

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 section 11 of the Municipal Systems Act, 2000 (Act No 32 of 2000), the Criminal Procedure Act, 1977 (Act No 51 of 1977) and the National Road Traffic Act, 1996 (Act No 93 of 1996) made the following bylaws :

## CITY OF uMHLATHUZE

### NUISANCES BYLAWS

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#### 1. DEFINITIONS

In these bylaws unless the context otherwise indicates -

**"Authorised Official"** means any person authorised as such by the Council for purposes of these by-laws to perform and exercise any or all of the functions specified therein, and any person in the service of the Council who has been appointed in the capacity of Peace Officer in terms of the Criminal Procedure Act, Act 1977 (Act No 51 of 1977);

**"Chief Fire Officer"** means the chief fire officer appointed by the Council in terms of Section 5 of the Fire Brigade Services Act, 1987 and includes any person appointed as acting Chief Fire Officer;

**"City Engineer"** means the person appointed as City Engineer by the Council or any other person lawfully acting in that capacity;

**"Deputy Municipal Manager: Corporate Services"** means the person appointed in terms of Section 57 of the Local Government: Municipal Systems Act, 2000, as Deputy Municipal Manager: Corporate Services by the Council or any other person lawfully acting in that capacity;

**"Council"** means the uMhlathuze Municipality or its successors in law, and includes the Council of that municipality and its Executive Committee and any committee or person or other body acting by virtue of any power delegated to it in terms of legislation;

**"environment"** means the surroundings within which humans exist and that are made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;

- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

**“fireworks”** means any explosive device or substance that burns or explodes after ignition, including firecrackers, and which is regulated under the Explosives Act, 1956 or its regulations;

**“municipal property”** means any structure or thing owned or managed by or on behalf of the Council and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

**“noise nuisance”** means any sound which impairs or may impair the convenience or disturb the peace of any person;

**“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 damage to the environment, or which may potentially harm or damage the environment;

**“person”** means a natural person or a juristic person and includes an organ of the state;

**“public health”** means the mental and physical well-being of people in the area of jurisdiction of the Council;

**“public place”** includes any square, park, any area or centre, whether incorporating a community hall or not, at which group activities of a sporting, cultural or recreational nature can be pursued, garden, enclosed or open space within the area of jurisdiction vested in the Council and includes any open or enclosed space vested in the Council to which the public has a right to access, public road and lane, foot pavement, overhead bridge, footpath, sidewalk and any other municipal property;

**“use of fireworks”** means discharging, lighting or igniting;

**“waste”**, means any matter, material, by-product or residue of any process or activity, that has been discarded, accumulated or stored for the purpose of discarding, re-use, reclamation or recycling, and includes vehicles or machinery or parts thereof, scrap metal, building rubble, garden refuse, refuse debris, and any garbage. Waste products may be liquid or solid and may include products that contain a gaseous component and may originate from domestic, commercial or industrial activities.

## **2. USE OF PUBLIC PLACE**

- (1) A person may not advertise goods or services by shouting, hitting a gong, hooting or ringing bells so as to constitute a nuisance, and may not, without obtaining the prior permission of the Council, advertise goods or services in a public place by means of a megaphone, public address system or similar means.
- (2) A person may not conduct himself or herself in an unseemly or obnoxious manner or cause a nuisance or annoyance to other persons in or on or using any public place, or to any other person.

- (3) A person may not, without lawful cause, discharge any firearm, air gun, sling, catapult, bow and arrow, crossbow or any other similar weapon within the area of jurisdiction of the Council, provided that this section does not apply to any persons engaged in authorized target practice or drill in places set aside for this purpose or to any person to whom written permission to do so has been given by the Deputy Municipal Manager: Corporate Services.
- (4) A person may not expose or exhibit any article or thing offensive to decency.
- (5) A person may not hang any item of clothing, household linen or laundry over any boundary wall or fence or out of any window or from any balcony or part of a building so as to be visible from a street or public place.
- (6) A person may not bathe or wash himself or herself or any animal or laundry in any stream, pool or water trough to which the general public has access or at any public fountain or public water feature or any other place not designated for such purpose.
- (7) A person may not appear in any public place in a state of intoxication.
- (8) A person may not write, print or draw any obscene words or figures in a public place or use indecent or foul language in any public place or within the hearing of any person therein.
- (9) A person may not loiter in any public place for the purpose of prostitution, or solicit or importune any other person for such purpose.
- (10) A person may not keep or manage or assist in the keeping or management of a brothel or knowingly permit any premises within the area of jurisdiction of the Council or any portion thereof, or any room therein, to be used as a brothel or for the purposes of prostitution, or be a party to continued use thereof for such purposes.
- (11) A person may not hold any auction or sale in any public place or in or from any doorway, window or other opening of any premises abutting on any public place without the written consent of the Senior Manager: Corporate Services and then only subject to such conditions as may be imposed in such consent.
- (13) A person may not sit or lie in or upon any public place or stand, walk, loiter or congregate or otherwise act in such manner as to obstruct free movement along any public place or to jostle or otherwise annoy the public.
- (14) A person may not leave any animal belonging to him or her unattended in any public place or permit such animal to obstruct the traffic in any street or create a nuisance or danger in any public place.
- (15) A person may not urinate in public view.
- (16) A person may not erect or place any structure, be it temporary or permanent, in or on any street, public footpath, verge or public place for the purpose of sale or storage.

### **3. USE OF STREETS AND PUBLIC FOOTPATHS**

- (1) A person may not deposit or throw any object upon any street or public footpath which might in any way endanger the safety of any person.

- (2) A person may not allow any goods, whether it be his own property or under his control, to be or to remain in or on any public place, street or public footpath so as to cause obstruction or inconvenience to the passage of any person for a longer time than may reasonably be necessary for loading and unloading, and in no case after being instructed by the Police or an Authorized Official requiring him or her to remove same.
- (3) Unless a permit has been issued by the Council for trading purposes, a person may not, for trading or for any other purposes, place any goods, wares or articles on any public footpath or street, or place any goods, wares or articles on any stand, verandah post, stairs or ceiling projecting over any public footpath or street . For the purposes of this subsection the words a “public footpath or street” shall include that area adjacent to a commercial or industrial lot which is outside the commercial or industrial building and to which the public has free access regardless whether or not the area is the property of the Council or private property.
- (4) A person may not place any flower pot or box or other heavy object in any window or upon any window sill in any building abutting on any street, footpath or public place unless proper precautions have been taken to prevent such flower pot, box or object from being blown or falling into or onto such street, footpath or public place.
- (5) A person may not roll any hoop or wheel or fly any kite or throw stones or ride a bicycle or use any roller skates or similar device or play any game whatsoever in or upon any street or public footpath or public place in such a manner as to create a danger or nuisance to any person or animal or damage to any property.
- (6) A person may not empty any vessel or throw any matter, liquid or solid, or any lighted cigar, cigarette or match, or empty any pipe from any window of any premises abutting on any street or from any verandah or balcony erected over any public place.
- (7) No queue formed up outside any place of business or entertainment shall be in such a manner so as to inconvenience the general public or extend across any public footpath or street. Persons standing in such queue shall yield and give free passage to persons desiring access to or egress from any premises. No queue shall in any circumstances extend on to or across any street, and no persons joining such queue shall take any position other than at the end thereof.
- (8) A person may not make or dig, or cause to be made or dug, any hole, pit, trench or excavation of any kind or for any purpose in or close to any public place without the written consent of the City Engineer. Any excavation so made or dug shall be fenced off and shall have its position indicated during hours of darkness by red lights or any other similar device which is acceptable to the City Engineer and which device shall be kept burning from sunset to sunrise.
- (9) A person may not place or deposit any waste or material in any public place or place not intended for such purpose, unless such waste is placed in approved receptacles or facilities intended for such purpose.
- (10) A person may not repair a motor vehicle for the purpose of an informal mechanic on any street, public footpath, verge or public place if the place has not been duly designated for such purpose.

#### **4. NUISANCES RELATING TO PUBLIC HEALTH**

- (1) A person may not keep or deposit or allow on any premises owned or occupied by him or her, or of which he or she is in charge, any matter or thing, solid or liquid, which is, or is likely to, become offensive or dangerous or injurious to the public health.

- (2) A person may not carry or convey, or cause or permit to be carried or conveyed, across or in any public place, any matter or thing, liquid or solid, which is or is likely to become offensive or dangerous or injurious to public health, unless such matter or thing is carried or conveyed in a closed vehicle or receptacle closed and covered with a lid or other material approved by an Authorised Official.
- (3) A person may not keep any dead body or corpse in any room, building or other structure or in any premises other than a mortuary or other similar place designated for that purpose.
- (4) A person may not permit the carcass of any animal to remain on his premises for a longer period than is necessary to arrange for the removal of such carcass.
- (5) A person may not place or permit to be placed, any carcass or any decomposable or offensive material or object which is his property or under his control, on his premises or elsewhere and to remain thereon so as to cause any nuisance.
- (6) A person may not cause or permit any stream, drain, gutter, watercourse, sink, bar, tank, water closet, urinal, compost heap or swimming bath on any land or premises owned or occupied by him or of which he is in control to be or become so foul or in such a state or to be so situated or constructed so as to be offensive or to be dangerous or injurious to public health.
- (7) A person may not cause or permit any foul or polluted water or any foul liquid or matter to run or flow from any premises occupied by him, into any street or onto any land so as to be offensive or dangerous or injurious to public health.
- (8) A person may not commit or cause or permit to be committed, any act causing or contributing to the pollution of any water.
- (9) A person may not deposit human excrement or urine in any place not designated for such purpose.
- (10) A person may not foul or misuse any public convenience or any convenience provided in any public building or place of public entertainment.
- (11) Every person who is the owner or occupier or in charge of any premises or vacant land shall take all possible precautions to prevent conditions favouring the multiplication and prevalence of, and shall take steps for the eradication of rodents, mosquitoes, flies, fleas, bugs, cockroaches or other vermin or pests on such premises or vacant land and shall, when so required by an Authorised Official, comply with any requirements relating to the prevention or eradication of any such vermin or pest within a time specified in such notice.
- (12) A person may not burn any rubbish or refuse on any premises or do anything to cause any offensive smells or excessive smoke, or by burning or any other action cause ash, excessive smoke or any other dirty or offensive dust or matter.
- (13) A person, being the owner or occupier or in control of any premises or vacant land, whether such premises or land are fenced or not, may not deposit or store thereon and within the public view, any disused vehicle(s), machinery or parts thereof, building materials, refuse or similar objects unless he has obtained written consent of the Council.
- (14) Any consent given in terms of subsection 13 may be amended or cancelled by the Council at any time by giving written notice to that effect.

- (15) Any person, being the occupier or owner of any premises or vacant land upon whom a notice in terms of subsection 14 has been served, shall within the time specified in such notice, remove or cause to be removed, any object contemplated in subsection 13 from the public view.

## **5. DISCHARGE OF FIREWORKS**

- (1) A person may not discharge, or cause or permit to be discharged, any fireworks in or from any enclosed place where domesticated animals are present or in or from any public place without prior written permission from the Inspector of Explosives (as defined in the Explosives Act, Act 26 of 1956), and the Chief Fire Officer.
- (2) A person may not discharge, or cause or permit to be discharged, any fireworks in or from any private dwelling, private land or any other private property without prior written permission from the Chief Fire Officer. The application for the said permission must, when submitted to the Chief Fire Officer, include the written consent of adjoining neighbours.

## **6. USE OF PREMISES FOR ENTERTAINMENT, RECREATION OR SOCIAL ACTIVITIES AND FUNCTIONS**

- (1) A person using any premises or permitting any premises to be used for entertainment, recreation or social activities or functions, whether public or private, and any person who participates in or who attends any such activities, may not conduct himself or herself in an unseemly or obnoxious manner or cause a nuisance or annoyance to any person.
- (2) An Authorized Official who is of the opinion that a person is committing a breach of subsection (1) may direct that person to cease any such act or may take such other steps as he or she deems necessary to reduce, remove or minimise the unseemly or obnoxious conduct, nuisance or annoyance.

## **7. PROHIBITION OF A NOISE NUISANCE**

No person shall-

- (a) cause a noise nuisance, or allow it to be caused, by operating or playing any radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
- (b) offer any article for sale by shouting or ringing a bell, or by allowing shouting or the ringing of a bell, in a manner which may cause a noise nuisance;
- (c) allow an animal owned or controlled by him to cause a noise nuisance;
- (d) build, repair, rebuild, modify, operate or test a vehicle, vessel or aircraft on residential premises, or allow it to be built, repaired, rebuilt, modified, operated or tested, if it may cause a noise nuisance;
- (e) use or discharge any explosive, firearm or similar device which emits impulsive sound, or allow it to be used or discharged, if it may cause a noise nuisance, except with the prior consent in writing of the local authority concerned and subject to such conditions as the local authority may deem necessary;

- (f) on a piece of land designated by a local authority by means of a notice on that piece of land and in the press in both official languages, or in the air-space above that piece of land
  - (i) move about on or in a recreational vehicle;
  - (ii) exercise control over a recreational vehicle; or

as owner or person in control of the piece of land concerned, to allow or to move / drive / operate / pilot on that piece of land or in the air-space above that piece of land, a recreational vehicle, if it may cause a noise nuisance;
- (g) except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance;
- (h) operate any machinery, saw, sander, drill, grinder, lawnmower, power garden implement or similar device in a residential area, or allow it to be operated, if it may cause a noise nuisance;
- (i) load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or similar article, or allow it to be loaded, unloaded, opened, shut or handled, if it may cause a noise nuisance;
- (j) drive a vehicle on a public road in such a manner that it may cause a noise nuisance.”

## **8. GENERAL**

- (1) A person may not produce or permit to be produced, any excessively bright or intermittent light, thereby creating a nuisance or annoyance to any person.
- (2) A person may not cause or permit to be caused a nuisance or annoyance to any person by doing repairwork or panelbeating to any vehicle or part thereof on a premises designated for residential purposes or a public place, provided that this subsection does not apply to emergency repairs necessary to remove any vehicle after a breakdown.
- (3) A person may not permit any rank weeds or grass or undergrowth or bush to grow upon any premises or vacant land owned or occupied by him. The Council may serve a notice on such a person requiring him or her within the time specified in such notice to destroy, cut down or remove such rank weeds, grass, undergrowth or bush.
- (4) Should any person breach any provision of these bylaws and continue in default after receiving a written notice issued by any Authorised Official requiring him or her to abate such nuisance within a time to be specified in such notice, an Authorised Official may enter upon the premises on which such nuisance exists and take such steps as may be necessary to abate such nuisance at the cost of the person so offending, who shall also be liable to a prosecution for a contravention of these Bylaws.
- (5) An Authorised Official may enter upon any premises at any time to investigate whether any breach of these bylaws has been committed.

- (6) A person may not park any vehicles, including trucks, on an open space, park or pavement. Trucks over nine (9) ton may not be parked anywhere in residential areas, except for delivery purposes.

## **9. OFFENCES AND PENALTIES**

- (1) Any person who -
- (a) contravenes or fails to comply with a provision of these bylaws or a direction issued by the Council in terms of these bylaws, or a condition imposed under these bylaws;
  - (b) obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these bylaws; or
  - (c) furnishes false, incorrect or misleading information when applying for permission from Council in terms of a provision of these bylaws,

is guilty of an offence and liable, on conviction, to a fine and/or imprisonment, as determined by a court of competent jurisdiction.

## **10. REPEAL OF BYLAWS**

- (1) The following bylaws are hereby repealed:
- (a) Nuisances Bylaws in respect of the Borough of Empangeni promulgated in the Provincial Gazette under notice no 87 of 1953.
  - (b) Nuisances Bylaws in respect of the Borough of Richards Bay promulgated in the Provincial Gazette under notice no 534 of 1988.
  - (c) the amendment to the Nuisance Bylaws of the former Empangeni TLC which deals with fireworks, proclaimed under notice No 52 of 1997 and published in the Provincial Gazette on 17 July 1997, be repealed;
  - (d) the amendment to the Bylaws Regarding Nuisances of the former Richards Bay TLC which deals with fireworks, proclaimed under notice No 534 of 1998 and published in the Provincial Gazette on 8 December 1998, be repealed;
  - (e) the Nuisance Bylaws relating to Fireworks, proclaimed in Provincial Gazette 6105, Notice No 13/2002 on 16 May 2002, be repealed; and
- (2) Any reference :
- (a) in these by-laws to a charge determined by the Council shall include a charge determined by the Council under the by-laws repealed by subsection (1), until the Council's determination of charges under these by-laws comes into operation; and
  - (b) in determination of charges made under the by-laws so repealed, to a provision in those by-laws shall be deemed to be a reference to the corresponding provision in these by-laws.



- (3) Anything done under the provisions of the by-laws repealed by subsection (1), shall be deemed to have been done under the corresponding provision of these by-laws and such repeal shall not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.