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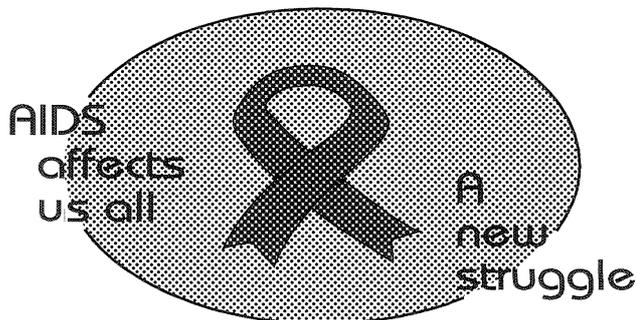
**BUITENGEWONE  
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**CONTENTS • INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
<b>LOCAL AUTHORITY NOTICE</b>		
34 Constitution of the Republic of South Africa, 1996: Umjindi Local Municipality: Waste Management By-laws .....	3	7431

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# LOCAL AUTHORITY NOTICE

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## LOCAL AUTHORITY NOTICE 34

### UMJINDI LOCAL MUNICIPALITY: WASTE MANAGEMENT BY-LAWS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Umjindi Local Municipality, enacts as follows:

#### Table of contents

1. Interpretation
2. Application principles and objectives

#### CHAPTER 1: PROVISION OF SERVICES

3. Duties and powers of municipality
4. Charges and fees

#### CHAPTER 2: WASTE MANAGEMENT

##### Part 1: categories of waste

5. Categories of waste

##### Part 2: General provisions relating to domestic waste

6. Provision of receptacle for storage of waste
7. Location of receptacle
8. Standards which receptacles must meet
9. Maintenance of receptacle
10. Contents of receptacle
11. Collection of waste
12. Access to property
13. Right of entry
14. Inaccessible property
15. Interference with receptacle
16. Transport of waste

##### Part 3: Specific provisions relating to domestic waste

17. Specific provisions relating to generation, storage, collection and transport of domestic waste.

##### Part 4: Specific provisions relating to industrial and commercial waste.

18. Collection of waste

##### Part 5: Specific provision relating to other types

19. Garden waste
20. Building waste

21. Bulky waste
22. Objectionable waste

#### **Part 6: Littering and dumping**

23. Littering
24. Dumping

#### **Part 7: Prohibited conduct at dumping sites**

25. Access to disposal site
26. Off-loading waste
27. Ownership of waste
28. Burning of waste

#### **CHAPTER 3: ADMINISTRATIVE AND OTHER MATTERS:**

29. Notice of Compliance and representation
30. Costs
31. Authentication and service order, notice and other documents
32. appeal
33. Exemptions
34. Penalties
35. Schedule of offences and deterrent fines.
36. Short Title and commencement

#### **1. Interpretation**

In this By-Law, unless the contents otherwise indicates-

**“approved”** in the context of bins, bin liners, containers, receptacles and wrappers, means approved by the municipality.

**“Authorised official”**

means an official who has been authorised by the municipality to perform and exercise any or all of the functions and powers specified in and subject to the provisions of this By-law;

**“bin”** means an approved receptacle for the storage of less than 1,5 cubic metres of waste, which may be supplied or approved by the municipality to property in terms of this By-Law.

**“building waste”** means all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

**“Bulky waste”** means waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door to door municipal service.

**“Commercial waste”** means solid waste generated on property used for non-residential purposes such as office buildings, stores, markets, theatres, hotels, warehouses,

**“Council”** means the Council of Umjindi Local Municipality;

**“DEAT”** means the Department of Environmental Affairs and Tourism;

**“disposal site”**, means a site used for the accumulation of waste with the purpose of disposing or treatment of such waste;

**“domestic waste”** means waste, excluding hazardous waste, that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreation purposes.

**“DWAF”** means the National Department of Water Affairs and Forestry;

**“Firm”** includes any juristic person or any association of persons established or operating in the republic of South Africa.

**“Garden waste”** means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, or any other category of waste or waste generated as a result of garden service activities;

**“garden service”** means the provision of gardening services including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial property;

**“General waste”** means waste that does not pose an immediate hazard or threat to health or to the environment and includes-

- a) Domestic waste
- b) Building and demolition waste
- c) Business waste; and
- d) Inert 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 degrees C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or environment because of its inherent toxicological, chemical and physical characteristics;

**“Industrial waste”** means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include any other category of waste such as building waste or domestic waste.

**“Inert waste”** means waste that –

- a) Does not undergo any significant physical, chemical or biological transformation after disposal;

- b) Does not burn, react physical or chemically biodegrade or otherwise adversely affect any other matter or environment, with which it may come into contact ; and
- c) Does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

“**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 disposal or processing facility;

“**local community**” in relation to municipality means that body of persons comprising-

- a) The residents of the Umjindi Local Municipality
- b) The ratepayers within Umjindi Local Municipality
- c) The private sector, any civic organisation, non-governmental organisation, labour organisation or body which is involved in local affairs within Umjindi municipal area and
- d) A visitor or another person residing outside of Umjindi Local Municipality who, because of his or her presence in the municipality, makes use of services or facilities provided by the municipality ;

“**municipality**” means the Umjindi Local Municipality, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this By-Law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“**municipal services**” means a service relating to the collection of waste, provided exclusively by the municipality in accordance with the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000) and this by –law;

“**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 by littering;

“**Objectionable refuse**” means refuse which is toxic, dangerous, injurious or harmful of which may pollute the environment or which result from a manufacturing process or the pre-treatment for disposal purposes of any mining or industrial liquid waste, which in terms of the Council’s drainage by-laws may not be discharged into a drain or sewer or which result from manufacturing maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, excluding builders refuse or house refuse;

“**Occupier**” means any person in actual occupation of property or part thereof without regard to the title under which he or she occupies, and includes-

- 1) Any person in actual occupation of such property;
- 2) Any person legally entitled to occupy such property

- 3) In the case of such property being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- 4) Any persons having the charge of or management of property, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; or
- 5) The owner of such property;

**“Owner” means**

- a) A person in whom the legal title to a property is vested
- b) In a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- c) In the case where the municipality is unable to determine the identity of the person in whom a legal title is vested, the person who is entitled to the benefit of such property or a building thereon;
- d) In the case of property for which a lease of 30 years or more has been entered into the lessee thereof;
- e) In relation to-
  - i. A piece of land delineated on a sectional plan registered in terms of the Section Titles Act, 1986 (Act No. 95 of 1986) and without restricting the above, the developer or the body corporate in respect of the property ; or
  - ii. 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 appointed agent of such a person.
- f) Any legal person including, but not limited to-
  - i. A company registered in terms of the Companies Act, 1973 (Act 61 of 1973) Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, Act 69 of 1984) a voluntary association
  - ii. Any Department of state ;
  - iii. Any council or Board established in terms of any legislation applicable to the Republic of South Africa
- g) A lessee of municipal property, who will be deemed to be the owner for the purposes of rendering a municipal account

**“Pollution” means any change in the environment caused by-**

- i. Substances; or
- ii. Radioactive or other waves ; or
- iii. 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

**“Property”** means

- i. Immovable property registered in the name of person, including in the case of a sectional title scheme, a sectional title unit registered in the name of a person
- ii. A right registered against immovable property in the name of a person excluding a mortgage bond registered against the property
- iii. A land tenure right registered in the name of a person or granted to a person in terms of legislation ; or
- iv. Public service infrastructures;

**“Prescribed fee”** means a fee determined by the municipality in terms of the Municipal Systems Act, 2000 (Act 32 of 2000) or any other applicable legislation;

**“public place”** includes any public building, public road, overhead bridge, subway, pavement, footpath, lane, square, open space, garden, park, enclosed space vested in the municipality 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 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;

**“Resident”** means in relation to the municipality, a person who is ordinarily resident in the municipal area;

**“Receptacle”** means any container including plastic waste bag.

**“Solid waste”** means waste of a solid nature generated by a person or business

**“Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

**“Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

**“Tariff”** means the user charge for the provision of municipal services, determined by the municipality in terms of the Systems Act;

**“Waste”** means an undesirable or superfluous by-product, emission, residue or remainder of any process or activity, any matter, gaseous, liquid or solid or any combination thereof, which-

- a) Is discarded by any person ; or
- b) Is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or

- c) Is stored by any person with the purpose of recycling, re-using or extracting a usable product from such matter , excluding
- i. Water used for industrial purposes or any effluent produced by or resulting from such use which is discharged in compliance with the provisions of section 7 (2) of the Water Service Act, 1997 (Act 108 of 1997)
  - ii. Any matter discharged into a septic tank or French drain sewerage system and any water or effluent contemplated by section 7 (2) of the Water Services Act, 1997 (Act 108 of 1997)
  - iii. Building rubble used for filling or levelling purposes;
  - iv. Any radio-active substance discarded in compliance with the provision of the Nuclear Energy Act, 1999 (Act no 46 of 1999)
  - v. Any minerals or substances produced by or resulting from activities at a mine or works as defines in section 1 of the Minerals and Petroleum Resources Development, 2002, (Act No. 28 of 2002) and
  - vi. Ash produced by or resulting from the activities at an undertaking for the generation of electricity under the provisions of the Electricity Act , 1987 (Act No. 41 of 1987)

**“Waste disposal or processing facility”** means any facility or site which receives waste from disposal thereof, and which is operated in terms of a permit obtained from DEAT or any other competent authority or where such a facility is an incinerator and includes waste transfer and recycling stations;

**“Waste generator”** means any person or firm that generated or produces waste;

**“Waste management services”** means services that relate to any one or more of the waste management activities;

**“Waste oil”** means mineral or synthetic oil which is contaminated, spoiled or otherwise unfit for its original purpose; and

**“Waste transfer and recycling station”** means a waste handling facility that receives and temporarily stores garden and bulky waste or any recyclable wastes, or a combination of garden, bulky and recyclable waste.

## 2. Application principles and objectives

- 1) This By-law applies to all areas under the control of Umjindi Local Municipality and is limited to regulate the generation, storage and collection of solid, non –hazardous waste
- 2) The municipality, aware of the Constitutional right of every person to an environment that is not harmful to his or her health or well-being adopts this by-law with the aim of protecting and promoting the health and well-being of all people within Umjindi Local municipality area by providing, in conjunction with applicable laws, a legal and administrative framework within which the municipality can develop and manage its obligations

- 3) In the implementation and enforcement of this by-law, the municipality may take into consideration the realities of the Umjindi Local municipality area, the different customs, cultures, circumstances, geographical areas, kinds of property levels of development and conventions and the municipality may use the devices provided for in this by-law, including the application of different norms, standards and guidelines, the granting of exemptions and the utilisation of liaison forums as contemplated in section 33 of this by-law

#### **CHAPTER 1: PROVISION OF SERVICES**

##### **3. Duties and powers of municipality**

- 1) The municipality as the primary service provider in the municipal area has a duty towards the Local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.
- 2) This duty is subject to-
  - i. the duty of members of the Local community as users of the municipality's waste management services or any other person making use of the municipality's waste management services to pay, for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - ii. the right of the municipality to differentiate between waste generators without compromising on service equity.

3. The municipality must as far as is reasonably possible and subject to the provision of this by-law provide, at a cost to users of the services prescribed by the municipality-

- a) for the collection of waste on a regular basis, except waste in its area, which is situated at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high; and
- b) access to facilities for the recovery and disposal of waste.

4. The municipality must notify all users of its waste management services of any decisions taken in terms of this By-law.

##### **4. Charges and fees**

- 1) The municipality may fix the charges payable to it for the removal of waste from property or the disposal of waste at a disposal site under the control of the municipality
- 2) All charges and fees levied by the municipality from time to time in terms of this by-law, read with the tariffs by-law, are compulsory

- 3) Should a person fail to pay the fee on the date determined by the municipality, the municipality may apply its debt collection procedures
- 4) All charges are subject to review annually during the tariff review process

## CHAPTER 2: WASTE MANAGEMENT

### Part 1: Categories of waste

#### 5. Categories of waste

1). For the purpose of this by-law, waste is categorised as either-

1) General waste, which consist of one or more of the following

i) Paper;

ii) Metals;

iii) Glass

iv) Plastic;

v) Organic materials; and

vi) Inert materials, which includes building waste; or

2) Hazardous waste, as described in the DWAF minimum requirements documents or more recent guidelines

3). Within these two categories, waste is categorised according to its source namely:

- a. Domestic;
- b. Commercial; or
- c. Industrial

### Part 2: General provisions relating to non-hazardous waste

#### 6. Provision of receptacle for storage of waste

1. The owner of property must provide on such property at his or her own expense a sufficient number of portable, covered receptacles of a size and design approved by the municipality for the reception of the maximum quantity of waste that is likely to accumulate on the property during any period of seven days.

2. The municipality may prescribe special receptacles for the reception and storage of such types of refuse as it may specify and may by written notice to be served on the owner of property require him or her to provide at his or her own expense such number of special receptacles as are specified in the notice
3. Where any refuse receptacle provided on property is-
  - a. Of a size likely to hinder the efficient removal of refuse therefrom by the employees of the municipality
  - b. Insufficient for the reception of all refuse which is to be removed from such property by the municipality
  - c. Dilapidated; or
  - d. Likely to cause a nuisance, the municipality may serve a written notice on the owner of the property requiring him or her to provide-
    - i. Such number of receptacles; or
    - ii. Racks or other means of storing receptacles or packages or bundles of waste, within a period stated therein, being not less than 14 days from date of service of such notice, provided that the municipality may in the notice require or authorise the provision of receptacles of such different sizes or design as may be specified where the prescribed standard receptacles would not be practical.
4. No person may dispose of any refuse by placing it anywhere else than in a receptacle or other container provided or approved by the municipality
5. Where a receptacle is supplied free of charge, or at a tariff determined by the municipality, such receptacle remains the property of the municipality and the owner of the property
  - A. Is liable to the municipality for the loss or damage to such receptacle; and
  - B. Must keep the said receptacle in a clean and sanitary condition.
6. The owner or occupier of the property must ensure that any waste which is blown off the property by wind is promptly retrieved.
7. A person who contravenes a provision of subsection (3), (4); (5) or who fails to comply with a notice served in terms of subsection (1) or (2) commits an offence.

#### **7. Location of receptacle**

The owner of property must provide adequate space on the property where a receptacle for the purpose of depositing waste and the space must-

- a) be so located that the receptacle or racks are not visible from the street or public place.
- b) be so located as to permit convenient access for a waste collection vehicle.
- c) Be in location convenient for the occupants of the property so as to discourage littering or the unhealthy accumulation of waste.

#### **8. Standards which receptacles must meet**

- a. The municipality may authorise use of plastic bags or bins, which must meet the standards set by national or provincial legislation

## 9. Maintenance of receptacle

1. The owner or occupier of property must place the waste as contemplated in section 7 (1) in the space provided and must-

- i. At all times keep it there:
- ii. Take reasonable steps to ensure that a sufficient number of receptacles is provided on the property ;and
- iii. Ensure that the receptacle is-
  - a. At all times maintained in good order and repair;
  - b. At all times suitably weighted and anchored so that it cannot be inadvertently overturned
  - c. At all times is weatherproof and animal proof;
  - d. Emptied and cleansed periodically; kept closed; and
  - e. Protected against unauthorised disturbance or interference at all times;

2. A person who contravenes a provision of subsection (1) commits an offence.

## 10. Contents of receptacles

- a. No material, including any liquid, which by reason of its mass or other characteristics is likely to render a receptacle unreasonably difficult for employees of the municipality to handle or carry, may be placed in a receptacle.
- b. A receptacle provided by the municipality may not be used for any purpose other than the storage of waste.
- c. No person may-
  1. Light a fire in a receptacle
  2. Deposit in a receptacle burning or glowing coal, ashes or other burning material or
  3. Deposit in receptacle any material that is likely to:
    - i) Cause damage to the receptacle
    - ii) Cause injury to the municipality 's employees while caring out their duties; or
    - iii) Hinder or delay work by the municipality's employees undertaken in terms of this by-law
- d. Waste oil must be stored in leak-proof metal, plastic or concrete containers, which are not subject to fire or accidental spillage, and the storage or disposal of waste oil in earth pits or upon the surface of any plot, street or public area is prohibited.
- e. A person who contravenes a provision of this section commits an offence.

## 11. Collection of waste

1. The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the property where the receptacle must be placed for the collection and removal of the waste, and the receptacle must then be placed in that position at the times and for such period as the municipality may require.
2. The municipality will collect all waste placed in portable receptacles referred to in section 6 from all property upon which a compulsory domestic refuse removal tariff or charge is levied and as frequently as may be determined by the municipality
3. The municipality will only collect waste placed in a receptacle or other container approved by it or which is bundled or packaged in a manner approved by the municipality.

4. Where the collection of a particular kind of waste is not regarded by the municipality as a municipal service in terms of this by-law, the owner of the waste must arrange for the collection and transport of the waste, as often as may be necessary to prevent undue accumulation or any nuisance arising therefrom, to a waste disposal or processing site, or to such other place as may be approved by the municipality.
5. The municipality may stipulate separate times on which particular categories of waste are to be collected.
6. The municipality may-
  - i. Cause collections to be made at regular periods daily or otherwise, and may alter dates of collection
  - ii. Increase the number of collections as it may become necessary or desirable; and
  - iii. Make additional collections should it be desirable
7. In the event of any additional collection being required by the owner of property, the collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of property from which the waste is collected at the fixed tariff.

## **12. Access to property**

- i. Except where otherwise approved by the municipality, taking into account physical accessibility, an owner must
  - A. Provide access from the nearest public road to the waste storage area on property, which access must be independent and unimpeded
  - B. Provide access from the nearest public road to the waste storage area on property, which access may not lead through any opening less than 1 metre wide and 2,5 metres high;
  - C. Ensure that the waste storage area and all parts of the access thereto is on the same level as the road, and
  - D. Ensure that the waste storage area and all parts of the access thereto is not more than 18 metres from the entrance to the property.
- ii. A person who contravenes a provision of subsection (i) commits an offence

## **13. Right of entry**

- I. Any duly authorised employee of the municipality is entitled to enter, during normal working hours, property in respect of which the municipality's waste management services are rendered-
  - a. For collecting and overseeing the collection of waste;
  - b. For inspecting or replacing receptacles, containers or bundles;
  - c. For inspecting the means of access to the property in general or the place where refuse receptacles or containers are kept so as to ensure that they are accessible and convenient for the collectors; and
  - d. Generally for ensuring that the provisions of this by-law are complied with
- II. An owner or occupier of property may not-
  - A. Refuse access to the property to an authorised employee of the municipality in the performance of his or her duties

- B. Obstruct or impede such employee in the performance of his or her duties; or
- C. Omit or refuse to give to an employee of the municipality any information lawfully required for the proper discharge of the employees duties, or supply false information

III. A person who contravenes a provision of subsection (ii) commits an offence

#### **14. Inaccessible property**

1. The owner or occupier of property whom the municipality has notified that the property is dangerous for removal of refuse because of-

- a. The existence on the property of a vicious animal; or
- b. Any other reason which renders the property dangerous,

must on the day on which waste is collected from the property, place for collection all receptacles or other containers, packages or bundles of waste outside the property at a time and for a period as specified in the notice

2. A person who contravenes a provision of subsection (1) commits an offence;

#### **15. Interference with receptacle**

- a. No person other than a person employed by the municipality in connection with the municipality's waste management services may, where a receptacle placed in a street or public place for the purpose of its contents being removed by the municipality, sort over, interfere with or disturb the contents of the receptacle
- b. A person who contravenes a provision of subsection (a) commits an offence.

#### **16. Transport of waste**

1. A person removing or conveying waste along any public place in or through an area owned or managed by municipality-

- a. Must remove or convey the waste in such a manner as will prevent any nuisance resulting therefrom or the escape of the contents or materials therein;
- b. May not cause or permit any waste being transported to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility; and
- c. Must ensure that the waste is deposited at a waste disposal facility that is permitted to accept such waste.

2. A person who contravenes a provision of subsection (1) commits an offence

**Part 3: specific provisions relating to domestic waste**

**17. Specific provisions relating to generation, storage, collection and transport of domestic waste**

1. The owner or occupier of property used for residential purposes or for purposes of public worship from which waste is to be collected must-

a) except where the municipality has upon written application confirmed in writing that a person is physically incapable or otherwise incapable of complying with the notice, place the receptacle or bag on the pavement in front of the property, provided that the municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the property where the receptacle must be placed;

b) Place the receptacle or bag on the pavement in front of the property before the time and the day of the week specified by the municipality

c) Ensure that the receptacle or bag is undamaged and properly closed so as to prevent the dispersal of its contents; and

d) Ensure that an emptied receptacle is removed within a reasonable time, and that the immediate area around the spot where the receptacle or bag was placed, is free from waste that may have been spilled before collection.

2. If an owner or occupier intends to transfer waste to a disposal site, the provisions of section 16, where applicable, will apply

3. An owner or occupier of property may not deposit or allow to be deposited in any receptacle for domestic refuse any waste other than domestic waste.

4. A person contravenes a provision of subsection (1) or (3) commits an offence and may in addition to any penalty to which he or she may be liable, be required to pay the prescribed fee for the collection of other waste.

**Part 4: specific provisions relating to industrial and commercial waste**

**18. Collection of waste**

1. The municipality may against payment of the prescribed tariff remove industrial or commercial waste upon application by the owner or occupier of premises.

2. The owner or occupier of property on which industrial or commercial waste is generated must ensure that :

a. The container in which the waste is stored not be kept in a public place except as required for collection.

b. Such waste is kept in a secure, designated refuse area on the property.

3. A person who contravenes a provision of subsection (2) commits an offence.

**Part 5: Specific provisions relating to other types of waste****19. Garden waste**

1. The owner or occupier of property on which garden waste is generated but not composted must ensure that the waste is collected and disposed of at a waste transfer and recycling station or waste disposal site within a reasonable time after the generation thereof.
2. The municipality may by notice limit the amount of garden waste collected by the municipality from households in conjunction with the normal collection of domestic waste.
3. An owner or occupier may compost garden waste on the property, provided that such composting does not cause a nuisance and provided further that the quantity of the compost does not exceed the quantity that could be required for gardening purposes on the property where it is composted.
4. Any person may remove garden waste, provided that it is disposed of at a waste disposal site.
5. A person who fails to comply with a requirement by the municipality in terms of subsection (1) or subsection (3) or who contravenes a provision of subsection (4) commits an offence.

**20. Building waste**

- 1) The owner or occupier of property on which building waste is generated must ensure that –
  - a) Until disposal, all building waste is kept on the property on which the waste was generated.
  - b) A container, approved by the municipality, that may be used for the storage, collection or disposal of building waste, subject to the provision of any other law, be kept on the verge adjoining the property on which the waste was generated; or
  - c) Pursuant to any instructions from the municipality, any structure necessary to contain the building waste is constructed; and
  - d) Such building waste be removed within 14 days from completion of the construction in respect of which such waste was generated.
- 2) The owner or occupier of property on which building waste is generated may himself or herself dispose of the waste or must ensure that the waste is collected and disposed of by a waste collector registered with the municipality.
- 3) All building waste must be disposed at a waste disposal facility designated for that purpose by the municipality, unless the municipality has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.
- 4) A person who contravenes a provision of this section commits an offence.

**21. Bulky waste**

- 1) The following is treated as bulky waste:

Any article of non-hazardous waste which does not fit, or cannot be fitted into –

- a. A receptacle for domestic waste provided in terms of section 6; or
- b. Where no such receptacle is provided, a cylindrical container 750 millimetres in diameter and 1 metre in length

2. The owner or occupier of property on which bulky waste is generated must ensure that the waste is collected and disposed within a reasonable time after the generation thereof at a waste disposal site
3. A person who contravenes a provision of subsection (2) commits an offence.

## 22. OBJECTIONABLE WASTE

1. The owner or occupier of premises on which objectionable refuse is generated, shall inform the Council of the composition thereof, the quantity generated, how it is stored and how and when it will be removed.
2. The person referred to in section (a) shall ensure that the objectionable refuse generated on the premises shall be kept and stored thereon until it is removed from the premises in terms of section (c)
3. No person shall, without the written consent of the council or in any other matter as determined by the Council, remove or dispose of objectionable refuse from the premises on which it is generated.
4. A person who contravenes a provision of subsection (2) and (3) commits an offence

### Part 6: littering and dumping

#### 23. Littering

- 1) No person may-
  - i) Discard, place or leave waste on any municipal land, a public road or a public place other than in a receptacle provided or approved by the municipality for the discarding of waste by the public.
  - ii) Disturb anything in , or remove anything from any receptacle which has been placed for the purposes of collecting waste ;or
  - iii) Sweep any waste into a gutter, onto a road reserve or onto any other public place.
- 2) An owner or occupier of property must monitor the property for acts of littering by another person and must forthwith report such act of littering to the municipality otherwise he shall be deemed to have allowed the action.
- 3) A person who contravenes a provision of this section commits an offence otherwise he shall be deemed to have allowed the action.

**24. Dumping**

- 1) No person may-
  - a) Except with the permission of the owner or of the person or authority having control thereof dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in-
    - i) A public road
    - ii) A public place;
    - iii) Any drain, watercourse, flood prone area, tidal or other water in or on any such road, highway, street, lane, public footway or pavements, roadside or other open space to which the public have access; or
    - iv) Private or municipal land
- 2) Should a person perform any of the acts referred to in subsection (1) , the municipality may by written notice require:
  - a) The person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste
  - b) The owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
  - c) The owner of the property on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore; to remove the waste within the period stated in the notice
- 3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- 4) If waste has been deposit in or on any unoccupied land in contravention of subsection (1) and it is necessary that the waste be forthwith removed or other steps be taken to eliminate or reduce the consequences of the deposit, the municipality may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or as the case may require, to remove the waste and take those steps, and is entitled to recover the cost incurred by it-
  - a) From the owner of the land, unless he or she proves that he or she neither made nor knowingly caused nor knowingly permits the deposit of the waste; or
  - b) From any person who deposited or knowingly caused or knowingly permitted the deposit of any ofthe wastes.
- 5) Any waste removed by the municipality belongs to the municipality and may dealt with accordingly
- 6) A person who contravenes a provision of subsection (1) or who fails to comply with a notice issued in terms of subsection (2) commits an offence.

**Part 7: prohibited conduct at dumping sites****25. Access to disposal site**

- 1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person who has obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.
- 2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.
- 3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.
- 4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

**26. Off-loading of waste**

- 1) A person who wishes to dump waste at a disposal site, must off-load such waste in such a manner as the attendant may direct
- 2) The municipality may –
  - a) Set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited
  - b) Limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site
  - c) Limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site; and
  - d) Determine the days when and hours during which dumping may take place at any disposal site,
- 3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality in charge of access control at the dumping site, must be complied with.
- 4) The municipality reserves the right not to permit the dumping of toxic or offensive waste at a disposal site
- 5) A person who contravenes subsection (1) commits an offence.

**27. Ownership of waste**

- 1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste
- 2) A person who contravenes subsection (1) commits an offence

**Part 8: Burning of waste****28. Burning of waste**

- a) No person may burn waste except at-
  - i) An authorised incinerator ; or
  - ii) A place designated by the municipality for such purpose
- b) A person who contravenes a provision of subsection (a) commits an offence.

**CHAPTER 3: COMPLIANCE AND ENFORCEMENT****29. Notice of compliance and representative**

- 1) If a person is contravening a provision of this by-law, an official may in writing issue a compliance notice and serve it on the person concerned to take remedial measures.
- 2) A notice must state-
  - a) The name and residential and postal address of the affected person
  - b) The nature of the contravention and the legislation contravened.
  - c) The measures required to remedy the contravention
  - d) That the person must within a specified time period take measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date; and
  - e) That failure to comply with the requirements of the notice within the period contemplated in subsection (d) is an offence; and that written representations may, within the time period stipulated under paragraph (4) be made to the municipality at a specified place.
- 3) If a person fails to comply with the requirements stipulated in the notice-
  - a) The municipality may perform the steps required in the notice, and should the municipality incur any costs as a result of performing such steps, it may recover such costs irrespective of criminal proceedings been or not been instituted against a person; and
  - b) The person commits an offence.
- 4) A person may within the time period stipulated in the notice make representations, in the form of a sworn statement or affirmation to the municipality.
- 5) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations
- 6) The municipality must consider the representations and any response thereto by an authorised official or any other person.
- 7) The municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes.
- 8) The municipality must, after consideration of the representations and response make an order in writing and serves a copy of it on the person.
- 9) The order contemplated in subsection (8) must-
  - a) Set out a findings of the municipality
  - b) Confirm, alter or set aside in whole or in part, the notice of compliance; and
  - c) Specify a period within which the person must comply with the notice/order.

- 10) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the municipality will inform the person that he or she –
  - a) Must discharge the obligations set out in the notice; or
  - b) May elect to be tried in court
- 11) If the person elects to be tried in court he or she must, within seven calendar days, notify the municipality of his or her intention to do so.
- 12) If the person does not elect to be in court, he or she must, within the prescribed manner and time discharge his or her obligations under the notice.

### 30. Costs

- (1) Should a person fail to take the measures required of him or her by written notice, the municipality may, subject to the subsection recover all costs incurred as a result of it acting in terms of section 29 (3) (a) from that person and any or all of the following persons-
  - (a) Any person who is or was responsible for, or who directly or indirectly contributed to the pollution or degradation or the potential pollution or degradation;
  - (b) The owner of the property at the time when the pollution or degradation or the potential for pollution or degradation occurred, or that owner's successor in title;
  - (c) The person in control of the land or any person who has or had a right to use the land at the time when-
    - (i) The activity or the process is or was performed or undertaken; or
    - (ii) The situation came about
  - (d) Any person who negligently failed to prevent-
    - (i) The activity or the process being performed or undertaken; or
    - (ii) The situation from coming about
- (2) The municipality may furthermore, in respect of the recovery of costs, claim proportionally from any other person who benefited from the measures undertaken by the municipality
- (3) The costs claimed must be reasonable and may include, without being limited to labour, administrative and overhead costs.
- (4) If more than one person is liable for costs incurred, the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm of the environment resulting from their respective failures to take the required measures.

## CHAPTER 5: ADMINISTRATIVE AND OTHER MATTERS

### 31. Authentication and service of order, notice or other document

- 1) Any notice or other document that is served on a person in terms of this By-law, is regarded as having been served-
  - a) When it has been delivered to that person personally
  - b) When it has been left at the person's place of residence or business in the Republic with a person apparently over the age of sixteen 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 acknowledgement of the posting thereof from the postal service is obtained;
  - d) If that persons' address in the Republic is unknown, when it has been served on paragraph s (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, if any , to which it relates ; or
  - f) In the event of a body corporate, when it has been delivered at the registered office of the business property of such body corporate.
- 2) Service of a copy shall be deemed to be service of the original
  - 3) 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

### **32. Appeal**

- 1) A person whose right are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons there-of in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

### **33. Exemptions**

1. Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
2. The municipality may-
  - a )Grant an exemption in writing and the conditions in terms of which , if any, and the period for which such exemption is granted must be stipulated therein;
  - b)Alter or cancel any exemption or condition in an exemption; or
  - c)Refuse to grant an exemption.
3. In order to consider an application in terms of sub-section (1) the municipality may obtain the input or comments of the owners or occupants of surrounding property.
4. An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2) however if an activity is commenced before such undertaking has been submitted to the municipality, the exemptions lapses,
5. If any condition of an exemption is not complied with, the exemption lapses immediately.

### **34. Penalties**

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, in the case of a continuing offence , to an additional fine or an additional

period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

### **35.SCHEDULE OF OFFENCES AND DETERRENT FINES**

1) The following schedule will guide the Municipality in dealing with transgressions on this by-law stipulations and application of deterrent fines.

<b>DESCRIPTION OF OFFENCE</b>	<b>Deterrent fine</b>
Failure to retrieve waste which is blown off the property by the wind	R200.00
Failure to ensure that a sufficient number of receptacles are provided	R50.00 per day
Failure to maintain a receptacle in good order and repair	R50.00 per day
Failure to ensure that the receptacle is at all times suitably weighted and anchored so that it cannot be inadvertently overturned	R50.00 per day
Placing any material that is likely to render a receptacle difficult for municipal employee to handle or carry in receptacle	R250.00
Failure to seal organic waste that is likely to rapidly decompose before depositing it in the receptacle	R1000.00
Using a receptacle provided by the municipality for purposes other than storing waste	R500.00
Lighting fire in a receptacle	R500.00
Depositing in a receptacle material that is likely to cause damage	R500.00
Depositing in a receptacle material that is likely to injure the municipality's employee while carrying out their duties	R500.00
Depositing in a receptacle material that is likely to hinder or delay work by the municipality's employees undertaken in terms of this by-law	R500.00
Any disposal of waste oil in earth pits or upon the surface of plot, street or public area	R1000.00
Refusing access to the municipality's employee who is in performance of his duties	R100.00 per day
Obstructing or impeding municipality's employee in the performance of his or her duties	R100.00 per day
Failure to remove or convey the waste in such a manner as will prevent any nuisance resulting there from or the escape of the contents or materials therein	R500.00
Causing or permitting any waste being transported to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility	R1000.00
Failure to ensure that the waste is deposited at a waste disposal facility that is permitted to accept such waste	R1000.00
Failure to ensure that the receptacle or bag is undamaged and properly closed so as to prevent the dispersal of its contents	R500.00
Depositing or allowing to be deposited in a receptacle / or bag for domestic refuse, waste other than domestic waste	R200.00
Failure to ensure that garden waste is collected and deposited at a waste transfer and recycling station or disposal site within a reasonable time after generation thereof	R500.00

Failure to ensure that garden waste which is composted does not cause a nuisance	R500.00
Removing garden waste and not depositing it at a waste disposal site	R1000.00
Failure to remove building waste 14 days after the completion of the construction in respect of which the waste was generated	R2000.00 per month
Failure to dispose building waste at a waste disposal facility designated for that purpose by the municipality	R1000.00
Discarding, placing or leaving waste on the municipal land, public road or a public place other than in a receptacle provided or approved by the municipality for the discarding of waste by the public	R1000.00
Sweeping waste, onto a road reserve or onto any other public place	R500.00
Dumping, accumulate, place, deposit, leave waste, on a public road	R1000.00
Dumping, accumulate, place, deposit, leave waste on a drain, watercourse, or flood prone areas, or any other water or any place where public has access	R2000.00
Dumping, accumulate, place, deposit, leave waste on any private or Municipal land	R1000.00
Entering the disposal site without the permission of the Municipality official or without the payment of the prescribed fee	R1000.00
Failure to comply with the directions of the attendant at the disposal site when off-loading waste	R500.00
Burning of waste at place other than an authorised incinerator	R1000.00
Burning of waste at a place other than a place designated by the municipality	see air pollution act
Failing or refusing to give information or giving false or misleading information when required to do so	R2000.00
Disposing of waste other than by disposing of it at a waste disposal site which has been permitted for the disposal of that category of waste	R2000.00
Discarding of any matter or object in any place except in an approved receptacle provided for that purpose or at a waste disposal or processing facility	R250.00
Transporting of any objectionable waste without permission from the Municipality.	R2000.00

- 2) These fines will be subjected to review during the annual tariff review processes as a need may arise.

**36. Short title and commencement**

- i) This By-law may be cited as the Umjindi Local Municipality Waste Management By-Law.
- ii) This By-law comes into operation on the date of publication thereof in the Provincial Gazette.

Notice 07/2015





# IMPORTANT

## Reminder

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