

PROVINCIAL NOTICE 31 OF 2016

UBUHLEBEZWE MUNICIPALITY

**BUILDINGS REGULATIONS BYLAWS**

1ST DRAFT DATE	30 th June 2014
ADOPTION BY COUNCIL	4 th December 2014
PROMULGATION DATE	9 th February 2016

TABLE OF CONTENTS**PART A****DEFINITIONS**

1. Definitions

PART B**SCOPE OF BY-LAW**

2. Scope of By-Law

PART C**STREETS AND PAVEMENTS**

3. Slab footways and pavements
4. Plants on street verges
5. Street gutter bridges

PART D**BUILDINGS**

7. Encroachments
8. Restriction of the erection of buildings within the one-in-fifty-year flood line
9. Building activities that need approval from the municipality
10. Construction of Unapproved Building Plans
11. Exemptions from Requiring Building Approval
12. Building Approval Requirements
13. Certificate of occupancy
14. Penalties for Construction of Unapproved Building Plans
15. Penalties for Altering of existing Structure Before Approval
16. Construction of shacks on proclaimed Areas and Procedure Relating to the termination of Unauthorized Informal Settlement.
17. Disposal of Building Material and Personal Property
18. Enclosures
19. Roofs

PART E**NOTICES**

20. Notices

PART F**OFFENCES AND PENALTIES**

21. Offences and penalties

PART G**TIMEFRAME FOR ERECTION/CONSTRUCTION OF A BUILDING**

22. Timeframe for Erection/Construction of a building after purchasing of stand/ site

23. COMMENCEMENT DATE**24. SHORT TITLE**

PART A**DEFINITIONS****1. Definitions**

"Adequate" means adequate in the opinion of the municipality, regard being had in all cases to all the circumstances of a particular case and to the accepted principles of drainage installation and in the case of any appliance, fitting or other object, to the purpose such appliance, fitting or object is intended to serve;

"Municipality" means the Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of October 2000 in terms of the provisions of the Local Government: Municipal Structures Act, 1998(Act 117 of 1998), the Municipal Council acting under the powers delegated to it in terms of the provisions of section 58 of the Local Government (Administration and Elections) Ordinance, 1960(Ordinance 40 of 1960) or any officer to whom the Mayoral Committee has delegated in terms of the provisions of section 58(3) of that Ordinance, any function, duty or power vested in the Municipality in respect of this By- Law;

"Owner" means:

- (a) the person who receives the rent or profits of land or property from a tenant or occupier of the land or property or who would receive a rent or profits if the land or property were leased, whether for his or her own account or as an agent for a person entitled to the rent or profit,
- (b) where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of the premises vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative and
- (c) in relation to
A piece of land delineated on a sectional plan registered in terms of the Sectional Title Act, 1986 (Act 95 of 1986) the developer or the body corporate in respect of the common property or (ii) a section as defined in the Sectional Title Act, 1986 the person in whose name the section is registered under a sectional title deed and includes the lawfully appointed agent of such person;

"Piece of Land" means a piece of land registered in a deeds registry as an erf, stand, lot plot or other area or a subdivision portion of such erf, stand, lot or other area; or (b) a defined portion, not intended as a public place, of a piece of land which is held under surface right permit or under mining title or which being proclaimed land not held under mining title, is used for residential purposes or for purposes not incidental to mining operations

PART B SCOPE OF BYLAW

2. Scope of ByLaw

- (i) These By-Laws are supplementary to the National Building Regulations and are applicable to every building, sewerage and water installation and in relation to any sewerage installation or water installation in particular, to the operation and maintenance of such installation in any new building or existing building, with or without any alteration of or addition to the existing installation whether or not such alteration or addition to the existing installation, whether or not such alteration or addition is required by the Municipality in terms of the National Building Regulations or this By-Law.
- (ii) any building, sewerage installation or water installation may at any time after its completion and commissioning be subject to such inspection, approval, tests and control as the municipality may deem fit or require.

PART C STREETS AND PAVEMENTS

3. Catheads, cranes and platforms

A Cathead, lifting crane, platform or other similar device may not overhang any street or sidewalk without the special consent of the municipality.

4. Slab footways and pavements

- (i) the owner or occupier of a piece of land adjoining a street may lay or construct a slab footway or pavement on that portion of the verge of the street which is intended for exclusive use as a street sidewalk.
- (ii) the paving or slabs for a slab footway or pavement referred to in subsection (i) must be laid to the grade, line and crossfall determined by the Municipality and must meet the following requirements:
 - (a) for ordinary paving or slabs the minimum crossfall: 1:100 and the maximum crossfall is 1:25,
 - (b) Non-skid paving or non-skid slabs of a type to be approved by the municipality must be used when the crossfall is between 1:25 and 1:15, provided that the crossfall does not exceed 1:15,
 - (c) Longitudinal grades may not be steeper than 1:25 for ordinary paving or ordinary slabs, non-skid paving slabs must be for longitudinal grades of between 1:25 and 1:15 provided that the longitudinal grade does not exceed 1:15
 - (d) if in respect of a slab footway or pavement referred to in subsection (i), a vehicular opening is formed in a kerb or an intersecting footway or pavement, the

opening must be paved or slabbed.

- (e) the Municipality may impose such conditions as it deems necessary in respect of a slab footway or pavement referred to in subsection (i) with due regard to public safety, the preservation of municipal property and all other relevant circumstances.

5. Plants on street verges

- (a) the owner or occupier of a piece of land adjoining a street may grade and plant with grass the area lying between such piece of land and that part of the street that is intended, laid out made up for the use for of vehicular traffic.
- (b) the owner or occupier of a piece of land adjoin a street may plant with flowers or small shrubs on a strip of land not exceeding 1 m in which immediately adjoining the piece of land.
- (c) the Municipality, may due regard being had to public safety, the preservation of Municipal property and all other relevant circumstances, impose such conditions as it deems necessary in respect of the planting of grass, flowers and small shrubs as contemplated in subsections(a) and (b).

PART D

BUILDINGS

6. Encroachments

With the consent of the Municipality;

- (a) An overhanging roof maybe erected over a street boundary or building at a height of at least 2,75 m above the finished ground level, measured from the finished ground level to the lowest point of the overhanging roof;
- (b) foundations that are atleast 0.75m under the ground level may exceed a street boundary or building line by a maximum of 0.5m;
- (c) a sunshade or overhead lamp may exceed a street boundary or building line, provided that there is a head clearance of atleast 2.1m, measured from the finished ground level to the lowest point of such sunshade or overhead lamp; and
- (d) a projection from any eaves may exceed a street boundary or building line

7. Restriction on the erection of buildings

- (a) no building may without the express permission of the municipality be erected so that the building at its nearest point to a natural watercourse, nearer to the centre of the natural watercourse than to a line indicating the maximum level likely to be reached every fifty years on average by flood water in water course.
- (b) for the purpose of subsection(a) the municipality is the sole judge as to the position of the line and the centre of the natural watercourse.

- (c) for the purpose of this section, a natural watercourse means a topographic land depression that collects and conveys surface stormwater in a definite direction and includes any clearly defined natural channel that conveys water in a definite course along a bed between visible banks, whether or not the channel's conformation has been changed by artificial means and whether or not the channel is dry during any period of the year.

9. Building activities that need approval of the Municipality

Generally building activity that requires approval of the Municipality includes the following:

- (a) Constructing a new building or other structures such as sheds, towers, temporary structures,
- (b) Extending existing buildings,
- (c) Undertaking alterations to an existing building including structural alterations, altering internal walls and partitions,
- (d) Installing new or altering existing services such as electrical or hydraulic works,
- (e) Demolishing or removing buildings, engineering works or services,
- (f) Installing signs, antennas or some fences.

10. Construction of unapproved building plans

Any proposed use or development on the erf requires the approval of the municipality. This includes any construction or demolition of a building, carrying out of any internal alterations to an existing building, or the carrying out of works on the erf.

The municipality is responsible for the following in accordance to this By- Law:

- (a) processing and approving building plans presented by individuals, the private sector, associations and Government Agencies;
- (b) Inspect building constructions from time to time and declare the building fit for occupation upon its completion;
- (c) Control unapproved building construction/connection and prepare reports, issue notices and initiate legal action;
- (d) Issue temporary permits for temporary building applications, work garage buildings, placement of construction materials, erecting tents, film shows and so on;
- (e) Issue compounds for violation of such stalls, temples and placement of building materials within public areas.

Applications will not be assessed until all relevant plans, elevations and supporting information is submitted and appropriate application fee is paid. The primary responsibility of the Municipality is to assess land use and development proposals against the requirements of the Land Use Plan.

Upon receipt of an application the Municipality will first check that the application submission requirements have been met. Once the Municipality is satisfied that the appropriate information has

been submitted, a preliminary assessment of the application will be made to ensure that the proposal is broadly consistent with the requirements of the Land Use Plan. The application will then be referred to other Departments internally for further assessments.

Where appropriate, the comments requirements of other Departments within the Municipality may be addressed via conditions on the planning permit issued by the Municipality. Once the authorities have commented upon an application, the Municipality will prepare a report and recommendations on the proposal for consideration. Where appropriate this will include additional conditions that address the requirements of authorities.

Subject to municipal adoption of the recommendation, a planning permit and/or approval will be issued for the development. Once the municipality has granted planning approval, a building approval is required to be obtained from the municipality. The municipality is required to make an assessment of the development against the Building Regulations By-Law and any other relevant legislation. Importantly the Building Regulations By-Laws presents the Municipal officials from issuing any approval which is not consistent with the approved Master Plan

11. Exemptions from requiring building approval

There are numerous minor works that may not require formal building approval but will still require a minor work order. Examples are:

- (a) Minor painting;
- (b) Some minor landscaping works;
- (c) Some minor repair and maintenance works;
- (d) Works that the municipality deems to be minor.

Advice is to be sought from the municipality, who will liaise with the individual as whether the proposed works are exempt. No works are to commence until advice is sought.

12. Building approval requirements

An application for building approval is required to be lodged with the responsible municipal official (Building Inspector) who will forward it with appropriate comment(s) to the Director Infrastructure, Planning and Development. Generally this will require an application form to be completed, appropriate drawings and or details to be submitted depending on the extent of the works and payment of the application fee which is based on the cost of works. Prior to the building approval being issued, consent for the works must be issued by municipality.

13. Certificate of occupancy

Before a building may be occupied or used, a certificate of compliance for Occupancy / Use is required to be obtained from the Municipality. This allows individual to legally occupy or use the building or works you have just completed.

14. Penalties for construction of unapproved building plans

This Building Regulations By-Law gives authority to the responsible Municipal official to issue on-the-spot fines for building activity undertaken without formal building approval and for new buildings occupied or used without a Certificate of Compliance.

15. Penalties for altering of existing structure before approval

It should be noted that heavy penalties exist for non-compliance with the Building Regulations By-Law.

16. Construction of shacks on proclaimed areas and Procedures relating to the termination of unauthorized informal settlements

- (a) As soon as a determination of the status of an unauthorized informal settlement has been made and within a reasonable period, the Director Infrastructure, Planning and Development must, personally or through a subordinate official designated by him or her for that purpose, visit the informal settlement and notify the residents of the status of the unauthorized informal settlement by means of a written notice hand-delivered to each shack in the informal settlement.
- (b) The written notice contemplated in subsection (a) must:-
- (i) Notify the residents of a shack in the unauthorized informal settlement that their occupation of the shack and the site or stand on which it is situated is illegal; and
 - (ii) Request the residents of the shack to vacate the shack and remove any building materials and other personal property from the unauthorized informal settlement within a period of 24 hours after receipt of the written notice.
- (c) If the residents notified in terms of subsection (a) cooperate and vacate their shacks and remove building materials and other personal property from the site or stand in the unauthorized informal settlement, the Director Infrastructure, Planning and Development must take such steps as he or she may deem appropriate to prevent a recurrence of any incident of land invasion or illegal land occupation on that site, stand or unauthorized informal settlement and must regularly monitor the situation to ensure the non-recurrence of such land invasion or illegal land occupation.
- (d) If the residents notified in terms of subsection (a) fail to cooperate and vacate their shacks and remove their building materials and other personal property from the site or stand in the unauthorized informal settlement, the Municipality must immediately institute the necessary legal procedures to obtain an eviction order contemplated in subsection (e).
- (e) Within a period of 24 hours after the expiry of the period stipulated in the written notice contemplated in subsection (a), the Municipality must lodge an application in a competent court to obtain an eviction order contemplated in section 4, 5 or 6 of the Prevention of Illegal Eviction from an Unlawful Occupation of Land Act, 1998 (Act 19 of 1998), against any person or persons, jointly or severally, occupying or residing in a shack or on a site or stand in the unauthorized informal settlement.
- (f) The Municipality must, within a period of 24 hours after obtaining the eviction order referred to in subsection (e), deploy relevant Municipal officials or service provider to execute the eviction order and to terminate the unauthorized informal settlement by-

- (i) evicting the residents of the unauthorized informal settlement;
- (ii) demolishing and removing all shacks and removing all building materials and other personal property from the unauthorized informal settlement; and
- (iii) disposing of the building materials and other personal property in accordance with the provisions of these bylaws as per section 16 (f) (i)(ii).

(g) Any costs incurred by the Municipality for the purpose of executing the provisions of this By-Law must be borne by the Municipality in accordance with its approved budget.

17. Disposal of building materials and personal property

(a) In the execution of the provisions any building materials and other personal property belonging to a resident or occupier of a shack in an unauthorized informal settlement must be removed and stored in a safe place by the Municipality .

(b) If the building materials and other personal property contemplated in subsection 17 (a) are not claimed by their owner within a period of thirty days after the date of the removal and storage, the building materials and personal property must be sold to the best advantage by the Municipality, or a person designated by the Municipality, who must, after deducting the amount of any charges due or any expenses incurred, deposit the net proceeds into the Municipality's Revenue Account, provided that-

- (i) subject to the laws governing the administration and distribution of estates, nothing in this subsection contained may deprive the heir of any deceased person of his or her right to the balance of the proceeds of the property; and
- (ii) any building materials or other personal property which is, in the opinion of an authorised Municipal Official, valueless and unable to realize any meaningful amount may be destroyed, abandoned, dumped or otherwise disposed of.

(c) The Director Infrastructure, Planning and Development must compile and maintain a register in which is recorded and appears-

- (i) particulars of all building materials or other personal property removed and stored in terms of this By-Law;
- (ii) the date of the removal and storage of building materials or other personal property in terms of subsection (a) and the name and site or stand number of the owner of the building materials or personal property; and
- (iii) the signature or left thumb print of the person who is claiming ownership and to whom delivery of building materials or other personal property has been made; or
- (iv) full details of the amount realized on the sale of the building materials or other personal property in terms of subsection (ii) and the date of the sale; and

- (v) if building materials or other personal property has been destroyed, abandoned, dumped or otherwise disposed of in terms of subsection (ii), a certificate by the Director Infrastructure, Planning and Development to the effect that the building materials or personal property was valueless.
- (d) Neither the Municipality nor any of its officials acting within the reasonable scope of their authority are liable for any loss of or damage to property or injury to any resident or occupier of a shack in an unauthorized informal settlement or any other person for any reason whatsoever.

18. Enclosures

Where a piece of land is enclosed in any manner whatsoever, the enclosure must be designed, erected and maintained in accordance with any provisions of this By-Law.

19. Roofs

- (i) Sheet metal/corrugated iron that is used for a roof and that is visible from a street or a surrounding erf must be properly painted within 15 (fifteen) months after construction thereof if the municipality so requires.;
- (ii) no roof surface may have a luminous finish.

PART E

NOTICES

20. Notices

- (i) by an officer of the Municipality who is duly authorised thereto, every notice, order or other document issued or served by the Municipality in terms of this By-Law is valid if signed
- (ii) any notice, order or other document, or a true copy thereof, must be delivered personally to the person to whom it is addressed or must be delivered at his or her last-known residence or place of business; or
- (ii) any notice, order or other document, or a true copy thereof, must be posted to the person to whom it is addressed at his or her own last known residence or place of business, in which case it will be deemed to have been served five days after it was posted.
- (iv) in every notice, order or other document issued or served in terms of this By-Law, the premises to which the notice, order or document relates must be specified, but the person for whom it is intended may be referred to as "the owner" or "the occupier" if his or her name is not known.

PART F

OFFENCES & PENALTIES

21. Offences and Penalties

- (i) notwithstanding any provision of this By-Law in which an offence is explicitly specified, any person who contravenes or fails to comply with any provision of this By-Law commits an offence and is **on conviction liable to a penalty not exceeding the fine and**

imprisonment in terms of section 105 of the Local Government ordinance, 1939.

- (ii) a person commits an offence if he or she fails any way to comply with a notice which has been served on him or her by the municipality and in which he or she is ordered to do or not to do something and where such failure continues and is, with regard to every offence, on conviction liable to a penalty not exceeding the fine and imprisonment prescribed in terms of section 105 of the Local Government Ordinance, 1939.

PART G

TIMEFRAME FOR ERECTION/CONSTRUCTION

22. Timeframe for erection/construction after purchasing a stand

The "owner" of the property shall be given a timeframe of maximum of three years to erect/construct a building on an empty stand. The three years will be calculated from the date of purchase and should the owner fail to comply with this clause, the municipality will take legal steps deemed fit in accordance with non-compliance of this By-Law:

23. COMMENCEMENT DATE

This By-Law shall commence on the 9th February 2016.

24. SHORT TITLE

This By-Law shall be called Building Regulations By-Law of Ubuhlebezwe Local Municipality.