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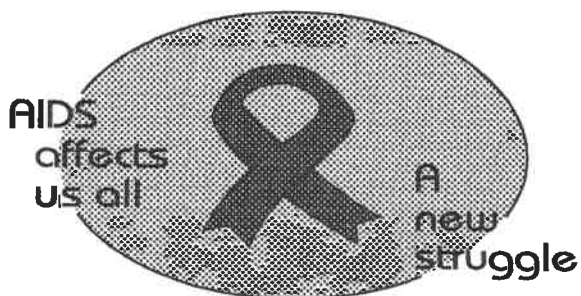
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MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

MUNICIPAL NOTICE 39 OF 2020**uMHLATHUZE MUNICIPALITY PUBLIC TRANSPORT BY-LAW**

To provide for the establishment and operation of municipal mini-bus taxi, midi bus taxi and bus ranks, stops and holding areas on municipal property; to provide for the issuing of permits to use public transport facilities; to regulate the operation of public transport facilities; to regulate metered taxis; to regulate behavior of drivers, conductors and passengers at public transport facilities; to prohibit certain conduct; to create offences and penalties; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of Section 24(a) of the Constitution;

WHEREAS there is a need to regulate public transport within the area of uMhlathuze Municipality in order to ensure the well-being and safety of passengers and the efficient and effective operation of the public transport industry;

WHEREAS uMhlathuze Municipality has competence in terms of Part B of Schedule 4 of the Constitution relating to such matters as municipal public transport and in terms of Part B of Schedule 5 of such matters as municipal roads, traffic and parking;

AND WHEREAS uMhlathuze Municipality has competence, in terms of the Section 156(2) of the Constitution of the Republic of South Africa, to make and administer by-laws for the effective administration of the matters which it has the right to administer.

NOW THEREFORE uMhlathuze Municipality council, 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 No. 32 of 2000), hereby makes the following by-law:

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CHAPTER 1 INTERPRETATION

1. Definitions

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

"Authorised official" means a person authorised to implement the provisions of this by-law, including but not limited to-

- (a) peace officers as contemplated in Section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal traffic officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"Bib" means a garment which fits around the chest of a person, has recognisable insignia identifying the person as a conductor and which is approved by the Head of Department;

"Bus" means a public motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996) to carry more than 35 seated passengers excluding the driver;

"Bus association" means an association of bus owners which has been recognized by the provincial regulatory entity or other relevant authority;

"Bus rank" means a facility set aside by the Municipality in terms of this by-law for the exclusive use of buses, at which buses may pick up passengers and drop off passengers;

"Bus holding area" means a place, other than a rank, where a bus remains until space for it is available at a rank or stopping place;

“Bus stop” means a place designated by Municipality, other than a bus rank, where a bus may stop to pick up or drop off passengers or lay-by;

“Chauffeur services” means a chartered service where an operator renders transportation service to customers on a pre-booking system that pay by cash, or via an account, or by credit card, of either collecting or dropping off to a pre-arranged collection or drop off point.

“Conductor” means a person who renders conductor service to public transport drivers and passengers, including-

- (a) soliciting and touting for business;
- (b) controlling and managing access to vehicles; and
- (c) collecting fares, except where a smart card or other non-cash based payment mechanism has been implemented;

“Disc” means a disc or other means of identification issued by the Municipality to the holder of a public transport facility permit;

“Driver” means a driver as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“Deputy Municipal Manager” means a person –

- (a) authorized to act in that capacity; or
- (b) any other officer of the Municipality nominated by it to discharge all or part of the functions of the Deputy Municipal Manager under this By-law to the extent of such nomination;

“Kerb line” means the boundary between the shoulder and the verge or in the absence of a shoulder, the part between the edge of the roadway and the verge;

“Marshal” means a person appointed by a metered taxi association, mini-bus taxi association or a bus association to manage and co-ordinate the flow of vehicles and passengers in a public transport facility;

“Metered taxi” means a motor vehicle designed for conveying passengers and which is fitted with a taxi meter which records distance travelled or time taken in undertaking a journey.

"Metered taxi association" means an association of metered taxi owners which has been recognized by the provincial regulatory entity or other relevant authority.

"Mid-bus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No.93 of 1996) to carry from 19 to 35 seated passengers, excluding the driver;

"Mini-bus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act No.93 of 1996) to carry from 9 to 18 seated passengers, excluding the driver;

"Mini-bus taxi" means either a mini-bus used to carry passengers;

"Mini-bus taxi association" means an association of mini-bus taxi owners which has been recognized by the provincial regulatory entity or other relevant authority;

"Mini-bus taxi holding area" means a place, other than a rank, where a mini-bus taxi remains until space for it is available at a rank or stopping place;

"Mini-bus taxi rank" means facility set aside by the Municipality in terms of this By-law for the exclusive use of mini-bus taxis at which mini-bus taxis may pick up passengers and drop off passengers;

"Mini-bus taxi stop" means a place designated by the Municipality, other than a mini-bus taxi rank, where a mini-bus taxi may stop to pick up or drop off passengers;

"Municipal council" or "council" means uMhlathuze Municipal council, a municipal council referred to in Section 157(1) of the Constitution;

"Municipality" means uMhlathuze Municipality, a category B Municipality as envisaged in terms of Section 155(1) of the Constitution of South Africa and established in terms of Provincial Notice No. 43 of 2000 (KZN);

"Municipal Manager" means a person appointed in terms of Section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“Municipal property” means property owned by, leased by or under the control of the Municipality and where the Municipality is the servicing agent;

“Novelty vehicle” means any pedal powered or motor powered vehicle operating on a public road and excludes a conventional or ordinary motor vehicle;

“Operate” means, in relation to a motor vehicle, to use or drive a vehicle, or to permit a vehicle to be used or driven;

“Operator.” means a public transport operator, as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), being a person carrying on the business of a public passenger road transport service;

“Operating license” means an operating license as defined in Section 1 of the National Land Transport Act, 2009 (Act No. 5 of 2009);

“Owner” in relation to a vehicle, means –

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale, and who is registered as such in accordance with the regulations under Section 4 of the National Road Transportation Act, 1996 (Act No.93 of 1996), and “owned” or any like work has a corresponding meaning;

“Park” means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

“Passenger” means any person in or on public transport vehicle who pays for the service of being carried from one place to another, as well as any person in or on public transport who is exempt from payment because of his or her office, but does not include the driver or the conductor;

"Permit" means a "permit" as defined in Section 1 of the National Land Transportation Act, 2009 (Act No. 5 of 2009);

"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 thorough fare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"Public transport facility" means a bus rank, bus holding area, bus stop, mini-bus taxi rank, mini-bus taxi holding area and mini-bus taxi stop;

"Public transport facility permit" means-

- (a) in relation to metered taxis, a permit issued in terms of this By-law enabling the permit holder to drive a metered taxi into a public transport facility;
- (b) in relation to buses, a permit issued in terms of this By-law enabling the permit holder to drive a bus into a bus rank, bus holding area and bus stop; and
- (c) in relation to mini-bus taxis, a permit issued in terms of this By-law enabling the permit holder to drive a mini-bus into a mini-bus taxi holding area and mini-bus taxi stop;

"Public transport permit holder" means a person to whom a public transport facility permit has been issued in terms of the By-law;

"Public transport vehicle" means a mini-bus taxi, a midi-bus taxi or a bus;

"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;

"Route" means the roads that are traversed by a vehicle from point of origin to point of final destination or, in the case of road-based transport, where no roads are clearly demarcated, the route followed by the particular vehicle as described with reference to landmarks or beacons;

“Servicing agent” means where a municipality is rendering a special service at a request of a third party or entity in an area that falls outside of its areal jurisdiction.

“Shoulder” means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

“Special event” means an event as defined in the Safety at Sports and Recreational Events Act, 2010, (Act No. 2 of 2010), namely sporting, entertainment, recreational, religious, cultural, exhibitional, organizational or similar activities hosted at a stadium, venue or along a route or within their respective precincts;

“Scholar transportation services” means a chartered service where an operator renders scholar transportation service to school pupils that pay by cash, or via an account, or by credit card, of either collecting or dropping off to a school or pre-school and back.

“Staff transportation services” means a chartered service where an operator renders staff transportation service to customers on a pre-booking system that pay by cash, or via an account, or by credit card, of either collecting or dropping off to a pre-arranged collection or drop off point.

“Tuk-tuk” means a three-wheeled motor vehicle designed or modified solely or principally for conveying not more than three seated persons, including the driver; and

“Vehicle” means any self-propelled vehicle and includes-

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof of attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include-
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted for the use of any

person suffering from some physical defect or disability and used solely by such person.

2. Interpretation of By-law

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

3. Object of By-law

The objects of this by-law are to regulate the operation of-

- (a) Mini-bus taxi ranks, metered taxi ranks to ensure the efficient and effective operation of public transport;
- (b) Mini-bus taxis, buses and metered taxis from public transport facilities in a way that ensures the health, safety and well-being of passengers; and
- (c) Mini-bus taxis, buses and metered taxis to ensure the efficient, effective and fair operation of these public transport vehicles.
- (d) Any other land public transport operator who benefits by making use of the any provided public transport infrastructure

4. Application of by-law

This By-law applies to all areas which fall under the jurisdiction of uMhlathuze Municipality and areas where uMhlathuze Municipality is a Servicing Agent and is binding on all persons to the extent applicable.

CHAPTER 2 PUBLIC TRANSPORT FACILITIES

5. Establishment of public transport facilities

(1) The Municipality may-

- (a) set apart and establish public transport facilities on municipal property as identified in the Spatial Development Framework and/or as approved by a designated official; and
- (b) extend, reduce or disestablish any public transport facility.

- (2) The Municipality may, in emergencies or in order to cater for special events, set aside and establish temporary public transport facilities on municipal property.

6. Public transport facility rules

The Municipality may-

- (a) when establishing a public transport facility, make rules or policy regarding the operation of that facility; and
- (b) at any time thereafter amend or replace those rules or policy.

7. Queuing at public transport facilities

- (1) No owner or driver of a public transport vehicle shall allow that vehicle to stand or stop in-
- (a) any part of a public transport facility other than an area demarcated by road traffic markings or signs as a loading bay; or
 - (b) a loading bay demarcated as a loading bay for a particular route if that vehicle is not authorized to travel that route.
- (2) Every driver of a public transport vehicle shall obey any road traffic markings or signs regarding queuing in the facility, as well as any lawful instructions issued by a marshal in this regard.

8. Vehicles to be in good working order

No person may stop a vehicle in a public transport facility or cause or permit the vehicle to remain in a public transport facility, where the vehicle is not being used to convey passengers due to its unroadworthy condition.

9. Washing and servicing vehicles at public transport facilities

No person may-

- (a) Undertake any repair or maintenance on a motor vehicle at a public transport facility; or
- (b) Wash any motor vehicle at a public transport facility, except at a wash bay at the facility that has been designated for this purpose.

10. Abandonment of vehicles

No driver of a public transport vehicle may: (a) abandon his or her vehicle; or allow any unauthorized person to drive the vehicle.

11. Marshals

(1) Subject to sub-section (2) and (3), a metered taxi association, mini-bus taxi association or bus association may appoint one or more marshals at a public transport facility to undertake the following duties-

- (a) In respect of passengers:
 - (i) to regulate queuing according to the appropriate priority and route destination systems;
 - (ii) to ensure the orderly loading of passengers;
 - (iii) to control the number of passengers per vehicle to prevent overloading and to ensure equal opportunities for drivers;
 - (iv) to direct passengers and to provide information about the activities of the public transport vehicles operating at that facility or other facilities; and
 - (v) to inform drivers about expected passengers demand and any other related matters; and
 - (vi) To prevent an intoxicated passenger from entering and or boarding a public transport vehicle.
- (b) In respect of public transport vehicles:
 - (i) to control the arrival of vehicles at public transport facilities;
 - (ii) to allow only public transport facility permit holders to enter the facilities;
 - (iii) to coordinate the movement of public transport vehicles between loading and holding areas;
 - (iv) to control public transport vehicle departures according to loading patterns; and
 - (v) to direct public transport vehicles to holding areas and to redirect them to ranks.

- (2) If a public transport facility or a portion of it has been allocated exclusively to a particular mini-bus taxi association or bus association, only that association may appoint marshals in respect of that particular facility or portion of it.
- (3) In the case of a dispute about which association is entitled to appoint marshal(s) at a particular public transport facility, the metered taxi forum, mini-bus taxi forum or bus forum, as the case may be, must decide on the issue.
- (4) The Municipality may lay down a code of conduct of marshals at public transport facilities and amend the code from time to time.
- (5) No person may act as a marshal at a public transport facility unless the metered taxi association, mini-bus taxi association or bus association concerned has appointed him or her in writing. Any person acting as marshal or purporting to act as marshal must, on the instruction of an authorized official, produce the document in terms of which he or she was appointed as marshal.
- (6) The document referred to in subsection (5) must bear the-
 - (a) Name of the marshal;
 - (b) Name of the association that appointed the marshal; and
 - (c) Signature and designation of the authorizing officer of the association concerned.

12. Stops and holding areas

A driver of a public transport vehicle may-

- (a) park a metered taxi, mini-bus taxi or a bus only at a special parking place or holding area designated for that type of vehicle; and
- (b) pick up or drop off passengers only at a rank, special parking place or a stop designated for that type of vehicle.

13. Re-direction to holding areas

If a marshal indicates that no space is available at a mini-bus taxi rank, mini-bus taxi stop, bus rank or bust stop at any particular time, metered taxis, mini-bus taxis or buses, as the case may be, must be parked at a holding area specified by the marshal or any authorized official.

14. Mini-bus taxi forums, metered taxi forums and bus forums

- (1) The Municipality may establish a mini-bus taxi forum, metered taxi forum and a bus forum to make recommendations to it on matters relevant to the mini-bus taxi, metered taxi and bus industries in general.
- (2) Any mini-bus taxi association, metered taxi association or bus association may become a member of the relevant mini-bus taxi forum.

15. Duty of bus driver to stop

- (1) If a bus operating on a bus route is carrying less than the maximum number of passengers that the bus is lawfully entitled to carry, and the driver of the bus sees a person waiting at a bus stop, apparently intending to get on the bus, the driver must, subject to subsection (2), stop the bus at the bus stop, as close as possible to the kerb or edge of the public road, in order to enable the person to get on.
- (2) The driver of a bus that has a notice that it is an "express", "limited stop" or "special vehicle" is not required to stop until reaching the destination specified by the notice.
- (3) No driver of a bus may stop the bus to pick up a passenger at a place that is not a demarcated bus stop.
- (4) A conductor (if there is one) of a bus may not allow a person to get on a bus, and no person may get on a bus, at any place that is not a demarcated stopping place or stand.

16. Fares

All public transport vehicles entering a public transport facility must display a suitable sign on the left hand door or left hand side of the vehicle showing in legible characters-

- (a) the tariff of fares;
- (b) the number of passengers the vehicle is permitted to carry; and
- (c) the registration number of the vehicles.

CHAPTER 3
PUBLIC TRANSPORT FACILITY PERMITS

17. Prohibition on entering a public transport facility without a permit

- (1) No person may enter or park at a public transport facility without-
 - (a) a valid public transport facility permit in respect of the vehicle which is entering the facility; and
 - (b) a valid disc, displayed on the vehicle concerned in terms of this By-law.
- (2) No person operating a public transport vehicle from outside the jurisdiction of the Municipality may enter a public transport facility without obtaining a valid public transport facility permit and disc.
- (3) The Municipality-
 - (a) must issue Public Transport Facility Permits in line with Integrated Public Transport Plan and the related Operating License Strategy; and
 - (b) may issue distinct Public Transport Facility Permits and discs in respect of public transport vehicles which operate from outside its jurisdiction.
 - (c) May not issue a public transport facility permit to a vehicle that does not have a valid public transport permit and operating license duly issued by the relevant regulatory entity.

18. Application for public transport facility permit

- (1) A person may apply for a public transport facility permit if-
 - (a) he or she owns a metered taxi, mini-bus taxi, metered taxi or a bus, as the case may be;
 - (b) he or she has been issued an operating license in respect of routes serviced by the public transport facility concerned;
 - (c) the metered taxi, mini-bus taxi or bus in respect of which the application is submitted has a valid certificate of roadworthiness;
 - (d) the proposed driver has a valid driving license;
 - (e) he or she does not have any outstanding warrants for the non-payment of traffic fines;
 - (f) he or she does not owe any other monies to the Municipality; and
 - (g) he or she has a valid professional drivers permit.

- (2) An application for a public transport facility permit must be on the form prescribed by Municipality.
- (3) No person may be issued with a public transport facility permit, unless he or she provides-
- (a) a certified copy of a valid public transport operating license issued by the relevant regulatory entity;
 - (b) a certified copy of a valid certificate of road worthiness in respect of the mini-bus taxi concerned, as required in terms of regulation 138 of the regulations made in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
 - (c) a certified copy of a valid identification document or temporary identity document issued by the Department of Home Affairs for the owner or the operator (if temporary identification document is used, it must be accompanied with a passport photo of the owner or the operator thereof);
 - (d) proof of registration and licensing of the motor vehicle concerned in terms of Section 14 of the National Road Traffic Act 93 of 1996; and
 - (e) an original letter of support from the relevant metered taxi association, mini-bus taxi association or bus association.
- (4) A public transport facility permit not collected within 6 months lapses, unless a written extension of time has been requested and granted by the Municipality.
- (5) If a public transport facility permit is issued contrary to the provisions of this By-law, the permit-holder must, on demand by the Municipality, immediately deliver the public transport facility permit and disc to the Municipality.
- (6) The Municipality must consider any application for a public transport facility permit and may-
- (a) approve it subject to any conditions;
 - (b) request that additional information be furnished within a specified time frame; or
 - (c) Reject the application and provide reasons for the rejection.
- (7) The Municipality may take into account the following factors when considering an application for a public transport facility permit-
- (a) the need to give preference to-
 - (i) applicants who are black persons;

- (ii) unemployed applicants;
 - (iii) new entrants; and
 - (iv) applicants who do not share a household with an existing permit-holder, unless the applicant is not a dependant of or financially reliant upon that permit-holder; and
- (b) whether the applicant has been convicted of an offence relating to a contravention of this By-law.
- (8) The Municipality may refuse a public transport facility permit, subject to section 84(6) of the National Road Traffic Act, 1996 (Act No.93 of 1996) and the provisions of this By-law, on the grounds that there is insufficient ranking space in the mini-bus taxi rank concerned.
- (9) A person who knowingly supplies incorrect information when applying for a public transport facility permit commits an offence.
- (10) The Municipality may, when issuing a public transport facility permit, impose any reasonable conditions regarding the use of the mini-bus taxi rank concerned.
- (11) A public transport facility permit is valid for a period of 12 months from the date it was issued and must specify the following-
- (a) the rank or ranks to which the public transport facility permit applies;
 - (b) the make and registration number of the public transport vehicle;
 - (c) the relevant operating license number; and
 - (d) the routes on which the public transport vehicle is permitted to operate
- (12) The Municipality must issue separate public transport facility permits for each public transport vehicle.

19. Discs

- (1) A disc containing the particulars of the public transport facility permit must be-
- (a) issued with every public transport facility permit; and
 - (b) immediately attached to the public transport vehicle concerned as contemplated in subsection (2)
- (2) Discs must be attached as follows-

- (a) if the public transport vehicle is fitted with a clear windscreen, the disc must be attached on the left hand front inside of the windscreen-
 - (i) in a conspicuous place;
 - (ii) in an upright position;
 - (iii) with the printed side facing to the front in such a way that the particulars on the disc are clearly legible to any person standing on the left front side of the public transport vehicle; and
- (b) If the public transport vehicle is fitted with a tinted or smoked glass windscreen, the disc must be attached on the left-hand front outside of the windscreen-
 - (i) in a watertight holder;
 - (ii) in a conspicuous place;
 - (iii) in an upright position; and
 - (iv) with the printed side facing to the front in such a way that the particulars on the disc are clearly legible to any person standing on the left front side of the mini-bus taxi.
- (3) The public transport facility permit holder must ensure that discs are at all times displayed in accordance with the By-law.

20. Duplicate public transport facility permits and discs

- (1) If a public transport facility permit holder-
 - (a) satisfies the Municipality, by affidavit, that a public transport facility permit or a disc has been lost or destroyed; or
 - (b) produces a public transport facility permit or disc that has been damaged to the extent that the letters and figures on it are no longer clearly legible,
 - (c) the Municipality must, after the public transport facility permit holder has applied for a duplicate permit or disc on the prescribed form and has paid the prescribed fee, issue him or her with a duplicate permit or disc that is clearly endorsed with the word "duplicate".
- (2) The public transport facility permit holder must immediately attach the duplicate disc to the vehicle concerned in accordance with section 19.
- (3) If a mini-bus taxi is being operated without a disc, it is presumed that the owner or operator does not have a valid public transport facility permit until he or she proves to

an authorized official that he or she does have such a public transport facility permit or has applied for a duplicate disc.

(4) A person commits an offence if he or she-

- (a) unlawfully produces or duplicates a public transport facility permit or disc;
- (b) attaches an unauthorized disc onto a public transport vehicle; or
- (c) operates a public transport vehicle on which a disc is in any way concealed, obscured, or has become illegible, unless such concealment, obscurity or illegibility is temporal owing to a cause beyond the control of the person who operates the vehicle.

(5) No person may forge, imitate, deface, mutilate, alter or make a mark upon, a public transport facility permit.

21. Rights of public transport facility permit holders

- (1) A public transport facility permit entitles an owner or operator to enter a public transport facility in the public transport vehicle referred to in the public transport facility permit and with the accompanying disc.
- (2) A public transport vehicle owner or operator may not enter or park at a public transport facility any motor vehicle other than the vehicle referred to in his or her public transport facility permit and disc.

22. Public transport facility fees

- (1) The Municipality is entitled to charge any-
 - (a) public transport facility permit-holder, an annual public transport facility permit fee; and
 - (b) person who applies for a duplicate public transport facility permit or disc, a duplicate fee.
- (2) The Municipality is entitled, from time to time, to fix the amount of the application fee, the annual public transport facility permit fee and the duplicate fee.
- (3) If a public transport facility permit is issued part way through a year then the annual public transport facility permit fee must be reduced proportionately.

23. Change of address or status

- (1) Subject to section 77 of the National Land Transport Act, 2009 (Act No.5 of 2009), a public transport facility permit holder must give written notice to the Municipality-
 - (a) of any change in his or her address;
 - (b) if she/he sells or otherwise disposes of the public transport vehicle in respect of which the public transport facility permit was issued and, if the vehicle has been sold or disposed of, the—
 - (i) name and address of the person to whom it was disposed of; and
 - (ii) reason for selling disposing of the vehicle, within 10 days of happening of the event.
- (2) The permit holder must, at the same time as giving notice in terms of subsection (1), submit his or her public transport facility permit and disc to the Municipality for amendment.
- (3) If a public transport facility permit is damaged in a manner that the particulars thereon cannot reasonably be ascertained, the holder of a damaged public transport facility permit must submit it to the Municipality and the authorized official may replace such damaged public transport facility permit at the cost of the holder of the rank disc.

24. Amendment of particulars

- (1) If the Municipality believes that the information contained in a public transport facility permit or disc is incorrect, the Municipality may, notwithstanding anything to the contrary in the By-law-
 - (a) notify the public transport facility permit holder concerned;
 - (b) require him or her to give a satisfactory explanation; and
 - (c) require him or her to return the public transport facility permit or disc for amendment, not later than 10 days after the date notification.
- (2) When a public transport facility permit or disc is surrendered for it to be amended in terms of this section, the Municipality must provide the public transport facility permit holder with a temporary public transport facility permit or disc, which is valid until the amended public transport facility permit or disc is returned to the public transport facility permit holder.

25. Temporary substitution of a public transport vehicle

- (1) A public transport facility permit-holder may, subject to the prior written approval of the Municipality, temporarily substitute another vehicle for the public transport vehicle in respect of which the public transport facility permit was issued if that vehicle has become defective or has been damaged in an accident.
- (2) The temporary substitution of another vehicle as contemplated in subsection (1) is subject to-
- (a) a maximum period of 180 days; and
 - (b) the public transport facility permit, disc and the Municipality's written approval of the substitution being kept at all times with the substitute vehicle for the period of the substitution.

26. Transfer of public transport facility permits

- (1) A permit is not freely transferable, but may be transferred with the Municipality's written consent in the event of the-
- (a) retirement, permanent incapacity or death of the public transport facility permit holder;
 - (b) sale of the public transport facility permit holder's business;
 - (c) sale of the vehicle to which the permit relates;
 - (d) provisional or final sequestration of the public transport facility permit holder's estate; or
 - (e) liquidation of the public transport facility permit holder, if the permit holder is a company or a close corporation.
- (2) The successor in title, executor, trustee, liquidator or curator of the public transport facility permit holder, as the case may be, may, in the circumstances mentioned in subsection (1), apply to the Municipality for transfer of the relevant public transport facility permit, for the unexpired period of the public transport facility permit.
- (3) The Municipality is entitled to demand satisfactory proof from the permit-holder that the requirements of subsection (1) have been met.
- (4) If the Municipality consents to the transfer of a public transport facility permit, the Municipality may impose such requirements as he or she deems fit.

27. Suspension and withdrawal of a public transport facility permit

- (1) A public transport facility permit lapses with effect from the date on which the relevant operating license, certificate of road worthiness, public road carrier permit lapses or is cancelled.
- (2) The Municipality may suspend the public transport facility permit for a public transport vehicle for a specific period or withdraw the public transport facility permit if-
- (a) the owner of the public transport vehicle does not-
 - (i) comply with a lawful instruction issued in terms of this By-law;
 - (ii) maintain the vehicle at all times in sound running condition and repair;
 - (iii) timeously pay all fines;
 - (b) an authorized official inspects the vehicle and finds that the vehicle-
 - (i) is constructed in such a way, or is in such a condition, that the vehicle is not safe for the number of passengers that it is authorized to carry;or
 - (ii) does not comply with the requirements of this By-law;
 - (e) the owner of the vehicle breaches-
 - (i) any conditions of his or her public transport facility permit;
 - (ii) a public transport facility rule;
 - (iii) any other provision of this By-law or of any other law; or
 - (f) the owner is found to have willfully supplied incorrect information to the Municipality when required to provide that information.
- (3) If the Municipality believes that there are grounds for believing that a public transport facility permit should be suspended or withdrawn, the following procedure must be followed-
- (a) the Municipality must give the public transport facility permit holder and any mini-bus taxi association, metered taxi association or bus association of which the public transport facility permit holder is a member, at least 21 days written notice by hand delivery or by registered mail of the Municipality's intention to suspend or withdraw the public transport facility permit;
 - (b) the notice referred to in subsection (a) must include-
 - (i) a statement setting out the nature of the proposed action;

- (ii) the reasons for the proposed action;
 - (iii) an invitation to make written representations on the matter;
 - (iv) an address at which written representations may be submitted; and
 - (v) the date, time and place of hearing (which may not be less than 15 days from the date of the notice) to consider the suspension or withdrawal, and an indication that the public transport facility permit holder may submit representations and appear at the hearing;
- (c) the public transport facility permit holder must be given an opportunity to, either personally or through his or her duly authorized representative, appear at a hearing and to make representations before the Municipality;
- (d) if a public transport facility permit holder wishes to appear at a hearing and to oppose the proposed action, he or she must, within 7 days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by registered mail to the address indicated in the notice; and
- (e) after the hearing, the Municipality must give a ruling on whether or not to suspend or withdraw the public transport facility permit and must give the public transport facility permit holder its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.
- (4) No person may drive a public transport vehicle into a public transport facility, or park at a public transport facility, or allow this to be done, if the vehicle's public transport facility permit has been suspended or withdrawn.

28. Public transport facility permit to be produced on demand

- (1) The holder of a public transport facility permit of this By-law maintain the public transport facility permit in a good and legible condition.
- (2) Any authorized official may call upon the driver of any public transport vehicle to stop and may demand from him or her to-
- (a) produce his or her public transport facility permit immediately, or to the Municipality within 5 days of having been ordered to do so by an authorized official; and

- (b) supply his full name and address and also the name and address of the owner or operator of such vehicle.
- (3) No driver referred to in subsection (2) may, when called upon to do so by any authorized official-
 - (a) refuse to stop;
 - (b) refuse or fail to supply his or her full name and address;
 - (c) refuse or fail to supply the correct name and address of the owner or operator of the vehicle in his or her charge;
 - (d) refuse or fail to produce a public transport facility permit within the time period referred to in subsection (2); or
 - (e) give a false name or address.

29. Offences relating to discs

No person shall-

- (a) attach a disc to any vehicle other than the vehicle in respect of which the permit issued; or
- (b) enter a public transport facility without a valid disc properly displayed in terms of this By-law.

30. Prohibition on forging permits or disc

- (1) No person may forge, imitate, deface, mutilate, alter or make a mark upon, a public transport facility permit or disc.
- (2) No person may use or allow a vehicle to be used as a public transport vehicle at a public transport facility if the public transport facility permit of such public transport vehicle has been suspended or withdrawn, or has expired.
- (3) If an operating card has been suspended, cancelled or withdrawn by the relevant licensing authority, the public transport facility permit issued by the Municipality is automatically suspended, cancelled or withdrawn, as the case may be.

31. Return of public transport facility permits and discs

- (1) A public transport facility permit-holder must immediately return his or her permit to the Municipality when the permit expires or if the-

- (a) Municipality suspends or withdraws the permit;
- (b) permit-holder is refused permission to transfer the permit;
- (c) permit-holder ceases trading for a period of 25 or more days; or
- (d) permit-holder no longer wishes to operate a public transport vehicle from the relevant public transport facility.

CHAPTER 4

METERED TAXIS

32. Taxi meters and display of identification

No person may operate a metered taxi, or allow one to be operated, unless it is fitted with a taxi meter which-

- (a) is in working order;
- (b) complies with this By-law; and
- (c) has been tested and sealed by the Municipal traffic officers.

33. Position of meter

The taxi meter must be-

- (a) fitted on the inside of the taxi in such a position that the recorded fare is plainly visible at all times by a passenger occupying the rear seat; and
- (b) illuminated after dark.

34. Operation of meter

- (1) The taxi meter must be operated electronically or mechanically either solely from the gearbox or left front wheel of the metered taxi or from another portion of the mechanism of the taxi that the municipality may approve.
- (2) The driver of a metered taxi must ensure that the taxi meter correctly indicates to the passenger the fare that may be charged by the driver in accordance with the tariff displayed on the taxi as contemplated in section 16.

35. Starting of meter

The driver of a metered taxi must-

- (a) on arrival at the passenger's departure point, and not sooner, start the taximeter in the "hired" position; and
- (b) on arrival at the passenger's destination, and not later, immediately stop the taxi meter from recording for the duration of a stoppage if the stoppage is not caused by traffic congestion, or by the action of the passenger, or at the request of the passenger.

36. Meter seals to be kept intact

- (1) The owner of a metered taxi must, at all times, ensure that the meter seal is kept intact and undamaged.
- (2) If the seal or seals of a taxi meter are accidentally broken or damaged, the driver of the taxi must immediately, before the taxi is again used as a passenger-carrying vehicle, apply to the Municipal Traffic Service to replace or renew the seal or seals.

37. Meter tolerances

The tolerance allowed on a taxi meter when tested is as follows:-

- (a) road test: no tolerance in deficiency or over-registration is allowed, but if the vehicle's tyres are obviously worn, a tolerance in deficiency of 10 meters per kilometre and a tolerance in excess of 50 meters per kilometre are allowed; and
- (b) time test: a tolerance in deficiency of one second per minute and tolerance in excess of two seconds per minute are allowed.

38. Interference with meter prohibited

(1) No person may-

- (a) register anything other than the fare that is in accordance with the displayed tariff;
- (b) destroy, break or tamper with the seal attached to a taxi meter; or
- (c) adjust, interfere or tamper with a taxi meter or a connection of a taxi meter, any tyre or fitting of a taxi.

- (2) No driver or owner of a metered taxi may allow the taxi to be used as a passenger-carrying vehicle if the-
 - (a) taxi meter attached to it does not register the true fare; or
 - (b) tyres fitted to the metered taxi are not the same size as those which were on the vehicle when the taxi meter was tested and sealed.
- (3) The driver or owner of a metered taxi must-
 - (a) ensure that the taxi is fitted with a speedometer and an odometer, both of which are in good and proper working order, and that the odometer, reflects the true distance travelled; and
 - (b) not operate or allow the metered taxi to be operated unless the odometer and speedometer fitted to it works properly.

39. Testing of taxi meters

An authorized official may write a notice instructing the owner or driver of a metered taxi to present the taxi concerned to the Municipal Traffic Service for the examination and testing of the taxi meter at a time and place specified in the notice.

40. Charge for testing meters

The prescribed fees must be paid to the Municipality for every taxi meter tested by the Municipal Traffic Service.

41. Meters may be condemned

- (1) If a taxi meter attached to a metered taxi is found not to be in order and not working satisfactorily, the Municipality may condemn the taxi meter and remove the seal.
- (2) No person may use a condemned taxi meter in a metered taxi until the taxi meter has been retested, approved and sealed by an examiner of vehicles.

42. Taxi signs for metered taxis

- (1) A metered taxi that is operated within the area of jurisdiction of the Municipality must be fitted with a suitable illuminated roof sign in accordance with the Municipality's requirements.

- (2) The illuminated roof sign must be properly maintained at all times.

CHAPTER 5

BEHAVIOUR OF DRIVERS, CONDUCTORS AND PASSENGERS

43. Preventing engagement of a public transport vehicle

- (1) No person at a public transport facility may, by using force, intimidation, threat or by any other means, prevent or try to prevent-
- (a) any person from using a public transport vehicle of his or her choice; or
 - (b) the driver of a public transport vehicle from taking on passengers or goods.

44. Conveying dangerous or offensive articles in public transport vehicles

- (1) A driver of a public transport vehicle may not carry on his or her person or in the vehicle any dangerous, explosive, highly flammable, potentially harmful or offensive goods or objects.
- (2) A person who is in charge of a public transport vehicle may not knowingly convey a person or thing, or allow that person or thing to be conveyed, if that person or thing is prohibited from being conveyed in terms of an existing law.

45. Boarding and disembarking of public transport vehicles

No person may, at a public transport facility-

- (a) board a public transport vehicle until all persons desiring to disembark from such vehicle have done so;
- (b) insist on boarding a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorized to carry; or
- (c) get off or get on to, or attempt to get off or get on, a public transport vehicle whilst the vehicle is moving.

46. Queues by passengers at public transport facilities

- (1) The Municipality may, at a public transport facility, erect-

- (a) queue signs or notice boards indicating the location and the manner in which persons waiting to enter a public transport vehicle must stop and form a queue; and
 - (b) rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.
- (2) All passengers intending to enter any public transport vehicle at a public transport facility must queue from the point at which it is indicated that such public transport vehicle will leave.
- (3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle at a public transport facility must form themselves into a single file queue when required to do so by a marshal, a conductor or an authorized official of the Municipality.
- (4) A passenger may only enter a public transport vehicle at a public transport facility when he or she gets to the front of the queue.

47. Identification of conductors

Every conductor must, while on duty –

- (a) wear a reflective bib or jacket; and
- (b) display an identification card.

48. Payment of fares

A passenger boarding a public transport vehicle at a public transport facility must pay the determined fare for the journey on request.

49. Break downs

- (1) If a public transport vehicle at a public transport facility becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must, at the request of the driver, disembark from the defective vehicle.
- (2) If the passengers have already paid their fares, they are entitled at their option to–
- (a) a refund in the amount of their fares; or

- (b) be allowed to travel with the next available public transport vehicle for the remainder of the distance, at the cost of the owner of the defective public transport vehicle.

50. Animals

- (1) No passenger may enter a public transport vehicle at a public transport facility with any animal other than a certified and properly harnessed guide dog assisting a blind person.

51. Actions prohibited on a public transport vehicle and public transport facility

- (1) The following actions are prohibited on a public transport vehicle and public transport facility—
 - (a) smoking;
 - (b) playing offensive or excessively loud music;
 - (c) using obscene or offensive language;
 - (d) behaving in an unruly, indecent, violent and unbecoming manner;
 - (e) committing an offensive and or illegal act;
 - (f) interfering with the comfort of any passenger and members of public;
 - (g) damaging, defacing or disfiguring anything and interfering with the equipment of the public transport facility and vehicle in any way;
 - (h) erecting, establishing, installing any structure or dwelling in a public transport facility without a written consent of the Municipality;
 - (i) forcibly causing the driver to deviate from his route;
 - (j) endangering the life of another person;
 - (k) displaying of fire arms (licensed and unlicensed) or dangerous weapons in a public transport facility and vehicle;
 - (l) drinking alcohol in the public transport facility and or inside the public transport vehicle;
 - (m) interfering with the lawful actions of the driver, marshal and municipal officials or enforcement agencies; and
 - (n) deployment of private and/or association funded security guards or body guards in a public transport facility without the written approval of the

Municipality, however the Municipality shall not unreasonably withhold such approval.

- (2) A person who contravenes 51(1) at a public transport facility or vehicle commits an offence in terms of this By-law and may be removed from a queue or the vicinity of a public transport facility by a marshal or conductor or any authorized official of the Municipality.

52. Property left in public transport vehicles

The driver of a passenger-carrying vehicle must examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle at a public transport facility, the driver must-

- (a) deliver that property to the person who left it behind; or
- (b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the rank office, the ticket office or the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

CHAPTER 6

TUK-TUKS AND OTHER NOVELTY VEHICLE

53. Licensing and operating of tuk-tuks and other novelty vehicle within the Municipality

- (1) For the purposes of this chapter, an "operating license" means an operating license issued by the Provincial Regulatory Entity.
- (2) A person may not operate a tuk-tuk or other novelty vehicle unless permission has been granted by the Municipality and license has been issued by the Provincial Regulatory Entity.
- (3) An operating license issued by Provincial Regulatory Entity must stipulate-
 - (a) the area;
 - (b) route; or
 - (c) road network, in which the tuk-tuk or novelty vehicle may operate.

- (4) The granting of an operating license may be subject to terms and conditions imposed by the Municipality.

CHAPTER 7

CHAUFFEUR, SCHOLAR AND STAFF TRANSPORTATION SERVICES

54. Operating chauffeur, scholar and staff transportation services

- (1) No reward collecting / receiving operator shall render chauffeur, scholar and staff transportation services within the area of the Municipality without a valid public transport facility permit duly issued by the Municipality in terms of this By-Law.
- (2) Operators providing chauffeur, scholar and staff services shall always ensure or cause compliance with applicable provisions of this bylaw.

CHAPTER 8

ENFORCEMENT

55. Enforcement of right of entry

- (1) An authorized official may, in enforcing the provisions of this Chapter, at any reasonable time and without prior notice-
- (a) enter a public transport facility to inspect the facility;
 - (b) make enquiries from a person connected with the facility, and
 - (c) confiscate, seize, destruction and remove of any unlawful, unauthorised items and/or structures
- (2) A person who interferes with an officer in the exercise of his or her power as contemplated in subsection (1) commits an offence.

56. Lawful instructions

Failure to comply with a lawful request of an authorized official will be regarded as contravention of this By-law.

57. Vicarious liability

- (1) When an employee or agent of a permit holder contravenes a provision of this By-law or the provisions of any public transport facility permit, the employer shall be deemed to have personally committed such contravention unless the employer satisfied the court that he or she took reasonable steps to prevent such contravention.
- (2) The fact that the employer issued instructions to the employee or agent prohibiting such contravention shall not in itself constitute sufficient proof of such reasonable steps.

58. Offences

Any person who –

- (a) contravenes any provision of this By-law;
- (b) contravenes any condition on which a permit has been issued to him or her;
- (c) fails to comply with any lawful instruction given in terms of this By-law;
- (d) threatens, resists, interferes with or obstructs any officer or any employee of the Municipality in the performance of official duties or functions in terms of or under this By-law; or
- (e) deliberately furnishes false or misleading information to an officer or any employee of the Municipality, is guilty of an offence.

59. Penalties

- (1) Any person who is convicted of an offence under this By-law shall be liable per offence to a fine of an amount not exceeding R5 000 or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment.
- (2) In the case of a continuing offence, an additional fine of an amount not exceeding R500 or imprisonment per offence for a period not exceeding 10 days per offence, or both such fine and imprisonment, for each day on which such offence continues, will be imposed.

60. Exemption

The Municipality may, from time to time, on such conditions as it may determine, grant exemptions from the provisions of this By-law.

CHAPTER 9 MISCELLANEOUS PROVISIONS

61. 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, councilors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councilor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (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.

62. Appeals

(1) A person whose rights are affected by a decision taken by an authorized official 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 to the municipal manager within 21 days of the date of the notification of the decision.

- (2) The Municipality 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 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 in terms of the Local Government: Municipality Systems Act, 2000 (Act No.32 of 2000) and not in terms of this By-law.

63. Short title and commencement

This by-law is called the uMhlathuze Municipality Public Transport By-law and takes effect on the date on which it is published in the *Government Gazette* or as otherwise indicated in the notice thereof.