



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

Provincial Gazette Igazethi Yephondo Provinsiale Koerant

Vol. 26

BISHO/KING WILLIAM'S TOWN
21 OCTOBER 2019
21 OKTOBER 2019

No. 4329

PART 1 OF 2

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

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ISSN 1682-4556



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IMPORTANT NOTICE OF OFFICE RELOCATION

GOVERNMENT PRINTING WORKS PUBLICATIONS SECTION

Dear valued customer,

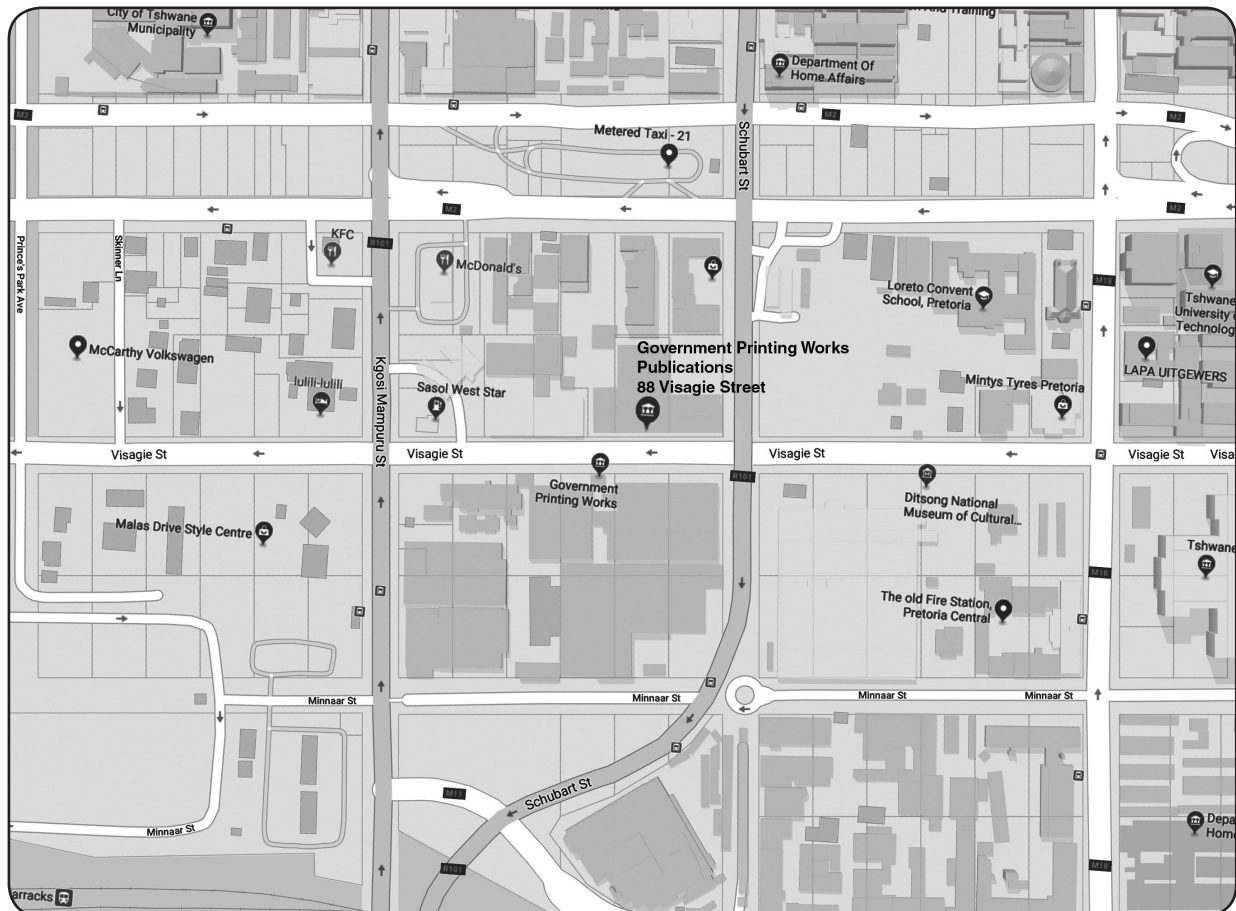
We would like to inform you that with effect from the 1st of November 2019, the Publications Section will be relocating to a new facility at the corner of **Sophie de Bruyn** and **Visagie Street, Pretoria**. The main telephone and facsimile numbers as well as the e-mail address for the Publications Section will remain unchanged.

Our New Address:
88 Visagie Street
Pretoria
0001

Should you encounter any difficulties in contacting us via our landlines during the relocation period, please contact:

Ms Maureen Toka
Assistant Director: Publications
Cell: 082 859 4910
Tel: 012 748-6066

We look forward to continue serving you at our new address, see map below for our new location.



IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

CONTENTS

Gazette *Page*
No. *No.*

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

293	Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013): Erf 170, Theescombe, Port Elizabeth, Eastern Cape	4329	12
294	Spatial Planning and Land Use Management Act (16/2013): Erf 4467, Beacon Bay, Eastern Cape.....	4329	12
295	Deeds Registries Act (42/1937): Notice of Intention to apply for the Cancellation of a Lost/Destroyed Bond....	4329	13

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

248	Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act (16/2013): Erf 792, Mill Park	4329	13
249	Spatial Planning and Land Use Management Act (16/2013): Erf 874, Mill Park	4329	13
250	Spatial Planning and Land Use Management Act (16/2013): Erf 42195, East London	4329	14
251	Spatial Planning and Land Use Management Act (16/2013): Erf 6916, East London	4329	14
252	Local Government: Municipal Systems Act (32/2000): To give effect to the Municipalities Credit Control and Debt Collection Policy and the Implementation thereof	4329	15
253	Eastern Cape Liquor Act (10/2003): To provide for Measures for the Control of Undertakings that sell Liquor to the Public	4329	48
254	Local Government: Municipal Systems Act (32/2000): Mbizana Municipality: Public Transport By-law	4329	63
255	Local Government: Municipal Systems Act (32/2000): To give Effect to the Municipalities Street Trading by Law and the Implementation thereof	4329	111
256	Local Government Municipal Systems Act, 2000 (Act 32 of 2000): To give effect to the Municipalities Municipal Pound Bylaw and the Implementation thereof.....	4329	134
257	Local Government Municipal Systems Act, 2000 (Act 32 of 2000): To give effect to the Municipalities Child Care Facilities By-law and the Implementation thereof	4329	158
258	Local Government: Municipal Systems Act (32/2000): Mbizana Municipality: Parking Meter By-laws	4329	190
259	Spatial Planning and Land Use Management Act (16/2013): Erf 22, Winterstrand.....	4329	203
260	Spatial Planning and Land Use Management By-law: Kouga Municipality, 2016: Kouga Municipality (EC108): Notice No. 203/2019: Miscellaneous Land Use Applications:	4329	204
261	Spatial Planning and Land Use Management By-law: Kouga Municipality, 2016: Erf 59 (52 Woodpecker Street), Aston Bay	4329	206
262	Spatial Planning and Land Use Management By-law: Kouga Municipality, 2016: Erf 2 (153 St Francis Drive), Sea Vista	4329	207
263	Disaster Management Act (57/2002): Kouga Municipality (EC108): ProvincialNotice 133/2018: Extension of Local State of Disaster Declaration	4329	208

Closing times for **ORDINARY WEEKLY** 2019

EASTERN CAPE PROVINCIAL GAZETTE

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

- **28 December 2018**, Friday for the issue of Monday **07 January 2019**
- **07 January**, Monday for the issue of Monday **14 January 2019**
- **14 January**, Monday for the issue of Monday **21 January 2019**
- **21 January**, Monday for the issue of Monday **28 January 2019**
- **28 January**, Monday for the issue of Monday **04 February 2019**
- **04 February**, Monday for the issue of Monday **11 February 2019**
- **11 February**, Monday for the issue of Monday **18 February 2019**
- **18 February**, Monday for the issue of Monday **25 February 2019**
- **25 February**, Monday for the issue of Monday **04 March 2019**
- **04 March**, Monday for the issue of Monday **11 March 2019**
- **11 March**, Monday for the issue of Monday **18 March 2019**
- **15 March**, Friday for the issue of Monday **25 March 2019**
- **25 March**, Monday for the issue of Monday **01 April 2019**
- **01 April**, Wednesday for the issue of Monday **08 April 2019**
- **08 April**, Monday for the issue of Monday **15 April 2019**
- **12 April**, Friday for the issue of Monday **22 April 2019**
- **18 April**, Thursday for the issue of Monday **29 April 2019**
- **26 April**, Friday for the issue of Monday **06 May 2019**
- **06 May**, Monday for the issue of Monday **13 May 2019**
- **13 May**, Monday for the issue of Monday **20 May 2019**
- **20 May**, Monday for the issue of Monday **27 May 2019**
- **27 May**, Monday for the issue of Monday **03 June 2019**
- **03 June**, Monday for the issue of Monday **10 June 2019**
- **10 June**, Monday for the issue of Monday **17 June 2019**
- **14 June**, Friday for the issue of Monday **24 June 2019**
- **24 June**, Monday for the issue of Monday **01 July 2019**
- **01 July**, Monday for the issue of Monday **08 July 2019**
- **08 July**, Monday for the issue of Monday **15 July 2019**
- **15 July**, Monday for the issue of Monday **22 July 2019**
- **22 July**, Monday for the issue of Monday **29 July 2019**
- **29 July**, Monday for the issue of Monday **05 August 2019**
- **02 August**, Friday for the issue of Monday **12 August 2019**
- **12 August**, Monday for the issue of Monday **19 August 2019**
- **19 August**, Monday for the issue of Monday **26 August 2019**
- **26 August**, Monday for the issue of Monday **02 September 2019**
- **02 September**, Monday for the issue of Monday **09 September 2019**
- **09 September**, Monday for the issue of Monday **16 September 2019**
- **16 September**, Monday for the issue of Monday **23 September 2019**
- **20 September**, Friday for the issue of Monday **30 September 2019**
- **30 September**, Monday for the issue of Monday **07 October 2019**
- **07 October**, Monday for the issue of Monday **14 October 2019**
- **14 October**, Monday for the issue of Monday **21 October 2019**
- **21 October**, Monday for the issue of Monday **28 October 2019**
- **28 October**, Monday for the issue of Monday **04 November 2019**
- **04 November**, Monday for the issue of Monday **11 November 2019**
- **11 November**, Monday for the issue of Monday **18 November 2019**
- **18 November**, Monday for the issue of Monday **25 November 2019**
- **25 November**, Monday for the issue of Monday **02 December 2019**
- **02 December**, Monday for the issue of Monday **09 December 2019**
- **09 December**, Monday for the issue of Monday **16 December 2019**
- **13 December**, Friday for the issue of Monday **23 December 2019**
- **19 December**, Thursday for the issue of Monday **30 December 2019**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.

2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
 - 8.1.5. Any additional notice information if applicable.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by “walk-in” customers on electronic media can only be submitted in *Adobe* electronic form format. All “walk-in” customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

QUOTATIONS

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** **GPW**'s annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that the quotation number can only be used once to make a payment.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za

E-mail: info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 293 OF 2019**Nelson Mandela Bay Municipality (EASTERN CAPE)**

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

ERF 170, Theescombe, Port Elizabeth, Eastern Cape.

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s A, C3(b), C3(c) and D. in Deed of Transfer No. T59641/08 & any subsequent Deed applicable to Erf 170 is/are hereby removed.

PROVINCIAL NOTICE 294 OF 2019**BUFFALO CITY METROPOLITAN MUNICIPALITY (EASTERN CAPE)**

Removal of restrictions in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013.

ERF 4467 BEACON BAY, EASTERN CAPE

Under Section 47(1) of the Spatial Planning and Land Use Management Act No. 16 of 2013 read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management By-Law of 2016 and upon the instructions of the Buffalo City Metropolitan Municipality, notice is hereby given that condition C.(3) in Deed of Transfer No. T5522/2019 pertaining to Erf 4467 Beacon Bay is hereby removed.

PROVINCIAL NOTICE 295 OF 2019**NOTICE OF INTENTION TO APPLY FOR THE CANCELLATION OF A LOST/DESTROYED BOND**

Notice is hereby given in terms of Regulation 68 of the Deeds Registries Act, 42 of 1937, of the intention to apply for the cancellation of the registration of Mortgage Bond Number B912/1995 dated 27th October 1995 passed by Silulami Clayton Nontenja, born on 27 September 1950, for the sum of R240 000, 00 (Two Hundred And Forty Thousand Rand) plus an additional sum of R60 000, 00 (Sixty Thousand Rand) in favour of THE STANDARD BANK OF SOUTH AFRICA LIMITED, Registration Number 1962/000738/06, in respect of certain piece of land being ERF 2744 (PORTION OF ERF 2030) UMTATA, SITUATED IN THE MUNICIPALITY OF UMTATA, DISTRICT OF UMTATA, PROVINCE OF THE EASTERN CAPE, which has been lost or destroyed.

All persons having objection to the cancellation of the registration of such bond are hereby required to lodge the same in writing with the Registrar of Deeds at Umtata, within 6 weeks after the date of the first publication of this notice.

Dated at Port Elizabeth on this 08th day of October 2019.

.....
JOUBERT GALPIN SEARLE
173 CAPE ROAD, MILL PARK, PORT ELIZABETH
Email: heloisej@jgs.co.za
041 396 9230

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**LOCAL AUTHORITY NOTICE 248 OF 2019****Nelson Mandela Bay Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 792 MILL PARK IN THE NELSON MANDELA BAY METROPOLITAN MUNICIPALITY, PORT ELIZABETH, EASTERN CAPE**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s C4(a), (b), (c) and (d) in Deed of Transfer No. T008227/2010 applicable to Erf 792 Mill Park is/are hereby removed.

LOCAL AUTHORITY NOTICE 249 OF 2019**NELSON MANDELA BAY MUNICIPALITY (EASTERN CAPE)****REMOVAL OF RESTRICTIONS IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013. (ACT 16 OF 2013)****ERF 874 MILL PARK, IN THE NELSON MANDELA BAY METROPOLITAN MUNICIPALITY, PROVINCE OF THE EASTERN CAPE**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions of the Local Authority, a notice is hereby given that conditions C4(a), (b), (c), and D2 in Deed of Transfer No T165/2018 applicable to ERF 874 MILL PARK are hereby removed.

LOCAL AUTHORITY NOTICE 250 OF 2019
BUFFALO CITY METROPOLITAN MUNICIPALITY

Removal of Restrictions in terms of the Spatial Planning and Land Use Management
Act, No. 16 of 2013

ERF 42195 EAST LONDON

Under Section 47 of the Spatial Planning and Land Use Management Act, No. 16 of 2013, and upon instructions by the Local Authority, notice is hereby given that Condition C.2 in Deed of Transfer T6318/2003, applicable to Erf 42195 East London, is hereby removed.

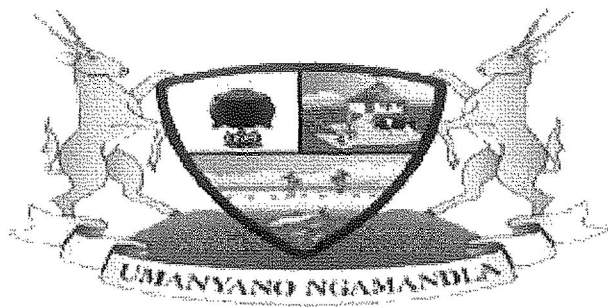
LOCAL AUTHORITY NOTICE 251 OF 2019
BUFFALO CITY METROPOLITAN MUNICIPALITY

Removal of Restrictions in terms of the Spatial Planning and Land Use Management
Act, No. 16 of 2013

ERF 6916 EAST LONDON

Under Section 47 of the Spatial Planning and Land Use Management Act, No. 16 of 2013, and upon instructions by the Local Authority, notice is hereby given that Conditions C. (a), (b) and (c) in Deed of Transfer T4068/2013, applicable to Erf 6916 East London, are hereby removed.

LOCAL AUTHORITY NOTICE 252 OF 2019



MBIZANA MUNICIPALITY

BYLAWS FOR CREDIT CONTROL AND DEBT COLLECTION

APPROVED BY COUNCIL ON

WITH EFFECT FROM

PURPOSE

To give effect to the Municipalities credit control and debt collection policy and the implementation thereof i.e. it is the process utilised by a municipality to ensure collection of revenue from rates, fees levied and for services rendered and entails in the main, metering/measurement, billing/invoicing and debt collection.

PREAMBLE

WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby makes the following By-Law: THE CREDIT AND DEBT COLLECTION BYLAW.

TABLE OF CONTENTS

1. DEFINITIONS	5
2. SCOPE AND OBJECTIVES OF THE BYLAW	10
3. CREDIT CONTROL PRINCIPLES	11
4. ELEMENTS OF CREDIT CONTROL	11
5. APPLICATION FOR SERVICES	12
6. DEPOSITS	14
7. OBLIGATION TO MEASURE	14
8. RENDERING OF ACCOUNTS	15
9. POWER TO LIMIT OR DISCONTINUE SUPPLY OF SERVICE	15
10. INDIGENT DEBTORS	16
11. APPLICATION BY INDIGENT DEBTORS	18
12. WITHDRAWAL OF INDIGENT DEBTORS STATUS	19
13. METHODS FOR DETERMINING AMOUNTS DUE AND PAYABLE	19
14. PAYMENT FOR MUNICIPAL SERVICES PROVIDED	21
15. FULL AND FINAL SETTLEMENT OF ACCOUNT	21
16. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE	22
17. DISHONOURED PAYMENTS	22
18. INCENTIVE SCHEMES	22
19. PAY-POINTS AND APPROVED AGENTS	23
20. FAILURE TO HONOUR AGREEMENTS	23
21. INTEREST ON ARREARS	23

22. RECONNECTION OF SERVICES	24
23. RIGHT OF APPEAL	24
24. ADJUDICATION OF APPEAL	25
25. RIGHT OF ACCESS	25
26. ARREAR MESSAGE ON ACCOUNT	26
27. ILLEGAL RE –CONNECTION	26
28. IMMEDIATE DISCONNECTION	27
29. OFFENCES	27
30. LITIGATION PROCEDURES IN TERMS OF THE MAGISTRATES COURT ACT 32 OF 1944	28
31. OFFENCES AND PENALTIES	31
32. APPLICATION OF BYLAW	32
33. REGULATIONS	32
34. REPEAL OF BYLAWS	33
35. SHORT TITLE	33

1. DEFINITIONS

'arrangement' means an agreement entered into between the municipality and a debtor in terms of which payment terms for the settlement of an outstanding debt are agreed upon and expressly stipulated;

'billing date' means the date upon which a monthly statement is generated and debited to a customer's account;

'business premises' means premises utilised for purposes other than residential purposes, and excludes the following -

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;
- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not;
- (c) sports grounds used for the purpose of amateur sports and any social activities connected with such sports;
- (d) any property registered in the name of an institution or organisation which, in the reasonable opinion of the municipality, performs charitable work;
- (e) any property utilised for bona fide church or religious purposes;

'chief financial officer' means the official accountable and responsible to the municipal manager for the implementation, administration and enforcement of the municipality's credit control and debt collection policy;

'credit control' means all the functions relating to the collection of monies owed by debtors;

'customer' means the occupier of any premises to whom the municipality has agreed to supply, or is actually supplying, services, or, if there is no occupier, then the owner of the premises;

'day' means a calendar day, inclusive of Saturdays, Sundays and public holidays;

'debtor' means any person who is liable to the municipality for payment of any amount, including –

(a) rates;

(b) fees for municipal services provided by the municipality or another institution or person in terms of a service delivery agreement; or

(c) any other tax, duty or levy imposed by the municipality;

'dependant' means any person who relies on any other person for financial support;

'due date', with regard to –

(a) rates due in respect of any immovable property, means the first day of July of the financial year for which such rate is applicable; and

(b) service charges due in respect of any immovable property, means the seventh day of the month succeeding the month during which municipal services were supplied, provided that a date falling on a Saturday, Sunday or public holiday shall result in the due date being determined as the next working day;

'immovable property' includes –

(a) an undivided share in immovable property; and

(b) any right in immovable property;

'indigent debtor' means the head of an indigent household -

(a) who applies to the municipality for the provision of services;

(b) who makes application for, and is accorded, indigent support in terms of this by-law; and

(c) who shall be regarded as the representative of all members of his or her household, including all dependants;

'indigent support policy' means the indigent support policy approved and adopted by the municipal council of the municipality;

'indigent support programme' means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the municipality's indigent support policy;

'month' means a calendar month;

'average monthly consumption' means the monthly consumption in respect of any property, calculated on the basis of average consumption over the preceding 6 (six) months;

'municipal account' means an account recording the transactions associated with the rates and service charges applicable to a customer;

'municipal pay point' means any municipal office in the area of jurisdiction of the municipality, or any such other place as the chief financial officer may from time to time designate for the payment of municipal accounts;

'municipal services' means services provided either by the municipality, or by an institution or person in terms of a service delivery agreement, and shall include the provision of water, electricity, sewerage, refuse and fire protection services, and 'services' shall have a corresponding meaning;

'municipality' means the Municipality of Mbizana, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], 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 to such political structure, political office bearer, councillor, agent or employee;

'occupier' means the person who controls and resides on, or controls and otherwise uses, immovable property, provided that -

(a) the spouse of the owner of immovable property, which is used by such spouse or owner as a dwelling at any time, shall be deemed to be the occupier thereof;

(b) where both spouses reside on immovable property and one of them is an occupier thereof, the other shall also be deemed an occupier;

'owner', in relation to immovable property, means -

(a) the person in whom is vested the legal title thereto, provided that -

(i) the lessee of immovable property which is leased for a period of not less than 10 (ten) years, whether the lease is registered or not, shall be deemed to be the owner thereof; and

(ii) the occupier of immovable property occupied in terms of a servitude, or right analogous thereto, shall be deemed the owner thereof;

(b) if the owner is deceased, insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court, or is a company being wound up or under judicial management, then, the person in whom the administration of such property is vested, as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be;

(c) if the owner is absent from the Republic, or if his or her address is unknown to the municipality, then, any person who, as agent or otherwise, receives, or is entitled to receive, the rent in respect of such property; or 6

(d) if the municipality is unable to determine who the owner is, then, the person who is entitled to the beneficial use of such property;

'premises' includes 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, 1997 [Act No. 8 of 1997], or in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937];

(b) a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and situated within the jurisdiction of the municipality;

'person' means a natural or juristic person, including any sphere of government, department of state, statutory body or foreign embassy;

'prescribed' means prescribed in terms of this by-law;

'rate' means a municipal rate on property, as contemplated in terms of Section 229(1)(a) of the Constitution;

'ratepayer', in relation to the municipality, means a person who is liable to the municipality for the payment of rates on property in the municipality;

'registered owner' means the person, natural or juristic, in whose name a property is registered in terms of the Deeds Registries Act, 1937;

'service charges' means the fees levied by the municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property, and includes any penalties, interest or surcharges levied or imposed in terms of this by-law;

'service delivery agreement' means an agreement between the municipality and an institution or persons, contemplated in terms of Section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

'tariff' means a schedule of taxes, duties, levies or fees which may be imposed by the municipality, for municipal services provided, either by itself, or another institution or person, in terms of a service delivery agreement;

'tariff policy' means the tariff policy approved and adopted by the municipal council of the municipality.

2. SCOPE AND OBJECTIVES OF THE BYLAW

1. This *By-Law* applies to the Municipality's area of jurisdiction, and is only applicable to the ratepayers of Mbizana Municipal area, who are excluded from the Assistance to the Poor / Indigent Policy of the municipality, as determined or revised from time to time by Council.

2. The objectives of the Credit Control and Debt Collection By-Law are as follows: -

- (i) Ensuring that households pay for the basic services that they are afforded by the municipality,
- (ii) Ensuring that the municipality is able to provide services as approved in its annual budget or its annual Integrated Development Program (IDP), and
- (iii) Ensuring that the non-payment of services is minimised.

3. CREDIT CONTROL PRINCIPLES

The following principles are to be considered:

1. Enforcement is a local matter subject only to relevant legislation;
2. The municipal manager who is entrusted with the determination and execution of credit control measures must report to the municipal council;
3. Enforcement and policy-making must be independent to ensure accountability;
4. Credit control must be understandable, uniform, fair and consistently applied;
5. Credit control must be effective, efficient and economical;
6. The credit control measures employed must be sustainable in the long term; and
7. A proper indigence policy must be in place to ensure that the circumstances of the poor are accommodated.

4. ELEMENTS OF CREDIT CONTROL

1. Metering/Measurement

- a. Service metering or measurement is the determination of the amount of service rendered to each customer in each category.
- b. This may vary from flat rates, such as refuse removal, to metered consumption of water and electricity, to deemed consumption such as sewerage disposal.

2. Billing / Invoicing

- a. Billing refers to the process of preparing and presenting a claim or invoice to each consumer, which is based on the quantity of service, which is consumed by, and delivered to the consumer in a specified time.

6.3 Arrear Collection

a. Arrear collection, commonly known as credit control in local government, refers to the process of recovery of outstanding amounts from customers by taking the necessary steps and actions which include among others, interruption of services, litigation and attachment of assets.

5. APPLICATION FOR SERVICES

- (1) A consumer who qualifies as an indigent consumer must apply for services.
- (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 authorized agent.
- (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 (2) exists; and
 - (b) the level of services provided to that consumer 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 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 authorized agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorized 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 the consumer pays any costs and expenditure associated with altering the level of services.

(7) An application for services submitted by a consumer and approved by the municipality or its authorized agent shall constitute an agreement between the municipality or its authorized 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 authorized agent must ensure that the document and the process of interaction with the 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 authorized 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 provisions of these bylaws, any applicable bylaws and the conditions contained in the agreement.

(11) If the municipality or its authorized 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 such municipal services or a specific services or level of service the municipality or its authorized 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 authorized agent will be able to provide such municipal services or a specific service or level of service.

6. DEPOSITS

1. The service level agreement provides for a deposit or bank guarantee to be paid as security.
2. It will be expected of owners to of property to pay such a deposit.
3. The deposit should be equal to two months average consumption and the basic charge, per ward, for each applicable service.
4. The deposit should be paid on signing the new services agreement.
5. When services are terminated due to non-payment, the deposit will be reviewed and might be increased at the discretion of the Chief Financial Officer.
6. Deposits received will be reviewed annually and a deposit register will be maintained.
7. The total sum of deposits receive shall constitute a short-term liability in the books of the municipality.
8. No interest shall accrue in favour of the depositors thereof.
9. Upon termination of the debtors' agreement with the Council the deposit shall first be offset against the outstanding balance (if any) and the balance of the deposit if any will be refunded to the consumer.

7. OBLIGATION TO MEASURE

1. The Council will ensure that every Municipal service provided to a consumer can either be metered, estimated or allocated at regular intervals and will establish a charge or tariff for the service.

8. RENDERING OF ACCOUNTS

1. The Council will render an account for the amount due by a debtor on a monthly basis.

2. The account will reflect as follows:

a) Details of the consumption for a certain period of each service either by measuring, estimating or allocation.

b) The amount due in terms of consumption.

c) Other amount due such as arrear amounts and any interest on arrears.

3. Failure of the Council to render an account shall not relieve a debtor of the obligation to pay the account.

4. The account may also include information such as, payment methods, places and approved agents where payments can be made.

9. POWER TO LIMIT OR DISCONTINUE SUPPLY OF SERVICE

(1) the municipality may limit, discontinue or disconnect the supply of electricity, water or any other service to any premises, whenever a customer, in respect of a particular service –

(a) fails to make full payment on the due date, or fails to make an acceptable arrangement for the repayment of any amount for such particular service;

(b) fails to comply with a condition of supply imposed by the municipality;

(c) obstructs the efficient supply of water, electricity or any other municipal service to another customer;

(d) supplies such municipal service to any person who is not entitled thereto, or permits such a service to continue;

(e) tampers with any municipal supply meter, or bypasses any metering equipment, in order to obtain an un-metered service;

(f) causes a situation which, in the reasonable opinion of the municipality, is dangerous, or a contravention of relevant legislation;

(g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 [Act No. 24 of 1936] or any other applicable law; or

(h) if an administration order is granted in terms of Section 74 of the Magistrates Court Act, 1944 [Act No. 32 of 1944] in respect of such a customer.

(2) The right of the municipality to limit, discontinue or disconnect the supply of electricity or water to any premises or consumer shall be subject to the provisions of Section 4(3) of the Water Services Act, 1997 [Act No. 108 of 1997] and Section 11 of the Electricity Act, 1987 [Act No. 41 of 1987] and any regulations promulgated in terms of the aforesaid legislation.

10. INDIGENT DEBTORS

1. The municipality shall adopt, implement and enforce an indigent support policy, which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of service charges to indigent households in its jurisdiction.

2. The object of the indigent support policy will be to ensure –

- (a) the provision of municipal services to the community in a sustainable manner within the financial and administrative capacity of the municipality; and
- (b) the provision of procedures and guidelines for the subsidisation of service charges to indigent households.

3. Qualification criteria:

(1) Qualification criteria for indigent support and the municipal services qualifying for such support shall be determined by resolution of the municipality from time to time, provided that, until the municipality determines otherwise, registered customers shall qualify for indigent support, subject to the following conditions -

- (a) the combined or joint gross income of all occupants or dependants over the age of 18 (eighteen) years in a single household which receives services from the municipality does not exceed R700 per month;
- (b) the municipality must be satisfied that the single household referred to in subsection (a) cannot afford to pay for the services provided to it by the municipality;
- (c) the single household referred to in subsection (a) must be registered on the municipal database of households receiving indigent support from the municipality;
- (d) any occupant or dependant of the single household referred to in subsection (a) does not own any property in addition to the property in respect of which indigent support is provided in terms of the municipality's indigent support programme;

(e) any occupant or dependant in the single household referred to in subsection (a) does not receive any significant monetary benefit or regular monetary payment from any source whatsoever.

(2) The extent of the monthly indigent support granted by the municipality to indigent households in its jurisdiction will be determined by resolution of the municipality, regard having been given to its budgetary provisions, any applicable amount received by it from national government, the number of recipients and average monthly consumption, or service charges and rates, as the case may be, in respect of the following services –

- (a) water;
- (b) electricity;
- (c) sewerage;
- (d) refuse collection;
- (e) housing rentals, if applicable; and
- (f) assessment rates on residential property.

(3) The municipality will, on a 6 (six)-monthly basis, assess the level of support to indigent households in its jurisdiction, depending on the number of applicants qualifying for indigent support and the municipality's general financial position.

(4) The level of indigent support granted by the municipality shall not exceed the monthly billings to the accounts of indigent debtors.

11. APPLICATION BY INDIGENT DEBTORS

(1) An application for indigent support in terms of this by-law must be made to the Municipality and which must contain at least the following information, to be certified as correct by the applicant -

- (a) details of the applicant's municipal service account or accounts;
- (b) proof of income;
- (c) proof of residence;
- (d) identity number of applicant; and
- (e) number, names and identity numbers, where applicable, of dependants in the applicant's household.

(2) At all times, an indigent debtor shall be responsible for any re- application necessary and for the submission of proof regarding a change in circumstances that affects the information provided in terms of subsection (1).

12. WITHDRAWAL OF INDIGENT DEBTORS STATUS

1. The indigent status of a debtor shall not be withdrawn, suspended or altered in terms of this by-law, unless such debtor has been given an opportunity to be heard and to make representations on the contemplated action against him or her.

13. 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 customer connections and/or read all metered customer connections, on a regular basis.

(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 customer, for municipal services supplied to him, her or it, by calculating –

(a) the shared consumption; or if not possible; and

(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 customer 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 customers 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 customer connections and/or read all metered customer connections within a determined area, the municipal council may, on the recommendation of the Municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the customers within that area, irrespective of actual consumption.

(6) The Municipality or its authorised agent must inform customers 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.

14. PAYMENT FOR MUNICIPAL SERVICES PROVIDED

(1) A customer 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 customer 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 customer.

(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 municipal 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.

15. FULL AND FINAL SETTLEMENT OF 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.

16. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE

1. Notwithstanding the provisions of any other section of these By-laws, 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 customer and the Municipality or its authorised agent after taking reasonable measures to recover any amounts due and payable by the customer from the latter, could not recover such amounts.

17. 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 customer; and

(2) shall regard such an event as default on payment.

18. INCENTIVE SCHEMES

1. The municipal council may institute incentive schemes to encourage payment and to reward customers that pay accounts on a regular and timeous basis.

19. PAY-POINTS AND APPROVED AGENTS

(1) A customer 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 customer of the location of specified pay-points and approved agents for payment of accounts.

20. FAILURE TO HONOUR AGREEMENTS

(1) If a customer 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 customer;
- (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 customer;
- (c) institute legal action for the recovery of the arrears; and
- (d) hand the customer's account over to a debt collector or an attorney for collection.

21. INTEREST ON ARREARS

1. Interest charges are raised on arrear amounts which appear on the municipal accounts.
2. The interest rate is determined by Council and is reviewed from time to time.

3. A 10% administrative charge shall be levied on arrear rates where the municipality has instituted legal action to recover an outstanding amount.

4. Arrears outstanding on business levy accounts are subject to the interest rate specified in terms of the applicable legislation.

22. RECONNECTION 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 -

(a) 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

(b) in addition to payments referred to in subsection (1) the customer 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.

23. RIGHT OF APPEAL

1. An appeal must be submitted in writing to the Municipal Manager prior to the final due date for payment of the contested amount, and must contain full details of the specific item(s) on the account which is the subject of appeal, with full reasons.

2. If there is a query to the billing process, the consumer is required to pay the average of the three months' account before they can submit their query.

3. The debtor will be required to pay for all other services that do not form part of the query.

4. The consumer will not be required to pay the average if their complaint is service related, i.e. if they are not receiving the service. Should, however, it be discovered that the consumer is in fact receiving the service, the service will be disconnected with immediate effect.
5. The Municipal Manager is to ensure that all appeals are investigated within 7 (seven) days of the date of the query.
6. If it is discovered that the amount billed by the Council is correct, the consumer will be liable to pay the difference of the average amount and the actual amount required and also for any costs incurred in respect of testing meters, etc.
7. If it is discovered that the consumer is correct, the Council is liable to pay the costs of the account and the consumer will be credited with these costs of the account.

24. ADJUDICATION OF APPEAL

1. If the appeal is in respect of a metered consumption, the metered instrument must be tested, within 14 days of lodging an appeal to establish the accuracy thereof.
2. The Municipal Manager will inform the debtor in writing of the results of the test of the instrument, and of any adjustment to the amount due, together with the costs of the test for which the debtor will be liable if no error could be found with the instrument.
3. If a faulty meter or instrument is revealed, the Council will bear the costs thereof.

25. RIGHT OF ACCESS

1. Municipal officials have the right of access to any property occupied by a consumer for the purposes of reading or inspecting meters or connections or to disconnect, discontinue or restrict the supply of a service and for the evaluation of the property.
2. This right of access is reinforced by Section 101 of the Municipal Systems Act, Act 32 of 2000

26. ARREAR MESSAGE ON ACCOUNT

1. When a monthly account is in arrears, the next account will clearly highlight an appropriate reminder message.
2. Customers will be required to enter into an agreement with the Council for the payment of outstanding debts at the commencement of this policy.
3. On balances that have been outstanding for more than 3 (three) years, the customer is required to pay 30% immediately to the Council, and the balance of the outstanding amount over a period of 24 (twenty four) months, together with the current service charges.
4. On balances that have been outstanding for less than 3 (three) years the consumer is required to pay 15% immediately to the Council and the balance of the amount over a 12 (twelve) month together with the service charges.
5. If the agreements are not complied with, the legal process which will result in attachment of the property will be instituted.

27. ILLEGAL RE –CONNECTION

1. A person who unlawful and intentionally negligently reconnects to service 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- connect 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.

28. 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 authorized agent provides municipal services;
- (b) Fails to provide information or provides false information reasonably requested by the municipality or authorized agent.

29. OFFENCES

1. ANY PERSON WHO –

- {1} fails to give access required by the municipality or authorized agent in terms of these bylaws;
- {2} Assists any person in providing false or fraudulent information or assist in wilfully concealing information,
- {3} Uses, tampers or interference with municipal equipment, services supply equipment, reticulation network or consumption of service rendered;

{4} Fails or refuses to give the municipality or its authorized agent such information as may be reasonably required for the purpose of excising the power of functions under these bylaws or gives the municipality or authorized 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 services or a fine, or a combination of the aforementioned.

30. LITIGATION PROCEDURES IN TERMS OF THE MAGISTRATES COURT ACT 32 OF 1944

1. Letter of demand

a. Letters of demand shall be produced “in house” by the debt collection section of the municipality and delivered for payment within 14 days from the date of the letter, to the domicilium citandi et executandi of all consumers with amounts in arrears.

b. All the costs of litigation are to be debited to the amount of the consumer concerned.

2. Arrangement for extension of payment

a. In terms of section 57 of the Act, a person may acknowledge and undertake to pay any debt in instalments or otherwise. This in turn empowers the municipality to obtain judgment and an emoluments attachment order against the consumer, without having issued summons, provided that a registered letter of demand and a letter of acceptance by the supplier of such acknowledgement and undertaking has been forwarded to the consumer.

3. Summons

- a. After the expiry of the 14 days (or other determined period) of the letter of demand for payment, the consumer fails or neglects to pay, or make suitable arrangements in terms of section 2 above, the municipality issues summons.
- b. Once the summons documentation is complete, it is to be checked and signed by a delegated credit control official on the municipality's behalf.
- c. A file must be opened for each matter containing copies of every process and correspondence.
- d. A revenue stamp is affixed to the original summons, signed by the delegated credit control officer (who must be a Commissioner of Oaths) where after it is taken to the Clerk of the Court to be signed and issued with a case number.
- e. The sheriff of the magistrate's court will be responsible to serve the summons on the defendant.
- f. The sheriff will then return the original summons with a document (in terms of section 9 of the Act) which is referred to as the "return of service" stating whether and in which manner the summons was served or not.
- g. Should the matter be defended within the prescribed period, the plaintiff having signed and received a copy of such notice, all relevant documentation is handed to an attorney for further action.

4. Default judgment

- a. When a matter is undefended within 5 days of the issue of summons, an application for default judgment is made.

- b. The application is prepared and the original summons and return of service is attached to the application and taken to the Clerk of the court in order to obtain judgment by the magistrate. C.
- c. Once default judgment is obtained from the magistrate, the original documentation is filed at Court by the Council's appointed attorney, and a duplicate of the judgment returned to the plaintiff

5. Warrant of execution

- a. Documentation may be prepared simultaneously with default judgment in order to save time and this document is also the returned to the plaintiff.

6. Attachment

- a. Sufficient copies of the warrant of execution are to be attached to the original for service on each defendant by the sheriff.
- b. The sheriff serves and attaches movable property and the plaintiff is provided with a return of service and inventory of goods attached, or returns a "Nulla Bona" service.
- c. A notice to remove attached property is then given to the sheriffs, who will then remove and store movable goods on request.
- d. If goods sold in execution do not cover the amount owed, a "Nulla Bona" return on the warrant of execution of movable property is received.
- e. In the case of immovable property, sufficient copies of the warrant of execution, describing the immovable property, are to be attached to the original document for service by the sheriff on the Registrar of Deeds, the bondholder, local authority and defendant(s) of such attachment of immovable property after which the sheriff will supply a return of service.

7. Sale in execution

a. Movable property

- Notice of the date of sale is prepared with and submitted to the sheriff 3

weeks prior to the date of sale.

- Should the goods attached exceed the stipulated amount currently stipulated in the Act, a notice of sale in execution must be published in the press.

b. Immovable property

- Notice of the date of the sale is prepared in conjunction with the sheriff and published in the press.

8. Section 65 proceedings

Once a default judgment has been obtained and a warrant of execution produces a “Nulla Bona” return of service, and a Deeds search reveals that the defendant owns no immovable property, proceeding with section 65 of the Act by sending a registered notice in terms of section 65, notifying the defendant of the intended financial enquiry in Court.

31. OFFENCES AND PENALTIES

(1) Any person who -

(a) fails to give the access required by a duly authorised representative of the municipality in terms of this by-law;

(b) obstructs or hinders a duly authorised representative of the municipality in the exercise of his or her powers or performance of functions or duties in terms of this by-law;

- (c) unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any customer;
 - (d) tampers with or breaks any seal on a meter or on any equipment belonging to the municipality, or causes a meter not to register properly the service used;
 - (e) fails, or refuses, to give a duly authorised representative of the municipality such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this by-law, or gives such representative false or misleading information, knowing it to be false or misleading; or
 - (f) contravenes, or fails to comply with, a provision of this by-law, shall be guilty of an offence.
- (2) Upon conviction, an offender shall be liable for a fine not exceeding R60 000, or to imprisonment for a period not exceeding 12 (twelve) months, or both such a fine and imprisonment, and may be charged for consumption, as determined by the chief financial officer, and based on average monthly consumption, or as determined by resolution of the municipality from time to time.

32. APPLICATION OF BYLAW

This by-law shall be binding on all persons who own or occupy premises within the jurisdiction of the municipality.

33. REGULATIONS

The municipality may make regulations regarding –

- (a) any matter required, or permitted, to be prescribed in terms of this by-law; and

(b) generally, all matters which, in the reasonable opinion of the municipality, are necessary, or expedient, to be prescribed, in order to achieve the objects of this by-law.

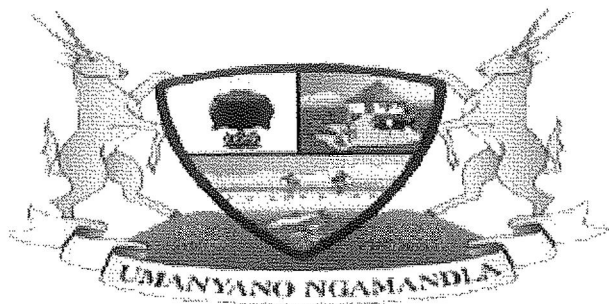
34. REPEAL OF BYLAWS

Any by-laws relating to credit control and debt collection adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

35. SHORT TITLE

This by-law is called the Credit Control and Debt Collection By-law, 2016, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 253 OF 2019



MBIZANA MUNICIPALITY

BYLAWS FOR THE CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC

APPROVED BY COUNCIL ON

WITH EFFECT FROM

PURPOSE

To provide for measures for the control of undertakings that sell liquor to the public

PREAMBLE

WHEREAS the Municipality has the competence in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa to control undertakings that sell liquor to the public;

WHEREAS FURTHER in terms of sections 22(2)(d)(i) and 42(b) of the Eastern Cape Liquor Act 10 of 2003 ward committees of local municipalities have a duty to submit a report to the Eastern Cape Liquor Board and the relevant municipal council regarding all applications for registrations in terms of the said Act, and local municipalities have a duty to determine the hours within which liquor may be sold within its area of jurisdiction;

AND WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby makes the following By-Law:

TABLE OF CONTENTS

1. DEFINITIONS

2. INTERPRETATION
3. NON-DISCRIMINATION
4. OBJECTS
5. APPLICATION
6. TRADING HOURS
7. SELLING OF LIQUOR AT OTHER TIMES
8. WARD COMMITTEE REPORT
9. ENFORCEMENT
10. OFFENCES
11. PENALTIES
12. APPEAL
13. REPEAL
14. SHORT TITLE AND COMMENCEMENT

1 DEFINITIONS

“Act” means the Eastern Cape Liquor Act, 2003 (Act 10 of 2003);

“Casino” means a casino operated in terms of the National Gambling Act, 2004 (Act 7 of 2004);

“Council” means the Mbizana Municipal Council or any other committee or official acting by virtue of any powers delegated by Council;

“hotel” means premises wherein or whereupon the business of supplying lodging and meals is conducted or is intended to be conducted, and includes a motel, inn, bed and breakfast concern, caravan and camping park, guesthouse, a lodge and a house boat;

“Board” means the Eastern Cape Liquor Board established in terms of section 4 of the Act;

“Official” means any person authorized by Council to perform the function of an officer under this By-law and includes any member of the South African Police Service or any person appointed in terms of the Act;

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

“Registered premises” means premises on or from which a trader conducts his or her business;

“Regulations” means the regulations published as Notice No. 1143 of 8 April 2004 made under the Act;

“Selling hours” means the time during which a trader is allowed to sell liquor in terms of Schedule 1 and **“Trading hours”** shall have the same meaning;

“Trader” means a person who is registered in terms of section 19 of the Act,

“Trading” means the selling, display for sale or supply of liquor; and

“Ward committee” means a committee as contemplated in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

2. INTERPRETATION

1. If there is a conflict of interpretation between the English version of this By-Law and a translated version, the English version prevails.

2. If there is a conflict of interpretation between any provision of this By-Law and any provision of the Act, the provision in the Act shall prevail.

3. NONDISCRIMINATION

1. Subject to the provision of subsection (2) hereof, no provision of these By-Laws shall be applied so as to discriminate between persons on the grounds of race, religion or gender nor shall it be so construed as to have the effect of authorizing such discrimination.

4. OBJECTS OF BY-LAW

1. The objects of this By-Law are to –

(a) provide a mechanism to fulfill the legislative duties imposed on the Council as highlighted in the Preamble; and to

(b) provide for related matters.

5. APPLICATION

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

6. TRADING HOURS

1. The trading hours, as listed in Column 2 of Schedule 1 to this By-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the Schedule, have been determined by the Council and may be reviewable by the Council from time to time.
2. The Council reserves the right, by notice in the press in any two official languages as the Council may determine, to deviate from the stipulated trading hours in the interests of the community.
3. Subject to section 7, no trader shall sell liquor to a person at a time other than those hours stipulated as trading hours under subsection 1 herein.
4. Any trader who contravenes subsection 3 herein shall be guilty of an offence.

7. SELLING OF LIQUOR AT OTHER TIMES

1. The Council may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5(1), and a trader who wishes to sell liquor at such hours must, before he or she sells such liquor, obtain such written consent of the Council.
2. A trader who wishes to obtain the consent of the Council must complete a form similar to the form entitled "Application For Departure With Respect To Trading Hours" as contained in Schedule 2 and submit the form and other particulars as Council may request, to the office of the municipal manager.
3. For the purpose of considering whether to grant consent as contemplated in subsection (1), Council may require an official to undertake an investigation or request information as he or she may deem necessary for consideration by the Council, and such official must submit his or her findings to the Council.

4. The Council may, after consideration of the application and the report contemplated in subsection (3), refuse to grant or grant consent, and should the Council grant consent, it may do so subject to any condition or restriction it may deem appropriate, which consent and condition or restriction, if imposed, shall be entered in Part C of the form contained in Schedule 2.

5. A trader who has been granted consent in terms of subsection (4), must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Council has been entered.

6. A trader who contravenes subsections (1) or (5) or who sells liquor in contravention of a condition or restriction imposed in terms of subsection (3) or who displays a forged form, shall be guilty of an offence.

8. WARD COMMITTEE REPORT

1. A ward committee must, upon receipt of a notice of application for registration contemplated in section 22(2)(d)(i) of the Act read with regulation 3 of the Regulations, consult the community with regards to such application.

2. The ward committee must submit a report to the Council within seven days from date of the consultation referred to in subsection (1) and such report must contain:

- a. the details of the consultative process with the community;
- b. comments on the application;
- c. details of objections received in respect of such application, if any;

d. a recommendation with regards to the application.

3. The municipal manager shall submit such application and the ward committee report to the first sitting of Council after receipt of the ward committee report. Thereafter the municipal manager shall expeditiously inform the board of the resolution of both the Council and the ward committee regarding the application, provided that such report to the Board shall not occur more than thirty days after receipt of the notice referred to in subsection (1) by the ward committee.

9. ENFORCEMENT

1. Members of the South African Police Service and liquor inspectors appointed in terms of the Act may enforce this By-law.

2. Notwithstanding subsection (1) Council may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these By-laws.

3. Each official appointed in terms of subsection (2) shall be issued with an identity card containing a photograph of himself, the date of the Council resolution authorizing his appointment, his designation and a brief reference to his duties and obligations in terms of these By-laws.

4. An official acting within the powers vested in him in terms of these By-laws must, on demand by a member of the public produce proof of identity and the capacity in which he purports to carry out his duties.

5. An official, acting in terms of the authorization or mandate contemplated in subsection (2) may-

a. at all reasonable times enter upon premises on which a business is being or is intended to be carried on; and

b. request any person to provide such information as he may deem necessary.

6. For the purposes of these By-laws an official appointed in terms of this section shall be regarded as an authorized official.

10. OFFENCES

1. A person commits an offence if he or she-

a. hinders or interferes with an authorized official in the execution of his official duties;

b. falsely professes to be an authorized official;

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

d. fails to comply with a request of an authorized official; or

e. fails, refuses or neglects to comply with the trading hours stipulated in Schedule 1.

11. PENALTIES

1. Any person who commits an offence in terms of these By-laws shall be liable, upon conviction to-

a. a fine or imprisonment for a period of not exceeding six months or to such imprisonment without the option of a fine or to both such fine and imprisonment; and

b. in the case of a continuing offence, to an additional fine or an additional period of imprisonment of ten days or to such additional imprisonment without the option or a fine or to

both such additional fine and imprisonment for each day on which such offence is continued;
and;

c. a further amount equal to any costs and or expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

12. APPEAL

1. A person whose rights are affected by a decision of the Council may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act 32 of 2000 to the municipal manager within twenty one days of the date of the notification of the decision.

13. REPEAL

1. The By-law set out in Schedule 3 is hereby repealed to the extent set out in the third column of that Schedule.

14. SHORT TITLE AND COMMENCEMENT

1. This By-law may be called the 'Mbizana Liquor By-law' and shall come into force upon publication in the Provincial Gazette.

SCHEDULE 1

(Section 6 (1))

COLUMN 1	COLUMN 2
TYPE OF REGISTRATION	TRADING HOURS
Registration in terms of section 20(a) of the Act for the retail sale of liquor for consumption off the premises where liquor is sold	

<i>(Bottle store, retail shop)</i>	
Registration in terms of section 20(b) of the Act for the retail sale of liquor for consumption on the premises where liquor is sold <i>(Restaurant, sports club, pool bar, pub, night club, hotel, casino)</i>	
Registration in terms of section 20(c) of the Act for the retail sale of liquor for consumption on and off the premises where liquor is sold <i>(taverns)</i>	
Registration in terms of section 20(d) of the Act for the retail sale and consumption of liquor at a special event	
Registration in terms of section 20(e) of the Act for micro-manufacturing	

SCHEDULE 2**PART A****APPLICATION FOR DEPARTURE WITH RESPECT TO TRADING HOURS**

(In terms of section 7 (2).of the Mbizana Liquor By-Laws)

Name of Applicant.....

Allotment Area.....Erf No. of Premises.....

Address of premises where liquor will be sold.....

Postal address of Applicant.....

Contact telephone no (.....).....Fax no. (.....).....

Dates and hours on which liquor will be sold or supplied (Be specific, e.g 14:00 to 23:00 on 3 June 2016):.....

Reason why this application is made.....

Anticipated volume of liquor that will be sold.....

Nature of liquor that will be sold or supplied.....

Other particulars (as requested by the Council):.....

Do the premises have Special Land Use Consent? (provide proof) Yes No

Do premises have a business licence? (provide proof) Yes No

Do premises have noise attenuation equipment installed?(provide details) Yes No

Does Applicant possess a Liquor Licence? (provide copy) Yes No

Distance to nearest residence.....meters

Distance to nearest educational institution.....meters

Distance to nearest place of worship.....meters

SignedDate.....

(Applicant)

PART B

Official use

Does the business meet the following requirement?:

- | | | |
|---|-----|----|
| 1. Land use permission | YES | NO |
| 2. Valid business license (if applicable) | YES | NO |
| 3. Compliance with noise regulation | YES | No |
| 4. Possession of valid liquor license | YES | NO |
| 5. Premises suitably located | YES | NO |

INSPECTION REPORT:

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.....

.....

Name of official.....

Date of inspection.....

PART C**RECOMMENDATION BY ENVIRONMENTAL HEALTH DEPARTMENT:**

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.....

Name of Official.....

Date.....

Designation:.....

CONDITIONS:

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.....

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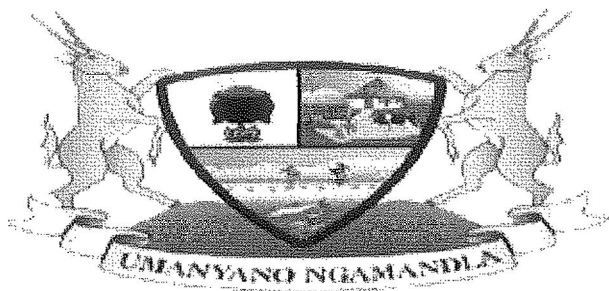
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SIGNATURE_____
DATE

SCHEDULE 3

Number and year of By-law	Title	Extent of Repeal

LOCAL AUTHORITY NOTICE 254 OF 2019



MBIZANA MUNICIPALITY

BY-LAW:

PUBLIC TRANSPORT

APPROVED BY COUNCIL ON

WITH EFFECT FROM

PURPOSE

To give effect to the Municipalities **PUBLIC TRANSPORT BY LAW** and the implementation thereof i.e. it is the process utilised by the municipality to ensure responsible services rendered in terms of the application of this by law.

PREAMBLE

WHEREAS section 24(a) of the Constitution provides that everyone has the right to an environment that is not harmful to their health and well-being; and

WHEREAS in terms of section 11(3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

WHEREAS in terms of section 11(1)(c) of the National Land Transport Act, 2009 (Act No. 5 of 2009);

WHEREAS in terms of section 80A of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby effects the above by law.

TABLE OF CONTENTS

1. DEFINITIONS	6
2. PURPOSE	10
3. ESTABLISHMENT OF PUBLIC TRANSPORT FACILITIES	10
4. APPLICATION FOR RANK PERMIT	13
5. ISSUING OF RANK PERMIT	14
6. RENEWAL OF A RANK PERMIT	15
7. TRANSFER OF A RANK PERMIT	16
8. ISSUING AND DISPLAY OF DECALS	16
9. DUPLICATE RANK PERMIT OR DECAL	19
10. AMENDMENT OF PARTICULARS OF RANK PERMIT	18
11. WITHDRAWAL OR SUSPENSION OF RANK PERMIT	19
12. USE OF PUBLIC TRANSPORT FACILITIES	20
13. PARKING AND REMOVAL OF VEHICLES	20
14. ABANDONED VEHICLES	21
15. APPOINTMENT OF FACILITY MARSHALS	23
16. DUTIES OF OPERATORS	24
17. DUTIES OF DRIVERS	24
18. DUTIES OF PASSENGERS	26
19. SEATS FOR SPECIAL CATEGORIES OF PASSENGERS	26
20. GENERAL DUTIES	27
21. MARKING OF METERED TAXIS	29

22. TAXI METERS	30
23. SEALING AND TESTING OF METERS	32
24. METERED TAXI FARES	33
25. DUTIES OF DRIVERS OF METERED TAXIS	34
26. OBSTRUCTING SIDEWALKS	35
27. PROTECTION OF PEDESTRIANS	35
28. PROTECTION OF SCHOLARS AND STUDENTS	36
29. DUTIES OF DRIVERS OF MOTOR VEHICLES	37
30. DUTIES OF PEDESTRIANS	37
31. DUTIES OF JOGGERS	38
32. PLANNING OF INFRASTRUCTURE AND TRAVEL DEMAND MANAGEMENT	39
33. NON MOTORISED TRANSPORT INFRASTRUCTURE	40
34. LAW ENFORCEMENT AND POWERS OF AUTHORISED OFFICERS	42
35. AGREEMENTS ON LAW ENFORCEMENT MATTERS	43
36. MANAGEMENT OF ACCIDENT SCENES	44
37. OFFENCES AND PENALTIES	45
38. MISCELLANEOUS PROVISIONS	46
39. CALL CENTRE AND LOST PROPERTY OFFICE	46
40. ROUTES FOR DANGEROUS GOODS	47
41. REVOCATION OF BY LAWS	47
42. APPLICATION OF BY LAW	48
43. SHORT TITLE	48

44. COMMENCEMENT

48

1. DEFINITIONS

“accessible transport” means transport that is accessible to all persons in the municipal area, as well as those travelling to and from that area, including, but not limited to, special categories of passengers, pedestrians and cyclists to their intended destinations in a safe and convenient manner, and in relation to infrastructure means the design of facilities that are usable by all people to the greatest extent possible, with or without the need for adaptation or specialised design;

“Act” means the National Land Transport Act, 2009 (Act No. 5 of 2009);

“association” means a formal grouping of operators or body to which two or more of these bodies are affiliated, which is formed not for gain, its main object being to promote the group interests of its members;

“authorised officer” means an inspector, traffic officer or member of the South African Police;

“authorised official” means an official appointed and authorised by the municipality to enforce or implement these by laws;

“bus” means a motor vehicle designed or modified to carry more than 35 persons, including the driver;

“by laws” means these by laws;

“municipality” means the Mbizana Municipality;

“controlled facility” means a public transport facility for which a rank permit is required;

“decal” means a sticker, decal or similar device issued with a rank permit;

“examiner of vehicles” means an examiner of vehicles appointed in terms of section 3A of the National Road Traffic Act;

“facility” means a public transport facility;

“facility marshal” means a person authorised by the municipality to control, manage or direct traffic in, into or out of a public transport facility;

“Gazette” means the Provincial Gazette of the Eastern Cape;

“holder” despite the definition in the Act also means the holder of a rank permit;

“meter” means a meter that must be installed in a metered taxi;

“metered taxi service” means a public transport service operated by means of a motor vehicle contemplated in section 66;

“MFMA” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“midi bus” means a motor vehicle designed or modified solely or principally for conveying more than 16 but less than 35 persons, including the driver, and for the purposes of the National Road Traffic Act, is a type of sub-category of bus;

“minibus” means a motor vehicle designed or modified solely or principally for conveying more than nine but not more than 16 seated persons, including the driver;

“mini bus taxi” means a minibus or midi bus used for minibus taxi-type services;

“motor car” means a motor vehicle, other than a motor cycle, motor tricycle as defined in the National Road Traffic Act, designed or modified solely or principally for conveying not more than nine persons, including the driver;

“municipal area” means the geographical area of jurisdiction of the municipality;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“National Road Traffic Regulations” means the National Road Traffic Regulations, 2000, made in terms of the National Road Traffic Act;

“non-motorised transport” means transport by any mode other than a motor vehicle including, but not limited to, walking, cycling and animal-drawn vehicles, but for purposes of these By-Laws includes cycles, scooters and wheelchairs assisted by motors of a prescribed type and capacity whereby the speed of the cycle, scooter or wheelchair is not significantly enhanced;

“non-motorised transport infrastructure” means and includes cycle paths, walkways, public open spaces and other buildings and structures used or intended for, or to promote non-motorised transport;

“operator” means a person carrying on the business of operating a public transport service and, for purposes of these by laws, is confined to persons holding valid operating licences or permits as required by section 50(1) of the Act;

“park” in relation to a vehicle means to keep the vehicle, whether occupied or not, stationary for longer than is reasonably necessary actually to load or unload persons or goods, but does not include keeping the vehicle stationary owing to a cause beyond the control of the person in charge of the vehicle;

“prescribed” means prescribed by the municipality by notice in the Gazette;

“Province” means the Province of Eastern Cape;

“public road” means a public road as defined in the National Road Traffic Act;

“public transport facility” means and includes a–

(a) bus terminus;

- (b) minibus taxi rank;
- (c) metered taxi rank;
- (d) stopping place dedicated to minibus taxi-type services;
- (e) bus or taxi stop;
- (f) holding area, and
- (g) taxi depot.

“public transport interchange” means a location where facilities are provided for specified types of public transport services for the interchange of passengers between those services;

“public transport service” means a scheduled or unscheduled service for the carriage of passengers by road or rail, whether subject to a contract or not, and where the service is provided for a fare or any other consideration or reward, including in respect of passenger transport as defined in the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1988), and except where clearly inappropriate the term “public transport” must be interpreted accordingly;

“public transport vehicle” means a motor vehicle used for public transport services;

“rank permit” means a permit issued in terms of section 6 to entitle an operator to use a controlled facility;

“road traffic sign” means a road traffic sign contemplated in the National Road Traffic Act;

“SAPS” means the South African Police Service contemplated in the South African Police Service Act, 1995;

“stop” used as a verb means, in relation to a public transport vehicle, to keep it stationary for no longer than is reasonably necessary to load or offload passengers;

“stopping place” means a stopping place or bus stop established in terms of section 4;

“taxi” means a minibus taxi or metered taxi;

“traffic signal” means a traffic signal contemplated in the National Road Traffic Regulations;

2. PURPOSE

2.1 This by law strives to provide a regulatory framework for public transport services in the municipality,

2.2 It will be subject to and in addition to the Act, and to provide for ancillary issues such as safety and security in relation to public transport.

3. ESTABLISHMENT OF PUBLIC TRANSPORT FACILITIES

3.1 The municipality may establish public transport facilities for the exclusive use of public transport vehicles by notice in the Gazette.

3.2 Before establishing such a facility, the municipality must give notice of its intention to establish it by–

- (a) publishing a notice in the Gazette in English and another in another official language;
- (b) publishing it in at least one English newspaper and one newspaper in another official language circulating in the area;
- (c) displaying the notice at the municipalities head office, and satellite offices and libraries in the relevant area; and
- (d) displaying the notice on the Website.

3.3 Describing the type and location of the proposed facility and allowing interested and affected persons not less than 30 days to provide written comments and representations in relation to the establishment of the facility, and also complying with section 21(4) of the Municipal Systems Act.

3.4 The municipality must consider any such comments received and then take a decision whether or not to proceed with the establishment of the facility.

3.5 In the notice published under subsection (1), subject to the National Road Traffic Act, the municipality must demarcate such facilities as—

- (a) a bus terminus for the exclusive use of buses;
- (c) a minibus taxi rank for the exclusive use of minibus taxis;
- (d) a metered taxi rank for the exclusive use of metered taxis;
- (e) a stopping place for the exclusive use of minibus taxis;
- (f) a bus stop, which may also be used as a stop for minibus taxis;
- (g) a parking ground;
- (h) a public transport interchange, or
- (i) a combination of the above.

3.6 The municipality may proclaim in the Gazette that one or more ranks or terminuses, called in these by laws a controlled facility, will be managed by a rank permit system and may impose a fee on operators for the use of such a facility.

3.7 The fees imposed in terms of the above, must as far as possible, at least be calculated to cover the operational and maintenance costs of the facility concerned, taking into account the

cost of operation and maintenance of the facility, with annual increases to cover the rate of inflation.

3.8 Where the municipality establishes a rank or terminus, it must provide sufficient ablution facilities within or near to the facility.

3.9 The municipality may, subject to the Businesses Act, 1991 (Act No. 71 of 1991), provide facilities for trading at or in a facility.

3.10 The municipality must keep a list of all public transport facilities within the municipal area and their location, and make it available on request to interested parties at the prescribed fee.

3.11 Where a rank permit is required, the relevant facility may only be used in terms of and subject to conditions imposed by the municipality when issuing the permit.

3.12 A rank permit is required in addition to any operating licence or permit that is required in terms of section 51(1) of the Act.

3.13 The facilities contemplated above may be established and demarcated for the exclusive use of public transport vehicles or services of specified types or that operate on specified routes or in specified areas, or operators who belong to a particular association or operate a particular type of service or vehicle.

3.14 Each demarcated facility must be distinguished by the appropriate road traffic signs to indicate the type of public transport vehicle entitled to use that facility.

3.15 The municipality may establish and demarcate a facility on private land if the municipality has concluded an agreement to such effect with the owner of that private land.

3.16 The agreement referred to above, may provide for the fees referred to above, to be paid in part or in full to the owner of the land on which the facility has been established.

3.17 A public transport vehicle may not use a filling station for the purpose of a bus terminus or taxi rank, or park in the premises of a filling station, except with the written permission of or in terms of an agreement with the owner of the filling station, but this subsection does not prevent the municipality from authorising the construction of a filling station within a facility.

3.18 In emergencies or at recreational and other similar functions, the municipality may set aside temporary facilities suitable for ranking, parking or holding of public transport vehicles without proclaiming or establishing them in terms of these by laws.

4. APPLICATION FOR RANK PERMIT

4.1 No operator may use a controlled facility without holding a rank permit issued by the municipality.

4.2 An operator must apply to the municipality for a rank permit by completing the application form provided by the municipality and lodge the completed form with it by hand or by electronic mail at the place or address directed by the municipality.

4.3 An application for a rank permit must be accompanied by–

(a) a copy of the operator's identity document, passport, and certificate of incorporation or other form of identification that is acceptable;

(b) the prescribed application fee;

(c) a copy of the valid operating licence or permit issued for the vehicle as required by section 51 of the Act; and

(d) a copy of the current vehicle licence certificate of the vehicle issued in terms of the National Road Traffic Act.

4.4 The operator must indicate on the application form the controlled facility or facilities that the operator wishes to use.

4.5 Where an operator applies at the same time for a rank permit for more than five vehicles, the municipality may, in its discretion, grant a discount on the application fee for the additional vehicles.

4.6 The municipality may refuse to grant an application for a rank permit if there is insufficient ranking space in the facility.

4.7 No one may knowingly supply incorrect information on such an application form or in relation thereto.

4.8 Where the municipality rejects an application for a rank permit, the applicant may appeal in writing to the Municipal Manager, who must consider the appeal within 60 days of receipt thereof and may then confirm or reverse the decision to refuse the application and notify the applicant accordingly.

4.9 The above subsection will also apply where a holder is dissatisfied with any condition that the municipality has attached to a rank permit.

5. ISSUING OF RANK PERMIT

5.1 When the municipality grants an application for a rank permit, it must issue the permit to the operator together with a decal specific to the permit.

5.2 No public transport vehicle may enter or use a controlled facility unless the vehicle displays the decal issued with the rank permit or issued to replace that decal.

5.3 The operator must also ensure that the original rank permit is kept in the vehicle to which it relates at all times while the vehicle is being operated in the municipal area.

5.4 A rank permit is valid for a maximum of 12 months from the date of issue, but the municipality may issue that permit for a shorter period, in which case the relevant fees will be reduced pro rata.

5.5 The municipality may attach conditions to the rank permit which are not in conflict with the Act, the National Road Traffic Act or these By-Laws, and which must appear on the permit or in an annexure thereto.

5.6 A rank permit issued to a partnership must specify the full names of all of the partners and the name under which the partnership conducts business.

5.7 When a rank permit is issued and the operator does not uplift it within 90 days after he or she has been notified that it is ready for uplifting, the permit lapses, unless the municipality grants a written extension on the written request of the operator.

5.8 Subject to section 74 of the Act on temporary replacement of vehicles, a rank permit is valid only for the vehicle in respect of which it was issued.

6. RENEWAL OF A RANK PERMIT

6.1 The holder of a rank permit must apply for the renewal of the permit not later than 30 days before the permit expires, failing which the permit will expire, but the holder will then not be prevented from applying for a new permit.

6.2 The municipality may refuse an application for renewal of a rank permit if there is insufficient space in the facility concerned.

7. TRANSFER OF A RANK PERMIT

7.1 Subject to this by law, a rank permit is not transferable to another person.

7.2 Where an operating licence or permit for the vehicle for which a rank permit has been issued, is transferred to another person under section 58 of the Act, the municipality must issue a rank permit to the transferee on application by the transferee on the approved form and on payment of the prescribed fee.

7.3 Where –

- (a) the holder of a rank permit dies;
 - (b) the estate of such a holder is provisionally or finally sequestrated;
 - (c) such holder is a company or a close corporation which is being liquidated; or
 - (d) such holder becomes in any way incapable in law of carrying on business,
- the executor, trustee, liquidator or curator of the holder, as the case may be, must notify the municipality within 14 days of being appointed as executor, trustee, liquidator or curator of the event and may on payment of the transfer fee determined by the municipality by notice in the Gazette, carry on the use of the vehicle to which the permit relates for the unexpired period of that permit.

8. ISSUING AND DISPLAY OF DECALS

8.1 The decal issued with a rank permit must state—

- (a) the name of the operator;
- (b) the rank permit number allocated by the municipality;

- (c) the controlled facility or facilities that the operator may use by colour coding or another method chosen by the municipality;
- (d) the vehicle registration number; and
- (e) the expiry date of the authorisation.

8.2 The holder of a decal must—

- (a) where the vehicle concerned is fitted with a clear windscreen, affix the decal in a conspicuous place on the front left-hand inside of the windscreen in an upright position, with the printed side facing to the front in such a way that the particulars on the decal are clearly legible to any person standing on the left front side of the vehicle;
- (b) where the vehicle is fitted with a tinted or smoked glass windscreen, display the decal in a watertight holder in a conspicuous place on the outside left-hand front of the windscreen in such a way that the particulars on the decal are clearly legible to any person standing on the left front side of the vehicle; and
- (c) ensure that the decal is kept displayed at all times while the vehicle is operated in the municipal area for public transport services.

8.3 No one may operate a public transport vehicle in the municipal area with a rank permit or decal that has been defaced or is no longer clearly legible or with a rank permit or decal that does not relate to the vehicle in question.

9. DUPLICATE RANK PERMIT OR DECAL

9.1 Where a rank permit or decal has been lost, destroyed or damaged to the extent that the particulars thereon are no longer legible, the holder of the authorisation must, on the approved

from, apply to the municipality for a duplicate and the application must be accompanied by an affidavit describing the reasons for the loss, destruction or damage of the permit or decal.

9.2 If the municipality is satisfied that the lost, destroyed or damaged permit was valid and, in the case of the decal that it relates to a valid permit, the municipality must on receipt of the prescribed fee, issue a duplicate permit or decal, as the case may be, clearly marked as a duplicate.

9.3 Where a duplicate decal is issued, the holder must immediately on receipt of the decal affix it to the windscreen of the vehicle as indicated above.

10. AMENDMENT OF PARTICULARS OF RANK PERMIT

10.1 Where the holder of a rank permit or decal becomes aware that the particulars on that permit or decal are incorrect, he or she must submit the permit or decal to the municipality for amendment within 14 days of this coming to his or her notice for issuing of a correct permit or decal.

10.2 If the municipality becomes aware that the information contained in a rank permit or decal is incorrect, the municipality may, despite anything to the contrary in these by laws—

- (a) notify the holder in writing;
- (b) where applicable, require the holder to give a satisfactory explanation; and
- (c) require the holder to return the permit or decal for amendment not later than 14 days after the date of the notification.

10.3 A notice referred to above that is posted to the holder by registered post is deemed to have been received by him or her 14 days after posting.

10.4 When a rank permit or decal is surrendered for it to be amended or replaced in terms of this section, the municipality must provide the holder with a temporary permit or decal, which is valid until the amended permit or decal is returned to the holder.

10.5 Where a holder fails to submit a permit or decal to the municipality as required by this section within the required time, the permit concerned will lapse, but the holder may apply to the municipality for a new permit.

11. WITHDRAWAL OR SUSPENSION OF RANK PERMIT

11.1 The municipality may, suspend a rank permit for a period determined by it or withdraw the permit if–

(a) the holder does not comply with–

(i) an instruction or direction issued in terms of these by laws; or

(ii) the conditions of the permit; or

(b) an authorised officer inspects the vehicle and finds that it–

(i) is constructed or has been adapted in such a way or is in such a condition that it is unsafe for the carrying of passengers; or

(ii) does not comply with these by laws, the Act or the National Road Traffic Act.

11.2 Before acting under the above municipality must notify the holder by registered post or e-mail of the proposed action, and allow the holder not less than 14 days to provide reasons why the permit should not be withdrawn or suspended.

11.3 The municipality must consider any reasons provided by the holder before deciding to withdraw or suspend the permit.

11.4 A person may not use a motor vehicle as a public transport vehicle in or at a controlled facility or allow it to be so used while the authorisation has been suspended or withdrawn.

11.5 A holder who transgresses or fails to comply with the conditions of a rank permit also commits an offence.

12. USE OF PUBLIC TRANSPORT FACILITIES

12.1 The municipality will not be liable for loss of or damage to any public transport vehicle, however caused, or any accessories or contents of that vehicle while it was stopped or parked in a public transport facility.

12.2 Persons in public transport facilities must heed any road traffic signs and other signs erected by the municipality in the facility.

12.3 No one may in a public transport facility–

- (a) trade or carry on a business except in terms of a licence granted by the municipality;
- (b) wash a vehicle except at a washing bay specially demarcated for that purpose;
- (c) repair, maintain or service a vehicle except in an area specially demarcated for that purpose;
- (d) drive a vehicle in a manner that endangers other persons, or property; or
- (e) tamper with any vehicle, or other property, whether movable or immovable.

13. PARKING AND REMOVAL OF VEHICLES

13.1 Vehicles in a public transport facility must be parked and driven in compliance with instructions or directions given by an authorised officer, authorised official or facility marshal.

13.2 If no parking space is available at the facility at any particular time for the parking of a vehicle to which a rank permit relates, the vehicle must be parked at a holding area specified by an authorised officer, authorised official or facility marshal on duty at the facility, until that officer, official or marshal directs the driver to park it at the facility.

13.3 Vehicles may only enter or exit a public transport facility through the demarcated entrance or exit.

13.4 Where areas in a public transport facility have been demarcated for parking, driver's must—

(a) park only in a place at the facility which is demarcated for that purpose, unless instructed to park elsewhere by an authorised officer, authorised official or facility marshal;

(b) park in a parking bay in such a position that the vehicle is entirely within the demarcated area; and

(c) not encroach upon a parking bay that is already occupied by another vehicle.

13.5 No one may park a vehicle—

(a) on a sidewalk or in the roadway within a public transport facility; or

(b) in such a facility in a manner which obstructs or inconveniences other users of that facility.

14. ABANDONED VEHICLES

14.1 Subject to regulation 305(6) of the National Road Traffic Regulations, the municipality may impound a vehicle which has been left in the same place in a public transport facility for a continuous period of more than seven days.

14.2 The municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of the above and if that owner or the person entitled to possession of the vehicle cannot be found within 90 days after the vehicle has been removed, the municipality may, subject to the above, sell the vehicle at a public auction.

14.3 The municipality must, 14 days before the auction contemplated above, publish a notice of the auction in at least two newspapers circulating within the municipal area.

14.4 If the owner or the person entitled to the possession of the vehicle concerned claims the vehicle before the auction commences, the vehicle may not be sold at that auction, and the person who claims the vehicle must pay to the municipality the prescribed fees and the applicable cost in terms of the above.

14.5 The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to above and thereafter to defray–

- (a) the costs incurred in tracing the owner;
- (b) the costs of removing the vehicle;
- (c) the costs of publishing the notice of the auction;
- (d) the cost of effecting the sale of the vehicle; and
- (e) the costs, calculated at a rate determined by the municipality, of keeping the vehicle secure.

14.6 Where the owner of a motor vehicle or the person who is entitled to its possession claims that vehicle after the sale referred to above, the balance, if any, of the proceeds of that sale after the fees and costs contemplated above have been deducted, must be paid to that owner or person if he or she can prove his or her right or title to the vehicle.

14.7 If a claim is not lodged within one year of the date of the sale referred to above, the balance of the proceeds contemplated above will be forfeited to the municipality.

15. APPOINTMENT OF FACILITY MARSHALS

15.1 The municipality may appoint facility marshals to perform the functions contemplated above or at a facility or facilities, and must issue the marshal with a certificate of appointment and an identification badge or other means of identification.

15.2 A facility marshal need not be an employee of the municipality, but may be an official or employee of an operator association.

15.3 The municipality may formulate a code of conduct for facility marshals, who must abide by that code.

15.4 A facility marshal may not perform any duty contemplated above unless he or she is wearing the means of identification.

15.5 The duties of a facility marshal are to–

- (a) in the case of minibus taxi-type services, direct drivers of taxis to form queues according to their destinations on a first-come-first-served basis;
- (b) direct drivers to holding areas if there is no space at the rank;
- (c) regulate the loading of passengers according to priority and route destination;
- (d) ensure the smooth loading of passengers;
- (e) control numbers of passengers to prevent overloading of vehicles;
- (f) attend to queries and refer problems to the municipality on ranking issues;

(g) report contraventions of these by laws, the Act or the National Road Traffic Act to authorised officers; and

(h) promote the efficient co-ordination of public transport services within the facility.

15.6 Passengers in a facility must comply with all lawful directions of a facility marshal or authorised officer.

15.7 No one may obstruct, hinder or interfere with a facility marshal in the execution of his or her duties.

16. DUTIES OF OPERATORS

16.1 The operator of a bus used for scheduled services must ensure that a destination sign is displayed on the bus.

16.2 Operators must ensure that all public transport vehicles operated by them are clean when leaving a depot or place where the vehicle is based and kept in a sanitary and tidy condition while being used for public transport services.

16.3 Where property is left in a public transport vehicle, the operator and driver must ensure that it is delivered to the call centre contemplated in section 35 for safekeeping and reclaiming by the person who left it in the vehicle.

16.4 Where a public transport vehicle becomes defective while conveying passengers, the operator must promptly arrange a substitute vehicle or alternative transport for them, failing which the passengers will be entitled to a refund of the ticket as required by the Consumer Protection Act, 2008 (Act No. 68 of 2008).

17. DUTIES OF DRIVERS

17.1 The driver of a vehicle providing scheduled services must stop at every bus stop designated as such by the municipality on its designated route to pick up passengers, unless the capacity of the vehicle will be exceeded.

17.2 The driver of a vehicle providing a minibus taxi-type service may not–

- (a) pick up or set down passengers at any place other than a designated rank or stopping place, unless no such rank or stopping place exists within a radius of 500 meters from that place; or
- (b) roam or tout for passengers or be hailed by the public with a view to picking up passengers at any place other than a designated rank, terminus or stopping place.

17.3 The driver of a public transport vehicle may not–

- (a) allow the number of passengers in the vehicle to exceed the number allowed by the National Road Traffic Regulations as shown in the relevant roadworthy certificate or in the relevant operating licence or permit;
- (b) park the vehicle at any stopping place longer than is necessary to load or offload passengers, unless directed to do so by an authorised officer or marshal;
- (c) drink alcohol, take narcotic drugs, smoke or use offensive language while driving the vehicle; or
- (d) use a hooter or other sounding device to tout for passengers or in contravention of regulation 301A of the National Road Traffic Regulations.

17.4 Drivers of public transport vehicles must be clean and neatly dressed at all times while driving the vehicle.

17.5 The driver of a public transport vehicle must refuse access to a passenger carrying baggage that could pose a danger or inconvenience to other passengers or lead to the overloading of the vehicle.

18. DUTIES OF PASSENGERS

18.1 Passengers may board or alight from a bus or midi bus only at the entrance thereof, unless the driver or conductor directs otherwise.

18.2 No passenger may board a public transport vehicle–

(a) except at a facility designated by the municipality, unless the vehicle is a metered taxi or is providing a charter service or tourist transport service;

(b) while refusing or failing to pay the fare charged for the public transport service;

(c) until all passengers wishing to alight from the vehicle have done so unless the vehicle is provided with more than one entrance and no passengers are alighting from the entrance in question; or

(d) while the vehicle is in motion.

18.3 Standing passengers in a public transport vehicle must hold onto hanging straps, rails or seats at all times when the vehicle is in motion.

19. SEATS FOR SPECIAL CATEGORIES OF PASSENGERS

19.1 The operator or driver of a public transport vehicle may–

(a) set aside seats in the vehicle for special categories of passengers; and

(b) may prevent any passenger from occupying such a seat unless he or she forms part of such a special category.

19.2 No passenger may occupy such a seat unless he or she forms part of such a special category of passengers.

20. GENERAL DUTIES

20.1 The driver, conductor or operator of a public transport vehicle–

(a) may not force any person to board or leave the vehicle against their will, except that the driver or conductor of the vehicle may do so in the interests of public safety or if so directed by an authorised officer or marshal;

(b) may not prevent anyone from using a lift club contemplated in section 69 of the Act or boarding a vehicle lawfully used as part of a lift club;

(c) may not show films or videos in the vehicle or display advertisements in or on it that may be offensive to any sector of the public, or play loud music in the vehicle;

(d) may not tout or solicit passengers by calling out, hooting or in any manner that is offensive or a nuisance to the public;

(e) may refuse to allow a passenger to board a public transport vehicle where the passenger fails or refuses to pay the fare, or where the lawful capacity of the vehicle will be exceeded, and may oblige the passenger to leave the vehicle in such a case; and

(f) may not knowingly convey a person or thing if that person or thing may not be conveyed in terms of any law or that person has an infectious or contagious disease or has recently been exposed to such a disease.

20.2 No one may–

- (a) threaten or intimidate a passenger on a public transport vehicle or in or at a facility;
- (b) use force, intimidation, threats, or by acting in a clandestine manner or by any other means prevent or try to prevent any passenger, driver or operator from obtaining or engaging a public passenger transport vehicle or prevent the driver thereof from loading or offloading passengers;
- (c) hang onto the exterior of a public transport vehicle, or stand or sit on any step or other part of the exterior of the vehicle at any time while the vehicle is in motion;
- (d) bring any animal onto a public transport vehicle or into a rapid transport station except a guide dog being used to guide a sight-impaired person;
- (e) interfere with, harass, intimidate, insult or use bad language to the driver or conductor of a public transport vehicle or to passengers in that vehicle or in a public transport facility;
- (f) enter a public transport vehicle or rapid transport station while suffering from an infectious disease or while wearing filthy clothes;
- (g) leave any baggage unattended in a public transport vehicle or public transport facility;
- (h) obstruct the passage of or delay a public transport vehicle in any way, except where necessary in an emergency situation or as allowed by law;
- (i) bribe or attempt to bribe an authorised officer, authorised official or marshal; or
- (j) bring any of the following onto a public transport vehicle:
 - (i) Any firearm or ammunition, unless the person possesses a proper and valid licence for the firearm or ammunition;
 - (ii) any explosives or explosive device;

- (iii) any dangerous weapon as defined in the Dangerous Weapons Act, 1968 (Act No. 71 of 1968); or
- (iv) any other dangerous, offensive or filthy article, object or thing.

20.3 The driver or conductor of a public transport vehicle may remove any animal from the vehicle unless it is a guide dog contemplated in subsection (2)(d), or direct the person who brought it to remove it, and that person must comply with such direction.

20.4 The owner, driver or person in charge of a public transport vehicle must take immediate steps to have the vehicle disinfected as soon as it has come to his or her knowledge that there has been conveyance in the vehicle—

- (a) a passenger suffering from an infectious or contagious disease;
- (b) the body of a person who died from such a disease;
- (c) anything that has been exposed to or contaminated by such a disease.

20.5 The owner, driver or person in charge of a public transport vehicle may not convey any person in the vehicle until it has been so disinfected and must carry out the instructions of an authorised officer or authorised official with regard to such disinfection.

20.6 A passenger may bring a fold-up bicycle onto any public transport vehicle that is a midi bus or bus, but not a motor car or minibus, and not if the bicycle is of such a size or nature that it is likely to cause a danger or disturbance to other passengers.

21. MARKING OF METERED TAXIS

21.1 All metered taxis operating in the municipal area must be fitted with an illuminated roof sign, as well as an indicator which may be incorporated in the roof sign with the words "For

hire" displayed when the taxi is available for hire, and the roof sign must be maintained in good working order at all times while the taxi is operated.

21.2 In addition all such metered taxis must display on the left hand front door in legible characters of not less than five centimetres in height a sign showing–

- (a) the fares being charged;
- (b) the number of persons the taxi is authorised to carry in terms of law or the relevant operating licence; and
- (c) where the operator requires a rank permit, the rank permit number

22. TAXI METERS

22.1 All metered taxis must be fitted with a meter in working order which has been sealed by an examiner of vehicles, and no metered taxi may be operated in the municipal area unless fitted with such a meter.

22.2 If the Minister or MEC has determined a fare structure for metered taxi services under section 66(3) of the Act, the meter must register a fare in accordance with that structure.

22.3 The meter may reflect charges for extras such as waiting time and time spent in traffic congestion.

22.4 The meter must–

- (a) be fitted to the inside of the taxi so that the recorded fare is plainly visible at all times by a passenger occupying the rear seat;
- (b) be illuminated after dark; and

(c) must reflect whether the meter is running or not and whether it is recording waiting time only.

22.5 The taximeter must be operated electronically or mechanically either solely from the gearbox or left front wheel of the metered taxi or from another portion of the mechanism of the metered taxi that the municipality approves by notice in the Gazette.

22.6 No one may –

(a) destroy, break or tamper with the seal affixed to a meter by an examiner of vehicles or by an agent appointed by the municipality; or

(b) adjust, interfere with or tamper with a meter or any wire or appliance connected to a meter, or any tyre or fitting on a metered taxi that may cause that meter to register anything other than the true and correct fare chargeable.

22.7 An operator or driver may not use a metered taxi for a metered taxi service if–

(a) the meter affixed to that taxi does not reflect the true fare; or

(b) the tyres fitted to that taxi are not the same size as those that were on the taxi when the meter was tested and sealed.

22.8 The operator and driver of a metered taxi–

(a) must ensure that the metered taxi is fitted with an odometer and speedometer in good and proper working order, and that the odometer reflects the true distance travelled; and

(b) may not operate the metered taxi unless the odometer and speedometer work properly.

22.9 The tolerances to be allowed on all meters when tested are as follows:

(a) Road test: No tolerance in deficiency or over-registration is allowed: Provided that if the vehicle's tyres are obviously worn, a tolerance in deficiency (or over-registration) of 10 metres

per kilometre and a tolerance in excess (or under-registration) of 50 metres per kilometre is allowed;

(b) Time test: A tolerance in deficiency (or over-registration) of one second per minute and a tolerance in excess (or under-registration) of two seconds per minute is allowed.

22.10 An authorised officer may by written notice instruct the operator or driver of a metered taxi to present the taxi to an examiner of vehicles for examination and testing of the meter at a time and place specified in the notice, and that operator or driver must comply with that instruction.

22.11 If a meter affixed to a metered taxi is found not to be in order or not working satisfactorily, an examiner of vehicles may condemn the meter and remove the seal or mark placed on it in terms of these by laws.

22.12 No one may operate a metered taxi in the municipal area with a condemned meter in the taxi until the meter has been retested, approved and sealed by an examiner of vehicles.

23. SEALING AND TESTING OF METERS

23.1 The operator of a metered taxi must ensure that the seals affixed to the meter by a vehicle examiner are intact and undamaged.

23.2 If the seal on a meter is broken or defaced, the operator must immediately apply to the municipality or an agent directed by the municipality to replace or renew that seal, and may not operate that metered taxi in the municipal area until the seal has been replaced or renewed.

23.3 The municipality may by notice in the Gazette determine the tolerances allowed when testing a meter.

23.4 The operator of a metered taxi must pay the prescribed fee when a meter is tested, sealed or resealed.

24. METERED TAXI FARES

24.1 The operator or driver of a metered taxi may not charge, demand or attempt to obtain a fare lower or higher than that shown by the meter or that is in conflict with a fare structure determined by the Minister or MEC in terms of section 66(3) of the Act.

24.2 The driver of a metered taxi must advise passengers of the applicable fare before the journey commences, and must issue a receipt to each passenger on payment of the fare.

24.3 In terms of section 66(1)(d) of the Act a particular journey may be operated at a fare not determined by the meter if that fare is agreed on before the journey begins, but the meter must be kept running for the information of passengers.

24.4 Multi-hiring (more than one passenger per journey) is permitted with the consent of all of the passengers if the fare for each passenger is agreed before the journey.

24.5 The driver of a metered taxi must on arrival at the passenger's departure point, and not sooner, start the meter in the "hired" position and immediately stop the meter from recording on termination of the hiring.

24.6 The meter may be stopped where the taxi is stopped at the request of or due to the action of the passenger.

24.7 The meter need not be stopped when the taxi is stopped due to traffic congestion or road traffic signs or signals.

24.8 A meter may be calibrated to record a lower fare where the driver agrees to wait at a fixed spot at the request of the passenger.

24.9 A person who calls for or summonses a metered taxi and fails to engage it on its arrival must pay the fare for the distance from the rank, stand or place from which the taxi was dispatched to the place to which the taxi was called or summonsed.

24.10 If a metered taxi is kept waiting through no fault of the driver before the driver is told that the taxi's services are not required, the person who called for or summonsed the taxi must pay the driver the tariff for waiting time.

25. DUTIES OF DRIVERS OF METERED TAXIS

25.1 The driver of a metered taxi must take the shortest route from the departure point to the destination, unless a longer route is agreed to or directed by the passenger or unless instructed to do so by an authorised officer.

25.2 Where a longer route is taken the driver must explain to the passenger the reasons why it is being taken.

25.3 Where the driver of a metered taxi is unable to deliver passengers and their effects to their destination because the vehicle has become unserviceable or for any other reason, the driver must make best efforts to call another taxi to transport them or to arrange an alternative means of transport.

25.4 Drivers of metered taxis must be conversant with the areas that they serve and must be trained or instructed by the operator as to the best routes to be taken.

25.5 The operator of a metered taxi must keep a current street map of the municipal area in the taxi and make it available to passengers on request.

25.6 When ranking at facilities or at airports, stations, hotels, conference centres or similar places metered taxis must queue on a first-come-first-served basis.

26. OBSTRUCTING SIDEWALKS

26.1 No road traffic sign, advertising sign, pole, barrier or other obstruction may be erected or placed on a sidewalk that obstructs the free movement of pedestrians, unless it is essential to do so for reasons of safety or security, or for another reason that is acceptable to the Municipal Manager.

26.2 No one may place any building material, goods, boxes, pipes or other objects on a sidewalk for longer than is necessary for loading purposes or where the sidewalk is temporarily part of a building site and appropriate road traffic signs have been erected to signify that it is a building site.

26.3 Where hawking or street vending is permitted on a sidewalk in terms of any law, no hawker or vendor may position his or her wares or furniture in such a position that the sidewalk is obstructed.

26.4 Where an authorised officer or authorised official perceives that a person is obstructing or blocking a sidewalk in contravention of this section, he or she may direct that person to remove the obstruction or blockage, and that person must comply with the direction forthwith.

27. PROTECTION OF PEDESTRIANS

27.1 In addition to complying with the National Road Traffic Regulations, drivers of motor vehicles must take special care to protect the safety of pedestrians.

27.2 Without derogating from the above, drivers of motor vehicles must–

- (a) anticipate situations where pedestrians may or will cross the road in question, either legally or illegally, and reduce speed or take other measures to avoid danger to them; and
- (b) immediately reduce speed, despite the applicable speed limit, where a pedestrian is crossing or using a road either legally or illegally, to avoid causing a danger to such pedestrian or other road users.

28. PROTECTION OF SCHOLARS AND STUDENTS

28.1 All schools and other educational institutions in the municipal area must provide areas off of busy public roads where scholars and students may be picked up or set down by motor vehicles, or provide safe inlets alongside such a road, in compliance with regulation 42(8) of the National Land Transport Regulations, 2009 made under the Act.

28.2 The Municipal Manager may by written notice direct such a school or institution to provide such an area within a time specified in the notice, and the school or institution must comply with such a direction.

28.3 Drivers of motor vehicles may not pick up or set down scholars or students on a public road except in places–

- (a) that are safe to do so; and
- (b) where the scholars or students are able to cross the road after being set down at a pedestrian crossing, traffic light or other place that is safe to cross.

28.4 Where a public transport vehicle is obviously carrying scholars or students and is loading or offloading passengers on a public road next to a school or other educational institution, all other vehicles in its vicinity must slow down or stop to ensure the safety of the scholars or students that may be or be likely to cross the road, in compliance with regulation 42(11) of the National Land Transport Regulations, 2009 made under the Act.

29. DUTIES OF DRIVERS OF MOTOR VEHICLES

29.1 The driver of a motor vehicle when passing a jogger on a public road must–

- (a) exercise due care while passing the jogger so as to avoid colliding with the jogger or giving the jogger a shock or fright so that he or she falls or swerves into the line of traffic;
- (b) leave a distance of at least one point five metres between the motor vehicle and the jogger;
- and
- (c) maintain that distance until safely clear of the jogger.

29.2 Where there is a solid barrier line or other road traffic sign or marking prohibiting encroaching on the other side of the road, a driver contemplated above may, where the roadway is not wide enough to allow him or her to comply with that subsection, encroach upon the other side of the road, but only if–

- (a) it can be done without endangering or obstructing other persons or vehicles;
- (b) it is safe to do so, and
- (c) it is done no longer than is necessary to pass the jogger safely.

30. DUTIES OF PEDESTRIANS

30.1 No pedestrian may walk on the roadway of a public road where a shoulder or sidewalk has been provided, except to cross the road at a point where crossing it is permitted.

30.2 Where no shoulder or sidewalk has been provided on a public road, pedestrians–

- (a) must not walk on the roadway unless it is impossible or impractical not to do so; and
- (b) when walking on the roadway must keep as close as possible to the left edge of the roadway.

31. DUTIES OF JOGGERS

31.1 Where a shoulder has been provided on a public road, joggers using that road must jog only on the shoulder or otherwise off of the roadway unless crossing the road or where it is necessary to do so to avoid a collision or pass an obstruction.

31.2 Where a jogger is using a public road with no shoulder, he or she must jog off of the roadway if possible, or otherwise as close as possible to the left edge of the roadway.

31.3 A jogger on a public road may not–

- (a) where a sidewalk has been provided, jog on any part of that road except the sidewalk except when crossing the road;
- (b) jog on the right hand side of a parked or slowly moving motor vehicle going in the same direction, except when it is not possible to pass it on the left;
- (c) jog abreast of another jogger going in the same direction except when passing him or her.

31.4 A jogger must exercise due care while passing a motor vehicle or another jogger or a pedestrian in order to avoid endangering him- or herself or other road users or pedestrians.

32. PLANNING OF INFRASTRUCTURE AND TRAVEL DEMAND MANAGEMENT

32.1 Any person planning a public transport facility, public transport interchange, shopping centre, mall, business complex or similar development must ensure adequate provision for the needs of public transport and non-motorised transport in accordance with the standards, specifications and requirements published in terms of section 39.

32.2 In evaluating a traffic impact assessment or public transport assessment in terms of section 38(2)(b) of the Act, the municipality must give due attention to the provision of infrastructure that promotes and accommodates non-motorised transport including, but not limited to–

- (a) secure places to store cycles;
- (b) easy and convenient access to the premises by pedestrians and cyclists;
- (c) safe pedestrian crossings over public roads giving access to the property;
- (d) traffic calming measures, such as zebra crossings, pelicans, toucans and midblock crossings;
- (e) accommodating special categories of passengers and pedestrians; and
- (f) pedestrian walkways and cycle lanes where appropriate.

32.3 Landscaping in developments contemplated above must give due attention to non-motorised transport, including, but not limited to–

- (a) cycle lanes and pedestrian paths;
- (b) the separation of pedestrian, cycle and vehicle lanes where possible;
- (c) planting of trees and landscaping that promotes social interaction;
- (d) park benches, seating areas and drinking fountains; and
- (e) measures to promote safety and security, such as intelligent lighting and security cameras.

32.4 All parking areas planned or provided after the date of commencement of these by laws must provide space for cycles; unless the Municipal Manager is satisfied that adequate storage place for cycles exists in the vicinity.

33. NON MOTORISED TRANSPORT INFRASTRUCTURE

33.1 The municipality may establish standards, specifications and requirements for public transport infrastructure and non-motorised transport infrastructure and once established must publish them on its Website and in the Gazette and keep copies available for inspection at the offices and libraries.

33.2 The standards, specifications and requirements contemplated in this section–

(a) must comply with the National Building Regulations and Building Standards Act, 1997 (Act No. 103 of 1997) and any regulations and standards made in terms of or recognised by that Act, as well as any other applicable national or provincial legislation, or by laws of the municipality; and

(b) may include, but need not be limited to–

(i) standards and dimensions for kerbs at the road edge;

(ii) specifications for paving placement and materials;

(iii) kerbs or barriers for cycle and pedestrian paths;

(iv) specifications for landscaping, greening and tree planting;

(v) specifications for park benches, seating areas and water fountains;

(vi) specifications for lighting and placing of street lights, and the avoidance of dark areas;

(vii) specifications for the maintenance, upkeep, cleaning and upgrading of non-motorised transport infrastructure;

(viii) specifications for dedicated bus or taxi lanes, subject to the National Road Traffic Regulations;

(ix) specifications for signage and road markings, subject to the National Road Traffic Regulations;

(x) standards and specifications to make the infrastructure more easily usable by special categories of passengers and pedestrians with disabilities;

(xi) the transformation of streets for the exclusive use of pedestrians or cyclists;

(xii) prohibiting or regulating the placing of signage, dustbins and other structures on sidewalks and in cycle and pedestrian paths that impede the passage of pedestrians or cyclists;

(xiii) standards or requirements for establishing non-motorised transport networks and preventing the interruption of journeys by pedestrians and cyclists;

33.3 Before finalising those standards, specifications or requirements the Municipal Manager of the City must publish them for comment on the Website and in the Gazette and allow any interested or affected person to comment on them by a date to be determined in the notice, which may not be less than 30 days after publication.

33.4 The municipality must consider any comments received under the above before finalising the specifications, standards or requirements.

33.5 As from a date to be determined by the municipality and published on its Website and in the Gazette, all non-motorised transport infrastructure planned or constructed after that date must comply with those standards, specifications or requirements.

33.6 Where non-motorised transport infrastructure is planned or constructed in contravention of those standards, specifications or requirements, the municipality may direct the owner of the land in question or the developer of the infrastructure by written notice to adapt, reconstruct or retro-fit it to comply with the relevant standard, specification or requirement, and the owner or developer must comply with such directive within the time specified in the notice.

34. LAW ENFORCEMENT AND POWERS OF AUTHORISED OFFICERS

34.1 An authorised officer may–

- (a) exercise any powers or perform any duty conferred on an authorised officer by the Act, the National Road Traffic Act, these by laws or any other legislation to enforce these by laws;
- (b) request any passenger in a public transport vehicle to supply his or her full name and address, and the origin and destination of the relevant journey; and
- (c) request any driver or conductor of such a vehicle to–
 - (i) supply his or her full names and address, the name and particulars of the operator of the vehicle and the origin and destination of the journey being undertaken or to be undertaken; and
 - (ii) produce for inspection the applicable operating licence or permit and, where applicable, rank permit;
- (d) evict from a public transport vehicle or from any facility a person who is not entitled to be there in terms of these by-laws or any other law, or whom the officer suspects of having committed an offence or being about to commit an offence.

34.2 An authorised officer or authorised official may request a passenger in or about to board a public transport vehicle to show his or her ticket for the trip in question and may where that person is not in possession of a valid ticket–

(a) evict that person from such vehicle; or

(b) prevent that person from entering the relevant vehicle; and

may, where appropriate request that person to supply his or her name, address and other particulars necessary to prosecute him or her.

34.3 Drivers and operators of public transport vehicles must obey the instructions and directions of authorised officers and authorised officials while operating on public roads or in facilities in the municipal areas, and must obey the directions and instructions of marshals and parking attendants in facilities.

34.4 A person requested to supply information or produce a document or ticket in terms of the above, or is directed to leave or not to enter a vehicle as contemplated above, must comply with the request or direction forthwith.

34.5 Anyone who hinders or interferes with an authorised officer, authorised official or marshal in the execution of his or her duties, or fails to comply with a lawful direction issued by such a person, commits an offence.

35. AGREEMENTS ON LAW ENFORCEMENT MATTERS

35.1 The municipality must negotiate with the SAPS and Provincial Department with a view to concluding an agreement between those parties on how accident and incident scenes on public roads and in facilities in the municipal area should be managed.

35.2 The agreement contemplated above must include, but need not be limited to the following:

- (a) Directing traffic at those scenes and ensuring the safety of the persons involved in the accident or incident and emergency services personnel, as well as passing motorists and pedestrians;
- (b) the cleaning up of spills of dangerous goods as defined in section 1 of the National Road Traffic Act;
- (c) evacuating injured persons; and
- (d) clearing the road of vehicles and other obstructions.

36. MANAGEMENT OF ACCIDENT SCENES

36.1 Subject to national and provincial legislation, a Police officer arriving at the scene of an accident involving death of or injury to a person or substantial damage to property–

- (a) must take control of the scene and establish and secure the perimeter of the scene until another officer that has been appointed in terms of legislation, the Disaster Management Framework or an agreement contemplated in section 33 arrives on the scene or control has been relinquished under the above; and
- (b) may relinquish control to another officer because of that officer's specialized skills or if that officer has been assigned by a competent person or authority.

36.2 Pending the takeover of control by another officer, the Police officer must–

- (a) take immediate steps to secure the safety of the scene and direct other responding persons and units: provided that rapid transport lanes must only be closed for periods that are absolutely necessary for such an officer to perform his or her duties;
 - (b) tend to the needs of special needs passengers;
 - (c) request the required fire, rescue and ambulance resources;
 - (d) evacuate injured persons and bystanders;
 - (e) establish a command post;
 - (f) determine how and where equipment and personnel should be distributed;
 - (g) arrange for transportation of stranded passengers to their destinations;
 - (h) control access of bystanders and the media to the scene;
 - (i) comply with other relevant legislation, including, but not limited to, dealing with fatalities;
- and
- (j) clean or otherwise deal with the spillage or escaping of dangerous liquids or gases in accordance with the National Road Traffic Regulations.

37. OFFENCES AND PENALTIES

37.1 Anyone who contravenes or fails to comply with any provision of these by laws commits an offence and liable on conviction to imprisonment for a period not exceeding six months or a fine, and, in the case of a continuing offence, to a further fine not exceeding one thousand rand (R1 000,00), for every day during the continuance of such offence after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such offence.

38. MISCELLANEOUS PROVISIONS

38.1 The municipality may develop codes of conduct for operators, drivers, conductors or parking attendants and publish them in the Gazette.

38.2 The persons to whom such a code of conduct applies must comply with the relevant provisions of the code of conduct.

38.3 The municipality may develop a customer care plan or passenger charter and publish it in the Gazette, in which case operators, drivers, conductors, passengers, authorised officers, parking attendants and marshals must comply with its provisions.

38.4 The municipality must develop and implement a plan for dealing with lost children found in public transport vehicles and public transport facilities.

39. CALL CENTRE AND LOST PROPERTY OFFICE

39.1 The municipality must establish a lost property office where property left in public transport vehicles and public transport facilities can be kept for safekeeping and reclaiming by the person who so left the property.

39.2 The municipality as well as operators of scheduled public transport services must provide information for passengers on the public transport system provided or managed by the municipality as required by the Consumer Protection Act, 2008 (Act No. 68 of 2008) and in compliance with section 11(1)(c)(xii) of the Act.

39.3 In compliance with the above the municipality must, as a minimum–

- (a) provide timetables of those public transport services in compliance with section 11(1)(c)(xxii) of the Act;

(b) post such timetables at public transport facilities where they are easily visible to passengers.

39.4 The municipality must take steps to market and promote public transport, introduce integrated ticketing systems and take other measures to enable passengers to move easily and seamlessly from one public transport mode to another and reduce travel time and costs in compliance with section 11(1)(c) of the Act, and in particular paragraphs (vii) and (xxii) thereof.

40. ROUTES FOR DANGEROUS GOODS

40.1 Where the municipality has determined one or more routes for the transporting of dangerous goods in its integrated transport plan in terms of section 36(3) of the Act, and such plan has been approved by the MEC and Minister, the municipality may publish details of such route by notice in the Gazette and in the manner contemplated in sections 21 and 21A of the Municipal Systems Act.

40.2 As from a date specified in that notice, no one may transport dangerous goods as defined in the National Road Traffic Act in the municipal area on any road except on a road forming part of such a route.

40.3 This section is subject to the National Road Traffic Act and National Road Traffic Regulations.

41. REVOCATION OF BY LAWS

41.1 The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to

the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

41.2 Any by laws relating to this by law as adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by law.

42. APPLICATION OF BY LAW

42.1 This by law shall be binding on all persons and property within the jurisdiction of the municipality.

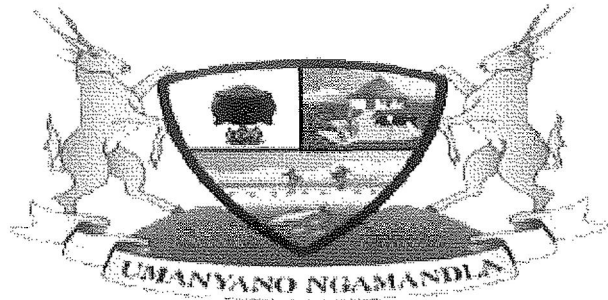
43. SHORT TITLE

43.1 This by-law is called the **PUBLIC TRANSPORT BY LAW, 2018**.

44. COMMENCEMENT

44.1 This by-law takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 255 OF 2019



MBIZANA MUNICIPALITY

BYLAWS FOR STREET TRADING

APPROVED BY COUNCIL ON

WITH EFFECT FROM

PURPOSE

To give effect to the Municipalities street trading by law and the implementation thereof i.e. it is the process utilised by the municipality to ensure responsible street trading and services rendered by street traders. Further to that to provide for the development and management of the informal sector trading (second economy) within the area of the Municipality.

PREAMBLE

WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby makes the following By-Law: THE STREET TRADING BY LAW

TABLE OF CONTENTS

1. DEFINITIONS	4
2. SCOPE AND OBJECTIVES OF THE BYLAW	7
3. RESTRICTED AND PROHIBITED AREAS	7
4. PROHIBITED CONDUCT	8
5. RESTRICTED CONDUCT	9
6. CLEANLINESS	12
7. SIGN INDICATING RESTRICTED AND PROHIBITED AREAS	13
8. LEASING OF VERGER	14
9. REMOVAL AND IMPOUNDMENT	14
10. DISPOSAL OF IMPOUNDED GOODS	15
11. DUTY AND LIABILITY OF MUNICIPALITY	16
12. VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS	17
13. OFFENCES AND PENALTIES	17
14. RESPONSIBLE PERSON	18
15. APPEAL	18
16. LIAISON FORUMS IN COMMUNITY	19
17. APPLICATION OF BYLAW	19
18. REGULATIONS	19
19. REPEAL OF BYLAWS	21
20. SHORT TITLE	21

1. DEFINITIONS

In this by-law, unless the context otherwise indicates –

“Act” means the Businesses Act, 1991 (Act 71 of 1991), and includes the regulations promulgated under the Act;

“approval” means approval by the municipality and **“approve”** has a corresponding meaning;

“garden” means a garden to which the public has a right to access;

“goods” means any movable property;

“intersection” means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“litter” means any object or matter which is discarded by a person;

“motor vehicle” means a motor vehicle as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“municipality” means the Municipality of Mbizana, and includes any political structure, political office bearer, councilor, duly authorised agent thereof or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or subdelegated to such political structure, political office bearer, councilor, agent or employee;

“municipal manager” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person: 2

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

“official” means a designated officer who is authorized by the municipality to perform and exercise any or all of the functions and powers contemplated in this by-law;

“park” means a park to which the public has a right to access;

“premises” includes any land, building, structure, part of a building or of a structure, or any vehicle, conveyance, vessel or aircraft;

“prescribed” means prescribed by the municipality by resolution;

“property”, in relation to a street trader, means goods in which a street trader trades, and includes any article, container, vehicle or structure used or intended to be used in connection with street trading by the street trader;

“public amenity” means –

(a) any land, square, camping site, caravan park, beach, swimming pool, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;

(b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and

(c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

“public road” means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“roadway” means a roadway as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“sell” includes barter, exchange, hire out, display, expose, offer or prepare for sale, store with a view to sell, or provide a service for reward, and **“sale”** or **“selling”** has a corresponding meaning;

“sidewalk” means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“street furniture” means any furniture installed by the municipality on the street for public use;

“street trader” means a person who, as hawker, vendor or pedlar as contemplated in the Businesses Act, 1991 (Act 71 of 1991), carries on the business of the selling of any goods or the supplying of or offering to supply any service for reward in a public road or public amenity;

“street trading” means the carrying on of the business as a street trader;

“verge” means a verge as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996), and any words or expressions to which a meaning has been assigned in the Businesses Act, 1991, (Act 71 of 1991) have a corresponding meaning in this by-law.

(2) A single act of selling or offering or rendering of services in a public road or public amenity constitutes street trading.

(3) A reference to a person carrying on the business of street trader includes the employee of the person.

2. SCOPE AND OBJECTIVES OF THE BYLAW

1. This *By-Law* applies to the Municipality's area of jurisdiction, and is only applicable to the street traders of Mbizana Municipal area.

2. The objectives of the Street trading By-Law are as follows: -

The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and –

(a) having regard to the principles set out in the Act and in the Constitution;

(b) taking into consideration the need of the residents to actively participate in economic activities; and

(c) taking into consideration the need to maintain a clean and healthy environment, in this bylaw provides mechanisms, procedures and rules to manage street trading.

3. RESTRICTED AND PROHIBITED AREAS

1. The municipality may, in terms of this bylaw declare any place in its area of jurisdiction to be an area in which street trading is restricted or prohibited.

2. The municipality must by public notice and by erected sign indicate such areas, and the notice and sign must indicate –

(a) the restriction of prohibition against street trading;

(b) if street trading is restricted –

(i) the boundaries of the area or stand set aside for restricted street trading;

(ii) the hours when street trading is restricted or prohibited; and

(iii) the goods or services in respect of which street trading is restricted or prohibited; and

(c) that the area has been let or otherwise allocated.

3. The municipality may change the areas contemplated by it if the needs and circumstances of residents and street traders demand such reconsideration.

4. A person who carries on the business of a street trader in contravention of a notice contemplated by the Municipality commits an offence.

4. PROHIBITED CONDUCT

1. No person shall carry on the business of a street trader -

(a) At a place or in an area declared by the municipality as a place or area in which street trading is prohibited;

(b) In a garden or park to which the public has a right of access;

(c) On a verge contiguous to –

(i) A building belonging to, or occupied solely by, the municipality, or any other sphere of government;

(ii) A church, mosque, synagogue, or other place of worship;

(iii) A building declared to be a public monument;

(iv) An auto teller bank machine;

(d) At a place where it causes an obstruction in respect of –

(i) a fire hydrant; or

(ii) any entrance to, or exit from a building;

(e) at a place where it is likely to obstruct vehicular traffic;

(f) at a place where it could substantially obstruct a pedestrian, in his or her use of a sidewalk

(g) 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 that building objects thereto, and such objection is made known to the street trader by an authorised official;

(h) on a stand or in any area demarcated by the municipality, if he or she is not in possession of proof that he or she has hired such stand or area from the municipality, or that such stand has otherwise been allocated to him or her by the municipality; and

(i) on a sidewalk contiguous to a building in which business is being carried in by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if the goods are sold by the street trader without the prior consent of first-mentioned person, and an authorised official has informed the street trader that such consent does not exist.

2. A person who has hired a stand from, or who has been allocated a stand by, the municipality, may not trade in contravention of the terms and conditions of such lease or allocation.

5. RESTRICTED CONDUCT

1. A person carrying on the business of a street trader –

(a) May not sleep overnight at the place of such business;

(b) May not erect any structure for the purpose of providing shelter, other than a structure provided or approved by the municipality;

(c) May not place his or her property on a public road or public area, with the exception of his or her motor vehicle or trailer from which trade is conducted, provided that such vehicle or trailer does not obstruct pedestrian of the National Traffic Act, 1996;

(d) Must ensure that his or her property or area of activity –

[i] does not cover an area of a public road, or a public place which is greater than 6 (six) square metres (with a maximum length of 3(three) metres) in extent, unless otherwise approved by the municipality; and,

[ii] in respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5 (one and a half) metres wide when measured from any contiguous building to the property or area of activity, and not less than 0.5 (one half) metres wide when measured from the kerb line to the property or area of activity;

(e) may not trade on a sidewalk where the width of such sidewalk is less than 3 (three) metres;

(f) may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person, or cause damage to any property;

(g) may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, a person in control of such building or property;

(h) must, on request by an authorised official or supplier of telecommunication or electricity, or other municipal services, move his or her property so as to permit the carry out of any work in relation to a public road, public place, or any such services;

(i) may not attached any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post-box, traffic sign, bench or any other street furniture in or on a public road or public place;

(j) may not carry on such business in such a manner as to –

[i] create a nuisance

- [ii] damage or deface the surface of any public road or public place, or any public or private property; or
- [iii] create a traffic or health hazard, or health risk, or both;
- (k) May not make an open fire on a public road or public place;
- (l) May not interface with the ability of a person using a sidewalk to view the goods displayed behind a shop display window, or obscure such goods from view;
- (m) May not obstruct access to a pedestrian crossing, a parking or loading bay, or other facility for vehicular or pedestrian traffic;
- (n) May not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- (o) May not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of this by-law;
- (p) May not carry on business, or take up a position, or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law;
- (q) May not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;
- (r) May not place, on a public road or public place, such of his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;

- (s) Must, on concluding business for the day, remove his or her property, except any structure provided or approved by the municipality, to a place which is not part of a public road or public place
- (t) May not store his or her property in a manhole, storm water drain, public toilet, bus shelter or tree, and
- (u) May not carry on such business in a place or area in contravention of any prohibition or restriction approved by the municipality.

6. CLEANLINESS

1. A street trader must –

- (a) Keep the area or site occupied by him or her for the purpose of such business in a clean and sanitary condition;
- (b) Keep his or her property in a clean, sanitary and well-maintained condition;
- (c) Dispose of litter generated by his or her business in whatever refuse receptacle is provided by the municipality for the public, or at a dumping site of the municipality;
- (d) Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- (e) Ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of trade is free of litter;
- (f) Take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling of any fat, oil or grease onto a public road, or public place, or into a storm water drain;

(g) Ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities, causes her pollution of any kind; and Her activities, causes pollution of any kinds; and,

(h) On request by an authorised official, move his or her property, so as to permit the cleaning of the space, or the area or side where he or she is trading, or the effecting of municipal services.

7. SIGN INDICATING RESTRICTED AND PROHIBITED AREAS

1. The municipality may, by resolution, declare any place in its area or jurisdiction to be an area in which street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe, or make, signs, markings or other devices indicating –

(a) specified hours, goods and services in respect of which street trading is restricted or prohibited;

(b) the location of boundaries in respect of restricted or prohibited areas, and

(c) any other restriction or prohibition against street trading with regard to the area in question.

2. The municipality must display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area concerned.

3. Any sign erected in terms of this by-law or the Act shall serve as sufficient notice to a street trader, of the prohibition or restriction in respect of the area concerned.

4. Any sign may be amended from time to time and displayed by the municipality for the purpose of this by-law, and shall have the same effect as a road sign in terms of the National Road Traffic Act, 1996.

8. LEASING OF VERGER

1. The municipality may, by resolution,

(a) lease any verge, or any portion thereof, the owner or occupier of the contiguous land, on the owner or occupier shall admit a specified number of street traders in stands or places on such verge designed by such owner or occupier;

(b) Set apart and demarcate stands or areas for the purpose of street trading or any public road, the ownership or management of which is vested in the municipality, or on any other property in the occupation and under the control of the municipality.

(c) Extend, reduce or disestablish and stand or area referred in the previous subsections; and

(d) Let or otherwise allocate any such stand or area.

2. Any such stands or areas may be extended, reduced or disestablished, by resolution of the municipality.

9. REMOVAL AND IMPOUNDMENT

1. An official who reasonably suspects that property is being used or intended to be used in, or in connection with, street trading, whether or not the property is in possession or under the control of any person may, subject to subsection (2), remove and impound the property which

he or she finds at a place where street trading is restricted or prohibited and which constitutes an infringement of any such restriction or prohibition.

2. An official who acts under subsection (1) must, except in the case of goods that have been left or abandoned, issue to the street trader a receipt for the property so removed and impounded and the receipt must contain the following particulars:

- (a) the address where the impounded property will be kept and the period it will be kept;
- (b) the conditions for the release of the impounded property; and
- (c) that unclaimed property will be sold by public auction.

3. If any impounded property is attached to immovable property or a structure, and the impounded property is under the apparent control of a person present at that place, an official may order the person to remove the impounded property.

4. When a person fails to comply with an order to remove the impounded property, an official may take such steps as may be necessary to remove the impounded property.

5. A person who hinders or obstructs an official in the performance of his or her duties under this section, or who refuses or fails to remove the object when ordered to do so by an official, commits an offence.

10. DISPOSAL OF IMPOUNDED GOODS

1. Any perishable goods removed and impounded may at any time after the impoundment thereof be sold or destroyed by the municipality and in the case of a sale of such goods, the proceeds thereof, less any expenses incurred by the municipality in connection with the removal and impoundment thereof. The balance thereof is to be paid to the person who was

the owner thereof when it was impounded. If such owner fails to claim the said proceeds within three months of the date on which it was sold, the proceeds may be forfeited to the municipality.

2. The owner of any goods other than perishable goods already dealt with by the municipality in terms of subsection (1) who wishes to claim the return thereof must, within a period of one month of the date of the impoundment thereof, apply to the municipality; failing which the goods may be sold by the municipality and in the event of a sale thereof the provisions of subsection (1) relating to the proceeds of a sale likewise apply to the proceeds of the sale.

3. If the owner of any goods impounded claims the return of the goods from the municipality and he or she is unable or refuses to refund any expenses incurred by the municipality in connection with the removal and impoundment, the goods may be sold by the municipality and the proceeds of any sale thereof, less any expenses shall be paid to him or her.

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 municipality, the owner thereof shall remain liable for the difference.

11. DUTY AND LIABILITY OF MUNICIPALITY

1. In the event that an authorised official removes and impounds any property in terms of the preceding section, the authorised official shall take reasonable steps to ensure that such property is not damaged or lost.

2. The municipality shall not be liable for any damage or loss caused to any such property that is removed and impounded, unless such damage or loss is caused as a result of the negligence of the municipality.

12. VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

1. When an employee or agent of a street trader contravenes a provision of this by-law, the street trader shall be deemed to have committed such contravention him- or herself unless such street trader satisfies the court that he or she took reasonable steps to prevent such contravention.

2. The fact that the street trader issued instructions to the employee or agent, prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

13. OFFENCES AND PENALTIES

1. Any person who –

[a] contravenes, or fails to comply with, any provision of this by-law;

[b] fails to comply with any notice issued in terms of this by-law;

[c] fails to comply with any lawful instruction given in terms of this by-law; or

[d] who obstructs or hinders any authorised official in the execution of his or her duties under this by-law - is guilty of an offence, and liable, on conviction, to a fine not exceeding R5 000 or, in default of payment, to imprisonment for a period not exceeding 3 (three) months, and in the case of a continuing offence, to a further fine not exceeding R50 or, in default of payment, to imprisonment not exceeding one day, for every day during the continuation of such offence,

CONTINUES ON PAGE 130 - PART 2



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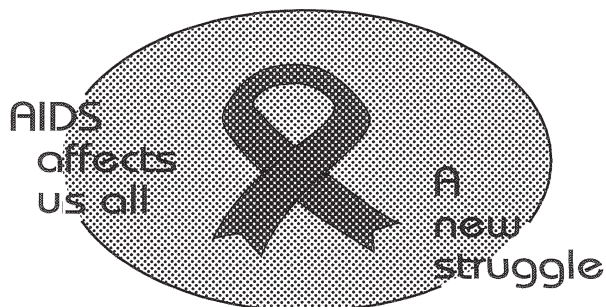
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BISHO/KING WILLIAM'S TOWN
21 OCTOBER 2019
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No. 4329

PART 2 OF 2

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after written notice has been issued by the municipality and served on the person concerned, requesting the discontinuation of such offence.

2. An admission of guilt fine may be paid by any person in respect of whom a summons or written notice has been issued for any contravention of this by-law, as contemplated in terms of Sections 56 and 57 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

14. RESPONSIBLE PERSON

1. When an employee of a person who performs an act which contravenes a provision of this by-law, the employer is deemed to have committed the contravention himself or herself, unless he or she proves that –

- (a) he or she did not permit such act;
- (b) he or she took all reasonable steps to prevent the performance of the act; and
- (c) it was not in the scope of the authority or the course of employment of the employee to perform an act which contravenes this by-law.

15. APPEAL

1. A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore 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.

16. LIAISON FORUMS IN COMMUNITY

1. The municipality may establish one or more liaison forums in a community for the purposes of –

- (a) creating conditions for a local community to participate in the affairs of the municipality;
- and
- (b) promoting economic development;

2. A liaison forum may consist of –

- (a) a member or members of an interest group, or an affected person;
- (b) a member or members of a community in whose immediate area commonage has been established;
- (c) a designated official or officials of the municipality; and
- (d) a councillor.

3. The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.

17. APPLICATION OF BYLAW

This by-law shall be binding on all persons who own or occupy premises within the jurisdiction of the municipality.

18. REGULATIONS

1. The municipality may make regulations regarding –

- [a] the provision or approval of any structure for purposes of providing shelter,

[b] the declaration of any place to be an area in which street trading is restricted or prohibited, and the prescription or making of signs, markings or other devices,

[c] the leasing of any verge or any portion thereof, and the setting apart, demarcation, letting or allocation of stands or areas for the purposes of street trading, and the extension, reduction or disestablishment thereof,

[d] [i] the disposal of any property which has been removed and impounded,

[ii] the liability of any person for any reasonable expenses incurred in connection with such removal, impoundment and disposal;

[e] [i] the prescription of penalties for the offences;

[ii] the issuing of any summons or written notice and payment of an admission of guilt fine; and

[iii] the amendment of such penalties or fines from time to time;

[f] any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this by-law.

2. The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection [1], cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.

3. If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

4. In addition the municipality may make regulations regarding –

(a) any matter required, or permitted, to be prescribed in terms of this by-law; and

(b) generally, all matters which, in the reasonable opinion of the municipality, are necessary, or expedient, to be prescribed, in order to achieve the objects of this by-law.

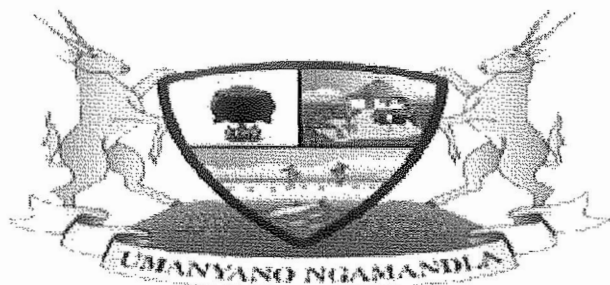
19. REPEAL OF BYLAWS

Any by-laws relating to street trading adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

20. SHORT TITLE

This by-law is called the Street Trading Bylaw, 2016, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 256 OF 2019



MBIZANA MUNICIPALITY

BY-LAW:

MUNICIPAL POUND BYLAW

APPROVED BY COUNCIL ON

WITH EFFECT FROM

PURPOSE

To give effect to the Municipalities **MUNICIPAL POUND BYLAW** and the implementation thereof i.e. it is the process utilised by the municipality to ensure responsible services rendered in terms of the application of this by law.

PREAMBLE

WHEREAS section 24(a) of the Constitution provides that everyone has the right to an environment that is not harmful to their health and well-being; and

WHEREAS in terms of section 11(3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby effects the above by law.

1. DEFINITIONS

“animal”	means any equine, bovine, cow, bull, oxen, sheep, donkey, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, cattle, wild bird or reptile, including the young of such animal and includes also both sexes of such animal
“animal disease”	has the meaning assigned to it in terms of the Animal Diseases Act No. 35 of 1984
“animal health scheme”	has the meaning assigned to it in terms of the Animal Diseases Act No. 35 of 1984
“auction sale”	means a public sale in which members of the public are invited to bid for the animal or animals being offered for sale, the animal or animals being sold to the highest bidder at the fall of the hammer, and which sale constitutes a legally binding contract and which complies with the provisions of the Consumer Protection Act No. 68 of 2008, where applicable
“contagious disease”	means any disease, sickness, or illness which is capable of being transferred or transmitted from an infected animal, carcass or other thing to another animal, plant or human either through physical contact or by being airborne

“Council”	means the Council of the Mbizana Local Municipality
“department”	means the Department of Agriculture, Forestry and Fisheries
“hooves”	means horny covering protecting the ends of digits in the foot of certain animals, such as horses or donkeys
“identification mark”	has the meaning assigned to it in terms of the Animal Identification Act, 2002
“mane”	means hair that grows from the top of the neck of a horse that naturally grows to cover the neck and forehead
“municipality”	means the Mbizana Local Municipality
“owner”	in relation to any animal or animals includes any person having possession, charge, custody or control of such animal or animals in relation to land includes the registered owner, lessee or any lawful occupier of such land

“pound”	means a fenced-off area consisting of one or more camps and which meets the requirements of the local Society for the Prevention of Cruelty to Animals for the keeping of animals, established by the municipality and placed under the control of the pound master, for the housing and care of animals which are astray, lost or at large
“pound master”	means a person who may be a part-time or full-time employee of the municipality and appointed as such in terms of these bylaws
“public place”	means any place to which the public has access including, but not limited to, any square, park, recreational ground, sports grounds, open space, shopping centre on municipal land, used or vacant municipal land or cemetery
“public road”	means a public road as described in Section 1 of the National Road Traffic Act No 93 of 1996
“ranger”	means any person appointed as such by the municipality in terms of these bylaws to patrol public places and roads with the intention of impounding stray or lost animals and to maintain the pound

“SPCA”	means the local Society for the Prevention of Cruelty to Animals
“ticks”	means small ectoparasites living by feeding on the blood of animals
“vaccine”	means any injectable solution that provides immunity to a particular disease
“veterinary surgeon”	means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act No 19 of 1982

2. REVOCATION OF BY LAWS

33.1 The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

33.2 Any by laws relating to this by law as adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by law.

3. APPLICATION OF BY LAW

34.1 This by law shall be binding on all persons and property within the jurisdiction of the municipality.

4. LEGISLATION

4.1. Constitution of the Republic of South Africa

4.2. Local Government: Municipal Systems Act No 32. Of 2000

4.3. National Road Traffic Act No 93 of 1996

4.4. Animal Identification Act No.6 of 2002

4.5. Animal Diseases Act No. 35 of 1984

4.6. Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act No 36 of 1947

4.7. Criminal Procedure Act No 56 of 1955

4.8. Animal Protection Act No. 71 of 1962

4.9. The legislation listed in sub-paragraphs 4.1. to 4.8 above do not represent an exhaustive list of legislation to which these bylaws may be subject.

4.10. In the event of any ambiguity between any provision of this bylaw and the provision of any national or provincial legislation, the provision of such legislation shall prevail.

5. OBJECTS OF BYLAW

- 5.1. To promote the effective monitoring and control of impounded animals within the jurisdiction of the municipality.
- 5.2. To ensure that the established pound as well as its administration is in line with applicable legislative requirements and requirements of the SPCA.
- 5.3. To foster a culture of stock responsibility among the communities of the municipality .
- 5.5. To administer the pound in a manner that is fair to stock owners, especially rural stock owners whose livelihood and status in their communities depend largely on their stock count.

6. ESTABLISHMENT OF POUND

- 6.1. The Council may establish a pound at any convenient place within its area of jurisdiction and, whenever the Council deems it necessary, may disestablish such pound.
- 6.2. The pound shall meet the following criteria, as well as any criteria required by the SPCA and or other legislation with regards to the keeping of animals:
 - 6.2.1. the pound area shall be well-fenced, secure with lockable gates (barbed wire fencing is discouraged as it poses a danger to impounded animals);
 - 6.2.2. the pound area shall be reasonably large enough to allow for free mingling of animals, provided different categories of animals shall be kept separate from one another if so dictated by the SPCA or other applicable legislation;
 - 6.2.3. the pound shall be large enough to allow for adequate grazing;

6.2.4. the pound area shall be sub-divided into enclosures to accommodate animals according to their feeding adaptations, behaviour and state of health, provided that there are separate enclosures as follows:

6.2.4.1. cattle

6.2.4.2. sheep, goats and pigs

6.2.4.3. dogs; and

6.2.4.4. cats;

6.2.5. where there is insufficient ground for grazing, there must be alternative provision for feeding;

6.2.6. the pound must have adequate shelter for the provision of shade and protection against adverse weather conditions, for both animals and pound personnel;

6.2.7. the pound must have adequate supply of clean water at all times;

6.2.8. the pound must be clean and well-maintained at all times;

6.2.9. animal droppings must be removed from the enclosures as they pollute the area and serve as breeding ground for diseases;

6.2.10. poisonous plant species must also be identified and destroyed;

6.2.11. the pound must have a constructed off-ramp for off-loading of animals from delivery vehicles;

6.2.12. animals must be transported strictly in accordance with the transportation guidelines laid down for different categories of animals by the SPCA to ensure no harm is caused to any animal.

6.2.13. The pound shall have a separate quarantine section.

6.3. The Council shall give notice of the establishment of a pound, or the disestablishment thereof, by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Council.

7. POUND MASTER

7.1. The municipality shall appoint a fit and proper person to be the pound master.

7.2. It is the duty of the pound master to receive into his or her charge, for impoundment, all animals brought to the pound, during such hours as the municipality may determine.

7.3. The pound master is responsible for the overall administration and management of the pound.

7.4. The pound master shall keep and manage the pound register.

7.5. The pound master shall liaise with the state veterinary surgeon or equivalent officer with regards to injured, sick or dead animals.

7.6. In the absence of the pound master, the municipality may appoint another person to act in such position, and such person shall assume all duties of the pound master as contained in this bylaw during the time of his or her acting as such.

8. RANGERS

8.1. The municipality shall appoint one or more persons to be rangers.

8.2. Rangers shall patrol all public and municipal spaces within a prescribed radius.

8.3. Rangers shall deliver stray, lost or trespassing animals to the pound.

8.4. Rangers shall mark all animals upon delivery to the pound. The rangers shall ensure that the markings envisaged in this section are done in a safe, and non-harmful manner.

8.5. Rangers shall remove all dead or injured animals, provided that injured animals shall only be removed upon consultation with a veterinary surgeon, from roads, public spaces and the pound.

9. POUND ASSISTANTS

9.1. The municipality may appoint as many pound assistants as it deems necessary to support the pound master in his or her duties.

9.2. Pound assistants shall be responsible for:

9.2.1. cleaning and maintenance of the pound;

9.2.2. provision of water and feed;

9.2.3. removal of animals from the pound upon instruction by the pound master;

9.2.4. tendering of animals in preparation for sale;

9.2.5. maintenance of enclosures and grazing land;

9.2.6. feeding of impounded animals;

9.2.7. destruction and disposal of sick or injured animals upon instruction by the pound master.

10. Detention and removal of animals

10.1. Any animal –

10.1.1. found trespassing on land; or

10.1.2. straying or wandering unattended in a public road or other public place,

may be detained and removed to a pound by the owner of such land, a ranger, a member of the South African Police Services , the pound manager or his or her designee, or any other person.

10.2. Any person who has detained an animal for the purpose of impounding shall -

10.2.1. remove such animals to a pound within 24 hours after seizure; and

10.2.2. ensure that proper care is taken of the seized animal until the animal is received at the pound.

11. Impoundment

11.1. Any person removing an animal to a pound shall provide the pound manager with-

11.1.1. his or her name and permanent residential address;

11.1.2. the time and place of detention of the animal; and

11.1.3. the capacity in which he or she detained the animal.

11.2. The pound manager shall, upon receipt of a detained animal -

11.2.1. record the particulars furnished in terms of section 5(1) and enter the same in a book maintained for the purpose, which book shall be known as the pound register;

11.2.2. record in the pound register the number of animals impounded, a description of each animal, whether such animal has an identification mark and the general state of health as of time of impoundment as observed by the pound master.

11.2.3. furnish the person delivering the animal with a receipt reflecting –

11.2.3.1. his or her name;

11.2.3.2. a description of the animal or animals; and

11.2.3.3. the date and time of receipt of the animal(s) at the pound; and

11.2.3.4. keep a copy of each receipt issued in terms of section 5(2)(b).

- 11.3. No person shall release or attempt to release, otherwise than in accordance with these bylaws, any animal(s) which has been received at a pound.
- 11.4. Where it is clear that any animal is sick or injured, the pound master shall immediately consult the state veterinary surgeon or other equivalent person, with a view to securing medical treatment for the animal.
- 11.5. The pound master shall comply with any animal health scheme pertaining to any sick or diseased animal.
- 11.6. Within 24 hours of the impoundment of any animal, the pound master shall cause a notice to be put up on the pound notice board, which notice shall contain a description of the animal or animals impounded, the vicinity in which such animal(s) was found wandering or trespassing, and advising owners to claim such animals within a period of 14 days, failing which the animal may be considered for sale by the municipality. Provided that where such animal is so sick or injured it may be disposed off, in accordance with these bylaws prior to or within the 14 day notice period.
- 11.7. If an animal or animals impounded at the same time exceeds the fair market value of R10 000-00, the pound master must publish a copy of the notice referred to in clause 11.5 above in a newspaper published in the area in which the impounded animal was found, or if there is no such newspaper then in any newspaper circulating in the area.
12. **IMPOUNDED ANIMALS BEARING IDENTIFICATION MARK OR ANIMALS FOR WHICH THE OWNER IS KNOWN TO POUND MASTER**

12.1. In accordance with Regulation 8 of Government Notice R1683 dated 21 November 2003, issued in terms of section 14 of the Animal Identification Act, 2002, the pound master shall follow the following procedures with respect to animals bearing an identification mark or where the pound master is aware of the identification of the owner:

12.2.1. the pound master shall send by certified post to the owner of the animal a notice containing the following details:

- (a) the name and address of the pound;
- (b) the name and address of the owner of the identification mark;
- (c) the description of the identification mark;
- (d) the description of the animals in the pound;
- (e) the number of animals of each description;
- (f) the date on which the animals of each description were impounded;
- (g) the date on which the animals of each description will be auctioned; and
- (h) the date of issue of such notice.

13. CLAIM BY OWNER

13.1. Where a person has satisfied the pound master that he or she is the legal owner of an impounded animal, the pound master may release such animal to such person only upon the following condition:

13.2.1. the claimant has paid the amount of an invoice issued by the pound master which reflects the costs incurred for the feeding, veterinary care and accommodation of the animal charged for the period of impoundment.

13.2. The pound master shall issue an invoice of charges to the claimant, such invoice to be paid at the municipality cashier's office.

13.3. Upon proof of payment issued by the municipal cashier, the pound master issue a payment receipt in triplicate. One receipt shall be given to the owner, one receipt shall be kept by the pound master and one receipt shall be filed in a payments receipts book to be handed over to the municipality treasury department once a month.

13.4. The pound master will thereafter facilitate the safe removal of the claimed animal from the pound.

14. UNCLAIMED ANIMALS

14.1. Where any impounded animal remains unclaimed for a period of more than 14 days from date of impoundment, such animal may be put up for sale by way of auction.

15. PROCEDURE AND NOTICE OF SALE

15.1. If an animal has not been claimed by its owner or if the owner of the animal is unknown, the pound master must within 5 days from the end of the notice period of the notice contemplated in clause 11.4 above, apply to the magistrates court in terms of the procedure prescribed by that court for an order to sell the animal on public auction.

15.2. After the court grants the order contemplated in 15.1 above, the pound master must publish the prescribed notice of sale of the animal.

- 15.3. The notice of sale must be displayed for 5 days in three public places on the municipality and must specify the time and place at which the animal will be publicly sold.
- 15.4. If the animal has not been claimed by the owner or someone on behalf of the owner after 5 days of the publication of the notice of sale, the pound master can proceed to dispose of the animal by way of public auction.
- 15.5. The animal must be sold to the highest bidder at the time and place mentioned in the notice.
- 15.6. Every sale of impounded animals must be conducted by the pound master or some other person duly authorised thereto by the municipality.
- 15.7. Every sale of impounded animals must commence at the time and date mentioned in the notice in terms of clause 15.3 above.
- 15.8. No person conducting a sale may have any direct or indirect interest in any purchase at any sale so held by him or her.
- 15.9. At every sale no animal may be put up for sale unless impounded for at least 14 consecutive days.
- 15.10. No animals, except sheep and goats must be sold individually.
- 15.11. Sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep and goats with different marks or brands may not be sold together in the same lot.
- 15.12. Animals must be sold for cash, and proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold.

- 15.13. Any monies, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality.
- 15.14. The municipality may fix a reserve price for any animal offered for sale; and
- 15.15. The pound master may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.
- 15.16. If the owner claims the animal after 5 days of the notice of sale but before the animal is auctioned, the owner of the animal will be liable for the amount-
- (a) claimed for damages caused by the animal to the property of the person who impounded the animal
 - (b) for veterinary fees;
 - (c) for the service fee of the pound master as prescribed;
 - (d) for the publication of the notice of sale; and
 - (e) any other expense as may be prescribed by law.
- 15.17. The owner is entitled to the remittance of the net proceeds of sale contemplated in this section by application in the prescribed manner.
- 15.18. The pound master shall keep a record of every court order authorising an auction, as well as the purchase price of every animal sold in terms of such auction.
- 15.19. No animal shall be sold otherwise than in accordance with this section.

16. COSTS OF IMPOUNDMENT WHICH MUNICIPALITY IS ENTITLED TO RECOVER FROM OWNER

- 16.1. Any owner who claims an impounded animal shall be responsible for the tariff of charges in respect of feed, accommodation and or veterinary costs and any other related costs for which a tariff has been prescribed by the municipality, for the duration in which the animal has been impounded.

17. CARE AND TREATMENT OF ANIMALS

- 17.1. A temporary mark shall be applied to every impounded animal within 24 hours upon arrival at the pound.
- 17.2. The pound master shall ensure that the temporary marking is done in a humane manner and shall not in any way harm or injure the animal.
- 17.3. Where there is adequate grazing ground, animals must be allowed to graze for at least 2 hours per day after which they must be returned to their enclosures.
- 17.4. Young who are still suckling must not be separated from their mothers.
- 17.5. Provision for adequate water must be provided in the grazing area as well as in the enclosures.
- 17.6. Where there is insufficient grazing ground, alternative and appropriate feed must be provided for each type of animal.
- 17.7. Male and female animals must be accommodated separately, provided that young sucklings must not be separated from their mothers.

- 17.8. Pound enclosures must provide sufficient protection from the elements, such as rain, sunshine or wind.
- 17.9. The pound must be kept in a clean and hygienic state at all times.
- 17.10. The pound perimeter fences must always be in a state of good repair to prevent animals escaping from the pound.
- 17.11. No animal shall be ill-treated, beaten, ridden, caused to work, milked for human benefit, teased, played with , denied food or water, chained, tied, whipped or in any other manner treated cruelly or in an inhumane manner. Any official found contravening this section shall be immediately disciplined which may include dismissal for a first offence.
- 17.12. The pound master shall ensure that any animal that is visibly sick or injured shall receive veterinary attention as soon as possible.
- 17.13. Whenever any animal is transported it shall be so transported in a manner that complies with the SPCA's guidelines on the transportation of animals.
- 17.14. No pound official or other person may administer medical treatment to any animal otherwise than in accordance with the advice of a veterinary surgeon or other equivalent person.
- 17.15. The pound assistants shall ensure that the pound area and grazing areas are free of any alien or poisonous plant species or any other things or objects that may be harmful to the animals.
- 17.16. The pound master must ensure that grazing rotation is practised to avoid overgrazing of a particular area.

17.17. Before any animal is sold as provided for in clause 14 above, the pound master and rangers shall ensure that each animal is tendered. This will include the trimming of manes, hooves and branding.

17.18. The pound master shall not release any animal into the care of any person who is visibly under the influence of alcohol or other substance such as drugs. This provision shall apply equally to the owner who claims any animal.

18. DUTIES OF OWNERS OF ANIMALS

18.1. Each owner of animals must-

- (a) apply for registration of an identification mark in terms of section 5(1) of the Animal Identification Act, 2002;
- (b) mark his or her animal in the prescribed manner;
- (c) where an identification mark on an animal is invisible or indistinct, mark the animal clearly with his or her identification mark, within 14 days after he or she is directed to do so by any official of the municipality;
- (d) notify the pound master of him or her being a registered owner, and providing the pound master with his or her names, identity number and permanent place of residence
- (e) notify the pound master in writing of any changes of his or her address
- (f) any owner of animals may apply for registration contemplated in sub-paragraph(a) above, with the assistance of the pound master who shall assist the owner with the filling in of necessary application forms and liaison with the department.

18.2. No person may –

- (a) within 14 days of the date on which he or she becomes the owner of an animal with an identification mark, sell, barter, give away or in any other manner dispose of that animal to another person, unless he or she furnishes a document of identification to the person who acquires that animal; or
- (b) after 14 days of the date on which he or she becomes the owner of that animal unless
 - (i) such animal has been marked in the prescribed manner with the identification mark of the owner disposing of that animal; and
 - (ii) he or she furnishes the person acquiring that animal with a document of identification.

18.3. A person acquiring an animal from a person disposing of an animal as contemplated in subsection (2) must retain the document of identification obtained from that person for a period of one year.

19. DESTRUCTION OF SICK OR INJURED ANIMALS

19.1. No animal may be destroyed unless authorised by a veterinary surgeon or equivalent person.

19.2. Where a veterinary surgeon or equivalent person has authorised the destruction of an animal, he or she shall also prescribe the manner of destruction which shall be via medical means administered by a qualified person.

19.3. No animal shall be destroyed in a cruel or inhumane manner.

- 19.4. Prior to the destruction of such animal the pound master shall apply to the magistrates court for an order authorising such destruction in line with the recommendations of the veterinary surgeon or equivalent person. Such application shall be made not more than 3 days after receipt of the recommendations of the veterinary surgeon or equivalent person. Where it is necessary for the immediate destruction of the animal in order to prevent further contamination or spread of disease to other animals or humans, such application must be made on an urgent basis.
- 19.5. The remains of the destroyed animal shall be buried (unless the veterinary surgeon or equivalent person specifically prescribes a cremation) in accordance with any applicable legislation in an area specifically demarcated outside the perimeter of the pound.
- 19.6. For each burial lime must be applied to the pit.

20. APPEAL

- 20.1. Any person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Municipal Systems Act, 2000 to the municipal manager within 21 days of the date of notification of the decision.

21. OFFENCES AND PENALTIES

- 21.1. Any person who-
- (a) contravenes or fails to comply with a provision of this bylaw;
 - (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this bylaw; or

(c) furnishes false, incorrect or misleading information, commits an offence and is liable upon conviction to-

(i) a fine or imprisonment, or to both such fine and such imprisonment; and

(ii) 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

(iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

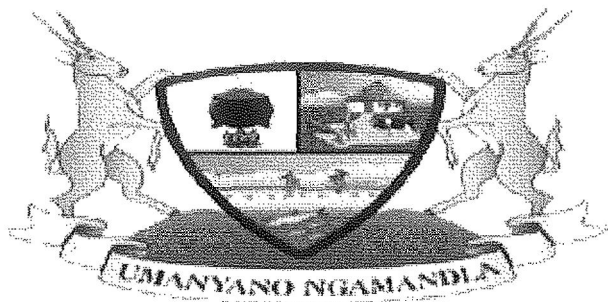
22. REVOCATION OF BYLAWS

22.1. The provisions of any bylaws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality if applicable, are hereby repealed as far as they relate to matters provided for in this bylaw, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act 117 of 1998.

35. SHORT TITLE AND COMMENCEMENT

35.1 This by-law is called the **MUNICIPAL POUND BYLAW, 2019** and shall come into operation on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 257 OF 2019



MBIZANA MUNICIPALITY

BYLAWS FOR CHILD CARE FACILITIES

APPROVED BY COUNCIL ON

WITH EFFECT FROM

PURPOSE

To give effect to the Municipalities Child Care Facilities by law and the implementation thereof i.e. it is the process utilised by the municipality to ensure responsible services rendered in terms of the application of this bylaw.

PREAMBLE

WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby makes the following By-Law: CHILD CARE FACILITIES BY-LAW.

TABLE OF CONTENTS

1. DEFINITIONS	5
2. SCOPE AND OBJECTIVES OF THE BYLAW	7
3. APPLICATION FOR A HEALTH COMPLIANCE CERTIFICATE	8
4. REQUIREMENTS FOR THE PREMISES OF CHILD CARE SERVICES FOR CHILDREN UNDER COMPULSORY SCHOOL-GOING AGE	10
5. INDOOR PLAY AREA	11
6. OUTDOOR PLAY AREA	11
7. TOILET AND WASH FACILITIES FOR CHILDREN	12
8. GENERAL REQUIREMENTS FOR TOILET AND WASH FACILITIES FOR ALL CHILDREN	14
9. LAUNDRY	14
10. SICKBAY	15
11. KITCHEN	15
12. STORAGE	17
13. SEATING AND RESTING AND PLAY EQUIPMENT	17
14. ENCLOSURE	18
15. SEPARATE FACILITIES FOR AFTER-SCHOOL CENTRE	18
16. REQUIREMENTS FOR THE PREMISES OF CHILD CARE SERVICES FOR CHILDREN OF COMPULSORY SCHOOL-GOING AGE (AFTERSCHOOL CENTRES)	19
17. INDOOR STUDY AREA	19
18. OUTDOOR PLAY AREA	19
19. TOILET AND WASH FACILITIES FOR CHILDREN	20

20. GENERAL REQUIREMENTS FOR TOILET AND WASH FACILITIES FOR CHILDREN	21
21. SICKBAY	21
22. KITCHEN	22
23. STORAGE	23
24. SEATING	24
25. FENCING	24
26. FACILITIES FOR STAFF-STAFF TOILET AND HAND WASHING FACILITIES	25
27. BATHROOM FACILITIES OF STAFF RESIDENT ON THE PREMISES	26
28. MEDICAL CARE OF CHILDREN	26
29. SAFETY MEASURES	27
30. GENERAL OBLIGATIONS	28
31. OFFENCES	30
32. PENALTIES	31
33. WITHDRAWAL OF HEALTH COMPLIANCE CERTIFICATES	31
34. APPLICATION OF BYLAW	31
35. REPEAL OF BYLAWS	31
36. SHORT TITLE	32

1. DEFINITIONS

In this by-law, unless the context otherwise indicates –

"**Act**" means Children's Act No. 38 of 2005, including the regulations made under that Act;

"**Adequate**" means that which is adequate in the reasonable opinion of the Municipality after having regard to applicable law and guidelines;

"**Approved**" means that which has been approved by the Municipality, after having regard to the reasonable environmental health requirements that may apply in the circumstances;

"**Approved premises**" means any premises that have been approved for the operation of a child care facility and in respect of which a health compliance certificate has been issued;

"**Authorised official**" means a person authorised to implement the provisions of this By-law, including but not limited to—

(a) Peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives and service providers of the municipality as are specifically authorised by the municipality in this regard:

Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"**Certificate of acceptability**" means a certificate of acceptability issued by the Municipality in terms of the Regulations Governing General Hygiene Requirements For Food Premises and the Transport of Food made in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) and published by Government Notice R962 of 23 November 2012;

"Child" means any person under the age of 18 years and "children" has a corresponding meaning;

"Child care facility" means any premises at which children are provided with temporary or partial care apart from their parents, whether for profit or otherwise, and excludes—

- (a) boarding schools;
- (b) school hostels; and
- (c) any establishments which operate mainly for the tuition or training of children and which are controlled by the State or registered or approved by the State;

"Compulsory school-going age" means the age at which it is compulsory for a child to enter grade 1 in terms of the applicable law;

"Council" or "municipal council" means the Mbizana municipal council, a municipal council referred to in section 157(1) of the Constitution;

"Health compliance certificate" means:

- (a) in the event of a child care facility where a maximum of six children are to be accommodated, the certificate issued by the Municipality for the purposes of registration in terms of this by-law ; or
- (b) in the event of a child care facility where seven or more children are to be accommodated, a certificate issued by the Municipality for the purposes of registration in terms of the Act,

and which confirms that the premises, and the facilities and services available on those premises, comply with this By-Law;

"Health compliance certificate holder" means a person to whom a health compliance certificate has been issued in terms of this By-law, and includes—

- (a) a legal person;
- (b) a partnership;
- (c) an association;

(d) a trust; and

(e) a person acting on behalf of a health compliance certificate holder;

"Municipality" means the Mbizana Municipality;

"Municipal manager" means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

"National Building Regulations" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and any amendments thereto;

"Person in charge" includes—

(a) the owner of a child care facility;

(b) the principal of a child care facility; and

(c) any person who is apparently in control of a child care facility;

"Play area" means a portion of premises set apart for children to play;

"Premises" means any land or building or part of any land or building in or on which a child care facility is operated; and

"Suitable" means that which is suitable in the reasonable opinion of the Municipality.

2. SCOPE AND OBJECTIVES OF THE BYLAW

1. This *By-Law* applies to the Municipality's area of jurisdiction, and is only applicable to the Child Care Facilities of Mbizana Municipal area.

2. The objectives of the Child Care Facilities By-Law are as follows: -

(a) Regulate the operation of child care facilities by requiring operators to apply for a health compliance certificate;

(b) Ensure that the premises on which child care facilities are operated are age appropriate and suitable for the health and well-being of children;

- (c) Impose minimum safety standards; and
- (d) Make provision for the medical care of children while attending child care facilities.

3. APPLICATION FOR A HEALTH COMPLIANCE CERTIFICATE

1. No person may operate a child care facility on any premises unless he or she has been–
 - (a) Issued with a health compliance certificate where the facility provides care for six or less children; or
 - (b) Registered in terms of the Act where the facility provides care for seven or more children.
2. Application for a health compliance certificate in terms of this by-law must be made to the Municipality in writing by completing and submitting an application form as determined.
3. The Municipality may, before considering such application, require that it be furnished with any information in connection with the application concerned which it may deem necessary.
4. Subject to subsection (5) the authorised official may issue a health compliance certificate if he or she is satisfied that the–
 - (a) Premises on which it is proposed to operate the child care facility; and
 - (b) Facilities and services available on those premises,comply with this By-law.
5. The health compliance certificate issued in terms of subsection (4) may be issued either unconditionally or on such conditions that the Municipality may deem necessary.
6. Every health compliance certificate must contain the following minimum information:
 - (a) the maximum number of children which may be cared for on the approved premises;

(b) The maximum number of children of different age groups which may be cared for on the approved premises;

(c) The minimum and the maximum ages of the children permitted to be cared for on the approved premises;

(d) The hours during which the child care facility may operate; and

(e) The date upon which the health compliance certificate expires.

7. A health compliance certificate must be displayed on every approved premises in such a way that it is clearly visible at all times to any person entering the premises.

8. A health compliance certificate is issued in respect of specific approved premises, which means that a health compliance certificate—

(a) becomes invalid if a health compliance certificate holder dies or ceases to operate a child care facility from the approved premises;

(b) is not transferable to any other person;

(c) is not transferable to, or valid for, any other child care facility or premises which the health compliance certificate holder may own, have an interest in or subsequently own or acquire an interest in;

(d) is not transferred when the holder of the health compliance certificate disposes of the child care facility concerned or of the approved premises; and

(e) May not be bequeathed by the health compliance certificate holder to any heir or legatee.

9. If a health compliance certificate holder wishes to move his or her child care facility to premises other than the approved premises, he or she must apply for and obtain a new health compliance certificate in respect of those new premises.

10. If a health compliance certificate holder wishes to make alterations to premises to which a health compliance certificate relates, he or she must—

(a) Bring his or her intention to the attention of the Municipality before commencing the alterations; and

(b) Apply for and obtain a new health compliance certificate before beginning to operate a child care facility from those altered premises.

11. A health compliance certificate issued in terms of this section may be cancelled by the Municipality after one month's written notice of its intention to cancel the health compliance certificate has been given to the health compliance certificate holder concerned, and after consideration by the Municipality of any representations which may be submitted in pursuance of such notice.

12. The cancellation of a health compliance certificate shall take effect on the date specified in the cancellation notice issued by the Municipality, which date shall not be less than 60 days after the date upon which the notice of cancellation was given.

13. Application for annual renewal of a health compliance certificate must be made to the Municipality in writing by completing and submitting an application form not later than one month before the health compliance certificate expires.

4. REQUIREMENTS FOR THE PREMISES OF CHILD CARE SERVICES FOR CHILDREN UNDER COMPULSORY SCHOOL-GOING AGE

1. Compliance with National Building Standards and the National Building Regulations (Nr R432 of 8 March 1991) as amended from time to time, Health and Safety Act 1993, Electrical

Installations regulations (Nr 242 and 243 of 2006) as amended from time to time and any other Act or Regulation that may be applicable.

2. All structures on the premises of any child care service for children under compulsory school-going age must comply with the requirements of the building regulations.

5. INDOOR PLAY AREA

1. An indoor play area must be set aside on every premises on which a child care service for children under compulsory school-going age is operated. Such indoor play area must meet the following requirements:

(a) The indoor play area must consist of 1,5 m² of free floor area per child and may be used for playing, eating and sleeping purposes only.

(b) The indoor play area for children from the age of three years to compulsory school-going age must be separate from the indoor play area for children under the age of three years.

Divisions or moveable partitions may be used to create such separation.

(c) Any structure used as an indoor play area must have -

(i) Exterior walls and a roof so constructed as to prevent the permeation of wind and rain;

(ii) Windows which open to provide sufficient natural light and cross ventilation; and

(iii) A floor which has a smooth surface that is easy to wash and that prevents the permeation of dampness.

6. OUTDOOR PLAY AREA

1. An outdoor play area must be provided on the premises of every child care service for children under compulsory school-going age. Such outdoor play area must meet the following requirements:

(a) The outdoor play area must consist of not less than 3m² of outdoor area per child, provided that if no outdoor play area is available on the premises, an approved additional indoor play area of 1,5 m² additional space per child is substituted for the outdoor play area.

(b) The outdoor play area must be free of any excavations, steps, projections, levels or surfaces.

7. TOILET AND WASH FACILITIES FOR CHILDREN

1. On any premises on which a child care service for children under compulsory school-going age is operated, toilet and wash facilities must be provided for the children. Such facilities must meet the following requirements:

(a) Toilet and wash facilities for children from the age of three years to compulsory school-going age must be in an approved separate screened-off area of the premises and must include-

(i) Where no sewer system is available in respect of the premises -

(aa) an approved toilet on the premises or immediately adjacent to the premises;

(bb) one bucket for every eight children, which bucket must be of a size suitable for use as a toilet; and

(cc) a container with a tight-fitting lid for the disposal of the contents of the bucket or buckets, as the case may be, provided that the contents of the container are disposed of regularly during the day into the approved toilet and that the bucket or buckets and the container and any chamber pot, pot or "potty" is kept in a clean and sanitary condition at all times;

- (ii) Where a sewer system is available in respect of the premises, one approved toilet for every 20 children;
- (iii) Where washbasins are available, one washbasin for every 20 children, which washbasin must -
 - (aa) be at such height as to be conveniently used by children; and
 - (bb) be supplied with running water, provided that if no running water is available, a minimum of 25 litres of potable water is supplied on a daily basis in a container capable of being closed, which container must be accessible to the washbasins; and
- (iv) Where no washbasins are available, one suitable container for every 20 children, provided that -
 - (aa) such container is capable of being filled from a potable water container that can be closed;
 - (bb) such container is placed at a height convenient for children; and
 - (cc) a minimum of 25 litres of potable water is supplied on a daily basis from the potable water container.
- (b) Toilet and wash facilities for children who are under three years of age or still in nappies must include an approved separate nappy changing area in which is provided -
 - (i) a nappy changing unit with a surface that can be cleaned easily, which unit must
 - (aa) have one bath or sink for every 20 children who are in nappies; and
 - (bb) be supplied with water, provided that if no running water is available on the premises, an approved source of potable water is available and accessible to the nappy changing area on a daily basis;
 - (ii) Disposable material for the cleaning of children who are in nappies;

- (iii) Approved separate containers for the storage of clean nappies and soiled nappies; and
- (iv) Approved facilities for the cleaning of cloth nappies.

8. GENERAL REQUIREMENTS FOR TOILET AND WASH FACILITIES FOR ALL CHILDREN

1. The toilet and wash facilities contemplated in section 7 must meet the following general requirements:

- (a) In the toilet and wash facilities, an adequate supply of toilet paper, soap and tissues must be available and accessible to the children.
- (b) In the toilet and wash facilities, an approved towel and/or facecloth must be provided for each child for his or her individual use, and each child must use the towel and/or facecloth allocated to him or her.
- (c) Suitable pegs or hooks must be affixed in the toilet and wash facilities for the hanging of the children's towels and facecloths, and such pegs or hooks must be individually marked.
- (d) An adequate number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials must be provided in the toilet and wash facilities.

9. LAUNDRY

1. If laundry is done on premises on which a child care service for children under compulsory school-going age is operated, the laundry must be done in an area of the premises that is separate from any area used by the children, and
2. The children may not have access to the area in which laundry is done.
3. No laundry may be done in a kitchen on the premises.

10. SICKBAY

1. On any premises on which a child care service for children under compulsory school-going age is operated, an area must be set aside as a sickbay for the treatment and care of any child who becomes ill or is injured, which area may only be used as a sickbay. Such sickbay must be equipped with -

(a) An approved fully-lockable and fully-equipped first-aid unit, which unit must be kept out of the children's reach; and

(b) A bed or mattress.

(2) An approved method for washing hands must be used in the sickbay referred to in subsection (1).

11. KITCHEN

1. On any premises on which a child care service for children under compulsory school-going age is operated, an approved area must be set aside as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils. Such kitchen must meet the following requirements:

(a) The kitchen may not be less than 12 m² in size.

(b) The floor covering of the kitchen must be of an approved impermeable material which can be cleaned easily.

(c) For the purposes of cross-ventilation, the kitchen must have an adequate number of windows that can be opened easily.

- (d) The kitchen may not be used as a thoroughfare by children or adults and must not be accessible to the children.
- (e) Approved hand-washing facilities must be provided in the kitchen, and soap, a nailbrush and towels must be available at all times for the purpose of washing hands.
- (f) Washing-up and rinsing facilities must be provided in the kitchen for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, and such washing-up and rinsing facilities must be separate from the food preparation area of the kitchen.
- (g) Running water must be supplied to the hand-washing facilities referred to in paragraph (e) and the washing-up and rinsing facilities referred to in paragraph (f). If no running water is available, a minimum of 25 litres of potable water must be made available and be accessible in the kitchen on a daily basis, provided that the container used for the water is capable of being closed.
- (h) Suitable means for the supply of adequate hot water to the kitchen must be available.
- (i) If any child who is bottle-fed is accommodated in the child care service, the child's bottles must be suitably rinsed and sterilised in the kitchen. Any filled bottles brought from home must be suitably stored in the kitchen in such manner as to prevent contamination and spoilage. Bottles must be clearly marked with the name of the child.
- (j) Perishable foods must be kept in the kitchen at a temperature below 10° C.
- (k) All food must be stored and kept in the kitchen in the best practical manner to prevent contamination and spoilage.
- (l) An approved source of power must be provided for cooking purposes in the kitchen.
- (m) All working areas in the kitchen must have an approved surface that can be cleaned easily.

- (n) An adequate number of suitable refuse bins with lids must be provided in the kitchen.
- (o) If cutlery and crockery are required for use by the children, an adequate supply of cutlery and crockery must be available in the kitchen for the use of each child.

12. STORAGE

1. Any premises on which a child care service for children under compulsory school-going age is operated must have adequate and suitable storage space and storage facilities for

- (a) Food, crockery, cutlery and kitchen utensils;
- (b) Indoor play materials and play equipment and outdoor play materials and play equipment;
- (c) Stretchers, sleeping mats, bedding and linen;
- (d) The personal belongings of each child; and
- (e) The personal belongings of the staff of the child care service.

2. The children may not have access to any storage space or storage facility contemplated in subsection (1).

13. SEATING AND RESTING AND PLAY EQUIPMENT

1. On any premises on which a child care service for children under compulsory school-going age is operated -

- (a) Suitable seating must be provided for each child;
- (b) Suitable and safe tables of the correct size to ensure that each child sits comfortably must be provided;

(c) An approved resting or sleeping mat or mattress must be supplied for each child if full-day care is provided on the premises, provided that -

(i) Each mat is marked with the name or symbol of the child to whom the mat is allocated; and

(ii) Each mattress is covered with a removable washable cover which is marked with the name or symbol of the child to whom the mattress is allocated;

(d) A clean blanket must be provided for each child, which blanket must be marked with the name or symbol of the child to whom the blanket is allocated; and

(e) Suitable and safe indoor play equipment and outdoor play equipment must be provided for the children's use.

14. ENCLOSURE

1. Any premises on which a child care service for children under compulsory school-going age is operated must have an approved means of enclosure so as to -

(a) Prevent a child from leaving the premises of his or her own accord;

(b) Prevent the entrance of domestic animals onto the premises; and

(c) Prevent unauthorised access or entry.

15. SEPARATE FACILITIES FOR AFTER-SCHOOL CENTRE

1. If a child care service cares for children of compulsory school-going age (in an after-school centre) and children under compulsory school-going age on the same premises, the facilities available for the children of compulsory school-going age must be separate from the facilities available for the children under compulsory school-going age.

16. REQUIREMENTS FOR THE PREMISES OF CHILD CARE SERVICES FOR CHILDREN OF COMPULSORY SCHOOL-GOING AGE (AFTERSCHOOL CENTRES)

1. Compliance with National Building Regulations:

(a) All structures on the premises of any child care service for children of compulsory school-going age must comply with the requirements of the National Building Regulations made under the National Building Regulations and Building Standards Act, 1977, unless the premises are situated in an un-proclaimed area.

17. INDOOR STUDY AREA

1. An indoor study area consisting of 1.5 m² of free floor area per child must be provided on any premises on which a child care service for children of compulsory school-going age is operated.

2. Any structure used as an indoor study area must have -

- (a) Exterior walls and a roof so constructed as to prevent the permeation of wind and rain;
- (b) Windows which open to provide sufficient natural light and cross-ventilation; and
- (c) A floor which has a smooth surface that is easy to wash and that prevents the permeation of dampness.

18. OUTDOOR PLAY AREA

1. An outdoor play area must be provided on any premises on which a child care service for children of compulsory school-going age is operated.

2. Such outdoor play area must consist of not less than 3 m² of outdoor area per child and must be free of any excavations, steps, projections, levels or surfaces that, in the opinion of the Municipality, may be dangerous or may constitute a hazard.

19. TOILET AND WASH FACILITIES FOR CHILDREN

1. On any premises on which a child care service for children of compulsory school-going age is operated, toilet and wash facilities must be provided for the children. Such facilities must meet the following requirements:

(a) The toilet and wash facilities for the children must be in an approved separate screened-off area of the premises and must include -

(i) Where no sewer system is available in respect of the premises -

(aa) an approved toilet on the premises or immediately adjacent to the premises;

(bb) one bucket for every eight children, which bucket must be of a size suitable for use as a toilet; and

(cc) a container with a tight-fitting lid for the disposal of the contents of the bucket or buckets, as the case may be, provided that the contents of the container are disposed of regularly during the day into the approved toilet and that the bucket or buckets and the container are kept in a clean and sanitary condition at all times;

(ii) Where a sewer system is available in respect of the premises, one approved toilet for every 20 children;

(iii) Where washbasins are available, one washbasin for every 20 children, which washbasin must -

- (aa) be at such height as to be conveniently used by children; and
- (bb) be supplied with running water, provided that If no running water is available, a minimum of 25 litres of potable water is supplied on a daily basis in a container capable of being closed, which container must be accessible to the washbasins; and
- (iv) Where no washbasins are available, one suitable container for every 20 children, provided that -
 - (aa) such container is capable of being filled from a potable water container that can be closed;
 - (bb) such container is placed at a height convenient for children; and
 - (cc) a minimum of 25 litres of potable water is supplied on a daily basis from the potable water container,
- (b) The toilet and wash facilities for the boys must be separate from those for the girls.

20. GENERAL REQUIREMENTS FOR TOILET AND WASH FACILITIES FOR CHILDREN

1. The toilet and wash facilities contemplated in section 20 must meet the following general requirements:

- (a) In the toilet and wash facilities, an adequate supply of toilet paper, soap and tissues must be available and accessible to the children.
- (b) An adequate number of bins with self-closing lids for the disposal of paper, paper towels, tissues and other waste materials must be provided in the toilet and wash facilities.

21. SICKBAY

1. On any premises on which a child care service for children of compulsory school-going age is operated, an area must be set aside as a sickbay for the treatment and care of any child who becomes ill or is injured, which area may only be used as a sickbay. Such sickbay must be equipped with -

(a) An approved fully-lockable and fully-equipped first-aid unit, which unit must be kept out of the children's reach; and

(b) A bed or mattress.

2. An approved method for washing hands must be used in the sickbay referred to in subsection (1).

22. KITCHEN

1. On any premises on which a child care service for children of compulsory school-going age is operated, an approved area must be set aside as a kitchen for the preparation of food and the washing up and rinsing of crockery, cutlery, pots, pans and other kitchen utensils. Such kitchen must meet the following requirements:

(a) The kitchen may not be less than 12m² in size.

(b) The floor covering of the kitchen must be of an approved impermeable material which can be cleaned easily.

(c) For the purposes of cross-ventilation, the kitchen must have an adequate number of windows that can be opened easily.

(d) The kitchen may not be used as a thoroughfare by children or adults and must not be accessible to the children.

- (e) Approved hand-washing facilities must be provided in the kitchen, and soap, a nailbrush and towels must be available at all times for the purposes of washing hands.
- (f) Washing-up and rinsing facilities must be provided in the kitchen for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, and such washing-up and rinsing facilities must be separate from the food preparation area of the kitchen.
- (g) Running water must be supplied to the hand-washing facilities referred to in paragraph (e) and the washing-up and rinsing facilities referred to in paragraph (f). If no running water is available, a minimum of 25 litres of potable water must be made available and be accessible in the kitchen on a daily basis, provided that the container used for the water is capable of being closed.
- (h) Suitable means for the supply of adequate hot water to the kitchen must be available,
- (i) Perishable foods must be kept in the kitchen at a temperature below 10°C.
- (j) All food must be stored and kept in the kitchen in the best practical manner to prevent contamination and spoilage.
- (k) An approved source of power must be provided for cooking purposes in the kitchen.
- (l) All working areas in the kitchen must have an approved surface that can be cleaned easily.
- (m) An adequate number of suitable refuse bins with lids must be provided in the kitchen.
- (n) If cutlery and crockery are required for use by the children, an adequate supply of cutlery and crockery must be available in the kitchen for the use of each child.

23. STORAGE

1. Any premises on which a child care service for children of compulsory school-going age is operated must have adequate and suitable storage space and storage facilities for -
 - (a) Food, crockery, cutlery and kitchen utensils;
 - (b) The personal belongings of each child; and
 - (c) The personal belongings of the staff of the child care service.
- (2) The children may not have access to any storage space or storage facility contemplated in subsection (1).

24. SEATING

On any premises on which a child care service for children of compulsory school-going age is operated -

- (a) Suitable seating must be provided for each child; and
- (b) Suitable and safe tables of the correct size to ensure that each child sits comfortably must be provided.

25. FENCING

1. Any premises on which a child care facility is operated must be enclosed with approved fencing so as to prevent—

- (a) A child from leaving the premises on his or her own accord;
- (b) The entrance of domestic animals onto the premises; and
- (c) Unauthorised access or entry.

2. Fencing around a child care facility must meet the following requirements:

- (a) The fencing must be not less than 2m high;
- (b) Horizontal members must be placed at intervals which make it difficult for a child climb; and
- (c) The fence must be constructed of material which cannot reasonably cause harm to children.

3. A fence referred to in subsection (2) must have a gate which is self-closing and will only be regarded as self-locking for the purposes of subsection (2) if it cannot be readily opened by an unauthorised person. In this regard, a gate which closes by means of a latch only, with no other means of securing the gate, will not be regarded as self-locking.

4. If a pool is permitted on any premises on which a child care facility is operated, the pool must be—

- (a) Built in accordance with an approved plan, supported by an acceptable certificate from an engineer or other competent person;
- (b) Provided with an approved net;
- (c) Fenced in the manner contemplated in subsection (2); and provided with a suitable twin gate system with gates that are self-closing and self-locking, and which may close by means of a latch.

5. Portable pools are not permitted on any premises on which a child care facility is operated.

26. FACILITIES FOR STAFF-STAFF TOILET AND HAND WASHING FACILITIES

1. Any premises on which a child care service is operated must have toilet and hand-washing facilities for the staff of the child care service.

2. Such toilet and hand-washing facilities must meet the following requirements:

- (a) The staff's toilet and hand-washing facilities must be easily accessible to the staff and be separate from the toilet and wash facilities used by the children.
- (b) Soap and towels must be available in the staff's toilet and hand washing facilities at all times.

27. BATHROOM FACILITIES OF STAFF RESIDENT ON THE PREMISES

1. If the staff of a child care service resides on the premises on which the child care service is operated, the toilet and bathroom facilities for the staff must be easily accessible from the living quarters of the staff.

28. MEDICAL CARE OF CHILDREN

1. Any person who operates a child care service must have in their possession a health certificate.
2. The person in charge of a child care service must -
 - (a) in respect of any child who becomes ill or has suffered an injury requiring medical attention-
 - (i) notify the child's parent or guardian immediately;
 - (ii) Summon medical assistance; and
 - (b) in respect of any child who becomes ill or has suffered any injury, but does not require medical assistance, provide the necessary care and treatment in the sickbay on the premises of the child care service;
 - (c) in the event of any child having a notifiable disease, notify the relevant authority immediately; and

(d) in respect of children under compulsory school-going age, ensure that all the children have completed the basic immunisation schedules as deemed necessary by the Municipality, provided that if the children are too young for the immunisation, the health certificate holder / person operating the child care service ensures that the immunisation schedule is completed as soon as the children are old enough.

3. A telephone must be available to notify a parent or guardian and summon medical assistance in accordance with subsection (1).

29. SAFETY MEASURES

1. Any person who operates a child care service must take the following safety measures on the premises on which the child care service is operated:

(a) The children must be adequately protected against fires, hot water installations, electrical fittings and appliances, heating appliances and any other object or thing which may be dangerous or cause injury to any child.

(b) Any slats or rails forming part of an enclosure, security gate, playpen, bed, cot or any other object or structure whatsoever for children under compulsory school-going age must meet the following requirements:

(i) The slats or rails may not be more than 75 mm apart.

(ii) The slats or rails must be suitably installed and be maintained in a good state of repair.

(iii) If the slats or rails are painted, only non-toxic paint may be used.

(c) All medicines, pesticides, detergents and other substances that may be harmful to children must be stored so as not to be accessible to any child.

(d) No noxious or poisonous plant or shrub is permitted on the premises, and no animal may be kept on the premises without the approval of the Environmental Health Practitioner.

(e) No person known or suspected to be suffering from an infectious or contagious disease and no person who has been in contact with a person so suffering is allowed on the premises while such person is in the opinion of the Environmental Health Practitioner capable of communicating the infectious or contagious disease.

(f) No paddling pool, swimming pool, sand pit or other structure is permitted on the premises of a child care service for children under compulsory school-going age unless the approval of the Environmental Health Practitioner has been obtained.

(g) The provisions of the regulations relating to the exclusion of children from school on account of an infectious disease, which regulations are made under the Health Act, 1977, must be complied with.

(h) Any reasonable measures that may in the opinion of the Environmental Health Practitioner be necessary to protect the children from any physical danger must be taken.

30. GENERAL OBLIGATIONS

1. The health certificate holder must, in respect of the child care service to which his or her health certificate relates -

(a) Ensure that, while the children are in the care of the child care service, the children are at all times properly cared for and under the direct supervision of an adequate number of adults;

- (b) Maintain every part of the premises on which the child care service is operated, including any outdoor area and all structures and equipment, in good repair and in a clean and tidy condition;
 - (c) Ensure that all persons on the premises on which the child care service is operated are physically clean and in a state of good health;
 - (d) Ensure that no person on the premises on which the child care service is operated uses tobacco or any tobacco product in the presence of any child;
 - (e) Ensure that no person on the premises on which the child care service is operated is under the influence of alcohol, any drug or any other harmful substance; and
 - (f) Ensure that, if meals are provided for children -
 - (i) The meals meet the requirements of the relevant authority;
 - (ii) All menus for the meals are approved by the relevant authority and are adhered to; and
 - (iii) The menus for the meals are so displayed as to be visible to the parents of the children.
2. If any child care service for children under compulsory school-going age transports children to and/or from the premises of the child care service, must ensure that -
- (a) While being transported, the children are supervised by at least one adult apart from the driver of the vehicle until the children are handed over to their parents or guardians;
 - (b) The doors of the vehicle in which any child is transported are lockable such that they cannot be opened from inside the vehicle by a child;
 - (c) No child is transported in the front seat of a vehicle;
 - (d) A baby in a carry cot is not placed under a seat of a vehicle;

- (e) The vehicle in which any child is transported is not overloaded in terms of any applicable law;
- (f) The driver of the vehicle in which any child is transported is licensed to transport passengers in accordance with the applicable law; and
- (g) The vehicle in which any child is transported is licensed and is roadworthy in accordance with the applicable laws.

31. OFFENCES

1. A person is guilty of an offence under this By-laws if he or she— unlawfully prevents an authorised official entry to his or her premises or causes or permits any other person to prevent entry;
 2. Obstructs or hinders an authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the authorised official;
 3. Refuses or fails to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
 4. Knowingly gives false or misleading information to an authorised official;
 5. Impersonates an authorised official;
 6. Contravenes or fails to comply with any provision of this By-law;
 7. Contravenes any provision or condition in respect of his or her health compliance certificate;
- or
8. Contravenes or fails to comply with any order or notice lawfully issued under this By-law.

32. PENALTIES

1. Any person who is convicted of an offence under this By-law is liable to a fine not exceeding an amount of R40 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.
2. In the case of a continuing offence, an additional fine of an amount not exceeding R 200 per day or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such a fine and imprisonment, will be imposed.

33. WITHDRAWAL OF HEALTH COMPLIANCE CERTIFICATES

1. The Municipality may, in its discretion, withdraw a health compliance certificate and a certificate of acceptability where applicable—
 - (a) If the health compliance certificate holder is convicted of a breach of any of the provisions of this By-law; or
 - (b) Where a change in legislation necessitates a withdrawal.

34. APPLICATION OF BYLAW

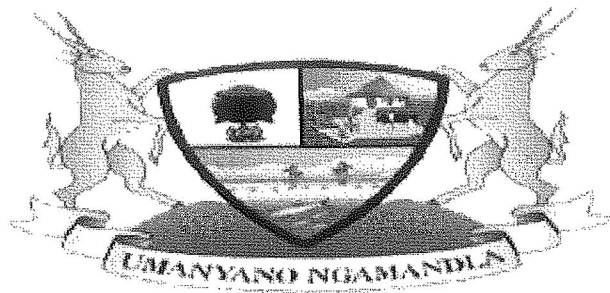
This by-law shall be binding on all persons who own or occupy premises within the jurisdiction of the municipality.

35. REPEAL OF BYLAWS

Any by-laws relating to street trading adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

36. SHORT TITLE

This by-law is called the Child Care facilities By-law, 2016, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 258 OF 2019**MBIZANA MUNICIPALITY****PARKING METER BYLAWS****APPROVED BY COUNCIL ON****WITH EFFECT FROM****PREAMBLE**

WHEREAS in terms of section 11 (3)(m) of the Local Government; Municipal Systems Act 32 of 2000, read with section 162 of the Constitution of the Republic of South Africa Act 108 of 1996, municipalities have the legislative power to promulgate by-laws regarding any matter which falls within its functional competence;

AND WHEREAS Part B of Schedule 5 of the Constitution lists traffic and parking as a local government competency to the extent set out in section 155(5)(a) and (7);

AND WHEREAS in terms of section 80A(1)(b) of the National Road Traffic Act, 1996 (Act 93 of 1996) a local authority may make bylaws including bylaws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places;

AND WHEREAS the Mbizana Local Municipality seeks to regulate parking within its area of jurisdiction and matters incidental thereto;

NOW THEREFORE the Council of the Mbizana Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa Act 108 of 1996, and read with section 1 of the Local Government: Municipal Systems Act 32 of 2000, hereby makes the following By-Law:

PARKING METER BYLAWS

Be it enacted by the Council of the Mbizana Local Municipality Municipality, in terms of Section 156 of Constitution of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000 and the KwaZulu-Natal Pound Act 2006 (Act No. 3 of 2006), as follows:

CONTENTS

- Section 1 : Definitions
- Section 2 : Principles and Objectives
- Section 3 : Establishment of Metered Parking Bays and Metered Parking Grounds
- Section 4 : Parking Fees and Parking Tariffs
- Section 5 : Operation of Parking Meters
- Section 6 : Exemptions
- Section 7 : Prohibitions

Section 8 : Abandoned Motor Vehicles
Section 9 : Refusal of Admission
Section 10 : Towing and Clamping
Section 11 : Parking Meter Attendants and Traffic Wardens
Section 12 : Presumptions
Section 13: Parking Penalties
Section 14. Service Providers
Section 15. Payment
Section 16. Municipality not Liable for Damage
Section 17. Offences
Section 18. Parking Tariffs
Section 19. Repeal of Bylaws
Section 20. Short Title and Commencement

1. Definitions

In these bylaws, unless inconsistent with the context –

“Act” means the National Road Traffic Act, 1996 (Act 93 of 1996) together with any amendments thereto;

“ambulance” means a motor vehicle specially constructed or adapted for the conveyance of sick or injured persons to or from a place for medical treatment and which is registered as an ambulance;

“authorised employee” means any employee of the Council appointed by it for the purpose of controlling parking in parking areas and access thereto;

“business hours” means the hours of 08h00 to 17h00 on Mondays to Fridays, and 08h00 to 13h00 on Saturdays, or such other times as may be determined by the Council from time to time;

“car guard” means a person who watches over and protects motor vehicles in return for payment;

“combination of motor vehicles” means two or more motor vehicles coupled together;

“Council” means the council of the Mbizana Local Municipality Municipality;

“ emergency rescue vehicle” has the meaning assigned to it in the Act;

“fire-fighting vehicle” means a motor vehicle designed or adapted solely or mainly for fighting fires and which is registered as a fire-fighting vehicle;

“metered parking bay” means any parking bay on a public road or public place in respect of which –

- (a) a parking meter has been installed or is used; and
- (b) the municipality imposes parking fees;

“metered parking ground” means a parking ground or any part thereof on a public road or public place in respect of which –

- (a) a parking meter has been installed or is used; and
- (b) the municipality imposes parking fees;

“motor vehicle” means a motor vehicle as defined in the Act and includes but may not be limited to: any vehicle, articulated vehicle, breakdown motor vehicle, bus, motorcycle, motor, quadrucylce, motor tricycle, tractor, trailer truck, or semi-trailer, vintage motor vehicle as defined in the National Road Traffic Regulations, GNR 225 in Government Gazette 20963 of 17 March 2000;

“municipality” means the Mbizana Local Municipality;

“park” means to keep a vehicle whether occupied or not, stationery for a period of time longer than is reasonably necessary for the actual loading or off-loading of persons or goods, but does not include any such keeping of a motor vehicle by reason of a cause beyond the control of the persons in charge of such motor vehicle;

“parking meter” means a static or hand-held device used for registering, recording and displaying –

- (a) the parking time available at the applicable metered parking bay or metered parking ground;

- (b) the parking fee payable for purchasing parking time at that metered parking bay or metered parking ground; and
- (c) the amount of parking time purchased in respect of a particular motor vehicle,

whether by means of a meter affixed to the device or a parking meter ticket issued by the device, or any other device by which the parking time can be recorded;

“parking meter attendant” means a person who is authorized to collect parking fees and to issue parking penalties on behalf of the municipality, and who is in possession of a valid appointment card issued by or on behalf of the municipality;

“parking penalty” means a charge imposed by the municipality from time to time, and payable to the municipality, for parking a motor vehicle on a metered parking bay or on a metered parking ground in contravention of this Bylaw;

“parking time” means the period of time purchased, against payment of the parking fee, for which a motor vehicle may be parked on a metered parking bay or metered parking ground;

“pound” means any area or place set aside by the Council for the custody of vehicles removed from a parking area in terms of these Bylaws

“prescribed” means determined by resolution of the Council, and in relation to a fee means as set out in the tariff policy of the municipality;

“traffic warden” means a traffic officer or traffic warden appointed in terms of section 3A of the Act and includes a member of the South African Police Service or a parking attendant who has been trained and certified and appointed by the municipality.

Any term which is defined in the Act or its Regulations, but which is not defined in this Bylaw, shall have the meaning given to it in the Act or such Regulation.

2. Principles and Objectives

The municipality, acting under the Constitution and relevant legislation, and being aware of its duty to control parking within its areas of jurisdiction so as to provide a safe environment

for all people within the municipal area, adopts these Bylaws with the aim of controlling parking within its area of jurisdiction.

3. Establishment of Metered Parking Bays and Metered Parking Grounds

The municipality may from time to time –

- 3.1. designate by road signs and establish metered parking bays and metered parking grounds;
- 3.2. install and operate parking meters for metered parking bays and metered parking grounds;
- 3.3. determine parking times applicable to metered parking bays and metered parking grounds
- 3.4. determine and levy parking fees and parking penalties; and
- 3.5. collect and recover parking fees and parking penalties.

4. Parking Fees and Parking Times

No person may, during business hours, park a motor vehicle on a metered parking bay or metered parking ground, or cause a motor vehicle to be so parked –

- 4.1. without paying the applicable fee; or
- 4.2. for a period of time which is longer than the parking time purchased in respect of that motor vehicle

5. Operation of Parking Meters

Any person parking a motor vehicle or causing any motor vehicle to be parked on any metered parking bay or metered parking ground, during business hours, shall immediately–

- 5.1. pay the applicable parking fee to the responsible parking meter attendant;
- 5.2. if required by the parking meter attendant, enter his or her motor vehicle's registration number and the bay number which the motor vehicle occupies into the parking meter; and
- 5.3. if the parking meter provides for the issuing of a parking ticket, prominently display the parking ticket on the inside of the motor vehicle, above the dashboard at the bottom of the windscreen in such manner that it is readable from outside the front windscreen of the motor vehicle, for as long as the motor vehicle is parked on the metered parking bay or metered parking ground.

6. Exemptions

Notwithstanding anything contained in this Bylaw, the following persons are exempt from the payment of parking fees:

- 6.1. the drivers of fire-fighting vehicles, emergency rescue vehicles or ambulances whilst those vehicles are being used for the purpose of fire-fighting, emergency rescue or a medical emergency, as the case may be;
- 6.2. traffic officers engaged in the performance of their duties;
- 6.3. the drivers of motor vehicles engaged in civil protection;
- 6.4. the drivers of motor vehicles engaged in essential services;
- 6.5. the drivers of motor vehicles which are the property of the Council or motor vehicles used by an official or councillor of the municipality in his or her official capacity, provided that an official badge, designed and approved by the municipality, is displayed in a prominent place on the motor vehicle; and
- 6.6. the drivers of motor vehicles being driven by or used to convey a person with a permanent physical disability or mobility impairment provided that an appropriate disability permit is displayed in a prominent place on the motor vehicle.

7. Prohibitions

8.1. No person may –

- (a) cause or attempt to cause a parking meter to record the passage of time incorrectly;
- (b) misuse, tamper with, damage or in any way interfere with a parking meter;
- (c) deface, soil, obliterate or otherwise render less visible or interfere with any mark painted on the roadway, or any legend, sign, or notice affixed or erected for the purpose of this Bylaw;
- (d) forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of this Bylaw; or
- (e) hinder or interfere with a parking meter attendant or traffic warden in the performance of his or her duty.

8.2. No person may park a motor vehicle, not being a motor vehicle as defined in this Bylaw in a metered parking bay or metered parking ground.

8.3. No driver or person in charge of a motor vehicle may park such vehicle or cause it to be so parked –

- (a) in a metered parking bay or metered parking ground across any painted line marking the confines of the parking bay or in such a position that the said motor vehicle is not entirely within the area demarcated;
- (b) in a demarcated parking bay which is already occupied by another motor vehicle;
- (c) in contravention of a road traffic sign; or

(d) in an area demarcated for commercial loading purposes.

8.4. The person or driver in charge of a motor vehicle shall park such motor vehicle in a metered parking bay or metered parking ground-

(a) if the metered parking bay or metered parking ground is parallel to the curb or sidewalk of the public road, in such a manner that the motor vehicle is headed in the general direction of the movement of traffic on the side of the road on which the motor vehicle is parked and so that the left-hand wheels of the motor vehicle are substantially parallel to and within 450mm of the left-hand curb: provided that where, in a one-way street the metered parking bay or metered parking ground is situated on the right-hand side of the road, these provisions shall apply in respect of the right-hand wheels of the motor vehicle and the right-hand curb, respectively; or

(b) if the metered parking bay or metered parking ground is at an angle to the curb or the sidewalk of a public road, in such manner that the vehicle is headed substantially in the general direction of the movement of traffic on the side of the road on which such motor vehicle is parked.

8.5. Where by reason of the length of any motor vehicle, the vehicle cannot be parked wholly within a metered parking bay or metered parking ground, it shall be lawful to park the vehicle by encroaching upon a metered parking bay(s) or metered parking ground adjoining the first-mentioned parking place, and any person so parking shall be liable for payment of parking fees in respect of all parking bays encroached upon.

8.6. A traffic warden or parking attendant may, whenever he or she deems it necessary or expedient to do so in the interest of the movement or control of traffic, place a road traffic sign or signs indicating that there shall be no parking at any metered parking bay or metered parking ground, and it shall be unlawful for any person to park or cause or permit to be parked a motor vehicle in such metered parking bay or metered parking ground while such sign is so displayed.

9.7. No person must park or cause any motor vehicle which is defective or is for any reason incapable of movement to be parked or to be or remain on any parking area for the use of which no charge is prescribed, but no offence against this section is deemed to have been committed in respect of any vehicle which, after having been parked in a parking area, develops a mechanical defect which immobilises it if the person in control of the motor vehicle proves that she or he took reasonable steps to have the vehicle repaired or removed as soon as is possible.

8.8. It is an offence for any person to fail or refuse to furnish a parking meter attendant or traffic warden with his or her correct name and address or other details as may be required by law by such parking meter attendant or traffic warden.

8.9. No person shall offer or cause or allow any motor vehicle to be for hire for the conveyance of passengers or goods or both while parked in any parking area.

8.10. No persons shall, save in an emergency, clean, work on or effect repairs to any vehicle on any part thereof while parked in any parking area.

8.11. No person shall, while in a parking area, drive any motor vehicle recklessly or negligently or without reasonable consideration for the safety or convenience of other persons.

8.12. No person shall, in any parking area, drive any motor vehicle at more than 10km per hour.

8.13. No person shall park a motor vehicle otherwise than in compliance with any notice or sign displayed therein or otherwise than in compliance with any instruction or direction given to him or her by an authorised officer or remove a motor vehicle otherwise than through an entrance thereto or exit there-from, appointed for that purpose.

8.14. No person shall park or load a motor vehicle or allow anything to be done on it that obstructs other vehicles or persons or impedes their movement or is likely to do so.

8.15. No person shall without reasonable cause or without the knowledge and consent of the owner of person lawfully in control of a motor 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 its contents.

8.16. No person shall remove, obscure, deface, damage or interfere with any notice, sign or marking erected by the Council or deal in like manner with other property belonging to it.

8.17. No person shall do anything or introduce anything which obstructs or is likely to obstruct the movement of persons or motor vehicles.

8.18. Unless a person is parked in terms of section 7 above, no person shall park or cause to be parked any motor vehicle in any metered parking bay or metered parking ground, before the beginning or after the expiry of the parking period prescribed for the parking area.

8.19. No person shall pay money to any car guard for the use of any metered parking bay or metered parking ground.

8.20. No car guard shall have any or the rights, duties or responsibilities assigned herein to parking meter attendants or traffic wardens or any other authorised officer.

8. Abandoned Motor Vehicles

Any motor vehicle which is parked in the place on a parking area for a continuous period of seven days or longer without being removed by the owner or owner's representative, is deemed to be an abandoned vehicle and must be removed by the Council and the Council be indemnified accordingly.

9. Refusal of Admission

- 9.1. It is in the discretion of an authorised employee of the Council to refuse or admit to a parking area a motor vehicle with or without any load which by reason of its length, width or height is likely to cause damage to persons or property or to cause an obstruction or undue inconvenience.
- 9.2. Any person in control of a motor vehicle who, having been refused admission in terms of the provisions of subsection (1) proceeds to drive it into a parking area is guilty of an offence.

10. Towing and Clamping

- 10.1. The municipality may, in respect of a motor vehicle parked in contravention of this Bylaw, and without notice to the owner, driver or any person in control of that motor vehicle –
- (a) Remove or cause the motor vehicle to be removed to the pound to other place designated by the municipality; or
 - (b) attach or cause to be attached a wheel clamp to the motor vehicle.
- 10.2. The municipality may charge a fee for the removal and impounding of a motor vehicle, or for the clamping of a motor vehicle, as determined by the municipality from time to time.
- 10.3. Any motor vehicle towed and impounded in terms of this Bylaw, or whose wheel is clamped in terms of this Bylaw, may not be released until such time as the owner or person in lawful control of the vehicle has paid the applicable parking fee, the

parking penalty and the charge for towing and impounding the motor vehicle or clamping the motor vehicle, as the case may be.

- 10.4. Any person who claims a motor vehicle that has been impounded in terms of this Bylaw must produce his or her valid identification document or driver's licence, as well as proof acceptable to the municipality that he or she is the owner of the motor vehicle concerned.
- 10.5. The municipality is not liable for any damage caused to a motor vehicle which is towed and impounded or clamped in terms of this Bylaw.
- 10.6. The municipality shall not allow the motor vehicle to be removed from the pound by anyone who does not have a valid drivers licence.

11. Parking Meter Attendants and Traffic Wardens

- 11.1. No person shall operate as a parking meter attendant or traffic warden unless that person is under the employment of the designated service provider as appointed by the municipality.
- 11.2. A car guard is not a parking meter attendant or a traffic warden.
- 11.3. No car guard shall interfere or obstruct any parking meter attendant or traffic warden in the execution of their duties.

12. Presumptions

- 12.1. The passage of time as recorded by a parking meter shall for the purposes of this Bylaw, and in any proceedings arising out of the enforcement thereof, be deemed to be correct unless and until the contrary is proved.
- 12.2. Where any motor vehicle is found to have been parked in contravention of this Bylaw, it shall be presumed to have been parked, or caused to have been parked, or allowed to have been parked, by the person in whose name the motor vehicle is registered unless and until the contrary is proved.

13. Parking Penalties

- 13.1. Any parking penalty imposed by the municipality in terms of this Bylaw-
 - (a) is in the nature of a civil charge; and
 - (b) is payable to the municipality, which may retain the penalty.
- 13.2. A parking penalty may be issued by a parking meter attendant who is appointed as a peace officer or a traffic warden.
- 13.3. If the municipality imposes a parking penalty, then the municipality shall be precluded from bringing any criminal charge or penalty against that person in respect of the contravention of this Bylaw in respect of which the parking penalty is issued.

14. Service Providers

- 14.1. The municipality shall be entitled to appoint a service provider to undertake any function or obligation, or exercise any power in terms of this Bylaw on behalf of the municipality. Without limiting the generality of this provision, the municipality may appoint a service provider to supply parking meter attendants, to operate parking meters, to issue parking penalties and to recover parking fees, parking penalties and any other amount due to the municipality in terms of this Bylaw.
- 14.2. The service provider shall pay over to the municipality all amounts collected in terms of this Bylaw, without deduction whatsoever.

15. Payment

- 15.1. Any parking fee, parking penalty or any other amount due to the municipality in terms of this Bylaw, may be paid by any means made available by the municipality, including but not limited to payment by cell phone, electronic funds transfer, Easy Pay, credit card, pay by phone, SMS, invoice and or any other means including cash deposit into a nominated bank account.
- 15.2. With respect to payment of prescribed fees, a person making use of a parking ground or parking bay where fees have been determined in respect of such parking bay or parking ground, must pay the prescribed fee in any way or format prescribed by the municipality.
- 15.3. The municipality may in respect of parking controlled by the issue of permits, issue at the prescribed fee a permit which entitles the holder for one calendar month or any lesser period stated in the permit to park a motor vehicle in the allocated bay or bays, if a parking bay is available, at the times stated in the permit.

16. Municipality not Liable for Damage

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

17. Offences

Any person who contravenes or causes or permits a contravention of any provision of this Bylaw, shall be guilty of an offence and liable on conviction to a fine not exceeding R 5000-00 or in default of payment, imprisonment for a period not exceeding six months.

18. Parking Tariffs

TIME	CASH PAYMENT
0 to 15 minutes	R3-00
15 to 30 minutes	R5-00
30 to 45 minutes	R8-00
45 to 60 minutes	R10-00

R1500-00 per month resident parking permit

R1500-00 per month temporary parking permit

R150-00 rental of parking meter/bay per day

R200-00 per year issue of parking disk for disabled person

R500 admission of guilt for parking and overstay without payment

R500 admission of guilt for parking non payment

Work Zone Permit

R1350-00 per month municipal works parking permit

R1500-00 per month metered taxi parking permit

R500 wheel clamp removal fee

Towing Tariffs

Admission Charge R1000-00

Custody Costs (per day) R1000-00

Call out R675-00

Towing per KM R20-00

Pound Tariffs

Administration Charge R1000-00

Daily Rate or part thereof R1000-00

19. Repeal of Bylaws

The Council's existing parking meter bylaws are hereby repealed.

20. Short Title and Commencement

These Bylaws shall be known as the Mbizana Parking Meter Bylaws and shall come into effect upon its approval by the Mbizana Local Municipality.

LOCAL AUTHORITY NOTICE 259 OF 2019**Buffalo City Metropolitan Municipality (EASTERN CAPE)****Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)****ERF 22 WINTERSTRAND (22 MUNRO DRIVE, WINTERSTRANDE)**

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions of by the Local Authority, a notice is hereby given that conditions C.5 (b) and (d) in Deed of Transfer No. T9522/2018, applicable to Erf 22 Winterstrand are hereby removed.

LOCAL AUTHORITY NOTICE 260 OF 2019**KOUGA MUNICIPALITY (EC108)****NOTICE NO: 203/2019****MISCELLANEOUS LAND USE APPLICATIONS**

The Council has received the following applications:

**APPLICATION FOR PERMANENT DEPARTURE FROM THE ZONING SCHEME
PROVISIONS: ERF 1868 (54 BUSHWILLOW STREET), JEFFREYS BAY**

The Permanent Departure in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 from the Zoning Scheme provisions to relax the Wonderboom Street building line from 4.5 meter to 1.385 meter as well as the Bushwillow Street building line from 4.5 meter to 3.235 meter for the encroachment of the existing dwelling on Erf 1868, Jeffreys Bay.

**APPLICATION FOR PERMANENT DEPARTURE FROM THE ZONING SCHEME
PROVISIONS: PORTION 116 OF THE FARM NO 809, HUMANSDORP ROAD**

The Permanent Departure in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 from the Zoning Scheme provisions to relax the (northern) building line from 30.0 meter to 10.0 meter as well as the (western) building line from 30.0 meter to 25.0 meter for the encroachment of a Shed on Portion 116 of the Farm No 809, Humansdorp Road.

**APPLICATION FOR PERMANENT DEPARTURE FROM THE ZONING SCHEME
PROVISIONS: ERF 544 (20 CORMORANT STREET), ASTON BAY**

The Permanent Departure in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 from the Zoning Scheme provisions to relax the Street building line from 4.5 meter to 0.0 meter as well as the Lateral building line from 1.5 meter to 0.0 meter for the encroachment of an existing Carport on Erf 544, Aston Bay.

**APPLICATION FOR PERMANENT DEPARTURE FROM THE ZONING SCHEME
PROVISIONS: ERF 967 (ANTILLES DRIVE), ASTON BAY**

The Permanent Departure in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 from the Zoning Scheme provisions to allow the placement of a 30 meter high Telecommunication Mast with base station on Erf 967, Aston Bay.

**APPLICATION FOR PERMANENT DEPARTURE FROM THE ZONING SCHEME
PROVISIONS: ERF 212 (11 LOVEMORE CRESCENT), SEA VISTA**

The Permanent Departure in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 from the Zoning Scheme provisions to relax the rear building line from 3.0 meter to 1.2 meter for the encroachment of an existing Outbuilding on Erf 212, Sea Vista.

APPLICATION FOR SUBDIVISION AND REZONING: ERF 3249 (CANAL ROAD), SEA VISTA

The Subdivision into 2 portions in terms of Section 59 as well as the Rezoning from "Residential 1" to "Residential 11" in terms of Section 68 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 on Erf 3249, Sea Vista.

Further particulars are available for inspection at the office of the Directorate: Planning, Development & Tourism, Municipal Offices, Planning and Development Department, 16 Woltemade Street, Jeffreys Bay. Contact No: 0422002200

Motivated objections, if any, against the application, must be lodged in writing, to reach the undersigned not later than 30 days after publication of this notice.

C. DU PLESSIS
MUNICIPAL MANAGER

P.O. BOX 21
JEFFREYS BAY
6330

For Publication:

Kouga Express
Municipal Notice Boards
Municipal Website

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17 October 2019

LOCAL AUTHORITY NOTICE 261 OF 2019
PROVINCIAL NOTICE NO 208/2019

EASTERN CAPE PROVINCE

KOUGA MUNICIPALITY (EC 108)

REMOVAL OF RESTRICTIVE CONDITIONS

Notice is hereby given in terms of Section 93 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 that the under mentioned application has been received and is open for inspection at the Kouga Municipality, Planning and Development Department, 16 Woltemade Street, Jeffreys Bay. Motivated objections, if any, against the application, must be lodged in writing to reach the undersigned not later than 30 days after publication of this specific reference to the Erf number.

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AS WELL AS THE DEPARTURE FROM THE ZONING SCHEME PROVISIONS: ERF 59 (52 WOODPECKER STREET), ASTON BAY

Applicant: G.J. Swanepoel

Nature of application: An application was received for the following:

The Removal of Restrictive Title Deed Conditions in terms of Section 69 as well as the Departure from the Zoning Scheme provisions in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016, on Erf 59, Aston Bay.

C. DU PLESSIS
MUNICIPAL MANAGER

P.O. BOX 21
JEFFREYS BAY
6330

For Publication:

PROVINCIAL GAZETTE

THE KOUGA EXPRESS

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17 October 2019

LOCAL AUTHORITY NOTICE 262 OF 2019**PROVINCIAL NOTICE NO 207/2019****EASTERN CAPE PROVINCE****KOUGA MUNICIPALITY (EC 108)****REMOVAL OF RESTRICTIVE CONDITIONS**

Notice is hereby given in terms of Section 93 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016 that the under mentioned application has been received and is open for inspection at the Kouga Municipality, Planning and Development Department, 16 Woltemade Street, Jeffreys Bay. Motivated objections, if any, against the application, must be lodged in writing to reach the undersigned not later than 30 days after publication of this specific reference to the Erf number.

REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AS WELL AS THE DEPARTURE FROM THE ZONING SCHEME PROVISIONS: ERF 2 (153 ST FRANCIS DRIVE), SEA VISTA

Applicant: E.L. Cowling

Nature of application: An application was received for the following:

The Removal of Restrictive Title Deed Conditions in terms of Section 69 as well as the Departure from the Zoning Scheme provisions in terms of Section 76 of the Spatial Planning and Land Use Management By-Law: Kouga Municipality, 2016, on Erf 2, Sea Vista.

C. DU PLESSIS
MUNICIPAL MANAGER

P.O. BOX 21
JEFFREYS BAY
6330

For Publication:

PROVINCIAL GAZETTE

THE KOUGA EXPRESS


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17 October 2019

LOCAL AUTHORITY NOTICE 263 OF 2019**KOUGA LOCAL MUNICIPALITY (EC108)****PROVINCIAL NOTICE 133/2018****EXTENSION OF LOCAL STATE OF DISASTER DECLARATION****DISASTER MANAGEMENT ACT NO. 57 OF 2002**

The Kouga Local Municipality hereby, in terms of Section 55(5)(c) of the Disaster Management Act No. 57 of 2002, due to the prevailing drought conditions extend the Declaration of Local State of Disaster as published in the Provincial Gazette No. 4226 of 15 April 2019 for a further month.

C. DU PLESSIS
MUNICIPAL MANAGER



P.O. Box 21
Jeffreys Bay
6330

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