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UMZIMVUBU
LOCAL MUNICIPALITY

FIREARM POLICY & OPERATIONAL PROCEDURES

ULM FIREARM POLICY & OPERATIONAL PROCEDURES

COUNCIL RESOLUTION REQUEST:

(a) **That** the firearms policy attached to this report as **Annexure "A" BE ACCEPTED as operational document in relation to firearms and ammunitions** for the Umzimvubu Local Municipality.

(b) **That** the Manager (Community Safety) **BE NOMINATED** as responsible person in terms of section 7 of the Firearms Control Act, Act 60 of 2000.

(c) **That** the necessary submissions **BE MADE** in terms of section 7(1), 20(2) (f) and 95(a) (vi) of the said Act.

(d) **That** the Municipal Manager or his nominee **BE IDENTIFIED** as Head of the Official Institution contemplated in section 98 of the said Act.

(e) **That** his nominee, the Community Safety Section Manager **BE DELEGATED** to ensure that all the requirements and prescriptions contained in the Firearms Control Act 60 of 2000 be complied with and specifically with reference to:

(i) the training of employees;
(ii) the control and safe-keeping of firearms;
(iii) the firearms register;
(iv) the acquisition/disposal/licensing of firearms;
(v) inspections;
(vi) liaison with the Registrar appointed in terms of the Act.

THE UMZIMVUBU LOCAL MUNICIPALITY FIREARM POLICY AND OPERATIONAL PROCEDURES

ANNEXURE 'A'

PURPOSE

To provide for a firearm policy for the Umzimvubu Local Municipality to ensure proper control of all firearms and ammunition issued to officials to perform their functions and for self - defence in the line of their duties and to provide for matters incidental thereto. The Firearms Control Act, Act 60 of 2000, forms an integral part of this policy.

1 DEFINITIONS

1.1 The Act

The Firearms Control Act, 2000 (Act 60 of 2000).

1.2 Allocated Firearm

An official firearm allocated to an employee on a "permanent or temporary" basis due to the specific duties the employee performs.

1.3 The Council

The Umzimvubu Local Municipality.

1.4 Head of Section

The Head of Community Safety or any official in the employ of the Community Safety Section delegated to perform any function provided for in this policy.

1.5 Official Firearm

A firearm licensed in the name of the Municipality in terms of Section 7 of the Act as well as the ammunitions of the firearms.

1.6 Firearm Licence

A licence to possess a firearm in terms of Chapter 6 of the Act.

1.7 Firearm Training Course

The Firearm Training Course approved by the Head of Community Safety section in consultation with the Citizen and Community Services Senior Manager and/or any other training course approved by Council which is in line with the "Firearms Control Act, Act 60 of 2000.

1.8 Licence Holder

The Umzimvubu Local Municipality.

1.9 Official

Any official in the employ of the Municipality.

1.10 Police

Any member of the South African Police Services or Municipal Law Enforcement Section.

1.11 Standing Orders

Standing Orders issued by the Head of Community Safety

Section.

1.12 Training Certificate

A certificate issued by any recognized/approved institution

after the successful completion of an approved firearm

training course/s.

2 FIREARM REGISTER

The Head of Community Safety Section or Responsible Person shall ensure that Section 99 (2) of the Act which prescribes as follows, be complied with:

(1) The head of an Official Institution or responsible person must keep a register in the prescribed form.

(2) The register must contain such particulars as may be prescribed, including —

(i) in the case of the South African National Defence Force, the particulars of every firearm of a calibre of less than 20 millimetres; or

(ii) in the case of all other Official Institutions, the particulars of every firearm under its control;

(a) the particulars of every employee who, in terms of this Chapter, is allowed to be in possession of a firearm, and the particulars of each firearm issued;

(b) the conditions specified in every permit issued in terms of this Chapter;

(c) particulars regarding the disposal, transfer, loss, theft or destruction of firearms contemplated in paragraph (a); and

(d) if a firearm is lost or stolen, particulars regarding the report of the loss or theft to the South African Police Service.

(3) All firearms under the control of an Official Institution must bear such identification marks as may be prescribed.

3. CERTIFICATION AND TRAINING

The responsible person will ensure that each employee issued with an Umzimvubu Local Municipality firearm complies with the following prescribed conditions:

(a) That the employee is permanently employed by the Umzimvubu Local Municipality.

(b) That the fingerprints of the employee are recorded in the prescribed manner, prior to the issuing of a permit.

(c) That the employee will be on duty or standby duty.

(d) That the employee is properly trained in the following aspects and usage of the relevant firearm(s):

- □ range procedures and safe handling of the relevant firearm(s);
- □ all legal aspects pertaining to the usage of firearms; and
- □ practical shooting exercises with the firearm(s) that he/she would be issued with or use in the execution of duty.

(e) That the employee is issued with a certificate of competency containing information on which firearm(s) he/she has successfully passed a prescribed competency test. Such certificate of competency must be carried by the employee on their person at all times in the execution of duty.

(f) That each employee is in possession of a permit for such firearm(s) issued to him/her in terms of Section 8(2) of the afore-mentioned Act, containing a description of the firearm issued, serial number, his/her initials and surname, photograph of the employee , and identity number. The permit must also indicate the date of issue, and specify the duration of the permit. This permit must be carried with a document by which the said employee can be identified (e.g. ID document or Appointment Certificate).

(g) That the employee is not under the influence of alcohol or any other drug which has a narcotic effect, whilst in the possession of the Umzimvubu Local Municipality firearm.

(h) A comprehensive record is kept in the prescribed register of the permits issued to employees for each Umzimvubu Local Municipality firearm.

Each permit holder will ensure that the firearm(s) issued to him/her -

(a) may not be hired out or pledged to another person, jurist or partnership;

(b) may only be used in the bona fide execution of duty, subject to any other stipulation or requirement of any Act or action in terms of Common Law practices;

(c) may only be used by the permit holder exclusively for the purpose issued to him/her in the cause and for the purpose of duty; and

(d) shall be kept in good working order and free of any defects which pose an inherent danger to any person.

4. PURCHASE OF FIREARMS

4.1 Provision to buy firearms shall be made on the annual budget estimates of the Community Safety Section.

4.2 Before any firearm is purchased a committee consisting of the relevant Head of Department/Directorate and the Head of Community Safety Section shall meet to consider the following:

- necessity for the purchase of a firearm;
- the type of firearm with the view of standardization; and
- any other related matter.

5. LICENCE RESPONSIBILITIES OF THE MUNICIPAL MANAGER

The Municipal Manager, through delegated responsibility to the Responsible Person, must ensure compliance with the under-mentioned SAPS Commissioner Licence Conditions:
The under-mentioned conditions were issued by the SAPS Commissioner to the Umzimvubu Local Municipality as the official institution as per Licence/Registration number **820 (1200263)**, and the same conditions will suffice for all future licences to be issued to the Umzimvubu Local Municipality.

The firearm(s) and the necessary ammunition(s) may, apart from any other stipulation of the Act, be made available only to a person who -

(a) is permanently employed by the licence holder;

(b) is on duty or performs standby duty;

(c) is well trained in the handling and use of the relevant firearm(s);

(d) is not under the influence of alcohol or any drug which has a narcotic effect;

(e) is in actual possession of a document by means of which he/she can be identified and which at least contains his/her full names, identity number and photograph;

(f) the permit holder must under all circumstances ensure that the firearm(s) issued to him/her for his/her services, remain under his/her personal care and the necessary steps are taken against the loss thereof.

The firearm(s) -

(g) may not be hired out or be made available as surety to another person, corporate body or partnership;

(h) apart from any other legal stipulation or action under the common law, may only be used for the bona fide protection of the interests of the Umzimvubu Local Municipality;

(i) may be made available to only one person per occasion or turn of duty; and

(j) must be in good working condition and free of any defect which may be an inherent source of danger to any person.

The Licence Holder -

(k) must keep a detailed record of each time the said arm(s) was/were made available to any employee(s) as described in Paragraph 5(a) above, and keep it for the duration of this permit.

(l) must under all circumstances ensure that the firearm(s) is/are kept safe, and that proper control is exercised.

As long as the circumstances of the authority remain the same, the status quo will be maintained.

6. QUALIFYING TRAINING STANDARDS FOR FIREARM USERS

The Municipal Manager, through delegated responsibility to the responsible person, must uphold qualifying standards in respect of firearm training, and he is entitled to be present at all qualifying shooting exercises, irrespective of who presents such firearm training. The need for firearm training in general will be determined according to the respective client's needs, but firearm training, with specific reference to the qualifying standards training in the Umzimvubu Local Municipality, must be conducted in accordance with the Licence Holder's standards.

All permit holders for Umzimvubu Local Municipality firearms must qualify on an annual basis in order to maintain a set qualifying standard. This type of training will be coordinated by the responsible person on a decentralized basis to uphold the qualifying standards of the Licence Holder of the Umzimvubu Local Municipality. Employees issued with firearms who fail to report for scheduled qualifying shoots, without a valid reason, will be subject to disciplinary measures. Users of Umzimvubu Local Municipality firearms who fail to maintain a minimum set standard, as determined by the responsible person, will forfeit their firearm(s) without delay until such time that he/she qualifies. A copy of this Policy must be issued to each Umzimvubu Local Municipality employee who is issued with the Umzimvubu Local Municipality firearm, against signature, during the qualifying training phase.

7. PRIVATE FIREARMS

Employees who carry privately owned firearms must ensure that such firearms are concealed at all times, and that they are licensed. Failure to do so will result in a disciplinary hearing to be instituted against the officer. If a privately owned firearm is used in the execution of his/her duties, the Umzimvubu Local Municipality will not accept responsibility or be held liable for the employee's responsibilities in terms of the Act.

When an official carries his/her official/private firearm on his/her person he/she must at all times be able to produce the relevant permit for that firearm.

8. SAFEKEEPING AND PROTECTION OF FIREARMS

(a) The borrowing, lending or exchanging of Umzimvubu Local Municipality firearms and/or ammunition is strictly prohibited under all conditions.

(b) Whenever Umzimvubu Local Municipality firearms, other than a handgun, are conveyed in a vehicle, and the firearms are not carried by the employee(s), then such firearms must be locked in a gunlock prescribed by the Act.

11. INSPECTION AND TECHNICAL CONTROL OF FIREARMS

(a) No employee issued with Umzimvubu Local Municipality firearm may adjust, modify, repair or cause to repair, or attempt to do any of the afore-mentioned, except if such a task is performed by the responsible person or his designate.

(b) A monthly firearm inspection must be conducted by the relevant supervisory personnel of employees issued with Umzimvubu Local Municipality firearms. During this inspection the following must be attended to:

- Ensure that the inspection terrain is safe for the inspection exercise, and that a single file has been formed.
- Ensure that safety precautions in respect of the unloading procedures are adhered to prior to the inspection.
- Ensure that each firearm is clean, properly oiled, that care has been taken to maintain its condition and appearance, and that the provisions relating to the carrying of firearms and ammunition are adhered to and complied with.

(c) The responsible person or his designate may at any time inspect any firearm issued to Umzimvubu Local Municipality employee, and may visit and inspect any Umzimvubu Local Municipality premises or property where Umzimvubu Local Municipality firearms and/or ammunition/s is/are kept or stored.

12. USE OF FIREARMS

Quality and preservation of life are cornerstones of the Constitution of the Republic of South Africa, which is supported by the Umzimvubu Local Municipality. The safe usage of firearms issued to employees will play a substantial role in the achievement of these objectives. In order to afford the Licence Holder/Responsible person adequate control and protection in terms of the Permit Conditions issued by the SAPS Commissioner, the following instructions will be adhered to at all times by employees issued with Umzimvubu Local Municipality firearms.

(a) Both the Firearms Control Act, Act 60 of 2000, and the Criminal Procedures Act, 51 of 1977, must be adhered to by employees in all cases where an issued firearm is used in execution of duty.

(b) The use of an issued firearm in the course of duty will be considered justified in the following circumstances:

- Protection of Umzimvubu Local Municipality property against any unlawful act, attack or threat.

- Protection of the employee's own property within the conditions of the Act, against any unlawful act, attack or threat.

- In self-defence or in the defence of others as a last resort where the assault is unlawful and is likely to result in death or grievous bodily harm, and when there is no alternative method of defence, provided the defence was not excessive in relation to the danger.

- Where the person concerned is to be arrested for an offence referred to in Section 49(2) of the Criminal Procedure Act, with regard to Schedule 1 offences, or is to be arrested on the grounds that he/she is reasonably suspected of having committed such offence, and the person authorized to arrest him/her cannot arrest or prevent him/her from fleeing by any other means, provided that:

    - shots shall not be fired on mere suspicion that the person pursued committed the offence. The offence should either be witnessed, or there must be a strong probable cause to believe the suspect committed the offence;

    - the force used may not be excessive, other than that which is reasonably necessary to overcome resistance or flight. The mere fact that the offender flees does not justify any person in shooting him/her. One should resort to a firearm only if one can use no other means whatsoever to capture; and

    - the degree of force must be weighed against the gravity of the offence.

(c) The following instructions must be adhered to by all employees issued with a firearm, when firing warning shots, as the Courts require warning shots under certain conditions, where possible:

- warning shots shall not be fired where there is a possibility of injury or death to innocent bystanders, or where property damage may occur;

- warning shots shall not be fired into the air, or at a surface which may cause the bullet to ricochet; and

(d) The <u>following instructions will pertain only to Law Enforcement Officers</u>, as they are empowered with the same power as SAPS members. (In accordance with the Criminal Procedures Act, Notice R159). The under-mentioned instructions <u>are not applicable</u> to all employees issued with Umzimvubu Local Municipality firearms:

Law Enforcement Officers may also discharge a firearm under the following circumstances:

- to destroy any severely injured, feeble, emaciated, diseased or dying animal found in any public street and apparently abandoned, subject to the issue of a certificate signed by a veterinary surgeon or two landowners, that it would be cruel to keep the animal alive;
- to destroy any animal or reptile which is a danger to the inhabitants of the neighbourhood, if found at large;
- the officer shall cause the carcass of such animal to be disposed of; and
- the incident shall be reported to the nearest SAPS Station, and the number of an occurrence book entry must be noted by the Law Enforcement Officer in his/her pocket book.

(e) The following prohibitions will be adhered to by all employees issued with ULM firearm:

Exhibiting, brandishing, handling without precaution, or playing with a firearm. The firearm shall remain holstered at all times or be kept in a secure position, unless:

- used within the scope of authority;
- during an authorized inspection;
- used at an authorized shooting range under supervision of the range officer.

- Handling or carrying a firearm during and after the consumption of intoxicating liquor, or the intake of a narcotic drug.
- Pointing a firearm, threatening or expressing the intention to kill or injure him/herself, or any other person.
- Firing shots from within a moving vehicle, or from any other position, where such an action may cause damage to property, or injury to innocent bystanders.
- Firing shots before the target has been positively identified.

- Allowing use of, or access to, a ULM firearm by a person not authorized thereto in an illegal or uncontrolled manner.

13. IMPOUNDING OF FIREARMS

In the case where the Licence Holder/Responsible person, or any other Law Enforcement supervisor/employee becomes aware that an employee issued with a ULM firearm:

- will commit suicide or threaten to do so;
- has pointed a firearm to any other person with the intention to shoot them or threaten to shoot them;
- has shot somebody without legal cause to do so;
- has failed to report any incident regarding the use of a firearm (actual shooting or threat to shoot); and
- become or allegedly become emotionally unstable due to stress, alcohol or drug abuse, or became emotionally unstable due to any unforeseen circumstances in the permit holder's social environment; then such person shall immediately and without delay inform the permit holder's supervisor, who will inform the Responsible person without delay, who in turn will initiate steps to impound such firearm from the ULM employee.

- Threatened to commit suicide
- Threatened to shoot family members, colleagues or other persons
- Is emotionally unstable
- Is under the influence of intoxicated liquor or drugs
- Suffers from a stress related illness
- Handles a firearm irresponsibly or contrary to the Firearm Policy / Operational Procedures.

14. FIREARM INVESTIGATION AND REVIEW BOARD

Whenever a ULM employee issued with a firearm, whether he/she is on duty or not:

(a) intentionally or accidentally discharges a firearm;

(b) draws a firearm as a deterrent; and

(c) loses or experiences a theft of firearm, or causes it to be stolen;

he/she shall without delay notify the Responsible person via the supervisor or directly phoning the Responsible person, as well as the nearest SAPS Station.

The Responsible person will personally visit the scene, or designate an investigator for feedback purposes to attend, without delay. After the initial investigation the Responsible person shall:

(a) record in a register all reported incidents involving firearms;

(b) submit a brief summary (feedback) to the relevant MSS Convener; and

(c) apply for the necessary extension in terms of the specific Conditions of Service, where applicable.

The Responsible person, or his designate, may:

(a) call for an explanation report;

(b) locate or question possible witnesses;

(c) impound a firearm if deemed to be unlawfully used; and

(d) conduct the investigation into the relevant incident and submit documentation for record purposes.

A Firearm Review Board shall be established when requested or instructed by the Responsible person. The said Board will be initiated on Umzimvubu Local Municipality level but will operate in the MSS where the offence occurred. The Board will consist of three members designated by the Responsible person, and the Chief Investigator shall be the Chairperson of the Board.

15. RETRIEVING AND/OR RETURNING OF A FIREARM

15.1 The Head of Community Safety may at any time after consultation with the Municipal Manager withdraw a firearm and the permission to carry/use the firearm when he is of the opinion that the further possession thereof:

- constitutes a danger to other employees, private persons and/or property;
- is not in accordance with the provisions of the Act;
- is not necessary due to the suspension of the official due to any misconduct investigation(s) in terms of the Conditions of Service;
- is not required due to the reorganization; -evaluations and/or revaluation of the position of the incumbent in a department or directorate; or
- is not in the interests of Council.

15.2 No official shall be in possession of a firearm without the permit required in terms of the Act.

15.3 Officials who resign from the employ of Council and to whom a firearm has been issued or allocated, shall return the firearm and the permit in respect of that firearm to the Responsible Person, who shall issue a receipt to the said official, the latter which has to be produced prior to final clearance and pay out by any pay office of Council.

15.4 Officials who go on leave or who will be absent from his/her office for a period exceeding two (2) working days shall hand the firearm in to the Responsible Person for safe keeping.

16. MISCONDUCT

When an employee who is placed in charge of a Municipal Sub-Structure (MSS), armoury facility and/or ammunition is found to fail to perform as directed in terms of this Policy and the relevant Legislation, the Responsible person or his designate will immediately lodge an investigation and ensure that the relevant corrective measures are implemented to prevent a re-occurrence.

The following paragraphs will address the Business Plan for future Firearm and Ammunition practices on both ULM and MSS level.

17. NEEDS ANALYSIS AND STRATEGIES FOR THE FUNCTION OF FIREARMS AND AMMUNITION CONTROL

(1) The need for a safe work environment as stipulated in the Constitution.

(2) Meeting various legal requirements as set out in the various Statues, with specific reference to the Firearms Control Act.

(3) The moral obligations towards the ULM employees and the public at large.

(4) The high number of prosecutions for firearm offences by the SAPS.

(5) Investigating the various firearm offences in the ULM and implement steps to prevent a re-occurrence thereof.

(6) The need for a fair and uniform control mechanism and equitable disciplinary measures.

VISION

Provide and maintain a comprehensive firearm and ammunition support service to all ULM employees issued with firearms, as well as the rest of the workforce.

Consumer Market — The prime responsibility is to the MM as Licence Holder, and to the employees carrying ULM firearms, as well as other employees and the public.

Service — The principle services offered are to:

consult;
educate;
develop;
monitor; and
Enforce statutory requirements.

Geographical — The complete ULM area with specific reference to total service delivery to the various municipal substructures (MSS) and their staff.

Viability — All operations will be conducted professionally in order to minimize downtime, to control firearm operations effectively, and to enhance productivity in the ULM.

Philosophy — Total commitment to improve firearm operations and control throughout Local Government. Human development should be the worthiest of the goals of civilization.

Self-Concept — Firearm and Ammunition Control within the ULM is a diversified multi-disciplinary function with strong legislative policies and individual identity.

Public Image — A strong responsibility towards the working community exists. In addition, a responsibility towards the broader concerns of the public must be nurtured, especially including the general desire for improvement in the quality of life and opportunity for all.

WHAT — To establish a similar function of control and policing of both the conditions of the Act as well as the Licence Conditions, thereby establishing a control and management mechanism based on the specific needs of the ULM.

FOR WHOM — All ULM employees and designated responsible officials.

HOW — By approving and implementing the proposed Policy Document and Organizational Structure.

WHY — To meet ULM needs

To support the constitution of the Republic
To achieve the Vision
To adhere to Legal and Policy directives.

18. FUNCTION OF THE UMZIMVUBU LOCAL MUNICIPALITY AND THE MUNICIPAL SUBSTRUCTURES (MSS)

Functional responsibility for Firearm and Ammunition lies at ULM level with the Licence Holder/Responsible Person Operationally, Firearm and Ammunition services will best be conducted by establishing a core management unit at ULM level spearheaded by the Responsible Person and his personnel in the existing armoury facility, in order to co-ordinate efforts, formulate and apply policy and strategic directives, support development and continuity of service delivery, and act as a Firearm and Ammunition control and information base for the entire service. Specific focus will be on the MM duties, responsibilities and accountability as Licence Holder to facilitate the achievement of the strategic goal.

Firearm and Ammunition units will be established for, and functionally based at each MSS where that specific MM and the workforce will be their clients. These units will only operate as control and issuing facilities for all ULM firearms within that specific MSS, and will liaise continuously with the Responsible Person at the ULM level facility for support and functional purposes.

19. GOALS

- To pro-actively comply with statutory requirements and Licence Conditions to create and maintain a viable Firearm and Ammunition service for all clients.
- To promote an active and positive Firearm and Ammunition culture amongst all permit holders and all concerned.
- To establish sufficient support in terms of the armoury and ammunition services.
- To create viable Firearm and Ammunition programmes for all clients.

20. ACTION PLAN

RDP Requirement	Firearm Support units must be provided for each MSS. Increased training and re-training of all permit holders must be emphasized.
Affirmative Action	Identification, recruitment and development amongst MSS personnel should be pursued, as a matter of urgency, to supplement the existing expertise.

Change	Requires the involvement and participation of all staff Management and the client base to facilitate the change process.
Training	Emphasis will be placed on the development of all firearm skills required for the successful implementation of Firearm and Ammunition control programmers.
Appointment Selection	Should be transparent with full involvement by the client base.
	Industrial Transparency should be implicit in and during Relationship all industrial relation issues. A programme of industrial democracy must be established.
Key Result Document	KRD's should be compiled with each member affected being present and involved during the process.
Culture	Cultural diversity must be acknowledged and accommodated.
Communication	Multi-directional communication channels must be established and used effectively.

21. ADMINISTRATION/OPERATIONS

Each municipal substructure (MSS) will be adequately equipped to address the specific firearm and ammunition needs, both administratively as well as the line functions of service delivery of that area, in order to achieve objectives.

The above functions will primarily be operational tasks, but must be supported by the administrative and structural/technical support at ULM level.

The above will largely depend on the eventual number of MSSs and their organizational structures.

22. ACTION PLAN

By applying the acronym "**ISSMEC**" we will strive and endeavour to create a safe firearm and ammunition workplace environment:

I Identify the risk area(s)
S Setting standards to rectify
S Setting accountability
M Measuring and weighing the compliance
E Evaluate the results
C Correct deviations

PRACTICAL SCENARIOS

INTRODUCTION

A private citizen may also arrest a person whom he reasonably believes has committed an offence and is resisting or escaping from lawful arrest, as well as one whom any law authorizes to arrest, or one whom he sees engaged in an affray. (Breach of the peace by fighting or rioting in public).

In effecting an arrest in these circumstances one may use ***such force as is reasonably necessary.*** The Criminal Procedure Act also provides that where one arrests or attempts to arrest a person for a Schedule 1 offence, and one can only arrest him or prevent him from fleeing by killing him, then such killing is justified.

The situations and possible responses set out below are intended to be used by gun owners merely as a general guide. Every situation in which a firearm is used to wound or kill a human being comes under the close scrutiny of the Law. Circumstances alter cases and in each case all the circumstances are examined. The use of a firearm in effecting an arrest or preventing an escape of someone who has committed a Schedule 1 offence, only if "such force as is reasonably necessary" may be used. A firearm should therefore only be used as a last resort.

The position regarding the use of a firearm for Private Defence has been set out in the preceding pages.

Let us look at some situations in which a firearm might be used and consider the legal implications.

In all the following situations it is assumed that you have a firearm to hand and could use it if necessary. The question of what you could or could not do legally, therefore relates to the use or non-use of the firearm.

- **May I point a firearm at someone to warn them, even if I don't intend to shoot them because I would not be legally justified in doing so?**
  Any person who knowingly and *without lawful cause* points a firearm or an air gun or air pistol at any other person, commits and offence under Section 39(1) (I) of the Arms and Ammunition Act No. 75 of 1969. Therefore, you must not deliberately point a firearm at another person unless you have legal justification for using a firearm, in the circumstances.

- **I wake up at night and looking from my bedroom window see an intruder in my garden.**
  I challenge him and
  - he runs away, or
  - He adopts a threatening attitude.
  What action am I allowed by law to take in these circumstances?
  Where an intruder merely runs away, it would seem that you would be unable to justify shooting him with a defence of Private Defence.

- **A woman is verbally threatened with rape. She believes the rape to be imminent. May she use a firearm to deter her potential attacker or may she only do so if actually being attacked?**
  The woman may use her firearm if she believes the rape is imminent and such a belief is reasonable in the circumstances.

- **A car which has been involved in an accident is attacked by a mob. I believe the life of the driver is in danger. May I use my firearm?**
  Yes you may use your firearm to protect the life of the driver. However, in this particular situation, it would be advisable to fire warning shots before firing at anyone in the crowd itself.

- **There is a riot in my area and my house is toned by a mob. I am inside with my family. What action can I take if my house is attacked?**
  If, under the circumstances, it was reasonable to believe that the lives of you and your family were threatened, then you would be justified in shooting but only while the threat to your lives existed.

- **I fire a "warning" shot at an escaping criminal but miss him. The bullet strikes an innocent bystander. How am I Liable/culpable?**
  In this situation you could raise the defence of "necessity". This is close to the defence of Private Defence but as the rights of an innocent third party are usually involved, such defence is viewed much more strictly by the law. If your defence did not succeed, you could be liable not only criminally but also civilly.

- **I observe a uniformed policemen involved in a fight with a person who is resisting arrest. May I use my firearm to threaten the person assaulting the policeman? May I shoot if the person attempts to escape? Should I shoot if asked to do so by the policeman?**
  Yes, you may assist the policeman by threatening his assailant with your firearm and may also use your firearm if the assailant attempts to escape and his escape cannot be prevented in any other way. In fact, if a policeman ask you to assist him in making an arrest and you are a male between 16 and 60, then you are legally obliged to assist him in making the arrest. This would include shooting if so commanded and the policeman's life were in danger or the assailant was attempting to escape. However, if possible in the circumstances, it would be better to let the policeman do any shooting necessary. (Remember that a private citizen does not have the same right to use a firearm as a policeman carrying out his duties. The circumstances under which a policeman may use a firearm are governed by special laws and he has legal protection and indemnities which members of the public do not have).

- **I see a dog attacking a child. I believe the child will be seriously hurt if nothing is done. May I shoot the dog?**
  I have an argument with a man who sets his dog on me. I believe I will be seriously hurt if nothing is done. May I shoot the dog?
  The answer is yes in both cases. The defence here again is one of "necessity" and not Private Defence.

- **In a situation which does not justify my shooting at a person, may I fire warning shots to frighten or "scare of" that person?**
  You may not "without lawful cause" point a firearm at any person. As a general rule you should not therefore produce a firearm to fire warning shots or for any other reason, if you do not have lawful cause to use a firearm in the circumstance. However, if by harmlessly firing warning shots you are able to avert a situation which could deteriorate into one which would pose a threat to life, the law would probably take a reasonable view but he would depend upon the particular circumstances involved.

- **I am jostled in the street by a group of men and realise my pocket is being picked. The men run away. What action can I take if I am carrying a firearm?**
  As robbery is a Schedule 1 offence, force may be used to secure an arrest or prevent escape, if here were no other means by which you could prevent the escape of the wrongdoers. However, you may only use "such force as is reasonably necessary" and the use of a firearm in these circumstances could be considered extreme. There would also be the added danger of hitting innocent bystanders.

- **In a quiet street or station subway I am confronted by a man armed with a knife who demands money from me. I would have time to draw my firearm. What action may I take?**
  You may draw your firearm and attempt to arrest the robber. However, if he attempts to escape or attacks you so that you feel your life is threatened, you may shoot him.

23. CONCLUSION

Any transgression of this policy will be regarded as extremely serious. It is therefore compulsory that no person to whom the content of this policy is relevant may deviate from it without written permission from the Responsible Person. Officers who transgress this policy can be charged criminally as well as disciplinary procedures to be instituted against them. On conviction, the privilege to carry an official firearm might be withdrawn or may under the Act be declared a person unfit to possess a firearm.

Policy Section	Community Safety
Current update	Amended
Previous review	N/A
Approval by Council	Yes

APPROVAL OF THE POLICY

The Municipal Council has approved the Umzimvubu Municipality Firearm policy and amendments thereof

AUTHENTICATION

The amendments of the policy and or the new policy was adopted by the council on the

27-05-2022

As per Council Resolution number: ULMC:091

Signed off

Mr. G.P.T. Nota

Municipal Manager

Cllr. M.H. Ngqasa

Speaker of the Counci