

BYLAWS RELATING TO THE CONTROL OF PARKING ATTENDANTS/ CAR GUARDS

The Council of the uMhlathuze Municipality has in terms of Section 156 of the Constitution, 1996 (Act No 108 of 1996), read in conjunction with Sections 11 to 13 of the Municipal Systems Act, 2000 (Act No 32 of 2000), made the following bylaws:

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1. Definitions

Unless the context otherwise indicates -

"approved administrator" means any person or entity approved by Council as an administrator and co-ordinator of parking attendants and/or car guard activities in relation to any demarcated area;

"authorised officer" means an inspector of licences, a traffic officer, a 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 South African Police Services Act, 1995 (Act No 58 of 1995), and includes any other person whom the Minister of Local Government may from time to time by regulation declare to be an authorised officer;

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

"demarcated area" means an area designated or reserved in terms of the town planning scheme and used as public parking areas or in such other areas as may be specifically approved by Council for the use of parking attendants or car guards;

"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 neighbourhood within the area and includes any act, exhibition or publication contrary to public decency or morals;

"parking attendant/car guard" means a person who, whether for fixed or agreed remuneration or benefit, or otherwise, offers a service of guarding or protecting one or more vehicles in a demarcated area, or guiding or assisting persons desirous of parking or removing their vehicles from such demarcated area in entering or leaving any parking space or place;

"public road" means a public road as defined in the National Road Traffic Act, 1996 (Act No 93 of 1996).

"town planning scheme" means the town planning scheme(s) in course of preparation applicable to the uMhlathuze municipal area, as constituted from time to time, and includes any development control document or regulations substituted therefore.

2. Co-ordination of activities

Council may appoint one or more approved administrators to oversee and co-ordinate the activities of parking attendants and car guards in demarcated areas on such terms and conditions as Council may agree with such approved administrators.

3. Areas where parking attendants/car guards may render services

- (1) The provision of the services of parking attendants/car guards is only permitted in demarcated areas.
- (2) Except in those areas referred to in Section 3(1), no person may offer or render service as a parking attendant/car guard, whether for agreed remuneration or in expectation of a reward or benefit, in or on -
 - (a) any public road under the jurisdiction or in the ownership of Council; or
 - (b) any off-street parking area normally used by the public or to which the public has the right of access.
- (3) For the purposes of Section 3(1), Council may extend the application of these bylaws to an area in private ownership used for parking purposes by members

of the public, but only on the application of the owner of such property or an application made by the lessee or other occupier thereof with the written consent of the owner.

4. Registration as approved administrator

- (1) Any person intending to operate as an approved administrator shall make an application to Council in the prescribed format, and is only allowed to operate as such once Council has approved the application, and on the conditions prescribed by Council.
- (2) Nothing in these bylaws shall be deemed to prevent any person operating as a parking attendant/car guard to become an approved administrator, subject thereto that such parking attendant would be required to register as an approved administrator in terms of these bylaws.
- (3) Council has the right to restrict the number of approved administrators to a number which can reasonably represent the number of parking attendants/car guards operating in an area.

5. Registration as parking attendant/car guard

- (1) No person shall operate as a parking attendant/car guard unless he or she -
 - (a) has applied to an approved administrator for registration as a parking attendant/car guard in the area and has been approved as a parking attendant by such approved administrator;
 - (b) at all times carries a clear identification card in a format to be prescribed by Council from time to time;
 - (c) wears a uniform/bib approved by Council, which clearly distinguishes between parking attendants/car guards and authorised officers.
- (2) Council may -
 - (a) restrict the number of registered parking attendants/car guards operating within its area of jurisdiction
 - (b) refuse or withdraw the registration of any parking attendant/car guard if :
 - (i) such person has been convicted in a court of law of any criminal offence;
 - (ii) such person causes willfull damage to person or property; or
 - (iii) such person is found at any stage while rendering services to be under the influence of intoxicating liquors or illegal substances
 - (c) enter into an agreement, or impose conditions upon the administrator for the effective control of parking attendants/car guards

6. Duties of the approved administrator

- (1) The approved administrator shall ensure that no person rendering service as a parking attendant/car guard shall
- (a) take up a position or place himself or herself on a sidewalk or in a manner so that pedestrian traffic is obstructed;
 - (b) in any way obstruct free access to any -
 - (i) entrance or exit from a building;
 - (ii) fire hydrant;
 - (iii) Council service or service works;
 - (c) sleep overnight at a public place if services are rendered at or on such public place or part thereof,
 - (d) in the course of rendering services as a parking attendant/car guard
 - (i) create a public nuisance by his/her behaviour
 - (ii) create a traffic hazard to motor vehicles;
 - (iii) hinder or prevent proper traffic control in a public area.
 - (iv) engage in any other activities that may have a negative impact on his/her service as attendant/guard; or
 - (v) engage in any activity that is in contradiction with any other legislation.
 - (e) contravene any condition imposed by Council.

7. Offences and penalties

- (1) Any person who -
- (a) contravenes any provision of these bylaws or fails to comply with any condition imposed in terms thereof; or
 - (b) threatens, resists, interferes with or obstructs, any Council employee in the performance of his or her duties or functions in terms of these bylaws or any other law; or
 - (c) deliberately or negligently furnishes false or misleading information to any authorised officer or any Council employee:

shall be guilty of an offence, and liable upon conviction, to a fine or imprisonment for a period as determined by the relevant competent authority.

8. Cancellation/Withdrawal of approval

Notwithstanding Section 7, Council may withdraw/cancel the registration of any approved administrator who contravenes any provision of these bylaws or any conditions imposed by Council.

9. Repeal of Bylaws

- (1) The Parking Attendants bylaws of the City of uMhlathuze, published under Administrator's Notice 185 of 31 August 2000, as amended, are hereby repealed: Provided that such repeal shall not affect the continued validity of charges determined by the Council under those bylaws.
- (2) Any reference:-
 - (a) in these bylaws to a charge determined by the Council shall include a charge determined by the Council under the bylaws repealed by subsection (1), until the Council's determination of charges under these bylaws comes into operation; and
 - (b) in determination of charges made under the bylaws so repealed, to a provision in those bylaws shall be deemed to be a reference to the corresponding provision in these bylaws.
- (3) Anything done under the provisions of the bylaws repealed by subsection (1), shall be deemed to have been done under the corresponding provision of these bylaws and such repeal shall not affect the validity of any approval, authority, waiver or other act which at the commencement of these bylaws is valid under the bylaws so repealed.