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**ISIFUNDAZWE SAKWAZULU-NATALI**

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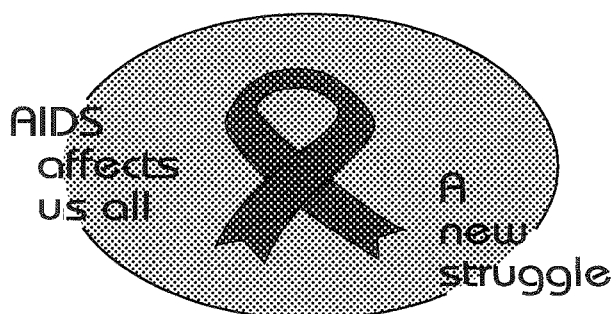
**Vol. 5**

**PIETERMARITZBURG,**

10 OCTOBER 2011  
10 OKTOBER 2011  
10 kuMFUMFU 2011

**No. 645**

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**MUNICIPAL NOTICES**

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**No. 118****10 October 2011****NOTICE NO 01 OF 2011****PUBLICATION OF BY-LAWS**

Notice is hereby given in terms of section 160(6) of the Constitution of the Republic of South Africa, 1996, read with Sections 162(1), and 21(3), 21A of the Local Government: Municipal Systems Act, 32 of 2000 that at its Municipal Council meeting dated 26<sup>th</sup> May 2010 **APPROVED** its Municipal Bylaws. These by-laws serve as regulations to various activities within the Jurisdiction of the Umuziwabantu Municipality. These include:- **REFUSE REMOVAL & DISPOSAL BYLAWS, OUTDOOR ADVERTISING BYLAWS, PUBLIC ROADS BYLAWS, STORMWATER MANAGEMENT BYLAWS, POUND BYLAWS, TREET TRADING BYLAWS, and RULES & ORDER BYLAWS.**

A copy of these by-laws is also available in the Municipal offices and on the Council's website at [www.umuziwabantu.org.za](http://www.umuziwabantu.org.za).

MR SD MBHELE  
MUNICIPAL MANAGER  
UMUZIWABANTU LOCAL MUNICIPALITY  
MURCHISON STREET  
HARDING  
4680

# UMUZIWABANTU MUNICIPALITY

## OUTDOOR ADVERTISING BY-LAW

*Adopted by Council on: 26/05/2010*

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the ***Outdoor Advertising By-Laws***.

### PURPOSE OF BY-LAW

The purpose of the by-law is to give effect to the administration, implementation or enforcement of municipality's advertising.

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## **CHAPTER 1**

### **DEFINITIONS**

#### **Definitions**

1. In this Bylaw, unless the context otherwise indicates

"advertisement" means any visible representation of a word, name, object or of an abbreviation of a word or name, or of any sign or symbol which is not intended solely for illumination or as a warning against any danger;

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement or enforce the provisions of these bylaws;

"building control officer" means any person appointed or deemed to be appointed as a building control officer by the Council in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

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

"display" means, in relation to an advertisement, to display the advertisement within public view;

"flat sign-board" means any sign-board affixed to a wall and which at no point projects more than 230 mm from the surface of the wall;

"ground sign-board" means any sign which is affixed to the ground and is not attached to a building;

"projecting sign-board" means any sign-board affixed to a wall and which at any point projects more than 230 mm from the surface of the wall;

"roof" means any roof of a building but does not include that portion of a roof which is the roof of a

verandah or balcony;

“sign-board” means any structure or device used or intended or adapted for the display thereon of an advertisement;

“sky sign-board” means any sign-board affixed to a roof or the top of a parapet of a roof; and

“wall” means any external wall of a building, but does not include a parapet balustrade or railing of a verandah or balcony.

## **CHAPTER 2**

### **APPLICATION**

#### **Application of regulations**

2. (1) Subject to the provisions of sub-section (2), this Bylaw shall apply to all advertisements displayed or to be displayed within the area of jurisdiction of the Council.

(2) The following categories of advertisements shall be exempted from the provisions of this Bylaw:

- (a) an advertisement, commonly referred to as builders' or contractors' boards, displayed within the boundaries of any erf during the course of building operations including plumbing, electrical wiring, painting and renovations;
- (b) an advertisement relating to the immediate sale of newspaper within the public road; provided the advertisement does not obstruct vehicular or pedestrian traffic or the lines of sight of drivers or pedestrians;
- (c) an advertisement required to be displayed by law;
- (d) an advertisement displayed on any vehicle which is being used on a public road; provided that the main purpose for which that vehicle is being used is not to display such advertisement;
- (e) an advertisement affixed to or painted on any part of any building other than a dwelling-house which indicates only the following:
  - (i) the name or address of such building;
  - (ii) the name of the occupier or owner thereof;
  - (iii) a general description of the type of business lawfully carried on in such building;
  - (iv) the hours of attendance or business; and
  - (v) the telephone number of such business;provided that such advertisement, including any sign-board on which it is displayed,

- does not exceed 0,8 m<sup>2</sup> in area and does not project more than 100 mm from the surface to which it is affixed;
- (f) an advertisement affixed to or painted on any part of any building used as a dwelling-house which merely indicates -
- (i) the name or address of the dwelling-house; and
  - (ii) the name of the owner or occupier the dwelling house;
- provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area and does not project more than 100 mm from the surface to which it is attached;
- (g) an advertisement designed solely for the issuing of any direction, request or warning to any person entering upon an erf or premises on the erf; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area;
- (h) an advertisement advertising the sale or lease of any erf, or the fact that such erf has been sold; provided that such advertisement is displayed within the boundaries of the erf and provided that the advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area; and
- (i) an advertisement displayed from the interior of any building enclosed by walls, windows and doors.

### **CHAPTER 3**

#### **TYPES OF ADVERTISEMENTS**

##### **Temporary and portable advertisements**

##### **3.(1) Any advertisement -**

- (a) intended to be displayed solely for or in connection with a particular event including but not limited to an election or referendum; or
  - (b) displayed on any sign-board intended or adapted to be carried or conveyed,
- shall only be displayed with the prior written consent of the authorised official and subject to the requirements of sub-section (2) and any other conditions which the authorised official may impose.

##### **(2) Any advertisement displayed in terms of subsection (1)) shall –**

- (a) not exceed 0,8 m<sup>2</sup> in area; and

(b) not be displayed for longer than 14 days before or after the event.

(3) Every application for permission in terms of sub-section (1) shall be accompanied by a fee and a deposit prescribed by the Council, the deposit being refundable when all advertisements concerned have been removed to the satisfaction of the authorised official.

(4) Any person who, having displayed or caused to be displayed any advertisement in respect of which approval has been given under sub-section (1), fails to remove it or cause it to be removed within the relevant time, shall be guilty of an offence and the authorised official shall be entitled to remove any such advertisement and deduct from any deposit made in terms of sub-section (6) the sum of R50.00 in respect of each and every advertisement so removed; provided that any excess shall be a civil debt due to the Council; provided further that when any advertisement is so removed in terms of these regulations the Council shall be entitled to destroy any such advertisement without giving notice to anyone, after a period of 14 days from the date of such removal.

(5) Any person who displays or causes, permits or suffers to be displayed any advertisement referred to in sub-section (1) shall be presumed to be the displayer until it is proved to the contrary.

#### **Display of permanent advertisements prohibited**

4. No person shall display or cause to be displayed any permanent advertisement, in the area of jurisdiction of the Council unless any such advertisement was approved in writing by the Council and is displayed in accordance with this Bylaw.

#### **Application for display of permanent advertisements**

5.(1) Any person intending to erect, alter or display any permanent advertisement for which the prior written permission of the Council is required, shall apply for such permission to the Council on the prescribed application form attached to this By-law as Schedule 2. Such form shall be signed by the applicant and by the owner (if he or she is not also the applicant) of the site upon which such advertisement is or is to be located.

(2) An application referred to in sub-section (1) shall be accompanied by -

(a) a full specification showing the dimensions of such sign, its location or proposed location on a building or other supporting structure, the materials of construction, the name and address of the manufacturer, and where applicable, the number of electric lights and electrical details in regard thereto;

(b) a drawing indicating –

(i) the position of such sign on the site at a scale of not less than 1: 50;

- (ii) the full text of the advertisement;
  - (iii) the colour of the material;
  - (iv) the construction;
  - (v) the overall dimensions;
  - (vi) the method of attachment, suspension or support; and
  - (vii) any other details required by the Council;
- (c) in the case of ground signs, information in regard to all calculations upon which such size is based;
- (d) Council shall prescribe an application annually when adopting its budget.**

(3) The Council may refuse or grant such application subject to such conditions as it may think proper.

### **Consideration of application of display of permanent advertisements**

6.(1) The Council may grant, on such conditions as it may determine, or refuse an application referred to in section 5, but the Council shall not grant an application if it is of the opinion that, having regard to –

- (a) the design;
  - (b) colour;
  - (c) other characteristics of the advertisement in question;
  - (d) its proposed position in relation to the building or premises upon or in which it is to be displayed; and
  - (e) the neighboring properties,
  - (f) comments from neighboring property owners/occupiers
- such advertisement will detract from or disfigure the appearance of the building or premises concerned or neighboring properties, or otherwise be unsightly.

### **Sign-boards affixed to buildings**

7.(1) The following sign-boards and no others may, subject to the provisions of this By-law, be affixed to buildings:

- (a) flat sign-board-boards;
- (b) projecting sign-boards, and
- (c) sky sign-boards

(2) No flat sign-board-board shall -

- (a) extend above the top or beyond either side of the wall to which it is affixed;
- (b) project in any part more than 100 mm from the wall to which it is affixed;
- (c) exceed 15% of the height of the building to the eaves or 15% of the area of the wall to which it

is affixed.

(3) No projecting sign-board shall -

- (a) be affixed otherwise than at right angles to the road line;
- (b) be affixed at a clear height of less than 2,5 m;
- (c) exceed 225 mm in thickness;
- (d) extend beyond the top of the wall to which it is affixed;
- (e) project in any part more than 1,5 m from the wall to which it is affixed;
- (f) extend over or nearer than 1,2 m to any overhead electricity wires or cables; or
- (g) be affixed otherwise than in a vertical plane.

### **Advertisement painted on buildings**

8.(1) Only the following types of advertisements may be painted on buildings:

- (a) advertisements painted on the walls of buildings; and
- (b) advertisements painted on the roofs of buildings used in connection with industry or a manufacturing process.

(2) No advertisement painted on a wall of a building shall exceed 15% of the height of the building from the ground to the eaves or 15% of the area of the wall on which it is painted.

(3) An advertisement painted on the roof of a building shall contain only the name (or an abbreviation thereof) of the person, firm, company, society or association occupying such building.

### **Ground sign-boards**

9. Every ground sign-board shall -

- (1) be supported by poles or standards or pylons the bases of which are firmly embedded and fixed in the ground and which are entirely self-supporting, rigid and inflexible;
- (2) not exceed 2 m x 0,3 m (300 mm);
- (3) not extend or project beyond the road line; and
- (4) not exceed 6,5m in height.

### **Flashing advertisements**

10. The Council shall only approve flashing illuminated advertisements if it is of the opinion that,

having regard to the proposed position and characteristic of the advertisement, the display of the advertisement will not be likely to distract or disturb persons using any public road or to create the conditions contemplated in section 11(2).

### **General prohibitions relating to advertisements**

11.(1) No person shall display any advertisement so as to obstruct any fire escape or the means of egress to a fire escape or to obstruct or interfere with any window or opening required for ventilation purposes.

(2) No person shall display any advertisement –

- (a) in a position which obscures, obstructs or otherwise interferes with any road traffic sign or is likely to so obscure, obstruct or otherwise interfere;
- (b) which is illuminated and contains the colours, red, green or amber or any one or more of such colours, unless such sign has a clear height of 6 m or unless such sign is more than 15 m (measured horizontally) from the vertical line of the road line at the corner of a public road; or
- (c) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.

12(a) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the Council, and on payment of the prescribed fee. Such directional signs shall be either 2m long and 0,3 (300 mm) high or 1 m long and 0,3m (300 mm) high and be constructed to the satisfaction of the Council.

(b) A directional signboard frame shall not exceed 4m in height from ground level save with the express approval of the Council in writing.

### **Construction of sign-boards**

13. (1) every sign-board shall be neatly and properly constructed and finished in a workmanlike manner to the satisfaction of the building control officer.

(2)(a) Every sign-board attached to a building or wall shall be rigidly and securely attached thereto so that it is safe and that movement in any direction is prevented.

(b) The method of attachment shall be such that it is capable of effectively securing, supporting and maintaining not less than twice the mass of the sign-board in question with the addition of any force to which the sign may be subjected.

(c) The use of nails or staples for the purpose of the anchorage and support of a sign-board is

prohibited.

(3) Every projecting sign-board shall, unless the building control officer otherwise approves, have not less than four supports –

- (a) which shall be of metal;
- (b) any two of which shall be capable of supporting the mass of the sign-board;
- (c) the designed strength of which acting together shall be calculated on a mass equal to twice the mass of the sign-board with a superimposed horizontal wind pressure of 1,5 kPa; and
- (d) which shall be neatly constructed as an integral part of the design of the sign-board or otherwise concealed from view.

(4) (a) All sign-boards which are attached to brickwork, masonry or concrete shall be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side.

(b) Such bolts shall be of such a size and strength as will ensure effective compliance with sub-section (2) or (3).

(5) Every illuminated sign-board and every sign-board in which electricity is used shall -

- (a) be constructed of a material which is not combustible;
- (b) be provided with an external switch in an accessible position approved by the building control officer whereby the electricity supply to such sign-board may be switched off; and
- (c) be wired and constructed to the satisfaction of the building control officer.

(6) All exposed metalwork of a sign-board shall be painted or otherwise treated to prevent rust, decay and insect attack and thereafter painted.

#### **Maintenance of permanent advertisements**

14. The person having possession or control of any permanent advertisement shall, while such advertisement is displayed, at all times maintain such advertisement, including any sign-board on which it is displayed, in good repair and safe condition.

#### **Alterations of and additions to permanent advertisements**

15(1) any person wishing to alter or add to any permanent advertisement, including any sign-board on which it is displayed, shall first apply to the Council in writing for its approval.

(2) An application referred to in sub-section (1) shall specify the nature and extent of the proposed alteration or addition.

(3) A person who has applied in terms of sub-section (2) for the Council's approval shall furnish such additional particulars in connection with his application as the Council may require.

### **Removal of permanent advertisements**

16(1) Where there is displayed a permanent advertisement -

- (a) for which no approval was granted under section 4; or
- (b) which is displayed in contravention of this By-law,

the Council may, by notice in writing, direct the person having possession or control of the advertisement to remove it or to effect such alterations as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days as from the date on which the notice was given) as may be specified in the notice.

(2) If a person to whom a notice has been given in terms of subsection (1) fails to comply with a direction contained in that notice within the period therein specified, the Council may, at any time after the expiration of that period, through the agency of any person authorised thereto by the Council, enter upon the land upon which the advertisement to which the notice relates and remove the advertisement or effect the alterations prescribed in the notice.

(3) The Council may recover the expenses which it incurred by any action taken under subsection (2) from any person to whom the notice in question was given.

### **Delegation of Council's powers**

17(1) The Council may by resolution delegate to the building control officer any power conferred upon it by this Bylaw on such conditions as the Council may determine.

(2) Any delegation under sub-section (1) shall not prevent the exercise of the relevant power by the Council itself.

## **CHAPTER 4**

### **GENERAL PROVISIONS**

#### **Offences**

(18) Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R20 000 or imprisonment for a period not exceeding 2 years.

#### **Repeal of existing By-laws**

(19) Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

#### **Short title and commencement**

(20) This by-law is called **Outdoor Advertising By-laws, 2010**, and shall come into operation on a date determined by the municipality by proclamation in the ***Provincial Gazette***.

**UMUZIWABANTU LOCAL MUNICIPALITY****POUND BYLAW**

***Adopted by Council on: 26/05/2010***

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the Pound By-Laws.

**PURPOSE OF BY-LAW**

The purpose of the by-law is to give effect to the Municipality's **Pound** implementation and administration thereof.

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## Definitions

1. In these bylaws, unless inconsistent with the context –

"animal" means any equine or bovine animal or any donkey, sheep, goat, pig or domesticated ostrich, or any hybrid of such animals, or any poultry;

"Council" means the council of the Umuziwabantu Municipality;

"impounded animal" means any animal received into a pound as contemplated in section 5;

"owner" in relation to any animal includes the agent of the owner or any other person having lawful custody of the animal;

"owner" in relation to any land includes the registered owner, the lessee and any lawful occupier of such animal;

"pound" means any premises on which a pound has been established by or on behalf of the Council for the impounding of animals under these bylaws; and

"pound manager" means the person appointed from time to time by the Council to manage a pound established by the Council and any other person appointed by such person to act in his or her stead during his absence from the pound.

"public place" any place to which the public has access including, without limiting the generality of the foregoing, any square, park, recreation ground, sports ground, open space, beach, shopping centre on municipal land, unused/vacant municipal land or cemetery; and

"public road" shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

## Application

2. Nothing prevents any animal detained in terms of these bylaws from being impounded in a pound or any similar facility established by any other municipality, the provincial government or other lawful authority.

**Establishment of pound**

3(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.

(2) 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.

**Detention and removal of animals**

4(1) Any animal –

- (a) found trespassing on land; or
- (b) 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, an official of the Council, a member of the South African Police Services or the pound manager.

(2) Any person who has detained an animal for the purpose of impounding shall -

- (a) remove such animals to a pound within 24 hours after seizure; and
- (b) ensure that proper care is taken of the seized animal until the animal is received at the pound.

**Receipt of animals**

5(1) Any person removing an animal to a pound shall provide the pound manager with-

- (a) his or her name and permanent residential address;
- (b) the time and place of detention of the animal; and
- (c) the capacity in which he or she detained the animal.

(2) The pound manager shall, upon receipt of a detained animal -

- (a) record the particulars furnished in terms of section 5(1) and enter the same in a book maintained for the purpose;
- (b) furnish the person delivering the animal with a receipt reflecting –
  - (i) his or her name;
  - (ii) a description of the animal; and
  - (iii) the date and time of receipt of the animal at the pound; and
- (c) keep a copy of each receipt issued in terms of section 5(2)(b).

(3) No person shall release or attempt to release, otherwise than in accordance with these bylaws, any animal which has been received at a pound.

### **Care of animals**

6.(1) The pound manager shall take proper care of any animal impounded in terms of these bylaws.

(2) The pound manager shall not use or cause or permit to be used any animal impounded in terms of these bylaws.

(3) In the event of the injury or death of any impounded animal, the pound manager shall record the cause of such injury or death and shall retain any veterinary certificate issued.

(4) The pound manager shall keep records of any expense incurred in respect of an impounded animal including, but not limited to, the feeding and veterinary care of the animal.

### **Release of animals**

7. The pound manager shall release an impounded animal to any person who has –

(1) satisfied the pound manager that he or she is the owner of the impounded animal;

(2) paid the conveyance and pound fees prescribed by resolution of the Council from time to time; and

(3) paid any veterinary or other expenses incurred in the impounding of the animal.

### **Disposal of animals**

8(1) The pound manager may sell by public auction and for cash any impounded animal which has not been claimed within 30 days of being impounded, and in respect of which –

- (a) the Council has taken all reasonable steps to locate and notify the owner;
- (b) the owner has not been located or, despite having been given 10 day's notice, has failed to remove the impounded animal; and
- (c) 10 day's prior notice of the proposed sale has been given in terms of section 8(2).

(2) The sale of an impounded animal shall be advertised by placing a notice on a public notice board at a place designated by the Council for that purpose –

- (a) describing the animal, its sex, its approximate age and any particular brands or marks; and
- (b) stating that the animal will be sold by public auction if not claimed within 10 days.

(3) The proceeds of any sale shall be applied in defraying the fees and expenses referred to in section 7 and the balance, if any, shall be forfeited to the Council if not claimed within three months by a person who establishes to the satisfaction of the pound manager that he or she is the owner of the impounded animal.

(4) If the pound manager is for any reason unable to sell any impounded animal or if, in the opinion of the pound manager the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound manager may cause the animal to be destroyed subject to any applicable law relating to the protection of animals or otherwise dispose of the animal in a manner approved by the Council.

(5) Any shortfall between the proceeds of sale, if any, and the fees and expenses referred to in section 7, or the costs of destruction as contemplated in clause 8(4), may be claimed by the Council from the owner.

### **Indemnity**

9. The Council, the pound manager and any officer, employee, agent or councillor of the Council shall not be liable for the death of or injury to any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

### **Offences and penalties**

10. Any person who contravenes or fails to comply with any provision of these by-laws shall be guilty of an offence and liable for a fine not exceeding R2 000 or imprisonment for a period not exceeding two months or for both such fine and imprisonment.

### **Repeal of existing By-laws**

Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

### **Short title and commencement**

12. This by-law is called **Pound By-laws, 2010**, and shall come into operation on date determined by the municipality by proclamation in the **Provincial Gazette**.

# UMUZIWABANTU MUNICIPALITY

## REFUSE REMOVAL AND DISPOSAL BY-LAWS

*Adopted by Council on: 26/05 2010*

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the ***Refuse Removal and Disposal By-Laws***.

### Purpose of By-Law

The purpose of the by-law is to give effect and management of the municipality's refuse removal and disposal thereof.

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### **Section 1: Definitions**

1. For the purposes of these by-laws, unless the context indicates otherwise:

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement or enforce the

provisions of these by-laws;

"builder's refuse" means refuse generated by demolition, excavation or building activities on premises;

"Council" means the council of the Umuziwabantu Municipality;

"disposal facility" means a site for the disposal of refuse which is owned by the Council or has been approved for that purpose by the Council;

"domestic refuse" means refuse of a kind normally produced or generated on residential premises, but shall not include sand, earth, liquid matter, garden refuse or the carcass of any animal or special domestic refuse;

"garden refuse" means light refuse which is generated as a result of normal gardening activities on any premises, including without limiting the generality of the foregoing grass cuttings, leaves, plants, flowers, weeds, hedge clippings or the branches of trees;

"industrial refuse" means refuse in solid form which is generated as a result of industrial manufacturing activities but shall not include builder's refuse, special industrial refuse or commercial refuse;

"occupier" includes any person in actual occupation of premises without regard to the title under which he or she occupies, if any;

"owner" means -

(a) the person in whom from time to time is vested the legal title to premises;

(b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings thereon;

(d) in a case where such premises have been leased for a period of 30 years or longer, the lessee thereof;

(e) in relation to -

(i) a piece of land delineated on a sectional plan registered terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or

(ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

"refuse container" means a container other than a refuse receptacle and whether wheeled or otherwise, designed for the temporary storage and removal of refuse which is supplied by the Council in terms of section 3(4) or by a contractor approved in terms of section 2(3);

"refuse receptacle" means a receptacle which complies with either South African Bureau of Standards specification 493-1973: Steel Refuse Bins or 1310-1980: Refuse Bins of Polymeric Materials, both as published by General Notice No. 463 of 9 July 1982;

"residential premises" means premises occupied for the purposes of human habitation, but excludes an accommodation establishment as defined in section 1 of the Hotels Act, 1965 (Act 70 of 1965);

"special domestic refuse" means refuse discarded from residential premises which cannot by virtue of its mass, shape, size or volume be conveniently stored in a refuse receptacle or container;

"special industrial refuse" means refuse, consisting of a liquid or sludge, resulting from industrial operations which may not be discarded into a sewer;

"tariff charge" means the appropriate charge as set out in the tariff of

charges adopted by resolution of the Council from time to time; and

"commercial refuse" means refuse generated in the course of the conduct of a business but shall not include industrial refuse.

## **Section 2: Collection and removal of refuse**

2.(1) The occupier of every premises upon which refuse is generated or, in the case of premises which are occupied by more than one person, the owner of such premises, shall make provision for the temporary storage, collection and removal of such refuse either by the Council or by a refuse removal contractor.

(2) The Council shall at no extra charge to the monthly fee, collect and remove –  
(a) domestic refuse; and  
(b) commercial refuse.

(3) The Council may, in its discretion, and subject to the charge set out in its tariff of charges, collect and remove –  
(a) builders' refuse;  
(b) industrial refuse;  
(c) special industrial refuse; and  
(d) special domestic refuse.

(4) Where the Council declines to collect and remove any waste referred to in subsection (3), the owner or occupier shall make appropriate arrangements for the lawful collection, removal and disposal of such waste.

(5) The owner or occupier of premises may himself or herself remove or cause to be removed any refuse generated thereon to a disposal site, provided that such removal and disposal is conducted in a lawful manner.

(6) Every occupier of new premises or premises on which the generation of domestic or commercial refuse is about to be commenced, or in the case of premises being occupied by more than one person, the owner of such premises shall, prior to the commencement of the generation of such refuse, notify the Council in writing -

- (a) that the premises are being occupied; and
- (b) whether commercial refuse or domestic refuse or both is or are to be generated on the premises.

### **Section 3 : Refuse receptacles**

3.(1) Subject to the provisions of subsection (4), every occupier or owner referred to in section 2(1) shall provide on his or her premises such number of refuse receptacles as is adequate for the purpose of the temporary storage of all refuse, other than garden, special domestic and special industrial refuse, as may be generated on his or her premises pending its removal in terms of these by-laws.

(2) The occupier or owner referred to in subsection (1) shall ensure that refuse receptacles provided by him or her in terms of that subsection are maintained in a sound and serviceable condition and that receptacles which are no longer capable of being so maintained are replaced by him or her.

(3) Whenever the Council is of the opinion that a person has not complied with the provisions of this section it may cause a written notice to be served on such person calling upon him or her to comply with such provisions within a period specified in the notice.

(4) The Council may at its sole discretion supply refuse containers to premises if Council considers such containers more appropriate for the storage and removal of refuse than refuse receptacles having regard to –

- (a) the quantity of refuse generated on the premises concerned;
- (b) the suitability of such refuse for storage in such containers; and
- (c) the accessibility of the refuse storage area to the Council's refuse collection vehicles.

(5) Refuse containers supplied by the Council in terms of sub-section (4) –

- (a) may not be used for any purpose other than the storage of commercial, domestic, industrial or garden refuse;
- (b) remain the property of the Council and may at any time either be replaced or removed by it; and

(c) are the responsibility of the owner or occupier, as the case may be, who shall be liable to the Council for the loss thereof or any damage thereto, except such as has been caused by the Council's employees.

#### **Section 4 : Duties of owner or occupier**

4. Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises, shall ensure that-

- (a) all domestic and commercial refuse generated on the premises is placed and kept in refuse receptacles, refuse containers or disposable plastic refuse bags for removal;
- (b) builders' refuse, garden refuse, industrial refuse, special industrial refuse and special domestic refuse is appropriately stored and clearly indicated as such;
- (c) no hot ash, unwrapped glass fragments or other refuse which may cause damage to refuse receptacles, refuse containers or disposable plastic refuse bags, or which may cause injury to the persons or vehicles employed in removing the refuse from the premises, is placed in refuse receptacles or refuse containers before such steps as may be necessary to avoid such damage or injury have been taken;
- (d) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such refuse receptacles or disposal plastic refuse bags unreasonably difficult for the Council's employees to handle or carry, is placed therein;
- (e) every refuse receptacle and refuse container on the premises is properly covered by means of a lid or other covering supplied therewith so as to prevent any nuisance or health hazard;
- (f) every receptacle or container is kept in a clean and hygienic condition; and
- (g) all which has toxic or other harmful properties is suitably treated to the satisfaction of the Council.

#### **Section 5 : Collection and removal of refuse**

5.(1) The Council shall from time to time determine the day or days upon which refuse which is to be removed by the Council in terms of these by-laws will be collected in the various areas under its jurisdiction.

(2) On the day or days which have been determined in terms of subsection (1) for a particular area every owner or occupier, as the case may be, of premises within that area shall place such refuse containers, refuse receptacles or disposable plastic refuse bags containing refuse immediately inside the boundary of the premises and adjacent either to the pedestrian or the vehicular access to the premises from a street.

(3) No owner or occupier, as the case may be, of any premises shall, unless authorised in writing by the Council, deposit or allow to be deposited any refuse other than domestic refuse or commercial refuse in any refuse receptacle or refuse container the contents of which are removable free of charge by the Council.

(4) The owner or occupier of any premises on which bulky refuse of any kind is produced, kept, or accumulated shall, when required thereto under notice in writing from the Council, tie up securely or cause to be tied up securely such refuse into bales or bundles of convenient size.

#### **Section 6 : Access to premises**

6. The occupier or owner of premises to which the council provides a refuse removal service, as the case may be, shall grant the council convenient access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Council and its employees in the carrying out of its service.

#### **Section 7 : Accumulation of refuse**

7. Where any refuse accumulates on premises so as to constitute a nuisance or so as to render it likely that a nuisance will be created thereby, the Council may make a special removal of such refuse and the owner or occupier shall be liable in respect of such special removal to pay the tariff charge therefor.

#### **Section 8 : Removal and disposal of garden, special domestic and bulky refuse**

8.(1) The occupier or, in the case of premises occupied by more than one person, the owner of premises on which garden, special domestic or bulky refuse is generated shall ensure that such refuse is disposed of in terms of this section within a reasonable time after the generation thereof; provided that garden refuse

may be retained on the premises for the making of compost.

(2) Any person may remove and dispose of his own garden, special domestic and bulky refuse.

(3) Garden, special domestic and bulky refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Council as a disposal facility for such refuse against payment of the tariff charge.

(4) At the request of the owner or any occupier of premises the Council may at the tariff charge remove garden, special domestic and bulky refuse from premises.

#### **Section 9 : Responsibility for builder's refuse**

9. The owner of premises on which builder's refuse is generated shall ensure that such refuse is disposed of in terms of section 11 within a reasonable time after the generation thereof.

#### **Section 10 : Disposal of builder's refuse**

10. (1) Subject to the provisions of subsection (2) hereof all builder's refuse shall be deposited at the Council's disposal sites and the person depositing the refuse shall be liable to pay the tariff charge therefor.

(2) Builder's refuse may, with the prior written consent of the Council, be deposited at a place other than the Council's disposal sites for the purpose of reclamation of land.

(3) Any consent given in terms of subsection (2) shall be subject to such conditions as the Council may deem necessary having regard to -

- (a) the safety of the public;
- (b) the environment of the proposed disposal site;
- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of refuse at the site;
- (e) the levelling of the site;
- (f) the control of dust; and

(g) other relevant factors.

### **Section 11 : Special measures for collection, storage and disposal**

11. (1) If the Council is of the opinion that, in order to avoid any health hazard or nuisance arising, special measures for the collection, temporary storage or disposal of any refuse should be adopted or that such refuse should be specially treated to render the same inoffensive or non-injurious to health, the Council must serve written notice on the occupier of any premises or in the case of vacant land, the owner thereof, to carry out any of the aforesaid measures within a reasonable time.

(2) The owner or occupier of any premises shall, on being served with a notice in terms of subsection (1)-

(a) either remove any refuse which is likely to be offensive or injurious to health from such premises and dispose thereof in such a manner as may be stipulated in such notice; or

(b) when permitted by the terms of such notice, treat any refuse on such premises so as to render it innocuous and inoffensive and so as to prevent infestation thereof by flies, mosquitoes, rats and other vermin.

(3) Any owner or occupier who refuses to carry out the measures specified in a notice given under this section or who fails to comply therewith within the time specified in the notice shall be guilty of an offence and the Council may arrange for such measures to be carried out at the expense of the person on whom the notice was served.

### **Section 12 : Removal of refuse or offensive matter along the street**

12. (1) Any person removing or conveying any refuse or other offensive matter or any builder's refuse shall remove the same by means of a properly constructed and enclosed vehicle and in such manner as will prevent any nuisance arising from such conveyance or the escape of the contents therefrom.

(2) The Council may serve a written notice upon any person restricting or stipulating the means to be adopted and specifying the times during which refuse may be conveyed through or along any street or public place if the Council is of

the opinion that the conveyance of such refuse is likely to be objectionable or give rise to nuisance. Any person who fails to comply with the requirements of subsection (1) of this section or with any notice given under this subsection shall be guilty of an offence.

### **Section 13 : Notification of generation of special industrial refuse**

13.(1) The occupier of premises on which special industrial refuse is generated shall inform the Council in writing of the composition thereof, the quantity generated, how it is stored, and how and when and by whom and to which place, it will be removed.

(2) If so required by the Council the notification referred to in subsection (1) shall be verified by an analysis certified by a duly qualified industrial chemist.

(3) Any officer or servant of the Council and any other person duly authorised by the Council may enter premises at any reasonable time to ascertain whether special industrial refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.

### **Section 14 : Storing of special industrial refuse**

14.(1) The occupier of premises on which special industrial refuse is generated shall ensure that the special industrial refuse generated on the premises is kept and stored thereon in terms of subsection (2) until it is removed from the premises in terms of section 15.

(2) Special industrial refuse stored on premises shall be stored in such a manner that it cannot become a nuisance or pollute the environment.

(3) The Council may in writing order the person referred to in section 14(1) to remove special industrial refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Council may by itself or through a contractor remove it at the expense of such person or the owner, as the case may be.

### **Section 15 : Removal of special industrial refuse**

15. No person shall remove special industrial refuse from the premises on which it was generated unless such refuse is lawfully and properly removed to a

disposal site by a competent person with the necessary equipment to remove the special industrial refuse.

### **Section 16: Liquid waste**

16. No person shall deliver to or discharge at a disposal site any liquid refuse or cause the same to be done, except with the prior written permission of the Council and in accordance with such conditions as may be imposed by it.

17. Any costs incurred by the Council in remedying damage or in abating any nuisance caused by the discharge of liquid refuse at a disposal site in contravention of the provision of these by-laws or of any condition imposed and the amount of any legal liability or costs incurred by the Council in respect of any claim arising from any such nuisance shall be borne by and be recoverable from the owner of such refuse.

### **Section 17 : Conduct at disposal site**

18.(1) Every person who, for the purpose of disposing of refuse enters a disposal facility controlled by the Council, shall -

- (a) enter the disposal facility only at an authorised access point indicated as such;
- (c) give to such official all the particulars required in regard to the composition of the refuse;
- (d) follow all instructions given to him in regard to access to the actual disposal point, the place where and the manner in which the should be deposited; and
- (e) provide the said official with full information as to the person who is liable to pay the tariff charge for the refuse deposited to enable an account to be rendered to him, provided that the provisions of paragraphs (b), (c) and (e) above shall not apply to a person who, in terms of section 9(3). has entered a disposal site for the purpose of disposing of garden refuse.

(2) No person shall bring any intoxicating liquor onto a disposal site controlled by the Council.

(3) No person shall enter a disposal site controlled by the Council for any

purpose other than the disposal of refuse in terms of these by-laws and then only at such times and between such hours as the Council may from time to time determine.

### **Section 18: Ownership of refuse**

19. All refuse removed by the Council and all refuse on disposal sites controlled by the Council shall be the property of the Council and no person who is not duly authorised by the Council to do so shall remove or interfere therewith.

### **Section 19: Offences and penalties**

20. (1) any person who -

- (a) contravenes or fails to comply with any provision of these by-laws; or
- (b) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or
- (c) fails to comply with the terms of any notice served upon or given to him in terms of these by-laws,

shall be guilty of an offence and liable for a fine not exceeding R30 000 or imprisonment for a period not exceeding two years or for both such fine and imprisonment.

### **21. Repeal of existing By-laws**

Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

### **Short title and commencement**

22. This by-law is called ***Refuse Removal and Disposal By-law, 2010***, and shall come into operation on date determined by the municipality by proclamation in the ***Provincial Gazette***.

**UMUZIWABANTU MUNICIPALITY****PUBLIC ROADS BY-LAWS**

***Adopted by Council on: 26/05/2010***

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the **Public Roads by-laws**.

**PURPOSE OF BY-LAW**

The purpose of the by-law is to regulate the implementation, usage and management of public roads within the jurisdiction of Umuziwabantu municipality.

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## **CHAPTER 1**

### **Definitions**

1. In these by-laws, unless the context otherwise indicates –

"authorised official" means a person authorised by the Council to perform the functions of an authorised official in terms of these by-laws;

"Council" means the Council of the Umuziwabantu Municipality;

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

"prescribed fee" means a fee determined by the Council by resolution; and

"public road" shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

## **CHAPTER 2**

### **OBSTRUCTIONS**

#### **Obstruction of public roads**

2. No person may cause any obstruction of any public road.

#### **Removal of obstructions**

3. (1) If any person causes an obstruction on any public road, an authorised officer, may order such person to refrain from causing or to remove the obstruction.

(2) Where the person causing an obstruction cannot be found, or fails to remove or to cease causing such obstruction, an authorised officer may take such steps as may be necessary to remove the obstruction and the Council may recover the cost of the removal of the obstruction from that person.

### **CHAPTER 3**

#### **ENCROACHMENTS**

##### **Excavations**

4.(1) No person may make or cause to be made any hole, trench, pit, tunnel or other excavation on or under any public road or remove any soil, tar, stone or other materials from any public road without the prior written consent of the Council.

(2) Any person who requires the consent referred to in subsection (1) must -

- (a) comply with any requirements prescribed by the Council; and
- (b) pay the prescribed fee.

##### **Hoardings**

5.(1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.

(2) If the enclosure referred to in subsection (1) will project onto any portion of a public road, the person must -

- (a) obtain prior approval from the Council;
- (b) pay the prescribed fee; and
- (c) if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.

(3) The Council may grant a permit in writing specifying -

- (a) the area and position at which the enclosure is permitted; and
- (b) the period for which the enclosure is permitted.

### **CHAPTER 4**

#### **DANGEROUS FENCING**

##### **Barbed wire, dangerous and electrical fencing**

6. No owner or occupier of land -

- (1) other than an owner or occupier of agricultural land, may along any public road erect or cause or permit to be erected, any barbed-wire fence or any railing, paling,

wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road; and

(2) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause or permit to be erected along such public road any electrified fence, railing or other electrified barrier unless –

(a) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; or

(b) the fence, railing, or other barrier is separated from the public road by another, non-electrified fence.

## **CHAPTER 5**

### **PROTECTION AND CLEANLINESS OF PUBLIC ROADS**

#### **Protection of public road**

7. No person may place upon or off-load on a public road any materials or goods which are likely to cause damage to the road.

#### **Cleanliness of public roads**

8.(1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.

(2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.

#### **Defacing, marking or painting public roads**

9. No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council. If any person defaces; mark or paint the road, the council will clean the road at the cost of that person.

## **CHAPTER 6**

### **RACES, SPORTS EVENTS AND GAMES**

#### **Races and sports events**

10.(1) An application for consent to hold a race or sports event on any public road must be submitted in writing to the Council on the prescribed form at least 60 days prior to the event.

(2) The applicant must pay the prescribed fee and deposit to the Council at the time of making application for consent.

#### **Games on public roads**

11. No person may –

(1) play cricket, football or any other game; or

(2) by any means discharge any missile;

upon, over or across any public road.

## **CHAPTER 7**

### **GENERAL**

#### **Offences**

12. Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.

#### **Repeal of existing By-laws**

13. Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

#### **Short title and commencement**

14. This by-law is called **Public Roads by-law**, 2010, and shall come into operation on date determined by the municipality by proclamation in the **Provincial Gazette**.

# UMUZIWABANTU LOCAL MUNICIPALITY

## STORM WATER MANAGEMENT BY-LAW

***Adopted by Council: 26/05/2010***

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the ***Storm Water Management By-Laws***.

### Purpose of By-Law

The purpose of the by-law is to regulate any storm water runoff, surface water runoff, and sub-soil or spring water management thereof.

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## **CHAPTER 1**

### **DEFINITIONS**

#### **Definitions**

1. In this bylaw, unless the context indicates otherwise—

**"Council"** means the Council of the Umuziwabantu Municipality;

**"non-stormwater discharge"** means any discharge into the stormwater system which is not composed entirely of stormwater;

**"occupier"**, in relation to any premises, means any person —

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

**"owner"**, in relation to any premises, means —

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

**"premises"** means any privately-owned land or land on which buildings or other structures are situated;

**"stormwater"** means any storm water runoff, surface water runoff, sub-soil or spring water;

**"stormwater drain"** means any closed or open drain used or intended to be used for carrying stormwater within any premises to the stormwater system; and

**"stormwater system"** means the system of conduits, the ownership of which is vested in the Council, and which is used or intended to be used for collecting and carrying stormwater, including without limiting the generality of the foregoing, any road with a drainage system and any gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, drainage channel, reservoir or other drainage structure.

## **CHAPTER 2**

### **PROHIBITED ACTIVITIES**

#### **Unauthorized discharge**

2.(1) Subject to subsection (2), no person shall, without the prior written consent of the Council, which consent may be conditional or unconditional, directly or indirectly lead or discharge any non-stormwater discharge into the stormwater system without the prior authority of the Council.

(2) Nothing prevents the discharge into the stormwater system of flow from -

- (a) potable water sources;
- (b) natural springs or wetlands;
- (c) diverted streams;
- (d) rising groundwater;
- (e) fire fighting activities;
- (f) individual residential car washing;

- (g) swimming pools, provided that the water has been allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; and
- (h) street sweeping.

#### **Unauthorised connection**

3. No person shall construct, use, allow, maintain or continue any unauthorized drain or conveyance which allows discharge into the stormwater sewer.

#### **Obstruction of flow**

4. No person shall obstruct or interfere with the normal flow of stormwater into, through or out of the stormwater sewer without the prior written approval of the Council.

### **CHAPTER 3**

#### **SUSPENSION OF ACCESS AND NOTIFICATION**

##### **Suspension of access**

5.(1) The Council may issue a notice suspending access to the stormwater system when such suspension is necessary to stop an actual or threatened discharge of any pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.

(2) In the event that any owner or occupier fails to comply with a suspension notice, the Council may, at the cost of the owner or occupier of the premises, as the case may be, take all reasonable steps required to prevent or minimize harm to the public health, safety or the environment.

##### **Notification of spills**

6. As soon as the owner or occupier of any premises becomes aware of any discharge of any pollutants into the stormwater system, the owner or occupier shall -

- (1) take all immediate steps necessary to ensure containment and cleanup of the discharge;
- (2) notify the Council as soon as reasonably possible of the discharge.

## **CHAPTER 4**

### **CONSTRUCTION AND MAINTENANCE**

#### **Construction and maintenance of stormwater drains and connections**

7. The owner or occupier, as the case may be, of any premises shall be responsible for the construction and maintenance, at his or her expense of any stormwater drains on the premises and any connection between such drains and the stormwater system.

## **CHAPTER 5**

### **GENERAL PROVISIONS**

#### **Offences**

8. Any person who -

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

**Shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R5 000 or imprisonment for a period not exceeding 3 months or both.**

#### **9. Repeal of existing By-laws**

Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

#### **10. Short title and commencement**

This by-law is called **Storm Water Management By-law, 2010**, and shall come into operation on date determined by the municipality by proclamation in the ***Provincial Gazette***.

# UMUZIWABANTU MUNICIPALITY

## STREET TRADING BY-LAW

***Adopted by Council on: 26/05/2010***

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the ***Street Trading By-Law***.

### Purpose of By-law

The purpose of this by-law is to regulate the trading, for the benefit of the public residing and carrying on business within the boundaries of Umuziwabantu Municipality.

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## **CHAPTER 1**

### **DEFINITIONS**

#### **1. Definitions**

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

**"Approval"** means approval by an authorized official and "approve" has a corresponding meaning;

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

**"Council"** means the Council of the Umuziwabantu Municipality and in relations to the exercise of a power, the performance of a duty or the carrying out of a function includes any committee or official of the Council to whom such power, duty or function has been delegated;

**"demarcated stand"** means stand demarcated by Council for the purposes of street trading in terms of section 6(A)(3)(b) of the Act;

**"goods"** means any movable property used in connection with street trading and, without limiting the generality of the foregoing, includes products for sale, display tables, stands, receptacles, vehicles, structures or animals;

**"public place"** means a public place as defined in section 1 of the Local Authorities Ordinance No. 25 of 1974;

**"public road"** means a public road as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

**"roadway"** means a roadway as defined in section 1 of the National Road Traffic Act No. 93 of 1996 but excludes a public place;

**"sidewalk"** means a sidewalk as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

**"street trader"** means a person who sells, barter, exchanges, hires out, displays, exposes, offers or prepares for sale, barter, exchange or hire any goods or who provides or offers any service for reward as a street vendor, hawker or pedlar in a public road or in a public place, but does not include any person who sells newspapers only;

**"the Act"** means the Businesses Act No. 71 of 1991 and includes the regulations made there under; and

**"verge"** means a verge as defined in section 1 of the Road National Traffic Act No. 93 of 1996.

## **CHAPTER 2**

### **PROHIBITIONS**

#### **2. Prohibition**

No street trader shall carry or undertake street trading —

- (1) on a verge contiguous to -
  - (i) a building belonging to or occupied solely by the state or the Council;
  - (ii) a church or other place of worship, or
  - (iii) a building declared to be a national monument in terms of the National Monuments Act No. 28 of 1969;
- (2) on any verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as, or of similar nature to, goods being sold by the street trader or who offers services of the same nature as, or of a similar nature to, a service offered by the street trader concerned without the consent of such person;
- (3) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (4) at any place where the carrying on of such business causes an obstruction to-
  - (a) the entrance to or exit from a building, or
  - (b) a fire hydrant;
- (5) in any declared area identified as such in terms of section 6A (2) of the Act in respect of which the carrying on of the business of street trader has been –
  - (a) prohibited by the Council, or
  - (b) restricted by the Council, unless such business is carried on in accordance with such restrictions;
- (6) at any place which has been set apart and demarcated as stands or areas by the Council in terms of section 6A (3) (b) of the Act for the purposes of the carrying on of the business of street trader, unless such business is carried on in accordance with -
  - (a) an agreement with the Council, or
  - (b) the allocation by the Council to the street trader of any area or stand; and
- (7) in any public garden or park except with prior written consent of the Council.

### **CHAPTER 3**

## **RESTRICTIONS**

### **3. Restrictions**

No person engaging in street trading shall -

- (1) sleep overnight at the business site;
- (2) erect any permanent structure in a public place or public road for the purpose of providing shelter, or
- (3) place or store any goods in such a manner or position as to constitute a danger to any person;
- (4) carry on such business in such a manner as to-
  - (a) create a nuisance;
  - (b) damage or deface any public road or public place or any public or private property; or
  - (c) create a traffic hazard;
- (5) obstruct access to a service or to service works of the Council or of the State or any statutory body;
- (6) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- (7) obstruct access to a pedestrian arcade or mall;

- (8) carry on such business in a place or area in contravention of any restriction imposed by Council resolution in terms of section 6A(2)(a) of the Act;
- (9) place or store his or her goods on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (10) attach any of his or her goods by any means to the building structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;
- (11) make an open fire on a public road or public place;
- (12) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop displayed window, or obscure such goods from view;
- (13) obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; and
- (14) obstruct or inhibit the use of street furniture and any other facility designed for the use of the general public.

## **CHAPTER 4**

### **GENERAL DUTIES OF STREET TRADERS**

#### **4. Cleanliness**

Every street trader shall-

- (1) keep the area used by him or her for the purposes of street trading, as well as any goods used by him or her, in a clean and sanitary condition;

(2) at the request of any authorised official of the Council, move or remove his or her goods so as to permit the cleansing of the area where he or she is trading, or for the purpose of effecting Council services;

(3) if his or her activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure; and

(4) not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter.

### **5. Display of goods**

A street trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods-

(1) is maintained in a good state of repair and in a clean and sanitary condition; and

(2) is not so placed or stored so as to constitute a danger to any person.

## **CHAPTER 5**

### **REMOVAL AND IMPOUNDMENT**

#### **6. Removal and impoundment**

(1) An inspector may remove and impound any goods -

(a) which he reasonably suspects are being used or intended to be used or have been used in or connection with the carrying on of the business of a street trader, and

(b) which he finds at a place where the carrying on of such business is prohibited or restricted in terms of these bylaws,

whether or not such goods are in the possessions or under the control of any person at the time of such removal and impoundment.

(2) An inspector removing and impounding any goods shall -

(a) except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof and stating-

- (i) the place where the goods shall be kept;
- (ii) the amount payable in respect of expenses incurred by the Council in impounding and removing the goods; and
- (iii) the date on or after which the goods will be sold or destroyed unless claimed; and

(b) Forthwith place such goods in safe custody.

(3) Neither the Council nor any inspector, officer or employee of the Council shall be liable for any loss or theft of or damage to any goods removed and impounded in terms of these bylaws

## **7. Disposal of impounded goods**

(1) Any goods impounded in terms of these by-laws shall be dealt with as follows -

(a) if the goods are claimed, the street trader shall pay the expenses incurred by the Council for impoundment; and

(b) if the goods are not claimed within the period specified on the receipt issued in terms of these by-laws, the goods shall be sold to defray expenses incurred by Council in impounding and removing the goods.

(2) In the event that the goods-

(a) are not capable of being sold, they shall be destroyed after the proper time specified on the receipt issued in terms of these by-laws;

(b) any perishable goods may be sold or destroyed as soon as may be necessary.

(3) If the proceeds contemplated by this section are insufficient to pay expenses incurred by Council, the owner shall be liable for any excess.

## **CHAPTER 6**

### **GENERAL OFFENCES AND PENALTIES**

#### **8. General offences and penalties**

(1) Any person who-

- (a) contravenes any provision of these by-laws;
- (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purposes of these by-laws;
- (c) for the purposes of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorised official; or
- (d) threatens, resists, interferes with or obstructs an authorised official, officer or employee of the Council in the performance of his or her powers, duties or functions under these by-laws,

shall be liable on conviction to a fine not exceeding R 1000-00 or imprisonment for a period not exceeding three months.

## **CHAPTER 7**

### **GENERAL PROVISIONS**

#### **Repeal of existing By-laws**

9. Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

#### **Short title and commencement**

10. This by-law is called ***Street Trading by-law, 2010***, and shall come into operation on date determined by the municipality by proclamation in the ***Provincial Gazette***.

# UMUZIWABANTU MUNICIPALITY

## **RULES AND ORDERS OF UMUZIWABANTU MUNICIPAL COUNCIL AND ITS COMMITTEES BY-LAW**

*Adopted by Council: 26/05/2010*

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 {Act No.32 of 2000}, read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act 108 of 1996], the **Standing Rules and Order By-Laws**

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### **CHAPTER 1**

#### DEFINITIONS

##### Definitions

1. In these rules, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise—

“by-law” means legislation passed by the council of a municipality;

“chairperson” means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

“council” means the council of the Umuziwabantu Municipality;

“Code of Conduct” means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

“contact details” means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular-phone number;

“calendar day” means a twenty-four hour day as denoted on the calendar;

“councillor” means a member of a municipal council;

“day” means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

“deputation” means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

"executive committee" means the council's executive committee established in terms of section 43 of the Structures Act;

"explanation" means the clarification of some material part of a councillor's former speech which may have been misunderstood;

"in-committee" means any council or committee meeting at which the public and or officials of the municipality are excluded;

"integrated development plan" means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

"mayor" means a councillor elected as the mayor of the municipality in terms of section 48 of the Structures Act;

"meeting" means a meeting of the council or any one of its committees;

"municipal asset" means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

"municipal manager" means the person appointed municipal manager in terms of section 82 of the Structures Act and includes any person acting in that capacity;

"notice of motion" means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of rule 23;

"Peace Officer" means any person declared as a Peace Officer in terms of the Criminal Procedure Act No. 51 of 1977;

"point of order" means the pointing out of any deviation from or anything contrary to, the conduct and or any other irregularity in the proceedings of a meeting;

"precincts" means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

"public" includes the media and means any person residing within the Republic of South Africa;

“service delivery agreement” means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

“speaker” means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

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

“table” means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these rules and orders;

Gender and Number - In every rule, unless the contrary intention appears, words importing the masculine gender include females and words in the singular number include the plural, and words in the plural number include the singular.

## **CHAPTER 2**

### **APPLICATION AND INTERPRETATION OF RULES AND ORDERS**

#### **2. Application of these rules and orders**

1) These rules and orders govern the proceedings of the council and committees of the council which bind and must be complied with by:-

- (a) all councillors;
- (b) any member of the public while present in the precincts;
- (c) any deputation addressing the council or a committee of the council; and
- (d) any municipal official of the municipality.

#### **3. Interpretation of these rules and orders**

- 1) Any interpretation of these rules and orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.
- 2) The ruling of the speaker or chairperson with regard to the interpretation of these rules and orders at a meeting of the council or committee of the council shall, subject to rules 3(5) and 3(6), be final and binding.
- 3) The interpretation and the ruling of the speaker or chairperson of any of these rules and orders must be recorded in the minutes of the council or committee meeting.
- 4) The municipal manager must keep a register of the rulings and legal opinions.
- 5) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of rule 3(2), to obtain clarity on the interpretation and ruling. The municipal manager must thereafter report to the council or committee of the council.
- 6) The council or committee of the council may, after consideration of the report in terms of rule 3(5) confirm, amend or substitute the ruling of the speaker or chairperson subject to any rights which any third party may have accrued as a

result of the ruling and all decisions effecting the rights of others must be in writing and reasons must be recorded of such decisions.

### **CHAPTER 3**

#### **FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS**

##### **4. Council meetings**

- 1) The council must hold an ordinary meeting of the council not less than once in every three months.
- 2) The speaker must convene all meetings of the council in accordance with rule 4(1) and subject to rule 6.

##### **5. Admission of public**

- 1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.
- 2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters :-
  - i. a draft by-law tabled in the council;
  - ii. a budget tabled in the council;
  - iii. the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;
  - iv. the municipality's performance management system, or any amendment of the system, tabled in council;
  - v. the decision to enter into a service delivery agreement;
  - vi. any report on an award in terms of supply chain management policy;
  - vii. the disposal or acquisition of municipal capital asset;

viii. any other matter prescribed by legislation.

- 3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the council or committee of the council and any special or urgent meeting of the council or committee of the council, except when time constraints make this impossible.

## **6. Notice to attend an ordinary council meeting**

- 1) The speaker must convene meetings of the council, at least quarterly, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.
- 2) Notice to attend a meeting in terms of rule 6(1) shall be given at least—
  - a) five calendar days prior to an ordinary meeting; and
  - b) two calendar days prior to a special meeting.

## **7. Special meetings**

- 1) The speaker must call a special meeting of the council for the purpose of pertinent or urgent council business or at the request of a majority of the councillors of the municipality.

### **2) A special meeting may not have more than three items**

- 3) A special meeting must be held in compliance with rule 6(2)(b) and in terms of rule 7(1)(b) no later than four days from the date of receipt of a request.
- 4) A request for the calling of a special meeting, as contemplated in rule 7(1)(b), shall—
  - a. be signed by no less than 50% (fifty per centum) plus one of all councillors of the municipality; and
  - b. be accompanied by—
    - i. a duly signed notice of motion; and
    - ii. a written statement by the councillor signing the notice of motion giving reasons as to why the intended business of the special

meeting is urgent and cannot wait for an ordinary meeting of the council.

- (c) If the speaker fails to convene a meeting in terms of this rule, the municipal manager must convene such meeting and conduct an election of an acting speaker in term of section 41 of the Structures Act.

## **8. Service of notices and agenda**

- (1) Notice to attend a meeting or any other official communication from the council, shall be delivered to—
- a) a physical address within the area of jurisdiction of the municipality; or
  - b) an e-mail address; or
  - c) by a short message service (SMS); or
  - d) any other distribution method agreed to by council

provided that contact details shall be supplied by each councillor to the municipal manager in writing within two days of a councillors' election and, thereafter, whenever the councilor wishes to change either address and at which address the councillor shall accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

- (2) All documentation relevant to any council or committee meeting must be given to all councilors **at least five calendar days** prior to an ordinary council or committee meeting and **two calendar days** prior to a special council or special committee meeting.
- (3) All councillors must inform the speaker of any change of his contact details within three days of such change. Subject to rule 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

## **9. Non-receipt of notice**

- (1) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.
- (2) Non-receipt of a notice to attend a meeting shall not affect the validity of any meeting or proceedings of council or any of its committees.

## CHAPTER 4

### QUORUM

#### 10. Quorum

- (1) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent (50%) plus one (1) of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter. Subject to a quorum, the failure of any councillor to vote shall not invalidate the proceedings of the council meeting
- (2) Notwithstanding that there may be vacancies, a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter. Subject to a quorum, the failure of any councilor to vote shall not invalidate the proceedings of the committee meeting.

#### 11. Cancellation and adjournment in absence of quorum

- (1) No meeting shall take place, if no quorum is present fifteen minutes after the time at which a meeting was due to commence, **unless it is agreed by the majority of councillors** present to allow further time not exceeding fifteen minutes for a quorum, where after if no quorum is present, the meeting must be cancelled.
- (2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she shall—
  - a) count the councillors present;
  - b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;
  - c) if a quorum becomes present after the adjournment then the meeting must continue;
  - d) if no quorum becomes present after the adjournment then the chairperson or speaker must forthwith adjourn the meeting.

- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be re-convened within seven days as a continuation meeting.

## **CHAPTER 5**

### **ATTENDANCE**

#### **12. Attendance**

- (1) All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when:-
- a) leave of absence is granted in terms of rule 13;
  - b) that councillor is required to withdraw in terms of rule 46(2);
  - c) that councillor is absent with the permission of the speaker or chairperson.
- (2) Each councillor attending any meeting of the council or a committee of the council shall sign an attendance register provided for that purpose.
- (3) The attendance register shall be filed in the office of the municipal manager.
- (4) Any councillor who is entitled to leave of absence in terms of rule 13 and no longer requires such leave may attend the meeting from which leave of absence was granted and sign the attendance register.

#### **13. Leave of absence**

- 1) Leave of absence shall not be granted in such a manner that more than the number required for a quorum will at any one time be absent.
- 2) If a councillor—
  - (a) is unable to attend a meeting of which notice had been given; or
  - (b) is unable to remain in attendance at a meeting; or
  - (c) will arrive after the stipulated commencement time of a meeting,

he or she shall, as soon as is reasonably possible and prior to that meeting, lodge with the municipal manager a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and bona fide reasons for the application and show good cause for the granting of the application.

- 3) The municipal manager must as soon as possible inform the speaker or chairperson of the meeting concerned of any application for leave of absence received.
- 4) The speaker or chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his decision.
- 5) The municipal manager must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision.
- 6) A councillor shall be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she—
  - a) failed to attend a meeting; or
  - b) failed to remain in attendance at a meeting.
- 7) Where a councillor fails to remain in attendance at a meeting –
  - (a) without being granted permission to do so; or
  - (b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting, the time of leaving must be recorded in the minutes of the meeting and that councillor shall be deemed to have been absent without leave at that meeting;
- 8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of rule 12(2).
- 9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.

## **14. Non-attendance**

- (1) Subject to compliance with the procedure set out in rule 13, a councillor who is absent without good cause from a meeting, of which notice has been given, shall be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.
- (2) Where a councillor has been absent without obtaining leave from a meeting—
  - (a) the Rules Committee as contemplated in rule 43 or the speaker or chairperson as the case may be, shall invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;
  - (b) the speaker or chairperson shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
  - (c) the councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision.
  - (d) the council or committee, as the case may be, shall—
    - (i) allow the councillor an opportunity to make representations, oral or written; and
    - (ii) consider the councillor's appeal, together with any comments from the speaker or chairperson of the meeting concerned;
    - (iii) make a finding as to whether the councillor was absent with or without good cause.
- (3) The municipal manager shall keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and shall submit a written report to the speaker whenever a councillor is absent from three or more consecutive meetings which that councillor was required to attend.
- (4) Where the speaker receives a report in terms of rule 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

## **CHAPTER 6**

### **ADJOURNMENT**

#### **15. Adjourned meetings**

Subject to rule 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than **7 days** after the original meeting.

#### **16. Continuation meeting**

- 1) When a meeting is adjourned, notice of the continuation meeting shall be served in terms of rule 8.
- 2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

## **CHAPTER 7**

### **PROCEEDINGS**

#### **17. Speaker and chairpersons of meetings**

- 1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, shall be the chairperson and shall perform the duties stipulated in terms of section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of these rules and orders and the Code of Conduct.
- 2) The speaker and chairperson of council and committee meetings:-
  - (a) must maintain order during meetings;
  - (b) must ensure compliance in the council with the Code of Conduct for Councillors;
  - (c) must ensure that meetings are conducted in accordance with these standing rules and orders.

- 3) If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councilor to act as speaker or chairperson as the case may be.
- 4) No meeting of the council or a committee of the council may commence or continue unless a speaker or chairperson presides at a meeting.

## **18. Minutes**

- 1) The proceedings of every council meeting must be electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- 2) Written minutes of the proceedings of each council and committee meeting must be accurately recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- 3) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.
- 4) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

## **19. Order of business**

- (1) The order of business at every meeting of the council or its executive committee or committee of council is as follows:
  - a. notice of meeting;
  - b. applications for leave of absence;
  - c. confirmation of minutes of previous meeting;
  - d. matters arising**
  - e. announcements by the chairperson;
  - f. declarations of pecuniary or other interests;
  - g. deputations;
  - h. reports;

- i. notices of motion;
- j. questions of which notice has been given; and
- k. general matters of an urgent nature.

(2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

## **20. Confirmation of minutes of previous meeting**

- (1) The minutes of every meeting shall be confirmed at the next ordinary meeting of that council or committee and shall be signed by the speaker or chairperson.
- (2) No motion or discussion shall be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

## **21. Matters Arising**

- 1) **The speaker/chairperson will only allow progress reports on resolutions appearing on minutes to be given. This slot may not be used to re-introduce the debate which was already concluded and resolved.**

## **22. Deputations**

- (1) A deputation wishing to address the council or a committee of council shall submit a memorandum to the municipal manager in which is set out the representations it wishes to make.
- (2) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.
- (3) The municipal manager shall submit the memorandum to the council or a committee of the council, which may receive the deputation.
- (4) Any matter requiring consideration arising from a deputation, shall not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.

- (5) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, shall obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.
- (6) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson.
- (7) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts.
- (8) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of rule 21(6) and rule 21(7) shall be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

## **23. Reports**

- (1) Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of rule 8.
- (2) The speaker or chairperson must allow debate in accordance with chapter 10 on any report submitted to the council or a committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report shall be held, at the next meeting.

## **24. Motions**

- (1) No subject shall be brought before council or a committee of council by a councillor except by way of notice of motion.
- (2) A notice of motion must –
  - (a) be in writing; and
  - (b) be signed by the councillor submitting it and by another councillor acting as seconder; and
  - (c) refer to one matter only.

- (3) A notice of motion shall be lodged with the municipal manager before 12h00 seven calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.
- (4) The municipal manager must—
  - (a) date and number each notice of motion;
  - (b) enter each notice of motion lodged in a register, which shall be open to inspection by any councillor and the public; and must
  - (c) enter each notice of motion on the agenda in the order received.
- (5) The speaker or chairperson shall—
  - (a) read out the number of every motion and the name of the mover and seconder;
  - (b) ascertain which motions are unopposed and these shall be passed without debate; and
  - (c) call the movers of the opposed motions in the order they appear on the agenda.
- (6) A councillor submitting a motion shall move such motion and shall have the right of reply.
- (7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.
- (8) A councillor shall be allowed not more than one notices of motion on the same agenda.
- (9) The speaker or chairperson must not reject a motion received by him or her in terms of these rules.

## **25. Questions**

- 1) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the

councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting.

- 2) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow up question.

**26. Supply of information to a councillor**

- (1) No councillor shall approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.
- (2) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

**27. General matters of an urgent nature**

- (1) General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or chairperson, which consent shall not be unreasonably withheld.
- (2) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

**28. Interpretation**

If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

**29. In-committee**

- (1) Subject to rule 5, the council or a committee of council may, at any time, resolve to proceed in-committee.
- (2) The public shall be excluded from any in-committee meetings.

- (3) The municipal manager or another official exempted from this rule by the speaker or chairperson, shall not be excluded from any in-committee meeting.
- (4) All proceedings in-committee must be recorded in terms of rule 18(1) and 18(2) and shall be confidential.
- (5) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.

## **CHAPTER 8**

### **VOTING**

#### **30. Decisions by voting**

- (1) A quorum must be present in order for a vote to be taken.
- (2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice:-
  - a) the passing of by-laws;
  - b) the approval of budgets;
  - c) the imposition of rates and other taxes, levies and duties;
  - d) the raising of loans;
  - e) the rescission of a council resolution within 6 months of the taking thereof; and
  - f) any other matter prescribed by legislation.
- (3) All other questions before the council shall be decided by a majority of the votes cast by the councillors present.
- (4) If on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson shall not exercise a casting vote during the election of any office bearer of council.

### **31. Method of voting**

- (1) Voting shall be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.
- (2) During the taking of a vote no councillor may leave the council chamber or committee room.
- (3) The municipal manager or his nominee, shall count the votes cast and shall record the result of voting, but the speaker or chairperson shall announce the result.

### **32. Dissenting votes**

A councillor may request that his dissenting vote be recorded as evidence of how he or she voted on the motion.

## **CHAPTER 9**

### **REVOCATION OF COUNCIL AND COMMITTEE RESOLUTIONS**

#### **33. Revocation of Council Resolutions**

- (1) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.
- (2) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.
- (3) Any revocation or alteration of a council resolution must be made in terms of rule 29(2)(e).

#### **34. Revocation of Committee Resolutions**

- (1) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.
- (2) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.

- (3) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

## **CHAPTER 10**

### **DEBATE**

#### **35. Opportunity to speak**

- (1) A councillor may only speak when so directed by the speaker or chairperson.
- (2) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld.
- (3) Councillors and officials **shall be seated** when speaking and shall direct their address to the speaker or chairperson.

#### **36. Relevance**

Every speaker must restrict him or herself strictly to the matter under consideration.

#### **37. Length of speeches**

Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech shall exceed five minutes in length without the consent of the speaker or chairperson.

#### **38. Councillors to speak only once**

A councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the speaker or chairperson provided that the mover of the motion may speak to the motion, shall have the right of reply and the reply shall be confined to answering previous speakers and shall not introduce any new matter into the debate.

### **39. Precedence of the speaker or chairperson**

Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

### **40. Points of order**

- (1) Any councillor may raise a point of order at any time by raising his hand to draw the attention of the speaker or chairperson.
- (2) The point of order takes precedence over everything else in the meeting and the speaker or chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.
- (3) The ruling of the speaker or chairperson on a point of order shall be final and shall not be open to discussion.

### **41. Explanation**

Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

## **CHAPTER 11**

### **CONDUCT**

### **42. General conduct**

- (1) Councillors and officials must during any council or committee meeting—
  - (a) conduct the business in the highest decorum and integrity that the occasion deserves;
  - (b) must, at all times adhere to the principles contained in the code of conduct and these rules and orders;
  - (c) must at all times adhere to the rule of law and the by-laws of the municipality;
  - (d) must be dressed appropriately for the dignity of the meeting;

- (e) must not use offensive or objectionable language; and
- (f) must not use a cellular phone during, bring a firearm or any dangerous weapon into, a meeting of council or any of its committees.

#### **43. Misconduct**

- (1) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.
- (2) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker shall direct the councillor or councillors to conduct himself or themselves properly and, if speaking, to stop speaking and resume his seat or seats.
- (3) In the event of persistent disregard of the directions of the speaker, the speaker shall direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalized.
- (4) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these standing rules and orders and the Code of Conduct.
- (5) Any councillor who refuses to leave a meeting of the council or a committee of the council when directed to do so by the speaker or chairperson of a meeting in terms of any rule in these rules and orders, may be forcibly removed and shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one month or to both such fine and such imprisonment.

## **CHAPTER 12**

### **COMMITTEES**

#### **44. Rules Committee**

- (1) The municipal council may by resolution of a majority of councillors establish a special committee to be known as the Rules Committee to investigate and make findings on any alleged breaches of the Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning the Rules and Orders.
- (2) The Rules Committee shall consist of the speaker, the mayor and one representative of each political party represented on the council, such representative to be nominated from time to time by each political party.

#### **45. Own rules**

- (1) Every committee of the council shall determine its own procedures subject to any directions from council and these standing rules and orders.
- (2) Chapter 10 of these rules and orders may be relaxed by a chairperson of a committee to accommodate interactive and effective participation, provided that the chairperson may, at his/her discretion, apply the provisions of any rule contained in chapter 10.

#### **46. The chairperson**

- (1) The chairperson of a committee shall—
  - (a) preside at every meeting of the committee at which he or she is present; and
  - (b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, shall give a second or casting vote.
- (3) In his absence, the acting or deputy chairperson shall have the same powers and rights of voting as those possessed by the chairperson.

## **CHAPTER 13**

### **PECUNIARY INTEREST**

#### **47. Declaration of pecuniary interest**

- (1) A councillor must disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or committee.
- (2) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.
- (3) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure
- (4) The disclosure of interests in terms of rule 46(1) and benefit in terms of rule 46(3) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

## **CHAPTER 14**

### **BREACH AND SANCTIONS**

#### **48. Breach**

Any councillor who fails or refuses to obey any of these rules and orders, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

**49. Sanction**

Where it is alleged that a councillor has breached these rules, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and may impose a sanction.

**CHAPTER 15****GENERAL PROVISIONS****50. Suspension of a rule or order**

(1) In instances of urgency or where a council considers that adherence to a rule would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a rule, provided that:

- (a) Such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
- (b) No rule may be relaxed when the removal of any political office bearer is before the council.
- (c) The suspension or relaxation of the rule relates to an item on the agenda for the meeting of the council or committee of the council; and
- (d) Rule 22 must not be suspended;
- (e) the reasons for the suspension of the rule are recorded in the minutes of the meeting.

**51. Adoption as by-laws**

These rules and orders must be adopted as a by-law of the municipality.

**52. Repeal of existing by-laws**

Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality, and pertaining to any matter, regulated in this by-law, shall be repealed from date of promulgation of this by-law.

### **53. Short title and commencement**

This by-law shall be called the Umuziwabantu Municipal Standing Rules and Orders, 2010, and shall come into operation on date determined by the municipality by proclamation in the ***Provincial Gazette***.

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