



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

# Provincial Gazette Igazethi Yephondo Provinsiale Koerant

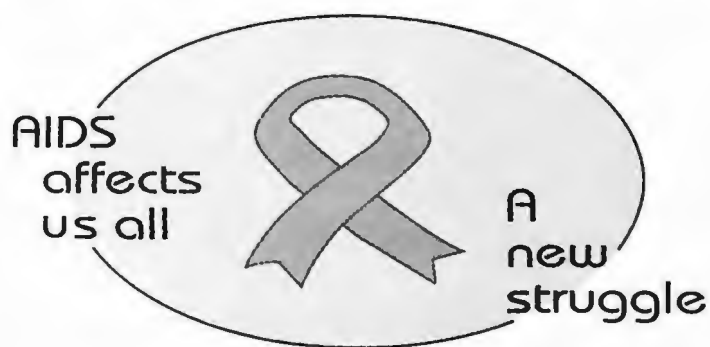
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Vol. 11

BISHO/  
KING WILLIAM'S TOWN, 30 MARCH 2004

**No. 1134**  
(Extraordinary)

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



**Prevention is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH



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## GENERAL NOTICE

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### NOTICE 39 OF 2004

## UMZIMKHULU MUNICIPALITY : MUNICIPAL CODE

All municipalities are obliged to compile and maintain in bound or loose-leaf form a compilation of all its bylaws in the form of a Municipal Code.

"Bylaws" are laws enacted by a municipal council to regulate the behaviour of all the inhabitants within the municipality's area of jurisdiction. In simple terms, a by-law prescribes what can and cannot be done and sets out the consequences of not complying with the bylaw.

This Municipal Code is a compilation of all the bylaws that have been duly adopted by the Council of the Umzimkhulu Municipality in accordance with section 160 of the Constitution of the Republic of South Africa Act No. 108 of 1996 read with sections 12 and 13 of the Local Government : Municipal Systems Act No. 32 of 2000.

.....  
Mr T V Dyonas

MUNICIPAL MANAGER

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The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Advertising Signs Bylaws.

## ADVERTISING SIGNS BYLAWS

### 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, and enforce the provisions of these bylaws;

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

"curtilage" means the whole of the area of ground within the boundaries of a lot or lots, or subdivision forming the site of any building or proposed building;

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

"flat sign" 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 detached from a building and affixed to the ground;

"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 sign-board, structure or device whatever, used or intended or adapted for the display thereon of an advertisement;

"sky sign-board" means any sign-board on a roof or any sign-board on the top of a

parapet of a roof;

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

#### Application of regulations

2. (1) Subject to the provisions of sub-section (2), this Bylaw shall be applicable in respect of all advertisements displayed or to be displayed within the area of jurisdiction of the Council.
- (2) The following categories of advertisements shall, subject to sub-section 3(3), be exempted from the provisions of this Bylaw:
  - (a) an advertisement displayed within the curtilage of any premises during the course of building operations (including plumbing, electrical wiring, painting and renovations) on such premises commonly referred to as "builders' boards" or "contractors' boards".
  - (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 using the road in which the advertisement is erected or using any adjacent or adjoining road.
  - (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 so used is not to display such advertisement.
  - (e) An advertisement affixed flat to or painted on any part of any building other than a dwelling-house which merely indicates the name or address of such building or the occupier or owner thereof, with or without a general description of the type of business lawfully carried on in such building, the hours of attendance or business and 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 the area and does not project more than 100 mm from the surface to which it is affixed.
  - (f) An advertisement displayed within the curtilage of any dwelling-house which merely indicates the name or address of that dwelling-house or the occupier thereof; provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area.
  - (g) An advertisement displayed within the curtilage of any premises (which is designed solely for the direction of, or the conveyance of a request or warning to, any person entering upon such premises); provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area.
  - (h) An advertisement displayed within the curtilage of any immovable

property advertising the sale or lease of such property, or the fact that such property has been sold; provided that such advertisement, including any sign-board on which it is displayed, does not exceed 0,8 m<sup>2</sup> in area.

- (i) An advertisement displayed from the interior of any building enclosed by walls, windows and doors.
- (3) The provisions of this Bylaw shall be in addition to and not in substitution for any provision of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940).

### Temporary and portable advertisements

3. (1) Any advertisement -

- (a) intended to be displayed solely for or in connection with a particular occasion, function, sale or event, including 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 such conditions as he may impose.

- (2) Any such advertisements, including any sign-board on which it is displayed, shall not exceed 0,8 m<sup>2</sup> in area.
- (3) No advertisement advertising a particular occasion, function, sale or event other than an election or referendum, irrespective of whether such advertisement is exempted under section 2(2) or not, shall be displayed for longer than 14 days before the day on which it begins or longer than three days after the day on which it ends; provided that an advertisement advertising the fact that immovable property has been sold may be displayed for a maximum period of 14 days.
- (4) No election or referendum advertisements shall be displayed for longer than the period extending from the beginning of the day of nomination/referendum to the end of the third day after the day of the election or expiry date of the referendum.

In respect of each candidate not more than 200 election advertisements or copies of an election advertisement shall be displayed in terms of locations and conditions prescribed by the authorised official.

- (5) Any cloth, paper, papier-mache or other similar material which may be used for the display of the advertisement shall be securely fixed to a portable board.
- (6) Every application for permission in terms of sub-section (1) shall be accompanied by the deposit, prescribed by the Council, which in the case of election advertisements shall be R80.00 in respect of each candidate in each ward or constituency as the

case may be, and in the case referendum and other advertisements shall be R40.00 for every 50 copies or part thereof displayed.

- (7) A deposit paid in terms of sub-section (6) shall, subject to the provisions of sub-section (8), be refunded when all advertisements to which it relates have been removed to the satisfaction of the authorised official.
- (8) 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 period regulations (3) or (4), 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 if the amount is arrived at by multiplying the number of advertisements so removed by the sum of R10.00 exceeds the amount of any deposit made in terms of sub-section (6), the Council shall be entitled to recover such excess amount from such person and such amount 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.
- (9) Any person who displays or causes, permits or suffers to be displayed any advertisement referred to in sub-section (1) and any person, other than a police officer or other person charged with the enforcement of these regulations, who is authorised by the person responsible for the display of the advertisement to remove it shall be deemed to be the displayer thereof so long as it is displayed.
- (10) In any legal proceedings relating to an advertisement displayed either in accordance with or in contravention of any provision of this regulation, it shall be presumed that such advertisement was displayed by the person or persons, club or other body of persons sponsoring, promoting or organising or in control of the meeting, function or event to which it relates or by the candidate to whom an election advertisement relates or that any such person, club or body caused or permitted such advertisement to be displayed, as the case may be, until it is proved to the contrary.
- (11) The authorised official shall be entitled, without giving notice to anyone, to remove or to cause to be removed any advertisement displayed without his permission in terms of sub-section (1) or in contravention of any provision of these regulations or which constitutes in any respect a contravention of these regulations and the person who displayed any such advertisement or caused or permitted it to be displayed or is deemed under sub-section (9) or (10) to have done so shall be liable to pay to the Council the sum of R50.00 in respect of each advertisement removed by the authorised official.
- (12) No person shall place or cause to be placed upon any public road any advertisement advertising the sale or lease of immovable property or the fact that such property has been sold; provided that this prohibition shall not apply in respect of any such advertisement -
  - (a) which is erected on a Saturday, Sunday or public holiday for the duration of such Saturday, Sunday or public holiday, or for two or more such succeeding days:

- (b) including any sign-board on which it is displayed, which does not exceed 0,8 m<sup>2</sup> in area;
- (c) which gives directions to and advertises what is commonly known as a show house;
- (d) which does not obstruct vehicular or pedestrian traffic or the lines of sight of drivers or pedestrians using the road in which the advertisement is erected or using any adjacent or adjoining road; and
- (e) which is not displayed on a sign-board which is driven into or buried in the ground.

#### 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 Chief Town Planner on the prescribed application form (Schedule 2). Such form shall be signed by the applicant and by the owner (if he 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) 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 on durable paper indicating the position of such sign on the site at a scale of not less than 1: 50, showing the full text, the colour of the material, the construction, the overall dimensions and the method of attachment, suspension or support and, if required by the Chief Town Planner, the applicant shall furnish such additional particulars in connection with the application as may be required;
  - (c) in the case of ground signs, information in regard to all calculations upon which such size is based;
- an application fee of R30.00.
- (3) The Council may refuse or grant such application subject to such conditions (not inconsistent with the regulations) as it may think proper, including the payment of a rental where the proposed sign is included in the framework provided by the Council.

## 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 the design, colour or other characteristics of the advertisement in question, its proposed position in relation to the building or premises upon or in which it is to be displayed and neighbouring properties, such advertisement will detract from or disfigure the appearance of the building or premises concerned or neighbouring 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 Bylaw, be affixed to buildings:
1. Flat sign-boards,
  2. Projecting sign-boards, and
  3. Sky sign-boards
- (2) No flat sign-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;
  - (g) be affixed otherwise than in a vertical plane.

## Advertisement painted on buildings

8. (1) The following advertisements and no others may, subject to the provisions of this Bylaw, be painted on buildings;
- (a) Advertisements painted on the walls of buildings.



- (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 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 abbreviation thereof) of the person, firm, company, society or association occupying such building.

### Ground Sign-boards

- 9. (1) Ground sign-boards on poles, standards or pylons and no others may, subject to the provisions of this Bylaw, be erected upon any premises.
- (2) Every ground sign-board shall -
  - (a) 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;
  - (b) not exceed 2 m x 0,3 m (300 mm) except as provided for in sub-section (3) below;
  - (c) if no part extend or project beyond the road line;
  - (d) not exceed 6,5m in height and may be permitted at ground level,
- (3) Ground signs may be permitted to a maximum length of 6 metres and a maximum height of 3 metres provided the sign is not likely to cause injury to the amenity of the neighbourhood and the approval of the Board has been obtained.
- (4) Any person who intends to erect a sign other than within the boundaries of the property to which it refers shall require the approval of the Chief Engineer and shall pay an annual charge as laid out in the Schedule of Fees.

### Flashing advertisements

The Council shall only approve flashing or animated 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 conditions contemplated in section 11(2).

### Prohibitions relating to advertisements

- 11) 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.

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 obscure, obstruct or otherwise interfere

- (b) which is illuminated and contains the colours, red, green or amber or a one or more of such colours, unless such sign has a clear height of 6 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;
- (c) which is of such intense illumination so as to disturb the residents or occupants of adjacent or nearby residential buildings.

- 11.A.
- (a) Directional signs may not be erected on road reserves other than on directional signboard frames erected by the local authority, and on payment of the fees specified in the Schedule of Fees, 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 Chief Engineer.
  - (b) A directional signboard frame shall not exceed 4m in height from ground level save with the express approval of the Council in writing.

#### Constructional requirements for sign-boards

- 11.
- (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;
    - (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;
  - (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 decay and insect attack and thereafter painted.
- (7) No permanent sign-board shall be constructed in whole or in part of cloth, glass, canvas, cardboard, paper or like materials.

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

13. 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**

14. (1) No person shall alter or add to any permanent advertisement, including any sign-board on which it is displayed, without the prior written approval of the Council.
- (2) Any person having possession or control of a permanent advertisement and who desires to alter or add to it shall apply to the Council in writing for its approval.
- (3) An application referred to in sub-section (2) shall specify the nature and extent of the proposed alteration or addition.
- (4) 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.

#### **Approval of permanent advertisements**

- (1) When there is being displayed a permanent advertisement -
- (a) for which no approval was granted under section 4; or
  - (b) which does not conform to the specifications or conditions prescribed in any approval granted thereafter or in any section applicable thereto or which is being displayed in a manner or place or in circumstances other than those prescribed in any such authority or regulation,

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 : Provided that the Council shall not, within a period of three months as from the date of publication of this Bylaw, give any such direction in regard to an advertisement which was being displayed on the last mentioned date and has thereafter been displayed continuously in the same place.

- (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, is being displayed 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, unless he proves -
  - (a) that he did not, at the time when he received the notice, nor at any time thereafter, display the advertisement; or
  - (b) that he did take any active part in displaying the advertisement and did not grant any person permission to display it and did not receive any valuable consideration in connection with the displaying of the advertisement, and that he does not manufacture an article or own, control or manage a business or undertaking to which the advertisement relates.

#### Delegation of Council's powers

- 16 (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.

**SCHEDULE I****Schedule of fees**

1. The attachment of any advertisement or sign to a supporting framework provided by the Council shall be subject to the payment to the Council on an annual basis, of the following charges:

Size of sign	Annual fee
--------------	------------

2 m x 300 mm (0,6 m <sup>2</sup> )	Nil
------------------------------------	-----

1 m x 300 mm (0,3 m <sup>2</sup> )	Nil
------------------------------------	-----

2. Any advertisement or sign which is to be erected other than within the boundaries of the property to which it refers or on a supporting framework provided by the Council shall be subject to the payment to the Council, on an annual basis, of the following charges

Size of sign	Annual fee
--------------	------------

Up to 0,8 m <sup>2</sup>	R.....
--------------------------	--------

Over 0,8 m <sup>2</sup> and up to 3 m <sup>2</sup>	R..... per m <sup>2</sup>
--	---------------------------

Over 3 m <sup>2</sup> and up to 18 m <sup>2</sup>	R..... per m <sup>2</sup>
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## SCHEDULE 2

I, the undersigned.....apply for permission to erect and display a sign on/near Lot..... in full accordance with the specifications below and the attached drawings, and the provisions of the Council's regulations relating to advertising and tender an application fee of .....

## Particulars of sign

1. The sign is manufactured of .....
2. The sign is SINGLE/DOUBLE-faced (delete incorrect)
3. Type of sign GROUND/WALL/PROJECTING/VERANDAH/SKY
4. Measurements
  - (a) Total height above ground level .....
  - (b) Min. clearance above ground level .....
  - (c) Length ..... m
  - (d) Width ..... m
5. Projecting from building ..... mm
6. Colour of
  - (a) Background .....
  - (b) Lettering .....
7. Position on premises (describe).....
8. Sky signs
  - (a) Number of storeys .....
  - (b) Total height of building .....
9. State how sign is to be secured, type of supports, anchorage, bolts, etc
10. Attach please a sketch of the proposed sign along with a photograph indicating by means of a black outline the position of the position of the proposed sign.

I undertake to maintain the sign, fittings and supports in a safe condition and in proper repair and indemnify the Council against any and all claims whatsoever that may arise as a result of, or in connection with, the erection and/or display of the sign.

Dated at ..... this .....day of..... 20.....

.....  
Signature of Applicant

Witnesses

Address

1. ....
2. ....

I, the undersigned .....  
owner of the premises referred to above, consent to the erection of the abovementioned sign on the  
terms and conditions set forth above.

Dated at .....this ..... day of..... 20.....

.....  
Signature of owner of premises

I, the undersigned ..... owner of  
the sign referred to above, acknowledge that I have read the foregoing conditions and agree to abide  
by them in so far as they affect me or my company.

Dated at ..... this ..... day of..... 20.....

.....  
Signature of owner of sign

### Religious ceremonies

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

### Plans of graves, plots and niches

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

### Complaints

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

### Charges/Tariffs

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

### Consent notice order

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

### Instructions of caretaker

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

### Flowers

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

## CHAPTER 3 PROHIBITION ORDERS

### Children

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

### Keeping to paths/walkways

Except for the purpose of permitted by these Bylaws, all persons shall only use roads, paved walkways and demarcated turf walkways provided in the cemetery.

### Entrances and exits of cemeteries

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



**Performance of activities**

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

**Prohibited actions within cemeteries**

No person shall –

commit any nuisance within any cemetery;

ride on any animal, cycle, skateboard or roller skates within the cemetery;

allow any animal to wander inside any cemetery;

plant, cut, pick or remove any plant, shrub or flower without permission of the caretaker;

hold or take part in any demonstration in any cemetery;

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

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

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

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

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

**Miscellaneous**

- (1) No person shall dispose of a body in any other manner than by interring it in a cemetery or having it cremated in a crematorium approved in terms of the provisions of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996).
- (2) No person shall acquire any right to or interest in any ground or grave in any cemetery, other than such rights or interests as may be obtainable in terms of these bylaws.

**Exposure of bodies**

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

**Music inside cemetery**

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

- (2) The applicant who wishes to have a body interred for the purpose of a second interment shall
- (a) apply on the prescribe from at lest 24 hours before the interment shall take place; and
  - (b) remove any memorial work on such grave at his own cost and comply with any requirements made by the caretaker in this regard.

## CHAPTER 5 ASHES

### Acquiring of niches

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

### Burial of ashes

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

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

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

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

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

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

- (1) Any person who desires to place a funerary urn containing cremated remains in the niche in the Memorial Wall, Memorial Garden or Garden of Remembrance shall submit an application, accompanied by the Cremation Certificate, in writing or on the prescribed form, to the caretaker. If the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, he may, in his discretion, grant an application signed by any other person.
- (2) Any person applying in terms of subsection (1) shall pay the prescribed fees as determined by the Council.

### Exhumation of ashes

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

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

#### **Scattering of ashes**

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

### **CHAPTER 6 EXHUMATION OF BODIES AND RE-OPENING OF GRAVES**

#### **Exhumation**

- (1) Subject to the provisions of these bylaws and any other legislation, no grave shall be re-opened without a written consent of the Council.
- (2) Subject to the provision of these bylaws, no person shall exhume or cause any body to be exhumed without a written consent of the Medical Officer of Health and the charges for exhumation as determined by the Council shall be paid before the exhumation takes place. Such consent shall be submitted to the caretaker at least two days before the date fixed for the exhumation or removal of the body.

#### **Closure due to exhumation**

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

#### **Screening of activities**

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

#### **Medical officers of health shall be present**

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

#### **Transfer of body from one grave to another by the Council**

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

### **CHAPTER 7 CARE OF GRAVES**

#### **General**

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

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

#### **Position of memorial work**

No person shall erect any memorials on any grave except in such a position as indicated by the caretaker or as otherwise provided for in these bylaws.

#### **Repairs to memorial work**

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

#### **Supervision of work**

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

#### **Damaging of memorial works**

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

#### **Moving of memorial work**

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

#### **Bringing material into cemetery**

- (1) No person shall bring any material into the cemetery for the purpose of constructing any memorial work on any grave unless –
- (a) a sketch plan indicating the dimensions of the memorial work, the inscription and position thereof has been submitted and approved by the caretaker;
  - (b) all charges due in respect of such grave have been paid; and
  - (c) the Council's written approval has been given to this effect.

#### **Removal of memorial works by the Council**

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

#### **Requirements for erection of memorial works**

- (1) Any person erecting memorial work shall conform to the following requirements:

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

#### Vehicles and tools

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

## **CHAPTER 8 OFFENCES AND PENALTIES**

### **Penalties**

Any person contravening any provision of these bylaws or failing to comply therewith or failing to comply with the conditions of any notice served on him by the Council in terms of these bylaw shall be guilty of an offence and liable, upon conviction, to a fine or imprisonment not exceeding a period of six months, or to both the fine and the imprisonment.

## **CHAPTER 9 CONFLICT OF LAWS**

### **Conflict of laws**

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

Credit Control & Debt Collection Bylaws / ...

The Umzimkhulu Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes Credit Control and Debt Collection Bylaws.

## CREDIT CONTROL AND DEBT COLLECTION BYLAWS

### CHAPTER 1

#### 1. Definitions

For the purpose of these bylaws, any word or expression to which a meaning has been assigned in the Act shall bear the same meaning in these bylaws and unless the context indicates otherwise –

“account” means any account rendered for municipal services provided:

“Act” means the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

“actual consumption” means the measured consumption of any consumer; “applicable charges” means the rate, charge, tariff, flat rate, or subsidy determined by the municipal council;

“average consumption” means the average consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing that consumer’s total measured consumption of that municipal service over the preceding three months by three;

“agreement” means the contractual relationship between the municipality or its authorised agent and consumer, whether written or deemed;

“area of supply” means any area within the area of jurisdiction of the municipality to which a municipal service or municipal service or municipal services are provided;

“arrears” means any amount due, owing and payable by a consumer in respect of municipal services not paid on the due date;

“authorised agent” means –

- (a) any person authorised by the Council to perform any act, function or duty in terms of, or exercise any power under these bylaws; and/or
- (b) any person to whom the Council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and/or
- (c) any person appointed by the Council in terms of a written contract as a service provider to provide revenue services to consumers on its behalf to the extent authorised in such contract;

“commercial consumer” means a consumer other than household and indigent consumers, including without limitation, business, government and institutional consumers;



"connection" means the point at which a consumer gains access to municipal services;

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

"consumer" means a person with whom the municipality or its authorised agent has concluded an agreement for the provision of municipal services;

"defaulter" means a consumer who owes arrears;

"due date" means the date on which the amount payable in respect of an account becomes due, owing and payable by the consumer, which date shall be not less than 14 days after the date of the account;

"emergency situation" means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;

"estimated consumption" means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;

"household consumer" means a consumer that occupies a dwelling, structure or property primarily for residential purposes;

"illegal connection" means a connection to any system through which services are provided that is not authorised or approved by the municipality or its authorised agent;

"indigent customer" means a household consumer qualifying and registered with the municipality as an indigent in accordance with these bylaws;

"legal costs" means legal costs on an attorney-own client scale;

"municipal manager" means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person –

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"municipal services" means for purposes of these bylaws, any services provided by the municipality or its authorised agent, including refuse removal, water supply, sanitation, and electricity services;

"occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"owner" means -

- (a) the person in who the legal title to premises is vested;
- (b) in case where the person in whom the legal title to premises is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the premises for which a lease agreement of 30 years or longer has been entered into, the lessee of the premises;
- (e) in relation to -
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or
  - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
- (f) a person occupying land under a register held by a tribal authority;

"person" means any natural person, local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"public notice" means publication in an appropriate medium that may include one or more of the following:

- (a) publication of a notice, in the official languages determined by the municipal council,
  - (i) in the local newspaper or newspapers in the area of the municipality; or
  - (ii) in the newspaper or newspapers circulating in the area of the municipality determined by the municipal council as a newspaper of record; or
  - (iii) by means of radio broadcasts covering the area of the municipality; or
  - (iv) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
- (b) communication with consumers through public meetings and ward committee

meetings;

"shared consumption" means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a consumer's premises is situated for the same period by the number of consumers within that supply zone, during the same period;

"subsidised service" means a municipal service which is provided to a consumer as an applicable rate which is less than the cost of actually providing the service including services provided to consumers at no cost;

"supply zone" means an area, determined by the municipality or its authorised agent, within which all consumers are provided with services from the same bulk supply connection, and

"unauthorised services" means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

## CHAPTER 2

### PROVISION OF MUNICIPAL SERVICES TO CONSUMERS OTHER THAN INDIGENT CONSUMERS

#### Part 1: Application for Municipal Services

#### 2. Application for services

- (1) A consumer who qualifies as an indigent consumer must apply for services as set out in Chapter 4 below.
- (2) No person shall be entitled to have access to municipal services unless application has been made to and approved by the municipality or its authorised agent on the prescribed form attached as Annexure A to these bylaws.
- (3) If, at the commencement of these bylaws or at any other time, municipal services are provided and received and no written agreement exists in respect of such services, it shall be deemed that -
  - (a) an agreement in terms of subsection (7) exists; and
  - (b) the level of services provided to that consumers are the level of services elected,

until such time as the consumer enters into an agreement in terms of sub section (2).

- (4) The municipality or its authorised agent must on application for the provision of municipal services inform the applicant of the then available levels of services and then applicable tariffs and/or charges associated with each level of service.

- (5) The municipality or its authorised agent is only obliged to provide a specific level of service requested if the service is currently being provided and if the municipality or authorised agent has the resources and capacity to provide such level of service.
- (6) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such requested level of service is available and that any costs and expenditure associated with altering the level of services is paid by the consumer.
- (7) An application for services submitted by a consumer and approved by the municipality or its authorised agent shall constitute an agreement between the municipality or its authorised agent and the consumer, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) In completing an application form for municipal services, the municipality or its authorised agent must ensure that the document and the process of interaction with the owner, consumer or any other person making such an application are understood by that owner, consumer or other person and advise him or her of the option to register as an indigent consumer.
- (9) In the case of illiterate or similarly disadvantaged persons, the municipality or its authorised agent must take reasonable steps to ensure that the person is aware of and understands the contents of the application form and shall assist him or her in completing such form.
- (10) Municipal services rendered to a consumer are subject to the provisions of these bylaws, any applicable bylaws and the conditions contained in the agreement.
- (11) If the municipality or its authorised agent -
  - (a) refuses an application for the provision of municipal services or a specific service or level of service;
  - (b) is unable to render such municipal services or a specific service or level of service on the date requested for such provision to commence; or
  - (c) is unable to render the municipal services or a specific service or level of service,

the municipality or its authorised agent must, within a reasonable time, inform the consumer of such refusal and/or inability, the reason therefor and, if applicable, when the municipality or its authorised agent will be able to provide such municipal services or a specific service or level of service.

### 3. Special agreements for municipal services

The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant –

- (a) within the area of supply, if the services applied for necessitated the imposition

of conditions not contained in the prescribed form or these bylaws;

- (b) receiving subsidised services; and
- (c) if the premises to receive such service is situated outside the area of supply provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the consumer to advise the municipality concerned of such special agreement.

#### 4. Change in purpose for which municipal services are used

Where the purpose or extent to which any municipal service used is changed, the onus and obligation is on the consumer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

### Part 2: Applicable Charges

#### 5. Applicable charges for municipal services

- (1) All applicable charges payable in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the Council in accordance with -
  - (a) its rates and tariff policy;
  - (b) its credit control and debt collection policy;
  - (c) any bylaws in respect thereof; and
  - (d) any regulations in terms of national or provincial legislation.
- (2) Applicable charges may differ between different categories of consumers, users of services, types and levels of services, quantities of services, infrastructure requirement and geographic areas.
- (3) Services will be terminated due to non-payment on the terms and conditions as stipulated in the credit control and debt collection policy.
- (4) Deferment for payment of service accounts can be granted to consumers in terms of council's delegated powers and conditions approved in its credit control and debt collection policy.
- (5) The municipality may consolidate any separate account of persons who are liable for payment to the municipality and may credit all payments received from such a person to any service and order of performance as determined by council from time to time in its credit control and debt collection policy.

#### 6. Availability charges for municipal services

The Council, in addition to the tariffs or charges prescribed for municipal services actually provided, may levy a monthly fixed charge, annual fixed charge or once-off fixed charge where municipal services are available, whether or not such services are consumed or not.



## 7. Subsidised services

- (1) The Council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.
- (2) The Council may, in implementing subsidies, differentiate between types of household consumers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- (3) A public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy:
  - (a) the household consumers who will benefit from the subsidy;
  - (b) the type, level and quantity of municipal service that will be subsidized;
  - (c) the area within which the subsidy will apply;
  - (d) the rate (indicating the level of subsidy);
  - (e) the method of implementing the subsidy; and
  - (f) any special terms and conditions which will apply to the subsidy.
- (4) If a household consumer's consumption or use of municipal services is -
  - (a) less than the subsidised service, the unused portion may not be accrued by the consumer and will not entitle the consumer to cash or a rebate in respect of the unused portion; and
  - (b) in excess of the subsidised service, the consumer will be obliged to pay for such excess consumption at the applicable rate.
- (5) A subsidy implemented in terms of subsection (1) may at any time, be withdrawn or altered in the sole discretion of the Council, after -
  - (a) service of notice as contemplated in section 115 of the Act on the person affected by the council's intention to consider such withdrawal or alteration; and
  - (b) consideration by the Council of any comments or requests received from the person affected.
- (6) Commercial consumers shall not qualify for subsidised services.
- (7) Subsidised services shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

## 8. Authority to recover additional costs and fees

- (1) The municipality or its authorised agent has the authority to, notwithstanding the provisions of any other sections contained in these bylaws, recover any additional costs incurred in respect of implementing these bylaws against the account of the consumer, including but not limited to -

- (a) all legal costs, including attorney and client costs incurred in the recovery of amounts in arrears shall be against the arrears account of the consumer, and/or
- (b) the or essential costs incurred relating to any action taken in demanding payment from the consumer or reminding the consumer, by means of telephone, fax, e-mail, letter or otherwise.

### **PART 3: PAYMENT**

#### **9. Payment of deposit**

- (1) The Council may, from time to time, determine different deposits for different categories of consumer, users of services, debtors, services and service standards, provided that the deposit will not be more than two and a half times the monetary value of the most recent measured monthly consumption of the premises for which an application is made.
- (2) A consumer must on application for the provision of municipal services and before the municipality or its authorised agent will provide such services, pay a deposit, if the municipal council has determined a deposit.
- (3) The municipality or its authorised agent may annually review a deposit paid in terms of subsection (2) and in accordance with such review require that an additional amount be deposited by the consumer where the deposit is less than the most recent deposit determined by the Council.
- (4) If a consumer is in arrears, the municipality or its authorised agent may require that the consumer-
  - (a) pay a deposit if that consumer was not previously required to pay a deposit; and
  - (b) pay an additional deposit where the deposit paid by that consumer is less than the most recent deposit determined by the Council.
- (5) Subject to subsection (7), the deposit shall not be regarded as being in payment of an account.
- (6) No interest shall be payable by the municipality or its authorised agent on any deposit held.
- (7) The deposit, if any, is refundable to the consumer on termination of the agreement. A deposit shall be forfeited to the municipality if it has not been claimed by the consumer within 12 months of termination of the agreement.

#### **10. Methods for determining amounts due and payable**

- (1) The municipality or its authorised agent must in respect of municipal services that can



be metered, endeavour to, within available financial and human resources, meter all consumer connections and/or read all metered consumer connections, on a regular basis, subject to subsection

- (2) If a service is not measured, a municipality or its authorised agent may, notwithstanding subsection (1), determine the amount due and payable by a consumer, for municipal services supplied to him, her or it, by calculating—
  - (a) the shared consumption, if possible; or
  - (b) the estimated consumption.
- (3) If a service is metered, but it cannot be read due to financial and human resource constraints or circumstances out of the control of the municipality or its authorised agent, and the consumer is charged for an average consumption the account following the reading of the metered consumption must articulate the difference between the actual consumption and the average consumption, and the resulting credit or debit adjustment.
- (4) Where water supply services are provided through a communal water services network (standpipe), the amount due and payable by consumers gaining access to water supply services through that communal water services network, must be based on the shared or estimated consumption of water supplied to that water services network.
- (5) Where in the opinion of the municipality or its authorised agent it is not reasonably possible or cost effective to meter all consumer connections and/or read all metered consumer connections within a determined area, the Council may, on the recommendation of the municipality or its authorised agent, determine a basic tariff (flat rate) to be paid by all the consumers within that area, irrespective of actual consumption.
- (6) The municipality or its authorised agent must inform consumers of the method for determining amounts due and payable in respect of municipal services provided which will apply in respect of their consumption or supply zones.

#### 11. **Payment for municipal services provided**

- (1) A consumer shall be responsible for payment of all municipal services consumed by him/her or it from the commencement date of the agreement until his/her or its account has been settled in full and the municipality or its authorised agent must recover all applicable charges due to the municipality.
- (2) If a consumer uses municipal services for a use other than which it is provided by the municipality or its authorised agent in terms of an agreement and as a consequence is charged at a lower than the applicable charge the municipality or its authorised agent may make an adjustment of the amount charged and recover the balance from the consumer.
- (3) If amendments to the applicable charge become operative on a date between measurements for the purpose of rendering an account in respect of the applicable charges and the date of payment, -

- (a) it shall be deemed that the same quantity of municipal services was provided each period of twenty-four hours during the interval between measurements; and
- (b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amendment applicable charge.

## 12. Full and final settlement of an account

- (1) Where an account is not settled in full, any lesser amount tendered and accepted shall not be deemed to be in final settlement of such an account.
- (2) Subsection (1) shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent made such acceptance in writing.

## 13. Responsibility for amounts due and payable

Notwithstanding the provisions of any other section of these bylaws, the owner of premises shall be liable for the payment of any amounts due and payable to the municipality or its authorised representative in respect of the preceding two years, where the owner is not the consumer and the municipality or its authorised agent after taking reasonable measures to recover any amounts due and payable by the consumer from the latter, could not recover such amounts.

## 14. Dishonoured payments

Where any payment made to the municipality or its authorised agent by negotiable instrument is later dishonoured by the bank, the municipality or its authorised agent –

- 1. may recover the average bank charges incurred relating to dishonoured negotiable instruments against the account of the consumer; and
- 2. shall regard such an event as default on payment.

## 15. Incentive schemes

The Council may institute incentive schemes to encourage payment and to reward consumers that pay accounts on a regular and timeous basis.

## 16. Paypoints and approved agents

- (1) A consumer must pay his/her or its account at pay-points, specified by the municipality or its authorised agent from time to time, or at approved agents of the municipality or its authorised agent.
- 2. The municipality or its authorised agent must inform a consumer of the location of specified pay-points and approved agents for payment of accounts.

**PART 4: ACCOUNTS****17. Accounts**

- (1) Accounts will be rendered monthly to consumers at the address last recorded with the municipality or its authorised agent. The consumer may receive more than one account for different municipal services if they are accounted for separately.
- (2) Failure to receive or accept an account does not relieve a consumer of the obligation to pay any amount due and payable.
- (3) The municipality or its authorised agent must, if administratively possible, issue a duplicate account to a consumer on request upon payment of a fee as prescribed in the Council's tariff of charges.
- (4) Accounts must be paid not later than the last date for payment specified in such account, which date will be at least 14 days after the date of the account.
- (5) Accounts must reflect at least -
  - (a) the services rendered;
  - (b) the consumption of metered service or average, shared or estimated - consumption;
  - (c) the period stipulated in the account;
  - (d) the applicable charges;
  - (e) any subsidies;
  - (f) the amount due (excluding value added tax);
  - (g) value added tax;
  - (h) the adjustment, if any, to metered consumption which has been previously estimated;
  - (i) the arrears, if any;
  - (j) the interest payable on arrears, if any;
  - (k) the methods, places and approved agents where payment may be made; and should ideally state that -
    - (i) the consumer may conclude an agreement with the municipality or its agent for payment of the arrears amount in instalments, at the municipality or its authorised agent's offices before the final date for payment if a consumer is unable to pay the full amount due and payable;
    - (ii) if no such agreement is entered into, the municipality or its authorised agent will limit the services after sending a final demand notice to the consumer;
    - (iii) legal action may be instituted against any consumer for recovery of any amount 45 days in arrears;
    - (iv) the account may be handed over to a debt collector for collection; and
    - (v) proof of registration as an indigent customer, in terms of the municipality or its authorised agent's indigent policy, must be handed in at the office of the municipality or its authorised agent before the final date for payment.

**18. Consolidated debt**

- (1) If one account is rendered for more than one municipal service provided, the amount due and payable by a consumer constitutes a consolidated debt, and a payment made by a consumer of an amount less than the total amount due, will be allocated at the discretion of the municipality between service debt.
- (2) If an account is rendered for only one municipal service provided, any payment made by a consumer of an amount less than the total amount due, will be allocated at the discretion of the municipality.
- (3) A consumer may not elect how an account is to be settled if it is not settled in full or if there are arrears.

**PART 5: QUERIES, COMPLAINTS AND APPEALS****19. Queries or complaints in respect of account**

- (1) A consumer may lodge a query or complaint in respect of an accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- (2) A query or complaint must be lodged with the municipality or its authorised agent before the due date for payment of the account.
- (3) A query or complaint must be accompanied by the payment of the average of the last three month's accounts where the history of the account is available or an estimated amount provided by the municipality, before the payment due date until the matter is unresolved.
- (4) The municipality or its authorized agent will register the query or complaint and provide the consumer with a reference number.
- (5) The Council or its authorized agent -
  - (a) shall investigate or caused the query or complaint to be investigated; and
  - (b) must inform the consumer, in writing, of its finding within one month after the query or complaint was registered.
- (6) Failure to make such agreed interim payment or payments will render the consumer or liable for disconnection.

**20. Appeals against findings of municipality or its authorised agent in respect of queries or complaints**

- (1) A consumer may appeal in writing against a finding of the municipality or its authorized agent in terms of section 19.
- (2) An appeal and request in terms of subsection (1) must be made in writing and be lodged with the municipality within 21 days after the consumer became aware of the

finding referred to in section 19 and must -

- (a) set out the reason for the appeal; and
- (b) be accompanied by any security determined for the testing of a measuring device, if applicable.

#### **PART 6: ARREARS**

##### **21. Interest**

- (1) Interest will be levied on arrears at the prevailing prime interest rate prescribed by the Council from time to time.
- (2) The cost associated with the limitation or disconnection of municipal services shall be for the cost of the consumer and shall be included in the account following the re-connection.

##### **22. Accounts 45 days in arrears**

- (1) Where an account rendered to a consumer remains outstanding for more than 45 (forty five) days the Council or its authorised agent may -
  - 1. institute legal action against a consumer for the recovery of the arrears; and
  - 2. hand the consumer's account over to a debt collector or an attorney for collection
- (2) A consumer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and penalties, including the payment of a higher deposit, as may be determined by the municipal Council from time to time.

#### **PART 7: AGREEMENT FOR THE PAYMENT OF ARREARS**

##### **23. Agreements**

- (1) The following agreement for the payment of arrears in instalments may be entered into:
  - (a) An acknowledgement of debt.
  - (b) A consent to judgment.
  - (c) An emolument attachment order.
- (2) The consumer shall acknowledge that interest will be charged at the prescribed rate.
- (3) Consumers with electricity arrears must agree to the conversion to a pre-payment meter if and when implementable, the cost of which, and the arrears total, will be paid off either by -
  - (a) adding to the arrears account and repaying it over the agreed period; or
  - (b) adding it as a surcharge to the pre paid electricity cost, and repaying it with each purchase of electricity until the debt is settled.
- (4) The municipality or its authorised agent must require a consumer to pay at least its current account on entering into an agreement for the payment of arrears in instalments.

- (5) The municipality reserves the right to raise the security deposit requirement of debtors who seek agreements.

**24. Copy of agreement to consumer**

A copy of the agreement shall be made available to the consumer.

**25. Failure to honour agreements**

If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence and the municipality or its authorised agent may -

- (a) disconnect the electricity service provided to the consumer;
- (b) in the event that no electricity services are provided by the municipality or its authorised agent, disconnect the water supply services provided to the consumer;
- (c) institute legal action for the recovery of the arrears; and
- (d) hand the consumer's account over to a debt collector or an attorney for collection.

**26. Re -connection of services**

- (1) An agreement for payment of the arrear amount in instalments, entered into after the electricity services was discontinued and/or the water services was limited or disconnected, will not result in the services being restored until -
  1. the arrears, any interest thereon, administration fees, cost incurred in taking relevant action and penalties, including payment of a higher deposit, are paid in full; or
  2. in addition to payments referred to in subsection (1) the consumer shall pay the standard re-connection fee as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality or its authorised agent.

**CHAPTER 3  
ASSESSMENT RATES**

**27. Amount due for assessment rates**

- (1) The provisions of Chapter 3 shall apply in respect of the recovery of assessment rates.
- (2) All assessment rates due by owners are payable by a fixed date as determined by the municipality in its credit control and debt collection policy.
- (2) Joint owners of property shall be jointly and severally liable for payment of assessment rates.



- (4) Assessment rates may be levied in equal monthly instalments and when levied in equal monthly instalments, the amount payable will be included in the municipal account.
- (5) A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that -
  - a) the property is not occupied by the owner thereof; and/or
  - b) the municipal account is registered in the name of a person other than the owner of the property.

#### **CHAPTER 4**

#### **PROVISION OF MUNICIPAL SERVICES TO INDIGENT CONSUMERS**

#### **28. Qualification for registration as indigent consumer**

All households where the combined gross income of all the members of the household over the age of 18 years old is less than the amount to be determined by the Council, qualify for registration as indigent consumers.

#### **29. Application for registration**

- (1) A household who qualifies as an indigent consumer must complete the prescribed application form.
- (2) Any application in terms of subsection (1) must be accompanied by -
  - (i) documentary proof of income, such as a letter from the consumers employer, a salary advice, a pension card, unemployment fund card; or
  - (ii) an affidavit declaring unemployment or income; and
  - (iii) the consumer's latest municipal account in his/her possession;
  - (iv) a certified copy of the consumer's identity document; and
  - (v) the names and identity numbers of all occupants over the age of 18 years who are resident at the property.
- (3) A consumer applying for registration as an indigent consumer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.
- (4) The municipality or its authorised agent shall counter-sign the application form and certify that the consequences and conditions of such an application for the consumer were explained to the consumer and that the consumer indicated that the content of the declaration was understood.

#### **30. Approval of application**

- (1) The municipality or its authorised agent may send authorised representatives to premises or households applying for registration as indigent consumers to conduct an on site audit of information provided prior to approval of an application.

- (2) An application shall be approved for a period of 12 months only. Subsidies will be forfeited if the applicant fails to submit proof of income or to re-apply for the subsidy.

### 31. Conditions

The municipality or its authorised agent may upon approval of an application or any time thereafter –

1. install a pre-payment electricity meter for the indigent consumer where electricity is provided by the municipality or its authorized agents when implemented; and
2. limit the water supply services of an indigent consumer to a basic supply of not less than 6 (six) kiloliters per month.

### 32. Application every 12 months

- (1) An indigent consumer must re-apply for indigent support every 12 months, failing which the assistance will cease automatically.
- (2) The provisions of section 33 and 34 shall apply to any application in terms of subsection (1).
- (4) The municipality or its authorized agent cannot guarantee a renewal for indigent support.

### 33. Subsidised services for indigent consumers

- (1) The Council may annually, as part of its budgetary process, and subject to any national treasury regulations, determine services and levels thereof which will be subsidised in respect of indigent consumers in accordance with national policy, but subject to principles of sustainability and affordability.
- (2) The Council must, in the determination of municipal services which will be subsidised for indigent consumers, give preference to subsidising at least the following services:
  - (a) water supply services of 6 kiloliters per household per month;
  - (b) sanitation services of daily night soil removal or an improved ventilated pit latrine per household per month whichever is the most affordable to the municipality or its authorised agent;
  - (c) refuse removal services to a maximum of one removal per household per week; and
  - (e) all rates levied on properties of which the municipal value is less than the amount determined by the Council from time to time: provided that if in the case of any property or category of properties, it is not feasible to value or measure such property, the basis on which the property rates thereof shall be determined, shall be as prescribed by the Council.
- (3) The municipality must, when making a determination in terms of subsection (1) give

public notice of such determination.

- (4) Public notice in terms of subsection (3) must contain at least the following:
  - (a) the level or quantity of municipal service which will be subsidized;
  - (b) the level of subsidy;
  - (c) the method of calculating the subsidy; and
  - (d) any special terms and conditions which will apply to the subsidy, not provided for in these bylaws.
- (5) Any other municipal services rendered by the municipality or municipal services consumed in excess of the levels or quantities determined in subsection (1) shall be charged for and the indigent consumer shall be liable for the payment of such charges levied on the excess consumption.
- (6) The provisions of Chapter 3 shall *mutatis mutandis* apply to the amounts due and payable in terms of subsection (5).

#### 34. Funding of subsidised services

- (1) The subsidised services referred to in section 33 shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.
- (2) The subsidy amount to be funded from revenue raised nationally which is allocated to the municipality shall be calculated by dividing the amount allocated by the estimated number of consumers which may qualify for registration as indigent consumers.

#### 35. Existing arrears

Arrears accumulated in respect of the municipal accounts of consumers prior to registration as indigent consumers will be either -

- (a) written off;
- (b) applied as a surcharge to prepaid electricity coupons; or
- (c) be attempted to be recovered through legal proceedings and/or extended arrangements.

#### 36. Audits

The municipality may undertake regular random audits carried out by the municipality or its authorised agent to --

- (a) verify the information provided by indigent consumers;
- (b) record any changes in the circumstances of indigent consumers; and
- (c) make recommendations on the de-registration of the indigent consumer .

#### 37. De-registration

- (1) Any consumer who provides or provided false information in the application form

and/or any other documentation and information in connection with the application shall automatically, without notice, be de-registered as an indigent consumer from the date on which the municipality or its authorised agent become aware that such information is false.

- (2) An indigent consumer must immediately request de-registration by the municipality or its authorised agent if his/her circumstances has changed to the extent that he/she no longer meet the qualifications set out in section 28.
- (3) An indigent consumer shall automatically be de-registered if an application in accordance with section 29 is not made or if such application is not approved.
- (4) An indigent consumer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent consumer has changed to the extent that he/she no longer meet the qualifications set out in 28.
- (5) An indigent consumer may at any time request de-registration.

## CHAPTER 5

### BUSINESSES WHO TENDER TO THE MUNICIPALITY

#### 38. Procurement policy and tender conditions

The procurement policy and tender conditions may provide that –

1. when inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate the tenderer obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrears;
2. a municipal account is to mean any municipal service charge, tax or other fees fines and penalties, due in terms of a contract or approved tariff or rate, which is outstanding after the due date normally appearing on the consolidated account or overdue in terms of the contract or any other due date that has passed; and
3. tender conditions contain a condition allowing the municipality to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.

## CHAPTER 6

### UNAUTHORISED SERVICES

#### 39. Unauthorised Services

1. No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.
2. The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these bylaws by written notice order a person who is using an unauthorised service to -
  - (a) apply for such services in terms of Chapter 2 part 1;
  - (b) undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these or any other relevant bylaws.

**40. Interference with infrastructure for the provision of municipal services**

- (1) No person other than the municipality or its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.
- (2) No person other than the municipality or its authorised agent shall effect a connection to infrastructure through which municipal services are provided.

**41. Obstruction of access to infrastructure for the provision of municipal services**

- (1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.
- (2) If a person contravenes subsection (1), the municipality or its authorised agent may -
  - (a) by written notice require such person to restore access at his/her own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

**42. Illegal re-connection**

- (1) A person who unlawfully and intentionally or negligently reconnects to services or unlawfully and intentionally or negligently interferes with infrastructure through which municipal services are provided, after such consumers access to municipal services have been limited or disconnected, shall immediately be disconnected.
- (2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

**43. Immediate disconnection**

The provision of municipal services may immediately be disconnected if any person -

- (a) unlawfully and intentionally or negligently interferes with infrastructure through which the municipality or its authorised agent provides municipal services;
- (b) fails to provide information or provides false information reasonably requested by the

municipality or authorised agent.

## CHAPTER 7 OFFENCES

### 44. Offences

Any person who —

- (1) Fails to give access required by the municipality or its authorised agent in terms of these bylaws;
- (2) assists any person in providing false or fraudulent information or assists in willfully concealing information;
- (3) uses, tampers or interferes with municipal equipment, service supply equipment, reticulation network or consumption of services rendered;
- (4) fails or refuses to give the municipality or its authorised agent such information as may reasonably be required for the purpose of exercising the powers or functions under these bylaws or gives such the municipality or its authorised agent false or misleading information, knowing it to be false or misleading;
- (5) contravenes or fails to comply with a provision of these bylaws;
- (6) fails to comply with the terms of a notice served upon him/her in terms of these bylaws.

shall be guilty of an offence and liable upon conviction to a period not exceeding six months imprisonment or community service or a fine, or a combination of the aforementioned.

## CHAPTER 8 DOCUMENTATION

### 45. Signing of notices and documents

A notice or document issued by the municipality in terms of these bylaws and signed by a staff member of the municipality or its authorised agent shall be deemed to be duly issued and must on its mere production be accepted by a court of law as evidence of that fact.

### 46. Notices and documents

- (1) A notice or document issued by the municipality or its authorised agent in terms of these bylaws shall be deemed to be duly authorised if an authorised agent signs it.
- (2) Any notice or other document that is served on an owner, consumer or any other person in terms of these bylaws is regarded as having been served -
  - (a) if it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence business or

employment in the Republic with a person over the age of sixteen years;

- (c) when it has been posted by registered or certified mail to that person's last known address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is known, when it has been served on the person's agent or representative in the Republic in the manner provided in sub-section (a) - (c); or
  - (e) if that person's address and agent or representative in the Republic is known, when it has been in a conspicuous place on the property or premises, if any, to which it relates.
- (3) When any notice or other document must be authorised or served on the owner, occupier or holder of any property it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and is not necessarily the name of the person.
- (4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

#### 47. Authentication of documents

Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the municipal manager or by a duly authorised officer of the municipality or the authorised agent of the municipality; such authority being conferred by resolution of the municipality, written agreement or by a bylaw.

#### 48. *Prima facie* evidence

In legal proceedings by or on behalf of the municipality or its authorised agent, a certificate reflecting the amount due and payable to the municipality or its authorised agent, under the hand of the municipal manager, or suitably qualified municipal staff member authorised by the municipal manager or the manager of the municipality's authorised agent, shall upon mere production thereof be accepted by any court of law as *prima facie* evidence of the indebtedness.

### CHAPTER 9 GENERAL PROVISIONS

#### 49. Power of entry and inspection

The municipality or its authorised agent may enter and inspect any premises for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to



do so.

## 50. Exemption

- (1) The municipality may, in writing, exempt an owner, customer, any other person or category of owner, consumers, rate payers, users of services from complying with a provision of these bylaws, subject to any conditions it may impose, if it is of the opinion that application or operation of that provision would be unreasonable, provided that the municipality or its authorised agent shall not grant exemption from any section of these bylaws that may result in -
  - (a) the wastage or excessive consumption of municipal services;
  - (b) the evasion or avoidance of water restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) the non-payment for services;
  - (e) the Act or any regulations made in terms thereof, is not complied with.
- (2) The municipality at any time after given written notice of at least 30 days, withdraws any exemption given in terms of subsection (1).

## 51. Availability of bylaws

- (1) A copy of these bylaws shall be included in the municipalities Municipal Code as required in terms of legislation.
- (2) The municipality or its authorised agent shall take reasonable steps to inform consumers of the contents of the credit control and debt collection bylaws.
- (3) A copy of these bylaws shall be available for inspection at the municipal offices or at the offices of its authorised agent at all reasonable times.
- (4) A Copy of the bylaws may be obtained against payment of a fee as prescribed in the Council's tariff of charges from the municipality or its authorised agent.

## 52. Conflict of law

- (1) When interpreting a provision of these bylaws, any reasonable interpretation which is consistent with the purpose of the Act as set out in Chapter 9 on Credit Control on Debt Collection, must be preferred over any alternative interpretation which is consistent with that purpose.
- (2) If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.

The Umzimkhulu Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Credit Management Bylaws.

## CREDIT MANAGEMENT BYLAWS

### Definitions

Unless the context otherwise indicates –

“bank guarantee” means an unconditional undertaking by a financial institution to it guarantee a specified maximum amount to be paid if the principal debtor (“the consumer”) fails to pay,

“calculated amounts” means the amounts calculated by the Director of Finance to be due to the Council by a consumer in respect of the supply of the applicable municipal services for any period during which the exact quantity of the supply cannot be determined accurately for any reason, and shall be based on the average consumption figures, if available, for the service rendered to the consumer over the three months immediately prior to any such period commencing, or failing the availability of such data, on the average consumption figures applicable to one or more properties of similar size and nature in the area in which the consumer resides or carries on business;

“Chief Executive Officer” means the person appointed as Municipal Manager in terms of the Local Government: Municipal Systems Act, 2000, or any person acting in that capacity;

“consolidated account” means one combined account for all municipal services, surcharges, property tax and basic charges payable;

“consumer” means any person to whom a service is or has been rendered by the Council and

“consumer services” has a corresponding meaning;

“conventional electricity and water meters” means electricity and/or water meters, as the case may be, which are used to determine the supply of electricity and water and which are read on a monthly or other fixed interval basis;

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

“Director of Finance” means the Head of the Department responsible for the Council’s financial affairs, and any person duly authorised by him or her to act on his or her behalf in the stated capacity;

“due date” means, in the absence of any express agreement between the Council and the consumer, the date stipulated on the account and determined by the Council from time to time as the last date on which the account may be paid;

“existing consumers” means consumers who have already entered into an agreement for the

supply of municipal services;

"financial year" means 1 July in any year to 30 June of the following year;

"legal costs" means legal costs on an attorney-own client scale;

"meter audits" means an investigation to verify the correctness of the consumption and supply of electricity or water;

"normal office hours" means the hours when the offices of the Director of Finance are open to the public from Mondays to Fridays, excluding public holidays;

"owner" means -

- (a) the person in whom, from time to time, is vested legal title to the premises;
- (b) in a case where the person in whom legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof; and
- (e) in relation to (1) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or (2) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointment agent of such a person;

"property tax" means rates and/or taxes charged according to the value of a property which may be based on a tariff on the value of the land or improvements or both, and has the same meaning as assessment rates;

"rebate" means a discount on any property tax or service charge determined by the Council from time to time;

"reconnection fee" means the fee charged to reconnect the electricity/water supply when the supply has been disconnected due to non-payment, which fee will be determined periodically by the Council and will form part of the municipal tariff of charges;

"required amount" means the total calculated amount of the electricity/water consumed during

any period of tampering, as well as the tampering fee:

"service accounts" means accounts in respect of electricity and/or water consumption;

"service agreement" means an agreement for the consumption of electricity and/or water;

"tampering fee" means a fee charged for the illegal disconnection, adjustment or bypassing of a consumption meter or the siphoning of a supply of electricity or water supply to an unmetered destination, which fee will be determined annually during the budget process and will form part of the tariff of service charges;

"terminated account" means the final account for services after the consumer has left the premises, whether or not the consumer has given notice to terminate the supply of service;

"variable flow-restricting device" means a device that is coupled to the water connection that allows the water supply to be restricted or closed; and

"voluntary garnishee order/emoluments order" means a court order for the deduction of an amount of money from the salary or other income of a consumer.

## 2. Service agreement

- (1) Before being provided with electricity, water and or other consumer services, every consumer must enter into a service agreement with the Council in which, *inter alia*, the consumer agrees that the electricity and/or water payment system may be used for the collection of arrears in respect of all service charges.
- (2) Where a consumer has failed to enter into a service agreement with the Council, water and/or electricity will be blocked, disconnected or restricted, as the circumstances may require, until such time as a service agreement has been entered into and the applicable deposits have been paid. The consumer shall be liable for calculated amounts.

## 3. Accounts

- (1) The Council will bill the inhabitants of, and property owners and property occupiers within its area for property tax and municipal services supplied to them by the Council at regular intervals or as prescribed by law.
- (2) The owner of a property is liable for refuse and sewerage charges.
- (3) The Council will post or hand-deliver the consolidated accounts to the respective consumers at the address notified by each consumer, to reach the consumer before the due date printed on the account. Any change of address becomes effective only when notification of the change is received and acknowledged by the Council.
- (4) The consumer must pay, in full, the amount rendered on or before the due date. Failure to comply with this section will result in debt collection action being instituted against the consumer, and interest at the rate determined from time to time by the Council or in the absence of any determination, as prescribed by law, will be charged from the date upon

which the amount of the account was due for payment.

#### 4. Deposits

- (1) Deposits are to be determined by the Director of Finance, which determination is based on two and a half times the average monthly account for the service in or on that property, either as factually determined or as a calculated amount.
- (2) In determining the deposit described in section 4 (1), the Director of Finance will differentiate between areas to give cognisance to differences in service standards and usage.
- (3) The Director of Finance may reassess consumer deposits for new commercial and industrial consumers three months after the initial deposit date, and may, as a result of this reassessment require an additional deposit from any such consumer.
- (4) The Director of Finance must review all deposits biennially or when a consumer's service is disconnected or blocked as a result of nonpayment. The outcome of this review will be communicated to the consumer in the event of any variation in the deposit arrangements being required. Should the deposit mentioned in section 4 (2) or 4 (3) be found to be inadequate, the consumer will be allowed to make arrangements with the Director of Finance for the payment of the additional amount.
- (5) Consumer deposits are to be paid for all separately metered services.
- (6) Consumer deposits are to be paid in respect of water and electricity services only.
- (7) Deposits must be paid in cash or by cheque. The Council will accept a bank guarantee in cases where the deposit exceeds R2 000-00. The bank guarantee has to be hand-delivered during normal office hours to the Director of Finance's offices.
- (8) All deposits have to be paid at least 2 days prior to occupation of the property or the date on which the services are required, if not required on date of occupation. Failure to comply with this bylaw may cause a delay with the connection of services, and the Council will not be liable for any loss or prejudice that may result.
- (9) No service deposit is required if a pre-payment meter is installed for the particular service.
- (10) Where new conventional electricity and/or water meters are installed for existing pre-payment consumers, these consumers may enter into a written agreement with the Council to pay off, over a maximum period of 6 months, the deposits levied.

#### 5. Disconnection for non-payment

##### (1) General

The reconnection fee will be charged in cases of consumers who receive other municipal services of any kind and who fall into arrears with their payment in respect of

those services and whose water and/or electricity supply, whether prepayment or conventional, has been disconnected or restricted.

(2) Notices to consumers.

- (a) The Council may, at its discretion, issue final request notices or other reminders to consumers whose accounts are in arrears, prior to disconnection.
- (b) The Council may issue a final demand for payment of arrears in respect of all debtor accounts reflecting an amount outstanding for more than 30 days, after which the account will be referred for debt collection, in terms of section 10, in addition to the disconnection of the supply of services.

(3) Electricity.

- (a) Depending on the circumstances, the Council may disconnect services to consumers with conventional electricity meters in respect of which service accounts are in arrears after the due date. Should such consumers wish to have their electricity reconnected, they will be charged the applicable reconnection fee and the service will not be reinstated before the account is paid in full or satisfactory arrangements in terms of section 7 have been made with the Director of Finance.
- (b) As far as is practicable, the Council must disconnect the electricity supply before 13:00 on the day of disconnection. Reconnections will commence as soon as practically possible, but will only be done during normal working hours.
- (c) In the event of mass disconnections, the Council is not obliged to effect same-day reconnections.
- (d) The Council will not be obliged to sell electricity to consumers with pre-paid meters unless the consumer's municipal account for other services and property tax, if any, is paid in full or satisfactory arrangements in terms of bylaw section 7 have been made with the Director Finance, and have been honoured.
- (e) All disconnected electricity meters must be clearly marked when the supply is disconnected for non-payment, in order to avoid disconnected meters being reported as faulty.
- (f) The Council will restrict the water supply of consumers whose electricity supply has been blocked or disconnected for two months in succession and from whom no payment was received or with whom no satisfactory arrangements for payment of the outstanding amount have been concluded.
- (g) The Council shall be entitled to disconnect, block or restrict, as the case may be, at the earliest opportunity, the electricity and/or water supply of consumers who have offered a cheque as payment for municipal services if any such cheque is returned or dishonoured by the Financial Institution on which it is drawn for any reason. The consumer's account will be endorsed accordingly and no further cheque payments will be accepted.



- (h) Standby electricians, meter readers and contractors are not permitted to restore any service to consumers without written authority from the Council's Credit Control Section.
  - (i) Consumers whose supply of services has been unlawfully reconnected will be regarded as having tampered with the meter or the supply, and the provisions of section 6 shall apply.
- (4) Water.
- (a) The Council will serve a written notice on consumers with conventional water meters in respect of which municipal service accounts are in arrears, stating its intention to restrict the water supply within a set number of days as contemplated in section 4 of the Water Services Act, 1997 (Act No. 108 of 1997) and/or the Water Bylaws.
  - (b) The water supply to consumers with conventional water meters referred to in section 5 (4) (a), will be restricted after the period of the notice issued in terms of section 5 has lapsed. Such consumers will be charged the applicable reconnection fee.
  - (c) In cases where, water supply is to be restricted or disconnected, Council may install a variable flow-restricting device to facilitate future reconnections and restrictions. The full service will not be re-instated before the municipal service account is paid in full or satisfactory arrangements in terms of the Credit Management Policy have been made with the Director of Finance, and only for as long as the arrangements are honoured.
  - (d) The Council shall not be obliged to sell water to consumers with pre-paid meters if their municipal services accounts are not paid in full or unless satisfactory arrangements in terms of section 7 have been made with the Director of Finance, and then only for as long as those arrangements are honoured.
  - (e) Where possible, all disconnected or restricted water meters will be clearly marked to avoid restricted or disconnected meters being reported as faulty.
  - (f) Standby plumbers, meter readers and contractors are not permitted to restore any service to consumers without written authorisation from the Council's Credit Control Section.
  - (g) In cases where water leaks are discovered on the consumer's side of the water meter and he or she does not act timeously to rectify the problem, a variable flow-restricting device will be installed to curb water losses and to limit the amount of water to be charged to the consumer.

## 6. Tampering

- (1) Where an electrical or water supply is found to have been tampered with or the meter



bypassed, the Council may, subject to these bylaws and other applicable legislation, isolate or disconnect the relevant supply, and charge the consumer the applicable tampering fee, calculated amounts due as well as a reconnection fee in instances where the supply had been isolated and a connection fee in instances where the supply has been removed.

- (2) In instances where there is evidence of a discrepancy between the electricity or water consumption and purchase history of a specific property, transgressors will be dealt with in the following manner:
  - (i) Subject to paragraph (ii), supply will be isolated at point of supply in instances of a first offence and removed in instances of subsequent offences.
  - (ii) A written notification will be given to the consumer, informing him or her of isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
  - (iii) The Council will only re-instate services after the amounts referred to in paragraph (ii) have been paid.
- (3) In instances where physical tampering with the electricity or water supply is detected, transgressors will be dealt with in the following manner:
  - (i) Supply will be isolated immediately in instances of a first offence and removed in instances of a second or subsequent offence.
  - (ii) A written notification will be given to the consumer, informing him or her of the isolation or removal, as well as the fees due in respect of the tampering, reconnection/connection and the calculated amounts due.
  - (iii) The Council will only re-instate services after the amounts referred to in paragraph (ii) have been paid.
- (4) In addition to the provisions of this bylaw, the Council may enforce any other rights or exercise any power conferred upon it by the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), Water Services Act, 1997 (Act No. 108 of 1997), the Council's Water Bylaws, the Electricity Act, 1987 (Act No. 41 of 1987), the Councils Electricity Bylaws and any other applicable legislation.

## **7. Agreements and arrangements with consumers in arrear**

- (1) The Director of Finance or his delegate is authorised to enter into agreements with consumers in arrear with their accounts and to grant such persons extensions of time for payment.
- (2) The Director of Finance may determine, on the merits of each case, the initial amount to be paid as part of such agreement, as well as the number of installments over which the arrear amount must be paid off and the term over which payment is to be made. Such term may not exceed 24 months.

- (3) The Director of Finance may, in exceptional cases and with the approval of the Municipal Manager, extend the period of repayment referred to in section 7 (2).
- (4) In instances where the Director of Finance is satisfied, at the time of making arrangements and after investigation, that a *bona fide* consumer cannot reasonably afford the payment of services, such consumer's details will be recorded and further legal steps against such consumer will either be deferred or waived, as the Director of Finance may decide.

#### **8. Acknowledgement of debt**

- (1) Only debtors with positive proof of identity or an authorised agent with a power of attorney will be allowed to complete an acknowledgement of debt agreement.
- (2) An acknowledgement of debt agreement must contain all arrangements for paying off arrear accounts. One copy of the document will be handed to the consumer and another filed at the Council's Credit Management Section.
- (3) A consumer who has already been served with summons or other legal process by the Council's attorneys may apply for credit facilities. However, all legal costs already incurred will be for his or her account and an initial payment of at least half of the total resultant outstanding debt will be required. The consumer must also sign an acknowledgement of debt, which will include legal fees due.
- (4) Failure to honour the acknowledgement of debt agreement will lead to immediate blocking, disconnection or restriction of services without further notice, and the resumption of legal action.
- (5) In all instances where the consumer in arrears is employed, the Council may obtain a voluntary garnishee order or emolument attachment order.

#### **9. Interest on arrears**

- (1) Interest will be charged on service arrears at an interest rate as determined by resolution of the Council, or in the absence of any such determination, as prescribed by law.

Interest will be charged on arrear property tax as prescribed in the applicable legislation.

#### **10. Hand-overs**

The Council will issue a final demand in respect of all consumer accounts reflecting an amount outstanding for longer than 30 days and, if such account still reflects an amount in arrears after 60 days, it will be handed over for collection by the appropriate Council department or to external debt collection specialists.

Although not obligatory, the Director of Finance should, where possible, investigate ways and means of assisting consumers before attaching movable or immovable property.

#### **11. Consumer may not selectively nominate payment**

A consumer is not entitled to allocate any payment made to any portion of the total debt due. The allocation of payments will be made at the sole discretion of the Director of Finance.

#### 12. Authority to appoint debt collection specialists

The Director of Finance has the authority to appoint debt collection specialists and to enter into agreements with such agencies in terms of the Contingency Fee Act, 1997, if necessary.

#### 13. Relief measures for pensioners

(1) The Council may grant a rebate on property tax to persons who own and occupy property if they submit a written request annually and they can prove to the satisfaction of the Director of Finance that they comply with the following requirements:

(a) The applicant must be a ratepayer of 60 years or older or be a *bona fide pensioner*, or a ratepayer receiving a disability pension from the public or local government service or from a registered pension or provident fund.

(b) The applicant must be the owner of the residential property in question and the property must be registered in his or her name (Bodies Corporate do not qualify).

(c) The total annual income of the applicant must not more than an amount pre-determined by the Council.

(d) The applicant must provide a sworn affidavit stating that –

- (i) the declared income is the sole source of income to the pensioner;
- (ii) his or her income does not exceed the amount in paragraph (c) and
- (iii) he or she permanently occupies the residential property.

(2) All applications must be submitted before a pre-determined date and no applications received after this date will be considered.

(3) A new application must be made for each financial year.

(4) The percentage rebate mentioned in paragraph (1) (a), the maximum income limit mentioned in paragraph (1) (c) and the closing date for applications mentioned in paragraph (2), will be determined each year at the approval of the budget and must be advertised within 30 days thereafter.

#### 14. Conflict of laws

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Encroachment on Property Bylaws.

## ENCROACHMENT ON PROPERTY BYLAWS

### 1. Definitions

In these By-laws, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), has that meaning and, unless the context otherwise indicates –

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

"encroachment" means any physical object which intrudes on municipal property, or property which the Council has control over or other property in respect of which a servitude or other property right has been registered in favour of the Council;

"m" means metre;

"mm" means millimetre;

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

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

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

### 2. Council permission required

- (1) No person may, without prior written permission make or construct any colonnades, verandas, balconies, bay windows, pavement lights, showcases or other projections into or over any part of a public road, and pavement opening in or under any public road.
- (2) The Council may refuse the permission required in terms of subsection (1) or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case and subject to payment of the prescribed fee.
- (3) The prescribed fees mentioned in subsection (2) are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner is liable for the payment of prescribed fees in terms of these By-laws for each encroachment.

- (4) The owner of an encroachment must within three months after the date of commencement of these By-laws apply to the Council in writing for condonation of -
  - (a) the existence of the encroachment; and
  - (b) the horizontal dimension of every encroachment measured - parallel to the road boundary on or over which the encroachment exists.
- (5) Until the Council is notified of the horizontal dimension of the encroachment mentioned in terms of subsection (4)(b), every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

### 3. Rules for the construction of encroachments

- (1) The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over public roads, as well as the paving, kerb and gutter thereof must be to the satisfaction of and to the levels approved by the Council.
- (2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- (3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

### 4. Columns

- (1) The Council may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.
- (2) No person is permitted to place any veranda column over any pavement where such pavement is less than 2,6 m wide.
- (3) No person may place any veranda column more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre.
- (4) No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.
- (5) No person may place a portion of any veranda column at a distance lesser than 600 mm back from the front edge of any kerb.
- (6) No person may place a twin or double veranda column over any public road or pavement.
- (7) Where verandas are supported on columns, the columns may not have square arris, no base may project more than 50 mm beyond the bottom diameter of the column and the maximum horizontal axial dimensions of such base may not exceed 350 mm.
- (8) Where the form of a column is classic in character, the shaft must have suitable entasis and cap and base in due proportions.
- (9) Columns, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.



- (10) No person may place a column on a public road where the footway or sidewalk is, or is likely to be occupied by cables, pipes or other municipal services, without the permission of the Council.
- (11) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
- (12) The cost of the notarial deed of servitude mentioned in subsection (11) is payable by the owner of the abutting property.
- (13) Plain piping or tubing must not be used for columns over or on public road verandas and balconies unless architecturally treated for aesthetic purposes.
- (14) The coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.
- (15) Nothing in these By-laws prohibits –
  - (a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
  - (b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are observed.

## **5. Balconies and bay windows**

- (1) Balconies, bay windows or encroachments may not overhang a public road if they are at a height of less than 3 m above the pavement.
- (2) Balconies may not encroach more than 1,35 m over any public road.
- (3) Bay windows may not encroach more than 900 mm over any public road.
- (4) The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.
- (5) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.
- (6) No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.
- (7) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.
- (8) A balcony over any public road may not be the sole means of access to any room or apartment.
- (9) No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.

- (10) Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35 m for the full length of the building frontage to that road.

**6. Plinths, pilasters, corbels and cornices**

- (1) No plinths, pilasters or other encroachments beyond building lines carried up from ground level are permitted to encroach on a public road.
- (2) Any pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following encroachment over a public road:
  - (a) A pilaster : 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
  - (b) a fire-resisting ornamental hood or pediment over a door : 600 mm and in any part not less than 2,75 m in height above the footway or pavement;
  - (c) a cornice : 1,05 m where not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

**7. Verandas around corners**

Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.

**8. Pavement openings**

- (1) No pavement opening may be the sole means of access to any vault or cellar.
- (2) No pavement opening on any public road may extend more than 1,2 m beyond the building line.
- (3) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.
- (4) Flap openings may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.
- (5) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.
- (6) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

**9. Maintenance, removal and tenancy of projections**

- (1) The owner of any encroachment must maintain the encroachment in good order and repair.



- (2) Pavement openings, pavement lights, walls thereof and basement walls must be made and kept water-tight by the owner.
- (3) The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Council to remove any or all of them, must do so within a reasonable time.

#### 10. Encroachment erected in front of building

Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense –

- (a) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and
- (b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

#### 11. Encroachments

- (1) (a) Any person other than the owner wishing to erect or construct an encroachment or any other fixture on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form provided by the Council for that purpose.
- (b) Where in the opinion of the Building Control Officer drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Council.
- (2) Any person erecting, constructing or possessing any encroachment or fixtures on, under or over any public road, is regarded as a tenant in respect of the encroachment or fixture, and, if notified in writing by the Council under the hand of the Building Control Officer to remove any such encroachment or fixture, must do so within the period stated in the notice.
- (3) The owner of the building in connection with which any encroachment or fixture exists, or is proposed –
  - (a) must defray any cost incurred in connection with wires or property of the Council;
  - (b) must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities.

#### 12. Prescribed fee for special services

Any person who requires any special service from the Council, including the attendance necessary in respect of a dangerous building, must pay to the Council the prescribed fee with regard to the special service as well as a prepaid prescribed fee for the Council to attend at a building on request or for the Council to give advice as to the effect of these By-laws on proposals put forward by architects, builders or owners.

#### 13. Offences and penalties

Any person who –

- (a) contravenes or fails to comply with any provisions of these By-laws; or
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

#### 14. Conflict of laws

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Funeral Undertakers Bylaws.

## FUNERAL UNDERTAKERS BYLAWS

### Definitions

Unless the context otherwise indicates

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

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

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

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

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

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

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

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

"nuisance" means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order or health of the area or part thereof;

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

"provisional certificate of competence" means a document as referred to in section 7;

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

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

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

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

**Corpses to be prepared only at funeral undertaker's premises in respect of which a certificate of competence has been issued**

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

**Exemptions**

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

**Application for the issue or transfer of a certificate of competence**

- (1) (a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises shall, not less than 21 days before submitting his application to the Council, cause a notice of his intention to be published in English, Afrikaans and Zulu in a newspaper that circulates in the area in which such premises will be or is situated.
- (b) Such notice shall contain information to the effect that an application for the issue of a certificate of competence in terms of these bylaws is to be submitted to the Council and that any person who wishes to object to such use may lodge his or her objection, together with substantiated representations, with the Council in writing within 21 days of the date of publication of such notice.
- (2) (a) An application for the issue of a certificate of competence shall be made to the Council in writing on the prescribed form and shall be accompanied by –
  - (i) a description of the premises and the location thereof; including equipment, storage facilities, preparation areas and toilet facilities.
  - (ii) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100 including the effluent disposal system
  - (iii) a plan of the premises on which north is shown indicating adjacent premises already occupied by the applicant or other persons and the purpose for which such premises are being utilized or are to be utilized;
  - (iv) Particulars of any person other than the applicant or any of his or her employees who prepares or will prepare corpses on the premises;
  - (v) a contingency plan for the storage of corpses in the event of a refrigeration or cold room breakdown; and
  - (vi) a cleansing and disinfection programme.

- (3) The Council, when considering issuing a certificate of competence, may request from the applicant or any other person any such further information required.
- (4) The Council shall not issue or transfer a certificate of competence unless a complete inspection of the premises concerned has been carried out by an officer appointed by the Council and the officer's report on such inspection, including recommendation on such issue or transfer, is in possession of the Council.

#### **Issue or transfer of certificate of competence**

When the Council is satisfied that the premises concerned –

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

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

#### **Validity and transfer of certificate of competence**

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

#### **Issue of provisional certificate of competence**

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

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

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

#### **Duties of holder**

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



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

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

#### **Suspension or revocation of a certificate of competence or provisional certificate of competence**

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

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

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

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

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

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

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

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

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

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

#### **Requirements relating to funeral undertaker's premises**

- (1) Provision for the following shall be made on a funeral undertaker's premises:
  - a preparation room for the preparation of corpse;
  - change-rooms, separate for each sex, for the use of the employees employed at such premises;
  - refrigeration facilities for the refrigeration of corpses;
  - facilities for washing and cleaning of utensils and equipment inside the building;
  - facilities for cleaning of vehicles on the premises; and
  - facilities for loading and unloading corpses as contemplated in clause 10(6).
- (2) No room on a funeral undertaker's premises shall be used for any purpose other than the purpose for which it is intended.
- (3) The preparation room
  - (a) shall be so designed as to –
    - be separate from all other rooms on the premises and so as not to be directly accessible from or in view of any office or salesroom: provided that, where a preparation room on existing funeral undertaker's premises is so situated, the entrance thereto must be so concealed that the interior of the preparation room is completely out of sight of any person in any adjoining office or salesroom;
    - enable obnoxious odours and vapours to be adequately treated; and
    - be sufficiently ventilated and lighted.
  - (b) shall have a floor –
    - covering an area of not less than 6 m<sup>2</sup> for the first table of the kind referred to in section 10(3)(e) and 8 m<sup>2</sup> for each additional table;
    - constructed of concrete or similar waterproof material with a smooth non-slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into a disposal system approved by the Council; and
    - which, if it is replaced or laid after the date of commencement of these bylaws, shall be provided with half round filling where it meets the walls;
  - (c) shall have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other suitable, smooth, waterproof, light-coloured and washable material;
  - (d) shall be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust proof and painted with a light-colored washable paint;
  - (e) shall contain not less than one table of stainless steel or glazed earthenware or other suitable material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;
  - (f) shall contain not less than one wash basin for each table, made of stainless steel or other suitable material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;



- (g) shall have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces; and
  - (h) shall have door openings that are not less than 0,82 m in width and 2,00 m in height so that corpses can be taken into and out of such room without any difficulty.
- (4) Each change-room shall contain at least the following:
- (a) One hand-basin with hot and cold running water for every six employees or part thereof.
  - (b) Disposable towels, soap, nailbrushes and disinfectant.
  - (c) Not less than one toilet for every 15 male employees or part thereof and not less than one toilet for every 15 female employees or part thereof employed at the funeral undertaker's premises concerned, provided that, where a separate urinal for men forms part of such facilities, one toilet plus one separate urinal shall be permissible for every 30 men or part thereof.
- (5) Refrigeration facilities such as refrigeration or cold chambers for the keeping of corpses, shall be installed in or close proximity of such preparation room and –
- (a) where refrigerators are used, it shall be constructed of a material that does not absorb moisture, shall be provided with removable trays and shall be so deigned as to drain into an approved drainage system and be easy to clean;
  - (b) be of such nature that the surface temperature of any corpse shall be no higher than 5°C during preparation. An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times.
  - (c) In instances where cold chambers are used, it shall comply with sections 10(3)(a)(ii), (b)(ii), (c), (d) and (h) and shall be provide with shelves manufactured from a material that does not absorb moisture and that is easy to clean; and
  - (d) Corpses are not be to be stored on top of each other and must be stored individually on the trays or shelves.
- (6) The cleansing, loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system into a gulley connected to a sewer system approved by the Council.
- (7) The loading and unloading of corpses and the cleansing of vehicles shall not take place anywhere except in the area contemplated in section 10(6).

### Hygiene

- (1) All solid refuse on the premises of a funeral undertaking shall be kept in corrosion-resistant containers with tight-fitting lids and shall be dealt with in accordance with the requirements of the Council.
- (2) Every holder of a certificate of competence relating to funeral undertaker's premises shall –
  - (a) provide clean protective clothing consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and overcoats/overalls to all employees and all other persons involved in the

preparation of corpses or postmortems, and each such employee or other person shall, at all times when so involved, wear such clothing;

- (b) keep such premises free of pests and insects at all times;
- (c) clean immediately after the preparation of any corpse, all working areas or surfaces at such premises where corpses are prepared;
- (d) wash and disinfect all equipment used for the preparation of corpses immediately after use;
- (e) wash, clean and disinfect all protective clothing that has been used on the premises on a daily basis;
- (f) keep such premises clean and tidy at all times; and
- (g) if a corpse has been transported without a moisture-proof covering, wash and disinfect the loading space of the vehicle concerned after such corpse has been removed.

#### **Penalties**

Any person who –

- (1) contravenes or fails to comply with any provisions of these bylaws;
- (2) contravenes or fails to comply with any notice given or condition imposed in terms of these bylaws;
- (3) for the purpose of these bylaws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or officer;
- (4) threatens, resists, interferes with or obstructs an authorized officer or employee for the Council in the performance of his powers, duties or functions under these bylaws, shall be guilty of an offence and upon conviction be liable to a fine of R1 000.00 or imprisonment for a period not exceeding twelve months or to both the fine and the imprisonment.

#### **13 Conflict of laws**

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Bylaws for the use of Community, Arts and Cultural Facilities.

## BYLAWS FOR THE HIRE AND USE OF COMMUNITY, ARTS AND CULTURAL FACILITIES

### 1 Definitions

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

"arts" means all forms and traditions of dance, drama, music, music theatre, visual arts, crafts, design, written and oral literature, film video, traditional and community art, all of which serve as means for individual and collective creativity and expression through performance, execution; presentation, exhibition, transmission and study;

"artist" means anyone who is involved in the creation or production of music, dance, theatre, craft, films, video, traditional and community art, musical theatre and literature;

"appurtenance," means any installation or appliance in the premises and includes, without derogating from the generality of the foregoing, any keys, locks, windows, sewerage pans, basins, water taps and fittings and "appurtenances" has a corresponding meaning;

"authorised official" means an official of the Council to whom powers and/or functions have been delegated or assigned;

"centre" means a building owned or operated by the Council, whether incorporating a community hall or not, at which group activities of an indoor sporting, cultural or recreational nature can be pursued.

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

"culture" means the dynamic totality of distinctive, spiritual, material, intellectual and emotional features which characterise a society or a social group and includes language and heritage conservation (including museums, archives, libraries, historical sites and monuments);

"cultural activity" means any cultural function, cultural meeting, festival, flea market, exhibition or any other cultural activity;

"facilities" means the arts and culture facilities under the administration and control of the Council and includes all appurtenances;

"group activity" means an activity of function of an artistic, cultural or indoor sporting nature, in which several members of a group of persons having an interest in the nature of the activity participate either together or in sub-groups, or serially, whether as individuals or in teams;

"hirer" means any person who applies, pays and obtains approval for the use of the facilities;

"person" means a natural or juristic person and vice versa and includes a voluntary association of natural and/or juristic persons;

"premises" means any land, building or structure or any portion of land, building or structure on or in which the arts and cultural activities regulated by these By-laws are carried out or on which a centre has been constructed;

"prescribed fee" bears the same meaning as that set out in section 1 of these By-laws;

"property" means the property on which the premises or buildings of the Council are situated;

## **2. Rights and status of artists**

The Council must recognise the right of all artists to practise their respective forms of art and enjoy their right to freedom of expression through such medium, consistently with the application of any other relevant law..

## **3. Co-operation between Council departments**

Every Department of the Council having jurisdiction over or responsibility for any multi-purpose community facility must cooperate with any other such Department in ensuring that –

- (a) such centre is properly maintained in a state fit for the purposes for which it was designed and is used; and
- (b) no part of such centre is made available to or hired out to more than one person at the same time.

## **4. Application for hiring of facilities**

- (1) Any person wishing to apply for the hiring of facilities must –
  - (a) submit an application in the form prescribed by the Council for this purpose;
  - (b) submit such application to the Council and must stipulate the facilities, seating, accommodation and equipment required and the period for which the premises and such other facilities as are referred to in this paragraph are required;
  - (c) ensure that such application form is received by the Council not less than two weeks prior to the date on which the premises and facilities are first required by the applicant.
- (2) The Council may refuse to hire out any premises or facilities in terms of subsection (1), or to cancel any booking thereof if –
  - (a) the premises or the facilities are to be used for any unlawful purposes; or
  - (b) the premises or facilities being applied for are required by the Council for municipal purposes at the same time..
- (3) No compensation is payable by the Council to the hirer for any loss which the hirer may suffer by reason of the Council having acted in terms of subsection (2): Provided that the Council may in its discretion refund all the charges that have already been paid to it in respect of the application.
- (4) The hirer is limited to the use of the facilities specified in the application form and may not use any other facilities for which he or she has not applied.
- (5) The facilities and accommodation so hired may not, except with the prior written approval of the Council, be used for any purpose other than the purposes indicated on the application form.

- (6) No premises or facilities hired out by the Council may be used for the purpose of conducting any form of religious worship, unless the express written consent of the Council to such use has been given in writing; provided that –

- (a) such use may be made of the premises only at the times specified in the contract of hire or letter of approval; and
- (b) the Council is entitled to refuse its approval unless it is satisfied that such use will not, by reason of singing, chanting, acclamation or other form of noise-producing worship will not constitute an undue interference with the amenities normally enjoyed by other occupants of the building or occupants of neighbouring buildings.

5. **Tariff of Fees**

The Council may from time to time determine a tariff of prescribed fees for the services and facilities provided by the Council in terms of these By-laws.

6. **Payment of charges**

No person is permitted to use any premises or facilities unless the prescribed fee has been fully paid. The Council may exempt any person or organisation, on good cause, from the payment of portion or all of the prescribed fee.

7. **Period of hire**

Notwithstanding any determination made by the Council regarding the dates and period for which the premises and/or facilities may be hired, the Council may allow the hirer reasonable access to the facilities before the commencement date of the period of hire, so as to enable the hirer to make the necessary preparations and arrangements in the premises.

8. **Adjustment of period of hire**

- (1) Any person who makes an application for the use of premises and/or facilities in terms of the provisions of section 4 may, subsequent to the approval of such application and the reservation of such premises, apply for the postponement of such reservation to a later date, without penalty or forfeiture. The Council reserves the right to refuse such a postponement if the premises and/or facilities have in the meantime been reserved for use by another or others on the dates to which the postponement is sought.
- (2) Any person who has already made an application for reservation of premises or facilities may cancel such reservation. However, if -
  - (a) a reservation is cancelled one month or longer prior to the commencement date of such reservation the hirer must receive a full refund of the prescribed fee already paid;
  - (b) a reservation is cancelled more than 15 days but less than one month prior to the commencement date of such reservation, the hirer must receive a 50% refund of the prescribed fee;
  - (c) a reservation is cancelled 15 days or less prior to the commencement date of such reservation, the hirer is not entitled to receive any refund of the prescribed fee.
- (3) Any person may extend the period of hire of premises and/or facilities upon written application to the Council, provided that the premises and/or facilities concerned have not in the meantime been reserved for use by any other person or persons.

9. **Joint hire**

- (1) The Council may let any premises or parts thereof to different hirers for simultaneous use and in such a case, each hirer must use all the ancillary facilities which serve the different parts of the premises in common jointly with the other users and in such manner that all the different hirers, their guests, consumers and patrons, are able to enjoy the use of the facilities without infringing on the rights of use by other users.
- (2) The provisions of these By-laws, read with the necessary changes, apply to the joint users of the hired premises.

#### 10. Sub-letting

The hirer may not sub-let any of the hired premises or facilities to any other person or organization nor may the hirer cede, pledge or renounce in favour of another person any of his rights or obligations under these By-laws nor allow any other person to occupy the premises without the prior written consent of the Council.

#### 11. Condition of premises

- (1) The hirer must inspect the hired facilities, including all installations, appliances, fittings, accessories and furniture before he commences to use the same installations, appliances, fittings, accessories and furniture and if the hirer finds that any of the installations, appliances, fittings, accessories and furniture on the premises are not in a proper state of repair, the hirer must report this fact to the Council.
- (2) If the hirer fails either to inspect the facilities in terms of subsection (1), or to report any defects found, it may be deemed that upon commencement of occupation by the hirer, everything in the premises was in a proper state of repair.

#### 12. Duties of the hirer

Every person hiring premises from the Council must -

- (a) take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the premises free from obstruction or blockage as a result of the hirer's activities;
  - (b) at all times keep the premises in a clean, tidy and sanitary condition;
  - (c) not affix or attach to the premises any notices or other matter without the prior consent of the Council: Provided that upon the termination of the hire, the hirer must remove all such attachments;
  - (d) not obscure any plate glass windows by painting or otherwise;
  - (e) not drive into the walls or partitions or doors of the premises any screws or nails;
  - (f) not change or interfere with or overload any electrical installation in the premises;
  - (g) not remove or take out from the premises any furniture or other articles whatsoever belonging to the Council,
  - (h) not obstruct or interfere or tamper with any thermostats or air conditioning appliances in the premises or any building in which such premises are located;
- (a) not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which in the opinion of an authorised official could damage the premises or any part thereof: Provided further that an authorised official may impose on the



introduction of such item, such conditions as are reasonable to ensure the safety of the premises and persons using them;

- (b) not install in the premises any air conditioning or ventilating units or equipment without the Council's prior consent;
- (c) not permit the storage of motor vehicles or other movable items of any description on the pavements outside or the entrance halls, staircases or passages of the premises;
- (d) not do anything on the premises, nor allow anything to be done in non-compliance with any reasonable instruction or prohibition given or issued by an authorised official;
- (e) not park vehicles nor allow the parking of vehicles by the hirer's employees, invitees, agents, directors or other representatives anywhere on the premises except in the properly demarcated parking bays on the premises as pointed out by an authorised official.

**13. Damage to property**

A hirer who fails to keep and maintain the premises and facilities hired out to him or her and to return them to the Council in the same order and condition as when they were hired out to him or her is, in addition to any remedies available to the Council at common law, guilty of an offence and liable to the penalties specified in these By-laws.

**14. Advertisements and decorations**

- (1) No person who has applied for the hire of premises and/or facilities may publicly announce or advertise any function or event in respect of which an application for the hire of such premises and/or facilities in terms of these By-laws has been made before the Council has notified such person in writing that the application has been approved.
- (2) Every hirer must, before vacating the hired premises on the termination of the period of hire for any reason whatsoever, remove all posters, notices, decorations, flags, emblems, signs and other forms of advertisement or direction erected or affixed by him or her, and make good any damage caused by such removal

**15. Admissions and sale of tickets**

The hirer is responsible for all arrangements in connection with the admission of the members of the public to any cultural or other activities on the premises; and the provision of ushers and other persons necessary to control the admission of persons to the premises, and the sale of tickets.

**16. Overcrowding**

- (1) No overcrowding of the premises or facilities may be allowed at any time during any of the hirer's cultural activities and the hirer must comply with the Council's requirements prescribing the maximum number of persons allowed on the facilities during cultural activities,
- (2) Without detracting from the general requirements referred to in subsection (1), the hirer may not allow more persons admission to the premises than the number of available seats or, where seating is not provided, the maximum number of persons prescribed by notice on the premises or as stipulated in the contract of hire.

**17. Sale of refreshments**

- (1) No person may sell food or soft drinks on or in any hired premises during any activities for which they have been hired, without the prior written consent of the Council.



- (2) The Council may permit the sale of refreshments or foodstuffs by such persons as it may approve after it has received written application to sell such items, and the Council may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
- (3) The provisions of subsections (1) and (2) do not apply where the supply and sale of refreshments or foodstuffs is an integral part of the cultural activities of the hirer.
- (4) The provisions of sections 40(1) and (2), read with the necessary changes, apply with regard to any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection (2).

#### 18. Services

- (1) The nature of the municipal services to be provided to the facilities by the Council or its employees, authorised representatives of the Council or a service provider is at the sole discretion of the Council.
- (2) Neither the Council nor its employees or authorised representatives or service providers are liable for the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer, nor are they liable for anything which the hirer, his or her employees, invitees, agents, directors or representatives may have deposited or left in the premises or any part thereof.
- (3) The Council may take such steps as it may consider necessary in its discretion for the proper maintenance and operation of any common areas in the premises.
- (4) An authorised representative of the Council may attend the hirer's function to ensure compliance with any provision of these By-laws.
- (5) The hirer is not entitled to the official services of any authorised official or other representative of the Council who attends the hirer's function in terms of subsection (4).
- (6) The hirer is not entitled to receive gratuitous cleaning or other services from the Council in connection with the hirer's activities during the preparation of a function or during a function.

#### 19. Exclusion of liability

- (1) The Council, its employees, and service providers are not liable for -
  - (a) any damage or loss sustained by any person as a result of an insufficient supply or interruption in the supply of municipal services to the premises, or due to any act or omission on the part of the Council, its employees, authorised officials or representatives or service providers if the Council considers the interruption necessary to enable it to exercise any of its rights or carry out its obligations under these Bylaws or under any other law;
  - (b) any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing or other articles of any stature whatsoever kept in the hired premises by the hirer or anyone else whether in regard to the hirer's business or not;
  - (c) any consequential loss suffered by the hirer or anyone by making use of the facilities on the hired premises or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion or for loss of life or injury to the hirer or anyone else on or in the premises;

- (d) any loss suffered by the hirer or anyone else as a result of any failure or defect of any of the facilities on the hired premises: Provided such failure or defect is not attributable to any willful act or omission on the part of the Council,
- (2) Every hirer must, at the time of concluding a contract of hire for the premises and/or facilities applied for, complete and sign an indemnity in a form required by the Council in favour of the Council, its employees and service providers

## 20. Destruction of premises

- (1) The Council may cancel the hire of facilities if-
  - (a) the facilities are destroyed or are damaged to such an extent as to be substantially unusable; or
  - (b) there is damage to the facilities such that, although subsection (1) (a) does not apply, the premises have been rendered substantially unusable because of absence of access or supply of any necessary municipal service or amenity; or
  - (c) there is destruction of damage to the premises or parts thereof or to neighbouring buildings, whether or not the hired premises are involved and the Council decides not to proceed with the hire of the premises in order to engage in reconstruction, renovation or rebuilding or for safety reasons.
- (2) Any decision made in terms of subsection (1) must be communicated by written notice given by the Council to the hirer within a reasonable period of the taking place of the event referred to in subsection (1) (a) giving rise to the cancellation; provided that in the case of notice given in terms of subsection (1) (b) and (c), such notice shall be deemed to be effective as from the date on which the damage or destruction, as the case may be, took place.
- (4) No hirer has any claim against the Council, its employees or authorised representatives or service providers arising out of the damage to or destruction of the premises or any part thereof or for the resultant loss of beneficial use of the premises by such hirer.

## 21. Termination for non-compliance

The Council may at any time cancel the hire of the facilities if the hirer fails to comply with any of the provisions of these By-laws and the Council is not liable for any damage or loss sustained by any person as a result of such cancellation. In the event of such a cancellation, the Council is not precluded from exercising any rights or claims which the Council may have against the hirer under any provision of these By-laws or at common law.

## 22. Termination of hire

- (1) Upon the termination of the period of hire for any reason. The hirer must return the premises and the facilities to the Council in good order and condition and must make good and repair at his or her own cost on demand any damage or breakages or, in the alternative, reimburse the Council for the cost of replacing, repairing or making good any broken, damaged or missing articles.
- (2) Every hirer must vacate the hired premises within such period after expiry of the period of hire as is stated on the application form or contract of hire. If the hirer fails to comply with the provisions of this subsection, the Council shall be entitled to levy a further prescribed fee for such additional period during which the hirer remains in

occupation of the premises after the expiry of the period of hire. The provisions of this subsection do not preclude the Council from taking lawful steps to procure the eviction of any such hirer from the premises.

- (3) Every hirer must comply with all reasonable and lawful instructions of the Council in respect of the cleaning of the facilities upon the hirer's vacation of the premises.
- (4) Every hirer must comply with all reasonable and lawful instructions of the Council in respect of the vacation of the premises and the return of the facilities.

**23. Fire hazards and Insurance**

- (1) A hirer may not at any time bring or allow to be brought or kept on the premises, nor undertake nor permit to be done or undertaken in the premises, any matter, thing or activity whereby the fire or any other insurance policy of the building concerned may become or becomes void or voidable or whereby the premium for any such insurance may be or is increased.
- (2) If the premiums for such insurance are increased as a result of any act or omission contemplated in subsection (1), the Council may, in its discretion, allow such activity and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification from the Council or the insurance company to the effect that such additional premiums have been charged.
- (3) The Council may at any time at its discretion require the hirer to take up insurance of the premises hired with an insurance company approved by the Council, against loss or damage by fire or any other cause during or as a result of any function for which the facilities are hired.

**24. Storage facilities**

The Council is not responsible for providing facilities for the storage of the equipment of the hirer, or the hirer's employees, visitors, supporters or agents during any period prior to, during or after a cultural activity.

**25. Equipment**

A hirer who requires the Council to supply any equipment for use during a function, may use such equipment only with the permission of the Council and under the supervision of an authorised official. If the hirer causes damage to the equipment or removes or causes the equipment to be removed from the premises without permission or, having removed it with permission, fails to return it, the hirer is liable for the repair or replacement costs thereof.

**26. Right of entry**

- (1) Subject to the provisions of applicable national and provincial legislation, the Council or the authorised representative of the Council or a service provider may enter the premises at all reasonable times-
  - (a) to inspect the premises and carry out any repairs or alterations or additions or modifications or improvements on or to the facilities or the premises.
  - (b) in order to ensure that the conditions of hire of the premises and the provisions of these By-laws are being complied with.
- (2) A hirer has no claim for remission of any charges payable for the hire of the facilities, compensation, damages or otherwise in connection with the exercise by the Council of the rights under subsection (1).

- (3) The Council, the authorised representative of the Council or a service provider is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of the premises as well as such other devices required by law or which the Council's architects may certify is necessary to carry out the repairs contemplated in subsection (1)(a).

27. **Inspection**

Upon the conclusion of all the hirer's activities at the end of the period of hire or at the termination of the hire under any of the provisions of these By-laws, the authorised representative of the Council and the hirer or his nominee must inspect the premises and facilities hired, for the purpose of assessing any damage or loss.

28. **Regulations**

The hirer must comply with the Council's reasonable security and fire protection regulations which may from time to time be in force in respect of the premises.

29. **Nuisance**

- (1) No person attending any cultural activity in hired premises may conduct himself or herself in an unseemly or obnoxious manner or cause a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings.
- (2) An authorised official of the Council may, during any cultural activity of the hirer, direct that the hirer removes from the facilities any person who is in a state of intoxication and who is behaving in an unseemly or obnoxious manner or causing a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings-
- (3) An authorised official of the Council may, during any cultural activity of the hirer, direct the hirer to prevent the entry on the hired facilities by any person who is in a state of intoxication and who behaves in an unseemly or obnoxious manner or is causing a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings.

30. **Offences and Penalties**

Any person who -

- (a) contravenes or fails to comply with any provisions of these By-laws;
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws -

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months.

31. **Conflict of laws**

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Library and Information Services Bylaws.

**LIBRARY AND INFORMATION SERVICES BY-LAWS****1. Definitions**

In these By-laws the following words shall, unless the context otherwise requires, have the meanings respectively assigned to them:

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

"a library" means any one of the various libraries comprising the library and "that library" has a corresponding meaning;

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

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

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

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

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

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

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

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

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

"library material" means all books, periodicals, newspapers, prints, pictures, documents, posters and printed music, and audio-visual material, regardless of whether it is the property of or on loan to the Council, and which is available to be perused, studied, copied or borrowed in or from a library;



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

"member" means any person or organisation registered as a member of the library;

"multimedia library" means a library dedicated to the provision and/or presentation of information in any two or more of written, visual, audiovisual and electronic forms, and includes facilities within a library that are capable of presenting information in such formats;

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

"pensioner" means any person aged 60 or over;

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

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

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

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

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

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

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

## 2. Admission To Library Buildings

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



### 3. Membership

- (1) Application for membership or visitor's rights shall be made on a form prescribed by the Council, which form must contain the undertaking referred to in subsection (2)(a)(ii).
- (2) The Council may –
  - (a) grant membership of the library to any resident, or any resident as a representative of any organisation or similar body, duly authorised by that organisation or body, provided such representative is duly authorised by that organisation, and every person referred to in this paragraph must –

pay the prescribed fee for membership; and

undertake to abide by the policies adopted by the Council from time to time for the conduct of the business of the library;
  - (b) grant, subject to such conditions as it may determine from time to time, membership of the library to a child if his/her parent or guardian so consents in writing and undertakes to ensure the observance by such child of the provisions of these By-laws;
  - (c) grant membership of the library to a person residing outside its area of jurisdiction and who is neither an owner of property within the Council's area nor a rate payer of the Council on such conditions as may be determined by the Council from time to time;
  - (d) admit a person residing, working or studying for a period of not more than three months in the area of jurisdiction of the Council may as a visitor if –
    - (i) such particulars as may be determined by the Council or the librarian are submitted by such person; and
    - (ii) such person pays the applicable prescribed fee; and
    - (iii) a librarian approves the application;

and upon such approval, such visitor has all the rights and privileges, and is subject to the same obligations and duties, as a member;
  - (e) exempt any applicant for membership who is an indigent case wholly or partly from the payment of the prescribed fee for membership.
- (3)
  - (a) A library membership card must be issued to each member authorising that member to borrow from the library such quantity of library materials as may be determined by the Council from time to time.
  - (b) Additional membership cards, entitling the member to borrow further quantities of library material may be issued to a member in the discretion of a librarian.
- (4) A membership card is valid from its date of issue to the date of expiry stated thereon and the membership of a person to whom such a card has been issued lapses after the expiry of that period, unless it is renewed prior to the expiry date.
- (5) A member who wishes to cancel his or her membership of the library must –

- (a) Notify a librarian in writing;
  - (b) return the membership card or cards in his or her name; and
  - (c) simultaneously return all borrowed library material in his or her possession to a librarian.
- (6) if library material is not returned in terms of section 3(5)(c), such person will be liable in terms of Section 8(2), with such adjustments as may be necessary.
- (7) When a member changes his or her address, the member must notify the librarian thereof within thirty (30) days after the change has taken place.
- (8) When a membership card is lost, the member must forthwith notify a librarian in writing, and –
- (a) the librarian must, on payment of the prescribed fee, issue a duplicate card;
  - (b) should a lost membership card subsequently be found by the member, any duplicate card must be returned to a librarian immediately;
  - (c) despite the provisions of section 8(1), the member is not liable in terms of that section for any library material borrowed against the lost membership card after the date of such notice.

#### 4. Loan Of Library Material

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

(a) at any particular library, but which is available through another library operated by the Council;

(b) in the library, but is available from another Library;

be obtained from such source and made available or loaned, as the case may be, to him or her.

(5) The loan of audiovisual-material or items from Student Service, is be subject to the payment of the prescribed charge.

(6) Library material bearing the distinguishing insignia of the Council or its predecessors or the insignia of the Eastern Cape Provincial Government, with no indication that it has been officially discarded or sold, remains the property of the Council or of the Eastern Cape Provincial Government, as the case may be.

#### 5. Return Of Library Material

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

(a) If it is not required by any other member, the librarian may then extend the lending period of any library material for a further lending period;

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

#### 6. Overdue Library Material

(1) If a member does not return library material borrowed against a membership card within the applicable period stated in section 5(a), he or she is liable for payment to the Council of the prescribed fees for every week or portion thereof during which the member fails to return library material, unless -

(a) good cause, which may include serious illness, is shown to the satisfaction of a librarian;

(b) the return date falls within a National Library Week or other period when the library in question is closed to the public for any reason;

(c) any other period of grace lawfully given;

(2) Every librarian must ensure that the rules and fees for overdue and lost library material are displayed at a prominent place in such library.

(3) The Council may institute legal action to retrieve outstanding library material, and any prescribed fees or damages payable in connection therewith from a member..

#### 7. Reservation of Library Material

A member may reserve library material, provided that -

(a) payment of the prescribed fee therefor is made in advance;

- (b) no library material will be held in reserve for a period longer than the period specified by the librarian or his or her authorised representative.

#### 8. Lost And Damaged Library Material

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

#### 9. Handling Of Library Material

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

- (a) keep such library material in a clean condition;
- (b) prevent such library material from being damaged in any way;
- (c) ensure that such library material is not mutilated, defaced, marked, creased or damaged;
- (d) ensure that no part of such library material, or any protective coverings or any identification thereof as the property of the Council or the Eastern Cape provincial Government, as the case may be, is removed;
- (e) ensure that any such library material is not lent to any unauthorised person.

#### 10. Exposure Of Library Material To Notifiable And Infectious Diseases

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

#### 11. Library Material For Special Purposes

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

#### 12. Reproduction of Library Material And Objects and Use of Facsimile Facilities

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

#### 13. Library Hours



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

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

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

- (1) The Council may hire out to members or other persons, any auditorium, lecture room or other area within a library complex against the payment of the prescribed fee therefor, for the purpose of holding a lecture, debate or presentation or staging of an exhibition or filming or programming a sequence of scenes requiring a library background or which incorporates the use of library material..
- (2) Application for the hire of any such facilities must be made in writing to the librarian.
- (3) Despite the provisions of section 14 (1), such facilities may be made available without charge –
  - (a) to organisations supporting the provision of library services;
  - (b) for such specific activities as the Council may from time to time either generally or specifically determine.

**15. Internet Viewing Stations**

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

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

**16. Hiring Of Multimedia Library Space**

- (1) A multimedia library may be made available to any person applying therefor against payment in advance of the prescribed fee.



- (2) Any person who or body which wishes to hire a multimedia library must make an advance reservation with the librarian in charge thereof.
- (3) The hiring of a multimedia library shall be subject to such conditions as the librarian may determine.

**17. Performing Arts Library**

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

**18. Positioning of By-Laws And Notices In a Library**

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

**19. Conduct In The Library**

- (1) Any person who -
  - (a) conducts or engages in excessively loud conversation in any part of a building housing a library in a manner which causes or is likely to cause annoyance to any other person in that library; or
  - (b) uses abusive or otherwise objectionable language or behaviour or behaves in a disorderly manner in a library; or
  - (c) hampers, disturbs, obstructs or harasses any other person in the legitimate use of a library; or
  - (d) damages any part of a library building or its contents; or
  - (e) furnishes a false name or address to a librarian for the purpose of entering any part of that library or for obtaining any benefit or privilege; or
  - (f) enters or remains in the library while knowingly suffering from any notifiable medical condition or while under the influence of intoxicating liquor or habit-forming drugs; or
  - (g) smokes, eats, drinks, sleeps in any part of a library where these activities are forbidden; or

(h) contravenes any other provision of these By-laws;

may be ordered by a librarian to leave that library, and if he or she refuses to do so, may be removed from such library by the use of reasonable and necessary force.

- (2) Any person who, despite being ordered to desist therefrom, persists in conduct of any kind referred to in section 19(1)(a) or (b), is guilty of an offence and on conviction liable to imprisonment for a period not exceeding 6 months, or to a fine in lieu thereof or to both such fine and imprisonment.

## 20. Liability for loss or injury

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

## 21. Conflict of laws

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Bylaws relating to Nuisance

### BYLAWS RELATING TO NUISANCES

#### 1. Definitions

In these bylaws, unless the context otherwise indicates –

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

#### 2. Disturbance of the Peace

No person shall disturb the public peace in any public place by making unseemly noises or by shouting, roaring, wrangling or quarrelling, or by collecting a crowd, or by fighting or challenging to fight, or by striking with or bandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behaviour, at any time of the day or night.

#### 3. Subject to obtaining prior written approval of the Council

No person shall advertise any wares or services in any public place by means of any megaphone loudspeakers or other similar device or ringing of bells in such manner to constitute a public nuisance in the neighbourhood

4 No person being in or on any private premises, shall disrupt the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noise shouting quarrelling wrangling or singing or the continuous playing of musical instruments, radios or the like or by the continuous or over-loud use of loudspeakers, or the like

5 Any itinerant vocalist or musician performing in any public place shall when so required by any protection officer or police officer or by any person residing in the neighbourhood where such vocalist or musician is performing, depart from such neighbourhood.

6 No person shall discharge fireworks or light any bonfire in any public space, without prior written permission of the Council.

7 No person shall, with out lawful cause, discharge any firearm or airgun within the Municipality, provided that this bylaw shall not apply to any persons engaged in authorised target practice in places set aside for that purpose or to any person to whom written permission to do so has been given by the Council.

8. (1) No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this bylaw shall not apply to the following:

- (a) Any person in the Military or Police service when on duty.
- (b) Any security officer or police officer.
- (c) Any person who shall have obtained from the police a written exemption from

the operation of this bylaw, which exemption the police are hereby authorised to grant.

- (2) No persons armed with lethal weapons shall be permitted to congregate in any part of the municipality for any purpose or in any manner liable or calculated to cause a breach of the peace.

8. No person shall, in any public place, use any abusive or, threatening language or commit any act which is liable or calculated to cause a breach of the peace.

**Offences against Decency and Morality**

9. No person shall, in any public place, commit any indecent or immoral gesture or act or willfully and obscenely expose his person.
11. No person shall appear in any public place without being decently clothed.
12. No person shall be or appear in any public place in a state of intoxication.
13. No person shall write, print, or draw any obscene or indecent words or figures in any public place or upon any wall, door, window or other part of premises in or within sight of any public place, nor use any foul, obscene or indecent language in any public place within the hearing of any person therein.
14. No person shall litter upon any street or footpath, which might in any way endanger the safety of pedestrians, or pollute the environment.
15. No person shall allow any goods or other article, whether they be his own property or in his charge or custody, to be or remain in or on any street or footpath so as to cause obstruction or inconvenience to the passage of any person for a longer time than may be necessary for loading and unloading, and in no case after receipt of a notice requiring him to remove same given by any security officer, police officer or authorised official.
16. No person shall, for trading or any other purpose, place any goods, wares or articles on any stand or support on or overhanging or protruding over any pavement or street nor place such goods, wares or articles upon any pavement nor place, fix or hang such goods wares or articles upon any verandah post, stays or ceiling on or over any public footpath or street.
17. No person shall carry on or take part in any trade or calling nor open, unpack or pack any cases furniture, goods, materials or merchandise in any street.
18. No person shall place any flower pot or box or other heavy article in any window or upon any window sill in any building abutting on any street or pavement unless proper precautions are taken to prevent such flower pot box or other heavy article from being blown or falling into or on to such street or pavement.
19. No person shall hold any auction sale in any street or in or from any doorway, window or other opening of any premises abutting on any street without the written consent of the Council and then only subject to such conditions as may be imposed in such consent.

20. No person shall place or deposit any slops, trimmings of hedges, fences or trees or any garden or other refuse or waste material of any kind on any street or pavement unless same is placed in approved boxes or receptacles for the purpose of removal by the Council's employees or contractors.
21. (1) No person, other than a person appointed for the purpose by a registered welfare organisation which has been authorised by the Council to cause a collection of money to be taken or to hold a cake sale on its behalf in any public place, shall collect or attempt to collect money or hold such cake sale in any public place.
- (2) Every welfare organisation desiring to obtain the authority of the Council for any such collection or cake sale on this behalf shall, make a written application to the Council therefor, and shall, if required by the Council, forward the following documents:
- (i) its certificate of registration.
- (ii) a copy of its balance sheet for the proceeding financial year.
- (3) The Council upon receipt of any such application, may either grant the application or refuse it, if granted, the authority shall be subject to such conditions as the Council may prescribe.
22. (1) No person, being the owner or occupier or any premises abutting on any street or footpath shall permit any tree, branch or shrub growing on such premises to overhang or extend on to such street or footpath in such manner as to cause an obstruction or discomfort to the public, or to come into contact, or to be likely to come into contact, with any wire, pole or public work in or over such street or footpath, nor permit the roots of any such tree or shrub to grow to such an extent that they cause or are likely to cause, any damage to the surface of any footpath or street or to any drain, sewer, water main, underground cable or pipe laid in or under the surface of such footpath or street.
- (2) The owner or occupier of any such premises shall upon receipt of a notice signed by the Municipal Manager requiring him to cut down or back or remove any such tree or shrub or the roots thereof within a time specified and if such owner or occupier shall fail to comply with such notice within such time specified therein the Council may cause such tree or shrub or the roots thereof to be cut down or back or removed, and may recover the cost of executing such work from such owner or occupier.

## 23 Offences and Penalties

Any person who –

- (1) contravenes or fails to comply with any provision of these bylaws or of any term, condition restriction requirement notice or order imposed or issued in terms thereof;
- (2) resists, hinders, obstructs molests or interferes with an officer or employee of the Council in the performance of his duties or the exercise of his powers under these bylaws; or

- (3) causes or permits any other person to commit any of the aforesaid acts shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred rand, or in default of payment of any fine imposed, imprisonment for a person not exceeding six months.

## 24 Conflict of laws

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



The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Parking Grounds Bylaws.

## PARKING GROUNDS BYLAWS

### Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Parking fees**

Any person making use of a parking ground or parking bay must pay the prescribed fees.

## **Chapter 1 TICKET-CONTROLLED PARKING GROUND**

### **Conditions of parking in a ticket-controlled parking ground**

- (1) No person may park a vehicle or cause or permit a vehicle to be parked or allow it to be or to remain in a parking ground, wherein parking is controlled by the issue of tickets -
    - (a) except in a parking bay and in compliance with such directions as may be given by an authorised official or where no such bay has been marked, except in a place indicated by the authorised official;
    - (b) after an authorised official has indicated to the person that the parking ground is full; or
    - (c) after the expiry of the parking period.
  - (2) (a) No person may remove or cause or permit the removal of any vehicle in a parking ground unless -
    - that person has produced to the authorised official a ticket authorising him or her to park in the parking ground and which was issued to such person upon entering or leaving the parking ground; and
    - that person has paid to the authorised official the prescribed fee;and if the person fails to produce a ticket authorising the person to park in such parking ground, the person shall be deemed to have parked the vehicle from the beginning of a period as prescribed until the time the person wants to remove the vehicle and he or she shall be charged accordingly.
  - (b) (i) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking ground until that person has produced other proof, to the satisfaction of an authorised official, of his or her right to remove such vehicle.
  - (ii) The authorised official must require the person referred to in subparagraph (i) to complete and sign such an indemnity form as is prescribed by Council, which will have the effect of indemnifying the Council against claims of whatever nature by any person relating to the removal of that vehicle.
  - (iii) The authorised official may require such person to furnish such security as the prescribed by the Council.
- (3) The provisions of subsection (2)(a) does not apply where the prescribed fees were paid upon entering the parking ground and the person who paid such fees produces the required ticket to the authorised official on demand.

- (4) Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as prescribed is payable for the next parking period.

#### **Mechanical parking grounds**

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

#### **Monthly tickets**

- (1) Notwithstanding anything to the contrary contained in these By-laws, the Council may in respect of any parking ground controlled by the issue of tickets issue at the prescribed fee a ticket which entitles the holder for one calendar month or any lesser period stated therein, to park a vehicle in that ground at the times stated in the ticket, if parking bays are available.
- (2) The Council may issue to any of its officials a ticket which entitles the holder, when using a vehicle regarding the business of the Council, to park it in a parking ground specified, if space in the parking ground is available.
- (3) A ticket issued in terms of subsection (1) or (2) may not be transferred to any other person or be used in respect of any vehicle other than the specified vehicle, without the prior written permission of the Council.
- (4) A ticket issued in terms of subsection (1) or (2) must be affixed by the holder of the ticket to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the ticket is readily legible from the outside of the vehicle.

#### **Vehicles of excessive size**

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

### **Chapter 2 PARKING METER PARKING GROUNDS**

#### **Place of parking**

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

Conditions of parking

- (1) No person may park a vehicle or cause any vehicle to be parked in a parking bay unless a coin or other prescribed object is forthwith inserted -
  - (a) into the meter allocated to such parking bay; or
  - (b) if the meter controls more than one parking bay, in the meter controlling such bays as indicated by markings or signs on the road or sidewalk;and that meter is put into operation in accordance with the instructions appearing thereon so that the meter registers and visibly indicates the parking period appropriate to the inserted coin or other prescribed object.

Provided that -

- (i) subject to subsection (4), a person may, without such payment, park a vehicle in a vacant parking bay for such part of any period as the parking meter may indicate to be unexpired; and
- (iii) where a person has ascertained that the parking meter in any parking bay is not operating properly he or she must, subject to subsection (5), be entitled to leave a vehicle in that bay without inserting a coin or other prescribed object.

- (2) The insertion of a coin or other prescribed object into a parking meter will entitle the person inserting it to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.
- (3) The period during which a vehicle may be parked in a parking bay and the coin or other prescribed object to be inserted in respect of such period into the parking meter allocated to any such bay, must be in accordance with the charge as prescribed and the periods and the coin or other prescribed object to be inserted in respect thereof, must at all times be clearly indicated on the parking meter itself.
- (4) Subject to the provisions of subsection (5) no person may either with or without the insertion of an additional coin or other prescribed object into a parking meter, leave a vehicle in a parking bay after the expiry of a period as indicated by the parking meter or return the vehicle to that bay within fifteen minutes after that expiry, or obstruct the use of that bay by any other person.

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

Offences relating to parking meters

No person may -

- (a) insert or attempt to insert into a parking meter a coin or object except

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

#### **Proof of time**

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

### **Chapter 3 PAY AND DISPLAY PARKING AREAS**

#### **Parking**

- (1) No person may park or cause or permit to be parked any vehicle or allow a vehicle to be or remain in a pay and display parking area unless immediately upon entering such area -
  - (a) the person purchases a ticket issued by means of a pay and display machine in that parking area in accordance with the instructions displayed on, or within a distance of not more than 1,5 m of such machine; and
  - (b) the person displays such ticket by affixing it to the inside of the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the ticket by the pay and display machine is readily legible from the outside of the vehicle.
- (2)
  - (a) The period during which a vehicle may be parked in a pay and display parking area and the coin or other prescribed object to be inserted in respect of such period into the pay and display machine, must be indicated on such machine.
  - (b) No person may allow a vehicle to remain in a pay and display parking area after the expiry of the departure time indicated on the ticket.

#### **Offences relating to pay and display machines**

No person may –

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

#### **Proof of date and time of departure**

The date or day and time of departure as recorded by a pay and display machine is taken on the face of it to be correct evidence of date or day and time, unless the contrary is proved.

### **Chapter 4 MISCELLANEOUS**

#### **Closure of parking grounds**

Notwithstanding anything to the contrary contained in these By-laws, the Council may at any time close any parking ground or portion thereof temporarily or permanently and must indicate the fact and the period of such closure by a road traffic sign displayed at the entrance to the ground closed or at the portion closed, as the case may be.

#### **Defective vehicles**

No person may park or cause or permit any vehicle to be parked or to be or remain in any parking ground which is mechanically defective or for any reason incapable of movement but no offence is committed if a vehicle which, after having been parked in a parking ground, develops a defect which immobilises it and the person in control of it proves that he or she took reasonable steps to have the vehicle repaired or removed within a reasonable time.

#### **Parking of a vehicle in parking ground**

No person may park or cause or permit any vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) to be parked or to be or remain in any parking ground.

#### **Cleaning and repair of vehicle**

No person may in any parking ground clean, wash, work on or effect repairs except minor emergency repairs, to any vehicle or any part thereof except with the prior written consent of the Council.

#### **Parking according to instruction**

No person may in any parking ground park a vehicle otherwise than in compliance with an instruction or direction given by an authorised official or introduce or remove a vehicle otherwise than through an entrance thereto or exit therefrom demarcated for that purpose.

#### **Tampering with vehicles**

- (1) No person may in any parking ground without reasonable cause or without the knowledge and consent of the owner or person in lawful control of a vehicle, enter or climb upon such



vehicle or set the machinery thereof in motion or in any way tamper or interfere with its machinery or any other part of it or with its fittings, accessories or contents.

(2) No person may in any parking ground -

- (a) park any vehicle so that any part of it extends across any white line forming a boundary of a parking bay or that it is not entirely within the confines of such a bay;
- (b) do any act or introduce anything which obstructs or is likely to obstruct the movement of persons and vehicles;
- (c) with intent to defraud the Council forge, imitate, deface, mutilate, alter or make any mark upon any ticket issued in terms of these By-laws.

(2) No person may park a vehicle or cause or permit it to be parked in any parking ground before the beginning or after the expiry of the parking period prescribed for the parking ground unless that person is the holder of a ticket issued in terms of these By-laws authorising him or her to do so.

**Persons prohibited from being in parking ground**

No person may enter or be in a parking ground otherwise than for the purpose of parking a vehicle therein or lawfully removing it therefrom unless authorised thereto by the Council.

**Abandoned vehicles**

- (1) Any vehicle which has been left in the same place in a parking ground for a continuous period of more than seven (7) days may unless otherwise authorised by the Council be removed by or at the instance of an authorised officer as defined in the National Road Traffic Act, to the Council's pound.
- (2) The Council must take all reasonable steps to trace the owner of a vehicle removed in terms of subsection (1) and if, after the lapse of ninety (90) days from the date of its removal the owner or person entitled to its possession cannot be found, the vehicle may, subject to the provisions of subsection (3), be sold by the Council at a public auction.
- (3) Fourteen (14) days' prior notice of an auction sale to be held in terms of subsection (2) must be published in at least two (2) newspapers circulating within the municipal area of the Council, but the sale may not proceed if at any time before the vehicle is sold, such vehicle is claimed by the owner or any person authorised by the owner or otherwise lawfully entitled to claim the vehicle and all prescribed fees payable in respect thereof in terms of these By-laws and all costs referred to in subsection (4) is paid to the Council.
- (4) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (3) and to defray the following -
  - (a) The costs incurred in endeavouring to trace the owner in terms of subsection (2);
  - (b) the costs of removing the vehicle, publishing in two (2) newspapers, and effecting the sale of the vehicle;
  - (c) the costs of keeping the vehicle in the pound which must be calculated at the prescribed rate,

- (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 the pound shall provide the pound manager with-
  - (a) his or her name and permanent residential address;
  - (b) the time and place of detention; 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.

#### 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 of the municipality from time to time; and
- (3) paid any veterinary or other expenses incurred in the impounding of the animal.

#### Register of animals

- 8
- (1) The municipality shall keep a register in which is recorded –
    - (a) a description, including any distinctive brands or markings, of any animal within its area of jurisdiction; and
    - (b) the name and address of the owner of such animal.
  - (2) The owner of an animal kept within the municipality's area of jurisdiction shall –
    - (a) ensure that the animal is distinctively branded, where the animal has no existing distinctive brand or marking;
    - (b) register such animal with the municipality; and
    - (c) inform the municipality of the death of any such animal or any change of address of the owner.

#### Disposal of animals

- 9
- (1) The pound manager may sell by public auction and for cash any impounded animal–
    - (a) which is listed in the register of animals referred to in section 8 and whose owner has been given 10 day's notice to remove the impounded animal; and
    - (b) which is not listed in the register of animals, which has not been claimed within 30 days of being impounded, and in respect of which –
      - (i) the municipality has taken all reasonable steps to locate and notify the owner;
      - (ii) the owner has not been located or, despite having been given 10 day's notice, has failed to remove the impounded animal; and
      - (ii) 10 day's prior notice of the proposed sale has been given in terms of section 9(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 municipality 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 municipality 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 municipality.
- (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 9(4), may be claimed by the municipality from the owner.

#### 10. **Indemnity**

The municipality, the pound manager and any officer, employee, agent or councillor of the municipality 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.

#### 11. **Conflict of laws**

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Health Bylaws.

## PUBLIC HEALTH BYLAWS

### CHAPTER I: INTERPRETATION AND FUNDAMENTAL PRINCIPLES

#### 1. Definitions

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

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

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

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

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

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

"environmental health officer" means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa;

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

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

"occupier", in relation to any premises, means any person –

- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or
- (d) who manages the premises or a business on the premises on behalf of a person referred to in (a), (b) or (c);

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

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

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

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

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

"pest" means any animal that may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

"premises" means -

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated; or
- (c) any land that adjoins land referred to in (a) or (b) and any building or other structure on that land, if the land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in (a) or (b); or
- (d) any vessel, vehicle or movable structure that is used for a scheduled use;

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

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

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

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

- (a) the circumstances referred to in section 5(3);
- (b) unsanitary conditions;
- (c) circumstances that make it easier for a communicable disease to spread;
- (d) circumstances that make food or drink (including water for domestic consumption) unhygienic or unsafe to eat or drink; and
- (e) circumstances that allow pests to infest any place where they may affect public health;

"public health nuisance" means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of section 7;

"public place" means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden park, path, bus or taxi rank,



servitude or enclosed space vested in a Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use;

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

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

## 2. Purpose

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

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

## CHAPTER II: PUBLIC HEALTH PRINCIPLES

### 3. Principles

- (1) Every person has a constitutional right to an environment that is not harmful to their health or well-being and to have access to sufficient water and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.
- (2) The risk of a public health hazard occurring, continuing or recurring must be eliminated wherever reasonably possible, and if it is not reasonably possible to do so, it must be reduced to a level acceptable to the Council.
- (3) Any person who owns or occupies premises in the Umzimkhulu area must ensure that it is used for and maintained in a manner that ensures that public health hazards and public health nuisances do not occur on the premises.
- (4) Any person who wishes to undertake an activity that creates a risk to public health that is more than trivial or insignificant must –
  - (a) take all reasonable measures to eliminate that risk, and if that is not reasonably possible, to reduce the risk to a level acceptable to the Council; and
  - (b) bear the costs of taking those measures and of any reasonable costs incurred by the Council in ensuring that the risk is eliminated or reduced to an acceptable level.
- (5) The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that –
  - (a) avoids creating a public health hazard or a public health nuisance;
  - (b) does not make it easier for human or animal diseases to spread;

- (c) does not give rise to unsanitary or unhygienic conditions;
  - (d) prevents unsafe food or drink from being eaten or drunk;
  - (e) avoids creating conditions favourable for infestations by pests; or
  - (f) wherever reasonably possible, improves public health in the Umzimkhulu area.
- (6) In dealing with matters affecting public health the Council must -
- (a) adopt a cautious and risk-averse approach;
  - (b) prioritise the collective interests of the people of the Umzimkhulu area, and of South Africa, over the interests of any specific interest group or sector of society;
  - (c) take account of historic inequalities in the management and regulation of activities that may have an adverse impact on public health and redress these inequalities in an equitable and non-discriminatory manner;
  - (d) adopt a long-term perspective that takes account the interests of future generations; and
  - (e) take account of, and wherever possible without compromising public health, minimise any adverse effects on other living organisms and ecosystems.

#### 4. Application of principles

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

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

### CHAPTER III: PUBLIC HEALTH HAZARDS

#### 5. Prohibition on causing a public health hazard

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

**6. Duty to report**

- (1) The owner or occupier of premises who knows of a public health hazard on the premises must within 24 hours of becoming aware of its existence –
  - (a) eliminate the public health hazard; or
  - (b) if the owner or occupier is unable to comply with subsection (a), take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.
- (2) An owner or occupier who does not comply with subsection (1) commits an offence.

**CHAPTER IV:  
PUBLIC HEALTH NUISANCES**

**7. Prohibition on causing a public health nuisance**

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

**A General nuisances**

An owner or occupier of premises creates public health nuisance –

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

not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein or thereon;

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

## **B Pest control**

An owner or occupier of premises creates public health nuisance –

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

## **C Air pollution**

An owner or occupier of premises creates public health nuisance –

- (1) any waste is burned outside except in an approved appliance;

- (2) ash, grit, soot or smoke is emitted from any chimney on the premises in a manner or quantity that is sufficient to have an adverse impact on public health; or
- (3) the erection or destruction of a building or structure causes dust to be discharged into the surrounding atmosphere in a manner or quantity that is sufficient to have an adverse impact on public health.

#### **CHAPTER V: POTENTIALLY HAZARDOUS USES OF PREMISES**

##### **8. Duty to list potentially hazardous uses**

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

##### **9. Scheduled uses**

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

##### **10. Exemption certificate**

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

##### **11. Public health permits**

- (1) Any person who wants to undertake a scheduled use that is listed in Schedule Two must apply in writing to the Council in accordance with section 13 for a public health permit.
- (2) The Council may issue a public health permit to the owner or occupier of any premises within the area of its jurisdiction if an environmental health officer is satisfied that the use

for which the permit is required is not likely to cause a public health hazard or a public health nuisance.

- (3) A public health permit –
  - (a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council;
  - (b) may exempt the permit holder for complying with one or more of the provisions of the relevant schedule, if the person authorised to issue the permit reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant schedule; and
  - (c) may approve any measure or material in connection with the activity authorised by the permit that must be approved in terms of these By-laws.

## 12. Approval of measures and materials

- (1) The Council may approve any object or material used, or any measure taken, in specified circumstances as being adequate to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council.
- (2) An object, material or measure referred to in subsection (1) may be approved by the Council in –
  - (a) a public health permit; or
  - (b) guidelines prescribed by the Council in terms of subsection (3).
- (3) The Council may publish guidelines in the Provincial Gazette which describe –
  - (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
  - (b) the circumstances in which taking these measures or using these materials or objects is acceptable to the Council.

## 13. Application procedure

- (1) Any person that wants to obtain a permit or an exemption certificate must apply to the Council in writing in a form stipulated by the Council, prior to undertaking the relevant scheduled use.
- (2) When the Council receives an application for a permit or an exemption certificate it must ensure that the relevant premises are inspected by an environmental health officer as soon as reasonably possible.
- (3) Before deciding whether or not to approve an application referred to in subsection (1), the Council –
  - (a) must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for a scheduled use, have been consulted and have had an opportunity to make representations; and



- (b) may request the applicant to provide any further information which the Council considers relevant to enable him or her to make a properly informed decision.

- (4) In deciding whether or not to issue a permit or an exemption certificate, and what terms and conditions, if any, to include in it, the Council must apply the public health principles set out in section 3.

#### 14. General terms applicable to permits and certificates

- (1) A permit or an exemption certificate –

- (a) is not transferable from one person to another; and
- (b) applies only to the premises specified in the permit or certificate.

- (2) Every permit or exemption certificate –

- (a) must specify the address and other relevant details regarding the location of the premises concerned;
- (b) must describe the premises concerned;
- (c) must describe the activity concerned;
- (d) may specify terms and conditions; and
- (e) must indicate when it expires.

- (3) The Council may charge applicants a prescribed fee for considering and granting the permit or exemption certificate.

- (4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee (if any) has been paid.

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

- (1) An environmental health officer may by written notice to the holder of a permit or exemption certificate, suspend, amend or cancel the permit or certificate.

- (2) An environmental health officer may suspend or cancel a permit or exemption certificate with immediate effect if –

- (a) the environmental health officer reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and
- (b) the holder of the permit or certificate fails to comply with a compliance notice that states that the permit or certificate may be suspended or cancelled without further notice if the holder fails to comply with the compliance notice.

- (3) An environmental health officer may suspend or cancel a permit or exemption certificate after giving the holder a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled if –

- (a) the environmental health officer reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
- (b) the holder of the permit or certificate fails to comply with a compliance notice.

- (4) An environmental health officer may amend a permit or exemption certificate by endorsing the permit or certificate or by written notice to the holder, if the environmental health officer reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit or exemption certificate was issued.

## CHAPTER VI: IMPLEMENTATION AND ENFORCEMENT

### 16. Appointment and identification of environmental health officers

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

### 17. General powers of an environmental health officer

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

### 18. Regulatory inspections

- (1) An environmental health officer may, subject to subsection (3) –
- (a) enter and inspect any premises;
  - (b) question any person on the premises;

- (c) inspect any relevant document;
  - (d) copy any document referred to in subsection (c) or if necessary remove the document to make a copy of it;
  - (e) take any sample that the environmental health officer considers necessary for examination or analysis;
  - (f) monitor and take readings or make measurements; and
  - (g) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.
- (2) An environmental health officer who removes anything other than a substance contemplated in subsection 2(e) from any premises being inspected must –
- (a) issue a receipt for it to the owner, occupier or person apparently in control of the premises; and
  - (b) return it as soon as practicable after achieving the purpose for which it was removed.
- (3) An environmental health officer may conduct an inspection of any premises –
- with a written authorisation issued by a magistrate in terms of section 24; or
  - without a written authorisation in the circumstances listed in section 25.

#### 19. Demolition order

- (1) If the Council believes that a public health hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions contained in any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises, or from both.
- (2) The Council may not apply to court in terms of subsection (1) unless it has given the owner and the occupier of the premises not less than fourteen day's notice in writing of its intention to make the application.

#### 20. Compliance notice

- (1) If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on the premises or that the premises are being used for a scheduled use in contravention of these By-laws, the environmental health officer may serve a compliance notice on one or more of the following persons:
- (a) the owner of the premises;
  - (b) the occupier of the premises;
  - (c) any person apparently in charge of undertaking the scheduled use on the premises.
- (2) A compliance notice must state –
- (a) why the environmental health officer believes that these By-laws is being contravened;
  - (b) the measures that must be taken –
    - (i) to ensure compliance with these By-laws; or
    - (ii) to eliminate or minimise any public health nuisance;
  - (c) the time period within which the measures must be taken;
  - (d) the possible consequences of failing to comply with the notice; and
  - (e) how to appeal against the notice.
- (3) If a person fails to comply with a compliance notice that requires a particular action be taken,

the Council may –

- (a) take the required action specified in the compliance notice; and
- (b) recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action.

## 21. Prohibition notice

- (1) An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:
  - (a) the owner or occupier of the premises if the environmental health officer reasonably believes that the premises are being used for a purpose or in a manner that is causing a public health hazard or a public health nuisance;
  - (b) any person who is carrying on an activity or using premises for a purpose or in a manner that the environmental health officer reasonably believes is causing a public health hazard or a public health nuisance; or
  - (c) a person on whom a compliance notice was served if the environmental health officer reasonably believes that that person has not complied with the compliance notice.
- (2) The environmental health officer must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- (3) A prohibition notice must state –
  - (a) the reasons for serving the notice;
  - (b) whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
  - (c) the possible consequences of failing to comply with the notice; and
  - (d) how to appeal against the notice.
- (4) Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection (1) and remains in force until it is withdrawn.
- (5) The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- (6) It is a defence for anyone charged with failing to comply with a prohibition notice to prove that
  - (a) he or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
  - (b) he or she had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection (5).

## 22. Withdrawal of prohibition notice

- (1) An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.

- (2) After completing the investigation the environmental health officer must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.
- (3) The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection (1), a prescribed fee for undertaking the investigation.

### **23. Municipal remedial work**

- (1) The Council may enter any premises and do anything on the premises that it reasonably considers necessary –
  - (a) to ensure compliance with these By-laws or with any compliance notice or prohibition notice;
  - (b) to reduce, remove or minimise any public health nuisance; or
  - (c) to reduce, remove or minimise any significant public health hazard.
- (2) The Council may only enter premises to take measures under this section –
  - (a) with a written authorisation issued by a magistrate in terms of section 24; or
  - (b) without a written authorisation in the circumstances listed in section 25.

### **24. Procedure to undertake regulatory inspection or remedial work without a written authorisation**

- (1) A magistrate may issue a written authorisation to enter and execute work or conduct an inspection of any premises, if, from information on oath, there are reasonable grounds to believe either –
  - (a) that, in the interests of the public, it is necessary to execute work or obtain information that cannot be obtained without entering the premises; or
  - (b) that there is non-compliance with the terms of these By-laws.
- (2) A written authorisation in terms of subsection (1) may be issued at any time and must specifically –
  - (a) identify the premises that may be entered and worked on or inspected; and
  - (b) identify the authority entitled to enter and execute work or conduct the inspection.
- (3) A written authorisation issued in terms of subsection (2) is valid until –
  - (a) it is carried out;
  - (b) it is cancelled by the person who issued it or, in that person's absence, by a person with similar authority;
  - (c) the purpose for which it was issued has lapsed; or
  - (d) three months have passed since the issuing date.
- (4) A written authorisation in terms of subsection (1) may only be carried out between 07h00 and 19h00, unless the magistrate who issues it states in writing that it may be carried out at a different time reasonable in the circumstances.
- (5) Before commencing any work or conducting an inspection, any person who carries out a written authorisation must either –
  - (a) if the owner of or a person apparently in control of the premises is present –



- (i) identify themselves and explain their authority to that person or furnish proof of their authorisation; and
    - (ii) hand a copy of the written authorisation to that person.
  - (b) if the owner or person apparently in control of the premises is absent or refuses to accept a copy, attach a copy of the written authorisation to the premises in a prominent place.
- (6) Any inspection conducted or work undertaken in terms of this section must be conducted with strict regard to decency and order, including –
- (a) a person's right to, respect for and protection of his or her dignity;
  - (b) the right of a person to freedom and security; and
  - (c) the right of a person to his or her personal privacy.

## 25. Procedure to undertake regulatory inspection or remedial work without a written authorisation

- (1) An environmental health officer may enter and execute work or conduct inspections of premises without authorisation –
- (a) with the consent of the owner, occupier or person apparently in control of the premises;
  - (b) on a routine basis no more frequently than 6 (six) times during a 12 (twelve) month period where the environmental health officer reasonably believes that the premises are being used for a scheduled use and the purpose of the inspection is to determine whether or not the scheduled use complies with the provisions of these By-laws;
  - (c) where a compliance notice relating to the premises has been issued in terms of section 20, and the purpose of the inspection is to determine whether or not the notice has been complied with;
  - (d) where the owner or occupier of the premises has failed to comply with a compliance notice, issued in terms of section 20, or a prohibition notice, issued in terms of section 21, directing that relevant measures be taken; or
  - (e) the environmental health officer has reasonable grounds to believe that a public health hazard or public health nuisance exists on the premises and that the delay in obtaining written authorisation –
    - (i) may defeat the purpose of the inspection; or
    - (ii) is likely to endanger public health.
- (2) Before inspecting any premises or commencing any work in terms of this section, persons undertaking the inspection or commencing the work must identify themselves and explain their authority to the person apparently in control of the premises or the person who gave them permission to enter.
- (3) Any inspection undertaken or work commenced in terms of this section must be carried out at a reasonable time, taking into account the circumstances of the specific situation.
- (4) Any inspection conducted or work undertaken in terms of this section must be conducted with strict regard to decency and order, including –
- (a) a person's right to, respect for and protection of his or her dignity;
  - (b) the right of a person to freedom and security; and
  - (c) the right of a person to his or her personal privacy.

## 26. Cost orders

- (1) The Council may recover any costs reasonably incurred by it in taking measures under section 23 from any person who was under a legal obligation to take those measures, including –



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

## CHAPTER VII: APPEALS

### 27. Appeals

- (1) A person whose rights are affected by a decision taken by any authorised official under these By-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by –
- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority; or
  - (b) the municipal manager, the executive mayor is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

## CHAPTER VIII: GENERAL PROVISIONS

### 28. Offences and penalties

- (1) Any person who –
- (a) contravenes or fails to comply with any provisions of these By-laws;
  - (b) fails to comply with any notice issued in terms of these By-laws;
  - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
  - (d) obstructs or hinders any authorised official in the execution of his or her duties under these By-laws –
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

### 29. Delivery of notices

- (1) A notice, order or other document is to be regarded as having been properly served if -
- (a) it has been delivered to that person personally;
  - (b) sent by registered post to the person to whom it is addressed at their last known address;
  - (c) it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsection (a), (b) or (c); or
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- (2) A notice, order or other document that may in terms of these By-laws be served on the owner or occupier of premises -
- (a) may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
  - (b) if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is posted up in some conspicuous place on the premises.

### 30. Conflict of law

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

**SCHEDULE ONE**

**SCHEDULED USES**

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

<u>Schedule</u>	<u>Activity</u>
Two	private sewage works
Three	offensive trades
Four	swimming pools and spa-baths
Five	keeping of animals

**SCHEDULE TWO****PRIVATE SEWAGE WORKS****1. Permit for provision of service for the removal of human excrement or urine**

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

**2. Permit for installation of sewage works**

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

**3. Maintenance of sewage works**

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

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

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

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

**5. Compulsory use of Council's sewage removal service**

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

### SCHEDULE THREE OFFENSIVE TRADES

#### 1 Definitions

In this Schedule, unless the context indicates otherwise -

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

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

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

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

#### 2 Permit requirement

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

#### 3 Requirements for premises

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

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

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

#### **4 Duties of an offensive trader**

Every offensive trader must -

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

#### **5 Liquid refuse from bone and tripe boiler**

- (1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.



- (2) The cooling process referred to in subparagraph (1) must take place in a manner that prevents the generation of any noxious and injurious effluent.

#### **6 Liquids, tanks and tubs in leather making**

Every fell-monger, leather dresser or tanner must -

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

#### **7 Storage of rags, bones and waste**

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

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

#### **8 Safety measures**

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

## SCHEDULE FOUR SWIMMING POOLS AND SPA-BATHS

### 1 Definitions

In this Schedule, unless the context indicates otherwise –

“spa-bath” means a structure constructed of an approved material, provided with a controlled circulating water supply and used for bathing;

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

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

“swimming pool keeper” means any person who owns or controls the operation of a swimming pool.

### 2 Requirements for premises

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

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

### 3 Duties of the spa-bath keeper

Every spa-bath keeper must –

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

#### 4 Duties of the swimming pool keeper

Every swimming pool keeper must –

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

#### 5 Water supply

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

#### 6 Safety of water

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

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

#### 7 Order and behaviour

No person may –

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

**SCHEDULE FIVE****KEEPING OF ANIMALS****1. Definitions**

In this Schedule, unless the context indicates otherwise -

"agricultural holding" means the same as defined in the relevant Town Planning Scheme;

"aviary" means an enclosure used for the keeping of birds, other than poultry but does not include a portable cage;

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

"cattery" means premises in or upon which -

(a) boarding facilities for cats are provided; or

(b) cats are bred for commercial purposes;

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

"keeper" means -

(a) in relation to any animal, the owner of the animal or any other person responsible for feeding and caring for the animal;

(b) in relation to a battery system, cattery, kennels, pet parlour or pet shop means the person who owns the business which it forms part of and the person in charge of the premises in which the animals are kept;

"kennels" means premises in or upon which -

(a) boarding facilities for dogs are provided;

(b) dogs are bred for commercial purposes;

(c) dogs are kept for the purposes of being trained or hired out with or without handlers; or

(d) dogs are kept for commercial security purposes;

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

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

"pet parlour" means any premises where beauty treatment is given to pets by washing, drying, brushing, clipping, trimming or by attending to their nails or teeth;

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

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

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

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

"proclaimed township" means a township approved in terms of any prior law relating to townships;

"rabbit hutch" means any roofed-over building or structure in which rabbits are kept, other than one in which a battery system is operated;

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

"stable" means any building or structure used to accommodate livestock other than poultry;

"wild animal" means an animal of a species that is not generally domesticated and without limitation includes all animals indigenous to South Africa other than domesticated guinea-fowls.

**PART 1:****GENERAL PROVISIONS RELATING TO THE KEEPING OF ANIMALS**

## 2. Application of bylaws

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

### **PART II:**

### **KEEPING OF CATTLE, HORSES, MULES AND DONKEYS**

## 3. Requirements for premises

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



- (j) there must be a water supply adequate for drinking and cleaning purposes next to every stable or enclosure.

#### **4. Duties of keeper of cattle, horses, mules and donkeys**

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

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

### **PART III: KEEPING OF GOATS AND SHEEP**

#### **5. Application**

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

#### **6. Requirements for premises**

- (1) No person may keep sheep or goats in -

- (a) an enclosure that does not comply with the following requirements-
  - (i) the minimum overall floor area must be 30m<sup>2</sup>; and
  - (ii) at least 1,5 m<sup>2</sup> of floor space must be provided for every goat or sheep accommodated in it; or
- (b) a stable that does not comply with the following requirements:
  - (i) every wall must be constructed of brick, stone, concrete or other durable material;
  - (ii) every wall must be at least 2 metres in height and have a smooth internal finish;
  - (iii) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and grade to a channel drained in terms of paragraph 27;
  - (iv) at least 1,5 m<sup>2</sup> of floor space must be provided for every goat or sheep accommodated in it with an overall minimum floor area of 6m<sup>2</sup>;
  - (v) lighting and ventilation openings totalling at least 0,15m<sup>2</sup> per goat or sheep must be provided;

(2) No person may keep sheep or goats in an enclosure or stable within –

- (a) 15 metres of any boundary of any land, dwelling, building or other structure used for human habitation; or
- (b) 50 metres of any water resource or water supply intended or used for human consumption.

(3) Every person must provide a water supply adequate for drinking and cleaning purposes situated next to or in every enclosure or stable used to accommodate sheep or goats.

## 7. Duties of keeper of goats and sheep

Any person who keeps goats or sheep must -

- (a) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the animal in a clean and sanitary condition and in good repair;
- (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
- (c) keep every manure storage receptacle on a platform that enables the surface underneath the receptacle to be cleaned;
- (d) remove all manure from the enclosure, building or shed at least once every seven days and place it in the manure storage receptacles;
- (e) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way that will not create a public health nuisance;

- (f) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids in the storeroom.

**PART IV:  
KEEPING OF POULTRY**

**8. Application**

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

**9. Permit requirements for poultry**

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

**10. Requirements for premises**

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

- (a) In relation to a poultry house –
  - (i) every wall must be constructed of brick, stone, concrete or other impervious material brought to a smooth internal surface;
  - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish;
  - (iii) the upper floor of a two or more storey structure must be constructed of an impervious and easily cleanable material;  
the minimum floor must be –
    - (aa) 0,20 m<sup>2</sup> for each grown fowl, duck, muscovy duck or guinea fowl;
    - (bb) 0,5 m<sup>2</sup> for each grown goose, turkey, peacock; and
    - (cc) 0,14 m<sup>2</sup> for each grown pigeon;
  - (v) the minimum aggregate floor area must be 4m<sup>2</sup>;
- (b) a poultry run, if provided, must be enclosed with wire mesh or other durable material;
- (c) in relation to buildings or structure housing a battery system –
  - (i) every wall, if provided, must be at least 2,4m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;
  - (ii) if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building;
  - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by the environmental health officer, the floor surface must be graded and drained by means of a channel drained in terms of paragraph 27;

- (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its edges;
- (v) the cages of the battery system must be made of an impervious material;
- (vi) if required by an environmental health officer, a tray of an impervious material must be fitted under every cage for the collection of manure;
- (d) a water supply adequate for drinking and cleaning must be provided in or next to every poultry hutch or building or structure housing a battery system;
- (e) no poultry house, poultry run, or building or structure housing a battery system may be constructed within 3 metres of -
  - (i) any dwelling, other building or structure used for human habitation;
  - (ii) any place where foodstuffs are stored or prepared for human consumption; or
  - (iii) the nearest boundary of any land;
- (f) feed must be stored in an adequate rodent-proof storeroom;
- (g) adequate washing facilities must be provided for the cleaning of the cages;
- (h) if required by an environmental health officer, due to the amount of manure stored on the premises awaiting removal, a storage area complying with the following requirements must be provided:
  - (i) a roofed platform constructed of concrete or other impervious material;
  - (ii) the platform's outside edges must have a minimum curb of 100 mm high;
  - (iii) the platform must be graded and drained in terms of paragraph 27; and
  - (iv) the roof of the platform must extend a minimum of 1 metre beyond the edges of the base of the platform.

#### 11. Duties of keeper of poultry

Any person who keeps poultry must -

- (a) ensure that all poultry is kept within the poultry house, poultry run or building or structure housing a battery system;
- (b) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry in a clean, sanitary condition and in good repair;
- (c) maintain the premises free from offensive odours and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
- (d) ensure that the poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
- (e) provide portable manure storage receptacles of an impervious material and with close fitting lids and keep the manure storage receptacles on a platform;

- (f) remove all manure and other waste from a poultry house and poultry run at least once every 48 hours and once every four days from a building or structure housing a battery system;
- (g) place the manure and other waste matter in manure storage receptacles;
- (h) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a public health nuisance; and
- (i) take adequate measures to keep the premises free of flies, cockroaches and rodents to prevent offensive odours arising from the keeping of poultry on the premises.

**PART V:  
KEEPING OF RABBITS**

**12. Application**

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

**13. Permit requirements for rabbits**

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

**14. Requirements for the premises**

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

- (a) in relation to a rabbit hutch -
  - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
  - (ii) the floor surface must be -
    - (aa) constructed of concrete or other impervious material brought to a smooth finish;
    - (bb) situated at least 150 mm above ground level; and
    - (cc) graded to a channel drained in terms of paragraph 0, if required by an environmental health officer;
  - (iii) adequate ventilation must be provided;
- (b) any rabbit run must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
- (c) in relation to a building or structure housing a battery system -
  - (i) any wall must -
    - (aa) be a minimum of least 2,4 metres high;
    - (bb) be constructed of concrete, stone, brick or other durable material;
    - (cc) must have a smooth internal surface;

- (ii) if walls are provided, the building must be ventilated and lighted by means of natural openings or windows of an area equal to not less than 15% of the floor area of the building;
  - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by an environmental health officer, the floor surface must be graded to a channel drained in terms of paragraph 27;
  - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its outside edges; and
  - (v) every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
- (d) a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing a battery system;
- (e) no person may erect a rabbit hutch, rabbit run or building or structure housing a battery system within five metres of –
- (i) any dwelling, building or other structure used for human habitation;
  - (ii) any place where foodstuffs are stored or prepared for human consumption; or
  - (iii) nearest boundary of any land;
- (f) an adequate rodent-proof storeroom must be provided for the storage of feed; and
- (g) adequate washing facilities must be provided for the cleaning of the cages.

#### 15. Duties of keeper of rabbits

Any person who keeps rabbits must –

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



**PART VI:  
KEEPING OF BIRDS OTHER THAN POULTRY**

**16. Requirements for the premises**

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

- (a) the aviary must be constructed of durable rodent-proof materials;
- (b) adequate access must be provided for cleaning purposes;
- (c) if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material and must be situated a minimum of 300 mm above ground level;
- (d) the aviary may not be situated within three metres of any building or structure, boundary fence or boundary wall; and
- (e) a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.

**17. Duties of keeper of an aviary**

Any person who keep birds in an aviary must -

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

**PART VII:  
DOG KENNELS AND CATTERIES**

**18. Requirements for the premises**

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

- (a) every dog or cat must be kept in an enclosure that complies with the following requirements:
  - (i) the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
  - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Council's sewer by means of a pipe 100 mm in diameter; and

- (iii) a curb 150 mm high must be provided along the edge of the channel, referred to in subparagraph (ii), to prevent any storm water runoff entering the channel;
- (b) subject to subparagraph (c), every enclosure referred to in subparagraph (a), must be situated in a roofed shelter that complies with the following requirements:
  - (i) every wall must be made of brick, stone, concrete or other impervious material;
  - (ii) the internal surface of every wall must have a smooth internal surface;
  - (iii) the floor must be made of concrete or other impervious material brought to a smooth finish; and
  - (iv) every shelter must have adequate access for cleaning and eliminating pests;
- (c) a dog kennel that complies with the following requirements may be provided instead of the shelter contemplated in subparagraph (b):
  - (i) the kennel must be constructed of moulded asbestos or other similar material;
  - (ii) the kennel must be movable;
  - (iii) the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
  - (iv) a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
- (d) a concrete apron extending at least one metre wide around the edges of the enclosure must be provided;
- (e) the apron must be graded and drained in a way that drains storm water away from the enclosure;
- (f) a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure;
- (g) any cages in which cats are kept must be constructed of durable impervious material and in a manner that they may be easily cleaned;
- (h) any shelter, enclosure or kennel may not be situated within five metres of any –
  - (i) dwelling or other building or structure used for human habitation;
  - (ii) place where food is stored and prepared for human consumption; or
  - (iii) the boundary of the premises.

#### 19. Food preparation area

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

- (a) the floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;

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

#### 20. Duties of a keeper kennels or catteries

Any person operating a kennel or cattery must –

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

### **PART VIII: PET SHOPS AND PET PARLOURS**

#### 21. Requirements for premises

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

- (a) all walls, including any partition, must –
  - (i) be constructed of brick, concrete or other impervious material;
  - (ii) have a smooth and easily cleanable internal surface; and
  - (iii) be painted with a washable paint or other adequate finish;
- (b) all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
- (c) all ceilings must be dust proof and easily cleanable;

- (d) at least one wash hand basin, with a supply of running hot and cold potable water, must be provided for employees and the ratio of wash hand basins to persons employed on the premises must not be less than 1:15;
- (e) the wash hand basins, referred to in subparagraph (d), must be drained in terms of paragraph 27;
- (f) adequate storage facilities must be provided;
- (g) facilities for the washing of cages, trays and other equipment must be provided in the form of either –
  - (i) a curbed and roofed over platform with a minimum surface area of 1,5 m<sup>2</sup>, raised at least 100 mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
  - (ii) a stainless steel sink or trough of adequate size with a drainage board and provided with a supply of running potable water;
- (h) the platform, sink or trough referred to in subparagraph (g) must be drained in terms of paragraph 27;
- (i) any wall surface within 0,5 metres of the platform, sink or trough referred to in subparagraph (g), must be permanently covered with waterproof material to a minimum height of 1,4 metres above the floor;
- (j) a clearly designated changeroom must be provided if more than six persons are employed on the premises and every change room must –
  - (i) have a floor area providing at least 0,5 m<sup>2</sup> for each employee;
  - (ii) have a minimum overall floor area of 6m<sup>2</sup> and width of two metres; and
  - (iii) be equipped with an adequate metal locker for each employee;
- (k) where no changeroom is required in terms of subparagraph (j), each employee must be provided with an adequate metal locker;
- (l) for the purposes of washing, clipping or grooming of pets –
  - (i) a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
  - (ii) a clipping and grooming room fitted with impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids, for the storage of cut hair pending removal, must be provided;
  - (iii) at least 50 % of the floor area of the rooms referred to in subparagraphs (i) and (ii) must unobstructed; and
  - (iv) the floors of the rooms referred to in subparagraphs (i) and (ii) must be graded to a channel drained in terms of paragraph 27;

- (m) all buildings, including storage areas, must be rodent-proof; and
- (n) the premises may not have direct internal access with any room or place-
  - (i) used for human habitation;
  - (ii) where clothing is stored or sold; or
  - (iii) where food is prepared, stored or sold for human consumption.

## 22. Duties of petshop or pet parlour keeper

Any keeper of a pet shop or pet parlour must –

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

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

**PART IX:  
KEEPING OF WILD ANIMALS**

**23. Requirements for the premises**

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

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

**24. Duties of keeper of wild animals**

Any person that keeps wild animals must –



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

**PART X:  
KEEPING OF PIGS**

**25. Requirements for premises**

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

- (a) every wall must –
  - (i) be constructed of brick, stone, concrete or other durable material;
  - (ii) have a minimum height of 1,5 metres; and
  - (iii) have a smooth, impervious internal surface;
- (b) the floor area must provide at least 3m<sup>2</sup> for each pig accommodated in the pigsty, with an overall minimum floor area of 6 m<sup>2</sup>;
- (c) the roof over any portion of a pigsty must have a minimum height of 1,5 metres;
- (d) except in the case of a roofed structure having one of its long sides completely open, the lighting and ventilation openings must –
  - (i) be situated opposite one another in the external walls; and
  - (ii) provide a minimum of 0,15 m<sup>2</sup> for each pig;
- (e) the floor must be –
  - (i) at least 150 mm above the surrounding ground level;
  - (ii) constructed of concrete or other durable and impervious material brought to a smooth finish; and
  - (iii) graded for the run-off of liquids into an open channel outside the pigsty;
- (f) the open channel referred to in subparagraph (e)(iii) must –
  - (i) be constructed of concrete or other durable and impervious material;
  - (ii) be a minimum of 100 mm in diameter; and
  - (iii) be drained in terms of paragraph 27;
- (g) the pigsty must be strong enough to prevent the pigs breaking out;
- (h) the pigsty may not be situated within 100 metres of –
  - (i) the boundary of the premises;
  - (ii) any dwelling, building or structure used for human habitation;
  - (iii) any dwelling, building or structure in which food is prepared, stored or sold for human consumption;
  - (iv) any water resource intended for domestic consumption;
- (i) a roofed over concrete platform must be provided for –
  - (i) the storage of all swill in containers; and
  - (ii) the preparation of pig feed;
- (j) the platform referred to in subparagraph (i) must comply with the provisions of subparagraph (e) and in addition, must have a curbing of a minimum height of 100 mm on each edge; and

- (k) a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the pigsty.

## 26. Duties of keeper of pigs

Every person keeping pigs must -

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

## *PART XI:* *MISCELLANEOUS PROVISIONS*

### 27. Drainage

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

### 28. Dangerous animals

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

### 29. Requirements for keeping of bees

- (1) No person may keep bees on any premises unless –
  - (a) the person is in possession of a valid permit; and

- (b) the bee hive is situated –
  - (i) a minimum of five metres from any boundary of the premises; and
  - (ii) a minimum of ten metres from any public place or building used for human habitation;
- (c) the bees are kept in an approved bee hive; and
- (d) the bee hive is –
  - (i) kept in an area inaccessible to children and animals;
  - (ii) kept in the shade at all times; and
  - (iii) supplied with a source of drinking water within five metres of the hive.

(2) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive;

### 30. Illness attributable to animals

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

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

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Meetings And Gatherings, Processions And The Like Bylaws.

## **BYLAWS RELATING TO PUBLIC MEETINGS AND GATHERINGS, PROCESSIONS AND THE LIKE**

### **1. Definitions**

In these bylaws, unless the context otherwise indicates -

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

### **2. Permission Required**

No person shall hold, convene or organise or cause to be held convened or organised any public meeting, public gathering, procession, exhibition, performance or public address in any public street or public place or deliver or cause to be delivered any public address in any public street or public place unless-

- (1) the Council has under the hand of the Municipal Manager granted its permission in writing for the holding or delivery thereof; and
- (2) it is held or delivered in compliance with any condition, requirements or restriction imposed by the Council; and
- (3) it complies with all the laws in force in the Republic of South Africa.

### **3 Application for Permission**

- (1) Any person wishing to obtain the Council's permission as in subsection (2) required shall deliver to the Council not less than 7 days, or such lesser period as the Council may in its discretion permit before the day on which the public meeting public gathering procession exhibition performance or public address concerned is to be held or delivered, a written application specifying -
  - (a) the nature thereof;
  - (b) the full names, addresses and telephone numbers of every holder, convennor and organism thereof and of every person intending to deliver an address;
  - (c) the date on which, time at which, and place at, or route along which it is to be held or delivered;
  - (d) the expected maximum duration thereof;
  - (e) in the case of a procession, the number of persons expected to take part; and

- (f) particulars regarding any hand, musical instruments, device for the application of sound, vehicle or temporary structure to be used in conjunction therewith.
- (2) The Council may require such person to supply any additional information which it may consider necessary for the purposes of dealing with such application.

#### 4. Grant or Refusal of Permission

- (1) The Council may grant its permission if all information required has been supplied in full and if it is satisfied at the holding or delivery of the public meeting, public gathering, procession, exhibition, performance or public address concerned is not likely to -
  - (a) endanger, obstruct or interfere with -
    - i. pedestrian or vehicular traffic;
    - ii. any public market, auction or fair; and
    - iii. any other public meeting, gathering, procession, exhibition, performance or public address; or
    - iv. lawful use by the public of any street or public place; or
  - (b) endanger or be injurious to public health.
- (2) The Council may, when granting its permission for the holding of any public meeting, public gathering, procession, exhibition or performance, or the delivery of any public address under this chapter, impose such conditions, requirements and restrictions as it may deem necessary in the public interests and may, without derogating from the generality of the foregoing in particular, limit the holding or delivery thereof to specified times or periods and to specify places or routes and prohibit or restrict the use of any band, musical instrument, device for the application of sound, vehicle or temporary structure in conjunction therewith.

#### 5. Exemption

The provisions of this chapter shall not apply to any funeral, wedding, military or police procession.

#### 6. Offences and Penalties

Any person who -

- (a) contravenes or fails to comply with any provisions of these bylaws or of any term, condition, restriction, requirement, notice or order imposed or issued in terms thereof;
- (b) resists, hinders, obstructs, molests or interferes with any officer or employee of the Council in the performance of his duties or the execution of his powers under these bylaws; or
- (c) causes or permits any other person to commit any of the aforesaid-  
shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding one thousand rand, or in default of payment of any fine, impose, imprisonment for a period not exceeding one year.

**7. Damages**

Notwithstanding the stipulations continued in subsection (6) above, the Council shall hold responsible any person or organiser of a public meeting and gathering or participant in such gathering or procession for any damage to any property of the Council and shall claim the cost to repair such damage from such a person or organiser.

**8. Conflict of laws**

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



The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Road and Miscellaneous Bylaws.

## PUBLIC ROAD AND MISCELLANEOUS BYLAWS

### 1. Definitions

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

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

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

"trolley" means a push trolley, push cart or any table, stand or basket on wheels;

"municipal store" means the municipal store of the Council;

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

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

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

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

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

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

### Chapter 1 PUBLIC ROADS AND MISCELLANEOUS

#### 2. Ropes, wires or poles across public road

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

#### 3. Damage to trees

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

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

**(1) No owner or occupier of land -**

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

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

#### **5. Protection of public road**

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

#### **6. Cleanliness of public roads**

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

**7. Article placed in building facing public road**

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

**8. Damaging of Council's property**

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

**9. Cleaning and repairing on public roads**

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

**10. Excavations in public roads**

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

**11. Defacing, marking or painting public roads**

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

**12. Races and sports events**

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

**13. Loitering on public roads**

- (1) No person may -
  - (a) lie or sit so as to obstruct traffic on any public road;
  - (b) stand, congregate, loiter or walk, or otherwise act on any public road in any manner that may obstruct traffic; or
  - (c) jostle or loiter at or within 20 m of the entrance of any place of public worship during the time of divine service or during the assembly at the place of worship or departure from

such place of the congregation so as to obstruct or annoy any persons going to, attending at, or leaving such place of worship.

- (2) Any person performing any of the prohibited acts mentioned in subsection (1) must, upon request by an authorised official, discontinue to do so, failing which the person is guilty of an offence.

#### **14. Loitering and touting at places of public entertainment**

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

#### **15. Public decency**

- (1) No person may appear unclothed on any public road.
- (2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.
- (3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent or obscene language.
- (4) No person may on any public road in any way loiter or solicit or importune any other person for the purpose of begging.
- (5) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned.

#### **16. Trolleys**

- (1) The owner of a trolley must affix the prescribed token in a conspicuous position on the trolley.
- (2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by any person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on any public road.
- (3) Any trolley that has been left or abandoned on any public road, may be removed, or caused to be removed, by any authorised official and be placed under the care of the storekeeper.
- (4) The storekeeper must store any trolley which has been placed under his or her care in terms of subsection (3), at the municipal store and the Council must publish once a month in respect of eleven months of a year calculated from the first day of January, a notice in two newspapers circulating within the municipal area, which states –
  - (a) the name of the owner of the trolley, if known;
  - (b) the number of trolleys being so stored;



- (c) that the trolley may be claimed by the owner from the Council on payment of the prescribed storage charge;
  - (d) that any trolley that has not been claimed after a period of three months from the date of publication of the said notice, may be sold by the Council by public auction; and
  - (e) that the proceeds of the public auction shall accrue to the Council.
- (5) The Council is not liable for the theft, damage to or loss of any trolley while the trolley is stored in the municipal store or the selling thereof by public auction.

#### 17. Public road collections

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

#### 18. Control of stormwater and watercourses on public road

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

**29. Conflict of laws**

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



The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Spaces Bylaws.

## PUBLIC SPACES BYLAWS

### CHAPTER I: INTERPRETATION AND FUNDAMENTAL PRINCIPLES

#### Definitions

1. (1) In these By-laws, unless the context indicates otherwise –

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

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

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

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

"Criminal Procedure Act" means the Criminal Procedure Act, 1977 (Act No. 51 of 1997);

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

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

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

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

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

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

"local community" means that body of persons comprising –

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

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

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

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

"nuisance" means an unreasonable interference or likely interference with –

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

"organ of State" means –

- (a) any department of State or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution –
  - (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) or a provincial Constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

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

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

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

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

"public open space" means any land which –

- (a) is owned by an organ of State, or
- (b) over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- (c) is controlled and managed by the Council; and
- (d) is either –
  - (i) set aside in terms of any law, zoning scheme or spatial plan for the

purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or

- (ii) predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

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

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

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

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

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

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

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

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

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

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

#### Application

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

These By-laws are binding on the State.

#### Purpose

3. The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
- (a) to ensure that the way in which the Council controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Umzimkhulu, including future generations; and
  - (b) that clearly defines the rights and obligations of the public in relation to public open spaces.

**CHAPTER II: MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES****Principles**

4. (1) Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –
- (a) the long-term collective interests of the people of Umzimkhulu, and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
  - (b) a long-term perspective, that takes account the interests of future generations, must be adopted; and
  - (c) the interests of other living organisms that depend on public open spaces must be taken into account.
- (2) Public open spaces must be managed in an environmentally sustainable manner.
- (3) Subject to subsection (5) and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- (4) Where necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
- (5) Access to a public open space may be restricted in a manner that does not unjustifiably discriminate against any person or class of persons –
- (a) if the restriction is authorised by these By-laws or by any other applicable legislation; or
  - (b) in order to achieve the purposes of these By-laws.
- (6) The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- (7) Local communities must be encouraged to use and care for public open spaces in their areas.
- (8) The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

**Application of principles**

5. The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998), must be considered and applied by any person –
- (a) exercising a power or function or performing a duty under these By-laws;
  - (b) formulating or implementing any policy that is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
  - (c) exercising a public power or function or performing a public duty that is likely to have a significant effect on, or which concerns the use of, public open spaces.

**General powers**

6. The Council may in relation to any public open space –



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

#### Fees

77. The Council may require members of the public to pay –

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

#### Restricting access

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

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

#### Procedure when exercising powers

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

- (a) give notice of the proposed administrative action, which notice must –
  - (i) be published in the *Provincial Gazette* and in a newspaper circulating in

**Animals and vegetation**

17. (1) Subject to subsection (2), no person shall within a public open space –
- (a) disturb, damage, destroy or remove any vegetation;
  - (b) plant any vegetation;
  - (c) alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;
  - (d) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
  - (e) disturb, damage or destroy any bird nest or eggs;
  - (f) walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
  - (g) affix or place on any tree any printed matter.
- (2) The provisions of subsections (1)(a) and (b) do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

**Municipal property and erection of structures**

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

**Selling and special events**

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

**Community service**

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



**Restoration or removal notices**

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

**CHAPTER IV: APPLICATIONS FOR AUTHORISATION****Application for permission**

22. (1) Any person who wants to undertake a prohibited activity must apply in writing to the Council for permission to do so.
- (2) The Council may, after receiving an application, request the applicant to provide additional information which the Council reasonably requires in order to consider the application.
- (3) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee (if any) has been paid.
- (4) Subject to subsections (2) and (3), the Council must consider the application within a reasonable time and must either:
- (a) refuse the application; or
  - (b) grant permission in writing subject to whatever conditions the Council considers appropriate to best achieve the purposes of these By-laws, which may include payment of a deposit and/or a fee.
- (4) The Council must not grant permission for any person to behave in a manner that is prohibited under section 13(1)(a), (e) or (f).

**Application for a special event permit**

23. (1) An application for permission to hold a special event in a public open space must be made at least three weeks before the proposed date of the special event.
- (2) The time period referred to in subsection (1) may be reduced on good cause at the Council's discretion.
- (3) The application must contain the following information –
- (a) the name and full contact details of the applicant (including name, organisation (if any), address, telephone and fax numbers and email address, if available);
  - (b) the nature and purpose of the special event;
  - (c) the intended route or area proposed to be used by the special event; and

- (d) the permissions, if any, required under Chapter III of these By-laws.
- (4) Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

#### **Application for permission to farm in an urban agricultural public open space**

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

### **CHAPTER V: CO-OPERATIVE MANAGEMENT AGREEMENTS**

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

### **CHAPTER VI: TREE PRESERVATION ORDERS**

#### **General**

26. (1) If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- (2) A tree preservation order:
- (a) must indicate the tree or trees to which it relates; and

- (b) may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- (3) The Council must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.

#### Procedure

- 27. Unless, in the Council's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order under section 26 –
  - (a) give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the *Provincial Gazette* and in two newspapers circulating in the area in which the tree or group of trees is situated;
  - (b) notify any affected organs of State; and
  - (c) consider the comments and objections received in response to the notice.

### CHAPTER VII: APPEALS

- 28. (1) A person whose rights are affected by a decision taken by any authorised official under these By-laws, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by-
  - (a) a staff member other than the municipal manager, the municipal manager is the appeal authority; or
  - (b) the municipal manager, the executive mayor is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

### CHAPTER VIII: GENERAL PROVISIONS

#### Offences and penalties

- 29. (1) Any person who –
    - (a) contravenes or fails to comply with any provisions of these By-laws;
    - (b) fails to comply with any notice issued in terms of these By-laws;
    - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
    - (d) obstructs or hinders any authorised official in the execution of his or her duties under these By-laws
- is guilty of an offence and liable on conviction to a fine not exceeding R1000,00 or to

imprisonment for a period not exceeding 6 months.

#### Conflict of laws

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Bylaws Relating to the Removal of Refuse

## BYLAWS RELATING TO THE REMOVAL OF REFUSE

### Definitions

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

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

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

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

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

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

### Disposal of Refuse

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

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

- (d) In the event of the person directed to remove refuse in terms of paragraph (c) failing to deal with such refuse in the manner and within the time frame directed, the authorised official may arrange for the removal of such refuse and the Council may recover all costs in this regard from such person.
- 3.
- (a) The Council may arrange for the removal of all or a portion of any refuse from premises situated on properties within its area of jurisdiction.
  - (b) The Council may introduce the different levels of refuse removals services in different service areas within the Council's area of jurisdiction.
  - (c) Where the Council selects not to render a removal service in respect of bulk garden refuse, industrial refuse or special refuse, the Council may direct the occupier or owner, as the case may be, in writing to arrange at his / her own cost for the removal of such refuse and the disposal thereof at a dump site approved by the Council.
  - (d) Should the owner or occupier fail to comply with a directive as contemplated in clause (c), the authorised official may arrange for the removal of such refuse and recover the costs thus incurred from the occupier or owner as the case may be.
- 4.
- (a) For the purpose of these bylaws, the Council may raise -
    - (i) an annual levy against the owner; and / or
    - (ii) a monthly charge payable by the occupier, on all premises in the service area which shall be payable regardless of whether or not the refuse removal service is actually utilized; and / or
    - (iii) recover the levy for the service through the sale of municipal refuse bags;
    - (iv) a fee per service; and / or
    - (v) a deposit for any permit issued in terms of these bylaws.
  - (b) The Council may differentiate in the levy, charge or fees between the different refuse removal service levels rendered in the respective service areas.
  - (c) In a service area where a compulsory service has been introduced by the Council, the levy or monthly charge shall be payable by the occupier or owner, as the case may be, regardless of whether or not the refuse removal service is actually utilized.

#### Care of Receptacles and the Use of Disposal Bags

- 5.
- (a) Every owner or occupier, as the case may be, shall, where the service introduced for the service area so requires, provide and maintain, on the premises, a refuse receptacle in such condition as not to cause or constitute a nuisance, and shall cause all commercial and domestic refuse accumulated on such premises to be deposited therein,
  - (b) Every owner or occupier, as the case may be, shall, where the service introduced for the service area so requires, utilize standard plastic disposal bags or municipal refuse bags, as the case may be, for refuse removal.
  - (c) Every owner or occupier shall keep such bags in such condition as not to cause or constitute a nuisance and shall cause all commercial and domestic refuse accumulated

on such premises to be deposited therein.

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

#### **Separate Refuse Receptacles Required for Each Trade, Business or Flat**

- 6. (a) Where more than one trade, business or occupation is carried on in one building, or where a building is divided into separately occupied flats or suites of apartments, the owner or occupier, as the case may be, of each business premise, separate flat or suite of apartments, shall provide and maintain separate refuse receptacles in respect of each such trade or business, flat or suite of apartments.
- (b) The authorised official may waive or vary the requirements of this bylaw by reducing the number of refuse receptacles required in terms of paragraph (a) of this bylaw, provided such waiver or variation shall, in no way, affect the liability of such occupier or owner to pay for the individual services mentioned in paragraph (a).

#### **Provision of Extra Refuse Receptacles**

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

#### **Bin Area to be Provided**

- 8. (a) The authorised official may direct the owner of any property on which more than one tenant or owner is accommodated to provide a bin area of a suitable size and construction on the property for the temporary storage of any refuse generated or accumulated on the property and must make suitable arrangements for the removal of all refuse from such bin area an removal thereof as prescribed in these bylaws.
- (b) The owner of any property on which a bin area has been provided for the temporary storage or refuse of any nature must keep such bin area in a sanitary condition at all times.

#### **Location of Refuse Receptacles or Bags for Removal**

- 9. The owner or occupier, as the case may be, shall –
  - (a) In a service where a standard plastic disposal bag(s) or municipal refuse bags are used, place them on the street verge or pavement on of the collection day;

- (b) in a service area where refuse receptacles or other approved receptacles are used, place such receptacles on the street verge or pavement on the morning of the collection day; and
- (c) if the refuse concerned is bulk refuse, industrial or special refuse, it shall be placed in such a position as the authorised official may determine and direct from time to time, in order to facilitate the removal of such refuse.

#### **Liquid Waste Matter**

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

#### **Removal of Industrial, Special and Bulk Refuse**

11. (a) The owner or occupier, as the case may be, of any premises on which industrial, special or bulk refuse is produced or accumulated, shall package and deal with such refuse in a manner which the authorised official may determine and direct from time to time.
- (b) Should the owner or occupier fail to deal with such industrial, special or bulk refuse as directed, the authorised official may arrange for the removal of such refuse, and recover the costs thus incurred from the occupier or owner as the case may be.

#### **Provision for the Self-Disposal of Domestic Refuse**

12. (a) Notwithstanding the foregoing provisions of these bylaws, owners or occupiers of premises whose boundary line is situated more than 100 m from any road traversed by any refuse removal vehicle provided by the Council, may apply to the authorised official for authority to bury their refuse on their premises, on the grounds of inaccessibility, in pits constructed at their expense to the satisfaction of the authorised official. All owners or occupiers, to whom authority is given in terms of this bylaw, shall be exempted from charges levied by the Council in respect of the refuse removal service, save that the Council is empowered to levy a charge for the processing of any application received, and for regular inspections of the pit which shall be stated in the Council's tariff of charges.
- (b) The authorised official may grant or refuse an application in his discretion and in granting such an application may impose such conditions as to the location and the digging of the pit, the disposal of the refuse therein and the measures to be taken to prevent any nuisance or health hazard which may emanate therefrom, as he may deem fit: provided that the authorised official shall not refuse an application unless he has reasonable grounds for believing that the proposed pit will constitute a nuisance or health hazard or a source of pollution of any river, stream or water supply.
- (c) In granting such an application, the authorised official shall issue to the applicant a certificate on which any conditions imposed by him in terms of these bylaws shall be endorsed. The abovementioned certificate shall be valid for such period as the

authorised official may determine or until its withdrawal or cancellation, whichever is the earlier.

- (d) The authorised official may, at any time, by notice in writing, alter, amend or vary any condition endorsed on any certificate issued in terms of these bylaws or issue any written instruction to the holder of such a certificate to do or perform any act, matter or thing regarding a pit, the digging of a new pit or the disposal or handling of the refuse therein.
- (e) Should the holder of the certificate issued in terms of these bylaws fail to comply with any of the conditions endorsed thereon or with any written instruction from the authorised official issued in terms of these bylaws, the authorised official may, by notice in writing to the holder, require him to comply with any such conditions within such period as he may determine. Upon the failure of such holder to comply with the terms of such notice, the authorised official may cancel or withdraw his certificate in which event such holder shall be obliged to revert to the use of the refuse removal service provided by the Council, subject to the conditions pertaining thereto.
- (f) The continued disposal of refuse in a pit after the cancellation of a certificate issued in terms of these bylaws shall be an offence and render the offender liable to prosecution.
- (g) The provision of this section of the bylaws shall not apply to the self-disposal of refuse where such self-disposal forms part of the service introduced by the Council in a service area.

#### Garden Refuse

- 13. (a) No person may place, store or dump any garden refuse or allow any person to do so, on any road, verge, public or private open space without the written approval of the authorised official having been obtained.
- (b) The authorised official may, subject to such conditions as it may deem fit, issue a permit to allow the temporary storing of garden refuse, on the verge or other suitable place for a limited period of time on payment of the deposit laid down in the Council's Tariff of Charges.
- (c) Should any person fail to comply with the conditions of any permit issued in terms of these bylaws for the temporary storage of garden refuse the deposit paid will be forfeited to Council and the authorised official may arrange for the removal of such refuse and the person to whom the permit was issued will be liable for all costs incurred for the removal of all the garden refuse on the spot indicated on the said permit.
- (d) The Council may establish or approve garden refuse, transfer sites where garden refuse may be deposited for removal or landfill purposes subject to such conditions and on such days and during such hours as the Council may determine and displayed by notice on site.
- (e) No person may enter upon a site established or approved by the Council in terms of



these bylaws for the disposal of garden refuse at any time other than the days and time indicated on the notice displayed or dispose of any refuse other than organic garden refuse on such site.

### Tariff of Charges

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

### Offences and Penalties

15. (a) Any person who -
- (i) contravenes any provision of these bylaws, which contravention is not expressly stated to be an offence;
  - (ii) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of these bylaws; or
  - (iii) fails to comply with the terms of any notice served upon him or instruction to him in terms of these bylaws, shall be guilty of an offence.
- (b) Any person who contravenes any of these bylaws shall be guilty of an offence and liable, upon conviction, to a fine -
- (i) not exceeding one thousand rands (R1 000) or imprisonment for a period not exceeding one year or both such fine and imprisonment in the case of a first conviction, and
  - (ii) in the case of a second or subsequent conviction for the same offence, a fine not exceeding two thousand rands (R2 000) or imprisonment for a period not exceeding two year or both such fine and imprisonment.

### Conflict of laws

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



The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Street Trading Bylaws.

## STREET TRADING BYLAWS

### 1. Definitions

In these bylaws, except as otherwise expressly provided or unless the context otherwise requires-

"approval" means approval by the authorized official and "approve" has a corresponding meaning;

"association" means persons who are self employed and have organised themselves into a street trader association with a constitution and a code of conduct;

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

"Council" means the Council of the Umzimkhulu Municipality and includes, in relation to a duty function or power under these bylaws, a committee or official of the Council to whom it has delegated that duty, function or power "local authority" service means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or stormwater or for the generation, impounding storage, purification or supply of water, gas or electricity;

"local authority service works" means all property or works of whatsoever nature necessary or desirable for or incidental to any local authority service

"nuisance" bears the meaning given to it by the Ordinance, or any amendment thereof;

"prescribed" means prescribed by the Council by resolution;

"property" in relation to a street trader, means any goods, receptacle, vehicle or movable structure used or intended to be used in connection with the carrying on of his business as such;

"public place" means any street and any square, park, recreation ground, garden, commonage or enclosed or open space –

- (a) which being situate in an approved private township, was set apart for the use and benefit of the public and is shown on the general plan of such township; or
- (b) which being situate in a local authority area, the local authority is vested with the ownership, control or management thereof by law or by deed of title for the use and benefit of the public, or which the public has the right to use; or
- (c) to which, if situated in an existing private township (whether such existing private township is or is not itself situated in a local authority area), the public or the inhabitants have a common right, or to which if shown on a general plan or diagram or any plan compiled in the Office of the Surveyor-General and commonly known as a lay-off or

deduction plan filed or record in the Office of the Surveyor-General or in the Deeds Registry, the owners of lots in such existing private township have a common right;

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

"sell" includes -

- (a) barter, exchange or hire;
- (b) display, expose, offer or prepare for sale;
- (c) store with a view to sell; or
- (d) provide a service for reward' and "sale" has a corresponding meaning;

"sidewalk" means that portion of a verge intended for the exclusive use of pedestrians;

"street trader" means a person who carries on the business of street trading;

"street trading" means the selling of any goods or the supplying or offering to supply any service for reward, as a street vendor, peddler or hawker in a public road or public place but does not include the sale of newspapers only; "the Act" means the Business Act, 71 of 1991, and includes the regulations made thereunder;

"vehicle" includes -

- (a) a self-propelled vehicle;
- (b) a trailer;
- (c) a hand-drawn or propelled vehicle; and

"verge" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder.

- (2) In these bylaws unless the context otherwise indicates, any word or expression defined in the Act shall bear the meaning so given to it.
- (3) For the purpose of these bylaws a single act of offering for sale or of selling goods or services in or from a public road or public place constitutes the carrying on of the business of a street trader.
- (4) For the purpose of these bylaws a reference to a person carrying on the business of street trader shall include any employee of any such person.

## 2 Application

No person shall carry on the business of a street trader unless he or she -

- (a) has obtained the written approval of the Council to do so, and
- (b) is a member of a Street trader association recognised by the Council

### 3 Prohibitions

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

- (a) at a place or an area declared under section 6A(2)(a) of the Act as a place or area in which the carrying on of street trading is prohibited;
- (b) on a verge, contiguous to
  - (i) a building belonging to, or occupied solely by, the State or the Council;
  - (ii) a church or other place of worship; or
  - (iii) a building declared to be a national monument under the National Monument Act, 28 of 1969, or any amendment thereof except to the extent that the carrying on of such business is permitted by a notice or sign erected or displayed by the Council and in compliance therewith;
- (c) on a verge contiguous to a building in which business is being carried on by any person who solely or mainly sells goods of the same or similar nature as goods being sold by the street trader concerned, without the consent of that person;
- (d) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (e) at a place where it substantially obstructs pedestrians in the use of a sidewalk or take up a position or deposit his property on a sidewalk so as to do so;
- (f) at a place where it causes an obstruction to vehicular traffic;
- (g) at a place where it causes an obstruction in front of
  - (i) an entrance to or exit from a building;
  - (ii) a fire hydrant;
- (h) on a stand or in any area contemplated in section 6A(3)(b) of the Act if he is not in possession of proof that he has hired such stand or area from the Council or that it has otherwise been allocated to him;
- (i) in contravention of the terms and conditions of the lease or allocation to him of a stand or area contemplated in section 6A(3)(b) and (c) of the Act.

### 4. Restrictions

- (1) No person carrying on the business of a street trader shall -
  - (a) if such business is carried on any public road or public place
    - i. sleep overnight at the place of such business; or
    - ii. erect any permanent structure at the business site for the purpose of providing shelter;
 without prior written approval of the Council,
  - (b) carry on such business in such a manner as to —

- (i) create a nuisance
    - (ii) damage or deface the surface of any public place or any public or private property or
    - (iii) create a traffic hazard;
  - (c) other than in a refuse receptacle approved or provided by the council, accumulate, dump store or deposit or cause or permit to be accumulated, dumped, stored or deposited any litter on any land or premises or on any public road or public place;
  - (d) obstruct access to a service or to service works of the Council or of the State or any statutory body;
  - (e) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
  - (f) obstruct access to a pedestrian arcade or mall;
  - (g) carry on business or take up a position or place his property on a portion of a sidewalk or public place in contravention of a notice or sign erected or displayed by the Council for the purpose of these bylaws;
  - (h) carry 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;
  - (i) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;
  - (j) obstruct access to or the use of street furniture such as bus passenger benches or shelters and queuing lines, refuse disposal bins, and other facilities designed for the use of the general public; or
  - (k) obscure any road traffic sign displayed in terms of the Road Traffic Act 1996, and regulations made thereunder or any marking, notice or sign displayed or made in terms of these bylaws.
- (2) The council shall reserve the right to restrict the number of street traders and street trader associations.

**5. Cleanliness of place of business and protection of public health**

Every street trader shall-

- (a) unless prior written approval exempting him or her from the provisions of this paragraph has been given by the Council, daily remove from any public road or public place at the end of each trading day or at the conclusion of trading all goods, moveable structures, waste, packaging material, stock and equipment of whatsoever nature which are utilized in connection with such trading;
- (b) carry on this business in such a manner as not to be a danger or threat to public health

or public safety;

- (c) at the request of an officer or an employee of the Council move or remove anything so that the place of business may be cleaned;
- (d) keep the area or stand occupied by him for the purpose of his business as well as his property in a clean and sanitary condition and free of litter; or
- (e) if his activities involve the cooking or other preparation of food, take steps to ensure that no fat oil or substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure.

## **6 Trading in parks and gardens**

No street trader shall carry on business in a garden or park to which the public has the right of access except with the prior written approval of the Council's Municipal Manager or other authorized official and in compliance with an conditions imposed by him or her when granting such consent.

## **7 Objects used for display of goods**

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

- (a) is maintained in a good state of repair and in a clean and sanitary condition, and
- (b) is not so placed or stacked so as to constitute a danger to any person or so as to be likely to injure any person.

## **8 Removal and impoundment**

- (1) For the purpose of this bylaw "goods includes any receptacle vehicle or movable structure.
- (2) An officer may remove and impound goods-
  - (a) which he reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of any business of a street trade, and
  - (b) which he finds at a place where the carrying on of such business is restricted in terms of section 3(h) or section 5 or prohibited in terms of section 2(a) to (g) and which in his opinion constitutes an infringement of such provision, whether or not such goods are in the possession or under the control of any person at the time of such removal or impoundment.
- (3) Any officer acting in terms of sub-section (2) shall -
  - (a) except in the case of goods which have been left or abandoned. issue to the person carrying on the business of street trader a receipt of any goods so removed and impounded; and
  - (b) forthwith deliver any such goods to the authorized official.



- (4) Neither the Council nor a councilor official, officer or employee of the Council shall be liable for any loss of or damage to any goods removed and impounded in terms of this section.

#### 9. Disposal of impounded goods

- (1) Any perishable goods removed and impounded in terms of section 8 (2) may at any time after the impoundment thereof be sold or destroyed by the Council and in the case of a sale of such goods the proceeds thereof less any expenses incurred by the Council in connection with the removal, impoundment and sale of such goods, shall, upon presentation of the relevant receipt issued in terms of section 8 (3)(a), be paid to the person who was the owner of such goods when such goods were impounded. If such owner fails to claim the said proceeds within three months of the date on which such goods were sold, such proceeds shall be forfeited to the Council.
- (2) The owner of any goods (other than perishable goods), dealt with by the Council in terms of sub section 1, impounded in terms of section 8(2) who wishes to claim the return of such goods shall, within a period of one month of the date of the impoundment of such goods, apply to the Council and shall present the relevant receipt issued in terms of section 8(3)(a), failing which such goods may be sold by the Council and in the event of sale of such goods the provisions of sub section (1) relating to the proceeds of a sale shall apply.
- (3) If the owner of any goods impounded in terms of section 8(2) claims the return of such goods from the Council and such owner is unable or refuses to refund any expenses incurred by the Council in connection with the removal and impoundment of such goods, such goods may be sold by the Council and proceeds of any sale of such goods less any such expenses and the cost of such sale shall be paid to such owner.
- (4) in the event of the proceeds of any sale of goods contemplated by this section not being sufficient to defray any expenses incurred by the Council in connection with the removal, impoundment and sale of such goods, the owner of such goods shall remain liable for so much of such expenses as is not defrayed by the proceeds of the sale of such goods.

#### 10 General offences and penalties

- (1) Any person who-
  - (a) contravenes or fails to comply with any provision of these bylaws;
  - (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purpose of these bylaws;
  - (c) contravenes or fails to comply with any approval or condition granted or imposed in terms of these bylaw's;
  - (d) for the purpose of these bylaws make a false statement knowing it to be false in a material respect or deliberately furnishes false or misleading information to an



authorized official or officer; or

- (e) threatens, resists, interferes with or obstructs an authorized official, officer or employee of the Council in the performance of his powers, duties or functions under these bylaws, shall be guilty of an offence and on conviction be liable to a fine of five hundred Rand or imprisonment for a period not exceeding three months.

2. When an employee of a street trader performs any act or is guilty of any omission which constitutes an offence under these bylaws the employer shall be deemed to have performed the act or to be guilty of the omission himself and he can prove that -

- 1. in performing the act or being guilty of the omission the employee was acting without his knowledge or permission;
- 2. all reasonable steps were taken by him to prevent the act or omission; and
- 3. it was not within the scope of the authority or the course of the employment of the employee to perform an act of the kind in question.

3. The fact that an employer issued instructions forbidding any act or omission referred to in sub section (2) shall not of itself be accepted as sufficient proof that he took all steps referred to in paragraph (b) of that sub section.

4. When an employer is by virtue of the provisions of sub section (2) liable for anything done or omitted by his employee, then that employee shall also be liable to prosecution for the offence.

## 11 Conflict of laws

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Waste Management Bylaws.

## WASTE MANAGEMENT BYLAWS

### CHAPTER 1 INTERPRETATION, PRINCIPLES AND OBJECTS

#### 1. Definitions.

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

"affected person" means a person who has been issued, or who is being issued, with an enforcement notice;

"approved", in the context of bins, bin liners, containers, receptacles and wrappers means approved by the council or service provider for the collection and storage of waste;

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

"Bill of Rights" means chapter 2 of the Constitution of the Republic of South Africa, 1996;

"bin" means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by the council or service provider to premises in terms of these By-laws;

"bin liner" means an approved loose plastic or other suitable material liner for use in the interior of a bin;

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

"bulky waste" means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the council or service provider;

"business waste" means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste and special industrial waste, generated on premises used for non-residential purposes;

"commercial services" means any service, excluding council services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

"container" means an approved receptacle having a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of these By-laws;

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

"Council services" means a municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the council or service providers in accordance with the provisions of the Systems Act and Chapter 6 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

"Criminal Procedure Act" means the Criminal Procedure Act, 1997 (Act 51 of 1997);

"damage to the environment" means any pollution, degradation or harm to the environment whether visible or not;

"dailies" means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis, normally a daily basis, to prevent the waste from decomposing and presenting a nuisance, environmental or health risk;

"domestic waste" means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;

"dump" means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the council or service provider;

"DWAF" means the National Department of Water Affairs and Forestry;

"enforcement notice" means a notice issued by an authorised official under section 44 of these By-laws;

"environment" means the surroundings within which humans exist made up of –

- (a) the land, water and atmosphere of the earth,
- (b) micro-organisms, plant and animal life,
- (c) any part or combination of (a) and (b) and the interrelationships among and between them, and
- (d) the physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmental emergency" means any unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

"firm" includes any juristic person or any association of persons established or operating in the Republic of South Africa;

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

"garden service" means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

"garden waste handling facility" means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

"hazardous waste" means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse affect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

"health care risk waste" means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

"industrial waste" means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;

"land reclamation" means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

"level of service" means the frequency of the council service and the type of service point;

"licensee" means any person who has obtained a licence in terms of Chapter 7 of these By-laws;

"litter" means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

"local community" in relation to the council means that body of persons comprising –

- (a) the residents of the council,
- (b) the ratepayers of the council,
- (c) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the council, and
- (d) visitors and other people residing outside of the council who, because of their presence in the council, make use of services or facilities provided by the council;

"nuisance" means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

"occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises let to lodgers or various tenants, includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

"owner" includes any person that has the title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein: Provided that the "owner" in respect of the premises on the Sectional Title Register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), means the body corporate as defined in that Act, in relation to such premises;

"person" means natural person or firm and includes licensees;

"pollution" means any change in the environment caused by –

- (a) substances; or
- (b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state,

where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

"premises" means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;

"prescribed fee" means a fee determined by the council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act 209 of 1993), or any other applicable legislation;

"public place" includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, enclosed space vested in a council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

"public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes –

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry, or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"radioactive material" means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

"radioactive waste" means any radioactive material which is or is intended to be disposed of as waste;

"recyclable waste" means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;

"resident" means in relation to a council a person who is ordinarily resident in the council;



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

"service delivery agreement" means an agreement between the council and a service provider in terms of which the service provider is required to provide council services;

"service provider" means any person who has entered into a service delivery agreement with the council in terms of the Systems Act;

"special industrial waste" means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the council's drainage or sanitation By-laws may not be discharged into a drain or sewer;

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"target" means any desired air, water quality or waste standards contained in any legislation;

"tariff" means the user charge for the provision of council services, determined and promulgated by the council or adjusted by a service provider in terms of tariff policy by-laws adopted under section 75 of the Systems Act;

"waste" means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, reuse, reclamation or recycling. Waste products may be liquid or solid and may include products that contain a gaseous component and may originate from domestic, commercial or industrial activities, but does not include –

- (a) matter processed as part of sanitation services under the Water Services Act (Act 107 of 1997);
- (b) any gas or gaseous product which may be regulated by national or provincial legislation; or
- (c) any radioactive material save where these By-laws specifically permit it to be handled;

"waste disposal facility" means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;

"waste generator" means any person or firm that generates or produces waste;

"waste handling facility" means any facility that accepts, accumulates, handles, recycles, sorts, stores or treats waste prior to its transfer for incineration or final disposal;

"workplace" means any place within the council on or in which or in connection with which, a person undertakes council services or commercial services; and



"wrapper" means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

## 2. Principles –

- (1) The council has the responsibility to ensure that all waste generated within the council is –
  - (a) collected disposed of or recycled in accordance with these By-laws; and
  - (b) that such collection disposal or recycling takes account of the waste management hierarchy set out in subsection 2 below.
- (2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
  - (a) avoidance, waste minimisation and waste reduction;
  - (b) re-use;
  - (c) recycling, reprocessing and treatment; and
  - (d) disposal.
- (3) Any official involved in the application of these By-laws must, as far as reasonably possible, take into account the hierarchy referred to in subsection 2.

## 3. Main objects.

- (1) The main objects of these By-laws are –
  - (a) the regulation of the collection, disposal and recycling of waste;
  - (b) the regulation of the provision of council services by service providers and commercial services by licensees; and
  - (c) enhancing sustainable development.
- (2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1)(a), the council must –
  - (a) endeavour to ensure that local communities are involved in the development of local waste plans;
  - (b) endeavour to minimise the consumption of natural resources;
  - (c) promote the recycling and reuse of waste;
  - (d) encourage waste separation to facilitate re-use and recycling;
  - (e) promote the effective resourcing, planning and delivery of council services and commercial services;
  - (f) endeavour to achieve integrated waste planning and services on a local basis;
  - (g) promote and ensure environmentally responsible council services and commercial services; and
  - (h) endeavour to ensure compliance with the provisions of these By-laws.

## 4. Duty of care

- (1) Every person has a duty to manage any waste generated by his activities or the activities of those persons working under his direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular –

- (a) no person may engage in council services or commercial services in a manner that results in, or creates a risk of harm to human health or damage to the environment, except insofar as such risk of harm or damage is an unavoidable aspect of the council services or waste management service and has been authorised by the council; and
  - (b) every person who generates waste or engages in council services or commercial services must take all reasonable measures to prevent any other person from contravening subsection (1)(a) above in relation to that waste.
- (2) Without limiting its generality, subsection (1) applies to an owner of land, premises or equipment, a person in control of land, premises or equipment or a person who has a right to use the land, premises or equipment on which or in which –
- (a) any activity or process is or was performed or undertaken; or
  - (b) any other situation exists, which causes, or is likely to cause, harm to human health or damage to the environment.
- (3) Any person subject to the duty imposed in subsection (1) may be required by the council or an authorised official to take measures to ensure compliance with the duty.
- (4) The measures referred to in subsection 3 that a person may be required to undertake include –
- (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
  - (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
  - (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
  - (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
  - (e) eliminating or mitigating any source of damage to the environment; or
  - (f) rehabilitating the effects of the damage to the environment.

## CHAPTER 2

## WASTE MANAGEMENT PLANNING, POLICY AND STRATEGY

*Part 1: Local Waste Plans***55. Development of local waste plans –**

- (1) The council must prepare a local waste plan for the council within one year of commencement of these By-laws, which plan must be implemented within four years of the commencement of these By-laws. The objectives of the local waste plan include:
- (2) establishing a means of ensuring that waste is collected, reused, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without –
  - (a) risk to water, air, soil, plants or animals;
  - (b) causing nuisance through noise or odours; or
  - (c) adversely affecting rural or urban areas or areas of special interest;
- (3) establishing an integrated network of waste handling and waste disposal facilities to ensure that –
  - (a) comprehensive and adequate council services and commercial services are established within the council;
  - (b) the disposal of waste occurs at accessible waste disposal facilities; and
  - (c) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;
  - (d) encouraging the minimisation or reduction of waste;
  - (e) promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and
  - (f) any other object which would enhance sustainable development.

**6. Scope, preparation and amendment of the local waste plan –**

- (1) The local waste plan includes but is not be limited to the following matters –
  - (a) population and development profiles within the council;
  - (b) an assessment of all significant sources and generators of waste within the council;
  - (c) an assessment of the quantities and classes of waste currently generated and projected to be generated within the council;
  - (d) an assessment of the existing markets, council services, commercial services and waste handling and waste disposal facilities for each waste category;

- (e) provide information to waste generators, service providers, licensees and the local community in order to –
  - (i) facilitate monitoring of the performance of the council, service providers and licensees, and, where applicable, waste generators;
  - (ii) stimulate research; and
  - (iii) assist the council to achieve the main objects of these By-laws.

**9. Provision of information –**

- (1) The council may, subject to the provisions of any other law including the common law require any waste generator, licensee, service provider or person involved in or associated with the provision of council services or commercial services within the council to furnish information to the council that may reasonably be required for the information system. Such information may concern –
  - (a) significant sources of waste generation and the identification of the generators of waste;
  - (b) quantities and classes of waste generated;
  - (c) management of waste by waste generators;
  - (d) waste handling and waste disposal facilities;
  - (e) population and development profiles;
  - (f) reports on progress in achieving any waste management targets;
  - (g) the management of radioactive waste;
  - (h) any information which has been compiled in accordance with subsection 8(1)(e);
  - (i) markets for waste by class of waste or category; and
  - (j) any other information required by legislation, regulation or guidelines.
- (2) The council may, at its discretion, determine when and how often information must be furnished.

**10. Manner of engaging in waste minimisation initiatives –**

Notwithstanding the need to promote waste minimisation recycling and reuse of waste, no person may undertake waste minimisation initiatives in such a manner that is likely to cause or to increase the risk of harm to human health or damage to the environment.

**CHAPTER 3**

**COUNCIL SERVICES**

**Part I : Providing Access to Council Services****111. Duty to provide access to council services –**

- (1) The council has an obligation to the local community to progressively ensure efficient, affordable, economical and sustainable access to council services.
- (2) This duty is subject to –
  - (a) the obligation of the local community to pay the prescribed fee, for the provision of council services, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of council services. In exercising the right in this subsection, the council must comply with national legislation and have regard to the factors set out in subsection 3.
- (3) The council must take the following factors into account in ensuring access to council services:
  - (a) the waste management hierarchy set out in section 2;
  - (b) the need to use resources efficiently;
  - (c) the need for affordability;
  - (d) the requirements of operational efficiency;
  - (e) the requirements of equity; and
  - (f) the need to protect human health and the environment.

**112. The provision of council services –**

- (1) The council must as far as reasonably possible and subject to the provisions of these By-laws –
  - (a) provide for the collection of domestic waste, business waste and dailies on a regular basis, which in the case of dailies requires collection on a daily basis; and
  - (b) provide recycling facilities,at a cost to end users determined in accordance with the prescribed fee promulgated by the Council.
- (2) In relation to council services, the council may determine-
  - (a) the quantities of waste that will be collected;
  - (b) which residential or commercial premises require council services more frequently than the regular collection service for reasons of health, safety and environmental protection;
  - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff; and

- (d) specify requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of these By-laws.
- (3) The council may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where such receptacle is provided by the council, it remains the property of the council.
- (4) In providing council services, the council or service provider may determine or designate-
  - (a) collection schedules;
  - (b) locations for placing approved receptacles for collection,
  - (c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and
  - (d) which waste items are unsuitable for collection.
- (5) The council or service provider may require a generator of dailies and business waste to compact that portion of the waste that is compactable. Such a requirement may be imposed where the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and where, in the opinion of the council or service provider, the major portion of such waste is compactable. The occupier of premises may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the council or service provider: Provided that-
  - (a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms;
  - (b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected; and
- (6) Any approved receptacle used in terms of subsection 3 may be collected, emptied and returned to the premises by the council or service provider at such intervals as it may deem necessary.
- (7) The council or service provider may review any decisions taken in terms of subsection 4 at any time.
- (8) The council or service provider must notify all generators of domestic waste, business waste and dailies of any decisions taken in terms of subsections (4) or (5) in writing.

#### ***Part II: Using Council Services***

#### **13. Obligations of generators of domestic waste, business waste and dailies –**

- (1) Any person generating domestic waste, business waste and dailies (other than waste which has been designated by the council as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.



- (2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that –
  - (a) no hot ash, unwrapped glass or other domestic waste, business waste and dailies which may cause damage to approved receptacles or which may cause injury to the council or service provider's employees while carrying out their duties in terms of these By-laws, is placed in approved receptacles before suitable steps have been taken to avoid such damage or injury;
  - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such approved receptacles unreasonably difficult for employees of the council or service provider to handle or carry, is placed in such receptacles;
  - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
  - (d) the approved receptacle delivered by the council is not used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container;
  - (e) the approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the council or service provider by notice to the owner or occupier of the premises, except where, on written application to the council, the council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice; and
  - (f) the approved receptacle, placed in accordance with subsection (3)(e) must be undamaged and properly closed so as to prevent the dispersal of its contents.
- (4) The owner or occupier of premises must provide space and any other facilities deemed necessary by the council or service provider on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection (4) must –
  - (a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
  - (b) where dailies are generated on the premises –
    - (i) be in such a position as will allow the collection and removal of such waste by the council or service provider's employees without hindrance; and
    - (ii) be not more than 20m from the entrance to the premises used for the collection of waste by the council or service provider;
  - (c) be so located as to permit convenient access to and egress from such space for the council or service provider's waste collection vehicles;
  - (d) comply with any further reasonable requirements imposed by the council or service provider by notice to the owner or occupier of the premises; and

- (e) be constructed in accordance with the requirements of any applicable building regulations.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (5) and must at all times keep them there, save that-
  - (a) in the case of buildings erected, or buildings, the building plans of which have been approved, prior to the coming into operation of these By-laws, or
  - (b) in the event of the council or service provider being unable to collect and remove waste from the space provided in terms of sub-subsection (5)(b)(ii);

the council or service provider may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the council or service provider may require.

**14. The prescribed fee for council services –**

The council may either levy rates on property or determine tariffs (or both) for the provision of council services.

**15. Liability to pay for council services –**

- (1) The owner of premises is liable to the council to pay the prescribed fee for the provision of council services, and is not entitled to exemption from the liability to pay the prescribed fee by reason of his not making use, or of making a partial or limited use, of council services regardless of whether the council provides such services directly or through a service provider.
- (2) The prescribed fee becomes due and payable on the same date as the general assessment rate levied.

**CHAPTER 4**

**COMMERCIAL SERVICES**

***Part I: Provision of Commercial Services by Licensees and Flow Control***

**16. Provision of commercial services by licensees –**

- (1) Save in the case of garden waste, only a licensee may provide commercial services.
- (2) Any person requiring commercial services must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.

**17. Provision for council co-ordination of waste disposal -**

The council may direct, by a notice published in the Eastern Cape Provincial Gazette, that a category of waste be disposed of at a particular depot or disposal site. No person may dispose of such waste other than as specified in the notice gazetted under this section or as specified by

the council under other empowering legislation prior to the coming into operation of these By-laws.

***Part II: Business, Industrial and Recyclable Waste***

**18. Storage of business, industrial and recyclable waste –**

- (1) The owner or occupier of premises on which business, industrial or recyclable waste is generated must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated –
  - (a) the waste is stored within a bulk container or other approved receptacle; and
  - (b) no nuisance, including but not limited to dust, is caused by the waste in the course of generation, storage, or collection.

**19. Collection and disposal of industrial, business and recyclable waste –**

- (1) The owner or occupier of premises generating business, industrial and recyclable waste must ensure that-
  - (a) the container in which the waste is stored may not be kept in a public place except as required for collection;
  - (b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
  - (c) that the service rendered by the licensee must only be in respect of that portion of the business, industrial or recyclable waste authorised in its license.
- (2) A licensee must dispose of business, industrial or recyclable waste at a waste handling facility or waste disposal facility designated by the council as a waste disposal facility for that purpose in terms of section 18 above and in accordance with the provisions of section 19.

***Part III: Garden Waste and Bulky Waste***

**20. Storage, collection and disposal of garden waste and bulky waste –**

- (1) The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, provided that such composting does not cause a nuisance.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or licensee may remove garden waste and bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 28.
- (4) At the written request of the occupier of premises the council or service provider may, in its sole discretion, deliver an approved receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste. The provisions contained in section 13, read with the necessary changes, must apply, to an approved receptacle delivered in terms of this section but which is to be used for the storage of garden waste.
- (5) Where, in the course of providing council services, the council or the service provider providing the service, is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the council or service provider may remove such waste if such waste has been placed in an approved receptacle referred to in section 13 in the space designated for domestic waste, in which event the tariff for domestic waste, read with the necessary changes, must apply.

***Part IV: Building Waste***

**21. Generation of building waste –**

- (1) The owner or occupier of premises on which building waste is to be generated must notify the council, in writing, of the intention to generate building waste and of the proposed manner for its removal and disposal at least 14 days prior to the intended generation of such waste.
- (2) The owner or occupier of such premises must ensure that –
  - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
  - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
  - (c) any building waste which is blown off the premises is promptly retrieved; and
  - (d) pursuant to any instructions from the council, any structure necessary to contain the building waste is constructed.

**22. Storage of building waste –**

- (1) The owner or occupier of premises may apply to the council for written consent to place an approved receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- (2) Any consent given in terms of subsection (1) may be subject to such conditions as the council may consider necessary.
- (3) Every approved receptacle, authorised in terms of subsection (1) and used for the removal of building waste, must –
  - (a) have clearly marked on it the name, address and telephone number of the person in control of such approved receptacle;
  - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
  - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

**23J. Collection and disposal of building waste. –**

- (1) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the council in terms of a notice under section 17, unless the council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

***Part V: Special Industrial, Hazardous or Health Care Risk Waste***

**244. Generation of special industrial, hazardous or health care risk waste –**

- (1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the council, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste: Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the council within 6 months of the commencement of these By-laws.
- (2) If so required by the council, the notification referred to in subsection (1) may be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.
- (3) The person referred to in subsection (1) must notify the council in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

**225. Storage of special industrial, hazardous or health care risk waste –**

- (1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care



risk waste generated on the premises is kept and stored thereon until it is collected from the premises.

- (2) Special industrial, hazardous or health care risk waste stored on premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional by-laws.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding any maximum period stipulated by the council before collection.
- (4) The council may enact additional by-laws providing guidelines for the management of health care risk waste.

**26. Collection and disposal of special industrial, hazardous or health care risk waste –**

- (1) Only licensees may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the council, stipulated as licence conditions or in additional by-laws, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the council at those intervals the council may stipulate in the licence or elsewhere, about the removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the facility at which the waste has been disposed.
- (3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the council as a waste disposal facility for that purpose.

**CHAPTER 5**



**TRANSPORTATION AND DISPOSAL OF WASTE****27. Transportation of waste**

- (1) Notwithstanding the provisions of any other legislation, no person may-
  - (a) operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
  - (b) fail to maintain the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
  - (c) cause or permit any waste being transported in or through the council to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility;
  - (d) knowingly dispose waste at a waste disposal facility that is not permitted to accept such waste .

**28. Disposal of waste –**

- (1) Waste generated within the council must be disposed of at a waste disposal facility that has been permitted to accept and dispose of such waste in terms of section 17 and in accordance with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place except at an authorised incinerator operated by a licensee, or other than at a place designated by the council for such purpose.
- (3) Notwithstanding the provisions of subsection (1), any person may dispose of those forms of recyclable waste specified by the council in a notice in terms of section 17 or elsewhere at designated garden waste handling facilities, but may do so only if all such waste is brought to the facility in vehicles able to carry a maximum load of one tonne or less.
- (4) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by a competent authority, be subject to such conditions as the council may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matters which the council considers necessary to ensure the environmentally sound management of waste.
- (5) Every person who enters a waste disposal facility must –
  - (a) enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
  - (b) on request, provide the council or the operator of the waste disposal facility with any information regarding the composition of the waste; and
  - (c) follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.
- (6) No person may-

- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility in an intoxicated state;
  - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the operator of the waste disposal facility or the council and then only at such times and on such conditions as the council or operator may from time to time determine;
  - (c) dispose of waste at a waste disposal facility which is not permitted for such waste; or
  - (d) light any fire upon or near any disposal area without authorisation.
- (7) Any person who contravenes subsection 28(6) will be liable for all reasonable costs incurred by the council in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.
- (8) The operator of the waste disposal facility may at any time require a vehicle or a container on a vehicle that has entered the waste disposal facility for the purposes of disposing waste to be weighed at a weighbridge.
- (9) The council, the operator of the waste disposal facility, an authorised official or any other persons duly authorised by the council may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (10) Any person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste disposal facility.

## CHAPTER 6

### SERVICE PROVIDERS

#### 29. Agreement, delegation and consumer charter -

- (1) The council may discharge any of its obligations under section 12 of these By-laws by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.
- (2) Subject to the provisions of the Systems Act or any other legislation, the council may assign to a service provider any power enjoyed by the council under these By-laws: Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.
- (3) Any reference in these By-laws to "council or service provider" should be read as the "council" if the council has not entered into a service delivery agreement, and should be read as "service provider" if the council has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a consumer charter which must be drawn up in consultation with the council and which must-
  - (a) accord with the provisions of these By-laws;
  - (b) be accessible to the public;
  - (c) establish the conditions of the service including collection times; and
  - (d) provide for the circumstances in which council services may be limited.

## CHAPTER 7

## LICENSEES

*Part I: Registration***300. Registration requirements –**

- (1) Any person who provides or intends to provide commercial services within the council must register with the council.
- (2) Registration must be by written notification to the council, and must specify-
  - (a) the name and the residential and postal address of the person providing commercial services, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
  - (b) the nature of the waste management service provided or intended to be provided by the person;
  - (c) the scope of the service, which must specify the number of clients served or intended to be served at the time of registration, the geographical area of operation and the actual or intended capital expenditure involved, or to be involved, in rendering the service; and
  - (d) the disposal facilities it owns or intends to utilise for the disposal of waste it collects or generates.
- (3) The council must provide proof of registration specifying the name and the residential and postal address of the registered person and describing the nature of the commercial services provided or intended to be provided by that person.
- (4) Where a person has registered in terms of subsection (1) and the person –
  - (a) acquires a firm providing commercial services;
  - (b) merges with other persons providing commercial services;
  - (c) changes ownership;
  - (d) changes juristic nature;
  - (e) changes the nature of the commercial services it provides;
  - (f) intends to cease providing such services;
  - (g) is involved in winding-up proceedings; or
  - (h) increase its gross revenue or client base in excess of 25%,

then that person must notify the council of that occurrence and, save in the circumstances set out in subsections (4)(f) or (g), re-register in accordance with the provisions of subsection (1).

**Part II: Licence to Provide Commercial Services****31. Licence requirements -**

- (1) Subject to section 35, no person may provide commercial services without having first obtained a licence.
- (2) Licences issued under these By-laws –
  - (a) are personal to the licensee and incapable of cession or assignment without the prior written consent of the council;
  - (b) are valid for the period stipulated in the licence, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by the council for further periods; and
  - (c) may be suspended or revoked by the council, if the licensee is in breach of any of the provisions of these bylaws or any term stipulated in the licence.

**32. Licence application –**

- (1) Applications for a licence to provide commercial services must be in writing on a form prescribed by the council. The form must specify the information to be included in the application and the time available for making the application, which period must not be less than two months in duration.
- (2) The council must consider each application, having regard to the following:
  - (a) the financial, technical and managerial competency and experience of the applicant;
  - (b) the environmental, health and safety record of the applicant;
  - (c) the nature of the waste management service to be provided; and
  - (d) any other factors which the council considers relevant.
- (3) After considering the application in terms of subsection (2), the council must –
  - (a) approve the application by issuing a licence subject to terms and conditions; or
  - (b) reject the application, which rejection must be accompanied by reasons.

**33. Licence terms and conditions –**

- (1) When issuing a licence in terms of section 32, the council may, subject to the provisions of subsection (2), impose any licence conditions it deems reasonably necessary.
- (2) Licences issued by the council must –
  - (a) describe the geographical area of operation of the licensee;
  - (b) specify the licence period and the procedure for any licence renewal;
  - (c) specify the category or categories of waste the licensee may manage;

- (d) contain a requirement that the licensee must comply with these By-laws, and applicable provincial and national legislation;
- (e) require the licensee to keep monthly records in respect of:
  - (i) the quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
  - (ii) emission levels where the licensee manages a licensed incinerator;
  - (iii) any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;
  - (iv) any waste minimisation or recycling activities in which the licensee is involved;
  - (v) consumer supply figures; and
  - (vi) complaints received by the public;
- (f) require the licensee to have the appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the council under the licence, which approval may not subject the council to any liability if the insurance programme proves inadequate;
- (g) permit the licensee to conduct any other business activity not regulated in the licence, provided that any such business activity does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law, and provided that such activities are separately accounted for;
- (h) stipulate procedures for amendment of the licence;
- (i) stipulate circumstances under which the licence may be revoked or suspended by the council and set out an appeals procedure;
- (j) prescribe the payment of a licence fee;
- (k) require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
- (l) require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste stream that they have been contracted to manage; and
- (m) contain any other term or condition that the council considers relevant.

**334. Prohibited conduct –**

- (1) Licensees may not:



- (a) cease operations at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;
- (b) abandon a waste disposal facility or waste handling facility;
- (c) operate in contravention of the terms and conditions of their licence;
- (d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;
- (e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;
- (f) dispose of any health care risk waste otherwise than by incineration, unless prior consent has been obtained from the DWAF; or
- (g) dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

**35. Transitional provisions and exemptions. –**

- (1) Any person lawfully providing commercial services within the council at the time an application for a licence is made, may continue to provide commercial services while the licence application is being considered by the council.
- (2) A council may at its sole discretion, and having regard to the main object of these By-laws and its local waste plan, exempt any form of commercial service from the provisions of Chapter 7 of these By-laws and must indicate the terms and scope of any exemption in a notice published in the Eastern Cape Provincial Gazette.

**CHAPTER 8**

**LITTERING, DUMPING AND ABANDONED ARTICLES**

**36. Duty to provide facilities for litter –**

- (1) The council, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The council, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are –
  - (a) maintained in good condition;
  - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
  - (c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
  - (d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;



- (e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
  - (f) emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- (3) In any public place where an approved receptacle has been placed for the depositing of litter, the council may put up notices about littering.

**377. Prohibition of littering –**

- (1) No person may –
- (a) cause litter;
  - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
  - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
  - (d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection (1), the council, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed. For the purposes of this section, a reasonable time may mean that period of time before the litter becomes a nuisance or cause for complaint.

**388. Prohibition of dumping and abandoning articles –**

- (1) No person may, without authorisation, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he is the owner or occupier except where such deposits are made in accordance with the provisions of these By-laws.
- (2) Subject to any provisions to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.
- (4) Any article, other than a motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, 1989 (Act 29 of 1989), which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the council as having been abandoned, may be removed and disposed of by the council as it may deem fit.
- (5) The council may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

**CHAPTER 9****ADMINISTRATIVE ENFORCEMENT PROVISIONS*****Part 1: Appointment of Authorised Officials*****39. Appointment of authorised officials**

- (1) The council shall appoint authorised officials who shall be vested with the power to –
  - (a) Discharge the council's right of access to premises in terms of section 101 of the Systems Act;
  - (b) issue an enforcement notice under section 44;
  - (c) impose an infringement notice in terms of section 45; and
  - (d) exercise the powers of an authorised official in terms of the provisions of any other applicable law.
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act and has no powers of arrest in respect of any offence created in these by-laws.
- (3) In appointing an authorised official, the council shall have regard to:
  - (a) a person's technical understanding and experience of matters related to waste management; and
  - (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the council or any service provider of the council: Provided that, in the latter case, there is no conflict of interest between the person's duty as an authorised official and as an employee of the service provider.
- (5) Upon appointment, authorised officials shall be issued with a means of identification by the council (hereinafter called "an identification") which shall state the name and function of the authorised official, and must include a photograph of the officer. An authorised official, acting within the powers vested in him by these by-laws, is required to present identification on demand by a member of the local community.

***Part II: Powers of Authorised Officials*****40. Powers to execute work and inspect vehicles and premises –**

- (1) In addition to the powers an authorised official has as an authorised representative of the council under section 101 of the Systems Act or any other legislation, an authorised official, may
  - (a) enter any land or premises to execute work or conduct an inspection; and
  - (b) may search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.

- (2) A search conducted in terms of these By-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (4) Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these By-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.
- (5) In the event of the seizure of any vehicle under subsection (4), the council must-
  - (a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to human health or damage to the environment; and
  - (b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.

• 41. Powers to question –

- (1) In order to monitor or enforce compliance with these By-laws, the authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these By-laws relate, require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request, provide his identification as an authorised official.

42. Supervision of licensees –

- (1) Authorised officials must inspect the workplace of a licensee not less than twice a year, and an authorised official is entitled to enter the workplace of a licensee for this purpose.
- (2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorised official in conducting an inspection under subsection (1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) If an authorised official is of the opinion, after such an inspection, that a licensee is complying with these By-laws, he may, subject to the provisions of subsection (2), issue the licensee with a certificate confirming compliance, which must state –

- (a) the name and residential and postal address of the licensee;
  - (b) the time, date and scope of the inspection; and
  - (c) any remarks which in the opinion of the authorised official may be relevant.
- (4) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the council review the licence, and should there be reasonable grounds, the council may revoke the licence in terms of subsection 31(2)(c): Provided that the consecutive inspections occur at not less than four month intervals.
- (5) Authorised officials must keep a register recording each inspection that has been undertaken.

**43. Supervision of owners and occupiers –**

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorised official is likely to cause a nuisance, harm to human health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of their employment, from committing an act or omission that may cause a nuisance, harm to human health or damage to the environment.

***Part III: Enforcement and Infringement Notices***

**44. Enforcement notices**

- (1) If, in the opinion of the authorised official, a person is –
- (a) causing a nuisance, harm to human health or damage to the environment; or
  - (b) as licensee, is failing to comply with the terms of a licence granted in terms of these By-laws; or
  - (c) as owner or occupier, has failed to satisfy an obligation in terms of section 43 of these by-laws; or
  - (d) the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- (2) An enforcement notice issued under this section must state–
- (a) the name and also the residential and postal address, if either or both of these be known, of the affected person;
  - (b) the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
  - (c) the steps required to forestall or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
  - (d) that the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;

- (e) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil liability; and
  - (f) that written representations may be made to the council in accordance with section 47, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice.
- (3) If an affected person fails to comply with an enforcement notice, the council or anyone authorised by the council, may perform the steps required in the enforcement notice, provided that council does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
  - (4) Where the council incurs any expenditure as a result of performing such steps, the council may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.
  - (5) Any licensee which commits an offence in terms of subsection 1(1)(b) and has, within the last five years, been convicted of the same offence, may be declared a serial offender under these By-laws and have its license revoked immediately.

#### 445. Infringement notices –

- (1) If, in the opinion of the authorised official, a person is-
  - (a) Contravening subsections 34(1)(a) - (g), 37(1)(a) – (d), 38(1) – (5), 44(1)(a) – (c) of these By-laws; or
  - (b) allowing waste other than domestic waste or dailies to remain uncollected,

the authorised official may serve or cause to be served on that person an infringement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act.

- (2) The infringement notice must –
  - (a) specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these be known, of the person on whom the infringement notice is served;
  - (b) state the particulars of the infringement;
  - (c) specify the amount of the penalty payable in respect of that infringement and the place where the penalty may be paid which penalty may not exceed R5000,00 (five thousand rand); and
  - (d) inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he may –
    - (i) pay the penalty; or
    - (ii) inform the council in writing that he elects to be tried in court on a charge of having committed an offence under section 51.



- (3) Where a person makes an election under subsection (2)(d)(ii), the procedure set out in section 46 applies.

#### 46. Complaints –

Any person may lodge a complaint with an authorised official, or through any other channel established by the council, that any other person is causing harm to human health or damage to the environment by engaging in council services or commercial services, in which event the authorised official, unless he has reasonable grounds to believe that the complaint is frivolous or an abuse of the main objects of these By-laws set out in section 3, must investigate the complaint and must, if he is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

#### 47. Representations –

- (1) Any affected person may make representations to the council, or a designated committee or internal functionary of the council to which the council has delegated its powers, in the manner specified in the enforcement notice.
- (2) Representations must be made by submitting a sworn statement or affirmation to the council, designated committee or internal functionary within 21 calendar days of the service of the notice.
- (3) Any representation not lodged within 21 calendar days must not be considered, save where the affected person has shown good cause and the council, the designated committee or internal functionary condones the late lodging of the representation.
- (4) The council, or designated committee or internal functionary, must duly consider the representations and any response thereto by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigations to verify the facts if that, in its opinion, is necessary. If the council, or designated committee or internal functionary, should conduct any further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity of making a further response if he so wishes, and the council, or designated committee or internal functionary, must also consider such further response.
- (5) After the council, or designated committee or internal functionary, is satisfied that the requirements of subsection (4) have been satisfied, the council, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order may –
  - (a) confirm, alter or set aside in whole or in part, an enforcement notice; and
  - (b) must specify the period within which the affected person must comply with any order made by it.
  - (c) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the council, or designated committee or internal functionary, must inform the affected person that he may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.
- (6) If the affected person elects to be tried in court, he must notify the council, or designated committee or internal functionary of his election within seven calendar days, and on receipt of such notification by the council, or designated committee or internal functionary, the provisions of section 48 apply.



- (7) If the affected person does not elect to be tried in court, he must discharge his obligations under the enforcement notice within the prescribed manner and time.
- (8) If the affected person lodges a representation or elects to be tried in Court, any requirement in terms of section 44 of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the council, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered, orally or in writing, by the council to do so.
- (9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection (8), fails to comply with such an order, the council may itself cause the environmental emergency to be stopped, reversed or abated, in which event the council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

## CHAPTER 10

### JUDICIAL ENFORCEMENT PROVISIONS

#### 488. Service of documents and process

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of council services, the address of the owner of the premises on which domestic waste and dailies is generated is deemed to be the place for service of documents and process of such owner.

#### 489. Service of notices -

- (1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings-
  - (a) it must be served on him personally, failing which if it be served on any member of his household, 16 years or older, who signs for the receipt of such notice at his place of residence or business; and
  - (b) if sent by registered post to the person's address as contemplated in section 48, it constitutes service in terms of section 7 of The Interpretation Act, 1957 (Act 33 of 1957).

#### 490. Trial -

If a person who elects to be tried in court in terms of subsection 47(6) or 47(8), notifies the council of his election, the authorised official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, in order to secure the attendance and prosecution of the accused, in which event the enforcement notice or infringement notice must be cancelled.

#### 51. Offences and penalties

Any person, including an affected person or licensee, who -

- (a) contravenes or fails to comply with any provisions of these By-laws;
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws, or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

## CHAPTER 11

### GENERAL PROVISIONS

#### 52. Ownership –

- (1) The person holding the permit to operate a waste disposal facility is deemed to be the owner of the waste disposed at that facility.
- (2) Such operator has a right of recourse against –
  - (i) any person that causes waste to be disposed at the waste disposal facility where that person knowingly and without the knowledge of the operator disposes waste that that facility is not permitted to accept; and
  - (ii) any waste generator that knowingly puts waste out for collection that is not of the category being collected.

#### 54. Conflict of laws

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

The Umzimkhulu Municipal Council, acting under the authority of section 11, of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Water Bylaws.

## WATER BYLAWS

### CHAPTER 1

#### GENERAL PROVISIONS

##### 1. Definitions

In these bylaws, unless the context otherwise indicates –

"approved" means approved by authorized delegate;

"authorized delegate" means any person authorized by the Council to exercise any right or carry out any duty or function under these Bylaws;

"back-flow" means the flow of water in any pipe in a direction opposite to the normal direction of flow;

"back siphonage" means the back-flow of water resulting from negative pressures in a water installation or in the water supply system;

"borehole" means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

"capacity" in relation to a storage tank means the volume of the tank between the operating water level of the water contained in such tank and the invert of the outlet from the tank;

"combined installation" means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

"connection pipe" means a pipe, the ownership of which is vested in the Council and installed by it for the purpose of conveying water from a main to a water installation, and includes a

"communication pipe" referred to in SABS 0252 Part 1;

"Constitution" The constitution of the Republic of South Africa (Act 200 of 1996);

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

"consumer" means any occupier of any premises to which the Council has agreed to supply or is actually supplying water, or if there be no occupier, then any person who has entered into a current agreement with the Council for the supply of water to such premises, or, if there be no such person, then the owner of the premises; provided that where water is supplied through a single water meter to a number of occupiers, it shall mean the occupier, or person, to whom the Council has agreed to supply water;

"domestic purposes" in relation to the supply of water, means water supplied for drinking, ablution and culinary purpose to premises used predominantly for residential purposes;

"fire installation" means a water installation which conveys water solely for the purpose of fire-fighting;

"fixed quantity water delivery system" means a water installation which delivers a fixed quantity of water to a consumer in any single day;

"general installation" means a water installation which conveys water for a combination of domestic, commercial and industrial purposes;

"industrial purposes" in relation to the supply of water, means water supplied to any premises which constitute a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"installation work" means work in respect of the construction of, or carried out on, a water installation;

"main" means a pipe, other than a connection pipe, vesting in the Council and used by it for the purpose of conveying water to customers;

"meter" means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973) or, in the case of water meters of size greater than 100 mm, a device which measures the quantity of water passing through it;

"Minister" means the Minister of Water Affairs and Forestry;

"National Water Act" means the National Water Act, 1998 (Act No. 36 of 1998), as amended from time to time;

"occupier" means a person who occupies any premises or part thereof, without regard to the title under which he or she occupies;

"officer" means an employee of the Council or any other person who is authorised by it to perform any act, function or duty in terms of, or exercise any power under these bylaws;

"operating water level" means the level of water reached in a storage tank when the valve controlling the inlet of water to the tank closes under normal operating conditions;

"owner" means -

- a) the person in whom, from time to time, is vested the legal title to the premises;
- (b) in a case where the person in whom legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof; and
- (e) in relation to (1) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or

the body corporate in respect of the common property; or (2) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointment agent of such a person;

"owner's water installation" means all the pipe work and water fittings installed by the consumer for connecting into the water installation installed by the Council;

"pollution" means the introduction into the water supply system, or a water installation, of any substance which can make the water harmful to health or impair its quality;

"premises" means any piece of land, the external surface boundaries of which are delineated on

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No. 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986);

"prescribed" means prescribed by the Council;

"prescribed charge" means a charge prescribed by the Council;

"public notice" means notice in a local newspaper in at least two of the official languages in general use within the area in question, and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilised in the publication of the notice;

"registered contractor" means a company/person registered by the SAQCC for the Water Supply Industry;

"registered person" means a person accepted by the Council as being competent to issue the necessary certification; .

"registered plumber" means a person registered by the SAQCC for the Water Supply Industry;

"SAQCC for the Water Supply Industry" means the South African Qualification and Certification Committee constituted in terms of Act No. 58 of 1995;

"schedule of approved pipes and fittings" means the list of pipes and fittings approved by the authorised delegate;

"service pipe" means a pipe which is part of a water installation and which connects with the connection pipe;

"terminal water fitting" means a water fitting at an outlet of a water installation which controls the discharge of water from a water installation;

"Water Services Act" means the Water Services Act, 1997 (Act No. 108 of 1997), as amended from time to time;

"water fitting" means a component of a water installation, other than a pipe, through which water passes or in which it is stored;



"water installation" means the pipes, water fittings and meter as installed by the Council or otherwise laid with the permission of the Council, which connects to the pipe installed by the consumer;

"water supply system" means the structures, aqueducts, pipes, valves, pumps, meters or other appurtenances relating thereto which are vested in the Council and are used or intended to be used by it in connection with the supply of water, and includes any part of the system; and

"working day" means a day other than a Saturday, Sunday or public holiday.

- (2) Wherever in these bylaws a word or expression which is defined in the Water Services Act, but is not defined in these bylaws, is used, such word or expression shall bear the meaning ascribed to it in the Water Services Act.

## 2. Exceptions to application of these bylaws

- (1) If authority was given before the date of commencement of these bylaws for installation work to be done, or if authorised work is in progress on such date, such work shall comply with any laws governing such work which were in force in the area of jurisdiction of the Council prior to such date.
- (2) The Council may, for a period of 90 days after the commencement of these bylaws, give authority for installation work to be done in accordance with any laws governing such work which were in force in the area of jurisdiction of the Council prior to such date.
- (3) No owner shall be required to comply with these bylaws by altering a water installation or part thereof which was installed in conformity with any law applicable immediately before the date of commencement of these bylaws; provided that if, in the opinion of the Council, the installation or a part thereof is so defective or in such a condition or position so as to cause, or be likely to cause, waste or undue consumption of water, pollution of the water supply, or a health or safety hazard, it may by notice in writing require the owner to comply with the provisions of these bylaws within a specified period..

## 3. Responsibility for compliance with these bylaws

Notices relating to a breach of these Bylaws on premises shall be served -

- (a) on the owner of the premises where matters relating to the water installation are involved; and
- (b) on the customer where matters relating to the use of a water installation are concerned.

## 4. Notices and documents

- (1) A notice or document issued by the Council in terms of these bylaws shall be deemed to be duly issued if it is signed by an officer.
- (2) If a notice or document is to be served on a person in terms of these bylaws, such service shall be effected by delivering it to him or her personally or to his or her duly authorised agent.
  - (a) by delivering it at his residence or place of business or employment to a person apparently not less than 16 years of age and apparently residing or employed there;
  - (b) if he has nominated a *domicilium citandi*, by delivering it to such domicilium;



- (c) if he has not nominated a *domicilium citandi*, by delivering it to the address given by him in his application for a supply of water, for the receipt of an account for water supplied;
  - (d) in the case of a body corporate, by delivering it at the registered office or business premises of such body corporate;
  - (e) by registered or certified post addressed to his last known address; or
  - (f) if service cannot be effected in terms of paragraphs (a) to (f) by affixing it to a principal door of entry to the premises concerned.
- (3) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of receipt of such notice and if served in terms of subsection 3(f) four days after the posting of such notice, and if served in terms of subsection 3(g), then on the date of affixing the notice to the door of the premises.

#### **Power to serve, and compliance with notices**

- (1) The Council may, by written notice, order a person who by act or omission commits a breach of these bylaws or of any condition imposed thereunder to remedy such breach within a period specified in the notice.
- (2) If a person fails to comply with a written notice served on him or her by the Council in terms of these bylaws within the specified period, it may take such action or do such work as in its opinion is necessary to ensure compliance, and recover the cost of such action or work from such person.

#### **Interference with water supply system**

- (1) No person other than an officer shall operate, interfere, or tamper with the water supply system.
- (2) No person other than an officer shall effect a connection to the water supply system.

#### **Obstruction of access to water supply system**

- (1) No person shall prevent or restrict physical access to the water supply system.
- (2) If a person contravenes subsection (1) the Council may
  - (a) by written notice, require such person to restore access at his or her own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

#### **Power of entry and inspection**

- (1) An officer may for any purpose connected with the implementation or enforcement of these bylaws, at all reasonable times, after having given notice of the intention to do so, or in an emergency at any time, enter premises, request information and carry out such inspection and examination as he or she may deem necessary, and for those purposes operate any water fitting of the water installation.

- (2) If the Council considers it necessary that work be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may
  - (a) by written notice require the owner or occupier of the premises at his or her own expense to do specified work within a specified period; or
  - (b) if in its opinion, the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of these bylaws has been committed and no such contravention is established, the Council shall bear the expense connected therewith together with that of restoring the premises to its former condition.
- (4) If an officer requires the presence of -
  - (a) an owner at an inspection of his or her water installation; or
  - (b) a registered plumber doing installation work at an inspection of such work, he or she may give such person written notice of not less than three working days to that effect, indicating the date and time when and the place where he or she proposes to carry out the inspection.

#### 9. Relaxation or waiver

The Council may, in a specific instance and for a particular owner or customer, relax or waive in writing the requirements of a provision of these bylaws upon such conditions as it may deem fit to impose, if it is of the opinion that the application or operation of that provision in that case would be unreasonable, provided that the Council shall not waive any section of these bylaws which could result in the following consequences:

- (a) The wastage or excessive consumption of water.
- (b) The evasion or avoidance of water restrictions.
- (c) The endangering of public health or safety.
- (d) The non-payment for water or related service.
- (e) The installation of pipes and fittings which are not approved in terms of section 45.

#### 10. Prescribed charges

The Council shall by resolution prescribe the charges payable under these bylaws, including the payment of additional charges or interest in respect of delayed payment of any such charges.

### CHAPTER 2 PROVISIONS RELATING TO MAKING AN APPLICATION

#### 11. Unauthorised use of water

No person shall take water from the water supply system -

- (a) until an agreement referred to in sections 12(2) or 13(1) has been concluded; and
- (b) except through a connection pipe as provided in terms of section 18 or from a hydrant in terms of section 24.

#### 12. Application for a supply of water

- (1) No person shall take, or be supplied with, water from the water supply system unless he or she has made application to the Council on the prescribed form for a supply of water for a specific purpose and such application has been granted.

- (2) An application granted by the Council shall constitute an agreement between the Council and the applicant, and such agreement shall take effect on the date referred to or stipulated therein.
- (3) A customer shall be liable for all the prescribed charges in respect of a supply of water granted to him or her until the agreement referred to in section 12(2) has been terminated in terms of section 15.
- (4) The prescribed form referred to in subsection (1) may contain such condition as do inspect.

### 113. Special agreements for supply of water

- (1) The Council may enter into a special agreement for the supply of water to -
  - (a) an applicant inside its area of jurisdiction, if the supply necessitates the imposition of conditions not contained in the prescribed form; and
  - (b) an applicant outside its area of jurisdiction, if such application has been approved by the municipality in which the applicant resides.
- (2) If the Council provides a supply of water to an applicant outside its area of jurisdiction in terms of a special agreement, it may permit him or her to sell such water to other persons outside its area of jurisdiction, subject to the such conditions as the Council deems fit.

### 114. Purpose of supply

Water supply by the Council shall be used solely for the purpose specified in the agreement for a supply of water.

Where the purpose for which water is used changes, the consumer shall enter into a new agreement as prescribed in sections 12 and 13.

### 15. Termination of agreement for supply of water

- (1) A customer may terminate an agreement referred to in section 12(2) by giving to the Council not less than 3 working days' notice in writing of his or her intention to do so.
- (2) Unless otherwise provided in these bylaws, the Council may, by notice in writing of not less than five working days, advise a customer of the termination of his or her agreement for supply of water if
  - (a) he or she has not consumed any water during the preceding six months or has not made satisfactory arrangements for the continuation of his or her agreement;
  - (b) he or she has committed a breach of these bylaws and has failed to rectify such breach within a specified period after being given written notice to do so; and
  - (c) in terms of an arrangement made by the Council with another authority supplying water, such authority has agreed to supply water to the consumer.
- (3) The Council may, after having given notice, terminate an agreement for a supply of water if a customer has vacated the premises to which such agreement relates.

**16. Payment of deposit**

- (1) The Council may at any time require the consumer to deposit a sum of money as a security to cover the estimated costs of water to be consumed over a period of time: provided that the Council may on written application by a consumer accept from him or her a guarantee to the Council's satisfaction in view of the sum of money.
- (2) A deposit contemplated in subsection (1) shall accompany an application submitted in terms of section 12(1) and on conclusion of an agreement contemplated in section 13(1).
- (3) A deposit paid in terms of subsection (1) shall not be regarded as being in payment or part payment of an account due for the supply of water.
- (4)
  - (a) If the Council at any time is of the opinion that a deposit or guarantee is insufficient for the purpose of subsection (1), the Council may by notice in writing require the consumer concerned to increase such deposit or guarantee by an amount specified in such notice.
  - (b) If a consumer fails to comply with the notice referred to in paragraph (a) within thirty days of the issue of the notice, the Council may reduce or discontinue the consumer's supply until such time as the consumer complies with the notice.
- (5) If, on the termination of an agreement in terms of regulation 16, any amount is outstanding in respect of the supply of water to a consumer, the Council may apply the deposit in payment or part payment of the amount and refund any balance to the consumer.
- (6) The agreement referred to in regulations 12(2) or 13(1) may contain a condition that a deposit shall be forfeited to the Council if it has not been claimed within 12 months of the termination of the agreement.

**CHAPTER 3**  
**PROVISIONS RELATING TO CONNECTION**

**17. Provision of connection pipe**

- (1) If an agreement for a supply of water in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the prescribed charge for the installation of such a pipe.
- (2) If an application is made for a supply of water to premises which are so situated that it is necessary to extend the water supply system in order to supply water to the premises, the Council may agree to the extension subject to such conditions as it may impose.

**18. Connection pipes**

- (1) A connection pipe provided and installed by the Council –
  - (a) will be located in a position and be of a suitable size determined by the Council; and
  - (b) terminate at the boundary of the land owned by or vested in the Council, or over which it has a servitude or other right, or at the outlet of water meter if the meter is located on the property being supplied.

- (2) (a) The owner shall, at his own cost, effect the connection between his water installation and the communication pipe serving his premises, unless otherwise stipulated by the authorised delegate.
- (b) The authorised delegate may specify –
  - (i) the type of joint which shall be used to effect the connection referred to in paragraph (a); and
  - (ii) the material of which the portion of the service pipe between its communication pipe and the owner's isolating valve is made, and the method of installation of such portion.
- (c) The owner shall secure the portion of his service pipe referred to in paragraph (b)(ii) against movement.

#### 19. Interconnection between premises

An owner of premises shall ensure that no interconnection exists between the water installation on his or her premises and the water installation on other premises, unless he or she has obtained prior written consent of the Council and complies with any conditions that it may have imposed.

#### 20. General conditions of supply

- (1) The granting of a supply of water by the Council shall not constitute an undertaking by it to maintain at any time or at any point in its water supply system -
  - (a) uninterrupted supply;
  - (b) a specific pressure or rate of flow in such supply; or
  - (c) a specific standard of quality of the water,provided that, if the water supply is interrupted for more than 24 hours, then the Council shall take such steps as are reasonable to attempt to provide an alternative supply of water to meet basic needs.
- (2) The Council may, subject to the provisions of subsection (1)(b), specify the maximum height in a building, to which water will be supplied from the water supply system. If an owner requires that any of the standards referred to in subsection (1) be maintained on his or her premises, he or she shall make provision in the water installation for such maintenance.
- (3) Council may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (4) If, in the opinion of the Council the consumption of water by a consumer adversely affects the supply of water to another consumer, it may apply such restrictions as it may deem fit to the supply of water to the first-mentioned customer in order to ensure a reasonable supply of water to the other customer.

#### 21. Restriction or cutting-off of supply

- (1) Without prejudice to any other right it may have, the Council may, if a customer has -
  - (a) failed to pay a sum due to it in terms of these bylaws; or



- (b) committed a breach of these bylaws and has failed to rectify such breach within the period specified in a written notice served on him or her requiring him or her to do so, by written notice inform the consumer of its intension to cut-off or restrict the supply of water on a specified date and the Council may on or after that date so cut-off or restrict such supply.
- (2) If, in the opinion of the Council, action is necessary as a matter of urgency to prevent waste of water, damage to property, danger to life or pollution of water, it may -
  - (a) without prior notice, cut off the supply of water to any premises; and
  - (b) enter upon such premises and do such emergency work, at the owner's expense, as it may deem necessary, and in addition by written notice require the owner to do such further work as it may deem necessary within a specified period.
- (3) The consumer shall pay -
  - (a) the prescribed charge for the cutting-off or restricting of the supply in terms of subsection (1) or (2); and
  - (b) the prescribed charge for restoration of the water supply;provided that, in the case of a cutting off or restriction in terms of subsection (1), both the prescribed charges required in terms of subsection (a) and (b) above must be paid prior to the restoration of the water supply.
- (4) Tampering

Where a water supply is found to have been tampered with or the meter bypassed, the Council may disconnect the relevant supply immediately and without any notice whatsoever, and in such a way that no further water supply at those premises is possible. The customer will be charged the applicable tampering fee.
- (5) In addition to the provisions of this section, the Council may enforce any other rights or exercise any power conferred upon it by the Water Services Act, 1997 (Act No. 108 of 1997), the Council's water bylaws and any other applicable legislation.

## 22. Interruption of supply at consumer's request

- (1) The Council may, at the written request of a consumer -
  - (a) cut off the supply of water to his or her premises; and
  - (b) restore the supply, on the dates requested by him or her.
- (2) The consumer shall, prior to the restoration of his or her water supply in terms of this section, pay the prescribed charge for the cutting-off of his or her supply of water, and for its restoration.

## 23. Disconnection of water supply

The Council may disconnect a water installation from the connection pipe and remove the connection pipe if -

- (a) the agreement for supply has been terminated in terms of section 15 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

## 24. Water supplied from the Council's hydrants



- (1) The Council may permit a temporary supply of water to be taken from one or more fire hydrants specified by it.
- (2) A person who desires a temporary supply of water referred to in subsection (1) shall make application in the manner prescribed in section 12(1) and subject to such conditions as may be prescribed by the Council on the prescribed form.

#### CHAPTER 4 METERING

##### 225. Metering of water supplied

- (1) All water supplied to a consumer by the Council shall pass through a meter or other measuring device for the purpose of measuring the quantity of water consumed: provided that -
  - (i) an automatic sprinkler installation;
  - (ii) a fire installation in respect of which steps have been taken to detect unauthorised draw-off of water for purposes other than fire fighting; and
  - (iii) special circumstances at the Council's discretion.
- (2) A meter referred to in subsection (1) and its associated apparatus shall be provided and installed by the Council, shall remain its property, and may be changed by the Council when it deems necessary.
- (3)
  - (a) The Council may install the meter, and its associated apparatus, serving a water installation at any point in the installation;
  - (b) If the Council installs a meter in a water installation in terms of subparagraph (a), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section shall be deemed to form part of the water installation.
- (4) If the Council installs a meter together with its associated apparatus in a water installation in terms of subsection (3), the owner shall -
  - (a) provide a place satisfactory to the Council in which to install it;
  - (b) ensure that unrestricted access is available to it at all times;
  - (c) be responsible for its protection and be liable for the costs arising from damage thereto, excluding damage arising from normal fair wear and tear;
  - (d) ensure that no connection is made to the pipe in which the meter is installed, between the meter and the connection pipe serving the installation; and
  - (e) make provision for the drainage of water which may be discharged, from the pipe in which the meter is installed, in the course of work done by the Council on the meter.
- (5) No person other than an officer shall -

- (a) disconnect a meter and its associated apparatus from the pipe in which they are installed;
  - (b) break a seal which the Council has placed on a meter, or
  - (c) in any other way, interfere with a meter and its associated apparatus.
- (6) If the Council considers that the size of a meter is unsuitable by reason of the quantity of water supplied to premises, it may install a meter of such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed charge for the installation of the meter.
- (7) The Council shall require the installation, at the owner's expense, of a meter to each dwelling unit, in separate occupancy, on any premises, for use in determining quantity of water supplied to each such unit; provided that where fixed quantity water delivery systems are used, a single meter may be used to supply more than one unit.
- (8) All water meters shall comply with the Trade Metrology Act, 1973 (Act No: 77 of 1973), as amended from time to time.

**26. Quantity of water supplied to consumer**

- (1) For the purpose of assessing the quantity of water supplied through a meter to a customer over a specific period, it shall be deemed, unless the contrary can be proved, that -
- (a) the quantity is represented by the difference between readings of the meter taken at the beginning and end of such period;
  - (b) the meter was registering correctly during such period; and
  - (c) the entries in the records of the Council were correctly made,
- provided that if water is supplied to, or taken by, a consumer without its passing through a meter, the estimate by the Council of the quantity of such water shall be deemed to be correct.
- (2) If a contravention of section 25(5) occurs, the consumer shall pay to the Council the cost of such quantity of water as in the Council's opinion was supplied to him or her.

**27. Defective meters**

- (1) If a customer has reason to believe that a meter, used for measuring water, which was supplied to him or her by the Council, is defective, he or she may, against payment of the prescribed charge, make application in writing for the meter to be tested.
- (2) The prescribed charge referred to in subsection (1) shall be -
- (a) retained by the Council if the meter is found in terms of subsections (3) or (4) not to be defective; or
  - (b) refunded to the applicant if the meter is found in terms of those subsections to be defective.

- (3) A meter to which the regulations relating to water meters published under the Trade Metrology Act, 1973 (Act No. 77 of 1973) are applicable, shall be deemed to be defective if, when tested in accordance with such regulations, is found to have a percentage error in over-registration or under-registration greater than that permitted for a meter in use in terms of that specification.
- (4) A meter to which the regulations referred to in subparagraph (3) are not applicable, shall be deemed to be defective if it is found to have a percentage error in over-registration or under-registration greater than 5 % at any one of the said rates of flow:
  - (a) not less than 75%;
  - (b) between 50% and 55%; and
  - (c) not more than 20%.

#### 28. Special meter reading at request of consumer

The Council shall, on receipt from the consumer of written notice of not less than seven days and subject to payment of the prescribed charge, read a meter at a time or on a day other than that upon which it would normally be read.

#### 29. Special metering

- (1) If the Council wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may, by written notice, advise the owner concerned of its intention to install a meter at such point in the water installation as it may specify.
- (2) The installation of a meter referred to in subsection (1), its removal, and the restoration of the water installation after such removal shall be carried out at the expense of the Council.

The provisions of sections 25(4) and 25(5) shall apply insofar as they may be applicable in respect of a meter installed in terms of subsection (1).

### CHAPTER 5 PROVISIONS RELATING TO PAYMENT

#### 30. Payment for water supplied

- (1) All water supplied by the Council shall be paid for by the consumer at the prescribed charge for that particular category of use for which the supply was granted.
- (2) A customer shall pay for all water supplied to him or her from the date of the agreement referred to in sections 12(2) or 13(1) until the date of termination thereof.
- (3) The Council may estimate a quantity of water supplied in respect of a period or periods within the interval between actual successive readings of the meter, and may render an account to a consumer for the quantity of water so estimated.
- (4) The amount of an account rendered for water supplied to a consumer shall become payable on the due date stipulated in the account.
- (5) If a consumer is dissatisfied with an account rendered for water supplied to him or her by the Council, he or she may, prior to the due date stipulated therein, object in writing, or be assisted by the Council to object in writing, to the account, setting out his

or her reasons for such dissatisfaction; provided that the lodging of an objection shall not entitle a customer to defer payment except with the written consent of The Council.

- (6) If a consumer uses water for a category of use other than that for which it is supplied by the Council and is in consequence not charged for water so used, or is charged for the water at a rate lower than that at which he or she should be charged, he or she shall be liable for the amount due to the Council in accordance with the prescribed charges in respect of
- (a) the quantity of water which, in the opinion of the Council, he or she has used and for which he or she has not been charged; or
  - (b) the difference between the cost of the water used by him or her at the rate at which he or she has been charged and the cost of the water at the rate at which he or she should have been charged.
- (7) No consumer who is supplied with water in terms of these bylaws shall sell such water unless provision has been made therefore in a special agreement referred to in section 13, or has obtained the prior written permission of the Council to do so.

### **31. Amendments to prescribed charges for water supplied**

If amendments to the prescribed charges for water supplied become operative on a date between meter readings, it shall be deemed, for the purpose of rendering an account in respect of the charges, that the same quantity of water was supplied in each period of twenty-four hours during the interval between the meter readings.

### **32. Water accounts**

- (1) The Council shall show on each water account rendered to a customer the actual or estimated meter readings in kilolitres or cubic metres, together with the dates of the readings and the total amount due in Rands. If the readings are estimated, this shall be clearly indicated on the account.
- (2) When an estimated meter reading is used, the Council must be in a position to justify it to the consumer.

### **33. No reduction of amount payable for water wasted or leakage undetected**

A consumer shall not be entitled to a reduction of the amount payable for water wasted in a water installation.

### **34. Charges other than for water consumed**

The Council may, in addition to charges authorised elsewhere in these sections, prescribe and levy any of the following charges:

- (a) A charge payable by the customer in respect of each connection pipe or meter provided by the Council to serve the premises occupied by him or her, whether or not water has been supplied to him or her, the charge being due from the date of the agreement referred to in sections 12(2) or 13(1), whichever is applicable. Such charge shall not be based on any quantity of water consumed.

- (b) A monthly charge payable by the owner in respect of premises which, in the opinion of the Council, can reasonably be connected to the water supply system but is not so connected, the charge being due from a date determined by the Council until the date of the agreement referred to in section 12(2) or 13(1).

### **35. Adjustment of quantity of water supplied to customer through defective meter**

- (1) If a meter is found to be defective in terms of sections 27(3) or 27(4), the Council may estimate the quantity of water supplied to the consumer concerned during the period in which, in its opinion, such meter was defective, on the basis of the average daily quantity of water supplied to him or her over -
  - (a) a period between two successive meter readings subsequent to the replacement of the meter; or
  - (b) a period in the previous year corresponding to the period in which the meter was defective; or
  - (c) the period between three successive meter readings prior to the meter becoming defective, whichever it considers the most appropriate.
- (2) If the quantity of water supplied to a customer during the period when his or her meter was defective cannot be estimated in terms of subsection (1), the Council may estimate the quantity on any basis that is available to it.

## **CHAPTER 6 POLLUTION OF WATER**

### **36. Owner to prevent pollution of water**

- (1) An owner shall provide and maintain approved measures to prevent the entry of a substance, which may be a danger to health or adversely affect the potability of water or affect its fitness for use, into -
  - (a) the water supply system; and .
  - (b) any part of the water installation on his or her premises.
- (2) If a person contravenes subsection (1), the Council may
  - (a) by written notice, require such person to take remedial steps to prevent pollution of water in the water supply system or water installation on his or her premises within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice undertake the work required by subsection 2(a) and recover the costs from such person.

## **CHAPTER 7 RESTRICTION ON THE USE OF WATER**

### **37. Water restrictions**

- (1) The Council may, subject to other applicable legislation, by notice
  - (a) prohibit or restrict the consumption of water -

- (i) for specified purposes or otherwise;
  - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
  - (iii) in a specified manner or otherwise than in a specified manner;
- (b) determine and impose -
- (i) limits on the quantity of water which may be consumed over a specified period;
  - (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subparagraph (i); and
  - (iii) a general surcharge on the prescribed charges in respect of the supply of water;
- and
- (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The Council may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and classes of customers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on such grounds as it may deem fit.
- (3) The Council may -
- (a) take, or by written notice, require a customer at his or her own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
  - (b) cut off or, for such period as it may deem fit, restrict the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), and where the supply has been cut off, it shall only be restored when the prescribed charge for cutting off and reconnecting the supply has been paid.
  - (c) provisions of this section shall also apply in respect of water supplied directly by the Council to customers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

## CHAPTER 8

### OBTAINING THE COUNCIL'S APPROVAL FOR WORK

#### 40. Approval of installation work

- (1) If an owner wishes to have installation work done, he or she shall first obtain the Council's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required, or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.



- (2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by
  - (a) the prescribed charge;
  - (b) copies of the drawings as prescribed by the Council, giving information in the form required by 4.1.1 of SABS 0252: Part I; and
  - (c) a certificate from a registered person certifying that the installation has been designed in accordance with SABS 0252: Part .1 or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) shall not apply to a registered plumber who replaces a fixed water heater or its associated protective devices..
- (4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of 24 months after the first day of the month succeeding the month in which the authority is given : provided that the Council may on written application extend a period of validity of the approval for a period not exceeding 2 months at a time and subject to such conditions as the Council deems fit.

#### **41. Copies of drawings to be kept on site**

A complete set of approved drawings of installation work shall be available at the site of the work at all times until such work has been completed.

#### **42. Unauthorised work**

If installation work has been done in contravention of section 39, the Council may, by written notice, require the owner of the premises concerned to comply with that regulation within a specified period, and if work is in progress, to cease the work, and may further require the owner to remove all such work which does not comply with these bylaws.

#### **43. Persons permitted to do installation and other work**

- (1) No person who is not registered with the SAQCC for the Water Supply Industry, in the category appropriate for the work to be undertaken, shall be permitted to -
  - (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
  - (b) replace a fixed water heater or its associated protective devices;
  - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
  - (d) service, repair or replace a backflow preventer; or
  - (e) install, maintain or replace a meter provided by an owner in a water installation.
- (2) No person shall require or engage a person who is not a registered plumber to do the work. referred to in subsection (1).
- (3) The provisions of subsection (1) shall not apply to a person acting in the scope of his or her employment with a registered plumber or a registered contractor.
- (4) Notwithstanding the provisions of subsection (1), a person who, in terms of any law in force immediately prior to the commencement of these bylaws, was entitled to do the work described in subsection (1), may continue to do such work for a period not exceeding 12 months after these bylaws became effective.

- (5) Notwithstanding the provisions of subsection (1), the Council may permit a person who is not a registered plumber or a registered contractor to do installation work on his or her own behalf on premises owned and occupied solely by himself or herself and his or her immediate household; provided that such work may be inspected and approved by a person registered with the SAQCC for the Water Supply Industry, in the category appropriate to the work being undertaken, at the direction of the Council.

#### **44. Provision and maintenance of the owner's water installation**

- (1) An owner shall provide and maintain his or her water installation at his or her own cost and, except -  
(a) in the case of a connection to a connection pipe; or  
(b) where permitted in terms of section 62.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his premises, an owner shall obtain the written consent of the Council or the owner of the land on which such portion is situated, as the case may be.

#### **45. Technical requirements for a water installation**

Notwithstanding the requirement that a certificate be issued in terms of section 39(2)(c), all water installations shall comply with SABS 0252 Part I and all fixed electric storage water heaters shall comply with SABS 0254.

### **CHAPTER 9 PIPES AND FITTINGS USED IN A WATER INSTALLATION**

#### **46. Use of pipes and water fittings to be authorised by the Council**

No person shall, without prior written authority of the Council, install or use a pipe or water fitting in a water installation within the Council's area of jurisdiction unless it is included in the Schedule of approved pipes and fittings.

#### **47. Acceptance requirements for pipes and water fittings**

- (1) A pipe or water fitting may be included in the Schedule referred to in section 45 if -  
(a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or  
(b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with an SABS Mark specification or a provisional specification issued by the SABS, provided that no certification marks shall be issued for a period exceeding two years.
- (2) The Council may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions as it may deem necessary in respect of the use or method of installation thereof.

#### **48. Labelling of terminal water fittings and appliances**

All terminal water fittings and appliances using or discharging water shall be marked, or have included within the packaging of the item, the following information:

- (a) The range of pressure in kPa over which the water fitting or appliance is designed to operate.
- (b) The flow rates, in litres per minute, related to the design pressure range; provided that this information shall be given for at least the following water pressures:
  - (i) 20 kPa.
  - (ii) 100 kPa.
  - (iii) 400 kPa.

#### 49. Schedule of accepted pipes and water fittings

- (1) Application for the inclusion of a pipe or water fitting in the Schedule referred to in section 45 shall be made on the prescribed form and be accompanied by the prescribed charge.
- (2) A pipe or water fitting shall be removed from the Schedule if it -
  - (a) no longer complies with the criteria upon which its inclusion was based; or
  - (b) is no longer suitable for the purpose for which its use was accepted.
- (3) The current Schedule shall be available for inspection at the office of the Council at any time during working hours.
- (4) Council may sell copies of the current Schedule at the prescribed charge.

### CHAPTER 10 ENSURING WATER CONSERVATION

#### 50. Waste of water

- (1) No customer shall permit
  - (a) the purposeless or wasteful discharge of water from terminal water fittings;
  - (b) pipes or water fittings to leak;
  - (c) the use of maladjusted or defective water fittings;
  - (d) an overflow of water to persist or
  - (e) an inefficient use of water to persist.
- (2) An owner shall repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the Council shall, by written notice, require the owner to comply with the provisions of subsection (1).
- (4) If an owner fails to comply with the notice referred to in subsection (3), the Council shall take such measures as it may deem fit without prior notice and recover the cost of doing so from the owner.
- (5) (a) A consumer shall ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.  
(b) The Council may, by written notice, prohibit the use by a customer of any equipment in a water installation if, in its opinion, its use of water is inefficient.

Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the Council.

#### 51. Car washing facilities

All commercial vehicle washing facilities shall be constructed and operated in such a manner that 50 percent of the water used by such facility is recycled for reuse in the facility.

#### 52. "Grey water" practices

Any device which entails the recycling or reuse of water shall not make use of water derived from any kitchen, excluding clothes washing machines, or from toilet discharges.

#### 53. Flushing toilet cisterns

No cistern, and related pan designed to operate with such cistern, shall be installed with a cistern capacity of greater than 6 litres.

#### 54. Low flow showerheads

In any water installation where the dynamic water pressure is more than 200 kPa at a shower control valve, and where the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve, a shower head with a maximum flow rate of no greater than 10 litres per minute shall be installed.

#### 55. Wash hand basins

The maximum flow rate from any tap installed on a wash hand basin shall not exceed 6 litres per minute.

### CHAPTER 11 MISCELLANEOUS PROVISIONS

#### 56. Use of water from sources other than the water supply system

- (1) No person shall use or permit the use of water obtained from a source other than the water supply system except rain water tanks which are not connected to the water installation, except with the prior consent of the Council and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the Council with satisfactory evidence to the effect that water referred to in that subsection complies, whether as a result of treatment or otherwise, with the requirements of SABS Specification 241-1984: Water for Domestic Supplies, published in the *Government Gazette* under General Notice No. 2828 dated 20 December 1985, or that the use of such water does not or will not constitute a danger to health.
- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the Council:
  - (a) a condition imposed in terms of subsection (1) is breached; or
  - (b) water no longer conforms to the requirements referred to in subsection (2).
- (4) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the

Council's sewerage system, the Council may install a meter in the pipe leading from such borehole or other source of supply to the point or points where it is so used.

- (5) The provisions of section 25 shall apply insofar as they may be applicable in respect of the meter referred to in subsection (4).

#### **567. Notification of boreholes**

- (1) The Council may, by public notice, require -
- (a) the owner of any premises within the area of jurisdiction of the Council upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
  - (b) the owner or occupier of any premises who intends to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.
- (2) The owner or occupier of any premises who intends to sink a borehole shall undertake an environmental impact assessment for such intended borehole, to the satisfaction of the Council, before sinking the borehole.

#### **558. Sampling of water**

- (1) The Council may take samples of water obtained from a source other than the water supply system and cause the samples to be tested for compliance with the requirements referred to in section 55(2).
- (2) The prescribed charge for the taking and testing of the samples referred to in section (1) shall be paid by the person to whom consent to use the water was granted in terms of section 55(1).

#### **59. Supply of non-potable water by the Council**

- (1) The Council may, on application in terms of section 12, agree to supply non-potable water to a consumer subject to such terms and conditions as the Council may impose.
- (2) Any supply of water agreed to in terms of subsection (1) shall not be used for domestic or any other purpose which, in the opinion of the Council, may give rise to a health hazard.

#### **50. Conditions of supply of non-potable water**

- (1) No warranty, expressed or implied, shall apply to the purity of any non-potable water supplied by the Council or its suitability for the purpose for which the supply was granted.
- (2) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or others arising directly or indirectly therefrom, including the consequences of any *bona fide* fault of the Council or the malfunction of a treatment plant.



**61. Use of Non-Potable Water for Irrigation Purposes**

- (1) If non-potable water supplied by the Council is used for irrigation purpose, the consumer shall ensure that it is applied uniformly over the irrigated areas and in such a way as to prevent ponding.
- (2) The consumer shall, at his own expense, take such steps as may be necessary to prevent any run-off of surplus non-potable water from irrigated areas.
- (3) If the consumer fails to take the steps referred to in subsection (2), the authorised delegate may be written notice require him to take steps within a specified period.

If the consumer fails to take such steps the authorised delegate may do so at the consumer's expense.

**62 Warning notices**

- (1) On premises on which non-potable water is used, the owner shall ensure that every terminal water fitting and every appliance which supplies or uses the water is clearly marked with a weatherproof notice indicating that the water therefrom is water unsuitable for domestic purposes.
- (2) In an area where treated sewage effluent is used, the owner shall erect weatherproof notices in prominent positions warning that such effluent is not suitable for domestic purposes.
- (3) Every warning notice prescribed in terms of subsections (1) and (2) shall be in at least one official language and such other languages as the Council may require.

**63. Testing of pressure in water supply systems**

The Council may, on application by an owner and on payment of the prescribed charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as the owner may request.

**64. Pipes in streets or public places .**

No person shall, for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any Council, except with the prior written permission of that Council and subject to such conditions as it may impose.

**65. Water Audit**

- (1) Major water users (those more than 3 650 kilolitres per annum), excluding those comprising multiple dwelling units, shall undertake as and when required by the Council, a water audit. The audits shall be carried out not later than two weeks after the end of the financial year of the Council.
- (2) The audit shall detail the following:
  - (a) An amount of water used during the financial year.
  - (b) An amount paid for water for the financial year.



- (c) Number of people living on the stand or premises.
- (d) Number of people permanently working on the stand or premises.
- (e) Comparison of the above factors with those reported in each of the previous three years (where available).
- (f) A seasonal variation in demand (monthly consumption figures).
- (g) Details of water pollution monitoring methods.
- (h) Details of current initiatives to manage their demand for water.
- (i) Details of plans to manage their demand for water.
- (j) Comparison of the above factors with those reported in each of the previous three years (where available).
- (k) An estimate of consumption by various components of use.

#### 66. Offences

- (1) Any person who -
  - (a) fails or refuses to give access required by an officer in terms of section 8(1);
  - (b) obstructs or hinders an officer in the exercise of his or her powers or performance of his or her functions or duties under these bylaws;
  - (c) fails or refuses to give an officer such information as he or she may reasonably require for the purpose of exercising his or her powers or performing his or her functions or duties under these bylaws or who gives such officer false or misleading information knowing it to be false or misleading;
  - (d) contravenes or fails to comply with a provision of these bylaws;
  - (e) fails to comply with a condition or prohibition imposed in terms of these bylaws; and
  - (f) fails to comply with the terms of a notice served upon him or her in terms of these bylaws, shall be guilty of an offence and be liable, upon conviction, to the penalties prescribed in the Water Services Act.

#### 67. Conflict of laws

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