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**KWAZULU-NATAL PROVINSIE**  
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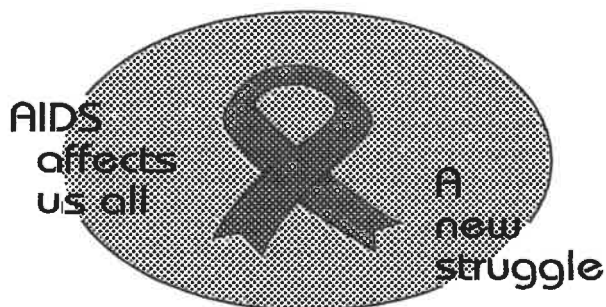
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**PIETERMARITZBURG**

25 AUGUST 2022  
25 AUGUSTUS 2022

**No: 2445**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

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DEPARTMENT OF HEALTH

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**Contents**

| <i>No.</i>  |  | <i>Gazette<br/>No.</i> | <i>Page<br/>No.</i> |
|---|--|------------------------|---------------------|
| <b>MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS</b>   |  |                        |                     |
| 209   | Local Government: Municipal Property Rates Act, 2004: Big 5 Hlabisa Local Municipality: Municipal Property Rates By-Law .....                        | 2445                   | 3                   |
| 210   | Local Government: Municipal Property Rates Act (6/2004): Resolution levying Property Rates for the Financial year 01 July 2022 to 30 June 2023 ..... | 2445                   | 6                   |
| 211   | City of Umhlatuze: By-Laws relating to the building Aesthetic in the Umhlatuze Municipal Area of Jurisdiction.....                                   | 2445                   | 8                   |
| <b>PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS</b> |  |                        |                     |
| 308   | Local Government: Municipal Property Rates Act (6/2004): Ubuhlebezwe Municipality: Municipal Property Rates By-Law .....                             | 2445                   | 20                  |
| 309   | Road Carrier Permits: KwaZulu-Natal .....  | 2445                   | 23                  |

**MUNICIPAL NOTICE 211 OF 2022**  
**CITY OF UMHLATHUZE**  
**BY-LAWS RELATING TO THE BUILDING AESTHETICS IN THE UMHLATHUZE**  
**MUNICIPAL AREA OF JURISDICTION**

To provide a regulatory framework for the design of buildings within the City of uMhlathuze municipal jurisdiction.

To promote aesthetically appealing design and construction of buildings within the Municipality's jurisdiction.

To ensure new developments contribute positively to the City's land scape and to encourage individual creativity in the design of buildings.

To ensure sustainable development of the built environment and mitigate the effects of climate change by promoting energy efficient design practices.

Aims: to provide good governance; efficiency; transparency and good administration as one of the municipal strategic objectives outlined in the municipal Integrated Development Plan (IDP).

To set out the purpose and scope of the bylaw, its application procedures, and effect of decision.

To set out the scope of the bylaw procedures, legal requirements and general matters.

**PREAMBLE**

**WHEREAS** Section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) confers on municipalities the right to administer local government matters listed in Part B of Schedule 4 and 5;

**WHEREAS** Section 156(2) of the Constitution empowers municipalities to make and administer Bylaw for the effective administration of the matters which it has the right to administer;

**WHEREAS** Section 12(3)(b) of the Municipal Systems Act (Act No. 32 of 2000) grants municipalities the right to adopt Bylaws.

**WHEREAS** The Architectural Profession Act, 2000 enables registered professionals to design and submit building plans to Council for consideration.

**WHEREAS** Section 42(4) (f) of the uMhlathuze Spatial Planning and Land Use Management Bylaw, 2017 as amended empowers Municipal Planning Approval Authority to incorporate recommendations by the Municipality's Aesthetics Committee when considering the planning application.

**WHEREAS** Section 7 of the National Building Regulations and Building Standards Act (Act No. 103 of 1977) empowers Council to control the design and construction of buildings.

**WHEREAS** the control of the design and construction of building falls within the ambit of the powers vested in the Municipality.

"WHEREAS" Section 21.1.2 (d) of the Building Control Bylaw requires a submission to the Aesthetics Committee prior to building plan submission.

## TABLE OF CONTENTS

- 1 Definitions
- 2 Purpose of the Bylaw
- 3 Application of the Bylaw
- 4 Establishment and Role of the Aesthetic Committee
- 5 Quorum
- 6 Decision
- 7 Scope of Aesthetic Bylaw
- 8 Application for approval
- 9 Use of Green Building Initiatives
- 10 Design Guidelines
- 11 Enforcement of this Bylaw
- 12 Appeals
- 13 Discretionary Powers
- 14 Interpretation of the Bylaw
- 15 Access to Information
- 16 Calculation on number of days
- 17 Short title and Commencement

### 1. DEFINITIONS

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

**“Accounting officer”** means the Municipal Manager (MM) appointed by the Council in terms of Section 56 of the Municipal Systems Act.

**“Advertising”** means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

**“Architectural Profession Act”** means the Architectural Profession Act No. 44 of 2000 as amended and any succeeding legislation, and includes any regulations made in terms of the Act.

**“Aesthetics Committee”** means the committee appointed by the Accounting Officer.

**“Awnings”** means elements added to the face of a building made of semi-permanent materials such as canvas or similar lightweight material along with metal support framework.

**“Approved”** means approved by the Aesthetic committee and Deputy Municipal Manager: City Development for the City of uMhlatuze Aesthetics Bylaw.

**“Applicant”** means any person who makes an application.

**“Application”** means an application contemplated in submission to Aesthetic committee and its quorum.

**“Balcony”** means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upper-floor door or window.

**“Building”** Is any structure or building or part thereof, or any addition or alteration to an existing structure or building, either temporary or permanent in nature and either above or below ground which is of an immovable nature and for whatever purpose used, including any tank, reservoir, swimming pool, tower, mast, wind turbine, bridge, chimney, summerhouse, hothouse, etc. and any wall, retaining wall or close-boarded fence more than two metres in height at any point, but excluding any open fence, post, steps, pier, ramp, fountain, statue, fish-pond, pergola or other garden ornamentation.

**“Building Control Officer”** means any person appointed or deemed to be appointed as a building control officer by the City of uMhlathuze in terms of section 5 of the National Building Regulations and Building Standards Act No.103 of 1977.

**“Building Control Bylaw”** means the City of uMhlathuze Building Control Bylaw Promulgated in 2021.

**“Canopy”** means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise by columns or posts;

**“Clear height”** means the vertical distance between the lowest edge of a building and the level of the ground, footway or roadway immediately below such building.

**“Cornice”** means ornamental moulding, entablature, frieze, or other roofline treatments.

**“Competent person”** means a person who is qualified by virtue of his/her education, training, experience and contextual knowledge to make a determination regarding the performance of a building or part thereof.

**“DMM: CD”** means the Deputy Municipal Manager: City Development appointed by the Council in terms of Section 57 of the Municipal Systems Act No. 32 of 2000.

**“Elevations”** are side views of a building, named for the direction from which the building is viewed namely, south elevation, east elevation, north elevation and west elevation.

**“Façade”** means the principal front or fronts of a building.

**“Height”** means the vertical distance between the ground level and the uppermost edge of a building.

**“Heritage building”** means any building or structure older than 60 years or any building or structure formally protected in any other way in terms of the Natural Heritage Resource Act No. 25 of 1999.

**“Main roof-line of a building”** means the gutter-line or wall plate level of any roof of a building other than the roof of a veranda or balcony.

**“Municipality”** means the City of uMhlathuze KZN282 established in terms of Section 12 of the Municipal Structures Act No. 117 of 1998, and includes any political structure, political office bearer, or duly authorised agent thereof or any employee thereof acting in connection with this bylaw by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, agent or employee.

**“National Building Regulations”** means the regulations promulgated from time to time under the National Building Regulations and Building Standards Act No. 103 of 1977, as amended, herein referred to as NBR.

**“NDP”** means the National Development Plan which is South Africa's 2030 development vision.

**“Land Use Scheme”** means the Municipal Land Use Scheme which regulates zonings of land/property's within the jurisdiction of City of uMhlathuze.

**“Outdoor Advertising”** means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner and which takes place out of doors.

**“Advertising Signs Bylaw”** means the Advertising Signs Bylaw Promulgated in 2020, which regulates the use of signage and advertising within the jurisdiction of City of uMhlathuze.

**“Overhang”** means structure supported from buildings to provide weather protection for building entry and pedestrian walkways and roofs, which extend over the vertical wall of a building.

**“Parapet wall”** means a low wall, which protrudes above the roof or balcony.

**“Person”** means a natural or legal person.

**“Problem Building”** that is derelict in appearance, over-crowded or is showing signs of being unhealthy, unsanitary, unsightly or objectionable;

**“POPI Act”** means the Protection of Personal Information Act No. 4 of 2013, abbreviated as the POPI Act or POPIA, which is a South Africa's data protection law.

**“Roof”** is part of a building envelope, covering on the uppermost part of a building or shelter, which provides protection from all-weather elements

**“Street Furniture”** means public facilities and structures which are not intended primarily for advertising but which are provided for pedestrians and commuters and may include seating benches, planters, pavement litter-bins, bus shelters, pavement clocks and drinking fountains.

**“Veranda”** means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts.

## 2. PURPOSE OF THE BYLAW

This Bylaw seeks to improve the aesthetic appeal of buildings and properties and the maintenance of the aesthetic within the jurisdiction of the City of uMhlathuze. It is intended to achieve this aim by establishing a balance between:

- a. The need to promote energy efficient and structurally sound buildings without compromising the aesthetics and functionality;
  - b. The need for opportunities to communicate between Council and developers;
  - c. To ensure continued development growth and upkeep of property value;
  - d. The need to contribute to the promotion of tourism and heritage resources;
- and



## 7. SCOPE OF AESTHETICS BYLAW

- a. This Bylaw is designed to regulate the design and construction of buildings within the jurisdiction of the City of uMhlatuze.
- b. This Bylaw is designed to regulate the design of buildings, but not limited to, all properties in the following Land Use Zones in terms of the uMhlatuze Land Use Scheme.

**Table1: Land Use Zones**

|  |   |
|--|---|
| Education                                      | Institution   |
| Worship  | Municipal and Government  |
| Core mixed use 1 and 2                         | Low Impact Mixed Use, Medium Impact Mixed Use and Special Mixed Use |
| Business Park                                  | Office 1 and 2  |
| Public Parking and Parkade                     | Residential Only Medium Density                                     |
| Light, Service, General Industry (if required) | Waterfront Residential  |
| Residential Only High Density                  | Resort 1 and 2  |
| Residential Estate                             | Airport   |
| Hotel  | Health and Welfare  |
| Harbour Resort                                 |   |
| Intermodal Facility                            |   |

- c. Prohibition and control of submission of building plans.
- d. No person shall erect a building or make changes to a building erected on a land use zone mentioned in Section 7(c) of this bylaw without having obtained prior approval from the Aesthetics Committee.
- e. No person shall submit building plans to the office of the Building Control Officer, in terms of Section 7 of the National Building Regulations without having obtained prior approval from the Aesthetics Committee.

## 8. APPLICATION FOR APPROVAL

8.1. Whenever an application must be submitted in terms of this Bylaw the following rules will apply:

- a. Any registered member of the architectural, urban design, planning and engineering profession who is registered with their respective statutory professional bodies may submit an application to the Committee, in respect of any application that s/he is entitled to submit in respect of a building within the land use zones mentioned in 7(c) of this Bylaw in the City of uMhlatuze, submit concept plans, including elevations and details of materials to be used for consideration by the Aesthetics Committee before submission for approval in terms of Section 7 of the National Building Regulations.



- b. In the event that such plans have not been submitted for approval to the Committee before submission for approval in terms of Section 7 of the National Building Regulations, or in the event that they have not been recommended for approval by the Committee, all plans relating to any property in the land use zones mentioned in 7(c) of this Bylaw will not be accepted for submission to the office of the Building Control Officer.
- c. No submission fee is applicable to applications submitted to the Committee.
- d. An application form must be filled in by duly authorised individual(s).
- e. An application for approval of a building aesthetic design to the committee must, in all cases. Include the following:
  - i. Locality map;
  - ii. A site plan of the property (must include all applicable land use scheme controls);
  - iii. Parking layout;
  - iv. Landscaping design;
  - v. A plan or plans of all buildings on the property showing the proposed positions of the building;
  - vi. Elevations of all aspects of the buildings;
  - vii. Where a property site has 2 street frontages, design focus must be on both frontages;
  - viii. A 3D rendering;
  - ix. Must be to scale showing all dimensions;
  - x. Must show colour and materials to be used;
  - xi. The committee may request a 3D model to be constructed.

8.2. Applications may only be submitted by the following people:

- a. Representatives duly appointed in writing by companies, individuals or any other organisation who wish to develop on land designated for purposes of the above mentioned land use zones.

## 9. USE OF GREEN BUILDINGS INITIATIVES

9.1 Applicants may be requested to comply with Municipal Green Buildings Guidelines in as and when deemed fit order to reduce carbon emissions and encouraging the use of sustainable materials in design and construction of buildings.

## 10. DESIGN GUIDELINES

- a. Building designs must incorporate transparent/ glass elements (glass on windows and doors) on main and street facing facades of the building.
- b. Building designs must incorporate glass at the ground level on buildings situated along pedestrian walkway (glass to be clear and unobstructed unless required for privacy purposes).

- c. Designs of buildings situated along pedestrian walkways must at the ground level, incorporate sculptural artwork and horticultural landscaping or other design features along that facade, on or against the exterior of the building.
- d. Building designs must, from the first floor and up, incorporate clear glass or other cladding systems on street facing facades (obscured/tinted glass may be used for privacy but must remain aesthetically appealing).
- e. Design of building entrances must be oriented to face public streets or prominent public area and must incorporate architectural elements such as raised corniced parapets, arches, lattice or tile work and mouldings which must be integrated into the building structure and design.
- f. Building designs must feature exterior weather protection i.e. awnings and overhangs on building facades adjacent to pedestrian walkways.
- g. Building designs must on the first floor of all street facing facades feature wall-mounted light with decorative features, such as lights with decorative shade or mounting.
- h. Building designs must incorporate architectural elements on the building façade such as decorative surfaces such as patterned concrete masonry, stone, or brick work or sculptures, mosaics and artwork.
- i. Building designs must incorporate texture into the architectural design of any street facing facade of the building to avoid monotonous surfaces.
- j. Building designs must ensure that there is change in direction or step at least at every 15m to 20m of a minimum 1.5m on any street facing building wall to prevent straight monotonous buildings.
- k. Building designs must feature alternate materials such as cladding or alternate colours at every 15m to 20m on any street facing building wall to create a break in continuity to prevent monotonous buildings.
- l. Building designs must ensure that building faces on flat-roofed buildings should have a parapet wall that is consistent with the design of the building. Roofs that flow over the top of the wall will not be acceptable.
- m. Building designs must avoid blank, massive building faces along street frontages that are monotonous.
- n. Building designs must incorporate measures that effectively and attractively screen all service utility and refuse areas.
- o. Building designs must ensure that all service doors are located on the side of the building with no direct access or view from the road. Where service doors will be visible from any street side, service areas should incorporate some decorative features to disguise the service doors.

- p. Building designs must ensure that all loading areas are screened from any street frontages; decorative screening walls must be incorporated into the design of the building where loading areas are located along street frontages.
- q. Building designs must ensure that all refuse areas are screened from any street frontages, decorative screening walls must be incorporated into the design of the building where refuse areas are located along street frontages.
- r. Building designs must ensure that all building services such as water pipes, sewerage, storm water drains are in ducts or covered and are not exposed from any façade of the building.
- s. Boundary walls of properties are to incorporate design elements stated in this bylaw and are limited to a height restriction of 2.1m.
- t. All designs must incorporate landscaping/horticultural elements on all public access/ gathering places, open areas and parking lots. Detailed landscaping/horticultural designs must be submitted by the applicant.
- u. All building designs with alternate colours on any street facing building must ensure that they are maintained every 7 to 8 years.
- v. Where possible, buildings are orientated to geographic north between 20° East and 8° West.
- w. Buildings with extensive use of glass must incorporate anti-glare features to protect distort viewing on the surroundings.

## **11.ENFORCEMENT OF THIS BYLAW**

- a. The Aesthetic Committee appointed by the Accounting Officer will administer the processing of applications and recommendations.
- b. Problem Buildings which are not aesthetically pleasing will must be addressed in accordance with Section 20.1 of the Building Control Bylaw.
- c. Non-compliance with this Bylaw will be referred to the Building Control Officer for enforcement.

## **12.APPEALS**

- a. Applicants aggrieved by Aesthetics Committee decision may appeal against such decision by lodging a written appeal within 21 days from being notified of the decision.
- b. The written appeal must set out fully the grounds of the appeal.
- c. The Applicant must lodge a written appeal to the Accounting Officer.
- d. The Accounting Officer may rule that an appeal is valid or not valid and does not set out the grounds of the appeal.

- e. Appeal submitted outside stipulated 21 days will not be accepted.
- f. The Accounting Officer must confirm receipt within 7 days from the date of receipt of the appeal.
- g. The Secretary of the Aesthetic Committee must notify the all Interested and Affected Parties about Accounting Officer's appeal decision within 21 days after the date of making a decision.

### **13. DISCRETIONARY POWERS**

The Aesthetics Committee shall exercise discretionary powers to approve/recommend or refuse an application in terms of the provisions of this Bylaw.

### **14. INTERPRETATION OF THE BYLAW**

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

### **15. ACCESS TO INFORMATION**

The records that are held by the Accounting Officer must be regarded as records that are automatically available as contemplated in Section 15 of the Promotion of Access to Information Act No. 2 of 2000 and access and storage of information will be terms of the POPI Act.

### **16. CALCULATION OF NUMBER OF DAYS**

This Bylaw prescribes a period for performing an action, the number of days must be calculated by excluding the first day, excluding any public holidays, and by including weekends and the last day, unless the last day happens to fall on a Saturday, Sunday or public holiday, in which case the first work day immediately following the Saturday, Sunday or public holiday must be regarded as the last day of the period.

Days that the Municipal Council is officially in recess must be excluded from the period in which the Municipality must perform an action in terms of this Bylaw.

### **17. SHORT TITLE AND COMMENCEMENT**

This Bylaw is called the City of uMhlathuze: Aesthetics Bylaw, 2018 as amended and takes effect on the date of publication in the Provincial Gazette or as otherwise indicated in the publication notice.



## APPLICATION FOR AESTHETICS APPROVAL

| A   | LOCATION   | PRIVATE PROPERTY             | COUNCIL PROPERTY      |
|---|--|------------------------------|-----------------------|
| <b>ERF NO</b><br>(as per SG Diagram)  | <b>TOWNSHIP</b>  |                              |                       |
|   | RICHARDS BAY   | ESIKHALENI                   | NSELENI               |
|   | MZINGAZI   | MANDLAZINI                   | VULINDLELA            |
|   | EMPANGENI  | NGWELEZANE                   | KULEKA                |
|   | EMP RAIL   | FELIXTON                     | NTAMBANANA            |
| STREET ADDRESS  |  |                              |                       |
| SUBURB  |  |                              |                       |
| <b>B</b>  | <b>OWNERS PARTICULARS</b><br>(Ensure this information is current and contactable for the duration of submission) |                              |                       |
| Property owner/agent/ representative :  |  |                              |                       |
| Cell no:  |  |                              |                       |
| Email :   |  |                              |                       |
| <b>C</b>  | <b>AESTHETICS CHECKLIST</b>  |                              |                       |
| I hereby declare that the plan/s submitted complies with the standard/s of the Aesthetics Bylaw.<br>The following has been submitted: |  |                              |                       |
|   | 3D Floor Layout & Elevations<br>x 2 sets of Colour hard copies   |                              | Soft copy (USB or CD) |
|   | SG Diagram   |                              | Letter of Authority   |
| <b>GENERAL INFORMATION</b>  |  |                              |                       |
| 1. No fee is payable for this application.  |  |                              |                       |
| 2. Recommendations will be forwarded to applicant within 14 working days of formal application.                                       |  |                              |                       |
| 3. The approval of the aesthetics committee will allow formal submission of building plans for consideration.                         |  |                              |                       |
| 4. Approval will be in terms of the Aesthetics Bylaw.   |  |                              |                       |
|   |  |                              |                       |
| <b>DATE</b>   |  | <b>APPLICANT'S SIGNATURE</b> |                       |



**CHECKLIST: AESTHETICS COMMITTEE**

ERF NO: ..... STREET ADDRESS: .....  
 SUBURB/OUTLIE AREA..... DATE SUBMITTED: .....

The said submission has been scrutinized and the following items were found to be in conflict with the CITY OF MHLATHUZE AESTHETICS BYLAW 1<sup>ST</sup> NOVEMBER 2018.

Corrections must be done and application returned 2 days prior to Aesthetics Committee Meeting.

|  |  |
|--|--|
| 1. COMPLETED APPLICATION FORM              | 4.2. INDICATED WHICH ENTRANCES ARE STREET VIEWS                                      |
| 2. PLANS DRAWN BY COMPETENT PERSON         | 4.4. SCREENING OF UTILITY FACILITY'S ETC BIN AND LOADING BAY AREAS, AIRCONDITIONING. |
| 3. SITE DEVELOPMENT PLAN:                  | 4.5. SIGNAGE INDICATED IN 3D'S (IF APPLICABLE)                                       |
| 3.1. DOCUMENTS AND PLANS                   | 4.7. STREET FURNITURE  |
| 3.7. BUILDING LINES & SERVITUDES INDICATED | 5. LOCALITY PLAN WITH AERIAL IMAGE REQUIRED FOR TRADITIONAL AREAS                    |
| 3.4. PARKING LAYOUT                        | 6. COMPLIANCE TO CLAUSE P. DESIGN GUIDELINES SECTION 4 A TO 4.11.1. AESTHETICS BYLAW |
| 3.5. NORTH SIGN                            | 7. LANDSCAPING PLAN  |
| 3.8. DRIVEWAY AND ENTRANCE & EXIT SHOWN    |  |
| 4. (3D) COLOUR DRAWINGS TO INDICATE        |  |
| 4.1. ELEVATIONS                            |  |

NOTES/COMMENTS:

| FOR OFFICE USE ONLY                | Checklist | Documents | Recommended for submission |
|------------------------------------|-----------|-----------|----------------------------|
| COMMITTEE                          |           |           |                            |
| (Print Name & Sign)<br>CHAIRPERSON |           |           |                            |
| (Print Name & Sign)                |           |           |                            |
| DATE OF ASSESSMENT:                |           |           |                            |