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No. 1180

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CONTENTS

<i>No.</i>		<i>Page</i>
MUNICIPAL NOTICES		
81	Republic of South Africa Act (108/1996): Funeral, Burial and Cremation Services Act, 2002 and Local Government: Municipal Systems Act (32/2000): Umtshezi Municipality: Cemetery By-laws.....	3
82	Local Government: Municipal Systems Act (32/2000) and the Constitution of the Republic of South Africa (108/1996): Umtshezi Municipality: By-law Relating to Fire Safety	17
83	do.: Municipal Systems Act (32/2000): Umtshezi Municipality: Keeping of Birds and Animals By-laws.....	49
84	do.: Municipal Systems Act (32/2000) and the Constitution of the Republic of South Africa (108/1996): Umtshezi Municipality: By-law Relating to the Control of Public Nuisances.....	84
85	do.: Municipal Systems Act (32/2000): Umtshezi Municipality: Parking By-laws	98
86	do.: do.: do.: Pollution Control By-laws	114
87	Constitution of the Republic of South Africa Act (108/1996), Local Government: Municipal Systems Act (32/2000) and KwaZulu-Natal Pound Act (3/2006): Umtshezi Municipality: Pound By-laws.....	127
88	Constitution of the Republic of South Africa Act (108/1996) and Local Government: Municipal Systems Act (32/2000): Umtshezi Municipality: Property Encroachment By-laws.....	133
89	Local Government: Systems Act (32/2000): Umtshezi Municipality: Public Amenities By-laws	141
90	Republic of South Africa Act (108/1996) and Local Government: Municipal Systems Act (32/2000): Umtshezi Municipality: Public Roads By-laws.....	149
91	Constitution of the Republic of South Africa Act (108/1996) and Local Government: Municipal Systems Act (32/2000): Umtshezi Municipality: Stormwater Management By-laws	155

MUNICIPAL NOTICES

No. 81**8 July 2014****UMTSHEZI MUNICIPALITY****CEMETERY BY-LAWS**

Be it enacted by the Council of the Umtshezi Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, and approval of the Member of the Executive Council responsible for Local Government in terms of Section 104 (2) Funeral, Burial and Cremation Services Act of 2002 in the Province of KwaZulu-Natal, read with section 11 of the Local Government: Municipal Systems Act No. 32 2000, as follows :

INDEX

CHAPTER 1 : GENERAL	2
1. Definitions	2
CHAPTER 2 : ESTABLISHMENT AND MANAGEMENT OF CEMETERIES	4
2. Establishment of cemeteries	4
3. Official hours	4
4. Register	5
5. Numbering of graves	5
6. Reservation of graves	6
7. Transfer of reserved rights	6
8. Number of corpses in a grave	6
9. Number of Corpses in a coffin	7
CHAPTER 3 : BURIALS	7
10. Application for a burial	7
11. Burial of a corpse	8
12. Burial of ashes	9
13. Burial of a cadaver	10
14. Persons dying outside the municipal area	10
15. Grave measurements	10
CHAPTER 4 : RE - OPENING OF GRAVES AND EXHUMATIONS	11
16. Conditions of exhumations	11
17. Exhumation and reburial	12
18. Screening of exhumation	12
CHAPTER 5 : MISCELLANEOUS	12
19. Injuries and damages	12

20. Fire-arms and traditional weapons	13
21. Offences and penalties	13
22. Complaints	13
23. Charges	13
24. Rights on Graves	13
25. Consents, Notices and Orders	13
26. Religious Ceremonies	13
27. Hearses and vehicles at Cemeteries	14
28. Exposure of Bodies	14
29. Instruction of Caretaker	14
30. Music Inside Cemetery	14
31. Interments Attended by large Numbers of People	
CHAPTER 6 : GENERAL PROVISIONS	14
33. Repeal of By-laws	14
34. Short title and commencement	14

CHAPTER 1

GENERAL

1. Definitions

In these by-laws, unless the context otherwise indicates:-

“**adult**” means a deceased person over the age of 12 years and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400 mm in width;

“**after-hours fee**” means a fee over and above the set norm of fee for burial or cremation outside normal week day cemetery operating hours, save in the case of cremations or burials, which, because of religious belief, are undertaken after such hours, or in the case of burial, where the mourners undertake to close the grave;

“**ashes**” means the cremated remains of a body;

“**Births and Deaths Registration Act**” means the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

“**body**” means any dead human body, including the body of a stillborn child;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act;

“**burial**” means burial or inhumation into earth or any other form of burial and includes a tomb and any other mode of disposal of a body;

“**caretaker**” means the person holding the position of caretaker or superintendent of any cemetery or acting in such capacity in the service of the Council

“**cemetery**” means any land or part thereof within the municipal area set aside by the Council or approved by the Council as a cemetery;

“**child**” means a deceased person who is not an adult;

“**Commonwealth war grave**” means any grave, tombstone, monument or memorial connected with a Commonwealth war burial in terms of the Commonwealth War Graves Act, 1992 (Act No. 8 of 1992);

“**Council**” means the Umtshezi Municipal Council

“**cremation**” means the process of disposing of a human body by fire;

“**crematorium**” means a crematorium building which falls under the jurisdiction of the District Municipality;

“**crematorium section**” means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

“**cremated remains**” means all recoverable ashes after the cremation process;

“**exhumation**” means the removal of a body from its grave which process falls under the jurisdiction of section 20 of the Cemeteries & Crematoria Act No 12 of 1996 and requires prior written approval of the Minister except where such disturbance or removal is required for medico-legal purposes and is undertaken in terms of section 3 of the Inquest Act, 1959 (Act No. 58 of 1959) ;

“**garden of remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work , placing or scattering of ashes, but does not include a columbarium;

“**grave**” means any piece of land excavated for the burial of a body within a cemetery and includes the contents, headstone or other marker of such place and any other structure on or associated with such place;

“**grave of conflict**” means the grave of a person who died while defending the country;

“**hero**” means a person who performed a heroic act for the country and is given the status of a hero by the Council;

“**indigent person**” means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or non governmental organization can be found to bear the burial or cremation costs of such deceased person and includes a pauper;

“**indigent relief**” means assistance received for the burial or cremation of an indigent person;

“**medical officer of health** ” means the officer appointed by Council or any other person acting in the capacity of the medical officer of health;

“**memorial section**” means a section of a cemetery set aside for the erection of memorials;

“**memorial wall**” means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons;

“**memorial work**” means any headstone, monument, plaque, or other work, or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“**municipal area**” means the area under the control and jurisdiction of the Council;

“**niche**” means a compartment in a columbarium or garden of remembrance for the placing of ashes;

“**officer-in-charge**” means the person in the employ of the Council who, from time to time, is in control of any cemetery.

“**prescribed**” means prescribed by the Council;

“**prescribed fee**” means a fee determined by the Council by resolution of that Council or its successor.

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

“**rural burials**” are excluded from these by-laws until such time as Council deems fit

“**South African Heritage Resources Agency**” means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

“**stone mason**” means a person carrying on business as a stone mason;

“**urban burial**” is a burial in a cemetery where the land has been surveyed and studies conducted to ensure the land is suitable;

“**victim of conflict**” means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

CHAPTER 2

ESTABLISHMENT AND MANAGEMENT OF CEMETERIES

2. Establishment of cemeteries

- (1) The Council may from time to time set aside and reserve suitable municipal land within the municipality for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and management of a cemetery. The Council may consider and approve an application for the establishment and maintaining of a private cemetery or a private columbarium on private land on the conditions that the Council may deem necessary.
- (2) The Council may set aside, reserve and demarcate within a cemetery, in accordance with an approved layout plan, such areas as the Council may deem necessary for exclusive use by the members of a particular religion or

denomination, or for the burial of adults, children, security forces or war heroes, or for the creation and management of the following sections:

- (a) Berm-section where memorial work of a restricted size may be erected only on a concrete base provided by the Council at the top or bottom end of a grave the top surface of graves are level and the Council will cut planted as well as natural grass as part of its maintenance program;
- (b) Monumental-section where memorial work erected shall cover the entire grave area,
- (c) Semi-monumental section where memorial work, without a restriction on the size, may be erected only on a concrete base at the top end of a grave, which base will not be provided by the Council;
- (d) Natural-grass section where the surface of graves are levelled. Graves are identified by numbers affixed on top of the graves in such a way that lawnmowers can be used to cut the natural grass without damaging the numbers:
- (e) Traditional-section where memorial work does not have to cover the entire grave area, and may be erected on graves that are not supplied with a concrete base as required in the Berm-section. The surfaces of graves are level;
- (f) Columbarium-section where ashes may be buried in a niche in a memorial wall or wall of remembrance provided by the Council;

3. Official hours

- (1) The cemetery and the office of the caretaker shall be open during the hours as determined by the Council. The cemetery office of the caretaker shall be open from Monday to Friday.
- (2) Burials shall take place on the days and during the hours as determined by the Council.
- (3) The Council has the right to close a cemetery or any portion thereof to the public for such periods and for such reasons as the Council may deem fit
- (4) No person shall be or remain in a cemetery or part thereof before or after the official hours as determined by the Council or during any period when it is closed for the public, without the permission of the caretaker.

4. Register

- (1) A register of graves and burials shall be kept by the caretaker.
- (2) Such register shall be completed as far as possible immediately after a burial has taken place, with reference to the prescribed particulars contained in the burial order concerned.

5. Numbering of graves

- (1) All graves in a cemetery that are occupied or for which a burial has been authorised in terms of the provisions of this by-law shall be numbered by the Council.
- (2) The number shall be affixed to the grave and indicated on a plan to be kept available in the caretaker's office.

6. Reservation of graves

- (1) No person shall without the written consent of the Council, sell or transfer to any other person any right relating to a grave that has been obtained in terms of these by-laws. Should Council consent to such transfer it will be subject to the conditions that every transfer of the rights relating to a reserved grave be registered by the caretaker and the registration fee as determined by the Council be paid to the Town Treasurer.
- (2) Any person having reserved a grave and failing to use the grave within a period of 30 years from the date of the reservation, or omitting to notify the Council that he/she does not intend to use the grave, thus give the Council the right to sell the grave. The applicable charges as determined by Council shall be payable in respect of graves sold. Reservation of graves made and recorded in the official records of the Council in terms of any previous by-laws shall still be valid and the Council shall honour such reserved rights.
- (3) The Council shall not be obliged to refund any charges paid in respect of a grave sold in terms of subsection (2).

7. Transfer of reserved rights

- (1) A reserved right as contemplated in section 6(2) may not be transferred without the prior approval of the Council.
- (2) Application to transfer such right shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (3) If the application is granted, a certificate will be issued in favour of the transferee who will become the holder
- (4) The reserved right may be cancelled on request of the holder and if the request is approved by the Council, the amount paid by the holder (if any) minus 10% administration fees, will be refunded to the holder.

8. Number of corpses in a grave

- (1) Only one corpse may be buried in a grave with measurements as contemplated in this by-law.
- (2) Only two corpses may be buried in a grave with measurements as set out in sub-section 15(4): Provided that application for the burial of two corpses has been made to the caretaker in writing by completing and submitting the required application form before the first corpse is buried.
- (3) After the re-opening of a grave for the purpose of the burial of a second corpse as mentioned in sub-section 9(2) in that grave, a concrete layer of not less than 25 mm thick shall be cast above the coffin previously buried.

- (4) If on re-opening any grave, the soil is found by the Medical Officer of Health to be offensive or dangerous to the general health of people, the situation will be handled in consultation with the Medical Officer of Health.

9. Number of Corpses in a coffin

- (1) A deceased stillborn child and his or her deceased mother may be buried in the same coffin at the fee for a single interment of an adult.
- (2) Still-born twin babies may be buried in the same coffin at the fee for a single interment of a stillborn child.

CHAPTER 3

BURIALS

10. Application for a burial

- (1) Application for permission for a burial in a cemetery shall be made to the caretaker in writing by completing and submitting a prescribed application form. An application shall be accompanied by:
 - (a) the prescribed burial order;
 - (b) the prescribed fees; and
 - (c) a reservation certificate, if applicable;
- (2) No person shall, without the prior written approval of the Council, execute, cause, or allow a burial in any other place in the municipality than in a cemetery established and managed by the Council. This includes the burial of a corpse, of ashes and of a cadaver.
- (3) An application for permission for a burial must be submitted to the caretaker at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (4) No person shall execute a burial or cause or allow a burial to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave has been allocated for the purpose of the burial and a date, and time for the burial has been arranged with the caretaker.
- (5) In allocating a date and time for a burial, the caretaker shall have regard to the customs of the deceased's relatives and their religion or church affiliation.
- (6) In allocating a grave the caretaker shall as far as practicable possible allow the responsible person access to a plan of the cemetery showing the various sections, and allow him or her to select the section of his choice, but not the individual grave of his or her choice. The allocation of a specific grave is the sole responsibility and discretion of the caretaker and a burial shall be executed only in a grave allocated by him or her.

- (7) The Council may allow in its discretion a burial without payment of the prescribed fees in a part of a cemetery set aside for such purposes and in such manner as it may deem fit.
- (8) Notice of cancellation or postponement of a burial must be submitted to the caretaker at least 4 working hours before the time set for the burial.
- (9) The granting of permission for a burial and the allocation of a specific grave in a cemetery, does not give the applicant, the responsible person or any other person any right in respect of such grave other than to bury a corpse in the grave.
- (10) Except with the permission of the Council, no person shall place or cause any coffin constructed of any material other than natural wood or other perishable material to be placed in any grave.

11. Burial of a corpse

- (1) All graves shall be provided by the caretaker with the exception of brick-lined or concrete-lined graves, in which cases the brickwork or concrete work shall be carried out by the undertaker under the supervision of the caretaker and in conformity with the specifications applicable to ordinary graves.
- (2) There shall be at least 1200 mm of soil between the top of an adult coffin and the ground surface, and at least 900 mm of soil between the top of a child coffin and the ground surface.
- (3) All corpses shall be placed in a coffin for the burial thereof, except as provided for the Muslim community.
- (4) No person shall without the prior permission of the caretaker conduct any religious ceremony or service according to the rites of one denomination in any portion of a cemetery reserved by the Council in terms of the provisions of this by-law, for the use of some other denomination.
- (5) No person shall permit any hearse in a cemetery to leave the roads provided, and every hearse shall leave the cemetery as soon as possible after the funeral for which it was engaged.
- (6) Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker as to the route to be taken within the cemetery.
- (7) No person shall convey or expose a corpse or any part thereof in an unseemly manner in any street, cemetery or public space.
- (8) Every application and every document relating to any burial shall be marked with a number corresponding to the number in the register referred to in section 4 and shall be filed and preserved by the Council for a period of not less than ten years.
- (9) Every coffin or body upon being placed in any grave shall, at once, be covered with 500 mm of earth.

- (10) No person shall disturb any human remains or any soil adjacent thereto in any cemetery, except where such disturbance is expressly permitted by this bylaw or by an order of court.

12. Burial of ashes

- (1) Ashes may be buried in a coffin and only two such coffins containing ashes may be buried in an extra deep grave; provided that a coffin does not exceed the average body weight of 70 kg, and further-more that the grave is re-adjusted to the prescribed depth and measurements.
- (2) No person shall execute a burial or cause a burial of ashes to be executed in a cemetery, unless written permission for the burial has been obtained, a specific grave or niche has been allocated for the purposes of the burial and a date, and time for the burial has been arranged with the caretaker.
- (3) Application for the burial of ashes for definite periods or in perpetuity, or for the provision of memorial tablets of approved material to be fixed on the building, columbarium or other facility shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (4) Niches will be allocated by the caretaker strictly in the order in which the applications therefore are received and no reservations for future use will be made.
- (5) An application for permission for a burial must be submitted at least 24 working hours prior to the planned burial, failing which the caretaker may refuse the application.
- (6) An urn or casket containing ashes that has been deposited in a building, columbarium, or other facility shall not be removed without the caretaker's prior written consent.
- (7) Every niche containing ashes shall be sealed by a tablet approved by the Council and shall only be opened for the purpose of withdrawing an urn or casket contained therein for disposal elsewhere, or for the purpose of depositing an additional urn or casket therein where after it will once again be sealed.
- (8) Application for the opening of a niche shall be made to the caretaker in writing by completing and submitting a prescribed application form.
- (9) No person shall introduce any material into the columbarium for the purpose of constructing or erecting any memorial work therein unless and until:
- (a) approval for the burial has been obtained from Council;
 - (b) approval for the erection of the memorial work has been obtained from Council; and,
 - (c) the prescribed fees have been paid which shall be determined by Council from time to time.

- (10) Any person engaged upon any work on the columbarium, shall execute such work to the satisfaction of the caretaker, and such work shall be undertaken during the official office hours of the cemetery.
- (11) No permanent wreaths, sprays, flowers, or floral tributes may be placed in or on a columbarium.
- (12) The columbarium may be visited daily during the official cemetery hours as determined by Council.
- (13) Plaques shall be made of material approved by the Council and shall be affixed simultaneously with the placing of the ashes and within 30 days of the obtaining of the consent.

13. Burial of a cadaver

The remains of a corpse used at an educational institution for the education of students, generally known as a cadaver, may be buried in one coffin and two such coffins containing cadavers may be buried in an extra deep grave as contemplated in sub-section 15(4) : Provided that a coffin does not exceed the average body weight of 70 kg, and furthermore that the grave is re-adjusted to the prescribed depth and measurements.

14. Persons dying outside the municipal area

The provisions of these by-laws shall apply *mutatis mutandis* to any burial in a cemetery of a person who has died outside the municipality

15. Grave measurements

- (1) The excavation of a grave for an adult shall be at least 1820 mm deep, 2300 mm long, and 760 mm wide.
- (2) The excavation of a grave for a child shall be at least 1370 mm deep, 1520 mm long, and 610 mm wide.
- (3) In the event that a grave of a greater depth, length or width than those specified above is required, application in respect thereof, together with extra prescribed fees that are due, shall be made to the caretaker together with the application to obtain permission for a burial.
- (4) The excavation of an extra deep grave for the burial of two corpses shall be at least 2400 mm deep 2300 mm long and 760 mm wide.
- (5) Deviations from measurements of graves shall be as follows:

Extra wide	:	2300 mm long
	:	840 mm wide
Extra long	:	2530 mm long
	:	760 mm wide
Rectangular small	:	2300 mm long
	:	900 mm wide

Brick-nogging : 2600 mm long
: 1050 mm wide

- (6) The area of a rectangular grave for an adult shall be 1500 mm wide by 2600 mm long.
- (7) The area of a grave for an adult shall be 1210 mm wide by 2430 mm long.
- (8) The area of a grave for a child shall be 1210 mm wide by 1520 mm long. If a coffin is too large, an adult grave shall be used.

CHAPTER 4

RE - OPENING OF GRAVES AND EXHUMATIONS

16. Conditions of exhumations

- (1) No person may exhume or cause to be exhumed a body without the written consent of the -
 - (a) Premier of the Provincial Government;
 - (b) the Council;
 - (c) the provincial Department of Health;
 - (d) the Administrator of cemeteries;
 - (e) the Council's Medical Officer of Health or
 - (f) by an order of a court having jurisdiction over such matters.
- (2) Whenever an exhumation is to take place, the officer-in-charge must inform the Provincial Commissioner of the South African Police Services.
- (3) A member of the South African Police Services must always be present when an exhumation is being conducted.
- (4) An exhumation must not take place when the cemetery is open to the public and must take place under the supervision of the officer-in-charge.
- (5) If remains are to be exhumed from any grave, only the undertaker under the supervision of the officer-in-charge, may cause the grave to be excavated for such exhumation;
- (6)
 - (a) If a grave is to be excavated for exhumation, the officer-in-charge must be given 48 hours written notice before the time of exhumation, and
 - (b) The authority referred to in paragraph (1)(d) of this Section and the prescribed fee must accompany such notice.

- (7) A person who wishes to exhume the remains of an indigent person must pay the costs incurred by the Council at the time of burial, to the Administrator of Cemeteries.
- (8) The person carrying out the exhumation must ensure that the body and grave are properly disinfected and deodorized.
- (9) The South African Police Services must -
 - (a) if there is proof of illegal burial immediately exhume the body; and
 - (b) take it to a government mortuary for investigation.
- (10) A grave of victims of conflict and a grave which is older than 60 years may only be exhumed with the permission of the South African Heritage Resources Agency.
- (11) A Commonwealth war grave may only be exhumed in accordance with the provisions of section 3 of the Commonwealth War Graves Act, 1992.

17. Exhumation and reburial

- (1) The Council may, if a body has been buried in contravention of these By-laws, cause the body to be exhumed and re-buried in another grave.
- (2) The relatives of the deceased must be -
 - (a) notified of the intended exhumation and re-burial; and
 - (b) allowed to attend.

18. Screening of exhumation

- (1) A grave from which a body is to be exhumed must be screened from the view of the public during the exhumation.
- (2) The person carrying out the exhumation must provide a suitable receptacle for each body or remains.

CHAPTER 5

MISCELLANEOUS

19. Injuries and damages

- (1) A person using a cemetery do so at his own risk, and the Council accepts no liability whatsoever for any personal injuries sustained by such person or for any loss of or damage to such person's property relating to or resulting from the aforementioned usage of the cemetery.
- (2) A person using a cemetery accepts full responsibility for any incident, damages or injuries that may be caused by or that may result from the aforementioned use of the cemetery and he or she accordingly indemnifies

the Council, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by himself, his or her dependants or third parties in respect of any patrimonial loss, consequential damages, injuries or personal prejudice that may be suffered or sustained in connection with or resulting from such a person's use of a cemetery. The aforementioned indemnity also applies to injuries sustained by employees of the Council while on duty at the cemetery, as well as damages to Council property at the cemetery.

20. Fire-arms and traditional weapons

No fire-arms and traditional weapons shall be allowed in a cemetery.

21. Offences and penalties

- (1) Any person contravening or failing to comply with any of the provisions of these by-laws shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).
- (2) Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

22. Complaints

Any person wishing to lodge a complaint shall lodge such complaint, in writing with the Director.

23. Charges

The charges set forth in "the tariff" in respect of the various items therein contained, shall be paid to the Council in advance.

24. Rights on Graves

No person shall acquire any right to or interest in any ground or grave in any cemetery.

25. Consents, Notices and Orders

Any written consent, notice or other order issued by the Council in terms of these by-laws, with the exception of consent by the Director or any officer authorised by him and shall be prima force evidence of the contents of such a signed consent, notice or other order.

26. Religious Ceremonies

- (1) The members of any religious denomination may conduct religious ceremonies in connection with any interment of memorial service subject to the control and by-laws of the Council.
- (2) No animal may be slaughtered on the premises of the cemetery regardless of any religious ceremony which may require an animal to be slaughtered.

27. Hearses and vehicles at Cemeteries

- (1) No person shall cause any hearse or vehicle, as defined by the Road Traffic Act, while within a cemetery to depart from the carriage drives or certain any hearse within any cemetery after the removal of the body from such hearse or vehicle. Every hearse or vehicle such removal shall leave the cemetery by the route indicated by the caretaker.
- (2) The cemetery is a public place and all laws applicable to the driving of a vehicle and the use of a public road will be applicable inside the premises of the cemetery.

28. Exposure of Bodies

No person shall convey a dead body, which is not covered, or any such body or any part thereof in any street, cemetery or public place.

29. Instruction of Caretaker

Every person taking part in any funeral procession or ceremony shall comply with the directions of the caretaker while such person is within a cemetery.

30. Music Inside Cemetery

Only sacred singing shall be allowed in any cemetery, except in the case of police and military funerals.

31. Interments Attended by large Numbers of People

In any case where it is probable that an unusually large number of persons will be present at any interment, the person giving notice of such interment shall notify the caretaker the day before the funeral.

CHAPTER 6**REPEAL OF BY-LAWS****Repeal of existing By-laws**

32. The Council's existing Cemeteries by-laws are hereby repealed.

Short title and commencement

33. These by-laws shall be called the Cemetery By-laws, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 82**8 July 2014****UMTSHEZI MUNICIPALITY****BY-LAW RELATING TO FIRE SAFETY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act [Act No. 108 of 1996], the By-law Relating to Fire Safety.

Table of contents

CHAPTER 1: DEFINITIONS, PURPOSE SCOPE AND APPLICATION

1. Definitions
2. Purpose, scope and application of this by-law

CHAPTER 2: ADMINISTRATIVE PROVISIONS

3. Administration and enforcement
4. Delegation
5. Enforcement provisions
6. Authority to investigate
7. Failure to comply with provisions
8. Denial, suspension or revocation of approval or certificate
9. Records required
10. Charges
11. Indemnity
12. Reporting fire hazard and other threatening danger

CHAPTER 3: FIRE PROTECTION OF BUILDINGS

13. General
14. Access for emergency vehicles
15. Division and occupancy separating elements
16. Fire doors and assemblies
17. Escape routes
18. Tents

CHAPTER 4: FIRE SAFETY EQUIPMENT

19. Fire extinguishers and blankets
20. Testing and maintenance of fire protection systems
21. Interference with and access to fire protection systems and fire extinguishers
22. Fire alarms and fire hydrants

CHAPTER 5: PUBLIC SAFETY

23. Prevention and control of overcrowding
24. Attendance of service
25. Formulation of emergency evacuation plan
26. Displaying of escape route plans
27. Barricading of vacant buildings

CHAPTER 6: HOUSEKEEPING

28. Combustible waste and refuse
29. Dust
30. Combustible or flammable substances and sweeping compounds
31. Accumulations in chimneys, flues and ducts
32. Sources of ignition

33. Smoking
34. Electrical fittings, equipment and appliances
35. Flame-emitting device

CHAPTER 7: FIRE HAZARDS

36. Combustible material
37. Lighting of fires and burning of combustible material
38. License to deal in fireworks
39. Requirements for the handling and storage of fireworks
40. Trade in fireworks
41. Fireworks for sale to the public
42. Use or exploding of fireworks
43. Pyrotechnic displays
44. Transport of fireworks
45. Use of other explosives
46. Distribution points

CHAPTER 8: FLAMMABLE SUBSTANCES

47. Application of chapter
48. Storage and use of flammable substances
49. Application for a flammable substance certificate
50. Permanent or temporary above ground storage tank for flammable liquid
51. Underground storage tank for flammable liquid
52. Bulk storage depot for flammable substances
53. Small installations for liquefied petroleum gas
54. Bulk storage vessel for liquid petroleum gas
55. Termination of the storage and use of flammable substances
56. Reporting accidents
57. Flammable stores
58. Container handling and storage
59. Spray rooms and booths
60. Liquid petroleum gas containers

CHAPTER 9: TRANSPORTATION OF DANGEROUS GOODS

61. Dangerous goods certificate

CHAPTER 10: GENERAL PROVISIONS

62. State Bound
63. Offences and penalties
64. Repeal of laws and savings
65. Short title and commencement

SCHEDULE 1: FORMS

- A. POPULATION CERTIFICATE
- B. APPLICATION FOR A FLAMMABLE SUBSTANCES CERTIFICATE
- C. FLAMMABLE SUBSTANCE CERTIFICATE
- D. APPLICATION FOR DANGEROUS GOODS CERTIFICATE
- E. DANGEROUS GOODS CERTIFICATE
- F. CONSTRUCTION OF SPRAY BOOTHS
- G. APPLICATION TO OPERATE A PUBLIC DISPLAY OF FIREWORKS
- H. AUTHORISATION CERTIFICATE FOR A PUBLIC DISPLAY OF FIREWORKS

SCHEDULE 2

APPLICABLE LEGISLATION

SCHEDULE 3

SANS CODES OF PRACTICE AND SPECIFICATIONS

CHAPTER 1: DEFINITIONS, PURPOSE SCOPE AND APPLICATION**1. Definitions**

In this By-law, unless the context otherwise indicates:

“above ground storage tank” means a tank situated above ground for the storage of a flammable liquid;

“area” means the area of jurisdiction of the Umtshezi Municipality;

“automatic releasing hold-open device” means a device used to hold open a fire door and operates on the detection of a fire to close the fire door;

“boundary” means any lateral or street boundary of a site;

“building” means:

- a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with:
 - i) the accommodation or convenience of human beings or animal;
 - ii) the manufacture, processing, storage or sale of any goods;
 - iii) the rendering of any service;
 - iv) the destruction or treatment of combustible refuse or combustible waste; and
 - v) the cultivation or growing of any plant or crop.

b) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;

c) any fuel pump or any tank used in connection therewith;

d) any part of a building, including a building as defined in paragraph (a), (b) or (c); and

e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm-water disposal, electricity supply or other similar service in respect of the building;

“bund wall” means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;

“chief fire officer” means the person in charge of a service, or the acting chief officer, as contemplated in the Fire Brigade Services Act, Act 99 of 1987;

“council” means the council of the Umtshezi Municipality;

“combustible material” means combustible refuse, combustible waste or any other material capable of igniting;

“combustible waste” means combustible waste material which is salvageable, retained or collected for scrap or reprocessing and may include all combustible fibers, hay, straw, hair, feathers, down, wood shavings, turnings, all types of paper products, soiled cloth trimmings and cuttings, rubber trimmings and buffing, metal fines, and any mixture of the above items, or any other salvageable combustible waste material;

“constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“controlling authority” means either a chief fire officer, a municipal manager or their respective delegates as contemplated in sections 3 and 4 of this By-law;

“dangerous goods” means commodities, substances and goods that are capable of posing a significant risk to health and safety or to property or the environment and that are listed in SANS 10228;

“designated area” shall mean a place designated as such in terms in chapter 7;

“dealer” means a person dealing with fireworks sales;

“division separating element” means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SANS 10400;

“emergency evacuation plan” means a plan specifically designed to aid in the evacuation of occupants from a building in the event of a fire or other threatening danger and assigns responsibility to various staff, indicates escape routes to be used and provides for general contingencies for a safe and quick evacuation from a building;

“**emergency route**” means that part of an escape route that provides fire protection to the occupants of any building and which leads to an escape door;

“**emergency vehicle**” means any fire, rescue or other vehicle intended for use at fires and other threatening dangers;

“**entertainment and public assembly occupancy**” means a place where people gather to eat, drink, dance or participate in other recreation;

“**escape route**” means the entire path of travel from the furthest point in any room in a building to the nearest escape door and may include an emergency route;

“**escape route plan**” means a diagram indicating the floor layout, the occupants current position and the route of travel to the nearest primary and secondary escape routes in the building, as well as the action to be taken in the event of a fire or other threatening danger;

“**escape door**” means the door in an escape route, which at ground level leads directly to a street or public place or to any approved open space, which leads to a street or public place;

“**Fire Brigade Services Act**” means the Fire Brigade Services Act, 1987 (Act 99 of 1987);

“**fire damper**” means an automatic damper and its assembly that complies with the requirements contained in SANS 193;

“**fire door**” means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

“**firework**” has the meaning assigned thereto in the Explosives Act, No. 26 of 1956, as amended and the Regulations framed in terms thereof and include any article or thing commonly recognized as a firework;

“**fireworks inspector**” means a person deputized to act as an inspector under the Explosives Act No. 26 of 1956 as read with subsequent Explosives Amendment Acts or Inspector of Explosives.

“**fire extinguisher**” means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

“**fire hazard**” means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensify of the fire or explosion and which poses a threat to life or property;

“**fire lanes**” means the road, path or other passageway constructed or designed to allow access for emergency vehicles;

“**fire protection system**” means any device or system designed and installed to:

- a) detect, control or extinguish a fire; or
- b) alert occupants or the Fire Service, or both, to a fire, but excludes portable and mobile fire extinguishers;

“**fire wall**” means a wall that is able to withstand the effects of a fire for a specific period of time as contemplated in the National Building Regulations (T1) read with SANS 10400;

“**flammable gas**” as contemplated in SANS 10228, means a gas that at 20°C and at a standard pressure of 101,3 kilopascals:

- a) is ignitable when in a mixture of 13% or less (by volume) with air; or
- b) has a flammable range with air of at least 12 percentage points, regardless of the lower flammable limit;

“**flammable liquid**” means a liquid of mixtures of liquids or a liquid containing solids in solution or in suspension that give off a flammable vapour at or below 60,5°C and also includes a liquid within the following danger groups as determined in SANS 10228:

DANGER GROUP BASED ON FLAMMABILITY		
1	2	3
DANGER GROUP	CLOSED CUP FLASH POINT	INITIAL BOILING POINT
i.	-	≤35
ii.	<23	>35
iii.	≥23 ≤ 60,5	>35
iv.	>60,5 < 100	>35

“**flammable substance**” means a flammable liquid or a flammable gas;

“**flammable store**” means a store that is used for the storage of flammable liquids and complies with the criteria set out in section 49 of this By-law;

“**Hazardous Substances Act**” means the Hazardous Substance Act, 1973 (Act 15 of 1973);

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

“Municipal Manager” means a person appointed in terms of section 82 of the Municipal Structures Act;

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

“National Building Regulations” means the regulations promulgated in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and

- a) National Building Regulations (A2) means the provisions regulating the submission of building plans and particulars to the municipality;
- b) National Building Regulations (A20) means the provisions regulating the classification and designation of occupancies;
- c) National Building Regulations (A21) means the provisions regulating the population of a building;
- d) National Building Regulations (T1) means the provisions regulating general requirements for fire protection of a building; and
- e) National Building Regulations (T2) means the provisions regulating the offences for non-compliance with the National Building Regulations (T1);

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act 93 of 1996);

“non-combustible” means a substance or material classified as non-combustible when tested in accordance with SANS 10177: Part 5;

“occupancy” means the particular use or type of use to which a building or portion thereof is normally put or intended to be put as provided for in the National Building Regulations (A20);

“occupancy separating element” means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations (T1) read with the SANS 10400;

“Occupational Health and Safety Act” means the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

“operator” means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act;

“owner” means:

- a) in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;
- b) in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question;
- c) in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and maintenance of the installation, provided that such a person is not the owner mentioned in (b); and
- d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

“pavement braai” means a movable or permanent device, fixture, structure, braai stand or a situation whereby alterations are conducted to shop fronts or buildings in order to accommodate fitted braai's for the purpose of preparing or cooking foodstuffs on or next to pavements or sidewalks;

“peace officer” shall have the meaning assigned thereto in the Criminal Procedure Act, 1997 (Act 51 of 1997), in respect of persons authorized by the Municipality to enforce the provisions of this By-law;

“Person in charge” means:

- a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilization of the premises;
- b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilization of the building;
- c) in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilization of the installation, provided that such a person is not the person mentioned in (a), and
- d) in the event of the controlling authority being unable to determine the identity of a person mentioned in (a), (b) and (c) any person who is in the opinion of the controlling authority deemed to be in charge of such premises, building or installation;

“population” means the population determined in accordance with the National Building Regulations (A21);

“**premises**” means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft or a place where fireworks is kept by a dealer;

“**public place**” means any square park, recreation ground or open space which:

- a) is vested in the Municipality;
- b) the public has the right to use; or
- c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“**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;

“**SANS Codes**” means South African National Standards (SANS) Codes of Practice and Specifications issued in terms of the Standards Act, 1993 (Act 29 of 1993) and includes any reference to SABS Codes;

“**service**” means a fire brigade service as defined in the Fire Brigade Services Act, 1987 (99 of 1987);

“**site**” means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

“**Standards Act**” means the Standards Act, 1993 (Act 29 of 1993);

“**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 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 judicial officer;

“**storage vessel**” means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act, 1993 (85 of 1993);

“**summary abatement**” means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

“**tank**” for purposes of chapter 9 of this By-law, means a container mounted permanently or temporary on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

“**technician**” means the person qualified to discharge fireworks safely;

“**this By-law**” includes the Schedules attached to this By-law;

“**underground tank**” means a tank used or intended to be used for the storage of flammable liquid wholly sunk into and below the surface of the ground;

“**vehicle**” means a vehicle as defined in the National Road Traffic Act, 1996 (93 of 1996) and includes the following:

- a) “**road tank vehicle**” means a tank truck, tank trailer or truck-tractor and tank-semi-trailer combination;
- b) “**tank-semi-trailer**” means a vehicle with a tank mounted on it or built as an integral part of it and so constructed that, the semi trailer is drawn by a truck-tractor or another trailer, through a fifth wheel connection part of the load rest on the towing vehicle;
- c) “**tank trailer**” means a vehicle with a tank mounted on it or built as an integral part of it, and so constructed that when the tank trailer is drawn by a tank truck, practically all of its load rests on its own wheels;
- d) “**tank truck**” means a single, self propelled vehicle with a tank mounted on it;
- e) “**truck tractor**” means a self-propelled vehicle used to pull a tank-semi-trailer; and
- f) any other vehicle, which in the opinion of the controlling authority, is a vehicle contemplated in chapter 9 of this by-law.

2. Purpose, scope and application of this By-law

1) The purpose and scope of the By-law is:

- a) to promote the achievement of a fire-safe environment for the benefit of all persons within the area of jurisdiction of the Municipality;

- b) to repeal all existing relevant By-laws of the Municipality; and
 - c) to provide for procedures, methods and practices to regulate fire safety within the area of jurisdiction of the Municipality.
- 2) This By-law is applicable to all persons within the jurisdiction of the Municipality and includes both formal and informal sectors of the community and economy.

CHAPTER 2: ADMINISTRATIVE PROVISIONS

3. Administration and enforcement

- 1) The Chief Fire Officer is responsible for the administration and enforcement of this By-law.
- 2) Where no Chief Fire Officer has been appointed in terms of the Fire Brigade Services Act, the Municipal Manager is responsible for the administration and enforcement of this By-law.
- 3) Where there is no service established in the area of jurisdiction of the Municipality, the Municipal Manager is responsible for the administration and enforcement of this By-law.

4. Delegation

- 1) A Chief Fire Officer may delegate any power granted to him in terms of this By-law in accordance with section 19 of the Fire Brigade Services Act.
- 2) A Municipal Manager may delegate any powers granted to him in terms of this By-law in accordance with the system of delegation of the Municipality developed in terms of section 59 of the Municipal Systems Act.

5. Enforcement provisions

- 1) A controlling authority may, whenever he regards it necessary or expedient to do so, enter any premises at any reasonable time to ensure compliance with this By-law.
- 2) A controlling authority has the authority to summarily abate any condition which is in violation of any provision of this By-law and which presents an immediate fire hazard or other threatening danger.
- 3) A controlling authority must remedy any violation mentioned in subsection (2), by performing any act, and may also:
 - a) call for the immediate evacuation of the premises;
 - b) order the closure of the premises until such time as the violation has been rectified;
 - c) order the cessation of any activity; and
 - d) order the removal of the immediate threat.
- 4) Any costs of such action must be borne by the person deemed by a controlling authority to be responsible for the existence of such condition.

6. Authority to investigate

Notwithstanding anything to the contrary contained in any other law, a controlling authority has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

7. Failure to comply with provisions

- 1) When a controlling authority finds that there is non-compliance with the provisions of this By-law, excluding the circumstances as provided for in section 5(2), a written notice, including the following, must be issued:
 - a) confirmation of the findings;
 - b) provisions of this By-law that are being contravened;
 - c) the remedial action required; and
 - d) the time within which the notice must be complied with.
- 2) An order or notice issued under this By-law must be served either by personal delivery or registered mail upon a person who is in the opinion of the controlling authority, deemed to be the appropriate person.
- 3) For unattended or abandoned premises, a copy of such order or notice must be posted on the premises in a conspicuous place at or near the entrance of such premises and the order or notice must be mailed by registered mail, to the last known address of the owner, the person in charge of the premises or both.
- 4) Notwithstanding the provisions contained in subsection (1), a spot fine may be issued when a controlling authority finds that there is non-compliance with the provisions of this Bylaw.

8. Denial, suspension or revocation of an approval or a certificate

A controlling authority may refuse, suspend or revoke an approval or a certificate required by this By-law for:

- a) failure to meet the provisions of this by-law for the issuance of the approval or certificate, or
- b) non-compliance with the provisions of the approval or certificate.

9. Records required

The safekeeping of all relevant records and documents is the responsibility of the controlling authority.

10. Charges

- 1) The Municipality may determine the fees payable by a person on whose behalf; the controlling authority rendered a service as contemplated in section 10 of the Fire Brigade Services Act.
- 2) The Municipality may charge a fee for the provision of an inspection, re-inspection or any other service as well as the issuing of permits, approvals or certificates in accordance with the applicable local government legislation regulating the charging of fees.

11. Indemnity

The Municipality, controlling authority or a member of a service is not liable for damage or loss as a result of bodily injury, loss of life or loss of or damage to property or financial loss, which is caused by or arises out of or in connection with anything done or performed in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of this By-law.

12. Reporting a fire hazard and other threatening danger

An owner or the person in charge of premises, upon discovering any evidence of a fire hazard or other threatening danger pertaining to this By-law, must immediately notify the controlling authority.

CHAPTER 3: FIRE PROTECTION OF BUILDINGS

13. General

The controlling authority in terms of section 4 (3) or section 6 (1) of this By-law must abate a contravention of the National Building Regulations relating to fire and safety of buildings.

14. Access for emergency vehicles

- 1) When, in the opinion of the controlling authority, premises are not readily accessible from public roads it must be provided with emergency vehicle access and, notwithstanding the provisions in the National Building Regulations (T1), may be required to comply with the following:
 - a) An access road must be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises.
 - b) A motorized or electronically operated gate must be equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device.
 - c) Fire lanes must be provided for all premises which are set back more than forty-five (45) meters from a public road or exceed nine (9) meters in height and are set back over fifteen (15) meters from a public road.
 - d) Fire lanes must be at least four (4) meters in width, the position of which must be decided upon after consultation with the controlling authority and the area from ground level to a clearance height of four (4) meters above the fire lane must remain unobstructed.
 - e) A cul-de-sac that is more than ninety (90) meters in length, must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises
- 2) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the controlling authority.
- 3) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

15. Division and occupancy separating elements

An owner or person in charge of a building may not alter a division or occupancy separating element in any way that it would render it less effective or to allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

16. Fire doors and assemblies

- 1) Subject to the provisions of SANS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.
- 2) A fire door may be kept open, only when it is equipped with an automatic releasing hold-open device approved by the municipality.
- 3) A fire door and assembly may not be rendered less effective through the following actions:
 - a) altering the integrity, insulation or stability of a particular class of door;
 - b) disconnecting the self closing mechanism;
 - c) wedging, blocking or obstructing the door so that it cannot close;
 - d) painting the fusible link actuating mechanism of a door;
 - e) disconnecting or rendering less effective an electric or electronic release mechanism; or
 - f) any other action that renders a fire door or assembly less effective.

17. Escape routes

- 1) A component which forms part of an escape route such as the feeder routes, access doors, emergency routes and escape doors must not be obstructed or rendered less effective in any way, which could hinder or prevent the escape of any person from a building in the case of fire or any other emergency.
- 2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Municipality.
- 3) Where required by the controlling authority, an escape route must be clearly indicated with signage, which complies with SANS 1186, indicating the direction of travel in the event of fire or any other emergency.

18. Tents

- 1) Prior to the erection and usage of a tent as an occupancy contemplated in the National Building Regulations (A20), an applicant must:
 - a) submit an application in terms of the National Building Regulations (A2) to the Municipality for the erection and usage of the tent, and
 - b) submit an application in terms of the section 23(4) of this By-law to the controlling authority for a temporary population certificate.
- 2) The application submitted in terms of subsection (1)(a) must comply with the following:
 - a) The tent must be erected at least 4,5 meters from a boundary, combustible store or material and the controlling authority may require that this distance be increased should the situation require it.
 - b) Where tents are erected adjacent to one another, an unobstructed minimum distance of 4,5 meters must be provided between them and where applicable between the stakes and guidelines of the adjacent tents, in order to ensure emergency vehicle access.
 - c) The requirements set out in the National Building Regulations (T1) must be complied with in the following instances:
 - i) where the population of a tent exceeds twenty-five (25) people;
 - ii) where a tent is occupied during the hours of darkness;
 - iii) for seating arrangements and aisle dimensions; and
 - iv) for the provisions of fire extinguishers.
 - d) The population density of a tent must comply with the National Building Regulations (A21).
 - e) No cooking may be carried out in the tent occupied by the public and where cooking is required, it must be out in a separate tent or an area to which the public does not have access.
 - f) No open fire is permitted in a tent and any other flame emitting device, such as a candle, lantern or torch but not limited thereto, is only permitted in a tent after approval by the controlling authority.
 - g) No open fire or flame is permitted within five (5) meters of a tent, stake or guideline of a tent.

- h) Smoking is prohibited in a tent and a “**No Smoking**” sign must be prominently displayed at each entrance and must comply with SANS 1186: Part 1.
 - i) Lighting and wiring installed in a tent must comply with the requirements set out in SANS 10142 in such a manner that direct contact is not made with combustible material and the radiated heat does not pose an ignition hazard.
- 3) Notwithstanding the provisions in subsections (1) and (2), the controlling authority may request the applicant to fulfill additional requirements for the erection and usage of a tent.

CHAPTER 4: FIRE SAFETY EQUIPMENT

19. Fire extinguishers and blankets

- 1) Fire extinguishers must be provided and installed on premises as required by the controlling authority and in accordance with the National Building Regulations (T1) and (T2).
- 2) Fire extinguishers must be maintained strictly in accordance with the requirements of the Occupational Health and Safety Regulations, SANS 1475: Part 1, SANS 1571, SANS 1573 and SANS 10105: Part 1.
- 3) A juristic or a natural person may not fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SANS 1475: Part 1, unless such a person is the holder of a permit issued by the South African Bureau of Standards or certificate of competence issued by the South African Qualifications Certification Committee.
- 4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of permit or certificate mentioned in subsection (3).
- 5) When the controlling authority finds that a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection (3), the controlling authority must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such permit or certificate.
- 6) When, in the opinion of the controlling authority, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the controlling authority must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SANS 1475: Part 1 and SANS 1571.
- 7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.
- 8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.
- 9) A fire blanket is to be provided and installed on any such premises utilized for business where cooking is carried out and the fire blanket must be located in the kitchen near the cooking device in an easy accessible location.

20. Testing and maintenance of fire protection systems

- 1) A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the test and maintenance of the system.
- 2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test and where applicable the parties who monitor the fire protection system.
- 3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2) read in conjunction with a recognized national code or standard, and in the absence of a national code or standard an applicable international code or standard must be used.
- 4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.
- 5) The person carrying out the maintenance of a fire protection system must inform the owner or person in charge of the premises in writing, of any defects discovered, maintenance performed or

still outstanding and where the person in charge has received such notice, he must without delay inform the owner accordingly.

- 6) The owner or person in charge of the premises must immediately notify the controlling authority when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the controlling authority as soon as the system is restored.
- 7) The owner or person in charge of the premises must take all steps deemed necessary by the controlling authority to provide alternate equipment to maintain the level of safety within the premises.

21. Interference with and access to fire protection systems and fire extinguishers

A person is not permitted to render less effective, inaccessible, or tamper with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

22. Fire alarms and fire hydrants

- 1) Without compensation to the owner of the premises concerned, the controlling authority may cause:
 - a) a fire alarm;
 - b) a transmission instrument for calls of fire or other emergency; or
 - c) a transmission instrument for warning residents of a fire or other emergency to be affixed to any building, wall, fence, pole or tree.
- 2) Without compensation to the owner of a premises, the controlling authority may cause the position of a fire hydrant and fire alarm or any other fire protection information to be marked on any building, wall fence, pole, tree, road, pavement or hydrant cover with a board, decal, metal plate or painted marker or by any other means.
- 3) The controlling authority may at any time cause a fire alarm, other transmission instrument mentioned in subsection (1), board, decal, metal plate or painted marker to be removed without compensating an owner of the premises concerned.
- 4) An unauthorized person is prohibited from removing, defacing, altering, tampering or damaging a fire alarm, other transmission instrument mentioned in subsection (1), board, decal, metal plate or painted marker.
- 5) A person may not render less effective, inoperative, inaccessible, or tamper and interfere with a fire hydrant.

CHAPTER 5: PUBLIC SAFETY

23. Prevention and control of overcrowding

- 1) Prior to the usage of a premises for entertainment or public assembly, the owner or person in charge of such premises must submit an application for a population certificate to the controlling authority, as prescribed in the Schedule 1 of this by-law.
- 2) The controlling authority may request additional information from the applicant.
- 3) Notwithstanding the provision in subsection (1), the controlling authority may instruct the owner or person in charge of the premises to apply for either a temporary or a permanent population certificate, should the premises be used in respect of any other occupancy contemplated in the National Building Regulations (A20).
- 4) A temporary population certificate is valid for a period not exceeding thirty (30) calendar days.
- 5) The controlling authority must refuse to issue a temporary or permanent population certificate if the premises do not comply with the requirements of the National Building Regulations (T1), and where the controlling authority is of the opinion that the non-compliance of the premises can be remedied, he must instruct the owner or person in charge of the premises in writing, to take all reasonable steps to render the premises safe prior to the usage of the premises and the issuing of the temporary or permanent population certificate.
- 6) If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the temporary or permanent population certificate, he must act in terms of sections 5(2) or 6(1) and section 7 of this By-law.
- 7) The temporary and permanent population certificate is valid only for the premises or portion of the premises for which it was issued, and when changes of occupancy occur or alterations are made to premises for which the certificate was issued, the owner or person in charge of the premises must reapply for the certificate in accordance with subsection (1).

- 8) The temporary or permanent population certificate must be displayed in a clearly visible and conspicuous position in or on the premises for which the certificate was issued.
- 9) The owner or the person in charge of the premises must prevent overcrowding by limiting the maximum population to that which is specified on the temporary or permanent population certificate.
- 10) A person must vacate the premises that are overcrowded when instructed to do so by the controlling authority, the owner or person in charge of the premises.

24. Attendance of a service

- 1) When the controlling authority is of the opinion that a service is required to be in attendance during a function in a place used for entertainment or public assembly, he may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a vehicle or equipment of a service to be in attendance on the premises for the duration of the function or part thereof.
- 2) When attendance of a service during a function in a place used for entertainment or public assembly involves costs, the costs incurred by the Municipality may be recovered from the person in charge of the function in accordance with section 10 of this By-law.

25. Formulation of an emergency evacuation plan

- 1) The owner or person in charge of a school, hospital, residential institution, hotel, lodge, guest house, hostel or other similar occupancy which has a population in excess of twenty-five (25) persons (including staff), must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- 2) The controlling authority may order the owner or person in charge of the premises, other than those contemplated in subsection (1), to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- 3) The plan mentioned in subsection (1) and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.
- 4) The emergency evacuation plan must be tested in its entirety at a minimum of six monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.
- 5) The register mentioned in subsection (4) must contain the following information:
 - a) the date and time of the test;
 - b) the number of participants;
 - c) the outcome of the test and any corrective actions required; and
 - d) the name and signature of the person supervising the test.
- 6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the controlling authority.
- 7) The controlling authority may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

26. Displaying of escape route plans

- 1) In a hospital, residential institution, hotel, guest house, lodge, hostel or other similar occupancy designed or intended for or used by patients, residents or transient persons, irrespective of the population, the escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.
- 2) The displaying of escape route plans for any other premises is subject to the approval of the controlling authority.

27. Barricading of vacant buildings

The owner or person in charge of a building or portion thereof which is vacant must remove all combustible waste or refuse there from and lock, barricade or otherwise secure all windows, doors and other openings in the building to the satisfaction of the Municipality which will prevent the creation of a fire hazard caused by the entering of an unauthorized person.

CHAPTER 6: HOUSEKEEPING**28. Combustible waste and refuse**

- 1) The owner or person in charge of the premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.
- 2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other threatening danger as prescribed in the applicable legislation, dealing with the storage and disposal of that specific type of combustible waste and refuse, or in the absence of applicable legislation as determined by the controlling authority.

29. Dust

The owner or person in charge of the premises or a portion thereof may not allow the accumulation of dust in quantities sufficient to create a fire or other threatening danger and must store or dispose of the dust as prescribed in the applicable legislation dealing with the storage and disposal of that specific type of dust.

30. Combustible or flammable substances and sweeping compounds

- 1) Notwithstanding anything to the contrary contained in any other law, only approved water-based solutions or detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.
- 2) The use of sawdust or similar combustible materials to soak up combustible or flammable substances spilled or dropped in the course of a process, is prohibited.

31. Accumulations in chimneys, flues and ducts

The owner or person in charge of the premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.

32. Sources of ignition

- 1) Smoking, the carrying of matches, the use of heating or other flame-emitting devices, or the use of any spark-producing equipment is prohibited in areas containing combustible or flammable substances, and where equipment or tools are necessary to conduct or maintain an operation, it must be intrinsically safe and specifically designed for that purpose.
- 2) Hot ashes, cinders or smoldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.
- 3) An adequate distance, as deemed appropriate by the controlling authority, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.
- 4) Portable heaters must be secured so that it cannot be overturned and the controlling authority may prohibit the use of portable heaters in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

33. Smoking

- 1) If conditions exist where smoking creates a fire hazard on the premises, smoking is prohibited and “**No Smoking**” signs must be displayed as directed by the controlling authority and the signs must comply with SANS 1186: Part 1.
- 2) A person may not remove a “**No Smoking**” sign.
- 3) A person may not light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smoldering substance in any place where expressly prohibited.
- 4) Where smoking is allowed, provisions must be made for the safe disposal of the smoking material and matches to prevent the creation of a fire hazard or other threatening danger. A designated smoking area must be identified.
- 5) A person may not throw, put down or drop a burning match, burning cigarette, or other burning material or any material capable of spontaneous combustion or self-ignition in a road or any other place.
- 6) All Government smoking rules and laws must be complied with and designated smoking areas must comply with the controlling authority’s requirements as they may deem necessary.
- 7) Non compliance to smoking bylaws could result in temporary closure of the premises affected, or a review of the liquor or trade license.

34. Electrical fittings, equipment and appliances

- 1) A person may not cause or permit an electrical supply outlet to be overloaded.
- 2) A person may not cause or permit an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

35. Flame-emitting device

A person may not cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

CHAPTER 7: FIRE HAZARDS**36. Combustible material**

- 1) A person may not store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside the premises, any combustible material or flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.
- 2) The owner or person in charge of the premises or erven may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

37. Lighting of fires and burning of combustible materials

- 1) The lighting of fires and the disposal of combustible material by burning are prohibited.
- 2) A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger.
- 3) Pavement braai's or any flame emitting device utilized for the purpose of cooking and preparing food on or next to pavements or side walks are prohibited. Special events or functions such as sports events, flea markets, fetes, fun days etc, are exempted from clause 37, 3.
- 4) The owner or person in charge of the premises used in respect of occupancy of entertainment or public assembly must ensure that a cooking fire or flame-emitting device is placed in designated areas so as to prevent a fire hazard or other threatening danger.
- 5) Before the owner or person in charge of a farm or small holding, or an organ of state controlling non-proclaimed residential areas may dispose of combustible material by burning, and before making an application in writing for approval from the controlling authority, prior approval must be obtained in terms of the applicable legislation set out in Schedule 3.

38. License to deal in fireworks

A person wishing to deal in fireworks, will make application to the South African Police Services for a license to deal in fireworks. On receipt of a license the fireworks inspector or controlling authority will inspect the premises of the dealer and should the building requirements be met will issue a permit to trade in fireworks. Only when the permit has been issued may the dealer accept delivery of the fireworks.

39. Requirements for the handling and storage of fireworks

- 1) Premises in which fireworks are handled preferably should have at least two exits. Where any premises have only one exit the fireworks shall be kept at the rear (relative to the exit) of the premises.
- 2) The doors to the exits shall be kept unlocked and unbolted during trading hours and a clear passage shall exist between the counters holding the fireworks and all the exits, and shall remain unobstructed at all times.
- 3) A dealer must have a 9kg DCP fire extinguisher on the premises as per SANS 0400 and maintained in compliance with SANS 1475: Part 1.
- 4) A dealer may keep on his premises, not more than 500 kilograms gross mass of fireworks contained in their inner or outer package, and are kept on shelves. When packs are opened

these must be kept in glass cabinets or metal containers under lock and key and separated from goods of a flammable or combustible nature.

- 5) Fireworks in excess of 500 kilograms gross mass must be stored in a fireworks magazine built according to the specifications as per chapter 7 and 8 of the regulations of the Explosives Act and Regulations (Act 26/1956).
- 6) A dealer shall not interfere with the inner packaging of the fireworks, or allow or permit it to be interfered with.
- 7) Fireworks shall not be displayed in any window or any other place where such fireworks can be interfered with by the public.
- 8) Notices with 100mm red lettering on a white background must be provided as follows:
 - a) to the outside of the premises in a prominent position adjacent to every entrance, notices reading "Dealer in Fireworks";
 - b) in prominent positions inside the premises, "No Smoking" signs in appropriate official languages.
- 9) Every dealer and every person employed in or about the premises shall take all due precautions for the prevention of accidents by fire and for preventing unauthorized persons having access to the fireworks and shall abstain from any act whatsoever which tends to cause fire. Goods of a dangerous nature such as flammable liquids, acids, alkalis and the like shall not be kept on the same premises together with fireworks and safety matches, and Bengal matches shall be kept at least five (5) meters away from the fireworks.
- 10) No person shall smoke in, or take a naked light or fire into, premises where fireworks are kept, stored or being handled, nor shall any person be allowed to do so.
- 11) Every person on such premises shall abstain from any act whatsoever which tends to cause fire.

40. Trade in fireworks

- 1) A dealer in fireworks when purchasing or obtaining fireworks shall demand from the seller or supplier a properly executed, signed and dated invoice which he shall retain for a period of at least two (2) years for production on demand by the controlling authority.
- 2) A manufacturer or wholesale dealer shall furnish a properly executed, signed and dated invoice with each sale or supply of fireworks.
- 3) A dealer shall supply fireworks to the public only in the sealed inner packing as received from the manufacture or wholesale dealer, provided that the packages are still in good condition.
- 4) A dealer shall not sell or allow or permit to be sold any fireworks to a child under the age of 18 years.
- 5) A dealer shall furnish each employee engaged in selling fireworks with a copy of the regulations and bylaws and of the conditions attaching to his license to deal.
- 6) A dealer shall keep a register in which full particulars of each transaction and the aforementioned license number shall be recorded. This register shall be kept up to date and be available for inspection at any time and shall not be destroyed until after the lapse of two (2) years from the date of the last entry.
- 7) A dealer's premises may be inspected at any time by a fireworks inspector or the controlling authority.
- 8) Any person on such premises, who fails to comply with a request made by the licensee or his employees in the interest of safety, shall be guilty of an offence.

41. Fireworks for sale to the public

- 1) The following fireworks are illegal and may not be sold to the public:
 - a) No firecrackers larger than 50mm long and 12mm diameter;
 - b) No match crackers or match strike;
 - c) No firecrackers commonly known as "Bombs", e.g. Indian King, King India, Classic Foils etc.
- 2) The sale of fireworks must be recorded and all invoices must bear a certificate to the effect that the crackers contain genuine gunpowder (black powder) only.
 "The term "gunpowder" shall include blasting powder and shall mean exclusively gunpowder ordinarily so called, consisting of an intimate mixture of saltpetre (potassium nitrate) sulphur and charcoal, such saltpetre not containing as an impurity per chlorate of potash in greater quantity than one per cent".
- 3) All fireworks manufactured in the Republic or imported into it, or which are offered for sale within the Republic shall be marked, labeled and packed in accordance with the Explosives Act & Regulations 26/1956 and any person found in possession of fireworks not so marked and labeled shall be deemed to be in possession of "unauthorized explosives" and guilty of an offence.

- 4) Fireworks shall be packed by the manufacturer in suitable cartons which shall be sealed ready for sale to the public and shall be supplied only to a dealer who is in possession of a valid license issued in terms of the regulations, and the number of such license shall be quoted on the invoice.

42. Use or exploding of fireworks

- 1) The discharge of fireworks within the municipal area is unlawful except in the following areas:
 - a) Lambert Park sports Field;
 - b) Forderville Sports Field;
 - c) Behind Colita Hall (yard);
 - d) Wembezi Community Hall yard.
- 2) No fireworks will be discharged in residential areas or streets unless within the above areas and the discharge of fireworks is unlawful except on the following days:
 - a) 5th November beginning at 16h00 and ending at 23h00;
 - b) 31st December beginning at 16h00 and ending at 00h30 the following day;
 - c) the two (2) days of the Deepavali Festival beginning at 16h00 and ending at 00h30 of the following days;
 - d) Chinese new year beginning at 16h00 and ending at 00h30 the following day; and
 - e) any other day for public display of fireworks if Council's permission is first obtained at least 21 days prior to the event. The controlling authority shall stipulate the beginning and end times of such a display.
- 3) It shall be unlawful for any person to use or explode any fireworks:
 - a) Within 1000 meters from any airport, explosives manufacturing site or workplace, fuel depot, liquefied petroleum gas (LPG) depot, gasometer, hospital, old age home or home caring for the aged and frail;
 - b) within 500 metres from any industrial premises, kennels, any filling station or retail premises where flammable gas containers are used, stored or filled; and
 - c) in any building or on any public thoroughfare.
- 4) No person may allow any person under the age of 18 years to acquire, transport, keep, handle or use consumer fireworks except under the direct supervision of a person 18 years and older.
- 5) No person issued with a permit issued in terms of section 15 of the Explosives Act, may use consumer fireworks after 23h00.
- 6) No person may keep or allow more than 40 kilograms gross mass of consumer fireworks (classified shop goods) on any premises for private use.
- 7) No person, other than a technician, shall operate a public display of fireworks on any premises without the written permission of the Explosives Department and the local controlling authority.
- 8) Such permission shall stipulate the conditions to be complied with and non-compliance with any of these conditions shall constitute an offence under this By-law.
- 9) Application for a certificate of authority to operate a public display of fireworks must be submitted to the controlling authority as prescribed in Schedule 1(G) of this by-law.
- 10) At a public display of fireworks it shall be an offence:
 - a) for any person willfully to enter or remain in that area reserved for receiving falling residue from aerial fireworks; and
 - b) for any unauthorized person willfully to proceed beyond the area demarcated by the organizers of the display for spectators; and
 - c) to disobey the instruction of the controlling authority.

43. Pyrotechnic displays

In the event of a pyrotechnic display emergency flares must accompany the displayers.

44. Transport of fireworks

The transport of fireworks shall comply with the conditions as laid down in the Explosives Act and Regulations (Act 26 of 1956) as read with subsequent Amendment Acts.

45. Use of other explosives

Any explosives for the use of which provision is not made in the proceeding regulations of these bylaws, shall be used only in such manner and under such conditions as may be prescribed, in writing, by the controlling authority.

46. Distribution points

The number of distribution points for the sale of fireworks shall be restricted to eight; six will be apportioned to Estcourt and two to the Weenen area.

CHAPTER 8: FLAMMABLE SUBSTANCES**47. Application of this chapter**

Notwithstanding the provisions in either the Hazardous Substances Act or the Occupational Health and Safety Act, this chapter regulates flammable substances in the local government sphere so as to prevent and reduce fire hazards or other threatening dangers.

48. Storage and use of flammable substances

- 1) Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the Municipality, in accordance with the National Building Regulations, and a copy of the approved plan must be available at the site where the installation is being constructed.
- 2) Prior to the commissioning of an aboveground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1) in the presence of the controlling authority.
- 3) Notwithstanding subsection (2), the controlling authority may require an existing aboveground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).
- 4) The controlling authority must be notified at least 48 hours prior to the pressure test.
- 5) Prior to the alteration of the premises that impacts on the fire safety of an existing aboveground or underground storage tank installation, liquid petroleum gas installation or associated pipe work, the owner or person in charge of the premises must notify the controlling authority, who may call for the premises or installation to be rendered safe.
- 6) Unless a flammable substance certificate has been obtained from the controlling authority, the owner or person in charge of premises may not store or use:
 - a) A flammable gas in excess of 19kg; or
 - b) a flammable liquid of a danger group (i), (ii) or (iii) in excess of 200 liters.

49. Application for a flammable substance certificate

- 1) The owner or person in charge of premises, who requires a flammable substance certificate mentioned in section 48(6), must submit an application to the controlling authority as prescribed in the Schedule 1(B) of this By-law.
- 2) The controlling authority may request additional information from the applicant.
- 3) The controlling authority must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this By-law, and where the controlling authority is of the opinion that the non-compliance of the premises can be remedied, he must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to the usage of the premises in accordance with section 48(6) and the issuing of the certificate.
- 4) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever the quantity or class of the flammable substance requires to be changed or when section 48(5) applies.
- 5) If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the flammable substances certificate, he must act in terms of sections 5(2) or 6(1) and section 7 of this Bylaw.
- 6) Notwithstanding subsection (5) when in the opinion of the controlling authority, a flammable substance is stored or utilized for any process in a manner which is hazardous to life or property, or an installation is unauthorized, an order may be issued for the removal of the flammable substance or installation from the premises.
- 7) A supplier may not supply flammable substances to the owner or person in charge of the premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the controlling authority.
- 8) A flammable substance certificate is valid only:

- a) for the installation for which it was issued;
 - b) for the state of the premises at the time of issue; and
 - c) for the quantities stated on the certificate.
- 9) The flammable substance certificate must be available on the premises for inspection at all times.
- 10) The controlling authority must keep records of all premises in respect of which a flammable substance certificate has been issued, amended and renewed.

50. Permanent or temporary above ground storage tank for a flammable liquid

- 1) In this section, only a permanent or temporary above ground tank used for the storage of flammable liquids is regulated.
- 2) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the controlling authority, on the merit of the situation, provided that the following requirements are complied with:
 - a) if it has a capacity not exceeding 9000 liters and is not used for the storage of flammable substances with a flashpoint below 40°C;
 - b) to be on the premises for a period not exceeding six months;
 - c) the entire installation must comply with SANS 0131: Part 2; and
 - d) a written application together with a plan must be forwarded to the controlling authority at least fourteen (14) days prior to the erection of the tank and prior written permission must be obtained from the controlling authority for the erection of the tank.
- 3) Notwithstanding section 48(1), if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Municipality for approval in terms of the National Building Regulations (T1).
- 4) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognized codes.
- 5) The rated capacity of a permanent or temporary tank must provide sufficient spillage to permit expansion of the product contained therein by reason of the rise in temperature during storage
- 6) A permanent or temporary tank must be erected at least 3, 5 meters from boundaries, buildings and other flammable substances or combustible materials.
- 7) A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.
- 8) A permanent or temporary tank must have a bund wall.
- 9) Adequate precautions must be taken to prevent spillage during the filling of a tank.
- 10) Sufficient fire extinguishers, as determined by the controlling authority, must be provided in weatherproof boxes in close proximity to a tank.
- 11) Symbolic safety signs depicting “**No Smoking**”, “**No Naked Lights**” and “**Danger**” must be provided adjacent to a tank and the signs must comply with SANS 1186: Part 1.
- 12) The flammable liquid in the tank must be clearly identified using the Hazchem placards listed in SANS 10232: Part 1.
- 13) An electrical or an internal combustion driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.
- 14) The electrical installation associated with an above ground storage tank must comply with SANS 10108.

51. Underground storage tank for a flammable liquid

The design requirements and construction of an underground storage tank must be in accordance with the National Building Regulations (T1) read in conjunction with SANS 10400.

52. Bulk storage depot for flammable substances

The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations (T1), read with SANS 089: Part 1.

53. Small installations for liquefied petroleum gas

Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 liters and a combined water capacity not exceeding 3000 liters per installation must be installed and handled in accordance with SANS 100087: Part 1.

54. Bulk storage vessel for liquid petroleum gas

The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations (T1), read in conjunction with SANS 10087: Part 3.

55. Termination of the storage and use of flammable substances

- 1) If an above ground or under ground tank installation, liquid petroleum gas installation or associated pipe work is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation was erected must:
 - a) within seven (7) days of the cessation, notify the controlling authority in writing thereof;
 - b) within thirty (30) days of the cessation, remove the flammable substance from the installation and render it safe;
 - c) within six (6) months of the cessation, remove the installation including any associated pipe work, from the premises entirely, unless the controlling authority otherwise instructs; and
 - d) restore a public footpath or roadway, which has been disturbed by the removal to the satisfaction of the Municipality within a period of seven (7) days of the completion of the removal of the installation.
- 2) If the removal of an underground tank installation detrimentally affects the stability of the premises, the owner or person in charge of the installation must apply in writing to the controlling authority to fill the tank with liquid cement slurry.

56. Reporting accidents

If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of flammable substance, as well as personal injury or death, the owner or person in charge of the premises must immediately notify the controlling authority.

57. Flammable stores

- 1) The construction of a flammable store must be in accordance with the National Building Regulations (T1) read in conjunction with SANS 10400.
- 2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.
- 3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate and an additional 10% of the quantity mentioned on the certificate.
- 4) Notwithstanding the National Building Regulations (T1) read in conjunction with SANS 10400:
 - a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance;
 - b) the ventilation of a flammable store must be achieved by the use of air bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5m² of wall area or part thereof, so that vapour cannot accumulate inside the store;
 - c) the airbricks must be covered both internally and externally with closely woven, non-corrodible wire gauze of at least 1100 meshes per meter; and
 - d) the wire gauze must be held in position by metal straps, a metal frame or cement.
- 5) When required by the controlling authority, the flammable store must be ventilated by a mechanical ventilation system approved by the Municipality and must comply with the following requirements:
 - a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;
 - b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least one meter above roof height or at least 3,6 metres above ground level, whichever is the greater;
 - c) ducting material that is external to the store, but communicates with the remainder of the building must be fitted with a fire damper of two-hour fire resistance at the point of exit from a flammable store; and
 - d) the ducting must be as short as possible and must not have sharp bends.
- 6) Notwithstanding the National Building Regulations (T1) read in conjunction with SANS 10400, a flammable store door must be constructed of material with a fire resistance of two hours, provided that all relevant safety distances are complied with, and the door must open outwards.

- 7) When required by the controlling authority, a flammable store door must be a D-class fire door, which complies with SANS 1253.
- 8) Notwithstanding the building regulations (T1) read in conjunction with SANS 10400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.
- 9) No other electrical apparatus may be installed in the flammable store.
- 10) A flammable store must be provided with a foam inlet consisting of a 65 millimeter male instantaneous coupling and mild steel pipe-work leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimeter block letters.
- 11) Racking or shelving erected in the flammable store must be of non-combustible material.
- 12) The flammable store must be identified by the words "**Flammable Store – Bewaarplek vir Vlambare Vloeistowwe – Isitoro Indawo Yokugcina Izixhobo Ezithatha Lula Umlilo**", and the permissible quantity allowed within the flammable store, indicated in 100 millimeter block letters on both the inside and outside of all doors communicating directly with the store.
- 13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.
- 14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.
- 15) Sufficient fire extinguishers, as determined by the controlling authority, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.
- 16) Any hand tool used in the flammable store must be intrinsically safe.
- 17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the controlling authority has been notified in terms of the following procedure:
 - a) within seven (7) days of the cessation, notify the controlling authority in writing thereof;
 - b) within thirty (30) days of the cessation, remove the flammable substance from the flammable store and render it safe; and
 - c) within thirty (30) days of the cessation, remove all signage.
- 18) Subject to the provisions in this section, the controlling authority may call for additional requirements to improve the fire safety of a flammable store.

58. Container handling and storage

- 1) All flammable substance containers must be kept closed when not in use.
- 2) A person may not extract flammable liquids from a container of a capacity exceeding 20 liters, unless the container is fitted with an adequately sealed pump or tap.
- 3) Flammable liquid containers must be labeled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.
- 4) Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.
- 5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours there from.
- 6) An empty flammable liquid container must be placed in a flammable store.
- 7) Where a flammable store is not available for the storage of empty flammable liquid containers, the controlling authority may permit such storage in the open, provided that:
 - a) the storage area must be in a position and of sufficient size which in the opinion of the controlling authority, will not cause a fire hazard or other threatening danger.
 - b) the storage area is well ventilated and enclosed by a wire mesh fence and:
 - (i) the fence supports are of steel or reinforced concrete;
 - (ii) has an outward opening gate that is kept locked when not in use; and
 - (iii) when the floor area exceeds 10m² an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key.
 - c) The storage area is free of ventilation and has a non-combustible firm level base.
 - d) A two meter distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials.
 - e) When the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material.
 - f) Open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SANS 1186: Part 1.

- g) Fire fighting equipment is installed as determined by the controlling authority.
- 8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

59. Spray rooms and booths

A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act and also comply with the requirements of Schedule 1(F).

60. Liquid petroleum gas containers

- 1) A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SANS 10087: Part 1 and SANS 10019.
- 2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour there from.
- 3) A liquid petroleum gas container of a capacity not exceeding nine (9) kilogram must be filled and stored in accordance with SANS 10087: Part 7.

CHAPTER 9: TRANSPORTATION OF DANGEROUS GOODS

61. Dangerous goods certificate

- 1) Notwithstanding anything contained in the National Road Traffic Act or any SANS code, the operator of a roadworthy vehicle designed for the transportation of dangerous goods may not operate such a vehicle, unless he has obtained a dangerous goods certificate from the controlling authority.
- 2) An operator of a vehicle mentioned in subsection (1) must submit an application to the controlling authority as prescribed in Schedule 1 (D) of this By-law.
- 3) The controlling authority may request additional information from the applicant.
- 4) The controlling authority must refuse to issue the dangerous goods certificate if a vehicle does not comply with (whichever is applicable to the vehicle) the requirements of SANS 10087: Part 4, SANS 10089: Part 1, SANS 10230, SANS 1518, and where the controlling authority is of the opinion that the non-compliance of a vehicle can be remedied, he must instruct an operator of a vehicle in writing to take all reasonable steps to remedy the defaults prior to the use of the vehicle in accordance with subsection (1) as well as the dangerous goods certificate.
- 5) A dangerous goods certificate must be renewed annually, on or before the date as indicated on the dangerous goods certificate or whenever major maintenance or repairs have been performed on the vehicle.
- 6) If at any time, the controlling authority becomes aware that the usage of a vehicle is not in accordance with the dangerous goods certificate, he must act in terms of section 5(2) or 6(1) and section 7 of this By-law.
- 7) A consignor may not supply a flammable substance to an operator of a vehicle mentioned in subsection (1), unless the operator is in possession of a valid dangerous goods certificate issued by the controlling authority.
- 8) A consignee may not receive a flammable substance from an operator of a vehicle mentioned in subsection (1), unless the operator meets the requirement in subsection (7).
- 9) A dangerous goods certificate is valid only:
 - a) for the vehicle for which it was issued;
 - b) for the state of the vehicle at the time of issue; and
 - c) for the quantities stated on the certificate.
- 10) The dangerous goods certificate must be available in the vehicle mentioned in subsection (1) for inspection at all times.
- 11) The controlling authority must keep records of all vehicles in respect of which a dangerous goods certificate has been issued, amended and renewed.

CHAPTER 10: GENERAL PROVISIONS**62. State Bound**

This By-law binds the State and any person in the service of the State.

63. Offences and penalties

- 1) Any person who:
 - a) contravenes any of the provisions of this By-law or fails to comply therewith; or
 - b) contravenes or fails to comply with any order made hereunder or any notice served in connection herewith,is guilty of an offence and liable to a maximum fine or imprisonment as prescribed in the Fire Brigade Services Act.
- 2) The imposition of a penalty for any contravention may not excuse the contravention nor must the contravention be permitted to continue.
- 3) The controlling authority must instruct a person found guilty to correct or remedy the contravention or defect concerned within a time period specified by the controlling authority.
- 4) Notwithstanding the penalties as prescribed in the Fire Brigade Services Act, a controlling authority may also impose an admission of guilt fine to anyone who contravenes this By-law.

64. Repeal of laws and savings

The following By-laws are hereby repealed:

- a) Any By-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into municipality, in so far as it relates to any matter provided for in this By-law; and
- b) Any By-law previously promulgated by the local municipalities within the jurisdictional area of Umtshezi Municipality, or any of the disestablished municipalities now incorporated into the said municipalities, in so far as it has been made applicable to Umtshezi Municipality by the authorization for the execution of powers and functions in terms of section 11 of the Local Government: Municipal Systems Act no 32 of 2000.

65. Short title and Commencement

This By-law is called the Fire Safety By-law and comes into operation on the date of publication in the Provincial Gazette.

SCHEDULE 1**FORMS**

- A. POPULATION CERTIFICATE
- B. APPLICATION FOR A FLAMMABLE SUBSTANCES CERTIFICATE
- C. FLAMMABLE SUBSTANCE CERTIFICATE
- D. APPLICATION FOR DANGEROUS GOODS CERTIFICATE
- E. DANGEROUS GOODS CERTIFICATE
- F. CONSTRUCTION OF SPRAY BOOTHS
- G. APPLICATION TO OPERATE A PUBLIC DISPLAY OF FIREWORKS
- H. AUTHORISATION CERTIFICATE FOR A PUBLIC DISPLAY OF FIREWORKS

<p>UMTSHEZI MUNICIPALITY FIRST SCHEDULE (A)</p> <p>POPULATION CERTIFICATE</p>	
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This form must be completed and forwarded to the Fire Safety Officer, Umtshezi Municipality, P.O.Box 15, Estcourt, 3310 – Tel: 036 3427860 Fax: 036 3525054.

Application is hereby made for approval of a room for use as a place of assembly or congregation for purposes of recreation or entertainment

Name of owner:			
Postal Address:			
Street Address of premises:			
Name by which room is commonly known:			
Signature of owner or authorized representative:			
FOR OFFICE USE ONLY			
Certificate and _____ copies, annexure "A" and Annexure "B" received by:	Name:		
	Capacity:		
	Date:	Signature:	
1.	Total floor area including any stage or platform:	m ²	
2.	Number of fixed seats:		
3.	Number of exit doors:	Total width:	m
4.	Maximum number of persons permitted:		
	Date approved:		
	Approving Officer:		
	Number of certificates issued:		
CALCULATIONS			
1.	Floor area:	Length (m) _____ x Breadth (m) _____ = Area _____ m ²	
2.	Population:	Number of fixed seats or 1 per m ² if no fixed seats	
3.	Number of available exits (Total) _____ m. Width of doors _____ x 1,2 = Proportion A.		
	Proportion A _____ + Proportion A1 _____, A2 _____, A3 etc. = Proportion B _____		
	If ground floor: Proportion B _____ x 100 = Population A _____		
	If any other floor: _____ x 84 = _____		
4.	Units of exit width:	Width of door _____ mm	
		Total complete units of exit _____ x 40 = _____	
5.	Average Population:	A (or A1) _____ + B _____ + 2 = _____	
Fire Safety Officer Signature:			

UMTSHEZI MUNICIPALITY
FIRST SCHEDULE (B)
APPLICATION FOR CERTIFICATE OF REGISTRATION: HANDLING OF FLAMMABLE LIQUIDS
AND SUBSTANCES



This form must be completed and forwarded to the Fire Safety Officer, Umtshezi Municipality, P.O.Box 15, Estcourt, 3310 – Tel: 036 3427860 Fax: 036 3525054.

Application is hereby made in terms of section 49(1) of the Community Fire Safety By-law, for the registration of;

	Underground tanks		Aboveground tanks
	Flammable liquid store		Dry - cleaning
	Spray - painting		Liquefied petroleum gas storage
	Decanting liquid petroleum gas		
Date of application:	<i>DAY / MONTH / YEAR</i>		
Name of applicant:			
Address of applicant:			
	P.O.Box:		
Telephone No:			
Trading as:			
Owner / Manager / Secretary:			
Business description:			
Lot number:			
Street and number:			
No of spraying compartments? :			
No of dry cleaning rooms? :			
No of flammable liquid stores? :			
No of L.P. Gas stores? :			
No of L.P. Gas filling sites? :			
No of underground tanks? :			
No of aboveground tanks? :			
No of flammable liquid pumps? :			
Fire equipment as per Bylaws? :	Yes:		No:

State total capacity;	Class 0: _____	Kg (L.P. Gas)
	Class 1 - f/p < 23°C: _____	Liters (Petrol)
	Class 11 – f/p >23°C < 60,5°C: _____	Liters
	Class 111 – f/p >60,5°C < 100°C: _____	Liters (Diesel)
	_____	Liters (Paraffin)

Signature of Applicant:

Fire Safety Officer Signature:

A SITE PLAN SHOWING THE LOCATIONS OF THE ABOVE MENTIONED TO BE SUBMITTED WITH THIS APPLICATION.

UMTSHEZI MUNICIPALITY
FIRST SCHEDULE (D)
APPLICATION FOR A CERTIFICATE OF
REGISTRATION: DANGEROUS GOODS (VEHICLE)



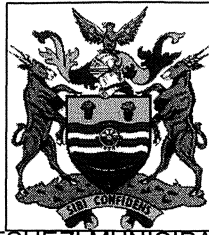
This form must be completed and forwarded to the Fire Safety Officer, Umtshezi Municipality, P.O.Box 15, Estcourt, 3310 – Tel: 036 3427860 Fax: 036 3525054.

Application is hereby made in terms of section 61(2) of the Community Fire Safety By-law, for a dangerous goods certificate;

Name of company / owner:			
Address of company / owner:			
	P.O.Box:		
Telephone No:			
Trading as:			
Location of vehicle:	Address:		
Details of vehicle for which a certificate of registration is required:	Erf No:		
	Type or class of vehicle:		
	Make:		
	Registration No:		
	Tare:		
	Load:		
	No of tanks:		
	Total capacity of tanks:		
	Individual capacity of tanks:		
	Year of manufacture of tanks:		
	Engine No: (if applicable)		
	Chassis No:		
	Quantity of flammable substance to be conveyed:		
	Flammable liquid:		
	Flammable Gas:		
Remarks:			

Operator Signature:			
Fire Safety Officer Signature:			

A COPY OF THE VALID VEHICLE LICENSE TO BE SUBMITTED WITH THIS APPLICATION



UMTSHEZI MUNICIPALITY
Third Schedule (Vehicle) (E)
CERTIFICATE OF REGISTRATION

This is to certify that the vehicle, particulars of which are given below, has been examined and found to comply with the relevant sections SANS 10087: Part 4, SANS 10089: Part 1, SANS 1398 and SANS 1518 for the conveyance of flammable liquids or liquefied flammable gas in tanks each with a total capacity of _____ liters within the limits of the municipal area and subject to all applicable legislation.

Name of company / owner:	
Address of company / owner:	
	P.O.Box:
Trading as:	
Details of vehicle:	Type or class of vehicle:
	Make:
	Registration No:
	Tare:
	Load:
	No of tanks:
	Individual capacity of tanks:
	Total capacity of tanks:
	Year of manufacture of tanks:
	Engine No: (if applicable)
	Chassis No:
	Quantity of flammable substance to be conveyed:
	Flammable liquid:
	Flammable Gas:

This certificate of registration is not a warranty of fitness of the vehicle herein described and any operator, driver or person interested should satisfy themselves as to the roadworthiness, construction and condition of the aforementioned vehicle.

Issued by: _____
Fire Safety Officer

Approved by: _____
Chief Fire Officer


This certificate must at all times be kept on the registered vehicle readily available for inspection

Certificate Number 0000/0000 (VALID FOR ONE YEAR)

DATE STAMP

UMTSHEZI MUNICIPALITY
FIRST SCHEDULE (F)

SPRAY BOOTH CONSTRUCTION




Umtshezi Municipality, P.O.Box 15, Estcourt, 3310 – Tel: 036 3427860 Fax: 036 3525054.

Spray Booth Construction

Walls:	225mm brickwork.
Roof:	Reinforced concrete.
Floor:	Concrete or other impervious material.
Doors:	(A) Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g. metal secured to the door with bolts at 30mm centers along the edges. The doors to open outwards and to be hung on Tee hinges bolted to the door. (B) Close fitting metal doors not less than 3mm in thickness, carried on an angle iron frame and having an all round overlap or not less than 50mm.
Note:	Where the floor area exceeds 18 sq. meters two (2) doors must be provided.
Windows:	Metal frames with no opening sections glazed with wire-woven glass not exceeding 460mm. Putty approved by the SANS Code No. 680/59 only to be used and the occupier to furnish proof of this to the Fire Safety Officer.
Note:	The Fire Safety Officer requires natural light to the extent of 20% of the floor area.
Ventilation:	30 Lineal meters/minute velocity across the room must be provided by means of mechanical ventilation, with the centre line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating one (1) meter above the apex of the roof. No light angle bends to be used in the ducting system. Exhaust fans to be installed at four (4) meter centers or horizontal metal ducting extending the entire length of the wall with suitable inlets, must be provided.
Note:	If the ducting is external to the spray booth and in communication with the workshop etc, it must be protected by either 110mm brick or 50mm asbestos cement lagging.
Ventilation inlets:	The wall opposite the exhaust fans to be honeycombed with airbricks installed from 100mm above floor level to a height of not less than two (2) meters.
Minimum no. of airbricks	Size of room
40	Up to but not exceeding 140 cubic meters.
65	Up to but not exceeding 280 cubic meters.
90	Up to but not exceeding 470 cubic meters.
150	Up to but not exceeding 650 cubic meters.
Note:	Metal filters with metal swarf elements may only be used in an all metal installation, in lieu of airbricks.
Electrical Work Danger Notice:	All electrical work must be of flame-proof construction. “DANGER – NO SMOKING” notices in 150mm high white letters on a red background to be provided above the doors outside the spray booth.

UMTSHEZI MUNICIPALITY
FIRST SCHEDULE (G)

APPLICATION FOR A CERTIFICATE TO
OPERATE A PUBLIC DISPLAY OF FIREWORKS



This form must be completed and forwarded to the Fire Safety Officer, Umtshezi Municipality, P.O.Box 15, Estcourt, 3310 – Tel: 036 3427860 Fax: 036 3525054.

Application is hereby made in terms of 42(6) of the Community Fire Safety By-law, for authority to operate a public display of fireworks;

Date of application:	
Name of applicant:	
Name of display operator:	
Age of display operator:	SHALL NOT BE UNDER THE AGE OF 18
Date of display:	
Time of display:	From: _____ To: _____
Location of display:	
Fireworks to be discharged:	Types?
Number of fire works:	
Value of display:	
Storage of fireworks:	Prior to fireworks display (Address)?
Address of applicant:	
	P.O. Box:
<p>The following documents to be submitted with this application:</p> <p>EXPLOSIVES DEPARTMENT 033 3553800 CHIEF INSPECTOR 0828311433</p>	<ul style="list-style-type: none"> • Qualifications of the fireworks display operator. • Copy of ID of the fireworks display operator. • Completion of an indemnity form absolving council from any criminal or civil claims. • Copy of written permission from the explosives dept. • A diagram on which the display is to be held showing: <ul style="list-style-type: none"> (i) the point at which the fireworks are to be discharged, which shall be at least 100 metres from the nearest building, road or railway, and at least 20 metres from the nearest telephone, telegraph or power line, tree or other overhead obstruction; (ii) the direction in which aerial fireworks, if any, are to be fired; (iii) the area to be kept clear of persons which shall extend at least 50 metres from the front and to the sides of the point at which the fireworks are to be discharged; (iv) the area to be kept clear on which falling residue from aerial fireworks is expected to drop, which shall extend for at least 100 metres to the rear of the firing point; and (v) the location of all buildings and roads within 200 metres of the firing site and of all trees, telegraph or telephone lines or other overhead obstructions at or adjacent to the firing site.
I acknowledge that authority is at Council's discretion and that the requirements of legislation will be complied with.	
Signature of applicant:	
Fire Safety Officer Signature:	



UMTSHEZI MUNICIPALITY
CERTIFICATE TO OPERATE A PUBLIC DISPLAY OF FIREWORKS

This is to certify that _____ representing the _____ and _____ the fireworks display operator (technician) is duly authorized by the Controlling Authority under the By-laws relating to fireworks, to operate a public display of fireworks at _____ on the _____ starting at _____ and finishing at _____.

This certificate refers specifically to the operation of a public display of fireworks.

The maximum value and type of fire works that may be kept or handled at this public display of fireworks may not exceed:

- _____ in value; and
- **Classified shop goods in terms of chapter 1 of the Explosives Act (Act 26 of 1956)**

This certificate is issued subject to the following conditions;

- (a) The control and discharge of fireworks must at all times be in compliance with the Explosives Act and Regulations (Act 26/1956), Applicable SABS Codes and Umtshezi Bylaws.
- (b) A copy of the Bylaws for the control and discharge of fireworks section 4, 5, 6, 7&9 issued with this certificate must be kept on the premises during the full time stipulated above.
- (c) Only trained and certified persons may operate the fireworks display.

Issued by: _____
Fire Safety Officer

Approved by: _____
Chief Fire Officer

This certificate must be available on the premises mentioned for inspection at all times as above

Certificate Number 0000/0000 (VALID FOR THE ABOVE MENTIONED DATE AND TIME ONLY)

DATE STAMP

SCHEDULE 2**APPLICABLE LEGISLATION**

TITLE	NUMBER
Atmospheric Pollution Prevention Act, 1965	Act 45 of 1965
Conservation of Agricultural Resources act, 1983	Act 43 of 1983
Forest Act, 1998	Act 122 of 1984
National Forest Act, 1998	Act 84 of 1998
National Veld and Forest Fire Act, 1998	Act 101 of 1998
National Water Act, 1998	Act 36 of 1998

SCHEDULE 3**SANS CODES OF PRACTICE AND SPECIFICATIONS**

SANS CODE	TITLE
SANS 10019	Portable metal containers for compressed gas basic design, manufacture, use and maintenance.
SANS 10087: Part 1	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 1: Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 liter and a combined water capacity not exceeding 3000 liter per installation.
SANS 10087: Part 3	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 3: Liquefied petroleum gas installations involving storage vessels of individual water capacity exceeding 5000 liters.
SANS 10087: Part 4	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 4: Transportation of liquefied petroleum gas in bulk by road.
SANS 10087: Part 7	The handling, storage and distribution of liquefied petroleum gas in domestic, commercial and industrial installations, Part 7: Storage and filling sites for refillable liquefied petroleum gas (LPG) containers of capacity not exceeding 9kg and the storage of individual gas containers not exceeding 48kg.
SANS 10089: Part 1	The petroleum industry, Part 1: Storage and distribution of petroleum products in above ground bulk installations.
SANS 10089: Part 3	The petroleum industry, Part 3: The installation of underground storage tanks, pumps/dispensers and pipe work at service stations and consumer installations.
SANS 10105: Part 1	The classification, use and control of firefighting equipment, Part 1: Portable fire extinguishers.
SANS 10108	The classification of hazardous locations and the selection of apparatus for use in such locations.
SANS 013: Part 2	The handling and storage of liquid fuel, Part 2: Large consumer premises.
SANS 10139	Fire detection and alarm systems for buildings – System design, installation and servicing.
SANS 10142	The wiring of premises.
SANS 10177: Part 5	The testing of materials, components and elements used in buildings: Non-combustibility at 750°C of building materials.
SANS 193	Fire dampers.
SANS 10228	The identification and classification of dangerous substances and goods.
SANS 10230	Transportation of dangerous goods – Inspection requirements for road vehicles.
SANS 10232: Part 1	Transportation of dangerous goods – Emergency information systems, Part 1: Emergency information systems for road transportation.
SANS 10400	The application of the National Building Regulations.
SANS 1186: Part 1	Symbolic safety signs, Part 1: Standard signs and general requirements.
SANS 1253	Fire doors and fire shutters.

SANS 1398	Road tank vehicles for flammable liquids.
SANS 1475: Part 1	The production of reconditioned firefighting equipment, Part 1: Portable rechargeable fire extinguishers.
SANS 1518	Transportation of dangerous goods – Design requirements for road tankers.
SANS 1571	Transportable rechargeable fire extinguishers.
SANS 1573	Portable rechargeable fire extinguishers – Foam type extinguishers.

UMTSHEZI MUNICIPALITY

KEEPING OF BIRDS AND ANIMALS BY-LAWS

Be it enacted by the Council of the Umtshezi Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1 : DEFINITIONS	3
Section 1 : Definitions	3
CHAPTER 2 : GENERAL PROVISIONS RELATING TO THE KEEPING OF ANIMALS	5
Section 2 : Application of by-laws	5
CHAPTER 3 : KEEPING OF CATTLE, HORSES, MULES AND DONKEYS	5
Section 3 : Requirements for premises	5
Section 4 : Duties of keepers of cattle, horses, mules and donkeys	6
CHAPTER 4 : KEEPING OF GOATS AND SHEEP	7
Section 5 : Requirements for premises	7
Section 6 : Duties of keeper of goats and sheep	8
CHAPTER 5 : KEEPING OF POULTRY	9
Section 7 : Application	9
Section 8 : Permit requirements for poultry	9
Section 9 : Requirements for premises	9
Section 10 : Duties of keeper of poultry	11
CHAPTER 6 : KEEPING OF RABBITS	12

Section 11 : Application	12
Section 12 : Permit requirements for rabbits	12
Section 13 : Requirements for the premises	12
Section 14 : Duties of keeper of rabbits	14
CHAPTER 7 : KEEPING OF BIRDS OTHER THAN POULTRY	15
Section 15 : Requirements for the premises	15
Section 16 : Duties of keeper of an aviary	15
CHAPTER 8 : DOG KENNELS AND CATTERIES	16
Section 17 : Requirements for the premises	16
Section 18 : Food preparation area	17
Section 19 : Duties of a keeper of kennels or catteries	18
CHAPTER 9 : PET SHOPS AND PET PARLOURS	19
Section 20 : Requirements for premises	19
Section 21 : Duties of pet shop or pet parlour keeper	21
CHAPTER 10 : KEEPING OF WILD ANIMALS	22
Section 22 : Requirements for the premises	22
Section 23 : Duties of keeper of wild animals	23
CHAPTER 11 : KEEPING OF PIGS	24
Section 24 : Requirements for premises	24
Section 25 : Duties of keeper of pigs	25
CHAPTER 12 : MISCELLANEOUS PROVISIONS	26
Section 26 : Drainage	26
Section 27 : Dangerous animals	26
Section 28 : Requirements for keeping of bees	27
Section 29 : Keeping of slaughtering animals for religious and ceremonial purposes	27
	28

CHAPTER 13 : APPEALS

Section 30 : Appeals	28
----------------------	----

CHAPTER 14 : GENERAL

Section 31 : Offences	29
Section 32 : Repeal of By-laws	29
Section 33 : Short title and commencement	

CHAPTER 1**DEFINITIONS****Definitions**

1. In these by-laws, which are applicable only within the formal borough of Estcourt and unless the context indicates otherwise –

“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;

“Council” means the Council of the Umtshezi Municipality

“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; and
- (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 or 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 any premises where the business of keeping and selling 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;

“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; and

“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.

CHAPTER 2

GENERAL PROVISIONS RELATING TO THE KEEPING OF ANIMALS

Application of by-laws

2. These by-laws, with the exception of section 28, do not apply to -
- (1) any agricultural show where animals are kept on a temporary basis;
or
 - (2) any laboratory where animals are lawfully kept for research purposes.

CHAPTER 3

KEEPING OF CATTLE, HORSES, MULES AND DONKEYS

Requirements for premises

- 3.(1) No person may keep any cattle, horse, mule or donkey in a stable or other enclosure that does not comply with the following requirements:
- (a) every wall and partition of the enclosure must be constructed of brick, stone, concrete or other durable material;
 - (b) the internal wall surfaces of the enclosure 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 enclosure 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 it's long sides be not less than 2 metres;

- (d) the enclosure must have a floor area of at least 9m² for each head of cattle, horse, mule or donkey accommodated in it;
- (e) lighting and ventilation must be provided by openings or glazed opening windows or louvers totalling at least 0,3m² for each animal to be accommodated in it except in the case of an enclosure 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 enclosure must be constructed of concrete or other durable and impervious material brought to a smooth finish graded to a channel;
- (h) no enclosure 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;
- (i) there must be a water supply adequate for drinking and cleaning purposes next to every enclosure.

Duties of keepers of cattle, horses, mules and donkeys

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

- (1) 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;
- (2) provide portable manure storage receptacles of an impervious material and with close fitting lids;
- (3) keep every manure storage receptacle on a platform constructed of concrete or other durable and impervious material near the enclosure;

- (4) if there is so much manure and bedding that storage receptacles are impractical, provide a manure heap complying with the following requirements:
 - (a) the heap must be enclosed by three walls constructed of brick, concrete or other durable material plastered to a smooth finish; and
 - (b) 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;
- (5) remove all the manure from the enclosure at least once every 24 hours and place it in the manure storage receptacles or heap until it is removed from the premises;
- (6) 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;
- (7) remove all bedding from the enclosure at least once a week and store it in the manure receptacles or heap until it is removed from the premises; and
- (9) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids.

CHAPTER 4

KEEPING OF GOATS AND SHEEP

Requirements for premises

- 5.(1) No person may keep sheep or goats in an enclosure that does not comply with the following requirements-
 - (a) a minimum overall floor area must be 30m²;
 - (b) at least 1,5 m² of floor space must be provided for every goat or sheep accommodated in it;
 - (c) every wall must be constructed of brick, stone, concrete or other durable material;

- (d) every wall must be at least 2 metres in height and have a smooth internal finish;
 - (e) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel;
 - (f) at least 1,5 m² of floor space must be provided for every goat or sheep accommodated in it with an overall minimum floor area of 6m²; and
 - (g) lighting and ventilation openings totalling at least 0,15m² per goat or sheep must be provided.
- (2) No person may keep sheep or goats in an enclosure 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 used to accommodate sheep or goats.

Duties of keeper of goats and sheep

6. Any person who keeps goats or sheep must -
- (1) 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;
 - (2) provide portable manure storage receptacles of an impervious material and with close fitting lids;
 - (3) keep every manure storage receptacle on a platform that enables the surface underneath the receptacle to be cleaned;
 - (4) remove all manure from the enclosure, building or shed at least once every three days and place it in the manure storage receptacles;
 - (5) 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; and

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

CHAPTER 5

KEEPING OF POULTRY

Application

7. The provisions of sections 10(4) to (7) inclusive and 11(5), do not apply to the persons keeping ten or less poultry.

Permit requirements for poultry

8. 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 issued by the Council.

Requirements for premises

9. No person may keep poultry in premises that do not comply with the following requirements:
 - (1) In relation to a poultry house –
 - (a) every wall must be constructed of brick, stone, concrete or other impervious material brought to a smooth internal surface;
 - (b) the floor must be constructed of concrete or other impervious material brought to a smooth finish;
 - (c) the upper floor of a two or more storey structure must be constructed of an impervious and easily cleanable material;
 - (d) the minimum floor area must be –
 - (i) 0,20 m² for each grown fowl, duck, muscovy duck or guinea fowl;
 - (ii) 0,5 m² for each grown goose, turkey, peacock; and
 - (iii) 0, 14 m² for each grown pigeon;

- (e) the minimum aggregate floor area must be 4m²;
- (2) in relation to a poultry run, the run must be enclosed with wire mesh or other durable material;
- (3) in relation to buildings or structure housing a battery system -
 - (a) 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;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) the cages of the battery system must be made of an impervious material; and
 - (f) if required by an environmental health officer, a tray of an impervious material must be fitted under every cage for the collection of manure;
- (4) 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;
- (5) no poultry house, poultry run, or building or structure housing a battery system may be constructed within 3 metres of -
 - (a) any dwelling, other building or structure used for human habitation;
 - (b) any place where foodstuffs are stored or prepared for human consumption; or

- (c) the nearest boundary of any land;
- (6) feed must be stored in an adequate rodent-proof storeroom;
- (7) adequate washing facilities must be provided for the cleaning of the cages;
- (8) 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:
 - (a) a roofed platform constructed of concrete or other impervious material;
 - (b) the platform's outside edges must have a minimum curb of 100 mm high;
 - (c) the platform must be graded and drained; and
 - (d) the roof of the platform must extend a minimum of 1 metre beyond the edges of the base of the platform.

Duties of keeper of poultry

10. Any person who keeps poultry must -

- (1) ensure that all poultry is kept within the poultry house, poultry run or building or structure housing a battery system;
- (2) 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;
- (3) 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;
- (4) ensure that the poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
- (5) provide portable manure storage receptacles of an impervious material and with close fitting lids and keep the manure storage receptacles on a platform;

- (6) 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;
- (7) place the manure and other waste matter in manure storage receptacles;
- (8) 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
- (9) 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.

CHAPTER 6

KEEPING OF RABBITS

Application

11. The provisions of sections 14(2) to (4) inclusive and 15(4) to (6) inclusive, do not apply to persons keeping ten or less rabbits.

Permit requirements for rabbits

12. 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.

Requirements for the premises

13. No person may keep rabbits in premises that do not comply with the following requirements:
 - (1) in relation to a rabbit hutch -
 - (a) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - (b) the floor surface must be –

- (i) constructed of concrete or other impervious material brought to a smooth finish;
 - (ii) situated at least 150 mm above ground level; and
 - (iii) graded to a channel, if required by an environmental health officer;
 - (c) adequate ventilation must be provided;
- (2) 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;
- (3) in relation to a building or structure housing a battery system -
 - (a) any wall must –
 - (i) be a minimum of least 2,4 metres high;
 - (ii) be constructed of concrete, stone, brick or other durable material;
 - (iii) must have a smooth internal surface;
 - (b) 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;
 - (c) 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 section 27;
 - (d) 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
 - (e) every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
- (4) 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;

- (5) no person may erect a rabbit hutch, rabbit run or building or structure housing a battery system within five metres of –
 - (a) any dwelling, building or other structure used for human habitation;
 - (b) any place where foodstuffs are stored or prepared for human consumption; or
 - (c) nearest boundary of any land;
- (6) an adequate rodent-proof storeroom must be provided for the storage of feed; and
- (7) adequate washing facilities must be provided for the cleaning of the cages.

Duties of keeper of rabbits

14. Any person who keeps rabbits must -

- (1) keep all rabbits within the rabbit hutch, rabbit run or building or structure housing a battery system;
- (2) 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;
- (3) 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;
- (4) provide portable manure storage receptacles of an impervious material with close-fitting lids; and every receptacle shall be kept on a platform;
- (5) 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;
- (6) keep the manure and waste in manure storage receptacles until it is removed from the premises; and

- (7) 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.

CHAPTER 7

KEEPING OF BIRDS OTHER THAN POULTRY

Requirements for the premises

15. No person may keep any bird, other than poultry, in an aviary that does not comply with the following requirements:
 - (1) the aviary must be constructed of durable rodent-proof materials;
 - (2) adequate access must be provided for cleaning purposes;
 - (3) 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;
 - (4) the aviary may not be situated within three metres of any building or structure, boundary fence or boundary wall; and
 - (5) a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.

Duties of keeper of an aviary

16. Any person who keep birds in an aviary must -
 - (1) ensure that the aviary and the premises are kept in a clean condition and free from pests;
 - (2) provide and use rodent-proof facilities for the storage of bird food;
and
 - (3) ensure that the birds do not disturb the comfort, convenience, peace or quiet of the public.

CHAPTER 8

DOG KENNELS AND CATTERIES

Requirements for the premises

17. No person may use premises as kennels or a cattery unless the premises comply with the following requirements:
- (1) every dog or cat must be kept in an enclosure that complies with the following requirements:
 - (a) the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
 - (b) 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
 - (c) a curb 150 mm high must be provided along the edge of the channel, referred to in subsection (b), to prevent any storm water runoff entering the channel;
 - (2) subject to subsection (4), every enclosure referred to in subsection (a), must be situated in a roofed shelter that complies with the following requirements:
 - (a) every wall must be made of brick, stone, concrete or other impervious material;
 - (b) the internal surface of every wall must have a smooth internal surface;
 - (c) the floor must be made of concrete or other impervious material brought to a smooth finish; and
 - (3) every shelter must have adequate access for cleaning and eliminating pests;
 - (4) a dog kennel that complies with the following requirements may be provided instead of the shelter contemplated in subsection (2):
 - (a) the kennel must be constructed of moulded asbestos or other similar

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

Food preparation area

18. 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:
- (1) the floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;

- (2) the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;
- (3) adequate washing facilities for food bowls and utensils must be provided; and
- (4) a rodent-proof storeroom must be provided for the storage of food.

Duties of a keeper kennels or catteries

19. Any person operating a kennel or cattery must –
- (1) 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;
 - (2) provide portable storage receptacles, of an impervious material with close fitting lids, for the storage of dog and cat faeces;
 - (3) 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 subsection (2);
 - (4) 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;
 - (5) store all loose food in receptacles, with close fitting lids, in the food store;
 - (6) provide adequate refrigeration facilities to store perishable foods on the premises;
 - (7) provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;
 - (8) keep any sick dog or cat isolated from any other animals; and
 - (9) maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests.

CHAPTER 9

PET SHOPS AND PET PARLOURS

Requirements for premises

20. No person may operate a pet shop or pet parlour in or on any premises that does not comply with the following requirements:
- (1) all walls, including any partition, must –
 - (a) be constructed of brick, concrete or other impervious material;
 - (b) have a smooth and easily cleanable internal surface; and
 - (c) be painted with a washable paint or other adequate finish;
 - (2) all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
 - (3) all ceilings must be dust proof and easily cleanable;
 - (4) 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;
 - (5) the wash hand basins, referred to in subsection (4), must be drained;
 - (6) adequate storage facilities must be provided;
 - (7) facilities for the washing of cages, trays and other equipment must be provided in the form of either –
 - (a) a curbed and roofed over platform with a minimum surface area of 1,5 m², raised at least 100 mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
 - (b) a stainless steel sink or trough of adequate size with a drainage board and provided with a supply of running potable water;

- (8) the platform, sink or trough referred to in subsection (7) must be drained;
- (9) any wall surface within 0,5 metres of the platform, sink or trough referred to in subsection (7), must be permanently covered with waterproof material to a minimum height of 1,4 metres above the floor;
- (10) a clearly designated changeroom must be provided if more than six persons are employed on the premises and every change room must –
 - (a) have a floor area providing at least 0,5 m² for each employee;
 - (b) have a minimum overall floor area of 6m² and width of two metres; and
 - (c) be equipped with an adequate metal locker for each employee;
- (11) where no changeroom is required in terms of subsection (10), each employee must be provided with an adequate metal locker;
- (12) for the purposes of washing, clipping or grooming of pets –
 - (a) a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
 - (b) 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;
 - (c) at least 50 % of the floor area of the rooms referred to in subsections (a) and (b) must unobstructed; and
 - (d) the floors of the rooms referred to in subsections (a) and (b) must be graded to a drainage channel;
- (13) all buildings, including storage areas, must be rodent-proof; and
- (14) the premises may not have direct internal access with any room or place-

- (a) used for human habitation;
- (b) where clothing is stored or sold; or
- (c) where food is prepared, stored or sold for human consumption.

Duties of pet shop or pet parlour keeper

21. Any keeper of a pet shop or pet parlour must –

- (1) provide cages for housing the pets complying with the following requirements:
 - (a) the cages must be constructed of metal or other impervious material and fitted with a removable metal floor-tray to facilitate cleaning;
 - (b) the exterior cavity of any tubular or hollow material used to construct a cage must be sealed;
 - (c) the cages must be able to be moved easily;
 - (d) where rabbits are kept in a cage, the metal floor-tray referred to in subsection (a), must be drained to a removable receptacle;
 - (e) the cages must be fitted with a drinking vessel filled with water;
 - (f) the distance from any cage to the nearest wall must be a minimum of 150 mm;
 - (g) the cages must be kept a minimum of 450 mm above floor level; and
 - (h) the space below every cage must be unobstructed;
- (2) 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;
- (3) provide adequate refrigeration facilities to store all perishable pet food on the premises;
- (4) ensure that in any room in which the pets are kept –
 - (a) 50 % of the floor space is unobstructed; and

- (b) the cages are placed a minimum of 800 mm from one another;
- (5) 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;
- (6) provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- (7) provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;
- (8) provide an adequate supply of potable water for drinking and cleaning purposes;
- (9) provide adequate ventilation to ensure the comfort and survival of the pets; and
- (10) ensure that the number of pets contained in each cage does not impede their free movement.

CHAPTER 10

KEEPING OF WILD ANIMALS

Requirements for the premises

22. No person may keep wild animals on premises that do not comply with the following requirements:
- (1) all wild animals must be kept in enclosures constructed and equipped as follows –
 - (a) the enclosure must satisfy the needs of the specific animal as specified by the relevant nature conservation authorities;
 - (b) the enclosure may not be situated within 50 metres of –
 - (i) any boundary of the premises;

- (ii) any dwelling, building or structure used for human habitation;
 - (iii) any dwelling, building or structure where food is stored, handled or prepared for human consumption; or
 - (iv) any water resource intended for domestic consumption;
- (c) an adequate supply of potable water for drinking and cleaning purposes must be provided; and
- (d) the enclosure must be graded and drained in a way that does not pollute any water resource or create a public health nuisance;
- (2) a separate room, equipped with a preparation table and wash-up sink, supplied with running potable water and adequately drained must be provided for the preparation of food;
- (3) adequate facilities must be provided for washing any cages, trays, crates, refuse receptacles and food containers in the form of either–
- (a) a curbed platform constructed of concrete or other impervious material brought to a smooth finish; or
 - (b) a stainless steel sink or trough adequate in size to accommodate the equipment to be washed;
- (4) both facilities referred to in subsection (3) must be provided with a supply of running potable water and must be drained; and
- (5) all areas and rooms in which fodder and food are stored must be rodent-proof.

Duties of keeper of wild animals

23. Any person that keeps wild animals must –

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

CHAPTER 11 KEEPING OF PIGS

Requirements for premises

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

- (1) every wall must –
 - (a) be constructed of brick, stone, concrete or other durable material;
 - (b) have a minimum height of 1,5 metres; and
 - (c) have a smooth, impervious internal surface;
- (2) the floor area must provide at least 3m² for each pig accommodated in the pigsty, with an overall minimum floor area of 6 m²;
- (3) the roof over any portion of a pigsty must have a minimum height of 1,5 metres;
- (4) except in the case of a roofed structure having one of its long sides completely open, the lighting and ventilation openings must –
 - (a) be situated opposite one another in the external walls; and
 - (b) provide a minimum of 0,15 m² for each pig;
- (5) the floor must be –
 - (a) at least 150 mm above the surrounding ground level;
 - (b) constructed of concrete or other durable and impervious material brought to a smooth finish; and
 - (c) graded for the run-off of liquids into an open channel outside the pigsty;
- (6) the open channel referred to in subsection (5)(c) must –

- (a) be constructed of concrete or other durable and impervious material;
 - (b) be a minimum of 100 mm in diameter; and
 - (c) be adequately drained;
- (7) the pigsty must be strong enough to prevent the pigs breaking out;
- (8) the pigsty may not be situated within 100 metres of –
- (a) the boundary of the premises;
 - (b) any dwelling, building or structure used for human habitation;
 - (c) any dwelling, building or structure in which food is prepared, stored or sold for human consumption;
 - (d) any water resource intended for domestic consumption;
- (9) a roofed over concrete platform must be provided for –
- (a) the storage of all swill in containers; and
 - (b) the preparation of pig feed;
- (10) the platform referred to in subsection (9) must comply with the provisions of subsection (5) and in addition, must have a curbing of a minimum height of 100 mm on each edge; and
- (11) a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the pigsty.

Duties of keeper of pigs

25. Every person keeping pigs must -
- (1) ensure that every pig is kept within a pigsty;
 - (2) maintain the premises and any equipment, apparatus, container or receptacle in a clean and sanitary condition and in good repair;

- (3) provide portable storage receptacles, of impervious material and with close fitting lids, to store manure;
- (4) keep all manure storage receptacle on a platform that complies with section 24(9);
- (5) remove all manure from the pigsty at least once every 24 hours and place it in the manure storage receptacles;
- (6) 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;
- (7) provide a rodent-proof store-room in which all feed, other than swill, must be stored; and
- (8) provide rodent-proof receptacles, with close fitting lids, in which to store all loose feed.

CHAPTER 12

MISCELLANEOUS PROVISIONS

Drainage

26. 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 by-law, must be drained in accordance with provisions of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

Dangerous animals

- 27(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, venomous snakes, spiders or scorpions.
- (2) The permit referred to in subsection (1) may be issued subject to such conditions as may be deemed necessary by the environmental health officer including without limiting the generality of the foregoing the type of enclosure required to ensure that the animal does not escape from the premises or pose a danger to the residents of, or visitors to, the premises.

Requirements for keeping of bees

- 28(1) No person may keep bees on any premises unless –
- (1) the person is in possession of a valid permit, which may be issued subject to such conditions as the environmental health officer may deem fit; and
 - (2) the bee hive is situated –
 - (a) a minimum of five metres from any boundary of the premises; and
 - (b) a minimum of ten metres from any public place or building used for human habitation;
 - (3) the bees are kept in an approved bee hive; and
 - (4) the bee hive is –
 - (a) kept in an area inaccessible to children and animals;
 - (b) kept in the shade at all times; and
 - (c) supplied with a source of drinking water within five metres of the hive.
 - (5) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive;

Keeping of and slaughtering animals for religious and ceremonial purposes

- 29(1) Any person who keeps an animal prior to slaughtering it for religious or ceremonial purposes, or slaughters an animal for such purposes, must comply with the provisions of these by-laws.
- (2) A person intending to slaughter an animal for religious or ceremonial purposes 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.

CHAPTER 13

APPEALS

Appeals

- 30(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 14 GENERAL

Offences

31. Any person who -

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

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

Repeal of existing By-laws

32. The Council's existing Keeping of Animals by-laws are hereby repealed.

Short title and commencement

33. These by-laws shall be called the Keeping of Animals By-laws and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 84

8 July 2014

UMTSHEZI MUNICIPALITY**BY-LAW RELATING TO THE CONTROL OF PUBLIC NUISANCES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act [Act No. 108 of 1996], the By-law Relating to the Control of Public Nuisances.

Purpose of By-law

The purpose of this by-law is to promote a safe, healthy and peaceful environment for the benefit of the public residing within the municipal boundaries, and to provide for practices and procedures to control public nuisances.

**CHAPTER 1
DEFINITIONS****1.**

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

'area' means the geographical area falling within the municipal boundaries of the Umtshezi Municipality;

'authorised official' means -

- (a) an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of Section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'municipality' means the Umtshezi Municipality, established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'noise pollution' means any unseemly noise, shouting, quarrelling, wrangling, or singing or the continuous playing of musical instruments, radios, or loudspeakers, which constitutes a nuisance.

'nuisance' means, without limiting the generality of the term, an act, omission, condition or state of affairs that -

- (a) impedes, offends, endangers or inconveniences the public at large; or

- (b) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property,

and **'public nuisance'** shall have a corresponding meaning;

'occupier' means and includes any person in actual occupation of any land or private property or having the charge or management thereof, without regard to the title under which he or she occupies it, and, in the case of private property subdivided and let to various lodgers or tenants, the person receiving the rent payable by lodgers or tenants, whether on his or her own account or as agent for any person entitled thereto or interested therein;

'owner', in relation to any private property means -

- (a) the person in whose name the title to that private property is registered in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937], as amended, and includes the holder of the stand licence;
- (b) the person in whose name the certificate of sectional title to that private property is registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and, in addition, includes the owner (as defined in the said Act), the body corporate and the developer in relation to such private property;
- (c) if such person or holder is dead, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested, whether as executor, trustee, liquidator, guardian or in any other capacity whatsoever;
- (d) if the private property is under lease, the registration whereof being necessary for the validity of such lease, the lessee; or
- (e) where an owner, as herein defined, is absent from the Republic or his whereabouts are unknown, an agent of such owner, or any person receiving or entitled to receive rent in respect of the private property or any **'unit'**, as defined in the Sectional Titles Act, 1986, of such private property;

'private property' shall include any public place and any land privately owned, all buildings, rooms, tenements, sheds, huts or other structures or erections, and also yards or lands in connection therewith, and shall also include any "unit", as defined in the Sectional Titles Act, 1986, thereof;

'public facility' means an amenity provided by the municipality for the utilisation by and convenience of the public at large;

'public place' means any square, park, recreation ground or open space which -

- (a) is vested in the municipality; or
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

'**public vehicle**' means any vehicle or conveyance which is the property or under the control of the municipality, and which is used for the transport, for profit or otherwise, of members of the public;

'**refuse**', without limiting the ordinary meaning of the word, means any unused vehicle or machinery or part thereof, or any scrap metal, builder's rubble, garden refuse, debris, garbage, tyres or any other discarded or abandoned article or object;

'**vehicle**' means any conveyance which is capable of transporting one or more persons, except a wheelchair or similar device used for the conveyance of a physically impaired person.

CHAPTER 2 PUBLIC PLACES

2.

Breaches of the peace

A person commits an offence if, in a public place, he or she -

- (a) accosts, insults, interferes with, jostles, threatens or harasses another person;
- (b) associates or acts in concert with other persons in a manner which causes or is likely to cause a breach of the peace; or
- (c) fights or incites or invites another person to fight.

3.

Indecent behaviour

(1)

A person commits an offence if, in a public place, he or she -

- (a) is not decently clothed so that at least such person's genitalia are covered from view; or
- (b) performs any indecent act, or incites any other person to commit any such offence.

(2)

A person commits an offence if, in a public place, he or she -

- (a) defecates or urinates, except within a public facility provided by or on behalf of the municipality for that purpose;
- (b) enters a toilet reserved or set aside for members of the opposite sex;
- (c) spits;
- (d) is under the influence of intoxicating liquor or imbibes or ingests such liquor in circumstances which, in the

reasonable opinion of an authorised official, render it likely that such person will cause a nuisance to other persons;

(e)

is under the influence of a dependence-producing substance, as defined in the Drugs and Drug Trafficking Act, 1992 [Act No. 140 of 1992], or administers such a substance to him- or herself or another person; or

(f)

commits or displays any indecent gesture, or indecently exposes him- or herself.

4.

Obscene or offensive language

A person commits an offence if, in a public place within the hearing of a person in a public place, he or she uses any indecent or offensive language or sings an indecent or offensive song.

5.

Indecent or offensive literature and representations

A person commits an offence if, in a public place, he or she -

(a)

displays, distributes, exposes to view, or sells, or offers for sale, in a manner likely to cause offence, any indecent or offensive picture, or other representation or written or printed matter; or

(b)

draws, prints, writes, or otherwise produces, any indecent or offensive figure, letter, picture, word or other representation or matter so that the same is in the public view.

6.

Dangerous acts

A person commits an offence if, in a public place, he or she -

(a)

activates, handles or uses any material, object or thing which results in injury to a person, or which threatens a person, or which damages property, or he or she acts in a manner likely to result in such injury, threat or damage;

(b)

introduces or handles any material, object or thing, or any liquid or solid substance, which, by its nature, or by reason of the manner of its introduction or handling, creates a new source of danger to persons or property, or is likely to do so;

(c)

lights, uses, or benefits from, a fire, other than in or on a public facility provided by the municipality for that purpose;

(d)

attaches any object to, or suspends any object from, a canopy, bridge, verandah or other projection, or a pillar, pole or post, subject to the

provisions of section 9(e); or

(e)

performs any other act which may cause injury to a person or damage to property, unless he or she is authorised or permitted by law to do so, or does so with the written permission of an authorised official and in accordance with any conditions imposed by him or her.

7.

Littering

(1)

A person commits an offence if, in a public place, he or she -

(a)

abandons, discards, discharges, or spills, or causes or allows to be discharged or spilled, any rubbish or other waste material or thing, whether liquid or solid, except in a receptacle provided for the purpose; or

(b)

removes from a receptacle, provided for the disposal of refuse, any of its contents, and causes same to be discharged from such a receptacle.

(2)

A person who causes or incites another person to perform any of the acts described in subsection (1) shall be guilty of an offence.

(3)

Any material or thing that a person drops or allows to fall without being immediately retrieved by him or her shall, for the purposes of subsection (1), be deemed to have been discarded by him or her.

(4)

Any material or thing found in a public place in circumstances giving rise to a reasonable suspicion that an offence has been committed in terms of subsection (1), and which bears the name of a person or in respect of which there is a reasonable suspicion that it is or was the property or under the control of that person, shall, for the purposes of subsection (1), be deemed to have been abandoned or discarded by that person, until the contrary is proved.

(5)

A person who sweeps, or in any other way introduces, any rubbish or waste material or thing into a public place shall be deemed to have discarded it there, for the purposes of subsection (1).

(6)

A person who has been observed by an authorised official to have contravened the provisions of subsection (1) may be directed by him or her to remove the rubbish, material or thing or to place it in a receptacle provided by or on behalf of the municipality, and failure to comply with such direction shall constitute an offence.

8.**Cleaning of sidewalks and verges**

- (a) An occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing shall at all times, while any such activity is being carried on, keep any sidewalk and verge abutting on or adjoining the premises, including the gutter and kerb, free of litter, and shall keep the sidewalk and verge in a clean and satisfactory state, and, to this end, remove all litter therefrom.
- (b) The occupier referred to in subsection (a) shall cause all litter removed in terms of said subsection to be placed in refuse receptacles provided by or on behalf of the municipality, or, with the written consent of an authorised official, to be disposed of in a manner approved by said authorised official.

9.**Obstructions**

A person commits an offence if, in a public place, he or she -

- (a) leaves any thing unattended, having introduced or placed the thing there, so as to cause or be likely to cause an obstruction to persons or vehicles;
- (b) carries, deposits, handles or introduces any thing, so as to be likely to obstruct or interfere with the free movement of persons or vehicles, or with the use of the public place by persons or vehicles, or to cause injury to any person, or damage to any property;
- (c) deposits on its surface any thing, for the purpose of, or in the course of, loading or unloading a vehicle, or of delivering same to premises having access to such public place, for a longer period than is reasonably necessary for that purpose;
- (d) obscures a road traffic sign, as defined in the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (e) hangs or suspends anything from or above a public place, or causes or allows anything to protrude above its surface or to encroach upon it, provided that prior written consent may be obtained from the municipality, which consent may be given subject to conditions and restrictions deemed necessary;
- (f) gathers with or causes a gathering of other persons in a place or manner so as to, or so as to be likely to, obstruct or restrict or interfere with the movement of persons or vehicles, or the use or enjoyment of a public place by persons or vehicles;
- (g) performs any other act which has, or is likely to have, a result described in subsection (b).

10.

Disposal of property found in a public place

- (1) When anything has been left in a public place, in contravention of section 9, an authorised official may remove it to a store established by the municipality for this purpose, provided that, if such a thing, in the reasonable opinion of the authorised official, has no commercial value, he or she may dispose of same in such manner as he or she deems fit, and the person who has committed the offence shall be liable to the municipality for the cost of such disposal, as determined by such authorised official.
- (2) Items which have been removed to a store in terms of subsection (1) shall be released to any person who, within 7 (seven) days after such removal, or within such longer period as may be allowed by the authorised official in charge of such store, has demonstrated that he or she is the owner of the items, or entitled to their possession, after payment of the cost of removal and storage, as determined by such authorised official, in accordance with a prescribed tariff of charges.
- (3) Items which have not been released in terms of subsection (2) shall be sold or disposed of in such manner and after such notice as the authorised official in charge of the store deems fit, having regard for the nature of the items.
- (4) The proceeds of any sale in terms of subsection (3) shall be utilised for the payment of -
- (a) the cost of removal and storage, as determined in terms of subsection (2);
 - (b) any costs which may have been incurred in attempting to trace the owner; and
 - (c) the costs of sale, the remaining balance being forfeited to the municipality if not claimed within 1 (one) year of the date of sale by a person who demonstrates his legal right thereto.
- (5) If the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4), then the owner of the items sold and the person who committed any offence in relation thereto shall be jointly and severally liable to the municipality for payment of the unsatisfied balance.
- (6) If the items cannot be sold in terms of subsection (3), then the authorised official in charge of the store may dispose of the items in such manner as he deems fit, and the provisions of subsection (5) shall, *mutatis mutandis*, apply in respect of any costs incurred in effecting such disposal.
- (7) The exercise of any powers conferred by this by-law shall not render the municipality or any authorised official liable for any loss or theft of, or any damage to, anything removed in terms of subsection (1),

except where such loss, theft or damage is a direct result of the negligence of the municipality or authorised official in question.

11.**Obstructions caused by plants**

(1)

If a tree, shrub or other plant growing on any private property which abuts on a public place, or any portion of such plant -

(a)

obstructs the view of the driver of any vehicle in such public place;

(b)

obstructs or causes a nuisance to persons using such public place; or

(c)

obscures a road traffic sign,

an authorised official may serve a notice on the owner or occupier of the private property, requiring him or her to cut down, remove or trim the plant from which the nuisance originates, to an extent, and within the period, stated in the notice, and any person who fails to comply with such notice within the period stated shall be guilty of an offence.

(2)

If a person on whom a notice has been served in terms of subsection (1) fails to comply with the terms thereof within the period stated therein, then an authorised official may cause the work specified in the notice to be carried out, and such person shall be liable to the municipality for the reasonable cost of the work, as assessed by such authorised official.

12.**Gatherings**

(1)

No person shall convene, or participate in, any gathering at any public place, outdoor facility or municipal building so as to -

(a)

constitute a nuisance, as defined; or

(b)

contravene any provision of the Regulation of Gatherings Act, 1993 [Act No. 205 of 1993].

(2)

The provisions of subsection (1) shall not be interpreted so as to detract from any person's constitutional right to assemble, demonstrate, picket and present petitions.

13.**Amplification devices and equipment**

(1)

No person shall, without the prior consent of the municipality, use or permit to be used any megaphone, loudspeaker, or other device for

the reproduction or amplification of sound, in or upon any public place, for the purpose of making announcements, advertising, or doing anything of a similar nature.

(2)

The municipality may refuse to grant such consent, if it has reasonable grounds for believing that the use of any such megaphone, loudspeaker or other device will cause, or is likely to cause, a nuisance, as defined.

(3)

The municipality may withdraw its consent, if it appears that a nuisance has been caused, or is likely to be caused.

14.

Games

A person commits an offence if, in a public place, he or she plays any games, or indulges in any pastimes, such as, but not limited to, the use of roller skates, rollerblades or skateboards, in a manner that causes a nuisance.

15.

General offences

(a)

A person commits an offence if, in a public place, upon private property, at an outdoor facility or in a municipal building, or the said facility or building being owned by or under the control of the municipality, he or she acts, or omits to act, such that a nuisance is caused in circumstances that are under his or her control.

(b)

The provisions of subsection (a) shall not apply to the extent that a person acts lawfully, in the exercise of a right, or in the performance of a duty.

CHAPTER 3 PRIVATE PROPERTY

16.

Use of private property

(1)

A person commits an offence if, on any private property, he or she -

(a)

excavates or removes soil or other material from a position in relation to other premises or a public place so as to, or to be likely to, remove lateral support from such premises or public place, or to create a source of danger to life or damage to property;

(b)

being the owner or occupier of such private property, allows any well, pond, reservoir, swimming pool, pit, hole, excavation, earthwork, tree or other vegetation on such private property to be in such a condition or to be so unprotected so as to constitute a danger to the safety of persons or property;

- (c) causes, or allows, anything to project from the private property over or into a public place, except in an area zoned for industrial purposes in terms of a zoning scheme and to an extent necessarily consistent with the lawful land use thereof;
 - (d) being the owner or occupier of such private property, deposits, stores or causes, or allows or permits to be deposited or stored or to accumulate so as to be visible from a public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof, or scrap metal or other derelict or waste materials;
 - (e) without the consent of the owner or occupier thereof, attaches or places anything to or on any private property, or in any way defaces such private property, whether by the use of chalk, ink, paint, or by any other means whatsoever, unless he is authorised by any law to do so.
- (2) An authorised official may order a person who has contravened or is contravening subsection (1)(d) or (e) to remove the item to which the contravention relates from the private property concerned within a specified time, and, if he fails to do so, then the provisions of section 10 shall, *mutatis mutandis*, apply.

17.**Burglar alarms**

- (1) The owner or occupier of a private property in which a burglar alarm device has been installed shall be guilty of an offence if the burglar alarm device continues to sound either continuously or intermittently for more than 10 (ten) minutes after it has been activated by any cause whatsoever.
- (2) Such a device shall be deemed to be sounding intermittently for the purposes of subsection (1) for so long as it continues to sound at any interval without the intervention of a new cause, provided that it shall be a defence to a charge of contravening subsection (1) if it can be proved that an automatic cut-off mechanism fitted to such device has failed to operate, for reasons beyond the control of the occupier, and without negligence on his or her part.
- (3) When a burglar alarm device has been installed in any private property, the owner or occupier of the private property shall, unless a mechanism referred to in subsection (2) has been fitted, either erect, and maintain, at the main entrance to the private property, a notice specifying the names and telephone numbers of persons who have access to the private property at all times for the purpose of deactivating the device, or shall arrange for an automatic response to an alarm to operate at all times.

18.**Air-conditioning appliances**

- (1) The owner or occupier of a private property who has installed therein, or who maintains and operates therein, an air-conditioning appliance shall ensure that such appliance is so installed, maintained and operated so as to preclude -
- (a) the generation of noise, odours or vibrations which cause a nuisance, as defined; and
 - (b) the discharge or generation of condensate onto a public place so as to cause a nuisance, as defined.
- (2) Nothing contained in this section shall be construed so as to detract from the requirements of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and the Occupational Health and Safety Act, 1993 [Act No. 85 of 1993] and any regulations promulgated in terms of the aforesaid legislation.

19.**Nuisances arising from the use of private property**

- (1) No owner or occupier of private property shall -
- (a) use it for a purpose;
 - (b) cause, allow or permit its use for a purpose;
 - (c) organise or allow or permit an activity, event or function thereupon, save for birthday, engagement, wedding, or similar, celebrations,
- which is contrary to the zoning scheme, or similar restrictions imposed by town planning legislation, and which, by its nature or otherwise, or by reason of its consequences, causes a nuisance.
- (2) Notwithstanding subsection (1), nothing shall prevent the owner or occupier of any private property from engaging in the following activities -
- (a) any authorised building or contract work undertaken by him- or herself, or on his or her behalf; and
 - (b) participating in any hobby or activity involving any item owned or used by him or her which may require the use of an electrical appliance such as an angle grinder, sanding machine or similar item, provided that-

- (i) the use of such appliance does not cause interference to television or radio reception in the neighbourhood, that every precaution possible is taken to minimise noise therefrom and the duration of use thereof, and that such activity is not for or related to any business conducted from the private property or elsewhere; and
 - (ii) such building or contract work and the use of electrical appliances for such hobby or activity is confined to the hours of 07h00 to 19h00.
- (3) Whenever an authorised official is of the reasonable opinion that a person engaged in a hobby or activity is contravening subsections (1) or (2), he or she may instruct the owner or occupier of the private property, or any person responsible for or participating in the use, activity, event or function, to take such steps as the authorised official specifies, to abate the nuisance, or to avoid the creation of a nuisance, or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith, or within a time prescribed by the authorised official.
- (4) If the owner, occupier or person responsible for, or participating in, the use, activity, event or function mentioned in subsection (3) fails to abide by any notice or instruction given by an authorised official, then such official may issue a notification in terms of Section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977] upon the owner of the property where the use, activity, event or function mentioned is emanating from.

20.**Slaughter of animals and disposal of carcasses**

- (1) No person shall -
- (a) slaughter any animal at any place other than an abattoir;
 - (b) permit the slaughter of any animal at any place under his or her control, unless the place is an abattoir; or
 - (c) sell or provide meat for human or animal consumption, unless the meat has been slaughtered at an abattoir.
- (2) The provisions of subsection (1) do not apply to slaughter for own consumption, or for cultural or religious purposes, provided that-
- (a) prior to the slaughter of any animal on a private property, the owner or the occupier must -

- (i) obtain the written consent of the municipality; and
 - (ii) provide reasonable notification to the immediate neighbours who occupy abutting properties and properties across the road from the private property on which the animal will be slaughtered; and
- (b) such slaughter does not constitute a nuisance, as defined.
- (3) No person shall bury, or place, any carcass or part of a carcass, or permit any carcass, dead thing, or any decomposable or offensive material or thing, which is his or her property, or which is under his or her care or control, to be placed on his or her private property or elsewhere, or to remain thereon so as to cause a nuisance.
- (4) In the event of any person not being able to dispose of any offensive matter or thing or bury any carcass in terms of subsection (3), he or she shall arrange with the municipality for it to effect such disposal at the prescribed fee.
- (5) Nothing contained in this section shall be construed so as to detract from the requirements of the Meat Safety Act, 2000 [Act No. 40 of 2000], and any regulations promulgated in terms thereof.

21.**Removal of weeds, undergrowth and bush**

- (1) No person shall permit any rank grass, undergrowth, or declared weeds or invader plants, as listed in the Conservation of Agricultural Resources Act, 1983 [Act No. 43 of 1983], and any regulations promulgated in terms thereof, to grow upon any private property or vacant land occupied or owned by him or her.
- (2) A person shall comply with any notice issued by an authorised official, requiring him or her to destroy or cut down and remove, or cause to be removed, any such rank grass, undergrowth, or declared weeds or invader plants, within a time to be stated in such notice, and in a method as stated in the Conservation of Agricultural Resources Act, 1983 and its regulations.
- (3) If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary, to carry out, on behalf of the said person, the requirements of the said notice, and may recover the cost thereof from the said person, in accordance with the municipality's tariff of charges.

22.**Control of mosquitoes, flies, rodents and other vermin**

- (1) It shall be the duty of every owner and occupier to prevent mosquitoes, flies, rodents or other vermin from developing or being harboured on any private property owned or occupied by such owner or occupier, and any such owner or occupier who fails to comply with the provisions hereof shall be deemed to have contravened this by-law.
- (2) The owner or occupier of private property shall, on being served with a notice signed by an authorised official, carry out such measures as may be specified therein, for the removal of conditions favourable for the development of, or harbouring of, mosquitoes, flies, rodents or other vermin, within the time specified in the notice.
- (3) If the owner or occupier refuses to carry out the measures specified in a notice issued in terms of this by-law, or fails to do so within the time specified, then an authorised official may arrange for such measures to be carried out, and the reasonable costs incurred in so doing shall be recoverable by the municipality from the person upon whom the notice is served, at a charge specified in the municipality's tariff of charges.

23.**Keeping or management of a brothel**

- (1) No person shall keep or manage, or act or assist in the keeping or management of, a brothel upon any private property.
- (2) No person, being the owner, lessee or occupier of any private property, shall knowingly permit such private property or any portion thereof or any room therein to be used as a brothel or for the purpose of prostitution, or to be a party to continued use thereof for such purposes.
- (3) No person, being the owner of any private property or the agent of such owner, shall let such private property or any portion thereof or any room therein, with the knowledge that such private property or any portion thereof or any room therein is to be used as a brothel or for the purposes of prostitution.
- (3) Nothing contained in this section shall be construed so as to detract from the requirements of the Sexual Offences Act, 1957 [Act No. 23 of 1957].

24.**Disturbance of the Peace**

- (1) No person being in or on any private premises, shall disrupt the peace in the neighbourhood of such premises by making therein or thereon any unseemly noise, shouting, quarrelling, wrangling, singing and/or the continuous playing of musical instruments, radios, or anything similar thereto, and/or by the continuous or over-loud use

of loudspeakers, or the like, which constitutes a nuisance to the neighbours and neighbourhood.

(2)

Any person or ultimately, the subject property's owner, must comply with any notice issued by an authorised official, requiring him or her to ensure that the noise pollution which constitutes a nuisance to the neighbourhood, ceases.

(3)

If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary in terms of Section 28 (2) & (3)

CHAPTER 4

MUNICIPAL PROPERTY AND PROPERTY UNDER THE CONTROL OF THE MUNICIPALITY

25.

General offences

(1)

A person commits an offence if, in relation to any property in the ownership or possession of, or under the control of, the municipality, whether movable or immovable, and including any public place, or private property within the municipal jurisdiction, he or she -

(a)

permits, or causes to be done, any act which may, in the reasonable opinion of the municipality, cause soil or sand erosion;

(b)

permits, or causes to be done, any cutting of, removing of, or interfering with, natural vegetation, which may, in the reasonable opinion of the municipality, result in damage to, or destruction of, such natural vegetation;

(c)

wilfully or negligently damages or destroys such property or any part thereof;

(d)

removes any earth, sand, shale, stone, turf or any other material or part thereof;

(e)

breaks, cuts, destroys or removes any bush, shrub, tree or other plant, or removes any branch, flower, leaf or other part thereof;

(f)

attaches to, or places on or next to, such property any thing, including any advertisement, flyer, pamphlet, placard or poster, or other illustrative, written or printed matter, or hangs or suspends anything on or from it;

- (g) defaces any such property, whether by the use of chalk, ink or paint, or by any other means whatsoever;
 - (h) extinguishes any lamp or light, or displaces or removes any barricade, enclosure, fence, lamp, light, notice or sign;
 - (i) makes any excavation in, or disturbs the surface of, such property;
 - (j) climbs or sits upon, hangs onto, or mounts, any such property;
 - (k) introduces any object or material, or erects any structure, on such property;
 - (l) enters such property, or remains there;
 - (m) allows, causes or permits any other person to commit any of the aforesaid acts, unless he or she does so in the performance of a lawful right or duty, or with the prior consent of an authorised official, or in accordance with the provisions of any law.
- (2) Notwithstanding the foregoing, nothing shall prevent the owner or occupier of private property from planting and maintaining grass and plants on that portion of the verge of a street which abuts on such municipal property or property under the control of the municipality, provided that the lawful passage of vehicular and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed and the grass and plants are properly maintained and do not cause a nuisance.
- (4) Any person who is convicted of an offence in terms of subsection (1) shall pay to the municipality the cost of remedying any loss or damage suffered by the municipality as a result of the commission of that offence, and the cost of the removal and disposal of any material, object or structure involved in the commission of the offence, and, for this purpose, the provisions of section 10 shall apply.
- (5) (a) No person being in or on any public facility, public place or a vehicle shall disrupt the peace in the vicinity by making therein or thereon any unseemly noise, shouting, quarrelling, wrangling, singing and/or the continuous playing of musical instruments, radios, or anything similar thereto, and/or by the continuous or over-loud use of loudspeakers, or the like, which constitutes a nuisance to the general public.

- (b) Any person must comply with any notice issued by an authorized official, requiring him or her to ensure that the noise pollution which constitutes a nuisance to the general public, ceases.
- (c) If such person fails to comply with such written notice, then he or she shall be guilty of a contravention of this by-law, and the municipality may take such steps as it may deem necessary in terms of Section 28 (2) & (3)

CHAPTER 5

PRESUMPTIONS, OFFENCES AND PENALTIES

26.

Presumptions

When an employee, in the course of his or her employment, performs any act, or is guilty of an omission, which constitutes an offence in terms of this by-law, the employer shall also be deemed to have performed the act, or to be guilty of the omission, and he or she shall be liable on conviction for the penalties mentioned in terms of section 28, unless it can be proved that -

- (a) in performing the act, or permitting the omission, the employee was acting without his or her employer's knowledge and consent;
- (b) all reasonable steps were taken by the employer to prevent the act or omission in question; and
- (c) it was not within the scope of the authority or the course of the employment of the employee to perform the act or permit the omission in question.

27.

Offences and penalties

- (1) Any person who-
 - (a) contravenes any provision of this by-law, which contravention is not expressly stated to be an offence;
 - (b) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of this by-law; or
 - (c) fails to comply with the terms of any notice served upon him or her, or instruction to him or her in terms of this by-law,shall be guilty of an offence.

- (2) Any person who contravenes any of these provisions shall be guilty of an offence, and liable, upon conviction, to a fine as contemplated by the Umtshezi Municipality's Bylaws relating to Offences, Penalties and Appeals as duly promulgated.
- (3) An admission of guilt fine may be paid by any person in respect of whom a summons or written notice has been issued for any contravention of this by-law, as contemplated in terms of Sections 56 and 57 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

28.**Regulations**

- (1) The municipality may make regulations regarding -
- (a) the granting of written permission and accompanying conditions for -
- (i) the performance of a dangerous act, as contemplated in terms of section 6(1)(e); and
- (ii) the discharge of fireworks in terms of section 6(2);
- (b) the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing, as contemplated in terms of section 8(b);
- (c) the granting of written consent and accompanying conditions and restrictions for the hanging or suspension of anything from or above a public place or so as to cause an obstruction, as contemplated in terms of section 9(e);
- (d) the disposal of property found in a public place, including-
- (i) the municipality's identification and designation of a store for property removed in terms of section 10(1);
- (ii) guidelines for the determination of the commercial value of property so removed;
- (iii) a tariff of charges for the removal and storage of items, as contemplated in terms of section 10(2);

- (iv) procedures to be followed with regard to the sale or disposal of items in terms of sections 10(3) and (6);
- (e) the contents and service of a notice on the owner or occupier of private property, the carrying out of work necessary to give effect to the notice, and guidelines for the determination of the reasonable costs thereof, as contemplated in terms of sections 11(1) and (2);
- (f) the granting of consent for the use of amplification devices and equipment, as contemplated in terms of section 13;
- (g) the prevention of nuisances on private property, including -
 - (i) procedures for the removal of any item from private property, as contemplated in terms of section 16(2);
 - (ii) the giving of instructions and notification to an occupier of private property, for the abatement or cessation of a nuisance, as contemplated in terms of sections 19(3) and (4);
 - (iii) procedures for the entering of private property, for the extinction of fires thereon, as contemplated in terms of section 20(b);
 - (iv) the slaughter of any animal for own consumption, or for cultural or religious purposes, as contemplated in terms of section 21(2), and the adoption and implementation of a tariff of charges for the disposal and burying of any offensive matter or thing, including carcasses, as contemplated in terms of section 21(4).
 - (v) the contents and service of a notice for the removal of vegetation, and procedures for effecting the removal by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 22(2) and (3); and
 - (vi) the contents and service of a notice for the control of vermin, and procedures for effecting control by the municipality itself

- and a tariff of charges therefor, as contemplated in terms of sections 23(2) and (3);
- (vii) the contents and service of a notice for the cessation of noise pollution which constitutes a nuisance and a tariff of charges therefor, as contemplated in terms of sections 28(2) and (3);
- (h) the provision of consent by an authorised official in respect of any act with regard to municipal property and property under the control of the municipality, as contemplated in terms of section 26(1)(m);
- (i) a tariff of charges, or schedule of costs, for the remedying of any loss or damage suffered by the municipality as a result of the commission of an offence in terms of section 26(3);
- (j) (i) the prescription of penalties for the offences contemplated in terms of section 28; and
(ii) the amendment of such penalties from time to time;
- (k) any matter which may be prescribed in terms of this by-law, and any matter which may facilitate the application of this by-law.
- (2)
- [a]
The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection 1, cause a draft of the regulation to be communicated to the local community and to be made public in terms of Sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- [b]
If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

29.**Repeal of by-laws**

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

30.**Short title**

This by-law is called the By-law Relating to the Control of Public Nuisances, 2013, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 85

8 July 2014

UMTSHEZI MUNICIPALITY**PARKING BYLAWS**

Be it enacted by the Council of the Umtshezi Municipality, in terms of Section 14(2) of the Local Government: Municipal Systems Act No. 32 of 200, as follows:

INDEX

CHAPTER 1: DEFINITIONS	2
1. Definitions	2
CHAPTER 2: TICKET CONTROLLED PARKING AREAS	5
2. Parking fees	5
3. Conditions of parking in ticket-controlled parking grounds	5
CHAPTER 3: PARKING METER PARKING AREAS	6
4. Parking fees	6
5. Place of parking	6
6. Conditions of parking	6
7. Proof of time	7
CHAPTER 4: PAY AND DISPLAY PARKING GROUNDS	8
8. Parking fees	8
9. Parking	8
10. Proof of date and time of departure	9
CHAPTER 5: VEHICLES	9
11. Abandoned vehicles	9
12. Vehicles of excessive size	10
13. Parking after parking period	10

14. Defective vehicles	11
15. Parking of a vehicle in parking area	11
16. Cleaning and repair of vehicle	11
17. Tampering with vehicles and obstructions	11
18. Parking after parking period	11
19. Disabled Bay Parking	12
CHAPTER 6: MISCELLANEOUS	12
20. Refusal of admission	12
21. Forging or defacing tickets	12
22. Medical practitioners exempt	12
23. Parking directives	13
24. Offences and penalties	14
25. Monthly tickets	14
26. Closure of parking areas	14
27. Parking according to instructions	15
28. Prohibitions relating to parking meters	15
29. Prohibitions relating to pay and display machines	15
CHAPTER 7: GENERAL PROVISIONS	16
30. Repeal of existing By-laws	16
31. Short title and commencement	16

CHAPTER 1

DEFINITIONS

Definitions

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

"**association**" means persons who are self employed and have organised themselves into a car guard association;

“authorised official” means any inspector of licences, a traffic officer, peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or a police officer in terms of the Police Act, 1958 (Act No. 7 of 1958), and includes any other person whom the Provincial Minister of Local Government may from time to time by regulation declare to be an authorised officer;

"Council" means the Council of the Umtshezi Municipality;

"nuisance" means any condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, good order, peace of the area or part thereof or the rights of reasonable comfort, convenience, peace or quiet of any neighborhood within the area and includes any act, exhibition or publication contrary to public decency or morals;

"peace officer" shall mean a peace officer as contemplated in Section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

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

“park” means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonable necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

"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 area or a floor thereof;

“parking area” means any area of land or any building set aside by the Council as a parking area or garage for the parking of vehicles by members of the public or parking area along a road, whether or not a prescribed fee has been determined for the use thereof;

“parking meter parking area” means a parking area 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 and includes any post or fixture to which it is attached;

“parking period” means that period of time, including a period reflected on a parking meter, on any one day during which vehicles are permitted to park in a parking area 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;

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

“pound” means an area of land or place set aside by the Council for the custody of vehicles removed from a parking area 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 any other applicable legislation; and

“Ticket controlled parking area” means a parking area or any part thereof where parking is controlled by means of tickets.

CHAPTER 2

TICKET-CONTROLLED PARKING AREAS

Parking fees

2. Any person making use of a parking area or parking bay in a ticket controlled parking area must pay the prescribed fee.

Conditions of parking in ticket-controlled parking areas

3.(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 ticket controlled parking area, wherein parking is controlled by the issue of tickets—

(a) except in a parking bay and in compliance with any directions which 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 area is full;
or

(c) after the expiry of the parking period.

(2) No person may remove or cause or permit the removal of any vehicle from a parking area unless—

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

(b) that person has upon entering or leaving the parking area paid the prescribed fee to the authorised official.

(3) If a person fails to produce a ticket authorising him or her to park in a parking area, that person is deemed to have parked the vehicle from 08:00 on the day in question until the time

that person wants to remove the vehicle and he or she must pay the prescribed fee for that period.

(4) No person may, after failing to produce a ticket, remove or cause or permit the removal of any vehicle parked in the parking area until that person has produced other proof, to the satisfaction of an authorised official, of his or her right to remove such vehicle.

(5) An authorised official may require a person referred to in subsection (4) to furnish prescribed security.

(6) If a vehicle has not been removed from a parking area by the end of the parking period for which the prescribed fee has been paid, a further prescribed fee is payable for the next parking period.

CHAPTER 3

PARKING METER PARKING AREAS

Parking fees

4. Any person making use of a parking area or parking bay in a parking area must pay the prescribed fee.

Place of parking

5. 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 area otherwise than in a parking bay.

Conditions of parking

6.(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 that parking bay; or

(b) if a meter controls more than one parking bay, in the meter controlling the parking bay concerned as indicated by any marking or sign on the surface or floor of the parking bay or the surface or floor adjacent thereto; 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.

(2) Notwithstanding the provisions of subsection (1)–

(a) a person may, subject to the provisions of subsection (5), park a vehicle in a vacant parking bay without inserting a coin or other prescribed object, for any period indicated on the parking meter as unexpired; and

(b) if a person has ascertained that the parking meter for any parking bay is not operating properly, he or she is, entitled to park a vehicle in that parking bay without inserting a coin or other prescribed object, provided that such a person does not park the vehicle in that parking bay for a period exceeding the maximum ordinarily allowed by that parking meter.

(3) The insertion of a coin or other prescribed object into a parking meter entitles the person inserting it, to park a vehicle in the appropriate parking bay for the period corresponding with the payment so made.

(4) 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 that period into the parking meter allocated to that parking bay, must be in accordance with the prescribed fee and the period and the coin or other prescribed object to be inserted in respect thereof, must at all times be clearly indicated on the parking meter.

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

Proof of time

7. The expiry of the parking period, as indicated 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 expiry of the parking period.

CHAPTER 4 PAY-AND-DISPLAY PARKING AREAS

Parking fees

8. Any person making use of a parking area or parking bay in a pay and display parking area must pay the prescribed fee.

Parking

9.(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 the parking 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 one comma five meters 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) 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 that period into the pay and display machine, must be indicated on such machine.

(3) Tickets issued by the pay and display machine must reflect:

(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.

(4) 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.

Proof of date and time of departure

10. The commencement of the parking period as recorded by a pay and display machine and as observed by an authorised official, is for the purposes 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 commencement of the parking period.

**CHAPTER 5
VEHICLES****Abandoned vehicles**

11.(1) Any vehicle which has been left in the same place in a parking ground for a continuous period of more than fourteen days may, unless otherwise authorised by the Council, be removed by or at the instance of an authorised officer.

(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 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 by public auction.

(3) The Council must, fourteen days prior to the date of an auction sale contemplated in subsection (2), publish a notice thereof in at least two newspapers circulating within the municipal area of the Council: Provided that a vehicle may not be sold at the auction if—

- (a) at any time before the vehicle is sold, the owner or any person authorised by the owner or otherwise lawfully entitled thereto, claims the vehicle; and
- (b) every prescribed fee payable in respect thereof in terms of these by-laws and all costs referred to in subsection (4) are paid to the Council.

(4) The proceeds of a sale concluded in terms of this section must be applied first in payment of every fee 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 and effecting the sale of the vehicle;
- (c) the pro-rata costs of publication in terms of subsection (3), taking into account the number of vehicles to be sold at the auction; and
- (d) the costs of keeping the vehicle in the pound which must be calculated at the prescribed rate.

(5) Any balance of the proceeds referred to in subsection (4), must be paid to the owner of the vehicle or any person lawfully entitled to receive it upon that person establishing his or her right thereto to the satisfaction of the Council and if no claim is established within one year of the date of the sale, the balance will be forfeited to the Council.

Vehicles of excessive size

12.(1) Unless a road traffic sign displayed at the entrance to a parking area indicates otherwise, no vehicle which together with any load, exceeds five meters in length, may be parked in a parking area.

(2) No person shall park a vehicle with a gross vehicle mass exceeding three thousand five hundred kilograms, or any trailer with a gross vehicle mass exceeding one thousand kilograms, on a public road or road reserve within the area of jurisdiction of the Umtshezi Municipality or property of the Umtshezi Municipality, for a period of more than two hours, unless—

- (a) a temporary parking permit has been issued to such a vehicle or trailer by the Municipality; or
- (b) such vehicle or trailer is parked in a parking bay specifically provided for the parking of such vehicles or trailers.

(3) No person shall park a caravan on a public road or road reserve within the area of jurisdiction of the Umtshezi Municipality, for a period of more than twenty-four hours.

(4) The Municipality shall on application, issue a temporary parking permit to vehicles and trailers, which must park for specific periods on public roads or road reserves, because of agricultural activities.

(5) Any person who contravenes any provisions of this by-law shall be guilty of an offence and liable on conviction to a penalty not exceeding R1,000.00 (One Thousand Rand).

Parking after parking period

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

Defective vehicles

14. No person may park or cause or permit any vehicle to be parked or to be or remain in any parking area which is mechanically defective or for any reason incapable of movement unless a vehicle has, after having been parked in a parking area, developed a defect which immobilises it and the person in control of it shows that he or she took reasonable steps to have the vehicle repaired or removed within a reasonable time.

Parking of a vehicle in parking area

15. 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 area.

Cleaning and repair of vehicle

16. No person may in any parking area clean, wash, work on or effect repairs to a vehicle except minor emergency repairs, unless the prior written permission of the Council has been obtained.

Tampering with vehicles and obstructions

17.(1) No person may in any parking area without reasonable cause or without the knowledge and consent of the owner or person in lawful control of a vehicle, enter or climb upon that 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 area—

(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 the bay; or

(b) perform any act or introduce anything which obstructs or is likely to obstruct the movement of persons or vehicles.

Parking after parking period

18. No person may park a vehicle or cause or permit it to be parked in any parking area before the beginning or after the expiry of the parking period prescribed for the parking area

unless that person is the holder of a ticket issued in terms of these by-laws authorising him or her to do so.

Disabled Bay Parking

19. (a) If the driver is disabled in any way, a medical certificate from a recognized medical practitioner describing the disability in such a way that we can understand, qualifies for a disabled disc. Also included in this certificate, the practitioner must indicate whether the time period is indefinite or for a specific period.

(b) If the disabled person does not possess a valid drivers licence, an able driver may drop the disabled person in the disabled bay to gain easy access to the shop, and then move out again immediately. The reason for this is to make way for a disabled driver (if any) to make use of the same facility.

(c) Under no circumstance may abled drivers abuse the disabled bays by bringing a disabled passenger with to utilized the disabled bay, and the abled driver then gets out to do the shopping leaving the disabled passenger inside the vehicle.

CHAPTER 6

MISCELLANEOUS

Refusal of admission

20. An authorised official may refuse to admit into a parking ground a vehicle which is by reason of its length, width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience or which in terms of section 6 or 16 may not be parked in a parking ground.

Forging or defacing tickets

21. No person may 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.

Medical practitioners exempt

22. A medical practitioner is exempt from paying the prescribed fees, while the vehicle used by that practitioner is parked in a parking area to enable him or her to perform professional duties at any place other than a consulting room or similar place, subject to a form or token

issued by the South African Medical Council for that purpose being displayed on the windscreen of the vehicle concerned in such manner that it is readily legible from outside the vehicle.

Parking directives

23.(1) No driver or person in charge of a vehicle shall park such vehicle or cause it to be parked—

(a) in a demarcated parking bay across any painted line marking the confines of the parking bay or in such a position that the said vehicle is not entirely within the area demarcated;

(b) in a demarcated parking bay which is already occupied or partly occupied by another vehicle;

(c) in an area demarcated for commercial loading purposes, unless it is lawful to do so for the purpose of commercial loading.

(2) The person or driver in charge of a vehicle shall park such vehicle in a demarcated parking bay—

(a) if the demarcated parking place is parallel to the curb or sidewalk of the public road, in such a way that it shall be headed in the general direction of the movement of traffic on the side of the road on which the vehicle is parked and so that the left hand wheels of the vehicle are substantially parallel to and within four hundred and fifty millimeters of the left hand curb: Provided that where in a one-way street such demarcated parking place is in existence on the right hand side of the road the same shall apply to the right hand wheels and the right hand curb respectively; and

(b) if the demarcated parking place is at an angle to the curb or sidewalk of a public road, in such a manner that it is headed substantially in the general direction of the movement of traffic on the side of the road on which such vehicle is parked.

(3) Where by reason of the length of any vehicle, such vehicle cannot be parked wholly within a demarcated parking place, it shall be lawful to park such vehicle by encroaching upon a demarcated parking place adjoining the first mentioned parking place, if such be the case, and any person so parking shall be liable for payment of parking fees in respect of both the said places.

Offences and penalties**24. Any person who—**

- (a) contravenes or fails to comply with any provision 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 to a fine not exceeding R1,000.00 (One Thousand Rand) or to imprisonment for a period not exceeding three months.

Monthly tickets

25.(1) Notwithstanding anything to the contrary contained in these By-laws, the Council may in respect of any parking area controlled by the issue of tickets, issue at a prescribed fee a ticket that entitles the holder to park a vehicle in that area for one calendar month or any lesser period specified therein, at the times specified in the ticket, if a parking bay is available.

(2) The Council may issue to any of its employees a ticket which entitles the holder, when using a vehicle regarding the business of the Council, to park it in a parking area specified in the ticket, if a parking bay is available in the parking area.

(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 vehicle specified in the ticket, 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.

Closure of parking areas

26. Notwithstanding anything to the contrary contained in these by-laws, the Council may at any time close any parking area 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 parking area closed or at the portion closed, as the case may be.

Parking according to instruction

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

Prohibitions relating to parking meters

28. 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; or

(ii) an object which is prescribed as another method of payment as contemplated in section 8(1);

(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; or

(f) obscure a parking meter or any part thereof or remove or attempt to remove it from the post or other fixture to which it is attached.

Prohibitions relating to pay and display machines

29. 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; or

(c) remove or attempt to remove a pay and display machine or any part thereof from its mounting.

**CHAPTER 7
GENERAL PROVISIONS**

Repeal of By-laws

30. The Council's existing traffic by-laws are hereby repealed.

Short title and commencement

31. These By-laws shall be called the Parking Areas By-laws, 2012, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

UMTSHEZI MUNICIPALITY

POLLUTION CONTROL BY-LAWS

Be it enacted by the Council of the Umtshezi Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, as read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1: DEFINITIONS.....	2
1. Definitions.....	2
CHAPTER 2: NOISE POLLUTION.....	5
2. Control of noise.....	5
3. Notices	5
CHAPTER 3: DUMPING.....	6
4. Dumping.....	6
CHAPTER 4: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS	7
5. Prohibition	7
6. Installation of fuel-burning equipment.....	7
7. Operation of fuel-burning equipment.....	8
8. Installation and operation of obscuration measuring equipment...	8
9. Monitoring and sampling.....	9
CHAPTER 5: SMOKE EMISSIONS FROM OPEN BURNING.....	10
10. Smoke emissions from open burning.....	10

CHAPTER 6: GENERAL PROVISIONS.....11

11. Offences.....	11
12. Appeals.....	12
13. Repeal of existing By-laws.....	13
14. Short title and commencement.....	13

CHAPTER 1: DEFINITIONS**Definition**

1. In this by-law, unless the context otherwise indicates:

"**adverse effect**" means any actual or potential impact on the environment that impairs or could impair human health or well-being or the environment to an extent that is more than trivial or insignificant;

"**air pollutant**" means any substance that causes or may cause air pollution including, without limiting the generality of the foregoing, dust, smoke, fumes and gas;

"**air pollution**" means any change in the environment caused by any air pollutant where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of any natural or managed ecosystem, or on materials useful to people, or will have such an effect in the future;

"**ambient sound level**" means the reading of an integrating impulse sound level meter measured at the end of a total period of at least 10 minutes after such integrating sound level meter has been put into operation, during which period a noise alleged to be a disturbing noise is absent;

"**atmosphere**" means air that is not enclosed by a building, machine, chimney or other such structure;

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

"**chimney**" means any structure or opening of any kind from or through which air pollutants may be emitted;

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

"**dark smoke**" means dark smoke as defined in the Atmospheric Pollution Prevention Act No. 45 of 1965;

"**disturbing noise**" means a noise level which exceeds the ambient sound level by 7dB(A) or more, and "disturbing" in relation to a noise shall have a corresponding meaning;

"**dust**" means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

"**dwelling**" means any building or other structure, or part of a building or structure, used for residential purposes, and any outbuildings ancillary to it;

"**fuel-burning equipment**" means any furnace, boiler, incinerator, or other equipment, including a chimney-

- (a) designed to burn, or capable of burning, liquid, gas or solid fuel;
- (b) used to dispose of any material or waste by burning; or
- (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

"**light absorption meter**" means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

"**littering**" means the discarding or leaving behind of any object or matter whether gaseous, liquid or solid by the person in whose control or possession it was;

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

"**noise level**" means the reading on an integrating sound level meter taken at the measuring point at the end of a reasonable period after the integrating sound meter has been put into operation during which period the noise level alleged to be disturbing noise is present, to which reading 5dB(A) is added if the disturbing noise contains a pure tone component or is of an impulsive nature;

"**obscuration**" means the ratio of visible light attenuated by suspended air pollutants to incident visible light, expressed as a percentage;

"**open burning**" means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and "burning in the open" has a corresponding meaning;

"**operator**" means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

"**person**" includes a natural person, company, closed corporation, trust, association and partnership;

"**premises**" means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council;

"**proclaimed township**" means any land unit zoned and utilized for residential purposes;

"**public road**" means a road which the public has the right to use;

"**smoke**" means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;

"**vehicle**" means any motor car, motor cycle, bus, truck or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power;

CHAPTER 2: NOISE POLLUTION

Control of noise

2. No person shall on any premises or land make, produce cause or permit to be made or produced by any person, machine, animal, device or apparatus or combination of these, a noise which is a disturbing noise.

Notices

- 3.(1) The Municipality may by written notice instruct the person causing or responsible for a disturbing noise or the owner of such building or premises on which a disturbing noise is caused or both of them, within a period specified in such notice, immediately to stop such noise or have it stopped or take the necessary steps to reduce the disturbing noise level to a level below that of a disturbing noise; provided that if the Municipality is satisfied that the disturbing noise is due to or caused by-
 - (a) the working of:
 - (i) a machine or apparatus which is necessary for the maintenance or repair of property, or the protection of life, property or public services;
 - (ii) garden equipment;

(iii) a machine or device,

the noise level of which has in the opinion of the Municipality been reduced or muffled according to the best practicable methods;

(b) a sports meeting; or

(c) circumstances or activities beyond the control of the person responsible for causing the disturbing noise,

the Municipality may, whether generally or specifically, permit the working of such machine or apparatus, or such sports meeting or circumstances or activities to continue, subject to such conditions as the Municipality may deem fit.

CHAPTER 3: DUMPING

Dumping

4.(1) No person may dump, or cause or permit to be dumped, on any land or premises any waste.

(2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice, that -

(a) any person who committed, or who directly or indirectly caused or permitted, the contravention;

(b) the owner of the land or premises where the contravention took place;

(c) the person in control of, or any person who has or had at the time of the contravention a right to use, the land or premises where the contravention took place; or

(d) any person who negligently failed to prevent the contravention from taking place,

cease the contravention in a specified time, take steps to prevent a further contravention or the continuation of the contravention, and/or take whatever steps Council considers necessary to clean up or remove the waste, to lawfully dispose of the waste and to rehabilitate the affected area.

- (3) If a person fails to comply with subsection (1), or if a person fails to comply with directions given in a notice issued under subsection (2), Council may itself take whatever steps it considers necessary to clean up or remove the litter, to rehabilitate the affected area and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully. Council may then recover the reasonable costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefor.

CHAPTER 4: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

Prohibition

- 5.(1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.

Installation of fuel-burning equipment

- 6.(1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the Council, which may only be given after consideration of the relevant plans and specifications.

- (2) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
- (a) the owner or occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence; and
 - (b) the Council may, on written notice to the owner or occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner or operator within a period stated in the notice.

Operation of fuel-burning equipment

- 7.(1) No person shall use or operate any fuel-burning equipment on any premises contrary to an authorisation referred to in section 12.
- (2) Where fuel-burning equipment has been used or operated in contravention of subsection (1):
- (a) the owner and occupier of the premises concerned and the operator of the fuel-burning equipment shall each be guilty of an offence;
 - (b) the Council may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 12; and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Installation and operation of obscuration measuring equipment

- 8.(1) The Council may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:

- (a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
 - (b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
 - (c) fuel-burning equipment has been or is intended to be installed on the relevant premises which are reasonably likely in the opinion of an authorised official to emit dark smoke;
 - (d) the Council considers that the nature of the air pollutants emitted from the relevant premises are reasonably likely to create a hazard to human health or the environment.
- (2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:
- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
 - (b) that person's right of appeal under section 28;
 - (c) that person's right to request written reasons for the issuing of the notice; and
 - (d) the measures that must be taken and the potential consequences if the notice is not complied with.

Monitoring and sampling

- 9.(1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 16(1) must:

- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
- (b) if requested to do so by an authorised official, produce the record of the monitoring and sampling results for inspection; and
- (c) if requested to do so by an authorised official, provide a written report (in a form and by a date specified by the authorised official) of part or all of the information in the record of the monitoring and sampling results.

CHAPTER 5: EMISSIONS CAUSED BY OPEN BURNING

10.(1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.

- (2) The Council may not authorize open burning under subsection (1) unless -
 - (a) the material will be open burned on the land from which it originated;
 - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing, recycling or removing the material in order to minimize the amount of material to be open burned, to the satisfaction of the Council;
 - (c) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;

- (d) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region;
 - (e) the land on which that person intends to open burn the material is not land within a proclaimed township;
 - (g) the open burning is conducted at least 100 metres from any buildings or structures;
 - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment;
 - (i) that person has notified in writing the owners and occupiers of all adjacent properties of-
 - (i) all known details of the proposed open burning; and
 - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
 - (j) the prescribed fee has been paid to the Council.
- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to:
- (a) recreational outdoor barbecue or braai activities on private premises; or
 - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes.

CHAPTER 6: GENERAL PROVISIONS

Offences

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

Appeals

- 12.(1) Any person may appeal against a decision taken by an authorised official under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:
 - (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
 - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.
- (3) Within 14 days of receipt of the notice of appeal, the Municipal Manager must:
 - (a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);
 - (b) take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application are notified in writing of the appeal application and advised of their right to:
 - (i) obtain a copy of the appeal application;

- (ii) submit written objections to the application to the municipal manager within 30 days of date of notification.
- (4) After the expiry of the 30-day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by-
- (a) an authorised official other than the municipal manager, then the municipal manager is the appeal authority; or
 - (b) the municipal manager, then the Council or such committee as it may delegate is the appeal authority.
- (6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

Repeal of existing By-laws

13. The Council's existing Smoke Control by-laws are hereby repealed.

Short title and commencement

14. These by-laws shall be called the Pollution Control By-laws, 200..., and shall come into operation on

No. 87

8 July 2014

UMTSHEZI MUNICIPALITY**POUND BYLAWS**

Be it enacted by the Council of the Umtshezi Municipality, in terms of Section 156 of Constitution of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000 and the KwaZulu-Natal Pound Act 2006 (Act No. 3 of 2006), as follows:

INDEX

Section 1 : Definitions.....	1
Section 2 : Application.....	2
Section 3 : Establishment of pound.....	2
Section 4 : Detention and removal of animals.....	3
Section 5 : Receipt of animals.....	3
Section 6 : Care of animals.....	4
Section 7 : Release of animals.....	4
Section 8 : Disposal of animals.....	4
Section 9 : Indemnity.....	5
Section 10 : Offences and penalties.....	6
Section 11 : Repeal of By-laws.....	6
Section 12 : Short title and commencement.....	6

Definitions

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

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

"Council" means the council of the Umtshezi Municipality;

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

"Indigent" means a person that is unable to pay the full economic costs on basic services due to a number of factors that the municipality view as legitimate;

"Indigent household" means any household that is at or below the poverty threshold as determined by the Municipality

"Municipality" means a municipality as defined by the Municipal systems Act (Act No. 32 of 2000).

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

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

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

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

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

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

Background

Council is responsible for ensuring Public and Traffic Safety within its municipal area of jurisdiction. It is also imperative to control livestock on public roads and CBD areas in terms of Municipal By-laws. Roads prove highly hazardous due to accidents that occur

due to stray animals found on roads. To deal with this problem it is necessary that the municipality impounds the stock that is left unattended on public areas and roads.

Application

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

Establishment of pound

- 3(1) The Council may establish a pound at any convenient place within its area of jurisdiction and, whenever the Council deems it necessary, may disestablish such pound.
- (2) The Council shall give notice of the establishment of a pound, or the disestablishment thereof, by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Council.

Detention and removal of animals

- 4(1) Any animal –
 - (a) found trespassing on land; or
 - (b) straying or wandering unattended in a public road or other public place,may be detained and removed to a pound by the owner of such land, an official of the Council, a member of the South African Police Services or the pound manager.
- (2) Any person who has detained an animal for the purpose of impounding shall -
 - (a) remove such animals to a pound within 24 hours after seizure; and
 - (b) ensure that proper care is taken of the seized animal until the animal is received at the pound.

Receipt of animals

- 5(1) Any person removing an animal to a pound shall provide the pound manager with-
- (a) his or her name and permanent residential address;
 - (b) the time and place of detention of the animal; and
 - (c) the capacity in which he or she detained the animal.
- (2) The pound manager shall, upon receipt of a detained animal -
- (a) record the particulars furnished in terms of section 5(1) and enter the same in a book maintained for the purpose;
 - (b) furnish the person delivering the animal with a receipt reflecting –
 - (i) his or her name;
 - (ii) a description of the animal; and
 - (iii) the date and time of receipt of the animal at the pound; and
 - (c) keep a copy of each receipt issued in terms of section 5(2)(b).
- (3) No person shall release or attempt to release, otherwise than in accordance with these bylaws, any animal which has been received at a pound.

Care of animals

- 6.(1) The pound manager shall take proper care as per animal health requirements of any animal impounded in terms of these bylaws.
- (2) The pound manager shall not use or cause or permit to be used any animal impounded in terms of these bylaws.
- (3) In the event of the injury or death of any impounded animal, the pound manager shall record the cause of such injury or death and shall retain any veterinary certificate issued.

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

Release of animals

7. The pound manager shall release an impounded animal to any person who has –
- (1) satisfied the pound manager that he or she is the owner of the impounded animal viz. produce proof of ownership, full personal details including copy of Identity Document, permanent residential address (not postal) etc.
 - (2) paid the conveyance and pound fees prescribed by resolution of the council of the Council from time to time; and
 - (3) paid any veterinary or other expenses incurred in the impounding of the animal by way of a statement of account commensurate with the period the stock has been impounded inclusive of veterinary or other expenses, which statement must be taken to the finance cashiers who will issue a release note to the owner;.
 - (4) Animal collection will be during working hours only, no person will be allowed to claim stock after working hours or during weekends.

Disposal of animals

- 8(1) The pound manager may sell by public auction and for cash any impounded animal which has not been claimed within 30 days of being impounded, and in respect of which –
- (a) the Council has taken all reasonable steps to locate and notify the owner;
 - (b) the owner has not been located or, despite having been given 10 day's notice, has failed to remove the impounded animal; and
 - (c) 10 day's prior notice of the proposed sale has been given in terms of section 8(2).

- (2) The sale of an impounded animal shall be advertised by placing a notice on a public notice board at a place designated by the Council for that purpose –
 - (a) describing the animal, its sex, its approximate age and any particular brands or marks; and
 - (b) stating that the animal will be sold by public auction if not claimed within 10 days.
- (3) The proceeds of any sale shall be applied in defraying the fees and expenses referred to in section 7 and the balance, if any, shall be forfeited to the Council if not claimed within three months by a person who establishes to the satisfaction of the pound manager that he or she is the owner of the impounded animal.
- (4) If the pound manager is for any reason unable to sell any impounded animal or if, in the opinion of the pound manager the animal is so dangerous, vicious, diseased or severely ill or in such a physical condition that it ought to be destroyed, the pound manager may cause the animal to be destroyed subject to any applicable law relating to the protection of animals or otherwise dispose of the animal in a manner approved by the Council.
- (5) Any shortfall between the proceeds of sale, if any, and the fees and expenses referred to in section 7, or the costs of destruction as contemplated in clause 8(4), may be claimed by the Council from the owner.

Indemnity

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

Offences and penalties

10. Any person who contravenes or fails to comply with any provision of these by-laws shall be guilty of an offence and liable for a fine not exceeding R5 000 or imprisonment for a period not exceeding three months or for both such fine and imprisonment.

Repeal of existing By-laws

11. The Council's existing Municipal Pound by-laws are hereby repealed.

Short title and commencement

12. These by-laws shall be called the Pound By-laws, 200., and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 88

8 July 2014

UMTSHEZI MUNICIPALITY

PROPERTY ENCROACHMENT BYLAWS

Be it enacted by the Council of the Umtshezi Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

INDEX

CHAPTER 1: DEFINITIONS	1
1. Definitions	1
2. Council permission required	2
3. Rules for the construction of encroachments	3
4. Columns	3
5. Balconies and bay windows	5
6. Plinths, pilasters, corbels and cornices	6
7. Verandas around corners	6
8. Pavement openings	6
9. Encroachment erected in front of building	7
10. Maintenance, removal and tenancy of projections	7
11. Encroachments	8
12. Offences and penalties	8
13. Repeal of existing By-laws	8
14. Short title and commencement	8

CHAPTER 1

DEFINITIONS

Definitions

1. 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 Council of the Umtshezi Municipality;

“**council property**” means any property, including but not limited to public roads –

- (a) which is owned by the Council;
- (b) over which the Council has control over; or
- (c) in respect of which a servitude or other property right has been registered in favour of the Council;

“**encroachment**” means any physical object which intrudes on Council property;

“**prescribed**” means determined by resolution of the Council made from time to time;

“**prescribed fee**” means a fee determined by the Council by resolution from time to time;

“**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.

Council permission required

2.(1) No person may, without prior written permission, make or construct any encroachment into, over or under any Council property.

(2) The Council may -

- (a) refuse the permission required in terms of subsection (1); or
 - (b) 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.
- (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 any existing encroachment must within three months after the date of commencement of these by-laws make application to the Council on the prescribed form for permission for the existence of the encroachment in terms of these by-laws.

Rules for the construction of encroachments

- 3.(1) The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over Council property, 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.

Columns

- 4.(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 may place any veranda column -
- (a) over any pavement where such pavement is less than 2,6 m wide;

- (b) more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre;
 - (c) over any pavement at the corner of a public road that is beyond the alignment of the building lines; and
 - (d) 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-
- (a) the columns may not have square arris;
 - (b) no base may project more than 50 mm beyond the bottom diameter of the column; and
 - (c) 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) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
- (11) A 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.
- (12) 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.

Balconies and bay windows

5.(1) Balconies, bay windows or other similar encroachments may not –

- (a) overhang a public road if they are at a height of less than 3 m above the pavement;
 - (b) encroach more than 1,35 m over any public road; or
 - (c) encroach more than 900 mm over any public road.
- (2) 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.
 - (3) Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.
 - (4) 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.
 - (5) Any dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.
 - (6) A balcony over any public road may not be the sole means of access to any room or apartment.
 - (7) 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.

- (8) 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.

Plinths, pilasters, corbels and cornices

- 6.(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 level of 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.

Verandas around corners

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

Pavement openings

- 8.(1) No pavement opening may –
- (a) be the sole means of access to any vault or cellar; and
 - (b) extend more than 1,2 m beyond the building line.

- (2) 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.
- (3) 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.
- (4) 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.
- (5) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

Encroachment erected in front of building

9. Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense –
 - (1) 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
 - (2) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

Maintenance, removal and tenancy of projections

- 10.(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 and restore the public road or pavement to its former conditions, and must do so within a reasonable time.

Encroachments

- 11.(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) 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.

Offences and penalties

12. A person who contravenes any of these by-laws is guilty of an offence and be liable on conviction to a fine not exceeding R500.00 or to imprisonment not exceeding 6 months or to both that fine and that imprisonment.

Repeal of existing By-laws

13. The Council's existing Building by-laws are hereby repealed.

Short title and commencement

14. These by-laws shall be called the Property Encroachment By-laws, 200..., and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette.

UMTSHEZI MUNICIPALITY

PUBLIC AMENITIES BYLAWS

Be it enacted by the Council of the Umtshezi Municipality, in terms of section 14 (2) of the Local Government Systems Act No. 32 of 2000, as follows:

INDEX

CHAPTER 1: DEFINITIONS	2
1. Definitions	2
CHAPTER 2: ENTRANCE TO PUBLIC AMENITIES	3
2. Opening times	3
3. Entrance fees	3
4. Entrance and exit	3
5. Maximum number of visitors	3
6. Closing of public amenities	3
CHAPTER 3: PROHIBITED CONDUCT	4
7. Personal behaviour	4
8. Damage	5
9. Animals	5
10. Vehicles	6
11. Games and play areas	6
CHAPTER 4: GENERAL PROVISIONS	7
12. Authorised officials	7
13. Directives	7
14. Penalties	7
15. Repeal of existing bylaws	8
16. Short title and commencement	8

CHAPTER 1 DEFINITIONS

Definitions

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

"authorised official" means an official of the Council who is authorised to manage or assist in the management of a public amenity;

"Council" means the Municipal Council of the Umtshezi Municipality;

"motor vehicle" includes a motor cycle, motor quadracycle, motor tricycle and a trailer;

"notice" means an official notice of the Council displayed at entrances to or at conspicuous places in a public amenity;

"public amenity" means any outdoor or indoor amenity which is vested in or controlled by the Council and to which the public have access, and includes, without limiting the generality of this definition –

- (a) a park, botanical or zoological garden, pleasure resort, nature reserve, hiking trail, sports ground or swimming pool; and
- (b) any building situated within a public amenity; and

"the Municipality" means the Umtshezi Municipality.

CHAPTER 2 ENTRANCE TO PUBLIC AMENITIES

Opening times

- 2.(1) A public amenity shall be open to the public during times determined by the Council and indicated by notice.
- (2) No person shall enter or be present in a public amenity other than during the opening times determined by the Council in terms of subsection (1).

Entrance fees

3. Council may determine entrance fees to a public amenity
 - (1) No person shall enter a public amenity unless he or she has paid the entrance fee determined by the Council in terms of subsection (1).
 - (2) The Council may suspend the payment of entrance fees on any specific day or days as it deems fit.

Entrance and exit

4. No person shall enter or leave a public amenity except through the gates provided for that purpose.

Maximum number of visitors

5. The Council may determine, and display by notice, the maximum number of visitors who may be admitted to or be present in any public amenity during specific times or on specific days.

Closing of public amenities

6. The Council may –

- (1) for any special purpose by notice close a public amenity or part thereof for such time as it may from time to time consider necessary or expedient; and
- (2) for any purpose related to the operation and maintenance of the public amenity by notice close any part of public amenity to the public.

CHAPTER 3 PROHIBITED CONDUCT

Personal behavior

7. No person in a public amenity shall:
 - (1) do anything which endangers or is likely to endanger another person;
 - (2) do anything which constitutes a nuisance or interferes with another person in the proper enjoyment of the public amenity;
 - (3) use profane, indecent or improper language;
 - (4) consume alcohol or any other intoxicating substance, or be intoxicated;
 - (5) use, intrude upon or attempt to intrude upon any toilet, urinal or other place of convenience provided for the opposite sex;
 - (6) enter any part of a public amenity determined by council and indicated by notice to be closed to the public;
 - (7) pollute, through the washing of clothes or otherwise, any stream, river, lake, dam, pond, fountain or ornamental water feature;

- (8) swim in any stream, river, lake, dam, pond, fountain or ornamental water feature unless a notice specifically permits swimming in that place; or
- (9) launch a boat, canoe, raft or any other floating object on any stream, river, lake, dam, pond, fountain or ornamental water feature except with the written consent of the Council.

Damage

8. No person in a public amenity shall-
 - (1) place or leave any placards or notices;
 - (2) damage or remove any vegetation, including any grassed area;
 - (3) light any fire, except at designated braai facilities;
 - (4) litter;
 - (5) erect any structure or tent of any kind without the consent of Council in writing; and
 - (6) damage any building or other structure erected by or with the consent of the Council.

Animals

- 9.(1) No person in a public amenity shall -
 - (a) take a dog or any other animal into a public amenity in contravention of a notice;
 - (b) bathe or wash a dog or any other animal, or allow a dog or any other animal to swim, in any stream, river, lake, dam, pond, fountain or ornamental water feature; and

- (c) interfere with or harm any bird or wild animal.
- (2) In any public amenity where dogs are allowed, the owner or person having custody of a dog shall ensure that –
- (a) the dog is kept on a leash;
 - (b) the dog does not attack, terrify or interfere with any person, animal or bird; and
 - (c) any faeces left by the dog are removed.
- (3) The Council may impound any dog or other animal which is found in a public amenity and which appears not to be in the custody of a person.

Vehicles

10. No person in a public amenity shall –
- (1) drive or park a motor vehicle in contravention of a notice;
 - (2) clean, maintain or carry out repairs on any motor vehicle; or
 - (3) ride a bicycle, skateboard, roller skates or other similar device in contravention of a notice.

Games and play areas

11. No person in a public amenity shall-
- (1) play soccer, cricket or rugby or any other similar game, except in the allocated places and at times determined by the Council; and
 - (2) enter play areas, or use play apparatus, designated by notice as being for the use of children under a particular age.

CHAPTER 4 GENERAL PROVISIONS

Authorised officials

12. An authorised official may-
- (1) require any person to produce proof of payment of any applicable entrance fee; and
 - (2) instruct any person to comply with the provisions of these bylaws or a notice.

Directives

13. The Council may –
- (1) set aside areas within a public amenity for specified activities and prohibit other specified activities within those areas;
 - (2) issue directives regarding any aspect of the use of a public amenity.

Penalties

14. Any person who –
- (1) contravenes or fails to comply with any provision of these by-laws
 - (2) fails to comply with any notice issued in terms of these by-laws; or
 - (3) fails to comply with any lawful instruction given in terms of these by-laws; or
 - (4) who obstructs or hinders any authorised official 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 not exceeding R1000, 00 or in default of payment to imprisonment for a period not exceeding 3 months.

Repeal of existing By-laws

15. The Council's existing Public Amenities by-laws are hereby repealed.

Short title and commencement

16. These by-laws shall be called the Public Amenities By-laws, 200.., and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette

UMTSHEZI MUNICIPALITY

PUBLIC ROADS BY-LAWS

Be it enacted by the Council of the Umtshezi Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

INDEX

Chapter 1 : Definitions.....	1
Section 1 : Definitions.....	1
Chapter 2 : Obstructions.....	2
Section 2 : Obstruction of public roads.....	2
Section 3 : Removal of obstructions.....	2
Chapter 3 : Encroachments.....	3
Section 4 : Excavations.....	3
Section 5 : Hoardings.....	3
Chapter 4 : Dangerous Fencing.....	4
Section 6 : Barbed wire, dangerous and electrical fencing.....	4
Chapter 5 : Protection and Cleanliness of Public Roads.....	4
Section 7 : Protection of public road.....	4
Section 8 : Cleanliness/Damage of public roads.....	5
Section 9 : Defacing, marking or painting public roads and road traffic signs	5
Chapter 6 : Races, Sports Events, Games and Night Markets	5
Section 10 : Races and sports events.....	5
Section 11 : Games on public roads.....	5

Chapter 7 : General.....	6
Section 12 : Offences.....	6
Section 13 : Erecting of Structures on Public Roads	6
Repeal of By-laws.....	6
Section 14 : Short title and commencement.....	6

CHAPTER 1 : Definitions

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

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

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

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

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

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

CHAPTER 2: OBSTRUCTIONS

Obstruction of public roads

2. No person may cause any obstruction of any public road or trade from a vehicle other than in a designated area.

Removal of obstructions

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

CHAPTER 3: ENCROACHMENTS

Excavations

- 4.(1) No person may make or cause to be made any hole, trench, pit, tunnel or other excavation on or under any public road or remove any soil, tar, stone or other materials from any public road without the prior written consent of the Council.
- (2) Any person who requires the consent referred to in subsection (1) must -
- (a) comply with any requirements prescribed by the Council; and
 - (b) pay the prescribed tariff.

Hoardings

- 5.(1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.
- (2) If the enclosure referred to in subsection (1) will project onto any portion of a public road, the person must –
- (a) obtain prior approval from the Council;
 - (b) pay the prescribed tariff; and
 - (c) if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Council may grant a permit in writing specifying -
- (a) the area and position at which the enclosure is permitted; and
 - (b) the period for which the enclosure is permitted.

CHAPTER 4: DANGEROUS FENCING

Barbed wire, dangerous and electrical fencing

6. No owner or occupier of land -
- (1) other than an owner or occupier of agricultural land, may along any public road erect or cause or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road; and
 - (2) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause or permit to be erected along such public road any electrified fence, railing or other electrified barrier unless –
 - (a) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; or
 - (b) the fence, railing, or other barrier is separated from the public road by another, non-electrified fence.

CHAPTER 5: PROTECTION AND CLEANLINESS OF PUBLIC ROADS

Protection of public road

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

Cleanliness/Damage of public roads

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

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

Defacing, marking or painting public roads and road traffic signs

9. No person may in any way deface, mark or paint any public road or part of the public road, without the prior written consent of the Council.
10. No person may deface, mark or paint on a road traffic sign.

CHAPTER 6: RACES, SPORTS EVENTS, GAMES AND NIGHT MARKETS

Races and sports events

11. (1) An application for consent to hold a race or sports event on any public road must be submitted in writing to the Manager, Protection Services, Albert Street Testing Grounds at least 60 days prior to the event.
- (2) The applicant must pay the prescribed tariff and deposit to the Council at the time of making application for consent.
- (3) A pre and post inspection with officials will be undertaken as per the attached checklist. Costs incurred as a result of spillages or damage will be for the account of the applicant.

Games on public roads

12. No person may –
- (1) play cricket, football or any other game; or
- (2) by any means discharge any missile;
- upon, over or across any public road.
13. Erecting of Structures on Public roads

Structures such as Marquees may only be erected on public roads for funerals and special cultural and/or religious events. The Manager, Protection Services, Albert Street Testing Grounds, must be informed as soon as possible to facilitate traffic flow.

CHAPTER 7: GENERAL

Offences

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

Repeal of existing By-laws

15. The Council's existing Motor Vehicles/Road Traffic by-laws are hereby repealed.

Short title and commencement

- 16 These by-laws shall be called the Public Roads By-laws, 200.., and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette

UMTSHEZI MUNICIPALITY

STORMWATER MANAGEMENT BY-LAWS

Be it enacted by the Council of the Umtshezi Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as follows:

INDEX

CHAPTER 1: DEFINITIONS	2
1. Definitions	2
CHAPTER 2 : PROHIBITED ACTIVITIES	3
2. Unauthorised discharge	3
3. Unauthorised connection	3
4. Obstruction of flow	4
CHAPTER 3 : SUSPENSION OF ACCESS AND NOTIFICATION	4
5. Suspension of access	4
6. Notification of spills	4
CHAPTER 4 : CONSTRUCTION AND MAINTENANCE	5
7. Construction and maintenance of stormwater drains and connections	5
CHAPTER 5 : GENERAL PROVISIONS	5
8. Offences	5
9. Repeal of existing bylaws	6
10. Short title commencement	6

CHAPTER 1: DEFINITIONS

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

"Council" means the Council of the Umtshezi Municipality;

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

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

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

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

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

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

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

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

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

CHAPTER 2

PROHIBITED ACTIVITIES

Unauthorised discharge

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

(2) No home-owner shall discharge any stormwater, roof water, waste water or any other substance into any sewer lines whether under the jurisdiction of the district municipality or Umtshezi Municipality

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

- (a) potable water sources;
- (b) natural springs or wetlands;
- (c) diverted streams;
- (d) rising groundwater;
- (e) fire fighting activities;
- (f) individual residential car washing;
- (g) swimming pools, provided that the water has been allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; and
- (h) street sweeping.

Unauthorised connection

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

Obstruction of flow

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

CHAPTER 3**SUSPENSION OF ACCESS AND NOTIFICATION****Suspension of access**

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

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

Notification of spills

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

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

CHAPTER 4

CONSTRUCTION AND MAINTENANCE

Construction and maintenance of stormwater drains and connections

7. The owner or occupier, as the case may be, of any premises shall be responsible for the construction and maintenance, at his or her expense of any stormwater drains on the premises and any connection between such drains and the stormwater system. Obstruction of the natural flow of rainwater by artificial means or “channeling” is prohibited.

CHAPTER 5

GENERAL PROVISIONS

Offences

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

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

Repeal of existing by-laws

9. The Council's existing Water Supply by-laws are hereby repealed.

Short title and commencement

10. These by-laws shall be called the Stormwater Management By-laws, 200..., and shall take effect on a date determined by the municipality by proclamation in the Provincial Gazette