

LOCAL AUTHORITY NOTICE 44**UMZIMVUBU MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996] the By-laws Relating to Dumping, Littering and Waste Collection that come into operation on the date of publication thereof.

BY-LAWS RELATING TO DUMPING, LITTERING AND WASTE COLLECTION**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality and to provide for procedures, methods and practices to regulate the dumping of refuse and the removal thereof;

NOW THEREFORE be it enacted by the Council as follows:

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[1] **DEFINITIONS**

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

"authorized official" means –

- [a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or
- [d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.

"bin" means a container as contemplated in section 5 of these by-laws;

"builder's refuse" means any waste or refuse resulting from or generated by the construction, renovation or demolition of a building or other structure or works;

"bulky refuse" means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape, size or quantity cannot be conveniently accumulated in or removed from a container with a bin liner;

"charge" means the charge prescribed by the municipality by resolution;

"container" means a standard type of refuse container as approved by the municipality.

"domestic refuse" means any refuse or waste normally emanating from or incidental to the normal occupation of a dwelling, flat, hotel, boarding-house, restaurant, guest house, hospital, school, cafe, shop, old age home or office but must not include stones, soil, gravel, bricks, waste liquids, night soil, or industrial, builder's or trade refuse;

"garden refuse" means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, trees, plants, flowers, weeds and other similar light matter;

"industrial refuse" means any refuse generated as a result of manufacturing, maintenance, production and dismantling activities;

"Municipality" means the Municipality of uMzimvubu established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal service" means, unless otherwise stated, the provision or supply of water, sewerage or electricity services;

"occupier" for the purposes hereof means the person who controls and resides in or who controls and otherwise uses immovable property and includes joint occupiers;

"owner" means and includes –

- [a] the person or persons in whom the registered title in immovable property is vested;
- [b] the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, dead or of unsound mind;
- [c] the agent or persons receiving the rental of immovable property in cases where the owner as described above is away or absent;
- [d] the beneficiary of a usufruct over immovable property, or
- [e] the fiduciaries of municipal property;
- [f] where the text so requires, includes the occupier of a property;

"premises" means residential, business and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

"waste" means **"refuse"** and includes bulky refuse, domestic garden refuse and industrial refuse;

"trade refuse" means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

[2] **DOMESTIC REFUSE REMOVAL**

The Municipality must provide a service for the removal and disposal of domestic refuse subject to such conditions as it may determine.

[3] **USE OF SERVICE COMPULSORY**

Every owner or occupier of immovable property must make use of the service for the removal and disposal of domestic refuse provided by the Municipality in respect of all domestic refuse which emanates from such property.

[4] **MUNICIPALITY TO REMOVE REFUSE**

No person other than the Municipality or person authorised thereto in writing by the Municipality may remove domestic refuse from any property or dispose of it in any manner.

[5] **ACCUMULATION AND REMOVAL OF DOMESTIC REFUSE**

[1] Subject to the provisions of subsection [6], the Municipality may require every occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the Municipality and with a closefitting lid and two handles for the accumulation of domestic refuse.

[2] If the Municipality is of the opinion that more than one container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of

domestic refuse normally accumulated on such property, require the occupier thereof to provide as many containers as it may determine on such property.

- [3] If a container used by an owner or occupier does not comply with the requirements of the Municipality, it may instruct such owner or occupier by written notice to obtain and use some other suitable container complying with its requirements.
- [4] The Municipality may, where it considers it necessary or desirable of its own accord supply containers to particular classes of owners or occupiers, or to particular classes of properties or in particular areas, in which event the cost of such containers must be recovered from the owners or occupiers of the properties concerned.
- [5] All containers must be equipped with bin liners, unless the Municipality determines otherwise.
- [6] The Municipality may, generally or in particular, issue instructions to owners and occupiers by written notice on the manner in which or the arrangements according to which refuse or refuse bags must be placed in containers, be removed from them, be tied and thereafter be placed or deposited for removal.
- [7] Any disregard of instructions contemplated in subsection [6] constitutes a contravention of these by-laws.
- [8] No material, including any liquid which, by reason of its mass or other property is likely to render such bin liners or containers difficult for the Municipality's employees to handle or carry, may be placed in such bin liners or containers.
- [9] The containers or bin liners, or both, must be removed by the Municipality at such intervals as the Municipality may deem necessary but only if such containers or bin liners, or both, have been placed or deposited at the prescribed places as determined by the Municipality.
- [10] The Municipality is not liable for the loss of or for any damage to a container or bin liner.
- [11] In any case where the occupier of a property is not also the owner, the Municipality may hold the owner himself, instead of the occupier, liable for compliance with the provisions of these by-laws.
- [12] The Municipality may, in specific cases, impose different requirements, other than the use of an 85 litre container, for the removal and disposal of refuse and the owner or occupier of immovable property, as the case may be, to which such requirements relate are obliged to comply with the aforesaid directions of the Municipality.
- [13] The Municipality may prescribe policy with regard to the reclamation of refuse in which case directions may be issued in terms of which certain types of refuse must be separated and disposed of.

[6] **ACCUMULATION OF DOMESTIC REFUSE**

The owner or occupier of any property must ensure that all domestic refuse generated on such property is accumulated only in a container as determined by section 5 and in no other manner.

[7] **ACCESS TO PREMISES**

Except where otherwise approved by the Municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on the premises is independent and unimpeded and the owner who fails to do so commits an offence.

[8] RIGHT OF ENTRY

- [1]** At any reasonable time on any day, or at any other time at which the service is ordinarily rendered, any authorised employee of the Municipality is entitled to enter premises in respect of which the Municipality's waste management services are rendered in order to –
- [a]** collect and supervise the collection of waste;
 - [b]** replace waste bins; or
 - [c]** inspect the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- [2]** The owner of the premises may not refuse access to the premises by an employee of the Municipality.
- [3]** An owner of premises commits an offence if he —
- [a]** denies access to the premises to an authorised employee of the Municipality in the performance of his duties; or
 - [b]** obstructs or impedes such employee of the Municipality in the performance of his duties.

[9] DUMPING, LITTERING AND OTHER CONTRAVENTIONS

- [1]** No person may –
- [a]** litter or cause or permit littering;
 - [b]** dump or cause or permit the dumping of any waste;
 - [c]** burn or cause or permit the burning of any waste, otherwise that provided for in any law;
 - [d]** accumulate or store waste, or cause or permit the accumulation and storage of waste in any way which, in the opinion of the Municipality, is unsightly or is or may become a nuisance or health hazard; or
 - [e]** deal or cause or permit the dealing with waste in any way other than provided for in any law.
- [2]** Where any of the provisions of subsection [1] are contravened, the Municipality may direct any or all of the following persons within a specified time to cease the contravention or to prevent a further contravention or the continuation of the contravention:
- [a]** any person responsible for, or who directly or indirectly contributed to, such contravention;
 - [b]** the owner of the waste, whether or not such owner is responsible for the contravention;
 - [c]** the owner of the land or premises on or at which the contravention takes place, where such owner failed to take the steps required in terms of these by-laws;

- [d] the person in control of, or any person who has or had a right to use, the land or premises on or at which the contravention takes place at the time of the contravention, where such person failed to take the steps required in terms of these by-laws;
- [e] any person who negligently failed to prevent the contravention from taking place;
- [3] Notwithstanding a direction in terms of subsection [1] from the Municipality to any or all of the persons referred to in subsections [9] [a] to [e], the Municipality may further direct such persons to take whatever steps the Municipality considers necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully.
- [4] The Municipality may itself take whatever steps it deems necessary to clean up or remove the waste, to rehabilitate the premises or place at which the contravention takes place and to ensure that the waste is disposed of lawfully and then recover the costs of taking such steps from any persons listed in subsection [2], who must, where applicable, be jointly held responsible.
- [5] The costs claimed in terms of subsection [4] must be reasonable and may include labour, administrative and other overhead costs.
- [6] No person who owns land or premises or who is in control of or has a right to use land or premises may use or permit the use of such land or premises for the purposes of unlawful dumping, burning or storage of waste and such persons must take reasonable steps to prevent the use of such land or premises for those purposes.
- [7] Every occupier of premises, whether the premises are residential or commercial, must keep the area immediately surrounding such premises clean, neat and free of litter to the satisfaction of the Municipality.
- [8] The Municipality must issue the notices for the purposes of giving directions in terms of subsection [2], compelling persons to comply with their obligations under subsections [5] and [6] and for any other purpose under these by-laws.
- [10] **GARDEN REFUSE**
- [1] Garden refuse may be removed from property where it accumulates according to any arrangements which the owner or occupier of such property desires to make, provided that, should any accumulation of garden refuse not be removed and should such accumulation in the opinion of the Municipality constitute a nuisance or danger to public health or an unnecessary fire hazard to nearby property, the Municipality may order such owner or occupier by written notice to cause such accumulation to be removed within a specified period.
- [2] If it has sufficient facilities available, the Municipality may in its discretion and on application from the owner or occupier of property, remove garden refuse from such property at the cost of the owner or occupier and subject to such terms and conditions as the Municipality may determine.
- [3] No garden refuse may be dumped, kept or stored in or on any sidewalk or vacant ground.

[11] REMOVAL OF BULKY AND INDUSTRIAL REFUSE

- [1] The occupier or, in the case of premises occupied by more than one person, the occupiers of premises in which bulky or industrial refuse is generated must ensure that such refuse is disposed of in terms of these by-laws within a reasonable period after the generation thereof.
- [2] Bulky and industrial refuse must, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site for such refuse.
- [3] The Municipality is not responsible for the removal of bulky or industrial refuse.

[12] BUILDER'S REFUSE

- [1] Builder's refuse accumulated in the course of the construction, alteration, renovation or demolition of any structure or works must be removed from the property concerned according to suitable arrangements to be made by the owner of such property with the Municipality.
- [2] If there is any undue delay in the removal of the refuse contemplated in subsection [1] after the completion of the works involved, the Municipality may direct, by written notice to such owner, that the refuse be removed within a specified time to an approved disposal site.

[13] TRADE REFUSE

The Municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the Municipality at a charge fixed by the Municipality.

[14] DISPOSAL SITES FOR DOMESTIC, GARDEN AND BUILDER'S REFUSE

- [1] The Municipality must set aside and maintain a place or places where domestic, garden and builder's refuse must be deposited or dumped.
- [2] Any person dumping domestic, garden and builder's refuse in any other place is guilty of an offence.
- [3] The Municipality may, from time to time, determine tariffs for the dumping of refuse at a dumping or disposal site.

[15] OWNERSHIP OF REFUSE

All refuse removed by the Municipality and all refuse on disposal sites controlled by the Municipality are the property of the Municipality and no person who is not duly authorised by the Municipality to do so, may remove or in any manner interfere with such refuse.

[16] ABANDONED OBJECTS

Any object other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996], which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition thereof, be reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality in a manner as it may deem fit.

[17] LIABILITY

[1] Where any object has been removed and disposed of by the Municipality in terms of section 16, the owner or person responsible for such object is liable to pay the Municipality the charge fixed by it for its removal, disposal or custody.

[2] For the purposes of subsection [1], the person responsible is –

- [a]** the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease at the time when it was abandoned or deposited in the place from which it was so removed, unless he can prove that he was not concerned in and did not know that it had been deposited in such place; or
- [b]** any person who deposits the object in the place aforesaid; or
- [c]** any person who knowingly permits or permitted the object to be deposited in the aforesaid place.

[18] CHARGES AND DEPOSIT

The charges payable to the Municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service must deposit with the Municipality must be determined by resolution adopted by the Municipality and reflected in its schedule of tariffs.

[19] WAIVER OF PROVISIONS

[1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws, provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.

[2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[20] DELIVERY OF NOTICES

[1] Notwithstanding section 9[2], a notice, order or other document is to be regarded as having been properly served if –

- [a] it has been delivered to that person personally;
- [b] sent by registered post to the person to whom it is addressed at his last known address;
- [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1] [a], [b] or [c]; or
- [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

- [2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
 - [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[21] APPEAL

- [1] A person whose rights are affected by a decision of an official may appeal against that decision 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 Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [3] When the appeal is against a decision taken by –
 - [a] a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - [b] the Municipal Manager, the Executive Committee is the appeal authority; or
 - [c] a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- [4] The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

[22] OFFENCES AND PENALTIES

- [1] Anyone is guilty of an offence and upon conviction by a court liable to a fine or to imprisonment for a period not exceeding six months if he –