



DRAFT UMNGENI MUNICIPALITY PARKS AND MUNICIPAL FACILITIES BY-LAWS (1ST DRAFT)

**Prepared and Submitted by the Department of Community
Services and Public Safety**

UMNGENI LOCAL MUNICIPALITY

UMNGENI MUNICIPALITY PARKS AND MUNICIPAL FACILITIES BY-LAWS

Revision History

Revision	Date	Author	Reason for change
			Review

EFFECTIVE DATE : **Date of approval**

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CHAPTER 1 INTERPRETATION

1. Definitions

In this By-law, unless the context indicates otherwise –

"animal" means any mammal, fish, bird, reptile, insect, amphibian, or invertebrate;

"art" means any creative act or object of human skill, craft, or design in respect of which a municipal premises or **facility** may be made available for hire and use;

"artist" means any person who is involved in the performance or creation of an art, and "artistic" has a corresponding meaning;

"authorised official" means a person authorised to implement the provisions of this By-law, including but not limited to –

(a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

(b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and

(c) such employees, agents, delegated nominees, representatives, and service providers of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

"camping officer" means a person who is designated by the Municipality to be in charge of a camping park;

"camping park" or **"caravan park"** means any area of land which has been set aside by the Municipality for use as a camping park or caravan park, or as both;

"camping site" means a site set aside and designated by a camping officer in a camping park for camping purposes;

"caravan" means a vehicle or similar movable or towable structure on wheels which is designed to permit human occupation for dwelling or sleeping purposes, and includes a mobile home, trailer, or camper van;

"**caravan site**" means a site set aside and designated by a camping officer in a caravan park for the parking of a caravan, with or without a side tent;

"**community centre**" means any community premises owned or operated by the Municipality which is used or is capable of being used by members of the community for activities of an indoor sporting, cultural, or recreational nature, and "centre" shall have a corresponding meaning;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Council**" or "**Municipal Council**" means the uMngeni Municipal Council, a municipal council referred to in section 157(1) of the Constitution;

"**facility**" means any facility or structure owned by the Municipality which is or may be available for hire and use by members of the community in terms of this By-law, excluding a shopping centre;

"**hire**" means entering into a contract with the Municipality upon payment of a prescribed fee for the use of a municipal premises or facility, and "hirer" has a corresponding meaning;

"**Municipal Manager**" means a person appointed in terms of section 54A of the Systems Act as the head of administration of the municipal council;

"**municipal premises**" means any community premises owned, vested, or controlled by the Municipality which is or may be available for hire and use by members of the community or freely accessible in terms of this By-law for the purpose of conducting artistic, cultural, political, recreational, or religious events and excludes shopping complexes, and "premises" shall have a corresponding meaning;

"**Municipality**" means the uMngeni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution and established in terms of PN343 of 2000 (KZN);

"**notice**" means a written notification issued or pictogram displayed in terms of this By-law which is prominently and legibly displayed in any part of a park;

"**park**" means any park, recreational ground, open space, square, reserve, bird sanctuary, botanic or other garden which is under the control or ownership of the Municipality, and includes all buildings, facilities, equipment, trees, and natural vegetation within such park;

"**person**" means a natural or juristic person;

"Policy" means the tariff policy adopted by the Council in terms of section 74 of the Systems Act;

"pool" means a municipal-owned or controlled swimming pool or paddling pool provided by the Municipality for the use and enjoyment of the public, and includes the premises, buildings, and structures on which the pool is situated;

"prescribed fee" means a fee determined by the Council by resolution in accordance with the tariff policy adopted by the Council in terms of section 74 of the Systems Act;

"reservation" means a written application to the Municipality for the use of a park or any part thereof for the purpose of a private event or function, and "reserve" has a corresponding meaning;

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"tree preservation order" means an order issued by the Municipality for the protection of specific trees or a group of trees from deliberate damage or destruction; and

"vehicle" means any self-propelled vehicle and includes –

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine, or motor, or both such pedals and engine or motor.

2. Interpretation of By-law

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

3. Objects of By-law

The objects of this By-law are to –

(a) regulate and control the hiring and use of municipal premises and facilities;

(b) protect and preserve parks for the benefit of the public;

- (c) regulate the proper use and enjoyment of parks by members of the public;
- (d) standardise the fees prescribed for the hiring or reservation of municipal premises, facilities, or parks for private events and functions; and
- (e) provide for matters incidental thereto.

4. Application of By-law

This By-law applies to –

- (a) all premises and parks under the ownership and control of the Municipality, irrespective of the area in which they are situated, excluding –
- (b) any park which is lawfully controlled and managed by a person other than the Municipality in terms of an agreement concluded between such person and the Municipality.

CHAPTER 2: HIRE, USE, AND PUBLIC ACCESS TO PREMISES, FACILITIES, AND PARKS

Part 1: Hire and Use of Premises and Facilities

5. Application for hiring of premises

Any person wishing to apply for the hiring of municipal premises must –

- (a) submit an application to the authorised official on the form prescribed by the Municipality for that purpose; and
- (b) make payment to the Municipality or its authorised agent of a prescribed fee for the hiring of the premises concerned before the date on which such premises are required for use by the applicant, unless otherwise permitted by the Municipality.

6. Municipality's right of refusal or cancellation

- (1) Notwithstanding the provisions of section 5, the Municipality may refuse to hire out any premises or, if the hiring is already approved, cancel any such approval if –

(a) the authorised official suspects on reasonable grounds that the premises applied for are to be used for an unlawful purpose or any purpose not suitable for the premises applied for; or

(b) the premises applied for are required by the Municipality for its own use during such period of hire.

(2) In the event of the approved hiring being cancelled by the Municipality in terms of subsection (1)(b) or for any other reason not attributable to the hirer, the hirer concerned is entitled to a refund of the prescribed fee already paid to the Municipality: Provided that in any other case, the refund of the prescribed fee to a hirer is at the sole discretion of the Municipality.

7. Use of premises

(1) The hirer must use the hired premises only for the purpose indicated on the application form and subject to the terms and conditions stipulated by the Municipality unless prior written approval is obtained from the authorised official for use of the premises for any other purpose.

(2) The Municipality may refuse to grant approval for use of premises for any gathering unless it is satisfied that such use will not, due to noise or attendee conduct, unduly interfere with the amenities of the area.

(3) The Municipality may refuse an application to hire municipal premises if the authorised official reasonably believes the use may contravene the Municipality's Nuisance By-law, Health By-law, or other applicable legislation.

8. Terms and conditions for use and public access

(1) The Municipality reserves the right to determine the terms and conditions for access to and use of a park or municipal premises.

(2) A person who is allowed access into a park or has hired premises must –

(a) observe and comply with all notices displayed at any area of the park or premises, including entrances; and

(b) obey any lawful instruction given to them by an authorised official.

9. Maximum number of persons

(1) The Municipality reserves the right to determine the maximum number of persons who may be present in any park or hired premises at one time.

(2) For hired premises, the hirer must comply with requirements prescribing the maximum number of persons allowed during the use of the premises.

(3) The Municipality has the sole discretion to determine and vary the maximum number of persons based on its policies, agreements, or applicable law.

10. Entrance fees

(1) The Municipality may prescribe an entrance fee payable upon entry into a park.

(2) A person in a park who is required to pay an entrance fee must, upon request by an authorised official, produce proof of payment.

(3) The Municipality may suspend entrance fee requirements for specific parks on particular days or periods.

11. Closure or restriction of access

(1) The Municipality may close or restrict public access to any park or part thereof for purposes consistent with this By-law, including maintenance, safety, or restoration.

(2) A notice must be posted at or near the entrance to the park, indicating the period of closure or restriction of access.

12. Exclusion or removal from a park or premises

(1) An authorised official may exclude or remove from a park or premises any person who –

(a) is in a state of intoxication or under the influence of narcotics;

(b) behaves in a manner that is disorderly, disruptive, or unseemly; or

(c) commits, or is reasonably suspected of committing, an offence or act contravening this By-law.

(2) Failure to comply with an order to leave a park or premises is an offence.

13. Terms and conditions of hire and public display

(1) A person who hires municipal premises must sign a hire agreement stipulating the terms and conditions of such hire.

(2) The Municipality may conspicuously display the terms and conditions of hire at or near the entrance to municipal premises. These terms and conditions are deemed to be binding on every hirer regardless of whether the hire agreement is signed.

14. Responsibility upon termination of hire

(1) Upon termination of the hire period, the hirer must –

(a) return the premises in good order and condition, reasonable wear and tear excepted;

(b) make good, repair, or replace any damage caused or reimburse the Municipality for repair costs; and

(c) vacate the premises within the agreed period.

(2) Failure to comply with these responsibilities may result in additional prescribed fees or legal action.

Part 2: Sport Facilities and Pools

15. Terms and conditions

(1) The use and enjoyment of the sport facilities by members of the community or any other person are subject to due compliance with the applicable provisions of this By-law, the terms and conditions contained in the hire agreement, if any, as well as such terms and conditions as may be determined by the Municipality in respect thereof.

(2) The provisions of Part 1 are mutatis mutandis applicable to this Part insofar as they are relevant to the hiring and use of sport facilities by members of the community or any other person.

16. Reservation of sport facilities

(1) Due to a limited number of sport facilities in any community, the hiring of a sport facility must be arranged by prior reservation with an authorised official on a first-come-first-served basis and must be recorded in a register kept by the authorised official for that purpose.

(2) Notwithstanding the provisions of subsection (1), the Municipality may reserve for any period any sport facility for the holding of any specific sporting event or competition and may during any such period reserve to itself the right of admission to such facility and determine a fee for admission thereto.

17. Animals

No person may bring any animal other than a guide dog into a sport facility or pool without the prior written approval of the authorised official, unless –

(a) the bringing of an animal is authorised by a notice displayed in a conspicuous place at the entrance to a sport facility or pool; or

(b) the sport facility or pool is designed or has been hired out for an activity that necessarily involves the presence of animals.

18. Firearms and traditional weapons

Firearms or traditional weapons may not be brought into a sport facility unless, subject to the availability of safes or other appropriate storage facilities at the entrance to the facility, they are surrendered to the authorised official for safekeeping and must be collected from that official upon departure from the sport facility.

19. Pools operating times

(1) The days and times during which a pool will be open to the public must be displayed with the appropriate signage visible to all patrons.

(2) The Municipality reserves the right to alter the operating times of the pool.

(3) Swimming must cease 30 minutes before the closing time, and all members of the public must vacate the premises on or before the closing time.

(4) Any member of the public –

- (a) found to be swimming outside the operating times without the consent of the authorised official; or
- (b) who refuses to vacate the pool premises at closing time, will be guilty of an offence.

20. Admission into the pool premises

(1) No person is permitted to enter the pool premises –

- (a) without paying the prescribed fee;
- (b) except through the entrance provided;
- (c) in advance of a person who by reason of prior payment is entitled to prior admission; and
- (d) when it is closed.

(2) Any person entering the pool premises must provide proof of payment to the authorised official before entering such premises.

(3) The Municipality may refuse entry into the pool premises –

- (a) where it is in the interest of public health and safety;
- (b) where the maximum amount of persons permitted in the premises has been reached;
- (c) where necessary or routine maintenance is being effected; or
- (d) for any other reason the Municipality sees fit to do so.

(4) All children under the age of 14 must be accompanied by an adult.

21. Exclusive use

(1) Upon application and the payment of a prescribed fee, an authorised official may grant the exclusive use of the whole or part of the pool to a swimming club, person, or body during determined periods: Provided that such use is for the purpose of organised swimming or aquatic sports.

(2) Where an application has been granted in terms of subsection (1), part of the pool or the entire pool may be closed to the public for the duration of such use.

22. Change room facility

- (1) A separate change room for each sex must be provided.
- (2) A male child over the age of seven is not permitted to enter into the female change room, and a female child over the age of seven may not enter into a male change room.
- (3) No person may loiter in a change room or use it for any purpose other than for which it was designed.

23. Coaching and instruction

- (1) No person may coach or instruct individuals within the pool area unless prior written permission has been obtained from an authorised official, which permission may be subject to terms and conditions imposed by the authorised official.
- (2) No instructor may instruct more than five individuals at a time.
- (3) The authorised official may give a coach or instructor 30 days' notice of their intention to withdraw the permission given in terms of subsection (1).
- (4) Coaches and instructors must adhere to all rules or requirements imposed by the Municipality.
- (5) All instructors and coaches required to pay a fee must do so one month in advance, and parents and students attending lessons through the swimming club will be exempt from the regular entry fee.
- (6) Additional terms and conditions for coaches include:
 - (a) a maximum of three lanes may be used per coach per lesson;
 - (b) coaching times are restricted to 6 AM–9 AM (Monday to Saturday) and 5 PM–8 PM (Monday to Friday);
 - (c) no more than two coaches are allowed per pool unless exclusive use has been granted;
 - (d) no coaching or instructing is permitted during exclusive use periods; and
 - (e) no refund will be granted for unused booked times.

24. Prohibitions relating to pools

(1) No person may –

- (a) bring into the pool premises any prohibited items, including balls, surfboards, water toys, alcohol, narcotics, weapons, glass, or items for sale;
- (b) dive except from designated diving boards or platforms;
- (c) swim in the nude or dress inappropriately;
- (d) urinate or defecate in the pool;
- (e) eat in the pool;
- (f) engage in dangerous games or raucous behavior;
- (g) damage or deface property;
- (h) deposit or discharge anything causing a nuisance or danger;
- (i) light fires;
- (j) loiter in passageways or booths;
- (k) gamble;
- (l) enter the premises intoxicated or under the influence of narcotics;
- (m) ride bicycles, use skates, or similar devices unless in designated areas;
- (n) use soap or detergents in the pool; or
- (o) engage in other activities contrary to applicable laws or displayed signage.

CHAPTER 3: PRIVATE EVENTS AND FUNCTIONS

25. Reservation of park for private event or function

Any person who wishes to apply for the reservation of a park or part thereof for a private event or function must –

- (a) submit an application to the authorised official on the form prescribed by the Municipality for that purpose; and
- (b) make payment to the Municipality or its authorised agent of a prescribed fee for the private use of the park before the date applied for, unless payment of the prescribed fee is exempted by the Municipality in writing.

26. Municipality's right of refusal or cancellation

(1) The Municipality may –

- (a) refuse to grant an application for the private event or function; or
- (b) cancel any approval if such application is already approved, if an authorised official suspects on reasonable grounds that the event or function applied for is either unlawful or is likely to result in public disturbance.

(2) In the event of the approved private use of a park being cancelled by the Municipality in accordance with subsection (1) or for any other reason not attributable to the applicant, the applicant concerned is entitled to a refund of the prescribed fee paid to the Municipality in accordance with section 25(b).

27. Terms and conditions of private use of park

(1) Where an application for the private use of a park or part thereof is granted by the Municipality in terms of section 25, such park or part thereof may only be used –

- (a) for the purpose indicated on the application form; and
- (b) subject to the terms and conditions stipulated by the Municipality in an agreement designed for that purpose, unless prior approval of the authorised official is obtained in writing authorising it to be used for a different purpose.

(2) A person who applies for the private use of a park must, subsequent to the approval of such application by the Municipality, sign an agreement obtainable from the municipal department responsible for the park in question setting out the terms and conditions of the private use thereof.

28. Public announcement and advertising

(1) A person who has applied for the use of a park for a private event or function may not publicly announce or advertise the use of such park for the event or function concerned before the Municipality has notified that person in writing that the application has been approved.

(2) An approval of an application for the use of a park for a private event or function does not absolve the applicant from due compliance with the Municipality's Advertising and Signs By-law in respect of the private event or function concerned.

(3) An applicant referred to in subsection (1) must, before vacating the park at the end of the private event or function concerned, remove every poster, notice, decoration, flag, emblem, sign and other form of advertisement or direction erected or affixed by or at the instance of such person and make good any damage caused by such removal.

CHAPTER 4: GENERAL PROVISIONS

29. Food and alcoholic beverages

(1) Subject to the provisions of subsection (2), the preparation and cooking of food in a park is restricted to the place or places set aside by notice for such purpose and must be done under clean and hygienic conditions.

(2) The slaughtering or skinning of an animal for any purpose whatsoever is not allowed in a park.

(3) Unless authorised by the Municipality in writing to do so, a person may not –

(a) sell or display for sale any items, goods, or services; or

(b) bring into, consume, or sell any alcoholic beverage or other intoxicating substance in a park.

30. Starting of a fire

- (1) A person may only start a fire in a park in a place as may be designated by the Municipality for that purpose.
- (2) Where a person has started a fire in a place designated for that purpose as contemplated in subsection (1), such person may not leave the fire unattended or depart from the place where the fire is burning or smouldering without first ensuring that such fire is completely extinguished.

31. Vehicles

- (1) Unless specifically authorised by the Municipality through the use of relevant signage displayed at the entrance to a park, access of vehicles of any kind is prohibited in a park.
- (2) Where vehicular access is allowed in a park, an authorised official is empowered to control and regulate the use thereof within the park concerned, including the –
- (a) adoption of traffic signage and rules;
 - (b) demarcation of parking bays and the levying of tariffs for the use thereof, if any; and
 - (c) charging of fines for non-compliance with the traffic signage and rules within the park, as well as the recovery thereof.

32. Facilities reserved for children

- (1) Where a facility or equipment in a park is reserved for children, the use of such facility or equipment must be restricted to persons not older than 12 years of age.
- (2) An authorised official may require any person to produce documentary proof of age of any person intending to use a facility or equipment referred to in subsection (1), failing which such person may be refused access to the facility or equipment concerned.

33. Animals

- (1) Except for a guide dog which is being used by a blind person, the Municipality reserves the right to prohibit or restrict the access of any animal into a park through a notice to that effect displayed at or near the entrance to such park.

(2) Where animal access into a park is not prohibited in terms of subsection (1), any person who brings an animal into a park must keep it under proper control and ensure that any excrement by such animal is immediately removed and disposed of in a waste bin or other receptacle provided by the Municipality for that purpose.

34. Tree preservation orders

(1) If, in the opinion of the Municipality, any tree or group of trees in a park requires legal protection, the Municipality may issue a tree preservation order in respect of the tree or group of trees concerned.

(2) A copy of the tree preservation order must be displayed prominently within three metres of the tree or group of trees to which the order relates.

(3) Any person who cuts, uproots, or causes any damage whatsoever to a tree or group of trees to which a tree preservation order relates commits an offence.

35. Prohibited conduct

(1) A person entering or visiting a park must at all times act in strict compliance with the provisions of this By-law, as well as such lawful instructions and orders as may be issued or given by an authorised official.

(2) Subject to the provisions of subsection (1), a person entering or visiting a park may not –

(a) conduct himself or herself in a manner which is inappropriate, improper, or indecent;

(b) cause a nuisance, annoyance, or disturbance to any other person visiting the park;

(c) destroy or remove any tree, flower, or plant growing in any part of the park;

(d) deposit or throw any rubbish, paper, or other waste matter anywhere other than in a receptacle provided by the Municipality for such purpose;

(e) shoot, injure, or interfere with any bird, animal, or fish;

(f) bathe or wash any dog or other animal in any pond or fountain;

(g) drive, ride, or park any vehicle except where permitted;

(h) damage or tamper with any equipment, amenity, or structure;

- (i) engage in any game or activity causing disturbance, injury, or nuisance;
- (j) perform any act that may detrimentally affect the health of visitors to the park.

CHAPTER 5: ENFORCEMENT

36. Offences and penalties

- (1) A person who –
 - (a) contravenes, refuses, or fails to comply with any provision of this By-law;
 - (b) refuses or fails to comply with any –
 - (i) notice issued; or
 - (ii) lawful instruction given, in accordance with this By-law; or
 - (c) obstructs or hinders any authorised official of the Municipality in the execution of their duties under this By-law, is guilty of an offence.
- (2) A person who is convicted of an offence under this section may be sentenced to a maximum fine of R40,000 or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.
- (3) In the case of a continuing offence, an additional fine of an amount not exceeding R200 per day, or imprisonment not exceeding 10 days per day of continued offence, or both, will be imposed.

CHAPTER 6: MISCELLANEOUS

37. Indemnity

The hirer indemnifies and holds harmless the Municipality against and from any claims for damages or otherwise and costs, including costs as between attorney and client, that may be made against it by reason of any harm or loss suffered by any person during or associated with the use of the premises hired or the activities taking place in the hired premises during the period of the hire.

38. Municipality not liable for loss or damage

(1) The Municipality is not liable for any harm, damage, or loss suffered by any person arising out of –

(a) the use of any municipal premises or facility; or

(b) any bona fide action or decision of an authorised official in terms of this By-law.

(2) The Municipality shall not be liable for any loss or damage suffered by the hirer in consequence of any accident, failure, or defect of any equipment, fixtures, or fittings.

39. Offences and penalties

(1) A person is guilty of an offence if that person –

(a) contravenes or fails to comply with any provisions of this By-law;

(b) fails to comply with any notice issued or displayed in terms of this By-law;

(c) fails to comply with any lawful instruction given in terms of this By-law; or

(d) obstructs or hinders any authorised official, other official, or representative of the Municipality in the execution of his or her duties under this By-law.

(2) A person is guilty of a continuing offence if he or she continues with an offence after notice has been served on him or her in terms of this By-law requiring him or her to cease committing such offence.

(3) A person who is convicted of an offence under this section may be sentenced to a fine not exceeding R40,000 or to imprisonment for a period not exceeding two years, or to both such fine and a period of imprisonment.

(4) In the case of a continuing offence, an additional fine of an amount not exceeding R200 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues, or both such fine and imprisonment, will be imposed.

40. Delegations

(1) Subject to the Constitution and applicable national and provincial laws, any –

(a) power, excluding a power referred to in section 160(2) of the Constitution;

(b) function; or

(c) duty, conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors, or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Systems Act, subject to the criteria set out in section 50(2) of the said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the –

(a) entity or person issuing the delegation or sub-delegation;

(b) recipient of the delegation or sub-delegation; and

(c) conditions attached to the delegation or sub-delegation.

41. Appeals

(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against the decision in terms of the Appeals provision contained in the Systems Act 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 promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary, or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Systems Act and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

42. Repeal of laws and savings

(1) The laws mentioned in the first and second columns of the Schedule to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) Any rights accrued or obligations incurred under any By-law repealed in terms of subsection (1) remain in force as if those By-laws have not been repealed.

43. Short title and commencement

This By-law is called the Parks and Municipal Facilities By Law, 2025, and takes effect on the date of publication thereof in the Provincial Gazette.