the signals, light nuisance or otherwise;
- (b) signs or advertising that are displayed in its human living environment must be aesthetically pleasing, appropriate and placed at appropriate sites with an uncluttered effect, as the cluttering of signs at any one particular site is unacceptable;
- (c) material changes in circumstances are likely to occur, which may affect the municipality's decisions regarding consent which it has granted for the display of a sign, and regarding zoning; and
- (d) no sign may -
 - (i) be detrimental to the environment or to the amenity of a human living environment by reason of size, shape, colour, texture, intensity of illumination, quality of design or materials or for any other reason;
 - (ii) be in its content objectionable, indecent or suggestive of indecency or prejudicial to the public morals;
 - (iii) unreasonably obscure, partially or wholly, any sign owned by another person previously erected and legally displayed; and
 - (iv) block views across vistas from prominent public places, or in gateways of urban areas.

3. Application

Subject to section 15, these By-laws apply to the display of any sign on any site in any of the areas of control in the Umzimkhulu Municipality, including both public property as well as private property on which a sign is displayed which is visible from any public place.

UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

4. Policy framework

The policy underlying these By-laws is the South African Manual for Outdoor Advertising Control issued by the Department of Environmental Affairs and Tourism and the relevant Municipal policy approved by the Council and dealing with matters of advertising.

CHAPTER 2**AREAS OF CONTROL, SIGNS, AND REQUIREMENTS AND CONDITIONS THAT RELATE TO EACH SIGN****5. Areas of control and exemptions**

- (1) The areas of control as contained in Schedule 36 and as may be re-classified by resolution of the municipality from time to time, pertain.
- (2) For the purposes of these By-laws the following areas of control exist:
 - (a) Rural areas of maximum control;
 - (b) urban areas of maximum control;
 - (c) urban areas of partial control;
 - (d) urban areas of minimum control; and
 - (e) areas of maximum control in which advertising is prohibited.
- (3) A person who intends to display a sign must verify that the sign may be displayed in a particular area of control.
- (4) The municipality has determined and declared the areas set out in Schedule 38 to be prohibited advertising areas within which no person may display any sign or advertisement.
- (5) The areas of control in which particular classes and types of signs may be displayed are identified in the Schedules which are specified in section 7(2).
- (6) Extraordinary circumstances prevailing in a certain area in the municipality may require the municipality to declare the area exempt from the provisions of these by-laws, and in determining whether extraordinary circumstances exist which justify exemption, one or more of the following may be taken into consideration:
 - (a) Whether an urban renewal programme is in place which warrants a unique approach to outdoor advertising within its focus area;
 - (b) whether exemption from these by-laws will contribute to the success of the urban renewal programme;
 - (c) whether the organisers of an international sports, arts or cultural festival require exemption from these by-laws to contribute to the success of the said festival;
 - (d) the nature and function of the defined area;

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- (e) the enhancement of the defined area, which can be achieved by means of exemption;
 - (f) the financial benefit to either or both the municipality or the urban renewal programme accruing from such an exemption;
 - (g) the nature and extent of outdoor advertising, which will be permitted in terms of the proposed exemption; and
 - (h) whether the exemption granted will be in the public's general interests.
- (7) In the event of a special event, the municipality may, on application and payment of the fee determined by the municipality, grant, subject to any conditions it may deem necessary, an exemption from specific terms of these by-laws in respect of the sign types or areas of control, having regard to –
- (a) the area of control where it is proposed to display the sign;
 - (b) the nature of the event;
 - (c) the duration of the erection or display of the sign;
 - (d) the size of the proposed sign;
 - (e) any traffic, safety, environmental or heritage impact assessment as may be required by the municipality; and
 - (f) the outcome of any public participation process, if so required by the municipality.

6. Signs, requirements and conditions

The schedules in section 7 have effect and -

- (a) identify the class to which each of the different kinds of signs belong, and provide a general description of the characteristics and functions of each of the different kinds of signs; and
- (b) lay down the specific conditions relating to the display of each of the different kinds of signs.

7. Schedules

- (1) The classes of signs, the signs, the Schedules that relate to each of the signs, are as follows:
- (a) Class 1: billboards and other high-impact free-standing signs, comprising -
 - (i) class 1(a), super billboards, schedule 1;
 - (ii) class 1(b), custom-made billboards, schedule 2;
 - (iii) class 1(c), large billboards, schedule 3; and
 - (iv) class 1(d), small billboards and tower structures, schedule 4;
 - (b) class 2: posters and general signs, comprising –
 - (i) class 2(a), large posters and signs on street furniture, schedule 5;

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- (ii) class 2(b), banners, flags and inflatables, schedule 6;
- (iii) class 2(c), suburban signs, schedule 7;
- (iv) class 2(d), temporary signs, comprising –
 - (aa) class 2(d) (i), estate agents' boards, schedule 8;
 - (bb) class 2(d) (ii), sale of goods, property or livestock signs, schedule 9;
 - (cc) class 2(d)(iii), lampposts, pavement posters and notices schedule 10;
 - (dd) class 2(d) (iv), project boards, schedule 11; and
 - (ee) class 2(d) (v), temporary window signs, schedule 12;
- (v) class 2(e), street name advertisement signs, schedule 13;
- (vi) class 2(f), neighbourhood watch signs and signs relating to similar schemes, schedule 14; and
- (vii) class 2(g), product replicas and three-dimensional signs, schedule 15;
- (c) class 3: signs on buildings, structures and premises, comprising –
 - (i) class 3(a), sky signs, schedule 16;
 - (ii) class 3(b), roof signs, schedule 17;
 - (iii) class 3(c), flat signs, schedule 18;
 - (iv) class 3(d), projecting signs, schedule 19;
 - (v) class 3(e), veranda, balcony, canopy, and under awning signs, schedule 20;
 - (vi) class 3(f), signs painted on walls and roofs, schedule 21;
 - (vii) class 3(g), window signs, schedule 22;
 - (viii) class 3(h), signs incorporated in fabric of building, schedule 23;
 - (ix) class 3(i), signs on forecourts of business premises, schedule 24;
 - (x) class 3(j), signs for residential-oriented land use and community services, schedule 25;
 - (xi) class 3(k), on-premises business signs, schedule 26;
 - (xii) class 3(l), signs on towers, bridges and pylons, schedule 27; and
 - (xiii) class 3(m), signs on construction site boundary walls and fences, schedule 28;

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- (d) class 4: signs for tourists and travellers, comprising -
 - (i) class 4(a), sponsored road traffic projects signs, schedule 29;
 - (ii) class 4(b), service facility signs, schedule 30;
 - (iii) class 4(c) tourism signs; schedule 31;
 - (iv) class 4(d), functional advertising signs by public bodies, schedule 32;
and
- (e) class 5: mobile signs, comprising –
 - (i) class 5(a), aerial signs, schedule 33;
 - (ii) class 5(b), vehicular advertising, schedule 34; and
 - (iii) class 5(c), trailer advertising, schedule 35.
- (2) The areas of control are set out in schedule 36.
- (3) The figures which illustrate the restrictions on advertising opportunities inside and adjacent to road reserves at traffic intersections are contained in Schedule 37.
- (4) The areas in which the display of signs is prohibited are set out in schedule 38.

CHAPTER 3

CONSENT AND WITHDRAWAL OR AMENDMENT OF CONSENT

8. Consent and contracts

- (1) A sign may not be displayed without consent that was granted by the municipality -
 - (a) by section 9 (referred to in these By-laws as “deemed consent”); or
 - (b) by section 10 (referred to in these By-laws as “specific consent”).
- (2) Consent for the display of a sign includes consent for the use of the site for the purposes of the display, whether by the erection of structures or otherwise, however consent granted for the erection of an advertising structure cannot be construed as consent to use the structure for advertising purposes.
- (3) A person who displays a sign on Municipal land is a tenant at will, as set out in the lease agreement with the municipality, if applicable.
- (4) Since new types of signs are continuously being developed, and since the use of existing signs may become undesirable, it is provided that –
 - (a) a person who intends to display a sign -
 - (i) for which no provision is made in these By-laws;

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- (ii) Which does not fall within any of the categories of signs provided for in these By-laws; or
 - (iii) The display of which is of such nature that it does not fall within the ambit of what is understood as 'display' in these By-laws,
- must, before such a sign is displayed, apply for approval of the sign and for the display of the sign in terms of section 10, and the municipality may furthermore prescribe conditions applicable to the sign or the display of the sign; and
- (b) The municipality may in writing notify a person who is displaying a sign, the display of which is found by it to be undesirable, to remove or cease the display of the sign.
- (5) A lease of land within the jurisdiction of the municipality does not confer the right to use the land solely for the purpose of advertising.
 - (6) If a sign is not appropriate to the type of activity on or zoning of the erf or site to which it pertains, the sign and the display thereof may be considered on its merits by the municipality in terms of the municipality's Outdoor Advertisement policy and the SAMOAC guidelines.
 - (7) The municipality may require from a person who intends to display a sign –
 - (a) To enter into a contract, such as, but not limited to, an agreement, with the municipality where the sign is to be attached to a municipal asset, or to be erected on municipal land or land vested in the municipality, and the municipality will determine the duration of the contract and the fees to be paid by the person to the municipality; and
 - (b) Where the municipality so requires, to sign an indemnity form in favour of the municipality and the municipality's service providers.

9. Deemed consent

- (1) Deemed consent is hereby granted for the display of those particular classes and types of signs as specified in the Schedules, in the areas of control contemplated for each such class or type of sign, and persons displaying those particular classes and types of signs do not need to apply for consent, subject to subsection(2) .
- (2) The said deemed consent to display a sign is not absolute.
- (3) A person who intends to display a sign on private or Municipal land and has deemed consent is exempt from the provisions of section 10, but must comply with sections 18, 19, 20, 21 and 22.
- (4) The municipality has the right to determine areas of control and control measures related to certain types of signs to which deemed consent is applicable.

10. Specific consent, application, factors which municipality may consider, and renewal

- (1) A person who intends to display a sign on private or Municipal land and who needs to obtain the specific consent of the municipality as specified in the Schedule that relates to the sign, must –
 - (a) complete the necessary application form and comply with all the other requirements and conditions which are specified in the application form;

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- (b) Lodge two copies of the application form with the municipality;
 - (c) Obtain the consent of the municipality before he or she may display or alter the sign;
 - (d) Comply with all the other provisions of these By-laws; and
 - (e) Upon lodging of the form contemplated in paragraph (b) pay all the prescribed fees and charges as determined by the municipality from time to time.
- (2) The municipality, when it considers the application, may have, in addition to other relevant factors, due regard to the following:
- (a) That no sign should be so designed or displayed that it will -
 - (i) be detrimental to the environment or to the amenity of the neighbourhood because of size, intensity of illumination, quality of design or materials, or for another reason;
 - (ii) Constitute a danger to any person or property;
 - (iii) Obliterate other signs;
 - (iv) be unsightly or impact detrimentally upon an architectural design;
 - (v) Impair the visibility of a road traffic sign; or
 - (vi) affect the safety of motorists or pedestrians;
 - (b) The size and location of the proposed sign and its alignment in relation to an existing sign on the same building or erf and its compatibility with the visual character of the area surrounding it;
 - (c) The fact that the proposed sign is to be located directly on or in the vicinity of trees, rocks, hill sides, other natural features and areas of civic and historic interest;
 - (d) the number of signs which is displayed or to be displayed on the erf or building concerned, and its legibility in the circumstances in which it is seen; and
 - (e) The merits of the sign if the sign is not appropriate to the type of activity on or zoning of the erf or site to which it pertains.
- (3) The municipality may require that additional drawings, calculations and other information be submitted on application and may require a certificate by an engineer. The certificate must give sufficient details –
- (a) To enable the municipality to establish if the proposed means of securing, fixing or supporting of a sign is sufficient to resist all loads and forces to which it may be exposed; and
 - (b) Regarding the sufficiency of the margin of safety against failure, in compliance with the provisions of Regulation B1 of the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977).

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- (4) The municipality may grant consent subject to any condition it may deem expedient, or may refuse consent.
- (5) The municipality must, within 60 days after the application form has been lodged, notify the applicant in writing if consent has been refused or granted, and if consent is granted, the municipality must forward a notice of approval and one set of the application form and other documents that were submitted by the applicant to the applicant, and specify in the notice of approval the duration of the term of the consent.
- (6) A sign must be displayed within 12 months after the date on which the municipality granted consent, otherwise the consent expires, and further the owner of the sign must notify the Council in writing of the erection of the sign within 14 days after the sign is erected.
- (7) The municipality must keep a register which is open to public inspection at all reasonable hours and which contains particulars of –
- (a) The application which was made to the municipality for specific consent for the display of a sign;
 - (b) The name and address of the applicant;
 - (c) The date of the application;
 - (d) The type of sign concerned; and
 - (e) Any conditions relating to the display of the sign.
- (8) When a time period, which was specified in the approval expires, an application for renewal must, at least 60 days, if possible, prior to the expiry, be submitted for consideration of approval should a person who displays a sign intends to continue the display of the sign, and should the municipality refuse consent to display the sign, the person who displays the sign must forthwith cease to display the sign.
- (9) A person who must cease to display a sign must remove all structures or supports on which the sign was erected and rehabilitate the site on which the structures were erected.
- (10) The Municipality may, after at least 14 days written notice to the advertiser, at any time, withdraw an approval granted by it or its predecessor, or amend any condition or impose a further condition in respect of consent granted, if a sign or sign structure –
- (a) Is in a state of disrepair;
 - (b) Stands empty for more than 90 consecutive days;
 - (c) No longer complies with any provision of these by-laws; or
 - (d) Is substantially altered in any way from the original sign or structure that was approved.
- (11) All approved signs or advertisements should display an official sticker, number or other identifiable mark, developed and issued by municipality that can be used to determine the details of the sign. Signs without such identifying stickers, numbers or marks will be regarded as illegal and will be removed without any notice to the advertiser;
- (12) No person may in any manner whatsoever destroy, harm, damage or disfigure or deface the front or frontage of any municipal property, land, rock, tree or other natural feature or the front

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or frontage or roof of any building or structure during construction of or by the display or use of a sign or during the writing or painting of any sign.

11. Withdrawal or amendment of consent

(1) If a sign or its display –

- (a) Does not comply with any one or more of the provisions of these By-laws;
- (b) is in a state of disrepair;
- (c) constitutes a danger to members of the public;
- (d) Is erected on municipal property, which property is required for municipal purposes after approval was given; or
- (e) is undesirable in terms of section 8(4)(b),
- (f) Needs to be removed or relocated to prevent competition with essential new road traffic signage or traffic control measures as a result of road or traffic control improvements;
- (g) Had been approved as a result of a misrepresentation by an applicant;

the municipality may at any time, and if necessary to do so to remedy a substantial injury to the amenity of the locality, decide to take any one or more of the following actions:

- (i) To withdraw its consent for the display of a sign;
- (ii) To amend any condition relating to the display of a sign;
- (iii) To impose a further condition to the display of a sign; or
- (iv) To order that the display of the sign be discontinued.

(2) In extraordinary circumstances, such as required by the organisers of an international sports, arts or cultural event, the municipality may require from advertisers in certain areas of the municipality, to remove, cover up or cease to display all signs indicated by the municipality for a specific period of time, as required by the organisers of the event to contribute to the success of such an event, and –

- (a) The municipality shall not be liable to pay any compensation to the advertisers of these signs for the determined period;
- (b) The municipality shall inform such advertisers by way of notices as prescribed in subsection
- (c) The municipality shall extend the approval period or lease agreement of an advertiser referred to in this subsection, whichever is applicable, with the same period as the advertiser was required to cover up or remove his sign in terms of this subsection; and
- (c) The municipality shall be entitled to remove such signs, cease to display or cover up such signs if an advertiser fails to comply with the said notice.

(3) The municipality must serve a notice of its decision on the person who displays the sign, and the notice must –

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- (a) Specify a period within which the sign is to be removed, or within which the use of the site is to be discontinued, and contain a full statement of the reasons why the display of the sign must be terminated; or
 - (b) specify any amendment to a condition relating to the display of the sign, and if applicable, a time period relating to the amendment; or
 - (c) Specify any further condition which is imposed, such as, but not limited to, the remediation of the site on which the sign was displayed to its original condition, and if applicable a time period relating to the further condition; or
 - (d) If consent for the display of the sign is withdrawn, inform the person who displays the sign to remove the sign immediately, and
 - (e) Specify the sign or the site to which it relates.
- (4) Where an advertisement is approved along a provincial or national road by another responsible road authority, the permission of the municipality must also be obtained if the advertisement will be located in the jurisdiction of the municipality, or where the signs will be visible from any municipal roads. Similarly, where the municipality approves a sign that will be focused on a provincial or national road, the permission of the relevant road authority also needs to be obtained and proof of such permission provided to the Municipality before a sign may be displayed;

CHAPTER 4

DISPLAY OF UNAUTHORISED SIGN, ALTERATION OF EXISTING SIGN, DEPARTURE FROM APPROVED FORM OR PLAN, EXEMPT SIGNS, PROHIBITED SIGNS, AND TEMPORARY SIGNS**12. Display of unauthorised sign**

- (1) No person may display an unauthorised sign on private or Municipal land.
- (2) A person who displays an unauthorised sign on private or Municipal land must, after service on him or her of a notice of compliance in terms of section 25(2) to that effect, immediately cease to display the sign by removing it and the structures on which the sign is affixed.
- (3) If, before the date specified in the notice, the person satisfies the municipality that he or she has complied with the provisions of these By-laws, the municipality may withdraw the notice.

13. Alteration of existing sign

- (1) No person may, without the prior approval of the municipality, alter an existing sign on private or Municipal land in instances where the display of the sign is subject to specific consent.
- (2) A person who alters such a sign displayed on private or Municipal land must, after service on him or her of a notice of compliance in terms of section 25(2) to that effect, immediately cease or cause to cease any alteration to the existing sign and must restore it to the state or display which had been approved by the municipality.

14. Departure from approved form or plan

- (1) No person, having obtained specific consent for the display of a sign on private or Municipal land, may do anything in relation to the sign which is a departure from any form or plan approved by the municipality.

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- (2) A person must, after the service upon him or her of a notice of compliance in terms of section 25(2) to that effect, immediately discontinue or cause to be discontinued such departure.

15. Exempt signs

- (1) Advertisers wishing to display signs which are exempted from the provisions of these by-laws, must apply for their display or not, as set out in this section, and no application fees are payable for signs that are approved as exempted signs.
- (2) Exempted signs that are not displayed towards public places may not be aesthetically displeasing as viewed from any public place.
- (3) Display of the following sign is exempt from the provisions of these by-laws:
- a) Any sign displayed inside an arcade, sports stadium or shopping mall, which is not visible from outside the arcade, stadium or shopping mall;
 - b) Any sign which is displayed inside a building at a distance of more than two metres from any window or other external opening through which it may be seen from outside the building and which is not aimed primarily at attracting the attention of the road user;
 - c) Any national flag hoisted on a suitable flagpole as long as nothing is added to the design of the flag and no advertising material is added to the flagpole;
 - d) Any sign displayed on an approved advertising hoarding, which complies with other relevant requirements of this policy;
 - e) Any banner or flag carried through the streets as part of a procession;
 - f) any sign advertising a current event in a cinema, theatre or other place of public entertainment, displayed in a fixture or building especially made for such display providing such bill, poster or the like does not exceed 0.6 Meters squared in area;
 - g) Any sign not exceeding the sizes specified hereunder, which is displayed on a site where a building, swimming pool, tennis court, paving, fencing or garden landscaping or any other structure is in the course of being constructed, erected, carried out or altered and which describes the building or structure being erected or other work or activity being carried out, and which displays the names of the contractors or consultants concerned in such work or activity and identifies the branches of the industry or the professions represented by them, during the course of such construction, erection, carrying out of alterations as the case may be: Provided that only one such sign, or set of signs shall be permitted per street frontage of a site; and which is placed on or affixed to the building concerned or attached parallel on the boundary fence of the erf on which the building is situated. Such signs are to be removed within 21 days of the completion of the contract. Signage for ongoing maintenance contracts is not permitted;
 - (i) Project boards, 4.5m² and with a maximum erected height of 4m, giving the names of Architects, Consultants and Contractors;
 - (ii) Individual Contractors and Sub-Contractors Board: 2m².
 - h) Any sign in a locality wholly or mainly used for residential purposes, other than a brass plate or board not exceeding 600mm x 450mm in size, affixed indicating the name, address and telephone number of a security company contracted to protect the property, provided that only one sign per stand or subdivision shall be permitted and such sign shall be firmly affixed to the boundary wall, fence or gates on the street frontage;
 - i) one sign not exceeding 600mm x 450mm in size on each street boundary of an erf or portion of an erf which sign indicates the existence of a commercial security service, burglar alarm system etc;

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- j) Signs not exceeding 0,25 m² in area affixed to the wall of a building or erected within the boundary line indicating that the property can be leased and by whom it is maintained;
- k) Flat signs indicating merely the name of the building, its occupier, and his profession or business, provided that it does not project above or beyond the walls of the building upon which it is displayed and be no greater than 4,5m² in area. Any flat sign exceeding 4,5 m² in area must be submitted for approval. In the event that there is more than one business being conducted from the building, the combined area of signs displayed may not be greater than 50% of the area of the wall of the building upon which they are displayed;
- l) Signs relating to the immediate sale of newspapers and the like displayed upon the premises from which said newspaper or the like is available for sale or distribution;
- m) Signs displayed upon a vehicle ordinarily in use as such;
- n) Signs affixed flat on any part of a building which display only the name, address and telephone number of the premises or the occupier or occupiers thereof, with or without a general description of the type of business lawfully conducted on such premises and the hours of attendance; provided that any such signs do not exceed 0,4 m² in area and do not project more than 75 mm from the surface on which they are affixed;
- o) Signs not exceeding 0,4 m² in area displayed within the curtilage of the premises to which they relate, which are designed solely for the direction of persons entering upon such premises and do not advertise any merchantable articles or goods;
- p) Signs displayed from the interiors of any building enclosed by walls, windows and doors.
- q) Signs which, on merit, are exempted by the Municipal Manager in consultation with the Planning and Building Plan Portfolio Committee of the Umzimkhulu Municipality;
- r) Road Traffic signs erected in terms of any Act of Parliament, Provincial Ordinance or By-law;
- s) Any sign erected as a specific requirement in terms of any By-law, Provincial Ordinance or Act of Parliament;
- t) Any transit sign, which is mobile at all times and complies with all requirements of the Road Traffic Act.
- u) on Municipal land, a sign which is owned by the municipality and displayed on the initiation of the municipality. Advertisers should apply for approval for the display of these signs in terms of the by-laws;
- v) a sign displayed inside a sports stadium, sports club, school or other institute of learning, and which is not visible from outside the stadium, sports club, school or institute of learning.
- w) Any price ticket which is smaller than 0,01 square metres on an item that is displayed in a shop-window. Advertisers do not have to apply for approval of these signs.

16. Prohibited signs

- (1) The following signs may not be displayed or caused to be displayed:
 - (a) Any advertisement or sign, other than an exempted sign, for which neither a permit nor approval has been obtained or which does not comply with the requirements of, or which is not permitted by this Policy, Bylaws or any other Law or Regulation;
 - (b) Any advertisement which in the opinion of the Council is indecent, obscene or objectionable or of a nature which may produce a pernicious or injurious effect on the public or on any particular class of person/s or on the amenity of any neighbourhood;
 - (c) Any advertisement, poster or sign that is painted onto or attached in any manner to any tree, plant, rock or to any other natural feature.

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- (d) Any advertisement or sign which obstructs any street, fire escape, exit way, window, door or other opening used as a means of egress or for ventilation or for fire fighting purposes;
- (e) Any illuminated sign whether a searchlight or laser beam, animated, flashing or static, which disturbs or is a nuisance to the residents and/or occupants of any building and/or to any member/s of the public or impairs road traffic safety.
- (f) Any advertisement or sign which is contrary to, or prohibited in terms of any Town Planning Scheme Regulation or any other legislation;
- (g) Any advertisement or sign not erected in accordance with this Policy, Bylaws or any other Law or Regulation and which is not in accordance with the specifications approved by the Council, or the terms or conditions attached by the Council to any such approval;
- (h) Any advertisement or sign which may obscure, obstruct or interfere with any traffic sign or signal for traffic control, or which is likely to interfere with or constitute a danger or potential danger to traffic, aircraft or to the public in general;
- (i) Any advertisement or sign, which may inhibit or obstruct the motorists vision or line of sight thus endangering vehicular and/or pedestrian safety;
- (j) Any form of bill-sticking by means of posters or placards or of similar nature to any structure;
- (k) Any handbills, pamphlets, leaflets, advertisements or notices distributed within the Umzimkhulu Municipal area or carried through any street or public place;
- (l) Advertising on posters or banners of a purely commercial nature;
- (m) Any flag unless,
 - (i) it relates to current or forthcoming programmes and events and is displayed on or within the curtilage of premises used for public entertainment or upon a sign that has been approved by Council;
 - (ii) it is displayed on an approved ground sign or on a flag which is affixed to a flag pole attached to a building in a manner approved in writing by the Council, subject to its discretion and subject to certification by a registered professional engineer;
 - (iii) it is displayed during public celebrations or festive occasions;
- (n) Any advertisement on a portable board displayed on a street or public place including a road reserve;
- (o) Advertisement or signs on top of a canopy or veranda unless it consists of individual cut-out fabricated or boxed letters not exceeding 750mm in height to which maybe added not more than two symbols and not exceeding 1m in height and which shall be mounted separately to the letters;
- (p) Advertisements painted, displayed or erected as a roof sign in any area other than industrial zone;
- (q) Advertisements or signs made of certain materials not considered by the Council to be suitable or appropriate for the intended purpose;

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- (r) Any sign on or between the columns of a verandah or canopy beyond the street line;
 - (s) Any sign which projects above or below any fascia, bearer, beam or balustrade of a street verandah or balcony;
 - (t) Any luminous or illuminated sign which is fixed to any fascia, bearer, beam or balustrade of any splayed or rounded corner of a street verandah or balcony;
 - (u) Any sign suspended across a street unless otherwise approved by Council;
 - (v) Any sign on calico, paper mache, woven or similar material unless consisting of flexface within an approved advertising sign;
 - (w) Any sign which may either obscure a road Traffic sign, be mistaken for with or interfere with the functioning of a road traffic sign;
 - (x) Any sign which may obscure Traffic by restricting motorists' vision and lines of sight thus endangering motorists' safety;
 - (y) Any sign or signs, the total area of which exceeds 4,5m², painted or fixed on a wall of a building not being a front wall of such building, unless specifically approved by the Umzimkhulu Municipality;
 - (z) Any sign painted on any fence or boundary wall, not being an approved sign or hoarding;
 - (aa) Any sign which may obstruct pedestrian or vehicular traffic;
 - (bb) Any transit advertising sign that is parked in public view irrespective of whether it is attached to a vehicle or not unless specifically approved by Council;
 - (cc) Any temporary sign for commercial or third-party advertising erected on Council land or land vested in the Council, unless by prior signed encroachment agreement or contract with the Council;
 - (dd) Any sign attached to a bridge or any other Council asset, unless by prior signed agreement or contract with the Council;
 - (ee) Any third party advertising sign on any property, whether privately or municipally owned or controlled, other than specifically approved by Council;
 - (ff) Any sign or poster attached to a Road Traffic Sign;
 - (gg) Banners, save as provided for within this Policy;
 - (hh) Sky signs within any area of maximum control, or in areas of partial or minimal control that are placed within a predominantly residential area;
 - (ii) Any sign containing third party advertising unless displayed with specific Council approval.
 - (jj) unless approval has been obtained, an advertisement or any distribution of pamphlets or promotional material, inside a road reserve.
- (2) No vehicle to which is attached or on which is displayed an advertisement, may be parked in any area of control with the sole purpose of drawing the public's attention to the advertisement attached to or displayed on the vehicle.

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- (3) No sign may be displayed in an area identified in Schedule 38.
- (4) Merchandise may not be displayed for purposes of advertisement in an area that has not been approved by the Municipality for the display of merchandise.

17. Temporary signs

The display, at a special event such as a sporting event and a festival, of a temporary sign containing the name of the sponsor is subject to specific consent, and the sign –

- (a) May be displayed as set out in the Schedules to these by-laws;
- (b) Must be dismantled within two days after the conclusion of the event;
- (c) May, subject to the provisions of section 5(3), be displayed in all areas of Control; and
- (d) Must be located within the boundaries of the demarcated area in which the event takes place.

CHAPTER 5**SAFETY, DESIGN AND CONSTRUCTION, MAINTENANCE, POSITION, AND ILLUMINATION OF SIGNS****18. Amenity, safety and decency of signs**

- (1) No sign may -
 - (a) Be detrimental to the environment or to the amenity of a human living environment by reason of size, shape, colour, texture intensity of illumination, quality of design or materials or for any other reason; or
 - (b) Unreasonably obscure, partially or wholly, any sign owned by another person previously erected and legally displayed.
- (2) No advertisement or advertising structure –
 - (a) may constitute a danger to any person or property;
 - (b) May be so placed or contain an element as to distract the attention of a driver of a motor vehicle in a manner likely to lead to unsafe driving conditions;
 - (c) That may be illuminated in terms of these by-laws, may be illuminated to the extent that it causes discomfort to or inhibits the vision of an approaching pedestrian or driver of a motor vehicle, or disturbs the residents or occupants of any building, or is a source of nuisance to the public;
 - (d) May obscure a pedestrian's or motor vehicle driver's view of a pedestrian, a road or rail vehicle or a feature of the road, railway or pavement such as a junction, bend and a change in width;
 - (e) May project over a pedestrian route, unless the clear height of such sign exceeds 2,4 metres or in the case of a cycle circulation route the clear height exceeds 3,0 metres ;

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- (f) May obstruct any fire-escape or the means of egress to a fire-escape, or obstruct or interfere with any window or opening required for ventilation purposes of a building, or obstruct any stairway or doorway or other means of exit from a building, or prevent the movement of persons from one part of a roof to another part thereof;
 - (g) May exceed the minimum clearance with regard to overhead power lines as prescribed in regulation 15 of the Electrical Machinery Regulations, No R1593 in GG. 11458, 12 August 1988, with the further provision that permission must be obtained from the relevant supply authority before any advertising structure may be erected in a power line servitude;
 - (h) May resemble a formal road traffic sign in colour, shape or general appearance, or be of such nature that it could be mistaken for, or cause confusion with or interfere with the functioning of a road traffic sign or signal;
 - (i) If located within the road reserve, may be closer than 25m from a formal road traffic sign;
 - (j) May obscure a road traffic sign or signal;
 - (k) May create a road safety hazard; or
 - (l) Many, if located within a road reserve, contain retro-reflective material, unless such material is required in terms of the specifications of the South African Development Community Road Traffic Signs Manual.
- (3) A sign or advertisement positioned along a road and specifically targeting the road user must be concise and legible and must comply with the following requirements:
- (a) No sign displaying a single advertisement or message may exceed 15 "bits" of information, and no combination sign or any other sign displaying more than one advertisement or message may contain more than six "bits" of information per enterprise, service or property, or per individual advertisement or message displayed on the combination sign, and "bit" values must be calculated as follows:
 - (i) A word of up to eight letters inclusive has a bit value of 1;
 - (ii) A number of up to four digits inclusive have a bit value of 0,5;
 - (iii) A number consisting of five to eight digits have a bit value of 1; and
 - (iv) A symbol, logo or abbreviation has a bit value of 0,5.
 - (b) A letter or digit must have a minimum size of 50 millimetres and must increase in size by 25 millimetres for every 15 meters distance away from the road reserve boundary of the adjacent road.*

* Example:

- (i) A letter or digit on a sign which is normally not more than 15 metres away from the road reserve boundary, may not be smaller than 50; millimetres;
- (ii) a letter or digit on a sign which is normally between 16 and 30 metres away from the road reserve boundary, may not be smaller than 75; millimetres;
- (iii) a letters or digit on a sign which is normally between 31 and 45 metres away from the road reserve boundary, may not be smaller than 100 millimetres;
- (iv) a letter or digit on a sign which is normally between 46 and 60 metres away from the road reserve boundary may not be smaller than 125 millimetres, and so forth.

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- (c) Street numbers indicating specific premises must have a minimum size of 150 mm and a maximum size of 350 mm;
- (d) The minimum letter size to be used on an advertising sign inside a road reserve is 80mm.
- (e) No message may be spread across more than one sign or sign panel.

19. Design and construction of sign**(1) A sign -**

- (a) Must be constructed and executed and finished in a workmanlike manner, and structural details should be in accordance with existing generally accepted and tested designs, or designed by an engineer;
- (b) May not be detrimental to or have a negative aesthetic impact on the urban design, streetscape or the character of the surrounding area by way of the design of the structure or device;
- (c) Must have a neat appearance and must consist of durable materials in accordance with the function, nature and permanence of the advertisement, sign or structure, and materials such as cloth, canvas, cardboard, paper or synthetic cardboard should be used only when essential to the nature and function of a particular sign;
- (d) Must have a neat appearance in terms of advertisement content and sign writing and an untidy handwritten message should be avoided as far as possible;
- (e) May not with an electrical services provision and any other accessory deface a building facade;
- (f) Must be rigidly and securely attached, supported or anchored in a safe manner so that unwanted movement in any direction is prevented;
- (g) Must be capable of effectively securing, supporting and maintaining not less than twice its mass with the addition of any force to which the sign may be subjected, including wind pressure;
- (h) Wherever necessary in accordance with the nature of the sign and when attached to brickwork, masonry or concrete, must be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side; and
- (i) when attached to a conservation-worthy building, must be attached with the necessary expert advice in order to prevent damage to the building.

(2) An advertiser or contractor -

- (a) May not use water-soluble adhesive, adhesive tape or similar material to display or secure any sign or advertisement;
- (b) May not display or secure any sign or advertisement elsewhere than on a billboard, board or any structure provided for this purpose;

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- (c) Must have all exposed metalwork of any sign painted or otherwise treated to prevent corrosion, and all timber treated to prevent decay, which painting and treating must be done in such manner that no pollution occurs or damage is done to the surrounding area; and
 - (d) Must have measures taken to prevent the entry of water into and the accumulation of water or moisture on or in any sign or any part of its supporting framework, brackets or other members.
- (3) (a) All glass used in signs, other than glass tubing used in neon and similar signs must be safety glass at least three millimetres thick.
- (b) Glass panels used in signs may not exceed 0,9 square metres in an area and must be securely fixed in the body of the sign, structure or device independently of all other panels.
- (4) Every illuminated sign and every sign in which electricity is used -
- (a) Must have a power cable and conduit containing an electrical conductor positioned and fixed so that it is not unsightly;
 - (b) Must be constructed of material which is not combustible;
 - (c) Must be provided with an external switch in an accessible position whereby the electricity supply to the sign may be switched off; and
 - (d) Every electronic and illuminated advertising sign including its supports and framework shall be constructed entirely of non-combustible materials and shall be installed in accordance with and subject to the provisions of the Council's Electricity Supply Bylaws and the Code of Practice for the wiring of premises in accordance with the SABS or applicable legislation / regulations;
- (5) (a) No person may, in the course of displaying or removing any sign, advertisement structure or device, cause damage to any tree, electrical standard or service or other public installation or property.
- (b) Signage, or its brackets, on lamp posts may not cover or damage any markings such as codes or symbols on the poles.
- (c) Protective sleeves must protect the paintwork on electric lamp posts against possible damage which may be caused by brackets securing advertising signs against such poles, and the design of these brackets and the signage must be approved by the person in charge of Electricity provision for the municipality for each type of sign and lamp post to be used.

20. Maintenance of sign

- (1) Maintenance of signs and their structures on Municipal land is the responsibility of the person who displays the sign, excluding the municipality, and should the municipality carry out any maintenance work as result of poorly maintained signs being attached, the municipality may claim the cost of such repairs from the person who displays the sign.
- (2) A sign must –
- (a) Where possible, be located at a height that discourages vandalism;

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- (b) Be serviced, cleaned and repainted on a regular basis; and
 - (c) be maintained in good repair and in a safe and proper condition according to the highest standards as regards quality of structures, posting and sign-writing.
- (3) Should any advertisement or sign become dangerous, unsightly or a nuisance, the person/s liable to maintain the advertisement or sign shall remove the source of danger, unsightliness or nuisance within the time frame specified by Council and failure to do so will constitute an offence and render such person liable for prosecution;
- (3) All signs contemplated in section 7(1)(a), being signs in class 1 (billboards and other high-impact free-standing signs) signs must be serviced, cleaned and painted in the manner and in accordance with the timeframes set out in the Schedules to these By-laws or in the contract between the municipality and the advertiser, whichever is applicable
- 21. Position of sign**
- (1) A sign –
- (a) May not be displayed on a road island or road median, with the exception of a sign contemplated in section 7(1)(b)(v), being a sign in the class 2(e) (street name advertisement signs);
 - (b) may not be suspended across a road, with the exception of –
 - (i) A sign contemplated in section 7(1)(c)(i), being a sign in the class 3(a) (sky signs); and
 - (ii) A sign contemplated in section 7(1)(b)(ii), being a banner in the class 2(b) (banners, flags and inflatables) or a sign contemplated in section 7(1)(c)(xii), being a sign on a bridge suspended across an urban road other than a freeway and as part of a street-scaping project;
 - (c) May not be displayed within or suspended above a road reserve or within a distance of 50 metres outside the road reserve boundary of a freeway, with the following exceptions and provided that these exceptions, subject to subsection (1)(a), do not allow for the display of a sign on a road island or road median but only for the display of a sign on the side of a road reserve:
 - (i) A sign contemplated in section 7(1)(b)(iv)(dd), being a sign in the class 2(d)(iv) (project boards), that concern road construction, and a sign contemplated in section 7(1)(d)(i), being a sign in the class 4(a) (sponsored road traffic projects signs), and a sign contemplated in section 7(1)(d)(iii), being a sign in the class 4(c) (tourism signs), may be displayed within a road reserve;
 - (ii) A sign contemplated in section 7(1)(b)(v), being a sign in class 2(e) (street name advertisement signs) may be displayed within a road reserve of a proclaimed main road other than a freeway and cognisance must be taken of the architectural styles of sensitive areas;
 - (iii) A sign contemplated in section 7(1)(b)(iv)(dd), being in a sign in the class 2(d)(iv) (project boards) that does not concern road construction may be displayed within a road reserve other than a freeway, but only next to the actual development site and only if sufficient space is not available on such a site;
 - (iv) A sign contemplated in section 7(1)(b)(i), being a sign in the class 2(a) (large posters and signs on street furniture), a sign contemplated in section 7(1)(b)(ii),

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being a sign in the class 2(b) (banners, flags and inflatables), a sign contemplated in section 7(1)(b)(iii), being a sign in class 2(c) (suburban signs), a sign contemplated in section 7(1)(b)(iv)(cc) being a sign in the class 2(d) (lamp posts, pavement posters and notices), a sign contemplated in section 7(1)(b)(vi), being a sign in the class 2(f) (neighbourhood watch signs and signs relating to similar schemes), a sign contemplated in section 7(1)(c)(iv), being a sign in class 3(d) (projecting signs), a sign contemplated in section 7(1)(c)(v), being a sign in the class 3(e) (veranda, balcony, canopy and under awning signs), and a sign contemplated in section 7(1)(d)(iv), being a sign in the class 4(d) (functional advertising signs by public bodies) may be displayed within an urban road reserve other than a freeway;

- (v) A sign contemplated in section 7(1)(b)(iv)(cc), being a sign in the class 2(d)(iii) (lamp posts, pavement posters and notices) and a sign on a bridge contemplated in section 7(1)(c)(xii), being in the class 3(l) (signs on towers, bridges and pylons) may be displayed within an urban road reserve other than a freeway but only in an area of partial control and an area of minimum control;
- (vi) A sign contemplated in section 7(1)(c)(iii), being a sign in the class 3(c) (flat signs), a sign contemplated in section 7(1)(c)(iv), being a sign in the class 3(d) (projecting signs), and a sign contemplated in section 7(1)(c)(v), being a sign in the class 3(e) (veranda, balcony, canopy and under awning signs) may be displayed within 50 metres of the boundary of a freeway if the main building housing an enterprise is within 50 metres from the road reserve of a freeway and if there is no other appropriate means of indicating that particular enterprise;
- (vii) A sign contemplated in section 7(1)(b)(iv)(aa), being a sign in the class 2(d)(i) (estate agents' boards) may be displayed in a road reserve other than a freeway, subject to specific controls; and
- (viii) A sign contemplated in section 7(1)(a), being a sign in class 1 (billboards and other high-impact free-standing signs), a sign contemplated in section 7(1)(c)(vi), being a sign in class 3(f) (signs painted on walls and roofs), a sign contemplated in section 7(1)(c)(vii), being a sign in class 3(g) (window signs), a sign contemplated in section 7(1)(c)(ix), being a sign in the class 3(i) (signs on forecourts of business premises), and a sign contemplated in section 7(1)(c)(xi), being a sign in the class 3(k) (on-premises business signs) may not be displayed in any urban road reserve;
- (d) May not be displayed within the specified distances of on-ramps and off-ramps and overhead traffic signs on freeways as illustrated in figure 1 in schedule 37, except where an enterprise is situated within such a prohibited area and it is not possible to indicate that particular enterprise by means of an appropriate sign outside the prohibited area; and
- (e) May not be displayed within a restricted area at an urban street corner as illustrated in figure 2 in schedule 37, with the exception of a sign contemplated in section 7(1)(b)(iv)(ee), being a sign in the class 2(d)(v) (temporary window signs), a sign contemplated in section 7(1)(c)(v), being a sign in the class 2(e) (street name advertisement signs), a sign contemplated in section 7(1)(c)(iii), being a sign in the class 3(c) (flat signs), a sign contemplated in section 7(1)(c)(iv), being a sign in the class 3(d) (projecting signs), a sign contemplated in section 7(1)(c)(v), being a sign in the class 3(e) (veranda, balcony, canopy and under awning signs), a sign contemplated in section 7(1)(c)(vii), being a sign in the class 3(g) (window signs), and a sign contemplated in section 7(1)(c)(viii), being a sign in the class 3(h) (signs incorporated in fabric of building), and provided furthermore that an illuminated sign displayed within a restricted area at a

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signalised street corner as illustrated in figure 3 in schedule 37 must have a clear height of at least six metres if such sign contains the colours red, green or amber.

- (2) No advertising signage may be affixed to a lamp post, except a sign contemplated in section 7(1)(b)(iv)(bb), being a sign in the class 2(d)(ii) (sale of goods, property or livestock signs), a sign contemplated in section 7(1)(c)(iv)(cc), being a sign in the class 2(d)(iii) (lamp posts, pavement posters and notices), and a sign contemplated in section 7(1)(d)(iii), being a sign in the class 4(c) (tourism signs).

22. Illumination of sign and electronic sign

- (1) The following maximum luminance levels per square meter are applicable to a sign, except for the daylight illumination of a Super Billboard:
- (a) In the instance where the illuminated area is less than 0,5 square metres, the maximum luminance level is 1000 candela per square metre;
 - (b) In the instance where the illuminated area is between 0,5 square metre and 2 square metres, the maximum luminance level is 800 candela per square metre;
 - (c) In the instance where the illuminated area is between 2 square metres and 10 square metres, the maximum luminance level is 600 candela per square metre; and
 - (d) In the instance where the illuminated area is 10 square metres or more, the maximum luminance level is 400 candela per square metre.
- (2) The light source emanating from a floodlight may not be visible to traffic traveling in either direction.
- (3) Floodlighting must be positioned to ensure effective distribution and minimise light wastage or 'spill'.
- (4) The municipality may require traffic monitoring of any internally illuminated sign.
- (5) An electronic sign containing third-party advertising -
- (a) May only be displayed in an area of partial and minimum control;
 - (b) Must be less than 2,1m², which size may be waived up to a maximum size of 81m² in any such area upon receipt of an approved Environmental, traffic and Heritage Impact Assessment showing that no detrimental impact will be caused by the proposed display; and
 - (c) May not have subliminal flashes.
- (6) In respect of urban freeways, irrespective of the area of control, the under mentioned signs may not be illuminated in any way unless overhead lighting lights the freeway over the full distance within which the advertising sign is visible from the freeway:
- (a) A super billboard;
 - (b) A custom-made billboard;
 - (c) A large billboard;
 - (d) A small billboard;

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- (e) A tower structure;
 - (f) A suburban advertisement;
 - (g) A temporary advertisement;
 - (h) A product replica;
 - (i) A three-dimensional sign;
 - (j) A flat sign;
 - (k) A roof sign;
 - (l) A sign painted on a wall or roof;
 - (m) A sign incorporated in the fabric of a building;
 - (n) A sign on a tower, bridge or pylon;
 - (o) An advertisement on a construction site boundary wall and fence; and
 - (p) An aerial sign.
- (7) The municipality may require a Traffic Impact Assessment to be conducted on any electronic sign, the results of which must indicate that no detrimental impact on traffic is envisaged, and the municipality may require subsequent traffic monitoring of any electronic sign.

CHAPTER 6
MISCELLANEOUS PROVISIONS

23. Public tenders

- (1) The municipality must comply with its Supply Chain Management policy, the Municipal Finance Management Act, (Act No. 56 of 2003) and the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Regulations to the Act, in the awarding of tenders relating to the erection or display of advertisements or advertising space, products or any other messages on Municipal or on private land.
- (2) The successful tenderer, known as the contractor is responsible for the display of an advertising sign in terms of the provisions of these By-laws and in terms of conditions agreed on in his or her contract with the municipality.
- (3) Should a contractor fail to comply with the provisions of subsection (2) or with the contract conditions, the municipality must serve a final notice on the contractor to rectify compliance with the provisions or contract conditions, and should the contractor not comply within two months after final notice has been served –
 - (a) The Municipality has the right to relieve the contractor of his or her contract after which –
 - (i) The contractor has no right to a sign already displayed as stipulated in his / her contract; and

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- (ii) The municipality may deal with the sign in accordance with sections 25(4), (6), (7), (8), (9) and (10); and
 - (b) The municipality may re-advertise the relevant contract for public competition in terms of the municipality's Supply Chain Management policy, and subject to the provisions of the Municipal Finance Management Act, (Act No. 56 of 2003) and the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Regulations to the Act.
 - (4) The municipality may refuse permission for an applicant to display or erect a sign on municipal or public land in terms of these by-laws if the specific class of signs was the subject of an agreement in which the municipality awarded the sole right to display certain signs on municipal or public land to a contract party.
- 24. Authentication and service of notices and other documents**
- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager or by a duly authorised officer of the municipality, and when issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.
 - (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
 - (a) When it has been delivered to that person personally;
 - (b) When it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (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 by paragraphs (a), (b) or (c);
 - (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 property or premises, if any, to which it relates;
 - (f) In the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) When it has been delivered, at the request of that person, to his or her e-mail address.
 - (3) Service of a copy is deemed to be service of the original.
 - (4) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
 - (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

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25. Notice of compliance, removal, confiscation, destruction of signs, and related matters

- (1) (a) Where the display of a sign does not comply with section 18, 19, 20, 21 or 22, the person who displays the sign must alter the sign so that it complies with section 18, 19, 20, 21 or 22, and where –
- (i) *Traffic signal lights are erected in a place where previously there had been no Traffic signal lights, but where there is currently being displayed a sign; or*
 - (ii) There is an alteration in the level or position of a street, footway or kerb;

the person who displays a sign must immediately remove the sign.

- (b) Where a sign is displayed on a site where,
- (i) There is a change of ownership or occupancy of the premises on which the sign is displayed, or
 - (ii) There is a change in the nature of the business, industry, trade or profession which is conducted on the premises ;

the owners or occupiers of the site should inform the municipality of this change within 30 days from becoming owners or occupiers, or the change in the nature of the business.

- (2) The municipality may serve a notice of compliance on the owner of a sign to remove a sign within a specified time, or to carry out, within a specified time, such alteration to it or to do such work as may be specified in the notice or cover or cause the sign to be covered completely so as to conceal its contents, if the sign which is displayed is unauthorised, or does not conform to a provision of section 18, 19, 20, 21 or 22, or does not comply with a condition imposed in the Schedule that relates to the sign.
- (3) The notice of compliance must –
- (a) Specify, at the time when the notice is issued, the name and residential or postal address, if either or both of these be known, of the person on whom the notice is served;
 - (b) State the particulars of the contravention;
 - (c) Where applicable, specify the time within which a sign is to be removed, or an alteration is to be carried out, or such work as specified is to be done or such sign is to be covered;
 - (d) Subject to section 26, specify the fine payable as penalty in respect of that contravention and the place where the fine may be paid; and
 - (e) Inform the person on whom the notice was served that he or she may, within 28 calendar days of the date of service of the notice –
 - (i) pay the fine; or
 - (ii) Inform the municipality in writing that he or she elects to be tried in court on a charge of having committed an offence under section 26(1) (c).
- (4) If a person fails to comply with a notice served by the municipality on him or her, the municipality may enter upon the land upon which the sign to which the notice relates, is being displayed and remove, confiscate, and destroy the sign.

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- (5) The municipality may, without prior notice remove, confiscate, and destroy any sign if the sign constitutes a danger to life or property, or is objectionable, or if one or more of the provisions of these By-laws is contravened.
- (6) The municipality, when it removes and confiscates or destroys the sign, is not required to compensate a person in respect of the sign in any way for loss or damage which results from its action.
- (7) Costs that are incurred by the municipality when it removes, confiscates or destroys a sign, rehabilitates land or does alterations or other works may be recovered from the person on whom the notice was served, or if a deposit has been paid in respect of the sign the costs may be deducted from the deposit, unless the person to whom a notice was given proves
 - (a) That he or she did not, at the time when he or she received the notice, nor at any time thereafter, display the sign; or
 - (b) That he or she did not take any active part in displaying the sign and did not grant any person permission to display it and did not receive any valuable consideration in connection with the displaying of the sign, and that he or she does not manufacture an article, or own, control or manage a business or undertaking to which the sign relates.
- (8) The penalty costs when the municipality removes a sign are determined by the Council from time to time by way of resolution.
- (9) Should the municipality decide not to destroy a sign, the original owner may repurchase a sign, which has been removed and confiscated. The repurchasing prices are according to the tariff determined by the Council from time to time.
- (10) The municipality may dispose of a sign which is not repurchased within two weeks.

26. Offences

- (1) A person commits an offence if he or she –
 - (a) fails to comply with –
 - (i) Any requirement which is set out in a notice of compliance in terms of section 25(2) that was served on him or her;
 - (ii) A condition that was imposed on him or her;
 - (iii) Any requirement set out in a notice in terms of sections 8(4)b), 9(4) or 11(2);
 - (b) Knowingly makes a false statement to a municipal officer, or in respect of an application;
 - (c) Displays a sign that does not comply with any one or more of the provisions of sections 18, 19, 20, 21 or 22 or conditions imposed in the Schedule that relates to the sign;
 - (d) Displays an unauthorised sign; or
 - (e) Displays a sign in contravention of sections 8(4) (a), 10 (8), 16 (1) to (4) or (6) or 17, 22 (1).

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- (2) Upon conviction of a first offence, the person is liable to a fine, and should the person not pay the fine, he or she may be imprisoned for a period not exceeding two months.
- (3) Upon conviction of a second or subsequent offence, the person is liable 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;
- (4) Upon conviction of a continuing offence the person is liable to a fine or a period of imprisonment or to such additional imprisonment without the option of a fine for every day during which the offence continued.
- (5) Upon conviction for the display of an unauthorised sign, the person is liable to a fine per sign displayed.

27. Right of appeal

- (1) A person who is of the opinion that his or her rights are affected by a decision of a municipal officer 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) When the appeal is against a decision taken by –
 - (a) A municipal officer other than the municipal manager, the municipal manager is the appeal authority;
 - (b) The municipal manager, the Executive Mayor is the appeal authority; or
 - (c) A political structure or political office bearer or a councillor, the Municipal Council excluding councillors who were involved in the decision, is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.^b
- (6) The lodging of an appeal in terms of subsection (1) does not confer a right on a person to display a sign in contravention of these by-laws or in contravention of a notice given in terms of these by-laws to have it removed, pending the finalization of the appeal.

28. Transitional provision

- (1) The person who displays a sign, for which sign he or she had received written approval to display the sign prior to the commencement of these by-laws, must, within twelve months after the commencement of these By-laws, ensure that the sign complies in all respects with the provisions of these By-laws, and the municipality reserves the right to remove the sign immediately if the sign does not comply with these provisions after twelve months.
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- (2) The person who displays a sign, the display of which is prohibited in terms of section 16 or for which sign he or she do not have any written permission from the municipality to display the sign, must remove the sign within 180 days after the commencement of these By-laws.
- (3) A person who had obtained permission for the display of a sign or advertisement prior to the declaration as contemplated in section 5(4), shall be notified of such declaration by the municipality in writing and must remove such sign within the period stipulated in the notice, which period may be not less than 90 days.
- (4) Where an advertisement has been erected or displayed prior to the date of commencement of the by laws, which, in terms of the by-laws, may not be so erected or displayed without the approval of the Municipality or another authority, the owner of the advertisement must apply to the municipality or the other authority, as the case may be, for such approval, within 180 days of such date of commencement, failing which the advertisement must be removed forthwith. If approval for an advertisement has been refused, the owner must remove it within 30 days of receipt of notification of such refusal. Where such a notification has been posted by registered post, the owner will be deemed to have received it eight days after posting thereof;

29. Impact Assessments

- (1) Environmental Impact Assessments as determined in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), must be conducted for all advertisements contemplated in section 7(1)(a)(i), being a sign in the class 1(a) (super billboards), section 7(1)(a)(ii), being a sign in the class 1(b) (custom-made billboards), section 7(1)(a)(iii), being a sign in the class 1(c) (large billboards), section 7(1)(c)(i), being a sign in the class 3(a) (sky signs), section 7(1)(c)(ii), being a sign in the class 3(b) (roof signs), and section 7(1)(c)(xii), being a sign in the class 3(l) (signs on towers, bridges and pylons).
- (2) The consultation processes of assessments required in terms of subsection (1) may be determined by the Council by resolution from time to time.
- (3) Besides classes of advertisements for which Traffic Impact studies is required in terms of these by-laws and Schedules, the municipality may require a traffic impact study for any other class of advertisements if such advertisement might have a detrimental impact on traffic .
- (4) Any other assessments that the municipality may require to approve the display of a sign in terms of these by-laws may be required from prospective advertisers.

30. Saving provisions

Nothing which is contained in these By-laws is to be construed as to affect in any way rights that belong to, or duties which are imposed on the municipality as the body in whom ownership is lawfully vested of or who has control over any street or other place or thing within its area of jurisdiction.

31. Waiver

- (1) The municipality may, upon the written request by a person, which request is to be directed to the municipal manager and after consideration of the merits of the request, waive compliance with or relax the provisions of any one or more of the provisions of these By-laws.
- (2) The municipality must serve a written notice of waiver, which is signed by the municipal manager upon the person concerned. The notice must cite –
 - (a) the provision that is waived or relaxed; and

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(b) the extent to which it has been waived.

- (3) The municipality must keep a record which contains a copy of the notice. The public may, at all reasonable hours, inspect this record at the offices of the municipality.

32. Presumptions

Any person charged with a contravention in terms of these by-laws, who is -

- (a) Alone or jointly with any other person, responsible for organizing or in control of any meeting, function or event, to which a sign or advertisement relates, shall be deemed, until the contrary is proved, to have knowingly displayed every unlawful sign or advertisement in connection with such meeting, function or event or to have caused or allowed it to be so displayed;
- (b) The person whose name appears on an unlawful sign or whose product or services are advertised on such sign shall be deemed, until the contrary is proved, to have displayed such sign, or to have caused or allowed it to be displayed;
- (c) The owner of any land or building on which any unlawful sign was or is displayed, shall be deemed, until the contrary is proved, to have knowingly displayed such sign or caused or allowed it to be so displayed; and
- (d) The owner of a sign or the person who erected, constructed or displayed the sign which is unlawfully displayed in terms of these by-laws, shall be deemed, until the contrary is proved, to have knowingly erected, constructed or displayed such sign.

33. Repeal

- (1) There were no preceding regulations and therefore no repeal necessary.

34. Short title and commencement

These By-laws are called the Umzimkhulu Outdoor Advertisement By-laws, and commence on the date of publication thereof in the Provincial Gazette.

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SCHEDULE 1
Super billboards (Class 1(a))
(Section 7(1) (a) (i))

1. A sign may be displayed in an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
4. A sign may not exceed a maximum size of 81 square metres and a maximum height of 25 metres.
5. The height limitation of super billboards is measured from the normal ground level to the top of the advertising sign, including the height of the supporting structure below the sign.
6. A sign must be displayed perpendicular to the direction of oncoming traffic.
7. A minimum distance of 5 kilometres between signs displayed on the same side of the road must be maintained.
8. (a) No sign may be erected within a radius of 200 metres from the centre of an intersection on an arterial road, or within a radius of 100 metres from the centre of an intersection on any lower order road in such a manner as to be oriented towards such an intersection.

(b) The distances represented in Figure 1, Schedule 36 must be increased by 25 percent.
9. Subject to the provisions of section 18, 19(4), 21(e) and 22, illumination and animation of a sign is allowed.
10. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
11. The municipality may approve for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.
12. Road safety principles will be taken into consideration when determining letter sizes and the length of messages.
13. Maintenance should be done on a continuing basis and a maintenance report should be submitted to the municipality once a year on a date prior to the anniversary of the date on which approval was given for the display of the sign.

SCHEDULE 2
Custom-made billboards (Class 1(b))
(Section 7(1) (a) (ii))

1. A sign may be displayed in an urban area of minimum control only.
2. Display of a sign is subject to specific consent.

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3. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
4. A sign may not exceed a maximum size of 54 square metres and a maximum height of 13 metres, measured from the ground level to the top of the sign or the structure housing the sign, except as otherwise approved by the municipality in terms of section 10(4).
5. The clear height of the advertising structure may not be less than 2,4 metres, measured from the normal ground level to the bottom edge of the advertising sign, including the height of the supporting structure below the sign.
6. The provisions of sections 21(1)(a)–(c), and the following conditions apply to the position of a sign:
 - (a) No more than one sign may be displayed on a site;
 - (b) A sign consisting of a single board must be displayed perpendicular to or at an angle of up to 30 degrees to the direction of oncoming traffic;
 - (c) Where two boards are joined together, the sign must be displayed with the axis of symmetry perpendicular to the direction of oncoming traffic;
 - (d) A maximum of two signs may be displayed in the vicinity of a road intersection;
 - (e) The display of a billboard is not permitted within a radius of 100 metres from the centre of an intersection on an arterial road and within a radius of 50 metres from the centre of an intersection on any lower-order road; and
 - (f) Spectaculars displayed along roads must be spaced at the following minimum distances:
 - (i) On a road with a speed limit of 81 kilometres per hour and higher, there must be a minimum distance of 250 metres between signs;
 - (ii) On a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour, there must be a minimum distance of 200 metres between signs; and
 - (iii) On a road with a speed limit below 60 kilometres per hour, when the signs are in view of each other and on the same side of the road, there must be a minimum distance of 120 metres between signs.
7. A sign displayed in the vicinity of a signalised intersection may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
8. The provisions of sections 18, 19(4), 21(e), 22, and the following conditions apply to the illumination and animation of a sign:
 - (a) Internal and external illumination is allowed;
 - (b) The following maximum luminance levels are prescribed by the municipality:
 - (i) If the illuminated area is 0,5 square metre in size or smaller a maximum level of 1000 candela per square metre;

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- (ii) If the illuminated area is between 0,5 square metre and two square metres in size a maximum level of 800 candela per square metre;
 - (iii) If the illuminated area is between 2 square metres and 10 square metres in size a maximum level of 600 candela per square metre; and
 - (iv) If the illuminated area is larger than 10 square metres in size a maximum level of 400 candela per square metre;
 - (c) The light source emanating from floodlights may not be visible to traffic travelling in either direction;
 - (d) Floodlighting must be positioned to ensure effective distribution of light and minimize light wastage or 'spill'; and
 - (e) no animation is allowed.
9. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
10. The municipality may grant approval for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.
11. Maintenance should be done on a continuing basis and a maintenance report should be submitted to the municipality once a year on a date prior to the anniversary of the date on which approval was given for the display of the sign.

SCHEDULE 3**Large billboards (Class 1(c))
(Section 7(1)(a)(iii))**

- 1. A sign may be displayed in an urban area of minimum control only.
- 2. Display of a sign is subject to specific consent.
- 3. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
- 4. No sign may exceed a maximum size of 40 square metres and a maximum height of 8 metres, measured from the normal ground level to the top of the advertising sign, including the height of the supporting structure below the sign..
- 5. The clear height of the advertising structure may not be less than 2,4 metres.
- 6. The provisions of section 22(1)(a) – 22(1)(d), and the following conditions apply to the position of a sign:
 - (a) No more than one sign may be displayed per site;
 - (b) An advertisement consisting of a single board must be displayed perpendicular to or at an angle of up to 30 degrees to the direction of oncoming traffic;
 - (c) Where two billboards are joined together, the sign must be displayed with the axis of symmetry perpendicular with the direction of oncoming traffic;

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- (d) billboards displayed along roads must be spaced at the following distances:
 - (i) On a road with a speed limit of 81 kilometres per hour and higher the distance between signs may not be less than 250 metres;
 - (ii) On a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour the distance between signs may not be less than 200 metres; and
 - (iii) On a road with a speed limit below 60 kilometres per hour, when the signs are in view of each other and on the same side of the road, the distance between signs may not be less than 120 metres;
 - (e) a maximum of two billboards may be displayed in the vicinity of a road intersection; and
 - (f) no billboard may be displayed within a radius of 100 metres from the centre of an intersection on an arterial road and within 50 metres from the centre of an intersection on any lower-order road.
7. A sign displayed in the vicinity of a signalised intersection may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
8. A sign may be paper-posted, any may also be sign written, posted with vinyl or a combination of all three.
9. The provisions of section 18, 19(4), 21(e), 22, and the following conditions apply to the illumination and animation of a sign:
- (a) Internal and external illumination is allowed;
 - (b) The following maximum luminance levels are prescribed by the municipality:
 - (i) If the illuminated area is 0,5 square metre in size or smaller a maximum level of 1000 candela per square metre;
 - (ii) If the illuminated area is between 0,5 square metre and 2 square metres in size a maximum level of 800 candela per square metre;
 - (iii) If the illuminated area is between 2 square metres and 10 square metres in size a maximum level of 600 candela per square metre; and
 - (iv) If the illuminated area is larger than 10 square metres in size a maximum level of 400 candela per square metre;
 - (c) the light source emanating from floodlights may not be visible to traffic travelling in either direction; and
 - (d) floodlighting must be positioned to ensure effective distribution and minimize light wastage or 'spill', and external illumination may not constitute a road safety hazard or cause undue disturbance.
10. No animation of a signs in this class is allowed.
11. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).

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12. The municipality may grant approval for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.
13. Maintenance should be done on a continuing basis and a maintenance report should be submitted to the municipality once a year on a date prior to the anniversary of the date on which approval was given for the display of the sign.

SCHEDULE 4**Small billboards and tower structures (Class 1 (d))
(Section 7(1)(a)(iv))**

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign in an urban area of minimum control is subject to deemed consent.
3. Display of a sign in an urban area of partial control is subject to specific consent, but if the sign forms part of the parking layout of a business centre and is not visible from a passing road, the display is subject to deemed consent.
4. Subject to the approval to display signs in terms of these by-laws, these signs may be displayed on a sport's field, sports ground, school or other institute of learning, subject to the following conditions :
 - (a) The sign may not face any residential building, except if all occupiers of such a residential building agreed in writing that the sign may face towards the building they are occupying ;
 - (b) The sign may only be erected at the main entrance to the sports field, sports ground, school or institute of learning;
 - (c) The sign may not be erected closer to 15 metres from any intersection;
 - (d) At least 35% of the sign-artwork should display the name of the school and events to be presented at the school;
5. A billboard may not exceed a maximum size of 6 square metres, and a maximum height of 3,5 metres.
6. A panel or board on a tower structure may not exceed a maximum size of 4,5 square metres.
7. The clear height of a tower structure may not be less than 2,4 metres, and the maximum height of such a structure may not be more than 5 metres.
8. Subject to section 21(1)(c)(viii), a sign must be internally oriented and may not be aimed at a road user outside the shopping centre or transport node.
9. The illumination and animation of a sign is permitted, except in residential areas, and is subject to the provisions of sections 18(1), 19(4), 21(1)(e), 22, and the additional provision that such illumination or animation does not constitute a road safety hazard or cause undue disturbance.
10. A tower structure provided in a larger pedestrian area may be used only as a focal point, and must be of a high visual standard and must harmonise with the surrounding buildings and streetscape.

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11. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
12. The municipality may grant approval for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.
13. A sign may be used to display only general and non-locality-bound advertisements of products, activities and services in parking areas of shopping centres and at important transport nodes such as railway stations, bus stations and airports, and may not identify or identify the location of specific enterprises at such centres or nodes.
14. Maintenance should be done on a continuing basis and a maintenance report should be submitted to the municipality once a year on a date prior to the anniversary of the date on which approval was given for the display of the sign.

SCHEDULE 5**Permanent posters and signs on street furniture (Class 2(a))
(Section 7(1)(b)(i))**

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, and an urban area of minimum control only.
2. Display of a sign in an urban area of maximum control and an urban area of partial control and minimum control is subject to specific consent and must comply with the provision of Section 2.1 (A), & (J) of the Umzimkhulu Advertising Signage Policy on Poster Placement Holders and Advertising Street Furniture respectively.
3. Advertising signs may not be attached to street furniture where it may obstruct sight distance from a nearby intersection or from a motor car driveway.
4. Except for litter bins and bus shelters erected by the municipality, advertisements in this class which is erected within a road reserve, may not be located closer than 120m to formal road traffic signage displayed in terms of the Road Traffic Act, No 93 of 1996, facing the same traffic direction.
5. The following specifications are applicable to litterbins inside road reserves, on municipal property and on other public open spaces:
 - (a) Litterbins may only be placed on a suitably prepared concrete or paved footing and must be adequately secured to prevent it from being blown over by winds with speed of up to 30km/s.
 - (b) Litterbins may not be placed on traffic islands.
 - (c) Each new litterbin site must be approved individually by the Municipality, and applications must include the following:
 - (i) Sufficient information to enable officials to determine the position of the requested new site within 1m accuracy;
 - (ii) Adequate details of the nature of the proposed footing and moorings;
 - (iii) the presence of other litterbins along the same route that serve the same pedestrians.

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- (d) Approval of the site does not grant the applicant an indefinite right to advertise on the particular site.
 - (e) Advertising periods are as determined by the Municipality from time to time, and the applicant must ensure that he or she ascertains such periods from the Municipality.
 - (f) Litterbins may not be located closer than 1,5 meters from the edge of a public road.
 - (g) Only litterbins with a vertical height of 900mm or less may be located closer than 50m to a traffic intersection or a high volume vehicle access.
 - (h) An advertisement on a litter bin should be aimed at pedestrians and not motorists.
6. A poster structure and street furniture carrying an advertisement may not exceed a maximum height of 3 metres.
7. The provisions of sections 18, 19(4), 21(1)(a) – 21(1)(c), 21(1)(e), and the following conditions apply to the position of a sign:
- (a) An advertising sign on street furniture may be displayed within an urban road reserve other than a freeway;
 - (b) a sign in this class may not be closer than 300 millimetres to the vertical line of the edge- of a cycle path or footpath;
 - (c) street furniture may not be placed in such a way as to obstruct any pedestrian movement; and
 - (d) signs in this class may not be less than 50 meters apart if they are on the same side of the street.
8. A sign displayed in the vicinity of signalised intersections may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
9. Subject to the provisions of section 18, 19(4), 21(e) and 22, illumination and animation of a sign is allowed in an urban area of partial control and an urban area of minimum control.
10. Display of a standardized pole-mounted poster is allowed only if it does not have a negative visual impact on the character of an area.
11. Creative and visually pleasant structures may be used for displaying large posters in road reserves in order to make a positive contribution to streetscaping.
12. Street furniture and advertising furniture higher than 3 metres may be used only as focal points.
13. The clear height of a poster may not be less than 2,4 meters.
14. Large posters may not be used for the primary purpose of directing or guiding travellers to an enterprise or facility.

SCHEDULE 6**Banners, flags and inflatables (Class 2(b))**

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(Section 7(1)(b)(ii))

1. A banner, flag or inflatable may not be displayed in a rural area of maximum control and an inflatable may not be displayed in an urban area of maximum control.
2. Display of a banner or flag in an urban area of maximum control and display of a banner, flag or inflatable in an urban area of partial control is subject to specific consent and must comply with the provision of Section 2.1 (L) of the Umzimkhulu Advertising Signage Policy on Banners.
3. Display of a banner or flag in an urban area of minimum control is subject to deemed consent, whilst display of an inflatable requires specific consent.
4. Display of a banner, flag or inflatable, for the purpose of streetscaping, in an urban area of minimum control is subject to specific consent.
5. Subject to item 21, the display of a national flag of any country is excluded from conditions stipulated in this Schedule, and such flag may be displayed in all areas of control.
6. A maximum of two banners, flags or teardrop flags may be displayed per event, enterprise or function in an urban area of maximum control.
7. A maximum of four banners, flags or teardrop flags or only one inflatable may be displayed per event, enterprise or function in an urban area of partial control and an urban area of minimum control.
8. A maximum of ten banners, flags or teardrop flags and one inflatable may be displayed per shopping centre of which the floor area, excluding the parking area, is 2000 square metres or larger.
9. A banner or flag displayed in any urban area may not be larger than 4,5 square metres.
10. A teardrop flag may not be larger than 2,2 square meters.
11. The following restrictions apply with regards to the size of inflatables, where D represents the distance in meters of the sign from the nearest road reserve boundary and H represents the height :

In areas of partial control: The maximum allowable height can be calculated with the following formulae: $H = 1.5 + D * 0.15$, to a maximum height of 7.5m. The horizontal circumference may not exceed 6.5m and the maximum projected area of any side may not exceed 8m²

In areas of minimum control: The maximum allowable height can be calculated with the following formulae: $H = 2 + D * 0.15$, to a maximum height of 10m. The horizontal circumference may not exceed 8.5m and the maximum projected area of any side may not exceed 11m²

The height restriction specified for inflatables is the distance from the ground level to the top of the sign, irrespective of whether the sign is located on the ground or will be elevated on a structure.

An inflatable in excess of 3m in height may not be located closer than 100m to an intersection along an arterial road, or closer than 50m to other traffic intersections.

Signs closer than 30 to a road reserve boundary shall be spaced at the following minimum distances when in view of one another and on the same side of the road:

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SPEED LIMIT	SPACING
Faster than 80km/h	250m
60 – 80km/h	200m
Less than 60 km/h	120m

12. A character or symbol on a flag, banner or teardrop flag may not be more than 0,75 metre in height.
13. The provisions of section 21(1)(a) and (b), 21(1)(c)(iv) and (v), and the following conditions apply to the position of a banner or flag:
 - (a) A banner or flag must be attached to or suspended between poles or other supports on the site, or against the building where the function or event is to be held or where the enterprise is located or on such other site as the municipality may permit;
 - (b) a banner or flag may be displayed within all urban road reserves, but may not be displayed on a freeway, and a banner may only be suspended across a road or street as part of an urban streetscaping project;
 - (c) A banner may be attached to a building or to a special streetscaping structure provided for this purpose; and
 - (d) The poles or supports of a flag or banner may not be placed inside a road reserve.
 - (e) Banners are to be displayed for no longer than 14 days prior to commencement of the event or no longer than two days after the day on which it ends, subject to the maximum period for each event not exceeding 21 days; and
 - (f) Subject (cap S) to commercial advertising not occupying more than 30% of the surface of the banner;
 - (g) No banners are permitted to be displayed on bridges, traffic lights, traffic signs (includes supporting structure for such signs), natural features, trees, freeways and/or national routes;
 - (h) Banners displayed within the curtilage of the property to which they directly relate require no approval from Council, however they are still subject to the constructional, size and safety guidelines as dictated under this policy;
14. No Inflatable may be displayed inside or above a road reserve or placed in a parking area that it takes up any parking space.
15. The colour or texture of a banner that is attached to a building in an urban area of maximum control must blend with such building.
16. No illumination or animation of a banner or a flag is permitted.
17. Display of a banner, flag, teardrop flag or inflatable is subject to the safety requirements as provided for in section 18, and the condition that a banner, flag, teardrop flag or inflatable may not be attached in a manner so as to interfere with or constitute a danger to passing vehicular or pedestrian traffic.

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18. A banner, flag or teardrop flag used for streetscaping must form a harmonious and well-designed part of the total streetscape.
19. A flag must be attached to a single flag-staff projecting vertically from a premises or projecting vertically, horizontally or at an angle from a building.
20. No banner, flag, teardrop flag or inflatable may be displayed for more than two weeks before the date of the function or event advertised, and no such banner or flag is permitted to remain in position for more than three days after the conclusion of such function or event.
21. A banner, flag, teardrop flag or inflatable may not be used for purposes other than:
 - (a) Advertising functions and events conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes, or functions or events relating to municipal, provincial or parliamentary elections or referenda;
 - (b) displaying the name, corporate symbol and nature of enterprises; or
 - (c) streets aping urban areas such as pedestrian malls and gateways.
22. Only a locality-bound banner or flag may be used for advertising a function, event and enterprise, except when incorporated in a streets aping project.
23. A banner, flag, teardrop flag or inflatable may not be used for advertising a sales promotion, private company, or a commercial product or event.
24. A national flag may not carry on the flag or flag-staff any advertisement or subject matter additional to the design of the flag.

SCHEDULE 7**Suburban signs (Class 2(c))****(Section 7(1) (b) (iii))**

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A suburb name sign may not be displayed on a freeway.
4. The sign must be rectangular and 0,44 metre in height and of equal length to the suburb name sign.
5. The sign must be smaller and less conspicuous than the suburb name sign.
6. The provisions of section 21(1)(a), (d), (e), and the following conditions apply to the position of a sign:
 - (a) A sign may be displayed within the road reserves of a proclaimed main road, but may not be displayed on a freeway; and
 - (b) A suburb name sign positioned on a road island, median or within the restricted area as indicated in figure 2, Schedule 36 may not be used to carry a suburban advertisement.

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7. No colours that may cause confusion with road traffic signs may be used.
8. The background of the advertising sign may not be retro-reflective or fluorescent.
9. No illumination or animation of a sign is permitted.
10. A suburban advertisement may only be displayed if attached to a GL2 sign in terms of the specifications of the South African Road Traffic Signal Manual.

SCHEDULE 8**Estate agents' boards (Class 2(d)(i))
(Section 7(1)(b)(iv)(aa))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. The maximum size of a sign is as follows:
 - (a) In a residential area in an area of maximum and partial control, a total area of 0,55 square metre for a single board, or a total area of 0,65 square metre for two joined boards;
 - (b) in an agricultural or commercial area (including centres of economic activity outside urban areas) in an area of maximum and partial control, a total area of 2 square metres for a single board, or 2,3 square metres a total area for two joined boards; and
 - (c) in an area of minimum control, a total area of 2,8 square metres for a single board, or a total area of 3,2 square metres for two joined boards.
4. Only one sign per estate agent may be displayed per premises.
5. A single " Sold" sign may be displayed flush against the fence or wall of the property for a maximum period of ninety days only.
6. Not more than two estate agents may display their signs simultaneously on the same premises.
7. The sign may be –
 - (a) placed at or fixed to the building concerned only;
 - (b) attached to the boundary fence of the premises concerned only; or
 - (c) displayed within the boundaries of such premises only;
 - (d) fixed to the sidewalk, subject to the provisions of items 8 and 15, hereunder and the by-laws, and shall be anchored in such a way that no part of the sign or anchors will penetrate the ground by more than 100mm.
8. No sign may at any point project more than 1,3 metre from the wall of the building or structure to which it is affixed.
9. A sign may not be displayed on the centre median of a road or on any traffic island.

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10. No specific limitations are imposed as to the colour or texture of a sign.
11. Illumination or animation of a sign is not permitted.
12. Application by each estate agency on an annual basis must be made to the municipality for permission to display estate agent signs and approval is subject to payment of an annual fee in accordance with the municipality's schedule of tariffs and charges as resolved upon by the municipality from time to time.
13. A deposit must be paid per agency against which a charge for the removal of any sign which contravenes the by-law, is levied, and in the event of such deposit being exhausted, permission to display such signage shall be withdrawn until a further deposit is paid to the Municipality.
14. Any estate agent sign unlawfully erected, or in contravention of the provisions of this Schedule, is subject to a charge by the municipality, calculated in accordance with the published schedule of tariffs and charges irrespective of whether such sign is removed by the Municipality or not.
15. Estate agent signs may not be positioned nearer than 2m from the roadway edge and may not pose a threat for possible injury to pedestrians, or obstruct pedestrian movement along a sidewalk.
16. Display of a sign is subject to the design and construction requirements as provided for in section 18, 19 and 21.
17. A sign may only contain the name, logo, address and telephone number of the selling or letting agent, and the words 'For Sale', 'To Let' or 'Sold'.
18. No flag, balloon or any other object which has as aim the drawing of the attention of a person to the sign, may be displayed.
19. A sign may not be used for commercial advertising.

SCHEDULE 9**Sale of goods or livestock signs (Class 2(d)(ii))
(Section 7(1)(b)(iv)(bb))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. Only one sign per sale may be displayed.
4. The maximum size of a sign is as follows:
 - (a) In an urban area of maximum or partial control, 2 square metres; and
 - (b) in an urban area of minimum control, 2,8 square metres.
5. No part of a sign may be higher than 3 metres above the ground.
6. Subject to the provisions of section 21(1)(e), a sign may be displayed on the premises or property where the advertised sale is to be held, or may be attached to the boundary fence of such property or premises only.

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7. No specific limitations are imposed on the colour or texture of a sign.
8. Illumination or animation of this sign type is not permitted.
9. The provisions of section 18(1) and 19(5) apply to the design and construction of a sign.
10. A sign must be removed not later than five days after the auction or sale.
11. A sign may not be used for commercial advertising.

SCHEDULE 10**Pavement posters and notices (Class 2(d)(iii))
(Section 7(1)(b)(iv)(cc))**

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a Temporary Poster sign is subject to specific consent.
3. Temporary Posters displayed upon the building or the main wall of any private erf or property within which the advertised event or item is taking place or available is subject to deemed consent.
4. Temporary posters displayed on the inside of any shop front window is subject to deemed consent.
5. Any advertisement relating to an election, meeting, function or event shall be a maximum of 0.5 Meters squared in area and shall have a clear height of minimum 2 m; and if paper shall be securely fixed to durable hardboard or other approved backing board, or constructed from a plasticised cardboard material;
6. Any person/s or, in the case of election advertising, each political party displaying or causing to display any poster advertisement relating to the same meeting, function or event shall only be permitted one poster per electricity lamp, or telephone pole to a maximum of three (3) posters allowed on any particular pole at any one stage.
7. Any advertisement relating to an election, meeting, function or event shall not be placed in such a manner that the content of separate advertisements when read in succession, forms a continuous relative legend;
8. A poster relating to a parliamentary or municipal election or referendum may be displayed from the date of proclamation in the Government Gazette of an upcoming referendum or election to the end of the fourteenth day after the date of the election or referendum, at which date the poster, its backing boards and cord or string must be removed.
9. Any advertisement relating to a meeting, function or event other than an election, shall not be displayed for longer than 14 days before the day on which it begins or longer than two days after the day on which it ends.
10. The total number of posters displayed at any one time relating to any meeting, function or event may not exceed 150, except in special circumstances and with the consent of the Council. In the case of election advertisements, no limitation will be placed on the number of posters displayed;

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11. Any advertisement relating to an election shall be on the basis of a written agreement between the Independent Electoral Commission and the relevant political party;
12. Auction posters approved in terms of this section may not be larger than 0.6 Meters squared in area;
13. Posters may only be affixed with plastic cable ties or non-abrasive string;
14. For the purposes of interpretation "event" is an occurrence that does not take place more than 4 (Four) times annually and relates specifically to advertising any meeting, function or event of a sporting, civic, cultural, social, educational, religious, charitable, political or other similar character;
15. Posters may be displayed back to back.
16. Posters may not be displayed closer than 30m from traffic intersections, measured from the nearest road reserve boundary.
17. The provisions of section 21(1) (a), 21(1) (e), and the following conditions apply to the position of a sign:
 - (a) A poster for a political campaign may be displayed on electric light standards only;
 - (b) A poster may not be displayed on power line standards, road traffic signs and signals, walls, columns and posts of verandas and balconies, electricity boxes, trees or bridges; and
 - (c) A poster may not cover any municipal markings or painted stripes on lamp posts.
18. No specific limitations are imposed on the colour or texture of a sign.
19. Illumination or animation of a sign is not permitted.
20. The name of the organisation, the date of the function and the venue must appear on the poster in letters not smaller than 50 millimetres in height, and posters displayed when advertising a specific event which is broadly cultural, of public interest, including entertainment events, exhibitions, and trade fairs, or sporting or religious in nature must have a sticker or marking signifying the approval of the Municipality.
21. Posters relating to newspaper publishers to advertise the headline stories of the main newspapers may only be displayed for maximum period of 24 hours.
22. A sign in this class may not be used for commercial advertising.
23. A poster advertising a specific event which is broadly cultural, of public interest, including entertainment events, exhibitions, and trade fairs, or sporting or religious in nature, may not be displayed unless the prescribed deposit and fees have been paid.

SCHEDULE 11**Project boards (Class 2(d) (iv))
(Section 7(1) (b) (iv) (dd))**

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1. Subject to the provisions of section 5(4), a project board may be displayed in all areas of control and is subject to deemed consent.
2. Display of a development sign is subject to specific consent in a rural area of maximum control and in an urban area of maximum control.
3. Display of a development sign is subject to deemed consent in an urban area of partial control and in an urban area of minimum control.
4. A project board may not exceed 2 square metres in area per consultant or contractor, whether displayed as part of a combined project board or individually.
5. A combined project board may not exceed 6 square metres in total.
6. An individual or single board may be displayed only if no other consultants or contractors are involved, or if a combined project board has already been erected.
7. A sign describing the type of development may not exceed 3 metres in height and –
 - (a) may not, in an urban area of maximum control, exceed 4,5 square metres in size, and;
 - (b) may not, in any other area of control, exceed 6 square metres in size.
8. The provisions of section 21(1)(a), (c)(i) and (iii), and the following conditions apply to the position of a sign:
 - (a) Only one advertisement per contractor or consultant may be displayed per street frontage of a site;
 - (b) only one advertisement per contractor or consultant per project may be displayed in a rural area of maximum control;
 - (c) only one sign describing the type of development may be displayed per premises;
 - (d) a project board must be positioned within property boundaries only; and
 - (e) a project board concerning road construction may be positioned in any road reserve, including a freeway.
9. No specific limitations are imposed on the colour or texture of a sign.
10. Illumination or animation of a sign is not permitted.
11. A sign may describe the building or structure being erected, or other work or activity being carried out while the project is in progress only, and the names of the contractors or consultants concerned in such work or activity, and the branches of the industry or the professions of the contractors or consultants may be listed.
12. Where a sign describes the type of development being carried out on a site, details concerning the type of accommodation being provided, the floor space available and the name, address and telephone number of the developer or his agent may be contained in the sign.
13. A sign may not be used for commercial advertising.

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14. A sign in this class must be removed within 7 days after completion of the project

SCHEDULE 12**Temporary window signs (Class 2(d)(v))
(Section 7(1)(b)(iv)(ee))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. The total area of all temporary signs, which are painted on or attached to the windows of a specific enterprise may not exceed –
 - (a) 10 percent of the total ground-floor window area of such enterprise in an urban area of maximum control;
 - (b) 25 percent of the total ground-floor window area of such enterprise in an urban area of partial control; and
 - (c) 50 percent of the total ground-floor window area of such enterprise in an urban area of minimum control.
4. Display of a sign is limited to ground-floor windows.
5. No limitations are imposed on the colour or texture of a sign.
6. Subject to the provisions of section 18(1), 19(4), 21(e) and 22, no internally illuminated signs displayed inside a building in an urban area of maximum control may be visible from outside the building.
7. Display of a sign is subject to the safety requirements as provided for in sections 18(1) and 18(2).
8. Price tags smaller than 0,01 square metre on items inside buildings are excluded from this class.
9. A sign may not be used for commercial advertising.

SCHEDULE 13**Illuminated Street name advertisement signs (Class 2(e))
(Section 7(1)(b)(v))**

1. Street name advertisements may be displayed in urban areas along proclaimed main roads and in those roads reserves, which are determined by the municipality from time to time, within an urban area of partial control and an urban area of minimum control only.
2. Street name advertisements may not be displayed in residential areas.
3. Display of street name advertisements is subject to specific consent and comply with such conditions as laid down in Section 2.1 (l) of the Councils Outdoor Advertising policy.
4. The advertising and street name sections must be rectangular in shape.
5. In the case of street name advertisements –

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- (a) the street name section –
 - (i) must be below the advertising section, but not closer than 200 millimetres to the advertising section; and
 - (ii) may not have a clear height of less than 2,1 meters; and
 - (b) the advertising space may not be smaller than 0,8 square metre, and may not exceed 1,5 square metre.
6. The illuminated parts of the sign, must be above the level of standard pole-mounted traffic lights and may not extend over the road surface.
7. The provisions of section 22(1)(a) and (c), and the following conditions apply to the position of a sign:
- (a) A street name advertisement may be displayed at an intersection only, with a maximum of two illuminated signs displayed per intersection; and
 - (b) a street name advertisement may be displayed within an urban road reserve other than a freeway, and on a road median.
8. Static illumination is allowed, but the colours red, amber and green may not be used at signalised traffic intersections.
9. The street name must be in black letters on a white background.
10. Subject to the conditions of section 18(1), 19(4), 21(e) and 22, the following conditions apply to the illumination and animation of a sign:
- (a) Internal illumination of both sections of the sign is permitted, on the condition that the degree of illumination intensity must be equal for both parts of the sign;
 - (b) No form of animation is permitted; and
 - (c) A sign may not flash.
11. A street name on the advertising space must be smaller and less conspicuous than the street name on the actual street name panel, and the layout of the advertising panel must be such that there may not be any confusion with the street name on the street name panel of the sign.
12. Advertising on a directory signboard may include the name and logo only of the industry, and a standard directional arrow.
13. The name only of the street may appear on the street name panel and the words "Street", "Avenue", "Way", or words with a similar denotation may not be used.
14. A street name advertisement should be aimed primarily at advertising and identifying:
- (a) A shopping centre and groups of shops in an arcade or plaza;
 - (b) a community facility as provided for in the municipal Zoning Scheme;
 - (c) a parking area; or

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- (d) A larger and more prominent enterprise and institution, such as an apartment store, a bank and financial institution, an industry, a filling station, and a hotel.

SCHEDULE 14**Neighbourhood watch signs and signs relating to similar schemes (Class 2(f))
(Section 7(1)(b)(vi))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. A sign may not exceed 0,35 square metre in area.
4. The clear height of a sign may not exceed 3 metres.
5. In urban areas only one sign may be displayed per street boundary of a stand or subdivision, and the sign must be firmly affixed to the building, boundary wall, fence or gate on the street frontage, or must be displayed within the boundaries of the stand.
6. A neighbourhood watch sign may be displayed within a road reserve other than a freeway at the point of entry to the watch area, but a sign may not be positioned on a road island, road median, or inside a restricted area at street corners as represented in Figure 2, Schedule 36.
7. No specific limitations are imposed on the colour or texture of a sign.
8. Illumination or animation of a sign is not permitted.

SCHEDULE 15**Product replicas and three-dimensional signs (Class 2(g))
(Section 7(1)(b)(vii))**

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. A sign may not be displayed on municipal land or within formal road reserves.
3. Display of a sign in an urban area of partial control is subject to specific consent.
4. Display of a sign in an urban area of minimum control is subject to deemed consent.
5. The highest point of any free-standing sign may not be more than 3 meters above ground level.
6. Individual signs may not exceed a vertical dimension of 1,5 meters and a diameter of more than 1 meter .
7. Only one sign per enterprise may be attached to buildings or displayed on individual premises, and a sign may not exceed a total sign area of 3 cubic metres in an urban area of partial control, and a total sign area of 6 cubic metres in an urban area of minimum control.

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8. A sign attached to a building may not be displayed above the bottom edge of the second-floor window, and may not extend above the level of the underside of the eaves or gutter of the building.
9. A sign may not be placed in front of, or obstruct the view from any window or any other external opening of a building.
10. Items 6 and 7 do not apply to entertainment districts.
11. Signs aimed at the road user must be spaced at the following minimum distances when in view of each other and on the same side of the road:
 - (a) On a road with a speed limit of 81 kilometres per hour and higher the distance between signs may not be less than 250 metres;
 - (b) on a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour the distance between signs may not be less than 200 metres; and
 - (c) on a road with a speed limit below 60 kilometres per hour the distance between signs may not be less than 120 metres.
12. No specific limitations are imposed on the colour or texture of a sign.
13. Subject to the provisions of section 18(1), 19(4) and 22, illumination or animation of a sign is allowed.
14. A product replica may not dominate prominent architectural features of a building, with the exception of buildings in entertainment districts.

SCHEDULE 16
Sky signs (Class 3(a))
(Section 7(1)(c)(i))

1. A sign be displayed in an urban area of partial control and an urban area of minimum control only and is subject to specific consent.
2. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
3. A sign may not exceed a maximum size of 150 square metres, unless the municipality, after being requested therefore in writing, grants an exemption for a sign up to a maximum size of 300m².
4. A maximum of only one sign per skyscraper may be displayed.
5. The municipality, having regard to the outcome of an impact assessment, and having taken into consideration factors such as the size and character of the business centre and surrounding area, the lifestyle of the local community, and the nature of host skyscraper, shall specify the size of a sign and the number of signs which may be displayed, and a person who intends to display a sign may not display a sign in contravention of the municipality's specifications.
6. A sign may not project in front of a main wall of a host building so as to extend in any direction beyond the roof of such a building.

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7. A sign may not obstruct the view from any other building or a prominent viewpoint in the City.
8. In the instance where cluttering of signs occurs, the municipality may by written notice in terms of section 11(2) require the person who displays a sign to remove the sign within a specified period.
9. No specific limitations are imposed on the colour or texture of a sign.
10. Subject to the provisions of sections 18(1), 19(4) and 22, illumination of a sign is allowed.
11. A sign must be designed by a structural engineer.
12. The municipality may approve the display of a sign for a period not exceeding five years.
13. The advertisement contents of an approved sign may not be changed without approval by the municipality based on an additional impact assessment submitted to and approved by the municipality.

SCHEDULE 17
Roof signs (Class 3(b))
(Section 7(1)(c)(ii))

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign may not be so affixed that the bottom of the sign is more than 1,2 metre above the nearest portion of the roof beneath it.
4. A sign must be constructed in a straight line, except in the case of a V-construction, where the two sides forming the sides of the V must be of equal length, and the distance between the sides at the open end furthestmost from the apex of the V may not exceed the length of the sides.
5. A sign may not exceed in size the following areas:
 - (a) The maximum area of a sign may not exceed two square metres when the height of the sign above ground level is less than six metres;
 - (b) the maximum area of a sign may not exceed four square metres when the height of the sign above ground level is between six metres and nine metres;
 - (c) the maximum area of a sign may not exceed eight square metres when the height of the sign above ground level is between nine metres and 12 metres;
 - (d) the maximum area of a sign may not exceed 12 square metres when the height of the sign above ground level is between 12 metres and 18 metres; and
 - (e) the maximum area of a sign may not exceed 18 square metres when the height of the sign above ground level is greater than 18 metres.
6. In the case of a V-construction sign the above areas apply separately to the two vertical faces of the sides forming the V.

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7. A sign may not exceed 300 millimetres in thickness, except in the case of a V-construction sign.
8. Only one sign may be displayed per building.
9. A sign may not project in front of a main wall of a building so as to extend in any direction beyond the roof of such building.
10. In an urban area of partial control, a sign must be placed well below the ridge of a pitched roof so as not to form part of the skyline of such building.
11. No specific limitations are imposed on the colour or texture of a sign.
12. Subject to the provisions of section 18(1), 19(4) and 22, illumination of a sign is allowed.
13. No advertising of this class of signs may be done on residential buildings.

SCHEDULE 18
Flat signs (Class 3(c))
(Section 7(1)(c)(iii))

1. A sign may be displayed, subject to specific consent, in an urban area of maximum control, an urban area of partial control and an urban area of minimum control, and at centres of economic activity in an urban area of minimum control.
2. Display of a sign is limited to buildings utilised for commercial, office, industrial or entertainment purposes, and larger accommodation facilities.
3. A non-locality bound sign may not be displayed on a building used mainly for residential purposes or for community services, or a community institution, a small enterprise and a practice on residential premises, or a small-scale residential-oriented accommodation.
4. Only a locality-bound sign may be displayed in a rural area of maximum control and an urban area of maximum control.
5. The requirements concerning consent are as follows:
 - (a) Display of a sign in a rural area of maximum control and an urban area of maximum control is subject to specific consent;
 - (b) display of a sign in an urban area of partial control and an urban area of minimum control is subject to specific consent for a non-locality bound sign;
 - (c) display of a sign in an urban area of partial control and an urban area of minimum control is subject to specific consent for a locality-bound sign above first-floor level; and
 - (d) display of a sign in an urban area of partial control and an urban area of minimum control is subject to deemed consent for a locality-bound sign at first or ground-floor level.
6. Unless otherwise stipulated, flat signs shall at no point project more than 150mm from the surface of the wall to which they are attached.

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7. On-site, locality bound flat signs shall be permitted to be attached to the front, side and back walls of buildings; non-locality bound flat signs shall only be permitted to be attached to the side and back walls of buildings which do not fulfil the function of a building facade.
8. No more than two locality bound flat signs per enterprise shall be permitted and only one flat sign per enterprise per wall shall be permitted;
9. Flat signs shall not cover any windows or other external openings of a building or obstruct the view from such openings.
10. Flat signs shall not exceed 54m² in total area or exceed 50% of the visible wall surface area to which they are attached, affixed or painted, whichever is the lesser, provided that in urban landscapes of partial to maximum control, the signs may not exceed 25% of the visible wall surface area.
11. An Environmental Impact Assessment shall be required for all flat signs in excess of 36m².
12. Flat signs shall not extend beyond the ends of the wall to which it is attached in any direction.
13. Locality bound flat signs shall not contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.
14. Non-locality bound advertising signs shall only be permitted on blank return and back walls that have no openable sections or that compromise any architectural features.
15. Flat signs smaller than 4,5 m² in area that are not illuminated and contain only the name of the business, the type of business conducted and the contact details, are subject to deemed consent.

SCHEDULE 19**Projecting signs (Class 3(d)
(Section 7(1) (c) (iv))**

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control and an urban area of minimum control, and at centres of economic activity in a rural area of maximum control.
2. Display of a projecting sign is limited to a building utilised for commercial, office, industrial or entertainment purposes and to a larger accommodation facility.
3. A sign may not be displayed on a building used for residential purposes or for community services or community institutions, a small enterprise and a practice on residential premises, or a small-scale residential-oriented accommodation.
4. Only a locality-bound sign may be displayed.
5. Consent requirements are as follows:
 - (a) Display of a sign in a rural area of maximum control and an urban area of maximum control is subject to specific consent;
 - (b) display of a sign in an urban area of partial control and an urban area of minimum control is subject to specific consent; and
6. A projecting sign may not be affixed at a clear height of less than 2,4 metres.

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7. A projecting sign may not exceed 300 millimetres in thickness.
8. The maximum sizes and dimensions of signs displayed in an urban area of maximum control are as follows:
 - (a) Where the clear height of the sign is below six metres, the maximum size of the sign may not exceed 1,2 square metre, the maximum horizontal width may not exceed one metre, and the maximum vertical length may not exceed 1.5 metre; and
 - (b) where the clear height of the sign is above six metres, the maximum size of the sign may not exceed four square metres, the maximum horizontal width may not exceed 1,5 metre, and the maximum vertical length may not exceed three metre.
9. The maximum size and dimension of a sign displayed in an urban area of partial control and an urban area of minimum control is as follows:
 - (a) Where the clear height of the sign is below six metres, the maximum size of the sign may not exceed 2,4 square metres, the maximum horizontal width may not exceed 1,5 metres, and the maximum vertical length may not exceed three metres; and
 - (b) where the clear height of the sign is above six metres, the maximum size of the sign may not exceed eight square metres, the maximum horizontal width may not exceed two metres, and the maximum vertical length may not exceed five metres.
10. A projecting sign shall not be displayed within 5m of any other projecting sign displayed on the same building.
11. In an urban area of partial control and an urban area of minimum control, a projecting sign may be displayed below the lower edge of a visible second-floor window in accordance with the commercial, industrial or entertainment character of such area, and the aesthetic control of the sign will be determined by the municipality from time to time.
12. The display of a projecting sign above the lower edge of a visible second-floor window is limited to the following enterprises or function:
 - (a) A bank and a financial institution;
 - (b) A larger apartment store;
 - (c) A larger hotel;
 - (d) A larger industry;
 - (e) A government institution;
 - (f) A shopping centre; and
 - (g) A building's name.
13. A sign may not be affixed otherwise than at right angles to the street line.

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14. A sign may not extend beyond the top of the main wall to which it is affixed or above the level of the top of any parapet wall, or above the level of the underside of the eaves or gutter of a building from which the sign projects.
15. A sign may be suspended above a sidewalk and thus above an urban road reserve and projecting signs shall not be allowed to extend within 450mm of the edge of a roadway; nor extend within 1,5m from any overhead electricity wires or cables.
16. A sign with a clear height of less than six metres may not project at any point more than 800 millimetres from the surface of the main wall to which it is affixed, or more than one half of the width of the sidewalk immediately below such sign, whichever is the smaller dimension.
17. A sign may not be affixed in any way other than the top and the bottom of the sign being in the same vertical plane.
18. No specific limitations are imposed on the colour or texture of a sign.
19. Subject to the provisions of section 18(1), 19(4) and 22, illumination of a sign is allowed.
20. The provisions of section 21(1)(e) apply with regard to an illuminated sign within a restricted area on a street corner.
21. The supports of a sign must be neatly constructed as an integral part of the design of the sign, or else must be concealed from view.
22. A person who intends to display a projecting sign with a clear height of more than six metres, must submit a structural drawing to the municipality for consideration and approval by the municipality.
23. Projecting signs shall not contain advertising matter other than exclusively directional on more than 50% of the area of any face thereof.
24. A projecting sign shall not be displayed within 5m of any other projecting sign displayed on the same building.

SCHEDULE 20**Veranda, balcony, canopy and under awning signs (Class 3(e))
(Section 7(1) (c) (v))**

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, an urban area of minimum control, and at centres of economic activity in a rural area of maximum control.
2. Display of a sign in –
 - (a) A rural area of maximum control is subject to specific consent;
 - (b) An urban area of maximum control is subject to specific consent;
 - (c) An urban area of partial control is subject to deemed consent; and
 - (d) An urban area of minimum control is subject to deemed consent.
3. If a sign is affixed flat onto or painted on -

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- (a) A parapet wall;
 - (b) Balustrade;
 - (c) Railing of a veranda;
 - (d) Railing of a balcony;
 - (e) The fascia of a veranda;
 - (f) a beam over veranda columns; or
 - (g) a fascia of a roof structure without walls,
- such sign may not –
- (i) Project at any point more than 100 millimetres from the surface to which it is affixed;
 - (ii) Exceed a depth of 1000 square millimetres and a length of 2,4 metres; and
 - (iii) Extend above or below or beyond any of the extremities of the parapet wall, balustrade, railing, beam or fascia, as the case may be.
4. Not more than one of the signs contemplated in item 3(a) – (g) may be displayed per enterprise facade, except in the case of an enterprise with a facade exceeding 20 metres in length, in which case –
- (a) More than one sign may be displayed;
 - (b) The signs must be spaced at a minimum of three metres intervals; and
 - (c) The total sign length per enterprise facade is limited to four square metres.
5. A sign on a balcony may not be displayed above the lower edge of any visible second-floor window.
6. An under awning sign -
- (a) Must be aimed at pedestrians;
 - (b) Must be fixed at right angles to the street line;
 - (c) Must have a minimum clear height of 2,4 metres;
 - (d) May have a maximum sign length of 1,8 metres; and
 - (e) May have a maximum sign area of one square metre on each face with a maximum of two square metres in total sign area.
7. No more than one under awning sign may be displayed per enterprise facade, except in the case of an enterprise facade which exceeds 20 metres in length, in which case more than one sign may be displayed, and the signs must be spaced at a minimum of three metres intervals.
8. A sign on top of a veranda roof –

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- (a) may be placed on top of a veranda roof only where such a veranda does not have an appropriate parapet wall, balustrade, railing, fascia or beam on which a sign may be affixed;
 - (b) Must be set parallel to the end of the veranda that faces the street or as near thereto as the configuration of the veranda roof will permit;
 - (c) May not extend beyond the extremities of the veranda roof, nor project beyond the rear of any veranda roof gutter;
 - (d) May not cover any window or obstruct the view from any such window; and
 - (e) May not exceed a maximum area of one square metre.
9. Signs on top of veranda roofs on adjacent buildings must be aligned with each other in order to form a straight line.
10. Only one sign may be displayed on top of a veranda roof per enterprise facade.
11. The following conditions apply to a sign painted on or affixed to a supporting column, pillar or post, as the case may be:
- (a) A sign must be painted on or affixed flat onto the supporting column, pillar or post;
 - (b) A projecting sign may be affixed to a column, pillar or post supporting a roof over fuel pumps at a filling station or roadside service area only, and may not exceed one square metre per sign face or two square metres per total sign area;
 - (c) a sign affixed flat onto a supporting column, pillar or post may not project more than 50 millimetres from the surface to which it is affixed;
 - (d) a sign affixed flat onto a supporting column, pillar or post may not extend beyond any of the extremities of such a column, pillar or post;
 - (e) a sign affixed flat onto a non-rectangular supporting structure must be curved to fit the form of such structure;
 - (f) only one sign may be displayed per pillar, post or column, and this applies also to a sign projecting from a pillar, post or column supporting a roof at fuel pumps; and
 - (g) no posters or placards may be pasted onto a supporting column, pillar or post.
12. A canopy sign must form an integral part of the canopy or blind without dominating the canopy structure or blind.
13. A sign may be suspended above a sidewalk and therefore above an urban road reserve, but may not be displayed on a freeway.
14. No limitations are imposed on the colour or texture of a sign.
15. Subject to the provisions of sections 18(1), 19(4) and 21(1)(e), no illuminated sign or sign designed to reflect light may be attached to or displayed at a street intersection on any splayed or rounded corner of a veranda, canopy or balcony, unless the clear height of the sign is six metres.

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16. This Schedule applies to the display of a sign on a roof structure covering fuel pumps, and the display of a sign attached to a roof structure pillar at a filling station and roadside service area.

SCHEDULE 21**Signs painted on walls and roofs (Class 3(f))
(Section 7(1)(c)(vi))**

1. A sign be displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign painted onto the facade or roof of a building may not exceed 20 percent of the ground floor facade of the enterprise to which such sign pertains.
4. The total area of all signs painted onto the side walls of a building may not exceed 36 square metres, and the actual size of a sign will depend on the size of the side wall concerned and on other factors, such as the character and appearance of the building and the streetscape as a whole.
5. The following conditions apply to the position of a sign:
 - (a) A non-locality-bound sign may not be displayed on the side wall of a building;
 - (b) a locality-bound sign may be displayed on a facade wall, roof and side wall; and
 - (c) a sign painted onto the facade of a building may be displayed at a position below the lower edge of any visible second-floor window only.
6. No specific limitations are imposed on the colour or texture of a sign.
7. Illumination of a sign is not permitted.
8. Signs in this class may only be painted on the main walls or roof of a building used for commercial, office, industrial or entertainment purposes.

SCHEDULE 22**Window signs (Class 3(g))
(Section 7(1)(c)(vii))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control, and at centres of economic activity in a rural area of maximum control.
2. A sign may be displayed on ground-floor windows only.
3. Display of a sign is subject to deemed consent.
4. The total area of all permanent signs painted on or attached to the windows of a specific enterprise may not exceed –
 - (a) 10 percent of the total ground-floor window area of such enterprise in an urban area of maximum control;

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- (b) 25 percent of the total ground-floor window area of such enterprise in a rural area of maximum control and an urban area of partial control; and
 - (c) 50 percent of the total ground-floor window area of such enterprise in an urban area of minimum control.
- 5. A sign may not be displayed above ground-floor level.
 - 6. In an urban area of maximum control colours must be in harmony with the rest of the building and the general streetscape.
 - 7. No specific limitations are imposed in other areas of control.
 - 8. No internally illuminated signs inside a building may be visible from outside the building in an urban area of maximum control.

SCHEDULE 23**Signs incorporated in fabric of building (Class 3(h))
(Section 7(1)(c)(viii))**

- 1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
- 2. Display of a sign is subject to specific consent.
- 3. No specific limitations are set on the shape, size and height of a sign, however the building, or structure, or any external face of the building or structure may not be used principally for the display of signs.
- 4. No sign displayed may distract the attention of a driver in a manner likely to lead to unsafe driving conditions.
- 5. A sign must be in balance with the scale of the building and must be visually and architecturally integrated into the building or structure.
- 6. A sign must be maintained properly.
- 7. No sign may be displayed in such a manner as to be detrimental to or have a negative aesthetic impact on the urban design, streetscape or character of the environment.

SCHEDULE 24**Signs on forecourts of business premises Class 3(i)
(Section 7(1)(c)(ix))**

- 1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, and an urban area of minimum control, and on forecourts in centres of economic activity in a rural area of maximum control.
- 2. Display of a sign is subject to deemed consent.
- 3. An individual free-standing forecourt sign may not –
 - (a) exceed 1,64 square metres in size if it is a single-sided sign; and
 - (b) exceed 3,28 square metres in size if it is a double-sided sign.

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4. The total area for all free-standing forecourt advertisements displayed may not exceed five square metres on each forecourt frontage to a premises.
5. The total area for all free-standing advertisements displayed on the forecourts at filling stations and roadside service areas may not exceed eight square metres per forecourt frontage.
6. The maximum size of a non-free-standing sign attached to a fuel pump, vending machine and a similar non-advertising structure at a filling station and service area, may not exceed 0,15 square
7. The provisions of section 21(1)(e), and the following conditions apply to the position of a sign:
 - (a) A notice, sign or advertisement must be free-standing with the exception of an additional sign area attached to a fuel pump and similar non-advertising structure at a filling station and roadside service;
 - (b) display of a sign is not permitted inside a formal road reserve;
 - (c) a forecourt sign may not be positioned in such a way as to interfere with pedestrian circulation; and
 - (d) a sign must be aimed at passing pedestrians and the users of the forecourt space concerned and may not be aimed at passing motorists.
8. No limitations are imposed on the colour or texture of a sign.
9. Subject to sections 18(1), 19(4), and 22, illumination of a sign is allowed.
10. No animation of a sign is allowed.
11. A hand-written message is allowed on a board provided for writing messages on.

SCHEDULE 25**Signs for residential-oriented land use and community services (Class 3(j))
(Section 7(1)(c)(x))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. The following conditions apply to the display of direction and warning signs and notices such as "Beware of the dog", and "Burglar Alarm":
 - (a) A sign may not exceed a total area of 0,08 square metre per premises; and
 - (b) if there is more than one entrance to the premises on different road frontages, a total sign area of 0.16 square metre may be displayed, with not more than 0,08 square metre per frontage.
4. The following conditions apply to the display of a sign indicating the name and the nature of an accommodation facility, including a bed-and-breakfast establishment, a crèche or any other pre-school caring centre, within an area with a residential character:

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- (a) One sign with a maximum area of one square metre per premises may be displayed;
 - (b) if there are more than one entrance to the premises on different road frontages, two signs with a combined maximum area of 1,5 square metre each may be displayed with each on a different frontage;
 - (c) where a solid supporting structure is provided, the maximum area per sign, including the supporting structure, may not exceed three square metres and the sign panel or lettering may not occupy more than 50 percent of the total sign area;
 - (d) where more than one smallholding or farm share the same unnumbered or private access route a combination sign or collective board must be provided which will allow for one square metre per farm or smallholding; and
 - (e) where more than one enterprise shares the same premises, a combination sign or collective board must be provided which allows for one square metre per enterprise.
5. Where a sign indicates the name and nature of home occupation from a place of residence, an accommodation facility, or the name of a proprietor, partner or practitioner, one sign with a maximum area of 0,08 square metre may be displayed per premises.
6. The following conditions apply to a sign indicating the name and nature of an institution or other community facility:
- (a) A sign with a maximum area of three square metres may be displayed per premises;
 - (b) if there are more than one entrance to the premises on different road frontages, two signs with a maximum area of three square metres each may be displayed, with each on a different frontage;
 - (c) where a solid supporting structure forms part of the sign, the total sign area may be enlarged to six square metres, and the actual sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where more than one institution or community facility share the same premises, a combination sign or collective board may be displayed which allows for two square metres per institution or community facility.
7. Where a sign indicates a street number, one sign may be displayed per road frontage of each premises, with a minimum letter size of 150 millimetres and a maximum size of 350 millimetres.
8. The highest point of any single free-standing sign may not extend three metres above ground level, and the highest point of any combination sign may not extend four metres above ground level.
9. The name or logo, or both the name and logo of the sponsor of a sign may be displayed on the name signs of smallholdings only, and may not occupy more than one-third of the total area of the sign.
10. A sign may be displayed on the premises to which it specifically refers, or on the boundary wall or fence or gate of such premises only.

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11. A farm or smallholding name sign may be displayed next to the entrance of the access road to the homestead, or alternatively may be affixed to the gate at the entrance of such access road.
12. Where several smallholdings share the same unnumbered or private access road –
 - (a) a collective board or combination sign may be displayed at the entrance to the access road, but no smallholding name sign may be displayed if any official traffic sign bearing a destination or route number is displayed at the entrance to such access road; or
 - (b) a combination sign or collective board may be provided which will allow for one square metre per farm or smallholding.
13. Where several smallholdings share an access road, a sign indicating the property numbers in question only may be displayed, and not a combination sign indicating property names and names of owners.
14. The display of a sign in this class is allowed inside such a restricted area only if there is no other appropriate way of displaying the sign, however the sign may not be displayed inside a road reserve.
15. The colour or texture of a sign must, wherever possible, harmonise with the building on the premises.
16. No animation of a sign is permitted.
17. No illumination of a sign is permitted in a rural area of maximum control.
18. The illumination of signs in urban areas of control must comply with the provisions of sections 18(1), 19(4) and 22.
19. The design and construction of a sign, a sign, and a supporting structure must harmonise, wherever possible, with the buildings and other structures on the premises as regards materials, colour, texture, form, style and character.
20. A free-standing sign may only be displayed when it is not practical or visually acceptable to attach a sign to a building, boundary wall, boundary fence, gate or gate structure.

SCHEDULE 26

On-premises business signs (Class 3(k))
(Section 7(1)(c)(xi))

1. For the purposes of this Schedule, the term ‘premises’ in the definition of “locality bound sign” includes a shopping centre, or industrial estate as a whole, or a communal parking area together with related enterprises.
2. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
3. Display of a sign is subject to specific consent.
4. A sign may only be displayed in the following instances:
 - (a) Where the building housing an enterprise is situated relatively far back from the road or street onto which it faces, and a passing motorist or pedestrian may have difficulty in noticing a sign affixed to such building;

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- (b) where it is not structurally possible or visually feasible to display an appropriate sign on a building, such as a sign contemplated in section 7(1)(c)(iii), being a sign in subclass 3(c) (flat signs), a sign contemplated in section 7(1)(c)(iv), being a sign in the subclass 3(d) (projecting signs), or a sign contemplated in section 7(1)(c)(v), being a sign in the subclass 3(e) (veranda, balcony, canopy, and under awning signs);
 - (c) where a sign is needed to locate the entrance to business premises or the private access road to a business; or
 - (d) where a free-standing combination sign may prevent a proliferation of signs.
- 5. Only one sign per enterprise may be displayed on a combination sign.
- 6. If there is more than one entrance to premises on different road frontages, two signs or advertising panels may be displayed per enterprise, each on a different road frontage.
- 7. Display of a sign at a farm stall or an access road to a farm or smallholding in an urban area of maximum control is subject to the following conditions:
 - (a) A maximum sign area of two square metres is permitted, provided that where a sign is affixed to a non-advertising structure such as a boundary wall, gate or gate structure, the sign may not occupy more than 50 percent of the structure to which it is affixed;
 - (b) a sign may not extend above or beyond any of the extremities of the structure to which it is affixed;
 - (c) where a solid advertising structure is used, the maximum area per sign, including the supporting structure, may not exceed four square metres, and the sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where a sign is incorporated in a combination sign displayed at an access road, the maximum sign panel area may not exceed 1,5 square metre.
- 8. Display of a sign, excluding a sign displayed in terms of item 4(c) above, in an urban area of maximum control is subject to the following conditions:
 - (a) A maximum sign area of 4,5 square metres is permitted, provided that where a sign is affixed to a non-advertising structure such as a boundary wall or gate structure, it may not occupy more than 50 percent of the structure to which it is affixed;
 - (b) a sign may not extend above or beyond any of the extremities of the structure to which it is affixed;
 - (c) where a solid advertising structure is used, the maximum area per sign, including the supporting structure, may not exceed nine square metres, but the actual sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where a sign is incorporated in a combination sign, the maximum sign panel area per sign panel may not exceed three square metres.
- 9. Display of a sign in an urban area of partial control and an urban area of minimum control is subject to the following conditions:

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- (a) For a combination stacked sign, a maximum size of 12 square metres and these signs shall have a clear height of not less than 2,4 metres. No panel of a stacked structure(s) shall exceed a maximum size of 4,5 m² and the clear height of a stacked structure shall not be less than 2,4 metres.
 - (b) Stacked structures should harmonize aesthetically with buildings and streetscapes.
 - (c) A maximum sign area of 6 square metres for other signs that are not combination stacked signs is permitted with provided that where a sign is affixed to a non-advertising structure such as a boundary wall or gate structure it may not occupy more than 50 percent of the structure to which it is affixed;
 - (d) a sign may not extend above or beyond any of the extremities of the structure to which it is affixed;
 - (e) where a solid advertising structure is used, the maximum area per sign, including the supporting structure, may not exceed 12 square metres, but the actual sign panel or lettering may not occupy more than 50 percent of the total sign area; and
10. The following conditions apply to the height of a sign:
- (a) The highest point of a single-freestanding sign at a farm stall and a farm access road in an urban area of maximum control may not exceed a height of three metres above ground level, and that of any other sign may not exceed four metres;
 - (b) the highest point of a combination sign at a farm stall and a farm access road in an urban area of maximum control may not exceed a height of four metres above ground level, and that of any other combination sign may not exceed seven metres;
 - (c) the highest point of a single-freestanding sign in an urban area of partial control and an urban area of minimum control may not exceed a height of four metres above ground level; and
 - (d) the highest point of a combination sign in an urban area of partial control and an urban area of minimum control may not exceed a height of 7 metres above ground level.
11. The name or logo, or both the name and logo of the sponsor of an on-premises business sign may not occupy more than one-third of the total area of a sign, and it must refer to products and services available on those specific premises or at that specific enterprise.
12. A sign displayed in an urban area of partial control and an urban area of minimum control may not have in its design any letters, figures, symbols or similar features over 0,75 metre in size.
13. A sign displayed in an urban area of maximum control may not have in its design any letters, figures, symbols or similar features over 0,35 metre in size.
14. A sign displayed may not serve as an advance sign and may be displayed only on the premises where the business is conducted.
15. Where a business or enterprise, such as a stall or guest-house is situated on a large property such as a large smallholding, the sign must be placed in the immediate vicinity of

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the enterprise if such enterprise is adjacent to or visible from a public road, but if the enterprise is not adjacent to or visible from a public road, the sign must be placed at the entrance of the private access road to the enterprise.

16. A sign indicating a roadside enterprise, such as a farm stall or a roadside café may not be closer than five metres from a road reserve fence, and such enterprise must have direct access to the public road.
17. A combination sign displayed at a shopping centre or industrial estate and which contain a large amount of information must be designed and located with care so as not to create a traffic safety hazard because of an information overload.
18. No sign may obstruct the view from any adjacent building.
19. No limitations are imposed on the colour or texture of a sign.
20. The provisions of section 18(1), 19(4), 21(e), 22, and the following conditions apply to the illumination and animation of a sign:
 - (a) Internal and external illumination is permitted in an urban area of partial control and an urban area of minimum control;
 - (b) external illumination only is permitted in an urban area of maximum control; and
 - (c) animation is prohibited in all areas of control.
21. A sign may contain only –
 - (a) the name and nature of the business or enterprise on the premises, except where such a sign is constructed on an approved lay-by area where vehicles can safely park out of flowing traffic, then such signs may contain the contact numbers of a business as well;
 - (b) the brand-name and nature of the goods for sale or goods produced;
 - (c) the nature of services provided; and
 - (d) the name of the person or persons who owns or own the business or who provides or provide the goods or services at the premises, or the firm or firms which owns or own the business or which provides or provide the goods or services at the premises.
22. The design and construction of a sign must be aimed at the prevention of proliferation of signs at shopping centres, other premises, or access roads housing or leading to several enterprises, and –
 - (a) individual signs must be incorporated in a combination sign, and the design of a combination sign must be of a high standard and must harmonise with the architecture of the shopping centre or other buildings or structures, such as entrance gates;
 - (b) messages displayed on the individual panels or boards of a combination sign must be concise and legible; and
 - (c) signs displayed at access roads to farms or smallholdings must be co-ordinated with a sign contemplated in section 7(1)(c)(x), being a sign in subclass 3(j)

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(signs for residential-oriented land use and community services) indicating smallholding names in order to form a single combination sign, and the necessary harmony must be achieved by using the same form, letter type and colour for the various parts of the combination sign.

SCHEDULE 27**Signs on towers, bridges and pylons (Class 3(l)
(Section 7(1)(c)(xii))**

1. Display of a sign is permitted in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. Subject to the provisions of section 21(1), a sign may not be displayed in an urban area of maximum control on a bridge across a freeway.
4. Written permission for the display of a sign on a bridge in an urban area of partial control and an urban area of minimum control must, prior to the display of the sign, be obtained from the institution or authority responsible for the maintenance of the structure where such maintenance is not the responsibility of the municipality.
5. The maximum aggregate sign area per tower, bridge or pylon may not exceed 36 square metres.
6. In the instance where a sign is displayed on a pylon, the pylon without the sign must be such that the entire assembly can be wholly contained within a notional vertical cylindrical figure with a diameter of six metres and a height of 12 metres.
7. In the instance where a sign is displayed on a pylon, no protruding part of the sign may be less than 2,4 metres above the highest point of the existing ground level immediately below such pylon or sign.
8. No sign may extend beyond the top of a tower.
9. No sign may extend above, below, or beyond any of the extremities of a bridge.
10. No sign may be affixed to any structural column of a bridge.
11. A sign may not project more than 300 millimetres from the main wall of a tower, or from a bridge
12. No limitations are imposed on the colour or texture of a sign.
13. Subject to the provisions of section 18(1), 19(4) and 22, illumination or animation may be permitted in an urban area of minimum control, provided such illumination or animation does not constitute a road safety hazard, or cause undue disturbance.
14. In the instance of cellular masts, and in addition to the applicable requirements set out in this schedule, applications for advertising on cellular masts shall be treated individually on their own merits, and in considering the application, the following shall be taken into account:
 - (a) The locality of the cellular mast, the land-use zoning of the erf on which it is positioned and its visual impact;

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- (b) preference shall be given to advertising on cellular masts in shopping centres, in areas of concentrated commercial or industrial activity and on suitable portions of Council-owned land where the municipality can derive an income from the advertising installation;
 - (c) full details of the name boards, wording, logo, materials to be used, the exact size and location of the boards on the mast and details of any illumination or special effects must be provided when applying for permission to place advertisements on a cellular mast; and
 - (d) the same general environmental and aesthetic criteria applicable to signs contemplated in section 7(1) (a), being signs in class 1 (billboards and other high-impact free-standing signs) and signs contemplated in section 7(1) (c) (i), being a sign in class 3(a) (sky signs) apply to advertising on cellular masts.
15. The following apply to gantry advertising;
- (a) Gantry advertising is not allowed in areas of maximum control;
 - (b) approval of gantry advertising is subject to a resolution of the full Council of the Umzimbhulu Municipality;
 - (c) the vertical supporting structures of gantries shall not be located within road reserves and may not be used for advertising;
 - (d) the supporting structures of gantries must be designed in such a way that it forms an aesthetically pleasing component of the gantry itself;
 - (e) the gantry beams must be designed in such a manner that exposed parts thereof will be aesthetically pleasing;
 - (f) vacant advertising space may not be advertised on a gantry or a bridge;
 - (g) no animation, 3D replicas or cut-out silhouettes are allowed on gantries or bridges;
 - (h) the minimum height of a gantry is 6m above the level of the street below;
 - (i) gantries are not allowed within 300m of signalized traffic intersections where overhead traffic lights had been installed;
 - (j) lighting units and their supports may not be located lower than the lower edge of a gantry or bridge deck;
 - (k) no more than one advertisement may be displayed per direction on a gantry or a bridge;
 - (l) the minimum height of letters is 200mm;
 - (m) the height of a gantry advertising sign may not exceed 3m;
 - (n) gantries may not be supported on a median island where the median island is less than 10m wide, and a minimum distance between a median island support and an adjacent roadway may not be less than 4.5m;

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- (o) advertising gantries may not be spaced closer than 2km along the same street, however, gantries for official streetscaping projects are excluded from this requirement; and
 - (p) advertising gantries may not be closer than 200m to traffic intersections along arterial roads and closer than 150m to traffic intersections on lower order roads.
16. (a) The display of formal road traffic signage on bridges, to convey directional or tourist information, shall receive a higher priority than the display of advertisements or non-essential community information.
- (b) The municipality may instruct an advertiser to remove advertisements from a bridge, should it become necessary to display formal road traffic signs at a particular position, and the advertiser retains the right to a full or partial refund of application fees and costs incurred to manufacture the advertising sign, but not to fund any contractual obligations or subsequent liabilities where a third party is involved.

SCHEDULE 28**Signs on construction site boundary walls and fences (Class 3(m))
(Section 7(1) (c) (xiii))**

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only, subject to the following conditions:
 - (a) The sign must conceal an unsightly condition arising out of the use to which the property is lawfully being put; and
 - (b) the sign must be making a positive contribution to the visual environment.
2. A person can apply for approval of a building wrap from the municipality for construction sites and this is subject to specific consent and the conditions set by the municipality in the approval.
3. Display of a sign is subject to specific consent.
4. The size of a sign may not exceed a total area of 18 square metres, and the height of a sign may not exceed three metres.
5. The provisions of section 21(1) (d) and (e), and the following conditions apply to the position of a sign:
 - (a) A sign may not be placed on the top of a fence or wall unless it is positioned to rest directly thereon; and
 - (b) a sign may not project more than 100 millimetres to the front of the wall or fence to which it is affixed.
6. No limitations are imposed on the colour or texture of a sign.
7. Illumination or animation of a sign is not permitted.
8. A sign may not be painted or pasted directly onto a construction site boundary wall or fence, and poster signs in this class must be enclosed within definite panels similar to those described in item 11 of class 2(d)(iii)), and must be uniform in size and level.

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9. Signs displayed on a fence or wall must be treated as a visual unity, and wherever possible, a sign contemplated in section 7(1)(d) (iv), being a sign in subclass 2(d) (iv) (project boards), if displayed, should also be incorporated in this unified design.
10. A sign must always make a positive contribution to a particular streetscape.
11. A sign may be displayed for the duration only of the construction work.

SCHEDULE 29**Sponsored road traffic projects signs (Class 4(a))
(Section 7(1) (d) (i))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign in a rural area of maximum control and an urban area of maximum control is subject to specific consent.
3. Display of a sign in an urban area of partial control and an urban area of minimum control is subject to deemed consent.
4. A sign may not exceed 4,5 square metres in size, and no part of the sign may be higher than three metres above ground level.
5. A sign may contain the name of the project, and the name or logo, or the name and logo of the sponsor only, and the name or logo, or both the name and logo of the sponsor of a project may not occupy more than one-third of the total area of a sign.
6. In the case of an advertisement displayed on an SOS call-box, a duplicate advertisement may be attached to each side of the call-box, and its size is limited to 0,04 square metre on each side of the call-box.
7. Signs displayed on the same side of the road, excluding SOS call-boxes, may not be closer than five kilometres from each other.
8. No limitations are imposed on the colour or texture of a sign.
9. Illumination or animation of a sign is not permitted.
10. Retro-reflective material may be used to improve the conspicuousness of emergency facilities such as SOS emergency call boxes.

SCHEDULE 30**Service facility signs (Class 4(b))
(Section 7(1)(d)(ii))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to specific consent.
3. A person who displays a sign must, before the sign is displayed, enter into a lease agreement with the municipality for the lease of the site on which the sign is to be displayed.
4. A combination sign may not exceed the following dimensions:

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- (a) A height of 7,5 metres and a width of 2,5 metres, if displayed in an urban area of control;
 - (b) a height of 10 metres and a width of three metres, if displayed on a freeway; and
 - (c) a height of 20 metres and a width of six metres, if displayed in a rural area of maximum control.
5. A maximum of eight advertising panels is allowed per combination sign.
6. Only one business, enterprise, or service may be displayed per advertising panel.
7. An advertising panel may not exceed the following sizes:
 - (a) 4,5 square metres in an urban area of control;
 - (b) 6 square metres on a freeway; and
 - (c) 18 square metres in a rural area of maximum control.
8. Only one combination sign as permitted in this class may be displayed on the premises of a filling station or roadside service area.
9. The provisions of section 21(1)(d) and (e), and apply and a sign may not be displayed closer than –
 - (a) 50 metres to the road reserve boundary of any road in a rural area of maximum control;
 - (b) 50 metres to the road reserve boundary of a freeway; and
 - (c) five metres to the road reserve boundary of any other urban road; and
10. No specific limitations are imposed on the colour or texture of a sign.
11. The provisions of section 19(4) and 22, and the following conditions apply to the illumination and animation of a sign:
 - (a) A sign may be illuminated only if the business provides a 24-hour service;
 - (b) a facility with limited after-hours services may illuminate its signs during its business hours only; and
 - (c) no animation of a sign is permitted.
12. Should a person wish to display a sign which exceeds the sizes stipulated in item 7, he or she must submit a proposal to the municipality for approval by the municipality, which proposal must include –
 - (a) a location plan;
 - (b) detail drawings of the sign;
 - (c) an engineer's certificate verifying that the sign was designed by a structural engineer; and

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- (d) a comprehensive motivation setting out reasons why compliance with the requirements set out cannot be met.
13. A sign on a combination sign may refer to the name or logo of a business, company or person providing a service only, and may indicate the type of service provided.
 14. Only a locality-bound sign may be displayed.
 15. A sign in this class may only be displayed at a service facility adjacent to and directly accessible from the public road at which such sign is directed.
 16. A supplementary sign displayed at a roadside service area and which does not form part of a combination sign permitted under this class may be used for internal direction and orientation only, and may not be aimed at passing motorists.
 17. Facility signs must face oncoming traffic and must be focused exclusively on casual passing motorists, and thus they should not be primarily focused on regular customers.
 18. Signs in this class can only be considered in road side service areas if properly motivated and sufficient space is not available on the adjacent site.

SCHEDULE 31**Tourism Signs (Class 4 (c))
(Section 7(1)(d)(iii))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. The display of a sign in all areas of control is subject to specific consent.
3. These signs may be displayed within road reserves unless the municipality prescribes otherwise.
4. The sizes and positioning of these signs are prescribed by the South African Road Traffic Signals Manual, as published in accordance with National Road Traffic legislation.
5. Signs in this class which had been erected by companies/institutions other than the municipality inside road reserves, must be replaced every 7 years at the cost of the advertiser, in terms of the requirements of the South African Road Traffic Act.
6. The display of ancillary tourism directional signage within municipally controlled areas is subject to specific consent and must comply with the provisions of Section 2.1 (F) of the Umzimkhulu Outdoor Advertising policy.

SCHEDULE 32**Functional advertising signs by public bodies (Class 4(d))
(Section 7(1)(d)(iv))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. A sign may not exceed 0,55 square metre in size.

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4. A larger sign may be displayed, if justified by specific circumstances.
5. A sign permitted by this class may be displayed inside a road reserve, but may not be displayed on a freeway.
6. No limitations are imposed on the colour or texture of a sign.
7. Subject to the provisions of sections 18(1), 19(4) and 22, illumination may be provided if there is a need for information or directions to be read during hours of darkness.
8. A sign may not be used for the purposes of commercial and competitive advertising.
9. The logo of the service provider must be displayed on a sign.

SCHEDULE 33
Aerial signs (Class 5(a))
(Section 7(1)(e)(i))

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to specific consent.
3. Except with the written permission of the Commissioner of Civil Aviation, no -
 - (a) captive balloon;
 - (b) craft for parasailing;
 - (c) kite;
 - (d) hang-glider;
 - (e) model or radio-controlled aircraft; or
 - (f) aircraft towed behind a vehicle or vessel for the purpose of flight,may be flown at a height of more than 45 metres from the surface, the surface being measured from ground level, or from the surface on which a towing vehicle or vessel is travelling, to the top of the craft.
4. No shape or size restrictions are imposed.
5. Except with the written permission of the Commissioner of Civil Aviation, and on condition that such aircraft may not take off from or land on a public road, none of the objects specified in section 2(1) above may -
 - (a) be flown closer than five nautical miles from the aerodrome reference point of an aerodrome;
 - (b) be flown above a public road; and
 - (c) in the case of an aircraft, be towed behind a vehicle or vessel.
6. An advertisement on a captive balloon or on any other captive craft may not be displayed within the visual zone along a freeway.

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7. No limitations are imposed on the colour or texture of a sign.
8. Illumination or animation of a sign is not allowed, with the exception of an illuminated airship when
9. With the exception of a moored airship, a sign may be displayed in daylight hours only.
10. A sign may not be displayed for a period exceeding two consecutive weeks in a calendar year.
11. A captive balloon may not be flown without the written approval of the Commissioner of Civil Aviation, which approval will be considered by the Commissioner only after permission by the municipality has been granted.
12. No unmanned free balloon may be flown without the written permission of the Commissioner of Civil Aviation and the municipality.
13. A manned free balloon must meet the conditions laid down by the Commissioner of Civil Aviation before it may be flown within controlled airspace.
14. An airplane and airship may not be flown below the minimum height, as stipulated by aviation regulations, without permission by the Commissioner of Civil Aviation.

SCHEDULE 34**Vehicular advertising (Class 5(b))
(Section 7(1)(e)(ii))**

1. Subject to the provisions of section 5(4), a sign be displayed in all areas of control.
2. Display of a sign is subject to specific consent and must comply with the provisions of Section 2.1 (B) of the Umzimkhulu Outdoor Advertising policy.
3. No vehicle may be used for the sole purpose of advertising.
4. No animation is allowed.
5. Illumination of advertisements is limited to the following instances:
 - (a) An internally illuminated sign which indicates that a taxi is for hire; and
 - (b) a retroflective sign with the colour red to the back, the colour yellow to the side, and the colour white to the front of a vehicle.

SCHEDULE 35**Trailer Advertising (Class 5(c))
(Section 7(1)(e)(iii))**

1. A trailer may be parked in an urban area of partial control and an urban area of minimum control only.
2. The parking of a trailer is subject to specific consent and must comply with the provisions of Section 2.1 (B) of the Umzimkhulu Outdoor Advertising policy.

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3. A trailer may not be towed on a freeway and may not be towed on any other urban road during peak-hour traffic, peak-hours being the hours between 07:00 and 08:15, and 16:15 and 17:30.
4. A trailer sign may not exceed an individual sign face area of 18m² and a combined sign face area of 36m². The vertical dimensions of a sign may not exceed 3 meters and the horizontal dimension may not exceed 6 meters.
5. Subject to item 18, a trailer sign positioned on a particular site for a period exceeding two consecutive days per month shall be deemed to be a billboard and shall be subject to the guidelines applicable to the signs contemplated in section 7(1)(c).
6. No animation is allowed.
7. Illumination is limited to retro-reflective signs with the colours red to the back, yellow to the side and white to the front of the trailer.
8. No person may tow any sign in this class for the sole purpose of advertising, meaning that an advertisement trailer may only be towed from the advertiser's property to the advertising site approved by the municipality and only before 07h00 and after 17h30.
9. A trailer may not be parked –
 - (a) inside a road reserve;
 - (b) within a distance of 50m outside the road reserve of a freeway;
 - (c) inside a restricted area at street corners; or
 - (d) in such a way as to block the visibility of a motorist,and general safety conditions contemplated in section 18 apply.
10. Trailer sites for parking of advertisement trailers aimed at road users must be approved by the Municipality after application therefore, subject to these by-laws.
11. (a) An advertiser may –
 - (i) use a vacant site that had been approved by the Municipality as contemplated in sub item 10 and that had been suitably prepared; or
 - (ii) submit an application for the establishment of a new site.(b) An application submitted in terms of sub item 11(a) must include the following:
 - (i) Detail information about the proposed site;
 - (ii) a scaled drawing of the site relative to passing roads and pedestrian space;
 - (iii) details of ownership;
 - (iv) mooring details; and
 - (v) such other details as the Municipality may require.

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- (c) If the application submitted in terms of sub item 11(a) is approved, it shall be required of the applicant to –
 - (i) provide a safe vehicular access; and
 - (ii) provide mooring anchors designed by a qualified civil engineer.
 - (d) Additional measures must be implemented, where necessary, to prevent unauthorized access to the site or adjacent land.
 - (e) Approval of a site on municipal or other form of public property does not give the applicant indefinite advertising rights on the site.
 - (f) The normal advertising period applies, after which the applicant will have to tender against other advertisers for the advertising rights on the site.
 - (g) Occupation of trailer sites is to be strictly controlled by the Umzimkhulu Municipality or its appointed service provider.
12. (a) Only a trailer which has prior to parking been registered by the Municipality may be parked on demarcated or approved trailer sites.
- (b) All physical dimensions and attributes, the registration number, and VIN of the vehicle must be provided at registration, and these attributes may not be changed without the approval or knowledge of the municipality.
- (e) The trailer must be available for inspection at registration.
- (f) The trailer must be in a roadworthy condition and be mounted with wheels at all times, or attached to a roadworthy vehicle, whichever is applicable.
13. If not parked on an approved trailer site, an advertising trailer must be stored in such a way so as not to be visible from any public road or public place.
14. The provisions of section 21(1)(a) – 21(1)(d), and the following conditions apply to the position of a sign:
- (a) No more than one sign may be displayed per site;
 - (b) an advertisement consisting of a maximum of two boards must be displayed perpendicular to the direction of oncoming traffic;
 - (c) advertising trailer sites must be spaced at the following distances:
 - (i) On a road with a speed limit above 80 kilometres per hour the distance between sites may not be less than 250 metres;
 - (ii) on a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour the distance between sites may not be less than 200 metres; and
 - (iii) on a road with a speed limit below 61 kilometres per hour the distance between sites may not be less than 120 metres;
 - (d) no trailer site may be established within a radius of 100 metres from the centre of an intersection on an arterial road and within 50 metres from the centre of an intersection on any lower-order road.

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15. A sign displayed in the vicinity of a signalised intersection may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
16. A trailer advertising site may not be closer than 120m to advertisements in contemplated in section 7(1)(a).
17. The fee structure is based on an amount per day, with non-profit organisations entitled to such discount as determined by the Municipality.

SCHEDULE 36
(Section 5(1))

RURAL AND URBAN AREAS OF MAXIMUM CONTROL
(Section 5(2)(a) and (b))

1. Land use zoning

A low density residential area, a medium density residential area, an agricultural area, a cemetery, and a public open space, such as, but not limited to, a natural open space, including a ridge, a natural watercourse, a nature reserve, an urban conservation zone, a park, a national monument, a heritage site, a gateway and an urban freeway are all classified as areas of maximum control.

2. Kinds of signs that may be displayed

- (1) Only a sign conveying an essential message may be displayed.
- (2) A sign contemplated in section 7(1)(a), being a Class 1 sign (*Billboards and other high-impact free-standing signs*), and a sign contemplated in section 7(1)(c)(xii), being a Class 3(l) sign (*Signs on towers, bridges and pylons*), may be displayed on an urban freeway where the responsible Roads Agency demonstrates that it has been satisfied that the effect on traffic safety is within acceptable norms, and an Environmental Impact Assessment must be furnished to the Municipality.
- (3) A sign contemplated in section 7(1) (d), being a Class 4 sign (*Signs for tourists and travellers*), may be displayed.
- (4) The following signs contemplated in section 7(1) (b), being Class 2 signs (*Posters and general signs*), may be displayed in residential suburbs:
 - (a) Large posters and signs on street furniture, as contemplated in section 7(1) (b) (i);
 - (b) temporary signs, as contemplated in section 7(1) (b) (iv); and
 - (c) street name advertisement signs, as contemplated in section 7(1) (b) (v).

3. Restrictions on display of advertising signs

The display of all kinds of signs, other than those specifically mentioned in Item 2 above, is forbidden.

UMZIMKHULU OUTDOOR ADVERTISEMENT BY-LAWS

URBAN AREAS OF PARTIAL CONTROL

(Section 5 (2) (c))

1. Land use zoning

A medium density residential area in transition, a residential area where office and commercial encroachment is evident, a residential area with high-rise apartment blocks interspersed with shops and offices, a small commercial enclave in a suburban street, a suburban shopping centre and office park, a ribbon commercial development along a main street, an educational institution, a sports field stadium, and a commercialised square are all classified as urban areas of partial control.

2. Kinds of signs that may be displayed

- (1) A sign contemplated in section 7(1) (a) (iii), being a Class 1(c) sign (*Large billboards*), may be displayed, however, the size may not exceed 40m²
- (2) A sign contemplated in section 7(1) (a) (iv), being a Class 1(d) sign (*Small billboards and tower structures*), may be displayed.
- (3) A sign contemplated in section 7(1) (b), being a Class 2 sign (*Posters and general signs*), may be displayed.
- (4) A sign contemplated in section 7(1) (c), being a Class 3 sign (*Signs on buildings, structures and premises*), may be displayed.
- (5) A sign contemplated in section 7(1) (d), being a Class 4 sign (*Signs for tourists and travellers*), may be displayed.
- (6) A sign contemplated in section 7(1) (e), being a Class 5 sign (*Mobile signs*), may be displayed.

3. Restrictions on display of advertising signs

- (1) A sign contemplated in section 7(1)(a)(i), being a Class 1 sign (*Super billboards*), and a sign contemplated in section 7(a)(ii), being a Class 1(b) sign (*Custom-made billboards*) may not be displayed.
 - (2) The restrictions on the display of a sign at a street corner as set out in Schedule 37 apply.
 - (3)

URBAN AREAS OF MINIMUM CONTROL

(Section 5 (2) (d))

1. Land use zoning

A business, industrial, commercial, amusement and transport area such as, but not limited to, a commercial district, a central shopping centre, a central office precinct, an entertainment district and complex, an industrial area, and industrial park, and a prominent public transport node such as a railway station, a large bus station, a taxi rank, and an airport are areas classified as urban areas of minimum control.

2. Kinds of signs that may be displayed

A sign contemplated in section 7(1)(a) (*Billboards and other high-impact free-standing signs*), a sign contemplated in section 7(1)(b) (*Posters and general signs*), a sign contemplated in section 7(1)(c)

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(Signs on buildings, structures and premises), a sign contemplated in section 7(1)(d) (Signs for tourists and travellers) and a sign contemplated in section 7(1)(e) (Mobile signs) may be displayed.

3. Restrictions on display of advertising signs

- (1) A sign may not be displayed at a node of exceptional historical and architectural value.
- (2) The restrictions on the display of a sign at a street corner as set out in Schedule 37 apply.

AREAS OF MAXIMUM CONTROL IN WHICH ADVERTISING IS PROHIBITED. (Section 5 (2) (e))

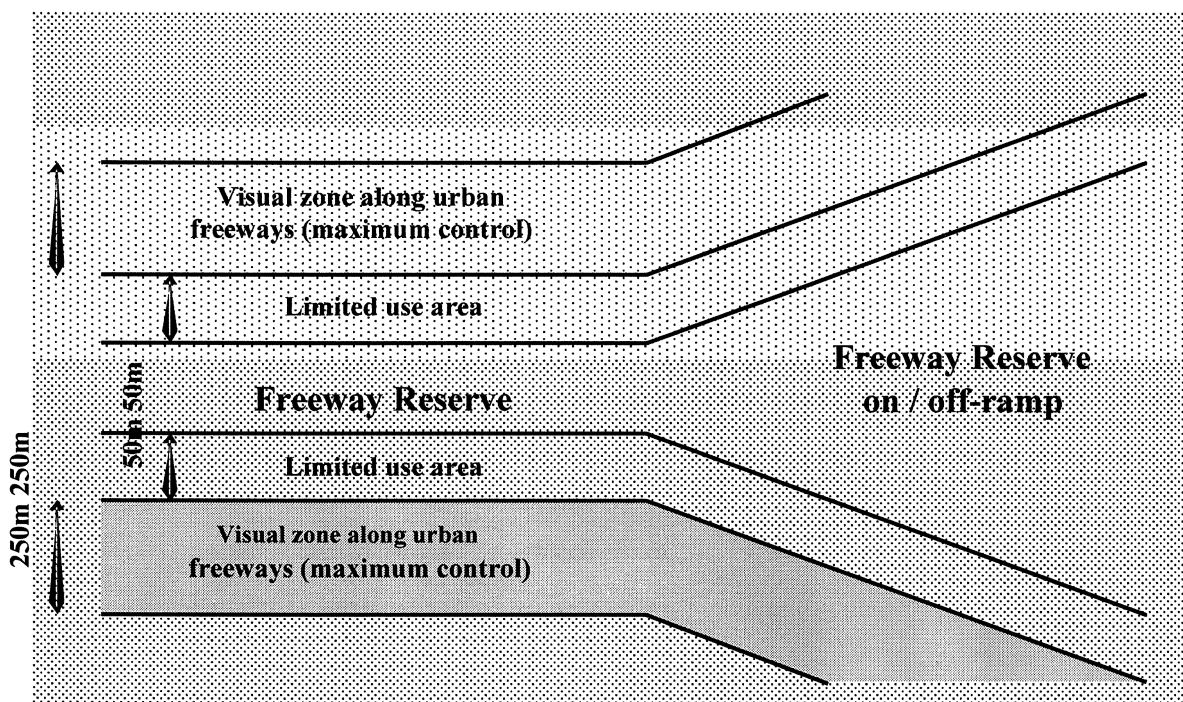
No sign contemplated in section 7 be displayed in an area stipulated in Schedule 38.

SCHEDULE 37 (Section 7)

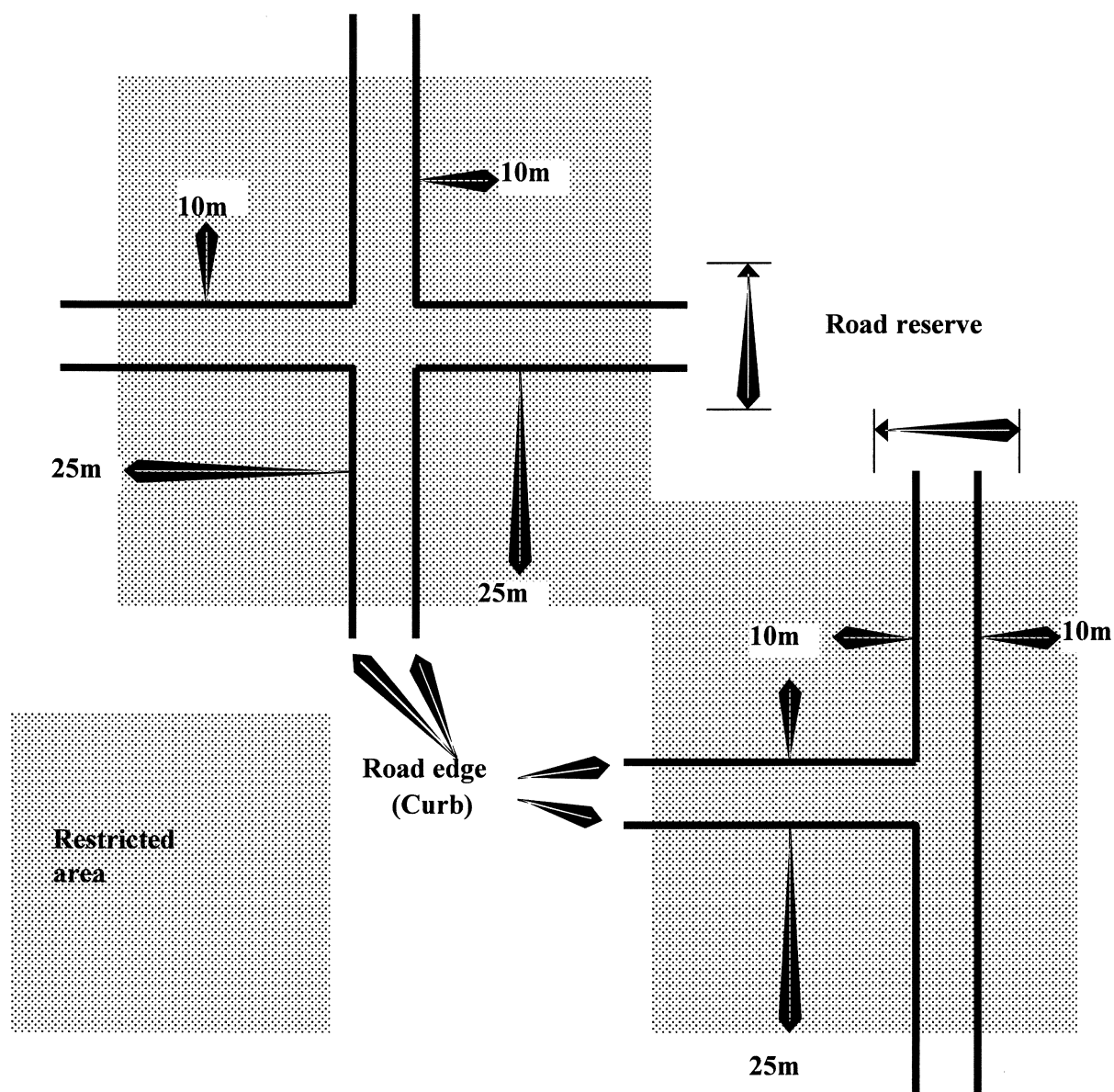
FIGURES ILLUSTRATING RESTRICTIONS ON ADVERTISING OPPORTUNITIES INSIDE AND ADJACENT TO ROAD RESERVES AT TRAFFIC INTERSECTIONS

Figure 1: Advertising Restrictions on Urban Freeways

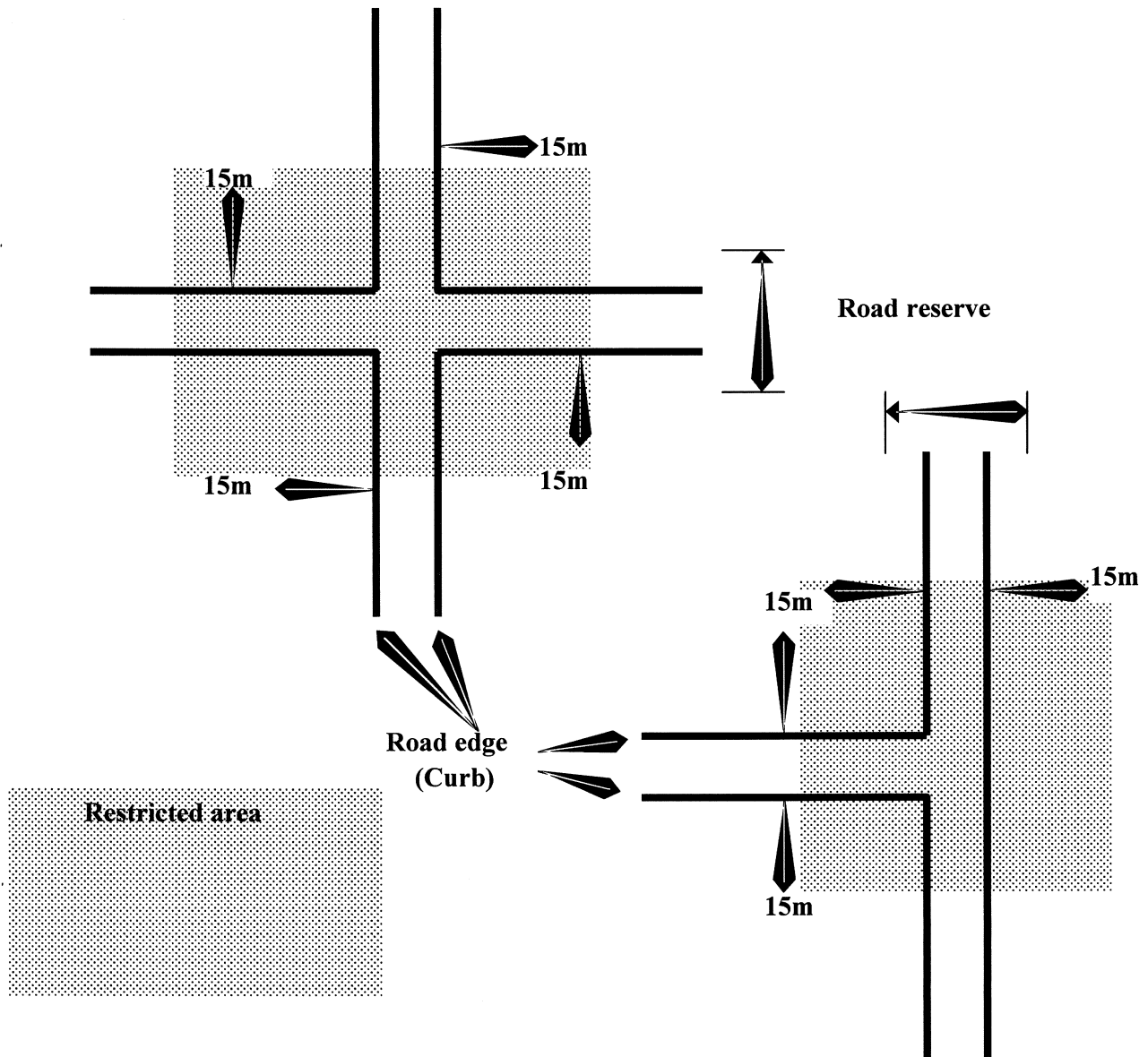
Restrictions may be reduced by the relevant roads authorities under whose jurisdiction the specific roads may resolve



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Figure 2: Restriction on signs at street corners, (street name signs exempted)

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Figure 3: Additional restriction on illuminated signs at signalized street corners

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SCHEDULE 38

Section 5(4)

AREAS IN WHICH THE DISPLAY OF SIGNS IS PROHIBITED

1. No sign may be displayed all designated areas that the Council may resolve on from time to time.
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