

CITY OF UMHLATHUZE:
BY-LAWS RELATING TO THE BUILDING AESTHETICS IN THE MUNICIPAL AREA

To provide a regulatory framework for the design of buildings within the City of uMhlathuze municipal jurisdiction.

To promote aesthetically appealing design and construction of buildings within the Municipality's jurisdiction.

To ensure new developments contribute positively to the City's land scape and to encourage individual creativity in the design of buildings.

To ensure sustainable development of the built environment and mitigate the effects of climate change by promoting energy efficient design practices.

To set out the purpose and scope of the bylaw, its application procedures, and effect of decision.

To set out the scope of the bylaw procedures, legal requirements and general matters.

PREAMBLE

WHEREAS Section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) confers on municipalities the right to administer local government matters listed in Part B of Schedule 4 and 5;

WHEREAS Section 156(2) of the Constitution empowers municipalities to make and administer Bylaw for the effective administration of the matters which it has the right to administer;

WHEREAS Section 11(3)(m) of the Municipal Systems Act (Act No. 32 of 2000) grants municipalities the right to adopt Bylaws.

WHEREAS The Architectural Profession Act, 2000 enables registered professionals to design and submit building plans to Council for consideration.

WHEREAS Section 42(1) uMhlathuze Spatial Planning and Land Use Management Bylaw, 2017 empowers municipal planning approval authority to incorporate recommendations by the Municipality's Aesthetics Committee.

WHEREAS Section 7 of the National Building Regulations and Building Standards Act (Act No. 103 of 1977) empowers Council to control the design and construction of buildings.

WHEREAS the control of the design and construction of building falls within the ambit of the powers vested in the Municipality.

ARRANGEMENT OF SECTIONS

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1. DEFINITIONS

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

“Accounting officer” means the Municipal Manager (MM) appointed by the Council in terms of Section 56 of the Municipal Systems Act.

“Advertising” means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

“Architectural Profession Act” means the Architectural Profession Act, 2000 (Act No. 44 of 2000) as amended and any succeeding legislation, and includes any regulations made in terms of the Act.

“Aesthetics Committee” means the committee appointed by the Accounting Officer.

“Awnings” means elements added to the face of a building made of semi-permanent materials such as canvas or similar lightweight material along with metal support framework.

“Balcony” means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upper-floor door or window.

“Building” Is any structure or building or part thereof, or any addition or alteration to an existing structure or building, either temporary or permanent in nature and either above or below ground which is of an immovable nature and for whatever purpose used, including any tank, reservoir, swimming pool, tower, mast, wind turbine, bridge, chimney, summerhouse, hothouse, etc. and any wall, retaining wall or close-boarded fence more than two metres in height at any point, but excluding any open fence, post, steps, pier, ramp, fountain, statue, fish-pond, pergola or other garden ornamentation.

“Canopy” means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise by columns or posts;

“Clear height” means the vertical distance between the lowest edge of a building and the level of the ground, footway or roadway immediately below such building.

“Cornice” means ornamental moulding, entablature, frieze, or other roofline treatments.

“Elevations” are side views of a building, named for the direction from which the building is viewed namely, south elevation, east elevation, north elevation and west elevation.

“Façade” means the principal front or fronts of a building.

“Height” means the vertical distance between the ground level and the uppermost edge of a building.

“Heritage building” means any building or structure older than 60 years or any building or structure formally protected in any other way in terms of the Natural Heritage Resource Act (No 25 of 1999).

“Main roof-line of a building” means the gutter-line or wall plate level of any roof of a building other than the roof of a veranda or balcony.

“Municipality” means the City of uMhlathuze KZN282 established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, or duly authorised agent thereof or any employee thereof acting in connection with this bylaw by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee.

“National Building Regulations” means the regulations promulgated from time to time under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended, herein referred to as NBR.

“Outdoor Advertising” means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner and which takes place out of doors.

“Overhang” means structure supported from buildings to provide weather protection for building entry and pedestrian walkways and roofs which extend over the vertical wall of a building.

“Parapet wall” means a low wall which protrudes above the roof or balcony.

“Person” means a natural or legal person.

“Roof” is part of a building envelope, covering on the uppermost part of a building or shelter which provides protection from all-weather elements

“Street Furniture” means public facilities and structures which are not intended primarily for advertising but which are provided for pedestrians and commuters and may include

seating benches, planters, pavement litter-bins, bus shelters, pavement clocks and drinking fountains.

“Veranda” means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts.

2. PURPOSE OF THE BYLAW

This Bylaw seeks to improve the aesthetic appeal of the built environment and the maintenance of the aesthetic quality in all areas which fall under the jurisdiction of the City of uMhlathuze. It is intended to achieve this aim by establishing a balance between:

- a. The need to promote energy efficient and structurally sound buildings without compromising the aesthetics and functionality;
- b. The need for opportunities to communicate between Council and developers;
- c. To ensure continued development growth and upkeep of property value;
- d. The need to contribute to the promotion of tourism and heritage resources; and
- e. The need to protect the public safety and welfare.

3. APPLICATION OF THE BYLAW

This Bylaw applies to all areas which fall under the jurisdiction of the City of uMhlathuze and is binding on all persons to the extent applicable.

4. ESTABLISHMENT AND ROLE OF THE AESTHETICS COMMITTEE

The Accounting Officer resolved to establish the Municipal Aesthetic Committee that will advise Council on aesthetics standards to be adopted for the City of uMhlathuze developments. The Committee is also the reference Task Team for such matters for all development applications, including Council owned developments.

5. QUORUM

A Committee of a whole quorum at any regular sitting or decision meeting which will occur once every two weeks shall consist of at least eight (8) Aesthetics Committee members.

6. DECISION

Once an application is submitted, the Committee will communicate the decision to the applicant no later than 15 working days from the date of submission.

7. SCOPE OF AESTHETICS BYLAW

- a. This Bylaw is designed to regulate the design and construction of buildings within the jurisdiction of the City of uMhlathuze.
- b. This bylaw is designed to regulate the design of buildings, but not limited to, all properties in the following Land Use Zones in terms of the uMhlathuze Land Use Scheme.

c.

Education	Institution
Worship	Municipal Health & Government 1 & 2
Commercial 1,2 & 3	Mixed Use Low & Medium Impact
Lifestyle Centre	Business Park
Parkade	Office 1 & 2
Service Station	Direct Access Filling Station
Light Industry 1 & 2	Medium Density Residential 1& 2
High Density Residential 1,2 & 3	Waterfront Resident
Residential Estate	Retirement Village
Hotel	Resort Low & High Impact
Harbour Resort	Airport/ Airfield
Intermodal Facility	Special Zones

- d. Prohibition and control of the submission of building plans.
- e. No person shall erect a building or make changes to a building erected on a land use zone mentioned in Section 7(c) of this bylaw without having obtained prior approval from the Aesthetics Committee.
- f. No person shall submit building plans to the office of the Building Control Officer, in terms of Section 7 of the NBR without having obtained prior approval from the Aesthetics Committee.

8. APPLICATION FOR APPROVAL

8.1. Whenever an application must be submitted in terms of this Bylaw the following rules will apply:

- a. Any registered member of the architectural, urban design, planning and engineering profession who is registered with their respective statutory professional bodies may submit an application to the Committee, in respect of any application that s/he is entitled to submit in respect of a building within the land use zones mentioned in 7(c) of this Bylaw in the City of uMhlathuze, submit concept plans, including elevations and details of materials to be used for consideration by the Aesthetics

Committee before submission for approval in terms of Section 7 of the NBR.

- b. In the event that such plans have not been submitted for approval to the Committee before submission for approval in terms of Section 7 of the NBR, or in the event that they have not been recommended for approval by the Committee, all plans relating to any property in the land use zones mentioned in 7(c) of this Bylaw will not be accepted for submission to the office of the Building Control Officer.
- c. No submission fee is applicable to applications submitted to the Committee.
- d. An application for approval of a building plan to the committee must, in all cases. Include the following:
 - i. Locality map;
 - ii. A site plan of the property (must include all applicable land use scheme controls);
 - iii. Parking layout
 - iv. Landscaping design
 - v. A plan or plans of all buildings on the property showing the proposed positions of the building;
 - vi. Elevations of all aspects of the buildings
 - vii. A 3D rendering
 - viii. Must be to scale showing all dimensions
 - ix. Must show colour and materials to be used
 - x. The committee may request a 3D model to be constructed

8.2. Applications may only be submitted by the following people:

- a. Representatives duly appointed in writing by companies, individuals or any other organisation who wish to develop on land designated for purposes of the above mentioned land use zones.

9. DESIGN GUIDELINES

- a. Building designs must incorporate transparent/ glass elements (glass on windows and doors) on main and street facing facades of the building.
- b. Building designs must incorporate glass at the ground level on buildings situated along pedestrian walkway (glass to be clear and unobstructed unless required for privacy purposes).
- c. Designs of buildings situated along pedestrian walkways must at the ground level, incorporate sculptural artwork and horticultural landscaping or other design features along that facade, on or against the exterior of the building.

- d. Building designs must, from the first floor and up, incorporate clear glass or other cladding systems on street facing facades (obscured/tinted glass may be used for privacy but must remain aesthetically appealing).
- e. Design of building entrances must be oriented to face public streets or prominent public area and must incorporate architectural elements such as raised corniced parapets, arches, lattice or tile work and mouldings which must be integrated into the building structure and design.
- f. Building designs must feature exterior weather protection i.e. awnings and overhangs on building facades adjacent to pedestrian walkways.
- g. Building designs must on the first floor of all street facing facades feature wall-mounted light with decorative features, such as lights with decorative shade or mounting.
- h. Building designs must incorporate architectural elements on the building façade such as decorative surfaces such as patterned concrete masonry, stone, or brick work or sculptures, mosaics and artwork.
- i. Building designs must incorporate texture into the architectural design of any street facing facade of the building to avoid monotonous surfaces.
- j. Building designs must ensure that there is change in direction or step at least at every 15m to 20m of a minimum 1.5m on any street facing building wall to prevent straight monotonous buildings.
- k. Building designs must feature alternate materials such as cladding or alternate colours at every 15m to 20m on any street facing building wall to create a break in continuity to prevent monotonous buildings.
- l. Building designs must ensure that building faces on flat-roofed buildings should have a parapet wall that is consistent with the design of the building. Roofs that flow over the top of the wall will not be acceptable.
- m. Building designs must avoid blank, massive building faces along street frontages that are monotonous.
- n. Building designs must incorporate measures that effectively and attractively screen all service utility and refuse areas.
- o. Building designs must ensure that all service doors are located on the side of the building with no direct access or view from the road. Where service doors will be visible from any street side, service areas should incorporate some decorative features to disguise the service doors.
- p. Building designs must ensure that all loading areas are screened from any street frontages; decorative screening walls must be incorporated into the design of the building where loading areas are located along street frontages.

- q. Building designs must ensure that all refuse areas are screened from any street frontages, decorative screening walls must be incorporated into the design of the building where refuse areas are located along street frontages.
- r. Building designs must ensure that all building services such as water pipes, sewerage, storm water drains are in ducts or covered and are not exposed from any façade of the building.
- s. Boundary walls of properties are to incorporate design elements stated in this bylaw and are limited to a height restriction of 2.1m.
- t. All designs must incorporate landscaping/horticultural elements on all public access/ gathering places, open areas and parking lots. Detailed landscaping/horticultural designs must be submitted by the applicant.
- u. All building designs with alternate colours on any street facing building must ensure that they are maintained every 7 to 8 years.

10. APPEALS

- a. Applicants aggrieved by the decision taken by the Aesthetics Committee may appeal against such decision by lodging a written appeal within 21 days from being notified of the decision.
- b. The written appeal must set out fully the grounds of the appeal.
- c. The appellant must serve the written appeal on the Deputy Municipal Manager: City Development
- d. The Accounting Officer may rule that an appeal is not valid if it was lodged outside the stipulated 21 days and does not set out fully the grounds of the appeal and
- e. The Accounting Officer must confirm receipt within 7 days.
- f. The Deputy Municipal Manager: City Development must notify the parties of the decision of the Appeal Authority within 30 days after the date of making a decision.

11. DISCRETIONARY POWERS

The Aesthetics Committee shall exercise discretionary powers to approve or refuse an application in terms of the provisions of this Bylaw.

12. INTERPRETATION OF BYLAW

If there is a conflict of interpretation between the English version of this Bylaw and a translated version, the English version prevails.

13. SHORT TITLE AND COMMENCEMENT

This By-law is called the City of uMhlathuze: Aesthetics Bylaw, 2018 and takes effect on the date of publication in the Provincial Gazette or as otherwise indicated in the publication notice.”