

comply with any lawful instruction given in terms of these By-laws; or obstructs or hinders authorized 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 of R5000,00 or in default of payment of such a to imprisonment for a period not exceeding six months.

## CHAPTER 5: ENCROACHMENT BYALWS

### 1. Definitions

- 1.1 In these By-laws, any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), has that meaning and, unless the context otherwise indicates —
  - 1.1.1 "Council" means the Municipal Council of the Umdoni Municipality and any committee or person to which or whom an instruction has been given or any power, function or duty has been delegated or subdelegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) or, where the context so requires, means the aforesaid Umdoni Municipality;
  - 1.1.2 a service provider in respect of any power, function or duty of the Council as contemplated in paragraph (a), assigned by it for the purposes of these By-laws to that service provider in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

### 2. Council Permission Required

- 2.1 No person may, without prior written permission make or construct any colonnades, verandas, balconies, bay windows, pavement lights, showcases or other projections into or over any part of a public road, and pavement opening in or under any public road.
- 2.2 The Council may refuse the permission required in terms of section 2.1 or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually or the performance of the works or services determined by the Council in each case and subject to payment of the prescribed fee.
- 2.3 The prescribed fees mentioned in section 2.2 are payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the Council, and the owner is liable for the payment of prescribed fees in terms of these By-laws for each encroachment.
- 2.4 The owner of an encroachment must within three months after the date of commencement of these By-laws notify the Council in writing of —
  - 2.4.1 the existence of the encroachment; and
  - 2.4.2 the horizontal dimension of every encroachment measured parallel to the road boundary on or over which the encroachment exists.
- 2.5 Until the Council is notified of the horizontal dimension of the encroachment mentioned in terms of section 2.4.2, every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

### 3. Conditions For The Construction Of Encroachments

- 3.1 The design, arrangement and construction of verandas, balconies, bay windows and other encroachments over public roads, as well as the paving, kerb and gutter thereof shall be to the satisfaction of and to specifications approved by the Council.
- 3.2 If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- 3.3 A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

### 4. Columns

- 4.1 The Council may determine areas within the municipal boundary where no person is permitted to place veranda columns over any public road or pavement.
- 4.2 No person may place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.
- 4.3 No person may place a portion of any veranda column at a distance lesser than 600 mm back from the front edge of any kerb.
- 4.4 No person may place a column on a public road where the footway or sidewalk is, or is likely to be occupied by cables, pipes or other municipal services, without the permission of the Council.
- 4.5 The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3m.
- 4.6 Plain piping or tubing must not be used for columns over or on public road verandas and balconies unless architecturally treated for aesthetic purposes.
- 4.7 Nothing in these By-laws prohibits —
  - 4.7.1 the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or
  - 4.7.2 in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are observed.

### 5. Balconies And Bay Windows

- 5.1 Balconies, bay windows or encroachments may not overhang a public road if they are at a height of less than 3m above the pavement.
- 5.2 Balconies may not encroach more than 1,35m over any public road.
- 5.3 Bay windows may not encroach more than 900mm over any public road.
- 5.4 The aggregate horizontal length of bay windows at any level over a public road may not exceed one-third of the length of the building frontage to that road.
- 5.5 Any balcony superimposed upon any veranda must be set back at least 1,2 m from the line of such veranda.
- 5.6 No part of any balcony that is attached to any veranda, may be carried up to a height greater than two storeys above the pavement level except that, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1m in height is allowed above the level of the floor.
- 5.7 Any dividing wall across a balcony over a public road may not exceed 1m in height or 225mm in thickness.
- 5.8 A balcony over any public road may not be the sole means of access to any room or apartment.
- 5.9 No person may place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.



- 5.10 Where any floor of a building is used solely for the parking of a motor vehicle, bay windows at the level of the floor may not project over any public road for more than 1,35m for the full length of the building frontage to that road.
- 6. Plinths, Pilasters, Corbels And Cornices**
- 6.1 No plinths, pilasters or other encroachments beyond building lines carried up from ground level are permitted to encroach on a public road.
- 6.2 Any pilaster, cornice, corbel or similar architectural feature that is at least 3m above the ground may not exceed the following encroachment over a public road:
- 6.2.1 A pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
- 6.2.2 a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75m in height above the footway or pavement;
- 6.2.3 a cornice: 1,05m where not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.
- 7. Verandas Around Corners**
- 7.1 Where verandas are built around corners of public roads they must be properly splayed or rounded to follow the curves of the kerb.
- 8. Pavement Openings**
- 8.1 No pavement opening may be the sole means of access to any vault or cellar.
- 8.2 No pavement opening on any public road may extend more than 1,2m beyond the building line.
- 8.3 Where flaps are permitted in pavement openings each flap may not exceed 0,75 guard rails and stanchions.
- 8.4 Flap openings may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.
- 8.5 The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the Council.
- 8.6 No pavement opening may be covered with metal bar gratings or with metal plates or with wood.
- 9. Maintenance, Removal And Tenancy Of Projections**
- 9.1 The owner of any encroachment must maintain the encroachment in good order and repair.
- 9.2 Pavement openings, pavement lights, walls and basement walls must be made and kept water-tight by the owner.
- 9.3 The owner of any encroachment on, under or over any public road or pavement, or sign or other fixture on or over any public road, is regarded a tenant in respect of the encroachment, sign or fixture and, if called upon by the Council to remove any or all of them, must do so within a reasonable time.
- 10. Encroachment Erected In Front Of Building**
- 10.1 Where any encroachment has been erected or constructed in front of any building, the owner must at his, her or its own expense —
- 10.1.1 pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and
- 10.1.2 lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.
- 11. Applications**
- 11.1 Any person wishing to erect or construct an encroachment or any other fixture on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to the Building Control Officer on a form provided by the Council for that purpose.
- 11.2 Where in the opinion of the Building Control Officer drawings are required for the conclusion of an encroachment agreement, the prescribed charge in addition to any other prescribed charge is payable to the Council.
- 11.3 Any person erecting, constructing or possessing any encroachment or fixtures on, under or over any public road, is regarded as a tenant in respect of the encroachment or fixture, and, if notified in writing by the Council under the hand of the Building Control Officer to remove any such encroachment or fixture, must do so within the period stated in the notice.
- 11.4 The owner of the building in connection with which any encroachment or fixture exists, or is proposed —
- 11.4.1 must defray any cost incurred in connection with Installations or property of the Council;
- 11.4.2 must allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities.
- 11.5 Prescribed fee for special services
- 11.6 Any person who requires any special service from the Council, including the attendance necessary in respect of a dangerous building, must pay to the Council the prescribed fee with regard to the special service as well as a prepaid prescribed fee for the Council to attend at a building on request or for the Council to give advice as to the effect of these By-laws on proposals put forward by architects, builders or owners.
- 12. Offences And Penalties**
- 12.1 Any person who —
- 12.1.1 contravenes or fails to comply with any provisions of these By-laws;
- 12.1.2 fails to comply with any notice issued in terms of these By-laws; or
- 12.1.3 fails to comply with any lawful instruction given in terms of these By-laws; or
- 12.1.4 who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws.
- 12.2 is guilty of an offence and liable on conviction to a fine of R 5000 or in default of payment to imprisonment for a period not exceeding 6 months.



## CHAPTER 6: ENVIRONMENTAL HEALTH BYLAWS

## 1. Prevention Of Health Nuisances

- 1.1 No owner or occupier of any shop or business premises shall use, cause or permit such shop or business premises or vacant land connected therewith and which is open to the public to be used for the purpose of storing, stacking or keeping any waste material, refuse, crates, cartons, containers or any other articles of a like nature in such a way as to cause a health nuisance.
- 1.2 No person shall allow any erf to be overgrown with bush, weeds, grass or other vegetation to such an extent that, in the opinion of the council, it may be used as a shelter by vagrants, wild animals or vermin and threaten the public health or the safety of any member of the community.
- 1.3 No person shall fail to maintain the sewers, drains, water fittings, waste water fittings, water closet fittings and all other sanitary accessories forming part of or attached to any building or structure in good order and sound repair.
- 1.4 No person shall deposit or keep, cause or permit to be deposited or kept any night soil on any premises except in a proper sanitary convenience approved by the council.
- 1.5 No person shall keep or cause upon any premises any sanitary convenience of such a nature or in such a condition that it is a health nuisance.
- 1.6 No person shall carry or convey, permit to be carried or conveyed through or on any street or public place any objectionable material or thing whether liquid or solid which is or may become a health nuisance, unless such objectionable material or thing is covered with suitable material so as to prevent the creation of any health nuisance.
- 1.7 No person shall cause any water course, pool, ditch, drain, gutter, sink, bath, cistern, water closet, privy or urinal on any land or premises to be or to become so foul or to be in such a state as to be a health nuisance.
- 1.8 No person shall cause or permit any foul or polluted water, liquid or objectionable material to run or flow from any premises on to any land or into any storm water drain, river or water course.
- 1.9 No person shall commit, cause or permit to be committed any act which may pollute any water to which inhabitants of the area of jurisdiction of the council have a right to use or access.
- 1.10 If the provisions of the foregoing are contravened, the council may order the person concerned to cease the contravention within a time specified in such order, or to prevent a further contravention or continuation thereof and to take whatever steps the council considers necessary to remove the nuisance; and in the event of a person failing to comply with directions given in such an order the council may itself take whatever steps it considers necessary to remedy the circumstances and to recover the costs from the person or business concerned.

## 2. Medical Waste Management

- 2.1 Any person who generates medical waste must handle and store such waste in a manner which poses no threat to human health or the environment, and such person is under a duty to ensure that any medical waste is removed from their premises, transported and disposed of in accordance with these bylaws.
- 2.2 Without limiting the generality of duty referred to in section 2.1, persons who generate medical waste must comply with the following requirements:
  - 2.2.1 medical waste must be separated from other waste at the point at which it is generated;
  - 2.2.2 medical waste must be stored in leak-proof, sealable containers and such containers that are to be used for the storage of sharp instruments and other clinical items must be placed in leak-proof, sealable containers that are rigid and puncture resistant;
  - 2.2.3 containers which contain medical waste must be labelled accordingly in English, Afrikaans and Zulu;
  - 2.2.4 medical waste containers must be stored in controlled, secure areas reserved for the storage of such containers;
  - 2.2.5 the removal of medical waste from premises and the transportation of such to a disposal site must be done by a person who is registered with the council as a transporter of medical waste.
- 2.3 Any person who transports any medical waste must maintain a written record in respect of each collection and delivery of medical waste, which record must be updated simultaneously with each collection and delivery; and such record must be kept in a format approved by the council; and such record must be kept for a period of one year from the date on which such medical waste was delivered.
- 2.4 Medical waste may only be disposed of by a person who holds a permit to operate a hazardous waste site in terms of section 20 of the environmental Conservation Act, 1989 (Act No. 73 of 1989); or who is authorised to incinerate medical waste by means of equipment which has been approved in terms of the Atmospheric Pollution Prevention Act, (Act No. 45 of 1965).

## 3. Trades And Occupations

- 3.1 The proprietor of an accommodation establishment shall at all times, to the satisfaction of the council, maintain the whole of the accommodation establishment in a clean and sanitary condition; keep the furniture, utensils, linen and equipment in a sound clean condition; supply only clean and wholesome food to any boarders or other persons on the premises; and not knowingly cause or permit any person suffering from a communicable disease to be employed in or on the premises unless he is in possession of a medical certificate to the effect that such person is fit to continue in employment.
- 3.2 No person may operate an accommodation establishment unless the property is authorised for such purpose in accordance with any town planning scheme applicable thereto.
- 3.3 The proprietor of any accommodation establishment shall be responsible for due compliance and observation of the provision of these bylaws; and further shall be responsible for any acts, omissions and defaults of the his employees or agents; and any breach of these bylaws by the proprietor or by any member of his family or by any of his employees or agents shall be deemed to be a breach by the proprietor personally.
- 3.4 No person shall conduct the business of hairdresser or barber, manicurist or beautician or tattooist in any premises within the Umdoni municipal area unless of parts of the premises are effectively lighted and ventilated; wash basins with hot and cold running water and fitted with a trapped waste have been provided; all tables and shelves on which instruments are laid are constructed of or covered with glass, marble, glazed tiles or other similar smooth, impervious, durable and non-corroding material; the floor is even and stable covered with impervious material or otherwise constructed with a smooth impervious surface maintained so that it may be easily swept and thoroughly cleansed; and a sufficient number of readily portable refuse receptacles with close fitting lids made of impervious material which can be readily washed and cleaned have been provided.
- 3.5 Every person carrying on the business of the type referred to in 3.4 shall ensure that no person suffering from any communicable disease takes part or is permitted or suffered to take part in any operation connected with the conduct of the business of hairdresser or barber unless such person has produced a medical certificate to the effect that he is fit to take part in such work.
- 3.6 No person operating a child care facility shall do so without the written approval of the council; which approval shall be subject to such conditions as the council may impose; and any person who contravenes such conditions shall be guilty of an offence.



**4. Entry and Inspection**

The council through its duly authorised officers shall be entitled, upon production of a duly attested municipal identity document, to enter into and upon any premises, at reasonable times, to carry out any inspections necessary for the proper administration and enforcement of the provisions of these bylaws.

**5. Service of Notices**

Where any notice or other document is required by these bylaws to be served on any person, such notice or document shall be deemed to have been properly served if personally served on the person concerned or on any member of the person's household apparently over the age of sixteen years, or at the person's place of residence, or on any person employed by him or her at the person's place of residence, or if it is posted by registered mail to such person's residential or business address as it appears in the records of the municipality, or if such person is a company, close corporation or trust, if served on any person apparently employed by such company, close corporation or trust at the registered office thereof, or sent by registered mail to such office.

**6. Offences**

6.1 Any person who contravenes or fails to comply with any provisions of these bylaws; contravenes or fails to comply with any requirement set out in a notice served on him or her in terms of these bylaws; contravenes or fails to comply with any conditions imposed in terms of these bylaws; knowingly makes any false statement in respect of any application in terms of these bylaws shall be guilty of an offence and upon conviction liable to a fine or imprisonment as set out below.

6.2 The fines and penalties applicable to offences in terms of these bylaws are:

6.2.1 Upon conviction of a first offence, the guilty party shall be liable to a fine not exceeding R5000 (five thousand rand) as adjusted from time to time in terms of the Adjustment of Fines Act 1991, (Act No. 101 of 1991); or in default of payment to imprisonment for a period not exceeding one month;

6.2.2 In the case of a continuing offence, the guilty party shall be liable to a fine not exceeding R500 (five hundred rand) as adjusted from time to time in terms of the Adjustment of Fines Act 1991, (Act No. 101 of 1991);

6.2.3 Upon conviction of a second or subsequent offence, the guilty party shall be liable to a fine not exceeding R10 000 (ten thousand rand) as adjusted from time to time in terms of the Adjustment of Fines Act 1991, (Act No. 101 of 1991); or in default of payment to imprisonment for a period not exceeding three months.

6.2.4 The Court convicting a person of an offence in terms of these bylaws may impose an alternative sentence in lieu of a fine or imprisonment.

**CHAPTER 7: FOODSTUFFS BYLAWS****1. General**

1.1 No person shall use, cause or permit to be used in the manufacture or preparation of any article intended for human consumption as food or drink any matter, substance or ingredient which is diseased, unsound, unwholesome or injurious to health.

1.2 No person shall keep, store, sell or expose for sale or introduce into the municipality for the purposes of sale any article of food or drink which is not clean, wholesome, sound and free from any disease, infection or contamination.

1.3 No person shall manufacture, prepare, store, keep, handle, sell or expose for sale any article of food or drink in any room or portion of any premises used as a sleeping apartment or living room; or which has any direct communication with any sleeping apartment or living room or with any sanitary convenience; or which is so situated or so constructed that any sanitary convenience, sewer or drain ventilates into it; or so used or kept as to be liable to render any such article contaminated, unwholesome, injurious or dangerous for human consumption.

1.4 No person shall use, cause or permit to be used as a sleeping apartment or living room any room or portion of any premises in which any article of food or drink is manufactured, prepared, stored, kept, handled, sold or exposed for sale.

1.5 The owner of any premises or portion of any premises on which any article of food or drink is manufactured, prepared, stored, kept, handled, sold or exposed for sale shall at all times cause such premises to be provided with a supply of clean water sufficient for the requirements of the business; shall provide on such premises suitable and sufficient sanitary accommodation for the use of all persons resident or employed thereon; shall provide on such premises sufficient wash-hand basins for the use of all persons resident or employed thereon; shall render and maintain such premises rodent-proof and take the necessary measures to keep the premises free of rodents, cockroaches, bugs or other vermin.

1.6 The occupier or person in charge of any premises on which any article of food or drink is manufactured, prepared, stored, kept, handled, sold or exposed for sale shall at all times keep such premises and all the pertinences thereto in a clean and sanitary condition and free from any dust, dirt, filth or other noxious matter or thing; shall provide on such premises and maintain in good order and repair sufficient refuse receptacles for the reception of all refuse products accumulated on the premises and shall cause all such refuse to be deposited in such refuse receptacles; shall cause every utensil, receptacle, machine, implement, vehicle or other appliance or thing used in the manufacture, preparation, storage, handling, sale, despatch or delivery of any article of food or drink to be constructed of such material and in such manner as to be easily cleaned and kept clean; and shall at all times cause such to be kept clean and free from any matter or substance which might contaminate or infect such food or drink; shall not cause or permit to be subjected to unnecessary handling any article of food or drink which may be liable to contamination thereby and shall provide and ensure the use of suitable implements for the handling thereof; shall cause every article of food or drink and any ingredient used in its manufacture or preparation, which is of such a nature as to be liable to contamination by contact with flies, vermin, dust, dirt, filth or other noxious material or thing, to be at all times effectively and sufficiently protected from such contamination; shall, where practical, provide refrigeration for the purposes of preserving any perishable food stored, kept or exposed for sale on any such premises; shall ensure that every person while engaged in the manufacture, preparation, storage, handling, sale, despatch or delivery of any article of food or drink is scrupulously clean and clothed in suitable clean clothing provided for such purpose.

1.7 No person shall use for the packing or wrapping of any article of food or drink any bottle, jar, tin or other container or any paper, cardboard or other material which is not clean and free of any matter or substance which might contaminate or infect such article.

**2. Manufacture, Storage, Sale And Delivery Of Bread And Bakery Products Including Confectionary**

2.1 No person shall carry on the trade or business of a bakery in any premises which do not comply with sections 1.1 – 1.7 above.

2.2 The owner of any premises used or intended to be used as a bakery shall provide on such premises, in any bake house or mixing room, if so required by the council, an even floor constructed of concrete or other hard impermeable material with a smooth surface capable of being easily cleaned and shall cause the inner surfaces of the walls in the bake house, if so required by the council, to be plastered and brought to a smooth surface; shall cause every table used in connection with the bakery to be made of non-absorbent material and covered with marble, galvanised sheet iron or other impervious and washable material, shall cause the floor of the bake house and mixing room and every table to be cleaned of all scraps and to be thoroughly washed each time after use; shall not cause or permit any dough, batter, paste or other ingredients used in the making of confectionary to be mixed by hand but shall cause all such mixing to be done by means of proper and suitable