

Mbizana, South Africa

## Control of Temporary Advertisements

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# Mbizana South Africa

## Control of Temporary Advertisements By-law, 2017

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**Commenced on 24 April 2017**

*[This is the version of this document from 24 April 2017 and includes any amendments published up to 1 March 2023.]*

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 ([Act 32 of 2000](#)) read with Section 162 of the [Constitution of the Republic of South Africa Act 1996 \(Act 108 of 1996\)](#) the By-Laws in respect of the Control of Temporary Advertisements which by-laws shall come into operation on the date of publication thereof.

### 1. Purpose

The purpose of these by-laws is to regulate, limit, prohibit, inspect, supervise and levy moneys with regard to the erection, display and use of temporary advertisements of whatever nature, on or visible from any street or public space.

### 2. Definitions

For the purposes of these by-laws, unless the context otherwise indicates-

"**advertisement trailer**" means any trailer on which an advertisement sign is mounted with the sole purpose of displaying the advertisement to the public;

"**advertising**" means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

"**aerial sign**" means an aerial sign and includes any sign in the form of an air balloon or a sign which is displayed in the sky by means of balloons, searchlights, aeroplanes or similar aids;

"**banner**" means any flag-type temporary advertisement which is tied to poles with ropes or similar material;

"**commercial poster**" means any temporary advertisement of a commercial nature advertising any event, meeting, gathering, activity, product, service or the sale of any goods;

"**control areas**" means those areas as determined by the municipality from time to time in which degrees of advertising control are applied in accordance with the visual sensitivity of such areas and traffic safety conditions;

"**directional sign**" means any sign with the purpose to make known or which indicates the route to and location of any meeting, gathering, event, exhibition, show house or any property which is for sale or to let, excluding any such sign erected by the municipality;

"**election material**" means any advertisement or advertising device which is displayed or is in any way whatsoever visible from a street or any public place and which is used in connection with a parliamentary or municipal election, referendum or plebiscite;

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

"**non-commercial poster**" means any temporary advertisement which is not of a commercial nature announcing or attracting public attention to any meeting, event, function, activity, show, market or undertaking of a sports, welfare, educational, political or religious nature or to the candidature of any person nominated for election to parliament, local government or any similar body or to a referendum;

"**public place**" includes any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path, sidewalk, lane, square, open space, garden, park or enclosed space vested in or under the control of the municipality.

"**street**" includes any street, road or thoroughfare shown on the general plan of a township, agricultural holdings or other division of land or in respect of which the public have acquired a prescriptive or other right of way and includes a sidewalk adjacent to such a street, a traffic island, bridge or subway forming part of such a street.

"**tariff**" means any charge or deposit determined from time to time by Municipality in terms of section 10G (7) of the Local Government Transition Act, Second Amendment Act, 1996 ([Act No. 97 of 1996](#)) or any other applicable law in respect of the display or any temporary advertisement in terms of these by-laws;

"**temporary advertisement**" means any visible representation of a word, name, letter, figure object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of transferring information including any non-commercial poster, commercial poster, banner, aerial sign, directional sign, election material, advertisement trailer, "For sale" or "Sold" sign which is not permanently fixed and where it is not intended to be permanently fixed.

### 3. **Permission to display**

- (1) The Municipality shall from time to time define control areas and allocate the types of temporary advertisements which shall be allowed and/or prohibited in each of the aforesaid control areas.
- (2) Unless the prior written approval of Municipality has been obtained, no person shall affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement in or in view of any street or public place within the relevant control area where that type of temporary advertisement is allowed.
- (3) Where temporary advertisements are prohibited within the control areas as defined by Municipality, no person shall in or in view of any street or public place affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement.

### 4. **Manner of application to obtain permission**

An application for permission to display or distribute a temporary advertisement shall be made on the prescribed application form and be accompanied by the applicable tariff and deposit as determined by the Municipality plus a sketch plan or sample of the temporary advertisement if feasible as the case may be. Such sketch plan or sample shall contain sufficient detail describing the nature, dimensions, wording and method of affixation of the temporary advertisement to which it relates, provided that the Municipality shall, at all times, reserve the right to obtain such additional information as it may deem necessary from the applicant.

### 5. **Approval in respect of the display of temporary advertisements**

- (1) If the Municipality, having considered an application referred to in Section 4, is satisfied that the application in question complies with the requirements of these by-laws and any other applicable law, it shall grant its approval in respect thereof.
- (2) (a) If the Municipality, having considered an application referred to in Section 4, is not so satisfied, it shall refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.

- (b) If the Municipality, having considered an application referred to in Section 4, is satisfied that the temporary advertisement to which the application in question relates-
- (i) is to be erected in such manner or will be of such nature or appearance that-
    - (aa) the area in which it is to be erected will probably or in fact be disfigured thereby;
    - (bb) it will probably or in fact be unsightly or objectionable;
    - (cc) it will probably or in fact derogate from the value of adjoining or neighbouring properties;
  - (ii) will probably or in fact be dangerous to life or property,
- the Municipality must refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.

## 6. Deposits and charges

Whether or not permission therefore has been granted in terms of these by-laws, no temporary advertisement shall be erected or displayed, unless the prescribed tariff or tariffs have been paid to Municipality by the applicant.

## 7. Refund of deposit

A deposit paid in terms of Section 6 shall be refunded to the applicant, subject to the provisions of Section 18, only when-

- (1) all the temporary advertisements to which the deposit relates, have been removed to the satisfaction of Municipality; or
- (2) an application for approval has been refused by Municipality.

## 8. Exempted advertisements

- (1) The following temporary advertisements are exempted from the provisions of these by-laws:
  - (a) Applications in terms of Municipality's town-planning scheme or other legally prescribed advertisements regarding building or similar activities where such advertisements are erected within the boundaries of the site where the activities are taking place; and
  - (b) temporary advertisements which are erected in or on business premises with the previously obtained permission of the owner or tenant of the building.
- (2) A temporary advertisement of a newspaper or magazine which is offered for sale to the public at a specific time, is exempted from the other provisions of these by-laws, only if such display is undertaken-
  - (a) on a stand or container, or place previously approved by Municipality; and
  - (b) the sign only shows headlines of the newspaper or magazine concerned.
- (3) The Municipality may, in its sole discretion, in writing deviate from or grant an exemption in respect of one or more of the provisions of these by-laws after an application in writing has been received for such exemption and it shall be lawful for the Municipality to impose such conditions as it may deem fit in granting such exemption.

## 9. Prohibited advertisements

- (1) No temporary advertisement which, in the opinion of Municipality-
  - (a) is suggestive of anything indecent or which may prejudice the public morals;
  - (b) is blasphemous or offensive to the religious convictions or feelings of any inhabitant of the municipal area;
  - (c) brings any section of the inhabitants of the municipal area into ridicule or contempt;
  - (d) is harmful to the relations between persons or groups of persons;
  - (e) is prejudicial to the safety, general public welfare or the peace or the good order; or
  - (f) is repugnant with any other law,shall be displayed or distributed in any form whatsoever.

## 10. General requirements regarding temporary advertisements

- (1) No temporary advertisement shall be placed in such a position or be attached in such a manner that it may, in the discretion of the Municipality, be dangerous to vehicular traffic or pedestrians in a street or in any other public place.
- (2) Every temporary advertisement shall be maintained by the owner or applicant in a good and safe condition at all times and to the satisfaction of Municipality.
- (3) No temporary advertisement shall be positioned in such a way that any road traffic sign or robot shall be obscured thereby.

## 11. General requirements regarding posters

- (1) Unless otherwise specifically specified in these by-laws, every commercial and non-commercial poster and election material shall comply with the following requirements:
  - (a) The poster shall be affixed to a suitable and solid material, in such a way that it will not become totally or partially detached owing to wind or rain.
  - (b) Neither the material nor the poster itself may in extent exceed 600mm by 900mm.
  - (c) The poster shall be placed only on or against or be affixed to or against an electrical pole in a street.
  - (d) The poster shall be attached to electric poles with wire or string or any other material approved by the Municipality.
  - (e) The top end of all posters which are fixed to an electrical pole in a street, shall not be closer than 1,5m of the conductors.
  - (f) No poster shall be erected lower than 2m from ground level on street corners.
  - (g) No poster shall be erected on or against or affixed to or against any tree, road traffic sign or robot pole.
  - (h) No poster shall be displayed for a longer period than between fourteen days prior to the day on which the activity to which the poster relates begins to three days after the day of such activity.
  - (i) A sticker for control purposes shall be issued by the Municipality for each poster, excluding election material, and the applicant himself shall affix such sticker to each of the approved posters.

- (j) With the exception of election material, not more than one hundred posters in respect of any meeting, event, function, activity, show, market or undertaking shall be displayed at any one particular time.

## 12. Election material

- (1) In respect of any election material, the following further conditions and/or requirements shall be compiled with:
  - (a) No election material shall be displayed for longer than a period stretching from the announcement of the election, referendum or plebiscite to the end of the fourth day after midnight of the election day or the polling day; provided that nothing contained in this section shall have any bearing on specific election material regarding such election which is-
    - (i) displayed in or on a private motor vehicle which is parked or driven in a street or in another public place;
    - (ii) erected on the premises of the polling station as determined by the Returning Officer on the day before an election, by-election, referendum or plebiscite and which is to be removed not later than the day following the election.
- (2) No. election material by political parties shall be erected or affixed on the premises of a polling station at a position determined by the Returning Officer earlier than a day prior to the election day concerned and such material shall be removed on the day following the election day by political parties responsible for same.
- (3) Not more than the number of posters as indicated hereunder shall be displayed at any one particular time with regard to a parliamentary or municipal election, referendum or plebiscite:  
Parliamentary election: 1 500 per party.  
Municipal election: 300 per candidate per ward and 1 500 per party.  
Referendum: 1 500 per party.  
Plebiscite:
  - (i) Municipal: 1500 per party.
  - (ii) Parliamentary: 1 500 per party.

## 13. Banners

- (1) With regard to banners, the following further conditions and/or requirements shall be complied with:
  - (a) The Municipality shall from time to time determine such sites where banners may be displayed.
  - (b) Only one banner may be displayed per determined site.
  - (c) The municipality shall allocate a specific site to successful applicants for a period of seven days, provided that the period of allocations shall not overlap.
  - (d) The municipality shall have the right to remove any banner which becomes unsightly, untidy or which is torn or damaged on account of wind or for any other reason, and, as a result becomes dangerous to the public and the municipality shall not be obliged to refund to the applicant any tariffs paid in respect of a banner so removed.
  - (e) The banner shall, in extent not exceed 1m x 8m and shall be made of a material acceptable to the municipality.

- (f) Only one banner may be erected per candidate or per party during a parliamentary election, referendum or plebiscite irrespective of the number of determined sites.

#### 14. Aerial signs

- (1) With regard to aerial signs, the following further conditions and/or requirements shall be complied with:
  - (a) The mooring-ropes must be tied in such a way that no road traffic sign, surrounding construction or overhead electricity lines will be damaged or affected.
  - (b) The erection of the aerial sign shall be in the discretion of the Municipality and the Municipality shall retain the right to withdraw its permission, should the aerial sign become unsightly or untidy or dangerous to the public and request the owner or applicant to remove same, at his or her own cost, if the sign has already been erected.
  - (c) Should the owner or applicant fail or refuse to remove the aerial sign referred to in subsection (b) the Municipality shall be entitled to remove same and recover the cost of removal from the owner or applicant as the case may be.
  - (d) The Municipality shall not be obliged to refund to the applicant any tariffs paid in respect of an aerial sign removed in terms of this section.
  - (e) The aerial sign may be displayed for a maximum period of twenty one days before the date of the activity to which it relates and shall be removed within 48 hours after such activity has ended.

#### 15. "For Sale" and "Sold" signs

- (1) With regard to "For Sale" and "Sold" signs of fixed property the following further conditions and/or requirements shall be complied with:
  - (a) The sign shall, in extent, not exceed 600 mm × 450mm.
  - (b) The sign shall be erected or attached within or on the boundaries of any site or erf.
- (2) The person who erects a "For Sale" and "Sold" sign on a site or erf is, notwithstanding the provisions of Section 6, exempted from the requirement relating to the obtaining of the prior written approval from Municipality in terms of these by-laws as well as from the obligation to pay any tariff to the Municipality in terms of these by-laws .

#### 16. Directional signs

- (1) With regard to directional signs, the following further conditions and/or requirements shall be complied with:
  - (a) A maximum of twenty (20) directional signs in respect of any specific meeting, gathering, event, exhibition, show house or any property which is for sale or to let may be exhibited at any one time.
  - (b) No directional sign may be exhibited for more than seven days before and two days after the occurrence of the event to which it relates.
  - (c) No directional sign shall be erected in such a way that the free movement of pedestrians on a pavement may be obstructed thereby.
- (2) The person who erects a directional sign is, notwithstanding the provisions of Section 6 exempted from the requirement to obtain the prior written approval of Municipality and also from the obligation to pay any tariff to the Municipality in terms of these by-laws.



## 17. Advertisement trailers

- (1) With regard to advertisement trailers, the following further conditions and/or requirements shall be complied with:
  - (a) The Municipality shall from time to time determine specific parking bays for the parking of advertisement trailers on municipal and/or private property.
  - (b) The advertisement trailer may only be parked on the designated parking bay determined by Municipality, and only one advertisement trailer may be parked on one parking bay.
  - (c) The advertisement trailer may be parked on one specific parking bay for a maximum period of seven days.
  - (d) The advertisement trailer shall be properly secured in order to withstand strong winds and weather conditions.
  - (e) The advertisement trailer shall not be towed for the sole purpose of displaying the advertisement sign, which is mounted on the trailer, to the public during the movement and may only be towed to and from the designated parking bay.
  - (f) The advertisement trailer shall not be towed in any public street if, in the opinion of Municipality, it will probably or in fact cause a hindrance to or an obstruction to any traffic in such street.
  - (g) The advertisement sign on an advertisement trailer shall not be self illuminated.
  - (h) The design and construction of any advertisement trailer shall conform to the requirements of the Road Traffic Act, 1989 ([Act No. 29 of 1989](#)), and SABS Standards for trailers.

## 18. Failure to remove signs

Any person who, after he has displayed or caused to be displayed any temporary advertisement, fails to remove it or have it removed after the permission therefor has lapsed or is withdrawn in terms of these by-laws, commits an offence and, apart from any fine which he has to pay in terms of Section 21 of these by-laws, shall also forfeit the deposit paid by him to the municipality in terms of these by-laws.

## 19. Damage to municipal property

No damage shall be caused to any tree, electrical pole or any municipal property or services as a result of the erection and or display of any temporary advertising sign in terms of these by-laws and any person who causes such damage or negligently fails to prevent such damage from occurring shall be guilty of an offence and, apart from the fine imposed upon him in terms of these by-laws, shall be responsible for the repair, at his own expense and to the satisfaction of the Municipality of such damage; provided that Municipality may repair such damage and recover the cost thereof from such person.

## 20. Exemption from liability

The municipality shall not be responsible for any loss, damage, injury or death to anything or any person in respect of any action taken by such person or the Municipality in terms of these by-laws.

## 21. Offences and penalties

- (1) Any person who:-
  - (a) contravenes any of the provisions of these By-laws or fails to comply therewith, or
  - (b) contravenes or fails to comply with any order made hereunder or any notice served in connection herewith,

shall be guilty of an offence and upon conviction be liable to -

- (i) a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

## **22. Repeal of By-Laws**

Any other by-laws adopted by the municipality or a municipality now comprising an administrative unit of the municipality and relating to the control of temporary advertisements are, from the date of promulgation of these by-laws, repealed.