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**Mbizana
South Africa**

Milking sheds and the Transport of Milk By-law, 2009

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The Municipal Manager of the Municipality of Mbizana, in terms of section 13 of the Local Government: Municipal System Act, 2000 ([Act 32 of 2000](#)), read with section 162 of The [Constitution of the Republic of South Africa, 1996](#) (Act 108 of 1996), publishes the Mbizana Local Municipality: Milk By-laws, which have been approved by the Municipal Council.

Chapter I

1. Definition

In these By-laws, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act must have that meaning and,

"adequately ventilated and illuminated" means ventilated and illuminated by means of windows with an uninterrupted transparent area equal to at least ten percent of the floor area and with an area which can be opened equal to at least 5 percent of the floor area and so placed that cross ventilation is facilitated;

"approved milking shed" means a milking shed in respect of which a certificate of acceptability has been issued and is in force, and, in the application of sections 2(1) and 7(1), includes a milking shed in respect of which a provisional certificate of acceptability has been issued and is in force;

"certificate of acceptability" means a certificate of acceptability as referred to in [section 3](#);

"dairy stock" means cows, she-goats, ewes, mares or jenny asses used in the production of milk for human consumption and "milk animal" have a corresponding meaning;

"disposal system" means a subterranean or ground-level tank or other vessel, sewerage system, dam or farm-land into or onto which effluent may be discharged;

"effluent" means any liquid, liquid or solid waste or liquid or solid manure emanating from a milking shed;

"existing milking shed" means a milking shed legally used as such immediately before the date of commencement of these By-laws;

"holder" means the person in whose name a certificate of acceptability has been issued;

"inspector" means person contemplated in section 53(1) of the Act;

"milking parlour" means that area of the milking shed in which dairy stock are milked;

"milk tanker" means a vehicle for transporting milk in bulk;

"Municipality" means Mbizana Local Municipality;

"Municipal Council" means Mbizana Municipal Council contemplated in section 59 read with section 81(2) of the Local Government Municipal Systems Act, 2000 ([Act No. 32 of 2000](#)), in terms of Section 157(1) of the [Constitution of the Republic of South Africa, 1996](#) (Act 108, 1996), or person designated by any legislation or resolution of Municipality to represent it;

"new milking shed" means a milking shed that will be put into use after the date of commencement of these By-laws;

"**own use**" with regard to milk, means milk-

- (a) that is used, or meant to be used, exclusively by the owner or possessor of dairy stock or by such person's household; or
- (b) that is provided free of charge, to employees of such person for the use of such employees or their households;

"**provisional certificate of acceptability**" means clean and clear water that contains no *E. coli* organisms per 100ml and is free from any substance in concentrations detrimental to human health;

"**prescribed fee**" means a fee determined by the Municipality by resolution;

"**the Act**" means the Health Act, 1977 ([Act 63 of 1977](#)).

2. Prohibition on the production of milk except in an approved milking shed

- (1) No person must use a milking shed for the purpose of milking dairy stock in order to produce milk for human consumption, unless the milking shed in which the dairy stock are milked in is an approved milking shed and such milking shed is used in accordance with provisions of these By-laws and the conditions of the certificate of acceptability or provisional certificate of acceptability issued in respect of that milking shed.
- (2) The provisions of subsection (1) will -
 - (a) not be applicable to a milking shed in which milk is produced solely for own use if the said owner or possessor does not so apply on 1 July 1989 or on the date of an order referred to in subsection (3);
 - (b) come into effect in the case of an existing milking shed -
 - (i) if the owner or possessor of the existing milking shed applies within 24 months after the commencement of these By-laws for a certificate of acceptability - on the date on which a certificate of acceptability or a provisional certificate of acceptability, as the case may be, is issued in respect of that milking shed or on the date on which the application is turned down; and
 - (ii) if the said owner or possessor does not so apply within 24 months after the commencement of these By-laws or on the date of an order as referred to in subsection (3), whichever date comes first.
- (3) If a Municipality is of the opinion that an existing milking shed is being used in a way which constitutes an immediate and real health hazard or that a situation has developed in the milking shed constituting such an immediate and real hazard, the Municipality may, despite the provisions of subsection (2)(b), order in writing the owner or possessor of an existing milking shed, not to remove any milk for human consumption from the milking shed until the hazard or situation has been rectified to the satisfaction of the level authority.

Chapter II

3. Application for a certificate of acceptability

- (1) Any person wishing to apply for a certificate of acceptability in respect of a milking shed must apply for it in writing and in his or her application furnish the following information:
 - (a) The name, address and telephone number of the applicant;
 - (b) a title description of the premises; and
 - (c) an indication of the number of staff who are employed, or who will probably be employed, and the maximum number of animals that will be milked.
- (2) Such an application must be submitted to the Municipality in whose area of jurisdiction the milking shed

is located or will be erected together with a layout sketch to a scale of 1:100 of all the milking shed facilities referred to in [section 9](#), consisting of a ground plan, a sectional view and a vertical elevation.

- (3) The Municipality may, in considering the application, request from the applicant or any other person such further information, as he or she may deem necessary.
- (4) The Municipality must not consider an application for the issue of Certificate of acceptability unless an inspector of the Municipality concerned has carried out a full inspection of the premises concerned, and his or her report on such inspection, and recommendation on such issue, is in the possession of the Municipality.
- (5) If the Municipality, on consideration of an application for the issue of a certificate of acceptability, the relevant report and recommendation by the inspector and any other documents tabled or information obtained, is satisfied that the milking shed concerned-
 - (a) complies with all the provisions of these By-laws; and
 - (b) is deemed in all respects suitable for the production and hygienic handling of milk, it must issue in the name of the applicant a certificate of acceptability, in the form determined by the Municipality, in respect of the milking shed concerned.

4. Provisional certificate of acceptability

- (1) If, on consideration of an application, the Municipality has ascertained that the milking shed concerned is in all respects suitable for the production and hygienic handling of milk but does not comply with all the provisions of these By-laws-
 - (a) it must in the case of an existing milking shed; and
 - (b) it may, in the case of a new milking shed,
issue in the name of the applicant a provisional certificate of acceptability, in the form determined by the Municipality, in respect of the milking shed concerned to enable the applicant to modify the milking shed so that it complies with the provisions of these By-laws.
- (2) The Municipality may, at the request of the holder of a provisional certificate of acceptability and on the strength of an inspection report and the recommendation of an inspector, revoke a provisional certificate of acceptability and replace it with a certificate of acceptability.

5. Conditions subject to which a certificate of acceptability or a provisional certificate of acceptability is issued

It is a condition of a certificate of acceptability and a provisional certificate of acceptability that the milking shed, the staff that are employed there and the dairy inspector -

- (a) may be transferred by the holder to someone else only with the prior approval of the Municipality; and
- (b) the milking shed be used in accordance with the provisions of these By-laws.

6. Transfer of a certificate of acceptability

- (1) A holder intending to transfer his certificate of acceptability to someone else must submit the certificate of acceptability, together with a written application for approval of the transfer, to the Municipality which issued the certificate of acceptability.
- (2) If the Municipality approves the application it may in its own discretion endorse the existing certificate of acceptability accordingly and enter the new holder's name on it or cancel the existing certificate of acceptability and issue a new certificate of acceptability in the name of the new holder.

7. Suspension or withdrawal of a certificate of acceptability or a provisional certificate

of acceptability

- (1) If the Municipality has approved a milking shed on the strength of an inspector's report and the recommendation of an inspector, is of the opinion that the milking shed-
 - (a) is being used in such a way that it constitutes an immediate and real health hazard or that a situation has developed in the milking shed constituting an immediate and real health hazard, the Municipality may for as long as, in its opinion that hazard exists suspend the certificate of acceptability or provisional certificate of acceptability concerned and must in writing notify the holder accordingly;
 - (b) is being used contrary to the provisions of these By-laws or the terms and conditions of the certificate of acceptability or the provisional certificate of acceptability, the Municipality must in writing notify the holder accordingly.
- (2) Any notice referred to in subsection (1) must state the particulars which must be sufficient within reason to inform the holder concerned on what grounds the judgement of the Municipality is based, and must instruct the holder to reply within 21 days of receipt of notice to the allegations made in the notice.
- (3) If such a reply is received, the Municipality may, after consideration of the reply received, issue an order to the holder instructing him before a specified date to rectify the similarly specified matters complained about, and stating that if this is not done the certificate of acceptability or provisional certificate of acceptability, as the case may be, may be withdrawn without further notice.
- (4) A notice issued in terms of subsection (1), must be served on the holder or person in charge of the milking shed concerned, and the person on whom the notice is served, must deal, in the manner determined in the notice, with such notice and the certificate of acceptability or provisional certificate of acceptability concerned, in cases where the certificate concerned is suspended or withdrawn
- (5) the suspension or withdrawal of a certificate of acceptability or provisional certificate of acceptability in terms of this section must have the effect that as long as the certificate concerned is suspended and from the date on which the certificate is withdrawn, no milk, produced or received in the milking shed concerned must be used for human consumption.

Chapter III

Requirements and instructions

8. Milking sheds

- (1) (a) An approved milking shed must consist of at least-
 - (i) a milking parlour referred to in subsection (2);
 - (ii) a milk room referred to in subsection (3), where milk must be received from the milking parlour, and where such milk must be stored and may be treated, processed and packed;
 - (iii) a change room referred to in subsection (4); and
 - (vi) a scullery for the washing, cleansing disinfections and sterilization of milk containers and others unfixed apparatus and equipment used in the handling of milk.
 - (b) (i) The facilities referred to in paragraph (a) must, subject to the provisions of subparagraph (i), be erected as separate rooms in one building complex or as separate detached buildings.
 - (ii) A scullery referred to in paragraph (a) must, subject to the provisions of subparagraph (ii), one erected as an integral part or a milk room or as a separate room
- (2) In the case of a milking parlour-
 - (a) there must be no direct connection with a latrine or with a room where gases, smoke, vapours, dust or a soot deposit are present or may originate owing to the nature of the activities in such room;

- (b) which provides standing-room for more than one row of dairy stock parallel with one another, there must be a dividing corridor of at least one metre wide between the rows;
 - (c) the partitions if any, that separate dairy stock from each other when they are being milked, must be of a smoothly finished non-absorbing and corrosion resistant material free of any open seams and cracks;
 - (d) mangers must be arranged so that fodder which accumulates behind the mangers can be removed;
 - (e) the exterior walls-
 - (i) must be at least 2,4 metres high on the inside;
 - (ii) must, at places where dairy stock are milked, extend to at least 2,1 metres above the level on which the dairy stock stand;
 - (f) the interior surfaces of the walls must be smooth and washable;
 - (g) the roof must be of a water-resistant and washable material;
 - (h) the floor must-
 - (i) be of a material which is waterproof and cleanable;
 - (ii) drain thoroughly into a drain which is connected to a disposal system so that no pools of standing water are formed on the floor;
 - (i) such parlour must be-
 - (i) adequately ventilated and illuminated;
 - (ii) provided with at least one water tap with running pure water to which a flexible pipe may be connected for washing purposes; and
 - (j) the entrances and exits for dairy stock must have a floor covering with an impenetrable surface connected to a disposal system, and such floor covering must be installed in such a way that any milk animal entering or leaving the milking parlour must walk on it for a distance of at least 4 metres.
- (3) In the case of milk room-
- (a) such milk room must comply with the provision of subsection (2) (e) (i), (f), (g), (h) and (i);
 - (b) where the scullery forms an integral part of the milk room as referred to in subsection (1) (b) (ii) there must be sufficient space to allow for the cleansing and disinfections of all milk containers, and the storage of milk;
 - (c) the milk room must be provided with at least one sink, with hot and cold piped running pure water and with run-off connected to a disposal system;
 - (d) such milk room must be erected so that a milk pipe from a milk tanker can be connected to a hulk farm tank through a door, and the distance between the two connection points must not exceed 6 metres;
 - (e) such milk room must be rodent-proof;
 - (f) the doors and windows must be dust-proof when closed; and
 - (g) the milk room may be equipped with a bulk farm tank referred to in [section 9\(3\)](#) for the storage of milk.
- (4) A change room must -
- (a) comply *mutatis mutandis* with subsection (2)(e)((i), (f), (g), (h)(i) and (i);
 - (b) have at least one hand wash-basin and one shower provided with piped running pure water for

- every 15 persons or part of this number working at the milking shed concerned, and must be provided with soap, a nail brush and disposable towels, and used water from such hand wash-basin and shower must drain into a disposal system;
- (c) be within easy reach of the milking parlour and milk room.
- (5) Any effluent originating from a milking shed must -
- (a) not be stored, treated or dumped in any place except in or on a disposal system;
 - (b) not be conveyed to or dumped in or on a disposal system in any other way than by means of a pipeline, or cement ditches or in a container;
 - (c) not be dumped so that a water source is or may be polluted by it;
 - (d) not constitute a nuisance or cause a condition that is a health hazard.
- (6) Only pure water must be used at a milking shed.
- (7) A holder must see to it that -
- (a) in a milking shed -
 - (i) a nuisance or condition that is a health hazard is not caused or does not arise;
 - (ii) no poisonous or hazardous substances or gases are stored; or
 - (iii) no activity is carried on which can pollute or harm the milk,
 - (b) rodents, flies, cockroaches and other insects on the premises of the milking shed are controlled.
- (8) A milking shed must not be used for any other purpose except the production and handling of milk.
- (9) Unfixed milk containers and other apparatus and equipment used in the handling of milk must not be washed, cleansed, disinfected or sterilized in a place other than the scullery referred to in subsection (1)(a) (iv).
- (10) No person must use or handle tobacco in any form or eat in a milking shed except in the change room or dining room of a milking shed.
- (11) As soon as milk animal have left a milking shed, all manure must be removed from the milking shed and the floor and all entrances and exits of the milking shed must be washed clean.

9. Milk containers and milking machines

- (1) A milk container-
- (a) must not be made wholly or partly of copper, or any copper alloy or any toxic material;
 - (a) must have a smooth finish, free of open seams, cracks and rust stains;
 - (b) must be constructed in such a way that any surface that comes into contact with milk is accessible for the purpose of washing and disinfections; and
 - (c) must not be used for any other purpose except the handling of milk.
- (2) A milking machine must -
- (a) be manufactured in such a way that the vacuum pipe of the machine can be drained to remove all the moisture;
 - (b) be equipped with a device rendering visible the milk flow from each milk animal, and
 - (c) comply with subsection (1)(a), (b) and (c) with the necessary changes.
- (3) A bulk farm tank must -

- (a) have a drainage incline leading directly to the outlet point,
 - (b) be fitted with an outlet pipe manufactured and fitted in such a way that all liquid can drain out of such tank, and the end of such outlet pipe must be screw-threaded and fitted with a screw-on cap permitting such end to be shut off;
 - (c) be fitted with a stirring mechanism capable, within five minutes of being put into operation, of mixing milk in such tank;
 - (d) be fitted with a thermometer capable of measuring the temperature of the milk in such tank accurately to the nearest 20C;
 - (e) be quipped to cool the milk in such tank to 50C or a lower temperature within three hours, and of keeping such cooled milk at a temperature of between 10C and 50C.
 - (f) be installed at a minimum distance of 0,5 metres from any roof, ceiling wall;
 - (g) be insulated in such a way that when no cooling takes place, the temperature of the milk in such tank must not increase by more than 30C in 12 hours if the surrounding temperature is 32oC;
 - (h) comply *mutatis mutandis* with subsection (1)9a), (b) and (c).
- (4) The tank of a milk tanker must-
- (a) be installed in such a way that it has an incline leading to the outlet pipe so that the total contents of such tank can drain out of the tank through the outlet pipe while the vehicle itself is in a horizontal position;
 - (b) be insulated in such a way that the temperature of the milk in such tank must not increase by more than 2oC every 48 hours; and
 - (c) have at least one opening fitted with a dust-proof lid through which the inside of such tank can be inspected and must be equipped so that all surfaces that come into contact with milk may be washed and disinfected as prescribed in subsection (6);
 - (d) comply with subsection (1)(a), (b) and (c).
- (5) All apparatus used for heat treatment of milk, must be fitted with dial thermometers and thermostats accurate to 0,5oC in respect of the entire given series of scales and, in addition to mechanical temperature and time regulators, such apparatus must have flow-regulating and flow-averting valves by which milk not subject to heat treatment is automatically redirected to the balance tank.
- (6) Milk container and other fixed and unfixd apparatus and equipment must be so washed and disinfected after use that they are clean, that fats and milk residues are dissolved and removed and that the bacteriological count on surfaces coming into contact with milk does not exceed 10 bacteria per 100 mm² of such surfaces after disinfections.

10. Milk

- (1) the first milk from every teat must be taken as a sample to be tested and must be disposed of after testing and if such testing reveals any signs of an abnormality in the milk, the milk of the animal concerned must be kept separate and must not be mixed with other milk nor used for human consumption.
- (2) milk obtained from dairy stock during the first seven days following parturition (post-partum) must not be added to milk destined for human consumption
- (3) Milk must not be transferred from one milk container to another by means of a third container.
- (4) Milk must be protected from direct sunlight.
- (5) Except when milk is being pasteurised or is undergoing some other heat treatment process, the milk must, within three hours of being received in the milk room, be cooled to a temperature of 5oC or lower, but above freezing point, and kept at the temperature until it is removed from the milking parlour.

11. Dairy stock

- (1) Every milk animal must be marked with a distinguishing and indelible mark by which such an animal can be identified.
- (2) A register must be kept of each separate milk animal's diseases each withdrawal from the dairy herd, each return to the dairy herd for milking purposes and all veterinary examinations and veterinary treatment with the name of the veterinary surgeon if a veterinary surgeon was involved in such examinations or treatments.
- (3) Each individual milk animal must be examined by a veterinary surgeon at least once in every two-year cycle and a report must be obtained from the veterinary surgeon.
- (4) The milk of any milk animal that is or appears to be ill must not be made available for human consumption until such time as the holder has made sure that, that animal is not suffering from a disease mentioned in subsection (5).
- (5) The milk of dairy stock that suffers or presumably suffers from-
 - (a) mastitis;
 - (b) in duration of the udder;
 - (c) a secretion of bloody or ropy milk or milk otherwise abnormal;
 - (d) tuberculosis;
 - (e) salmonellosis;
 - (f) acute fever (with the inclusion of anthrax, anaplasmosis);
 - (g) red water;
 - (h) ephemeral fever and lumpy skin disease;
 - (i) septic metritis;
 - (j) septic multiple mange; or
 - (k) serous tick infection or brucellosis,that have any open or septic wounds which may contaminate milk, milk containers, or apparatus or equipment or people who work with the milk animals, must not be made available or used for human consumption unless steps have been taken to the satisfaction of the Municipality to eliminate such health hazard.
- (6) If lubricants are used in the milking process on teats of dairy stock, such lubricants must be kept in containers that are free of foreign matter and direct, and such container when not in use must be covered with tight-fitting lids.
- (7) All flanks, udders, bellies and tails of dairy stock must before the milking process be free of visible dirt and if a flank, udder, belly or tail is washed it must be dried with a clean towel.

12. Milkers and handlers of milk

- (1) The hands and fingernails of every milker or handler of milk must be washed thoroughly with soap and water, and there must be no accumulation of grime under the nails of the milk handler when handling milk.
- (2) Each person handling milk, must daily before the commencement of his or her activities put on clean and undamaged over-clothes and gumboots and wear them continuously while he or she is handling milk.
- (3) No person who suffers from a communicable disease or who has an open sore or abscess on his arms, hands, head or neck must handle milk.

Chapter IV Transport of milk

13. Duties of the driver of a vehicle

If milk is not already packed in its final retail packaging is loaded on a vehicle at a milking shed for transport to a further distribution point or processing point, the driver of such vehicle must-

- (a) before any milk is loaded on such vehicle-
 - (i) carry out an alizarol test (68 percent alcohol) on a sample of the milk to be loaded, which sample must be taken by himself or herself or order the direct supervision, from the milk container from which such milk is to be loaded; and
 - (ii) take the temperature of the milk in the bulk form tank and, if the alizarol test is positive, or if the temperature of such milk in the bulk form tank exceeds 5oC, not accept such milk for transport.
- (b) ensure that a milk tanker or milk container is so cleaned and disinfected as soon as all the milk has been unloaded to the effect that the bacteriological count on the surfaces coming into contact with milk does not exceed 10 bacteria per 100mm² of such surfaces after disinfections; and
- (c) take a sample of milk at every milking shed where milk is loaded and mark such sample with a mark by which the milking shed concerned can be identified and keep that sample separate in a container or that the temperature of the sample does not exceed 5oC at its final destination.

General provisions

14. Exemption

- (1) the Municipality may exempt in writing any person from compliance with some of these By-laws if in the opinion of the Municipality, such non-compliance neither does nor will create a nuisance.
- (2) Such an exemption must be subject to the conditions valid for the period determined and stated in the said document by the Municipality.

15. Appeal

- (1) Any person who is of the opinion that an injustice has been done to him or her by a decision of the Municipality made in terms of these By-laws may appeal to the Minister against such a decision.
- (2) Such an appeal must be lodged within 42 days by the delivery to the Municipality concerned, for submission to the Minister, of a notice in which the grounds for the appeal are stated clearly and concisely.
- (3) The Municipality must, within 14 days of receipt of the said notice, send a copy of-
 - (a) the said notice;
 - (b) a written statement setting out its reasons for the decision being appealed against; and
 - (c) the report and recommendation of the inspector considered by the Municipality in making the decision being appealed against;
 - (d) to the Minister, and copies of the said statement and report to the appellant.
- (4) The appellant may, within 14 days of receipt of the copies of the said statement and report, submit to the Minister a representation.
- (5) The Minister must, upon receipt of the appellant's representation if the appellant submit a representation, consider the appeal subject to the submitted to him or her and he or she may confirm, change or substitute for the decision of the Municipality being appealed against another decision which in his or her

opinion should have been made by the Municipality and order the Municipality to do what is necessary to carry out his or her decision.

- (6) The Director-General must in writing inform the appellant and the Municipality of the outcome of the appeal.
- (7) The commencement of the decision of the Municipality being appealed against, must be postponed from the date on which the notice referred to in subsection (2) is delivered to the date on which the appeal is withdrawn or is finalized by the Minister.

16. Penalties

Any person contravening or failing to comply with any provision of these By-laws is guilty of an offence and liable, on conviction, to a fine or in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

17. Repeal of By-laws

The provisions of any By-laws relating to milking sheds and the transport of milk by the Municipality are repealed insofar as they relate to matters provided for in these By-laws.

18. Short title

These By-laws are called By-laws regulating Milking sheds and the Transport of Milk.