

# The City of uMhlathuze Roads and Traffic Safety By-laws, 2019

To provide for measure for preventing minimising or managing public nuisances; to prohibit certain activities or conduct in public places; to provide for the repeal of laws and savings; and to provide for matters incidental thereto.

## PREAMBLE

**WHEREAS** the Municipality is competent to make and administer By-laws for the effective administration of matters which it has the right to administer in terms of the section 156 (2) of the Constitution of the Republic of South Africa.

**WHEREAS** the Municipality has competence in terms of Part B of Schedule 5 of the Constitution relating to such matters as the control of municipal roads, public places, and traffic and parking;

**AND WHEREAS** there is an need to develop legislation that will enable the municipality to prevent or minimise of pernicious offences committed on or upon public roads, places and to regulate behaviour in public places and roads;

**NOW THEREFORE**, the Municipal Council of the City of uMhlathuze Local Municipality, acting in terms of section 156 read with Schedule 5 (Part B) of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000) and further read with section 80A of the National Road Traffic Act, 1996, hereby makes the following Bylaw:

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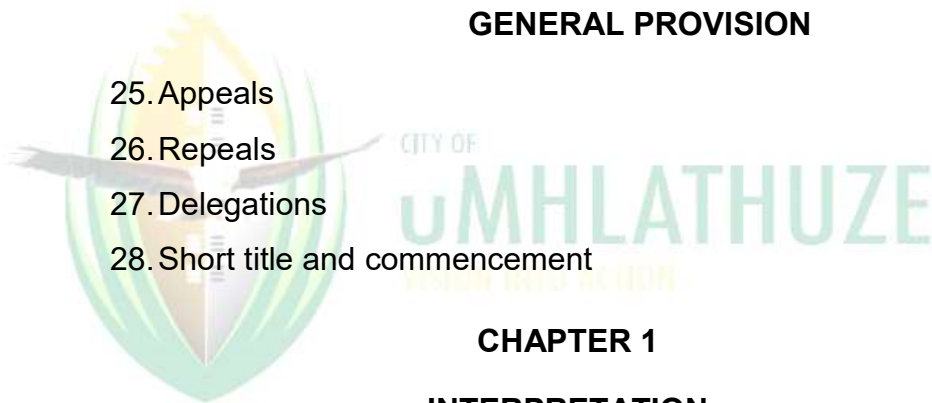
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## CHAPTER 1

### INTERPRETATION

#### 1. Definitions

In the By-laws, unless the context otherwise indicates -

**"Abandoned"** means a vehicle that has been left or abandoned on a public road as referred to in regulation 320 of the NRTA;

**"Accident"** means a road accident as referred to in Section 61 of the National Road Traffic Act, 1996;

**"Authorised official"** means any person who is a peace officer under the National Road Traffic Act, 1996 ((Act no. 93 of 1996) and has been declared as such in terms of section 334(1) of the Criminal Procedure Act, 1977 (Act no. 51 of 1977) or any other person who has been authorised under

section 59 of the LG : Municipal Systems Act, 2000 by the municipality in writing to enforce by-laws and regulations of the municipality.

**"Breakdown vehicle"** means a motor vehicle designed or adapted solely for the purpose of recovering or salvaging other motor vehicles and which is properly registered as a breakdown vehicle;

**"Broken down"** means a vehicle that has as result of some mechanical defect or any other problem come to a standstill position on the roadway of a public road;

**"Construction"** means any building work or demolition and any activity ancillary to such building work or demolition;

**"Council"** means the Municipal Council of the municipality or any member of staff or official of the municipality who has been appropriately delegated or sub- delegated any power or duty by Council;

**"Criminal Procedure Act"** refers to the Criminal Procedure Act no. 51 of 1977;

**"Cycle"** means any bicycle, tricycle or any similar device powered by means of foot pedals;

**"Event "** means any sporting, entertainment, recreational, religious, cultural, exhibition, organisational or similar activities hosted at a stadium, venue or along a route or within their respective precincts;

**"Gatherings Act"** means The Regulation of Gatherings Act 205 of 1993;

**"Heavy-duty"** means busses and earth-moving or earth-working vehicles;

**"Liquor"** means -

- (a) a liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);
- (b) beer or traditional African beer; or
- (c) any other substance or drink declared to be liquor under the Liquor Act 2003, (Act No. 59 of 2003), but does not include methylated spirits;

**"Local authority"** means a transitional metropolitan substructure, transitional local council or local government body contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act No.209 of 1993)

**"Motor cycle"** means a motor cycle as defined in Section 1 of the National Road Traffic Act, 1996;

**"Motor vehicle"** means a motor vehicle as defined in Section 1 of the National Road Traffic Act, 1996;

**"Motor quadrucycle"** means a motor "quadrucycle" as defined in Section 1 of the National Road Traffic Act, 1996;

**"Municipality"** means the City of uMhlathuze local municipality, a municipal council referred to in section 157(1) of the Constitution;

**"Municipal Manager"** means a person appointed in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as the head of administration of the municipal council;

**"National Road Traffic Act or NRTA"** refers to National Road Traffic Act no. 93 of 1996;

**"Nuisance"** means any conduct or behaviour by any person or the use, keeping, producing, by-producing, harbouring or conveying, as the case may be, of any item, substance, matter, material, equipment, tool, vegetation or animal or causing or creating any situation or condition in or on private

property or in a public place or anywhere in the Municipality which cause damages, annoyance, inconvenience or discomfort to the public or to any person, in the exercise of rights common to all or of any person;

**“Overnight”** means the period from 20h00 in the evening to 06h00 in the morning;

**“Police official”** means a member of the South African Police Service;

**“Public place”** means

- a) A public road;
- b) Any parking area, square, park, recreation ground, sports ground, swimming pool, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has-
  - I. In connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for the use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
  - II. At any time been dedicated to the public;
  - III. Been used without interruption by public for a period of at least thirty years expiring after 31 December 1959; or
  - IV. At any time been declared or rendered as such by Municipality or other competency authority;
- c) A public transportation motor-vehicle; or
- d) A municipal property, premises or facility which the public has access to, but will not include public land that has been leased or otherwise alienated by the Municipality;

**“Public road”** means a public road as defined in Section 1 of the National Road Traffic Act, 1996;

**"\*Race or Sport\*"**, for purposes of this by-law the term "race or sport" includes a race, a speed trial, a reliability trial, hill climbing competition or sports meeting or any other activity which may constitute a source of danger to traffic or hamper, impede or disrupt the normal flow of traffic on any public road but does not include any gathering or demonstration as contemplated under the Regulation of Gatherings Act;

**"Roadway"** means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

**"SASREA"** is an acronym for the Safety at Sports & Recreational Events Act 2 of 2010;

**"Special Permission"** means written permission issued by Council.

**"Traffic Officer"** means a person who has been appointed as a traffic officer in terms of section 3A, and any member of the Service, and any member of a municipal police service, both as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and for the purposes of Chapters V, IX and X and sections 74 and 78 of this Act, includes a peace officer;

**"Traffic Warden"** means a person who has been declared by the Minister of Justice to be a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a traffic warden by the chief executive officer, the MEC or another competent authority to appoint a traffic warden, as the case may be;

**"Vehicle"** means a vehicle as defined in Section 1 of the National Road Traffic Act, 1996;

**"Wreck"** means any vehicle found anywhere the condition of which has deteriorated into a state of ruin, disrepair or immovable condition; and

**"Year"** means a calendar year;

### **Interpretation of By-law**

2. If there is a conflict of interpretation between the English between the English version of this By-law and a translated version, the English version prevails.

## **CHAPTER 2**

### **OBJECTS OF BY-LAW**

3. The objects of this By-law are to provide—
  - (a) measures to regulate and control conduct or behaviour which causes or is likely to cause discomfort, annoyance or inconvenience to the public or users of any public place, so as ensure that any such discomfort, annoyance or inconvenience is avoided, and where total avoidance is impossible or impractical, that it is minimised and managed; and
  - (b) Penalties for breach of its provisions.

## **CHAPTER 3**

### **APPLICATION**

4. This By-law applies to the entire area of jurisdiction of the City of uMhlathuze municipality including any area covered by an agreement made between the municipality and any other local authority as a joint area of operation for the contracting municipalities, and is binding on all persons to the extent application.



## CHAPTER 4 PROHIBITED CONDUCT

### 5. Races and Sports on Public Roads

(1) *"No person shall organize any race or sport which is intended to take place on a public road or street within the area of jurisdiction of the municipality without obtaining prior written permission of the municipality."*;

(2) *"No person may take part in a race or sport which takes place on a public road within the area of the municipality and for which no written permission has been applied for and granted by the municipality "*;

*"(3) Any person who intends to organise or hold a race or sport on a public road within the City of uMhlathuze municipality shall apply in writing to the municipality;"*

*"(4) Upon granting the permission, a traffic officer to be responsible for public safety at the sport or race shall be assigned for the duration of the event;"*

*"(5) Subject to the final tariff of charges, fees or levies approved by Council every year, fees for defraying the expenses to be incurred by the municipality in connection with the race or sport will be charged upon application."*

*"(6) The municipality may however exempt any person concerned with the organising of a race or sport from any provision of the National Road Traffic Act, 1996 or by-law of the municipality including an exemption from the provisions relating to speed limit and determine another speed limit for the municipal road concerned;"*

## 6. Roller-skating and skating on skateboards

*“(1) No person may without written permission of the municipality, skate on roller-skates or a skateboard or on a similar device in, upon or on a street or public place or area where skating is prohibited by an applicable road traffic sign erected by the municipality.”\**

## 7. Pedestrians and Driving in Public Parks and Green Belts

*No person may drive any vehicle or ride any cycle, motorcycle or motor quadrucycle in, across, on or upon any public park, greenbelt or road reserve without written consent from Council, except in order to go around a section of the roadway of a public road which is obstructed by a broken down vehicle.*

## 8. Pedestrians

*(1) No pedestrian may on or upon any public road stand, move or sit about or walk between vehicles in order to sell or to offer for sale any goods or items, to distribute any newspapers, pamphlets or promotional material or to collect any litter or garbage from a vehicle or wash any windscreens of a vehicle which is temporarily stopped in wait for a green light at any intersection or road junction.*

*(2) No pedestrian shall endanger himself or herself or other road users by entering the roadway to sit, stand or kneel upon a public road in the attitude of begging for donations, any hand-outs or gifts.*

*(3) A pedestrian who pushes a shopping trolley shall not push any such trolley on or upon the roadway of a public road on or upon any section where there is a sidewalk or footpath abutting the roadway or where such conduct will unnecessarily cause or is likely to cause traffic to be hindered, slowed or forced to move around the person pushing such trolley in order to pass by.*

*(4) A pedestrian may not suddenly run into or enter the roadway in front of or across the face of moving traffic to cross a public road.*

*(5) A pedestrian shall not cross a public road when a light signal displayed from such a robot intersection is not green.*

## **9. Drinking Liquor in Public**

*(1) **\*\*\*No person shall consume any liquor at or upon any public road, street, public parking area or any premises\*\*\****

*(2) The provisions of subsection 1 shall not apply to premises or places which have been licensed for sales and on-site consumption of liquor or which has been designated by the event safety and security planning committee or authorised member for purposes of alcohol sales and or consumption in accordance with the provisions of the Safety at Sports & Recreational Events Act.*

## **10. Road Safety and Response to Road Incidents**

For purposes this section "traffic officer" shall include all persons referred to in the definition of a traffic officer.

**\*(1) No person may take charge, control or act in a manner that gives or is likely to give or support the impression that he or she is in charge, command or control of any accident scene upon any public road unless he or she is a duly appointed traffic officer or police official.**

**(2) No vehicle may be removed from the scene of an accident unless the removal of such vehicle has been permitted by a traffic officer or police official in charge of the accident scene.**

**(3) A traffic officer or police official who prepares to order removal of any vehicle from any public road shall before such removal, consult the owner of**

the vehicle for his or her consent and preference of breakdown vehicle to remove the damaged or broken down vehicle and immediately put to record details of such consultation onto the OB Book of his or her enforcement institution.

(4) Any person who removes any vehicle from any accident scene contrary to the provisions of subsections (1), (2) or (3) shall be guilty of an offence.

(5) The owner, driver or person in charge or control of any vehicle shall not allow the vehicle to be abandoned on or upon, or cause or to be in or on a public road in a manner that is likely to cause an obstruction or hinder the free passage or flow of traffic upon or on any public road.

(6) The driver, owner or person in charge or control of any broken down or damaged vehicle which requires repairs to be effected before being removed from the roadway of a public road, shall arrange for its removal and ensure that the vehicle is removed from such roadway within a period of two (2) hours.

(7) Any authorised official may remove and impound any vehicle that has been abandoned or left standing on or upon any section of the roadway of a public road and shall remove and impound a vehicle referred to in subsection (h) if such vehicle has not been towed away or moved from off the roadway within two (2) hours.

(8) A vehicle which has been removed by or on the instruction of an authorised official from a public road and impounded, may be released after thirty six (36) hours on or upon proof of payment of removal, impoundment and storage fees or in the case of an immediate request for release, on or upon proof of payment of removal, impoundment and storage fees payable for any thirty six hour (36) impoundment.

(9) A vehicle referred to in subsections 5 and 6 and which has been removed and impounded may in order to defray the costs of any removal and or

storage or impoundment be sold at an auction after three (3) months of such impoundment or storage.

(10) A wreck left standing on or upon any section of a public road shall be removed immediately by the Roads Section, Waste Management Services or Fire department of the municipality to a suitable refuse disposal site to be dumped and annihilated.

(11) No person driving any breakdown vehicle shall enter a radius of 100 metres of any accident scene which is clearly visible from such distance or stop or park within such distance without the express consent of a traffic officer or police official in charge of the accident scene.

(12) Only a breakdown vehicle permitted in the proper manner by a traffic officer or police official may be stopped or parked at the scene of an accident or within 100 metres of the accident and such permission must relate to the details already recorded in the OB Book of the enforcement institution.

(13) A traffic officer or police official shall proactively continuously look out for any unauthorised arrival of any breakdown vehicle at the scene of the accident and shall not permit more than one breakdown vehicle to be stopped or parked at the scene of an accident unless the scene has been completely cleared of all broken down vehicles.

(14) A breakdown vehicle which has been authorised to be involved in removing any broken down vehicle from the scene of an accident scene shall be responsible for properly sweeping and cleaning up of the remaining shards of glass and other debris visible from the surface of the roadway at the scene of the accident.

(15) Any breakdown vehicle stopped or parked at or within 100 metres of any accident scene without any permission by an authorised official shall become liable for immediate removal and impoundment thereof.

## 11. Conveyance of Scholars

For purposes of this Section, unsuitable shall mean a vehicle which is designed or adapted mainly to carry goods and convey no more than three (3) passengers and includes a bakkie.

*\*(1) Notwithstanding the requirements of regulation 42(1)(a) in terms of the National Land Transport Act, 2009 (Act no. 5 of 2009), a person who conveys school children for a reward, payment or even payment in kind, be it immediately payable as a boarding fare or payable later, shall apply to be registered and approved to undertake the scholar transport service within the area of jurisdiction of the municipality.*

*(2) For purposes of this By-law, a person under the age of 14 and who is still attending school is regarded as a child.*

*(3) The application contemplated in subsection (1) shall be lodged with the public transport unit of the municipality.*

*(4) Subject to the provisions in sub-section (1), a vehicle to be used for scholar transport service must be presented within 3 days of the application referred to in subsection (1) at the municipality for inspection and examination by an appropriately authorised official who shall establish roadworthiness of the vehicle.*

*(5) The registration certificate (log-book) of the vehicle to be used for a scholar transport service, identity card or identity document of the registered owner of the vehicle, a certified copy of a driver's licence and the professional driving permit for the driver, a passenger manifest in or upon which is recorded all the full names of the school children to be conveyed, each child's pick up point, school of attendance, class or grade of the child, age of the child, payment amount for the service, signature of each parent and the name of the responsible adult, must be provided and accompany the application referred to in subsection (2) of this section.*

*(6) No person shall convey a school child in any unsuitable vehicle if the scholar transport service is not registered and approved by the municipality.*

*(7) A vehicle shall not convey a pre-primary or primary school child unless there is a responsible adult in the vehicle during the course of conveyance which shall only be in the passenger compartment of the vehicle where the school child or children are seated.*

*(8) A responsible adult in a vehicle conveying a school child or children from or to school shall oversee the behaviour, language and safety of the children being conveyed therein and shall in his or her own sober senses ensure that the driver is of sober senses at all times during any conveyance of a school child or children and that no arms or dangerous weapons are carried by the scholars in such vehicle;*

*(9) A bus conveying school children shall have two responsible adults to exercise safety oversight in the bus during conveyance.*

*(10) No vehicle owner shall use or employ a driver to drive or driver may drive a motor vehicle conveying a school child or schoolchildren if such driver has not submitted a certified copy of a professional driving licence to the public transport unit of the municipality.*

*(11) a vehicle parked near a school during school drop-off and pick up times shall not so stop or park in a manner obstructing other traffic from approaching the vicinity or proceeding safely along the public road.*

*(12) a vehicle used in a scholar transport service which has not been registered and approved by the municipality shall not convey school children in the goods compartment for a reward, payment or any payment in kind.*

*(13) Where an application for conduct of a scholar transport service is made to the public transport unity of the municipality, a recommendation for a*

*requirement relating to road safety features or roadworthiness of the vehicle is made, the requirement shall first be complied with before the registration is affected.*

## **12. Enforcement**

*(1) Notwithstanding the removal and impoundment powers, an authorised official may issue a notification in terms of section 341 or a notice in terms of section 56 of the Criminal Procedure Act, 1977.*

*(2) A person who wilfully hinders interferes or obstructs an authorised official in the exercise of his or her powers or execution of his or her duties may without a warrant be arrested in terms of section 40 of the Criminal Procedure Act.*

*(3) Any person who wilfully hinders interferes or obstructs an authorised official in the execution of his or her duties or exercise of any powers conferred upon him by any law shall be guilty of an offence.*

## **13. Vegetation**

1) No person may allow any tree or other growth on any premises under his or her control to—

(a) Interfere with—

(i) any public service infrastructure; or

(ii) communal services infrastructure such as, but not limited to, overhead wires, storm water drainage or sewerage system; or

(b) become a source of annoyance, danger, inconvenience or discomfort to persons using a public road.



- 2) The Municipality may by written notice direct the owner, occupier or person in control of premises contemplated in subsection (1) to prune or remove such tree or growth to the extent and within the period specified in such notice.
- 3) If the person contemplated in subsection (2) fails to take measures contemplated in the notice issued in terms of that subsection, the Municipality may act and recover costs from that person.
- 4) No person other than a duly authorised official of the Municipality may–
  - (a) plant a tree or plant in a public place, or in any way cut down a tree or shrub in a public place or remove it therefrom, except with the written permission of the Municipality;
  - (b) climb, break or damage a tree growing in a public place; or
  - (c) in any way mark or paint any tree growing in a public place or attach any advertisement or notice thereto.

#### **14. Obstructing, blocking or disturbing of traffic and pedestrians**

- 1) No person may –
  - a) In public place, internally block or interfere with the safe or free passage of a pedestrian or motor-vehicle, unless to the extent authorised by law; or
  - b) Approach any pedestrian or a person inside a motor-vehicle on any public road or public road intersection or any other public place for the purposes of begging from such pedestrian or person in a motor-vehicle.
- 2) Any person, who unlawfully blocks, occupies or reserves a public parking space, or begs, stands, sits, lies in public place, or does anything which hinders or disturbs the flow of pedestrian or road traffic must immediately cease to do so when directed by an authorised official.

## **15. Conduct regarding motor-vehicles**

1) No person may in a public place –

- (a) wash or clean any motor-vehicle, except in an area designated by the Municipality for that purpose; or
- (b) effect any repairs to a motor-vehicle or boat, except where repairs are necessary for the purpose of removing such motor-vehicle from the place where it was involved in an accident or had a breakdown.

2) No person may in a public place–

- (a) sleep in a stationary motor-vehicle except in an emergency, or where such person is the driver of a public transportation motor-vehicle, is guarding a motor-vehicle, or is in a designated rest area; or
- (b) Reside in a motor-vehicle for longer than 24 hours, unless that person sleeps for the purposes of resting after a long journey using that vehicle: Provided that an authorised official may at any time direct that person to move the vehicle away from such place or to desist from sleeping or residing in the vehicle.

3) Unless permitted to do so by the Municipality or in terms of any land use scheme or legislation, no person may park a heavy-duty vehicle overnight on private premises or vacant land.

## **16. Excavation in public places**

(1) No person may make or cause to be made an excavation, a pit, trench or hole in a public place–

- a) except with the written permission of the Municipality; and
- b) otherwise than in accordance with the requirements prescribed by the Municipality or authorised in terms of the applicable By-law of the Municipality or any other law.

(2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place: Provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

### **17. Municipal property**

- 1) No person, unless authorised by the Municipality or in terms of any other law, may within a public place—
  - a) deface, damage, destroy or remove any property or part thereof which is affixed, placed or erected in or on a public place;
  - b) paint or draw graffiti or other form of art or hobby on any property which forms part of a public place;
  - c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
  - d) affix or place on any municipal property, or distribute, any printed matter; or
  - e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.
- 2) The provisions of subsection (1) do not apply to any person who is employed or authorised by the Municipality for the purposes of fixing, repairing, demolishing, renovating or providing any such service for or on behalf of the Municipality.

### **18. Goods and services offered for sale**

- 1) The Municipality may, in terms of the By-law of the Municipality dealing specifically with informal trade, designate areas within public places, where marketing, display or offering for sale of any goods or services is prohibited or controlled in order to, amongst other reasons as contemplated in such By-law, constrain nuisances.
- 2) Subsection (1) does not apply to the selling of newspapers at intersections or to the sale of goods by non-governmental organisations or

developmental organisations who may apply for exemption for all their traders.

- 3) Notwithstanding subsection (1), the Municipality may, in terms of the By-laws contemplated in subsection (1), issue permits for the sale of goods or services, and in so doing, the Municipality may limit the number of permits for an area and stipulate such conditions as it may from time to time prescribe.

### **19. Designated areas**

The Municipality may in relation to any public place, to the extent empowered by law–

- a) designate a public place or part thereof for a specific function or use at designated times or at all times, and prohibit certain activities or conduct in respect of any such public place;
- b) develop any public place in the interest of the public;
- c) erect, construct, establish or demolish municipal property; or
- d) Exercise any other power reasonably necessary for the discharge of its obligations in terms of this By-law relating to the management of public places or otherwise in terms of any other law.

### **20. Restricted access**

(1) The Municipality may, by appropriate signage, restrict access to any part of a public place for a specified period of time to–

- a) protect any aspect of the environment within a public place;
- b) reduce vandalism and the destruction of property;
- c) improve the administration of a public place;
- d) develop a public place;
- e) enable a special event which has been permitted in terms of this By-law or any other law to proceed; or
- f) Undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of this By-law.

## **21. Presumption**

In any prosecution for a charge involving driving, parking, stopping, leaving or abandoning of any vehicle anywhere contrary to the provisions of this by-law, it shall be presumed , in the absence of evidence to the contrary that the vehicle was so driven, stopped, parked, left or abandoned by the registered owner of such vehicle.

## **CHAPTER 5**

### **ENFORCEMENT**

## **22. Powers of authorised officials**

1) The authorised official may, in respect of premises, at all reasonable times enter any land or premises on which a nuisance in terms of this By-law occurs or is alleged to occur or to have occurred and—

- (a) inspect or monitor the land or premises;
- (b) question the owner, occupier or person in control of the land or premises;
- (c) serve any compliance notice to the owner, occupier or person in control;
- (d) take photos of any items used on the land or in the premises to cause a nuisance; and
- (e) take samples or other evidence in respect of any nuisance caused.

2) A duly authorised official may, in respect of a nuisance caused or alleged to be caused in a public place, instruct people to cease an act or conduct which causes such nuisance, with immediate effect.

3) If it appears to the authorised official that it is not possible for the offending person to comply with his or her instructions forthwith, the enforcement officer must issue a warning notice in the form prescribed by the Municipality, instructing the offending person to cease an act or conduct causing nuisance within a reasonable time period.

- 4) When issuing a warning notice the authorised official must procure the signature of the offending person confirming receipt of a warning notice.
- 5) The authorised official must inform the offending person that–
  - a) a signature of the offending party in terms of subsection (3) does not on its own constitute an admission of guilt; and
  - b) it is an offence in terms of this By-law to refuse to sign a warning notice issued by an authorised official.

## **CHAPTER 6**

### **OFFENCES AND PENALTIES**

#### **23. Offences**

- 1) A person commits an offence if he or she–
  - a) contravenes any provision of this By-law;
  - b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;
  - c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
  - d) obstructs, hinders, or in any manner interferes with an authorised official who is acting or entitled to act in terms of this By-law; or
  - e) fails to obey any lawful instruction or direction given to him or her in terms of this By-law.
- 2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence.

## **24. Penalties**

- (1) Any person who is convicted of an offence under this By-law is be liable to a fine of an amount not exceeding R40 000 or to imprisonment for a period not exceeding 2 years, or to both such fine and imprisonment.
- (2) In the case of a continuing offence, an additional fine of an amount not exceeding R200 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed.

## **CHAPTER 7**

### **GENERAL PROVISIONS**

## **25. Appeals**

1. A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons thereof 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.
3. The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
4. The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.
5. The appeal authority must furnish written reasons for its decision on all appeal matters.
6. All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.
7. Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

## 26. Repeals

The By-laws and Notices listed in the Schedule to this By-law are hereby repealed to the extent mentioned in the third column of the said Schedule.

## 27. Delegations

1) Subject to the Constitution and applicable national and provincial laws, any

–

(a) power, excluding a power referred to in section 160(2) of the Constitution;

(b) function; or

(c) duty

conferred, in terms of this By-law, upon the council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

(a) entity or person issuing the delegation or sub-delegation;

(b) recipient of the delegation or sub-delegation; and

(c) conditions attached to the delegation or sub-delegation.



## 28. Short title and commencement

(1) This is, "**The City of uMhlatuze Roads and Traffic Safety By-laws, 2019**" and shall take effect on the date of its publication in the provincial gazette, or on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.

