

## uMHLATHUZE MUNICIPALITY

The Council of the uMhlathuze Municipality has in terms of Section 156 of the Constitution, 1996 (Act No 108 of 1006) read in conjunction with Section 11 of the Municipal Systems Act, 2000 (Act No 342 of 2000), made the following bylaws:

### BEACH BY-LAWS

#### CHAPTER 1

#### INTERPRETATION

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#### 1. DEFINITIONS

- “**area of jurisdiction of Council**” means the area defined by proclamation in the Official Gazette of the Province of Natal as the area in which the uMhlathuze Municipality has jurisdiction and includes the sea-shore situated within or adjoining the area of jurisdiction of the uMhlathuze Municipality and the sea adjoining such portion of the sea-shore, and stretches from the uMlalazi River Mouth at Port Dunford in the south, northwards to the border of Mzingazi Agricultural Village ;
- “**bin**” means an approved receptacle used for the temporary storage of waste in terms of these bylaws and which has a capacity of less than 1 cubic metre;
- “**bin liner**” means an approved loose plastic or other suitable material liner for use in the interior of a bin;

- “**city manager**” means a person appointed by the Council in that capacity or a person acting in that capacity and includes officials of the Council who, under such person’s control, exercises any function, duty or authority in terms of these bylaws;
- “**container**” means an approved receptacle used for the temporary storage of waste in terms of these bylaws and which has a capacity of more than 1 cubic metre;
- “**council**” means the uMhlathuze Municipality or its successors-in-title, and includes the council of that municipality or its executive committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the executive committee has delegated any powers and duties with regard to these bylaws;
- “**craft**” means any boat or other vessel which is not a surf-craft or wind surfer;
- “**damage to the environment**” means any pollution, degradation or harm to the environment whether visible or not;
- “**designated beach and swimming area**” means the beach and sea area stretching from the dredger pipeline up to and including the northern pier at Newark Beach, and from the dune line to the anti-shark measures in the sea;
- “**Deputy Municipal Manager: Community Services**” means a person appointed by the Council in that capacity or a person acting in that capacity and includes officials of the council who, under such person’s control, exercises any function, duty or authority in terms of these bylaws;
- “**dump**” means placing waste anywhere other than in an approved receptacle (bin or container) or a place designated by the council as a waste disposal facility or a waste handling facility;
- “**enforcement notice**” means a notice issued by the council and served upon a person who contravenes these bylaws;
- “**environment**” means the surroundings within which humans exist, made up of:-
  - (a) the land, water and atmosphere of the earth,
  - (b) micro-organisms, plant and animal life,
  - (c) any part or combination of (a) and (b) and the interrelationships among and between them, and
  - (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;
- “**environmental emergency**” means any unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;
- “**law enforcement officer**” means a law enforcement officer appointed by the council as a peace officer in terms of Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- “**lifesaver**” means any person employed or appointed in that capacity by the Council and includes any member of the Surf Life-Saving Association of South Africa or of any affiliated life-saving club or association of lifesavers;

- “**litter**” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose by the Council, and “littering” shall have a corresponding meaning;
- “**notice**” means a clear and legible official notice drawn up by Council and displayed at every entrance to or at a conspicuous place. “Notice board” shall have a corresponding meaning;
- “**nuisance**” means any condition or conduct which is injurious or offensive to any person or which is dangerous to, or compromises the health or safety of any person, or which causes an annoyance or disturbance to any person, or to the residents of any area, or which constitutes a threat or a potential threat to the environment, or which causes harm or which may potentially harm or damage the environment;
- “**person**” means a natural or juristic person and includes a firm or any association of persons and also licensees;
- “**pollution**” means any change in the environment caused by:-
  - (a) substances; or
  - (b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of the state,

where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on material useful to people, or will have such an effect in the future;

- “**public amenity**” means:-
  - (a) any land, square, picnic site, public resort, recreation site, nature reserve, garden, park, hiking trail, or natural water source including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;
  - (b) any building, structure, hall, room or office including any part thereof and any facility or apparatus therein,

which is the property of, or is possessed, controlled or leased by the council and to which the general public has access, whether on payment of admission fees or not, and includes any public amenity contemplated in paragraphs (a) and (b) which is situated within the area of jurisdiction of Council, if it is lawfully controlled and managed in terms of an agreement by a person other than the Council;

- “**public place**” includes any public building, public road, overhead bridge, foot pavement, sidewalk, lane, square, open space, garden, park, enclosed place vested in the Council, recreation area, townland, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;
- “**public road**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes:-
  - (a) the verge of any such road, street or thoroughfare;
  - (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

- (c) any other work or object forming part of, connected with, or belonging to such road, street or thoroughfare;
- “**sea-shore**” means the water and the land between the low-water mark and the high-water mark;
- “**surf-craft**” means a device used for riding the surf which is designed to carry one or not more than two persons, and is propelled by the movement of the surf or the actions of the surf-rider or a combination of both without mechanical aid but does not include:-
  - (a) an inflatable device, or
  - (b) a device which is not more than two metres in length and is wholly constructed of a soft, pliable material;
- “**surf-riding**” means a recreational activity involving the use of a surf-craft and “surf-ride” has a corresponding meaning;
- “**wind-surfer**” means a rudderless device which is fitted with a sail or kite, is propelled on the surface of the sea by the action of the wind and is designed to carry one person and “wind-surfing” and “wind-surf” have a corresponding meaning;

**Unsafe condition**” means a cyclone, hurricane, tsunami, gale-force winds or any other weather phenomenon, which in the sole discretion of the Deputy Municipal Manager: Community Services is deemed to constitute unsafe conditions.

Any word or expression defined in the Sea-Shore Act, 1935 (Act 21 of 1935) shall, when used in these regulations, have the meaning assigned thereto in that Act.

## **2. APPLICABILITY OF BY-LAWS**

These Bylaws shall, save where the context otherwise requires, apply to the sea-shore and the sea under the jurisdiction of the Council.

### **CHAPTER 2**

#### **GENERAL**

## **3. COMPLAINTS**

Any person wishing to lodge a complaint concerning the conditions in or about the management of the beach, shall lodge the complaint in writing to the City Manager of the Council.

## **4. CONSENT NOTICE ORDER**

Any written consent, notice or order issued by the Council in terms of these bylaws, shall be signed by the City Manager or his authorised representative or person acting in his/ her stead and shall be prima face evidence thereof.

## **5. INSTRUCTIONS OF MANAGER/ SUPERINTENDENT**

Every person or bather using the recreation facility and public amenity, sea-shore or the sea shall obey the instructions of the manager/ superintendent or lifeguard or any other designated official or security officer on duty.

## **6. MAXIMUM NUMBER OF VISITORS**

- (1) The Council may determine the maximum number of visitors who may be present at a specific time in or at a public amenity and recreation facility, provided that different numbers may so be determined for different public amenities.
- (2) The numbers contemplated in subsection (1) are made by Council by means of a notice.

## **7. ADMISSION TO AND SOJOURN IN A PUBLIC AMENITY**

A public amenity is, subject to the provisions of these bylaws, open to the public during the times determined by the Council, provided that different times may be determined in respect of different public amenities and recreation facilities.

## **8. PROHIBITION OF BATHING WITHIN AREAS CONSIDERED UNSAFE**

- (1) Bathing within any part of the sea may be prohibited by the Deputy Municipal Manager: Community Services or his duly authorised representative, for so long as he may consider the condition of the sea unsafe.
- (2) Any permanent prohibition under this regulation shall be indicated by notice on the spot and any temporary prohibition by any other recognisable and intelligible marker at both ends of the prohibited area.

## **9. USERS**

All users of public amenities and recreation facilities shall conduct themselves in a reasonable and decent manner at all times without interfering with other users.

### **CHAPTER 3**

#### **PROHIBITION ORDERS**

## **10. PROHIBITED ACTIONS – GENERAL**

- (1) No person shall:
  - (a) commit any nuisance or offence relating to public health, indecent or offensive behaviour;
  - (b) deposit or discharge upon the sea-shore or in the sea or in any bathing pool, any offal, rubbish or anything liable to be a nuisance or a danger to health;
  - (c) whilst suffering from any infectious or contagious disease enter or remain on the sea-shore or in the sea or in any bathing pool;
  - (d) whilst upon the sea-shore or in the sea or any bathing pool:-
    - (i) use any obscene, offensive or indecent language; or
    - (ii) behave in an offensive, improper or disorderly manner; or
    - (iii) willfully or negligently perform any act which causes discomfort to other users of the sea-shore or the sea or any bathing pool, or is likely to cause a breach of the peace.

- (e) enter any part of the sea where bathing may be prohibited either as a permanent or as a temporary measure on the grounds that it is unsafe;
  - (f) bathe or sun-bathe in the nude or clad indecently or bathe in any costume or attire or clothing that becomes transparent when wet or which type of costume is indecent;
  - (g) play any game or indulge in any activity which is likely to cause a nuisance, annoyance, injury or discomfort to other bathers, spectators or any person in the area;
  - (h) by word, conduct or demeanor, falsely pretend to be an official lifeguard or any authorised official on duty;
  - (i) wear any uniform or part thereof or an insignia intended to be worn or used by an official lifeguard or authorised official;
  - (j) in any way resist, or try to resist, obstruct, delay or interfere with an official lifeguard or authorised official in the exercise or performance of his/her duties;
  - (k) unnecessarily call for help when help is not needed or pretend to be in need or raise a false alarm;
  - (l) willfully or negligently perform any act which may or intend to cause discomfort or likely to cause a breach of peace to any other user/s on or off the sea-shore or within the sea;
  - (m) bathe in or from any area in which bathing has been prohibited or enter or remain within such bathing area contrary to a reasonable instruction or prohibition by an authorised official or evidence by a notice to this effect;
  - (n) hang onto, sit upon or cause to sink any safety ropes provided for the protection of bathers or in any way interfere with such safety ropes or other appliances provided for the assistance of bathers in distress;
  - (o) mount, climb upon, sit upon, hang onto or in any way interferes with any shark preventive netting or appliance and/ or any poles, uprights, structures, frames, barriers, cables and winch or winches all being ancillaries to such shark preventive netting or appliances;
  - (p) use alcohol within the designated area;
  - (q) possess or use any firearm or traditional weapon within the designated area.
  - (r) without the prior written consent of the Deputy Municipal Manager: Community Services conduct any ritual, who will determine the designated area for performance thereof and to ensure the presence of a life guard, if deemed appropriate by the Deputy Municipal Manager: Community Services, in his sole discretion.
- (2) Any person who contravenes any of the above will be guilty of an offence.

## **11. ANIMALS AND THE SEA-SHORE**

- (1) Any person shall be guilty of an offence who:-
  - (i) causes or allows any animal belonging to him/her or in his/her charge to enter or remain upon the sea-shore or in the sea or in any bathing pool whereon or wherein by notice on the spot prohibits the presence of animals;
  - (ii) causes or allows any horse, pony or other animal belonging to him/her or in his/her charge to enter or remain upon the sea-shore or in the sea within the area of jurisdiction, except with permission given in writing, and subject to such terms and conditions as approved by Council.
- (2) Any animal if found on the sea-shore or in the sea or in any bathing pool within the area of jurisdiction, may be impounded by any member, employee or servant of the Council and may be removed to the pound, there to be dealt with in accordance with the bylaws or regulations relating to the keeping of animals at such pound.

## **12. DAMAGES TO PROPERTY**

Any person shall be guilty of an offence who interferes with, misuses or damages any building, closet, shelter, changing booth, or other amenity provided for the use of the public, or who disregards, or, in contravention of directions as to the use to which the same may be put, fails to observe the terms of notices.

## **13. INTERFERENCE WITH NOTICE BOARDS**

Any person, other than a lifesaver or a person authorised to do so, who moves, defaces or otherwise interferes with any notice board, notice or marker erected, posted or placed on the sea-shore, shall be guilty of an offence.

## **14. PROHIBITION OF ENTERTAINMENT AND TRADE**

Any person who for reward or gain, conducts an entertainment or business or trade of any sort on the sea-shore or in the sea, without the written permission given and on such terms and conditions as in each case may be deemed fit by the Council, shall be guilty of an offence.

## **15. VEHICLES ON THE SEA-SHORE**

- (1) Any person shall be guilty of an offence who:-
  - (a) within the area of jurisdiction of Council introduces into or rides or drives any motor vehicle, animal-drawn vehicle or bicycle onto the sea-shore except in the circumstances mentioned in subsection (2) hereof;
  - (b) within an area which is under the jurisdiction of Council, rides or drives any motor vehicle, animal-drawn vehicle or bicycle or any animal on the sea-shore in such a way as to endanger, discomfort or inconvenience any other user of the sea-shore.

- (2) Subsection (1)(a) of this bylaw shall not apply in respect of any ambulance whilst lawfully in use as such, or in respect of any vehicle used in lieu of an ambulance in time of emergency, or in respect of any vehicle used within the area by any employee or servant of Council in the discharge of his/her duties or in respect of any vehicle, the driver of which carries with him/her the written permission thereto of the Council.

## **16. LIFE-SAVING DEVICES**

- (1) Any person, other than a lifesaver or a member, employee or designated person of the Council who, save in time of emergency, touches, handles or in any way makes use of or damages any life-line, lifebuoy, or any other life-saving appliance, installed or maintained upon the sea-shore or in the sea, shall be guilty of an offence.
- (2) Any person who impairs or impedes the operation of any life-saving appliance or device while it is in use on the sea-shore or in the sea shall be guilty of an offence.

## **17. CONTROL OF BOATS**

- (1) Any person who launches, lands, beaches, keeps, lets or hires or otherwise uses any boat or craft or jet ski contrary to the places identified for the exclusive use thereof, shall be guilty of an offence unless such act is done in an emergency or in order to save life.
- (2) No launching, landing, beaching, keeping, letting or hiring of any boat, jet ski or craft may be undertaken in the designated area unless such act is done in an emergency or in order to save a life.

## **18. FIREARMS/TRADITIONAL WEAPONS**

Any person who has a firearm/traditional weapon in his possession at the designated area or who discharges a firearm from the sea-shore or the sea shall be guilty of an offence. Provided that it shall not be an offence if a firearm is used:-

- (a) within the area of jurisdiction by a member, employee or servant of the Council or a lifesaver to kill or repel sharks;
- (b) in the vicinity of any bathing amenity, provided by any person on the sea-shore, by such person or his deputy to kill or repel sharks;
- (c) during competitions organised by lifesavers or during sport meetings on the sea-shore, for the firing of blank cartridges;
- (d) for the collection of specimens of marine life or birds or animals for scientific purposes;
- (e) to signal distress;
- (f) to ensure a safe and secure environment by members of the South African Police Services, or a security company appointed by Council solely for such purposes.



## **19. CONTROL OF SURF-RIDING, KITE-SURFING AND WINDSURFING**

- (1) No surf-kite and windsurfing is allowed within the designated swimming areas.
- (2) Surf-riding or wind and kite-surfing may be prohibited either temporarily or permanently by a lifesaver or official on duty within the designated areas on the grounds that it is unsafe or is likely to cause discomfort or injury to other users of the sea-shore or the sea or is a breach of the peace.
- (3) Any permanent prohibition shall be indicated by notice on the spot at both ends of the prohibited area and any temporary prohibition shall periodically be brought to the attention of the public by a public address system or by personal warning.
- (4) Any person who surf-rides or windsurfs in contravention of any prohibition contemplated by subsection (1) and (2) above shall be guilty of an offence.

## **20. CONTROL OF CAMPING ON THE SEA-SHORE**

- (1) Camping is prohibited on any part of the sea-shore.
- (2) Any person who erects a tent or camps on the sea-shore without the written permission of Council, shall be guilty of an offence.

## **21. CONTROL OF ANGLERS**

- (1) No person shall fish or angle in or from the seashore or any area at any time during which bathing, board-sailing or surf-riding is permitted or cast any line or net in or onto such area.
- (2) No person shall fish from any pier, groyne, stormwater outfall or dredger pipeline or have in his possession or control on any pier, groyne, stormwater outfall or dredger pipeline any fishing tackle or equipment or any other thing designed or intended for use for the purpose of fishing, including bait, unless fishing is permitted as indicated by a notice or sign displayed in this regard and except between the hours as may be specified in such notice or sign and in accordance with such directions or prohibitions as may be conveyed thereby.
- (3) No person shall while fishing or angling on the sea-shore, pier, or in the sea, throw, cast, or use or permit the use of fishing equipment, including any rod, net trap or other device or swing any line or gear in such a way or manner as to cause an obstruction or danger or annoyance or interference with the comfort of any other person.
- (4) No person shall place or leave any fishing bait, fish, fishing equipment, fishing hook/s or tackle or any other related waste material or debris behind and shall clear away and remove all bait, material and refuse on the sea shore or any other place used for the purpose of fishing before leaving the place and place it in a refuse receptacle provided for such purposes.
- (5) Any person failing to abide by or comply with the foregoing shall be guilty of an offence.

## **22. CONTROL OF FIRES**

No person may make a fire on the sea-shore within the area of jurisdiction of the Council without obtaining prior written permission by Council permission, which permission shall be subjected to such terms and conditions as prescribed by Council.

## **23. PENALTIES**

- (1) Any person contravening any provision of these bylaws or failing to comply therewith or failing to comply with the conditions of any notice served on him/her by Council in terms of these bylaws shall be guilty of an offence and liable, upon conviction, to a fine or imprisonment not exceeding a period of six months, or to both the fine and imprisonment.
- (2) In terms of Section 10 of the Sea-Shore Act of 1935, objects used to contravene any of these bylaws may be confiscated by the official on duty and returned to/ collected by the offender at the end of shift on the same day. Objects not collected will be kept in storage for a period of 21 days, after which it shall be sold or destroyed by Council.