

The Umzimkhulu Municipal Council, acting under the authority of section 11, read in conjunction with section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes its Public Road and Miscellaneous Bylaws.

PUBLIC ROAD AND MISCELLANEOUS BYLAWS

1. Definitions

In these By-laws, any word or expression that has been defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) has that meaning and, unless the context otherwise indicates –

“authorised official” means any person or official authorised in writing as such by the Council.

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

"trolley" means a push trolley, push cart or any table, stand or basket on wheels;

"municipal store" means the municipal store of the Council;

“prescribed” means determined by resolution of the Council from time to time;

“prescribed fee” means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation.

”storekeeper" means the person in the service of the Council who holds the position of storekeeper or a person acting in that capacity;

“public road” means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way which are vested in the Council;

"token" in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

“watercourse” means a watercourse as defined in section 1 of the National Water Act, 1998 (Act No. 36 of 1998);.

Chapter 1 PUBLIC ROADS AND MISCELLANEOUS

2. Ropes, wires or poles across public road

No person may place any rope, wire or pole on, under or across any public road, or hang, or place anything whatsoever thereon without the prior written consent of the Council.

3. Damage to trees

No person may climb upon, or break or damage or in any way mark or paint on any tree on any public road within the municipal area of the Council, and no person may, without the prior written consent of the Council, lop, top, trim, cut down or remove any such tree unless the person is authorised to do so in terms of these By-laws or any other law.

4. Barbed wire, dangerous and electrical fencing

(1) No owner or occupier of land -

- (a) other than an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road or public place;
- (b) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause, or permit to be erected, or after one year from the date of commencement of these By-laws, have along such public road any electrified fence, railing or other electrified barrier unless –
 - (i) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; and
 - (ii) the fence, railing, or other barrier is designed and installed in accordance with any relevant specifications determined by the Council and any standard issued in terms of the Standards Act, 1993 (Act No. 29 of 1993);
- (c) may erect, or cause, or permit to be erected, any electrified fence, railing, wall or other electrified barrier mentioned in paragraph (b) without the prior written permission of the Council, which permission is granted in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

(2) The full technical details of the proposed electrified fence, railing, wall or other electrified barrier must accompany any application for permission submitted to the Council.

5. Protection of public road

No person may place upon or off-load on a public road any materials or goods which are likely to cause damage to a public road unless the person has taken reasonable precautions to protect the surface of the public road against damage.

6. Cleanliness of public roads

(1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.

- (2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.

7. Article placed in building facing public road

No person may place any article likely to cause injury or damage to any person or property if it were to fall, in any building or other part of a building near any public road without taking all reasonable steps against it falling onto the public road.

8. Damaging of Council's property

Subject to the provisions of section 10, no person may deface, tamper, damage, remove, or in any way interfere with any Council's property or work on or along any public road.

9. Cleaning and repairing on public roads

No person may clean or repair any part of a vehicle or wash, dry or paint any article or object on any public road except in an emergency breakdown of a vehicle.

10. Excavations in public roads

- (1) No person may make or cause to be made any hole, trench, pit or tunnel on or under any public road or remove any soil, metal or macadam therefrom without the prior written consent of the Council unless such person is authorised to do so in terms of these By-laws or any other law.
- (2) A person, who requires the consent referred to in subsection (1), must comply with the requirements prescribed by the Council from time to time.
- (3) The Council may require a person referred to in subsection (2) to pay the prescribed fee.

11. Defacing, marking or painting public roads

No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council.

12. Races and sports events

- (1) An application for consent to hold a race or sports event on any public road in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), must be submitted in writing to the Council on the prescribed form at least 60 days prior to the envisaged event.
- (2) The applicant must pay the prescribed deposit for the costs to be incurred during the race or sports event, to the Council prior to commencement of the race or sports event and any mutual adjustment must be made after the conclusion of the race or sports event as soon as the Council has determined actual costs incurred by the Council.

13. Loitering on public roads

- (1) No person may -
 - (a) lie or sit so as to obstruct traffic on any public road;

- (b) stand, congregate, loiter or walk, or otherwise act on any public road in any manner that may obstruct traffic; or
 - (c) jostle or loiter at or within 20 m of the entrance of any place of public worship during the time of divine service or during the assembly at the place of worship or departure from such place of the congregation so as to obstruct or annoy any persons going to, attending at, or leaving such place of worship.
- (2) Any person performing any of the prohibited acts mentioned in subsection (1) must, upon request by an authorised official, discontinue to do so, failing which the person is guilty of an offence.

14. Loitering and touting at places of public entertainment

- (1) No person may loiter or, except when forming part of a queue, congregate on any public road within 20 m of the entrance to any place of public entertainment so as to obstruct traffic or persons proceeding to, attending at, or departing from such place of entertainment.
- (2) No person may, without the prior written consent of the Council tout or solicit drivers of motor vehicles who park their motor vehicles at places of entertainment for the purpose of or under pretext of attending to the motor vehicles during the assembly thereat or the departure therefrom.

15. Public decency

- (1) No person may appear unclothed on any public road.
- (2) No person may on or in view of any public road urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act.
- (3) No person may on any public road sing any obscene or profane song, or use any profane, foul, indecent or obscene language.
- (4) No person may on any public road in any way loiter or solicit or importune any other person for the purpose of begging.
- (5) No person may on a public road use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned.

16. Trolleys

- (1) The owner of a trolley must affix the prescribed token in a conspicuous position on the trolley.
- (2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by any person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on any public road.

- (3) Any trolley that has been left or abandoned on any public road, may be removed, or caused to be removed, by any authorised official and be placed under the care of the storekeeper.
- (4) The storekeeper must store any trolley which has been placed under his or her care in terms of subsection (3), at the municipal store and the Council must publish once a month in respect of eleven months of a year calculated from the first day of January, a notice in two newspapers circulating within the municipal area, which states –
 - (a) the name of the owner of the trolley, if known;
 - (b) the number of trolleys being so stored;
 - (c) that the trolley may be claimed by the owner from the Council on payment of the prescribed storage charge;
 - (d) that any trolley that has not been claimed after a period of three months from the date of publication of the said notice, may be sold by the Council by public auction; and
 - (e) that the proceeds of the public auction shall accrue to the Council.
- (5) The Council is not liable for the theft, damage to or loss of any trolley while the trolley is stored in the municipal store or the selling thereof by public auction.

17. Public road collections

- (1) No collection on a public road may be organised or held without the prior written consent of the Council.
- (2) Application for such consent must be made on a form provided for this purpose by the Council.
- (3) Every application must be accompanied by proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), or the Fund Raising Act, 1978 (Act No. 107 of 1978), as the case may be.
- (4) The Council may give the consent referred to in subsection (1) to an organisation or person to hold a collection on a specified public road, date and at a specified time and reserves the right to determine the number of collections which may be held on any one day on the public road so specified.
- (5) Every organisation or person, holding a public road collection is entitled to use its or his or her own identifiable collection boxes and if any organisation or person does not possess any boxes, the Council's collection boxes may be used upon payment of the prescribed charge.

18. Control of stormwater and watercourses on public road

- (1) A person may not, without prior written consent of the Council, which consent may be conditional or unconditional -
 - (a) lead or discharge any water on or over or across a public road; or

- (b) by any means whatever, raise the level of water in any river, dam or watercourse so as to cause interference with or endanger any public road.
- (2) The Council may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any -
- (a) deviate any watercourse, stream or river if the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with or belonging to a public road;
 - (b) divert stormwater from or under any public road onto private property other than land occupied by buildings, other structures or improvements; and
 - (c) pay reasonable compensation as agreed between the owner or occupier and the Council, for any damage caused as a result of any action taken under paragraph (a) or (b).

19. Obstruction on public roads

No person may deposit or cause to be deposited or leave or cause to be left any sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on any portion of any public road, sidewalk or footway unless it is deposited within an enclosure in respect of which the prior written consent of the Council has been obtained.

20. Consent to hoard in footway

- (1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation, on any part of which is within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.
- (2) If the enclosure occupies or projects over any portion of a public road, the person must apply for a written permit to the Council and if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Council may determine what portion of the public road is necessary for the purpose of carrying out any building operations and in all cases where it so determines that the public road may be used for such purposes, grant a permit in writing setting forth the portion which may be occupied for such purpose and the conditions under which such permit is granted.
- (4) The Council reserves the right to withhold the issue of the permits required in terms of this section until all prescribed fees have been paid and the acceptance of any such permit by the applicant without objection, is taken to indicate that all kerbs, gutters and other works were in good order and condition on the date of such permit.
- (5) Every permit granted by the Council for the erection of a hoarding, fence, scaffolding or an enclosure or a planked shed, must specify the area and precise position of that part of the public road where the enclosure, overhanging or covering is permitted and the period for which the permit is granted.

Chapter 2 TRAFFIC MATTERS

21. Control of traffic

- (1) An authorised officer may direct all traffic by means of visible or audible signals and every person shall obey such signal.
- (2) No person may obstruct, hinder, abuse, or interfere with any authorised officer in the exercise of the powers in terms of these By-laws.

22. Clinging to moving vehicles

No person travelling upon any pedal cycle, motor cycle, coaster, sled, roller-skates, or any other similar device may cling to or attach himself or herself or his or her cycle or device to any other moving vehicle, upon any public road.

23. Prohibition of animal-drawn vehicles

No person may, on the public roads within the area prescribed by the Council from time to time, drive or cause to be driven any animal drawn vehicle along or through those portions of such public roads determined by the Council.

24. Removal of obstructions

- (1) If any person causes an obstruction on any public road or public place, an authorised officer, may order such person to refrain from causing or to remove the said obstruction.
- (2) Where a person causing an obstruction cannot be found, or fails or neglects to remove, or to cease causing, such obstruction, an authorised officer, may take such steps as may be necessary to remove the obstruction, or to prevent its continuance and the Council may in the case where the person fails or neglects to remove or cease causing the obstruction, recover the cost of the removal of the obstruction from that person.

25. Games, throwing stones, on public roads

- (1) No person may roll any hoop or fly any kite or throw stones or use any bow and arrow, or by any means discharge any missile upon, over or across any public road, or play cricket, football or any other game whatsoever on any public road.
- (2) No person may erect a tent or place chairs or any article on a public road for the purpose of a funeral, party or any other event without the prior written consent of the Council.

26. Shoeing and cleaning of animals on public roads

No person may shoe or farry any animal, or clean, dress, train, break-in or turn cattle loose on a public road.

27. Animals on public roads

- (1) No person may leave any severely injured, feeble, emaciated, diseased or dying animal on any public road except for the purpose of seeking assistance for the removal of such animal.

- (2) Any live stock at large on a public road within the municipal area of the Council may be taken to a place designated by the Council by any authorised officer.
- (3) Any person contravening subsection (1) is liable, in addition to payment of the penalty determined by the Council, to pay to the Council the cost incurred by it in acting in accordance with subsection 2.

28. Offences and penalties

Any person who –

- (a) contravenes or fails to comply with any provisions of these By-laws
- (b) fails to comply with any notice issued in terms of these By-laws; or
- (c) fails to comply with any lawful instruction given in terms of these By-laws; or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

29. Conflict of laws

If there is any conflict between these bylaws and any other bylaws of the council, these bylaws will prevail.