Rusape Town Council (Encroachment on Property) By-Laws 2023

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IT is hereby notified that the Minister of Local Government Public Works has, in terms of section 88 of the Urban Councils Act [*Chapter 29:15*], approved the following by-laws made by Rusape Town Council: —

***Title***

1. These By-Laws may be cited as the Rusape Town Council Encroachment on Property By-Laws, 2023

***Application***

1. These by –laws shall apply within Rusape Town Council area and any local government area the administration, control and management of which is vested in Rusape Town Council.

***Interpretation***

1. In these by-laws

 “Council” means Rusape Town Council –

 “encroachment” means any physical object which intrudes on or over council property,

or property which the Council has control over or other property in respect of which a

servitude or other property right has been registered in favour of the Council or private owner;

 “prescribed” means determined by resolution of the Council;

“public road” means any road, street or thoroughfare or any other place (whether a

thoroughfare or not) which is commonly used by the public or any section thereof or to

which the public or any section thereof has a right of access, and includes –

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such

road, street or thoroughfare;

***Council permission required***

4. (1) No person shall, without prior written permission of Council, make or construct any colonnade, veranda, balcony, bay window, pavement light, showcase or other encroachment on or over any part of a public road, and pavement opening in or under any public road.

(2) The Council may refuse to grant the permission in terms of subsection (1) or may grant such permission either unconditionally or upon the conditions and subject to the payment of the prescribed fee annually.

(3) The prescribed fee mentioned in subsection (2) is payable in advance at the beginning of each year which is calculated from date of the written permission or the date determined by the Council, and the owner of the encroachment is liable for the payment of the prescribed fee for each encroachment.

(4) The owner of an encroachment must within 90 days after the date of commencement of these By-laws notify the Council in writing of -

(a) the existence of the encroachment; and

(b) the horizontal dimension of every encroachment measured - parallel to the road boundary on or over which the encroachment exists

(5) Until the Council is notified of the horizontal dimension of the encroachment in terms of subsection

(4)(b), every encroachment relating to a building is deemed to have an aggregate horizontal dimension equal to the total road frontage on or over which the encroachment exists, of the property on which the building concerned is situated.

(6) Any person who contravenes subsection (1) and (4) shall be guilty of an offense and liable to a penalty as per Council budget.

***Rules for the construction of encroachments***

5. (1) The design, arrangement and construction of a veranda, balcony, bay window or other encroachment on or over a public road, as well as the paving, kerb and gutter thereof must be to the satisfaction of and to the levels approved by the Council.

(2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.

(3) A veranda over a public road must correspond in line, height and detail with existing adjoining verandas.

(4) The owner of an encroachment shall pay to Council approval fees for the proposed encroachment as well as inspection fees as approved by Council.

(5) Any person who contravenes subsections (1), (2)(3) and (4) shall be liable to a penalty as per Council budget.

***Columns***

6. (1) The Council may determine areas within the municipal area where no person is permitted to place veranda columns over any public road or pavement.

(2) No person is permitted to place any veranda column over any pavement where such pavement is less than 2,6 m wide.

(3) No person shall place any veranda column more than 3 m from the building line measured to the outside of the column or at less than 3m centre to centre.

(4) No person shall place any veranda column over any pavement at the corner of a public road that is beyond the alignment of the building lines.

(5) No person shall place a portion of any veranda column at a distance less than 600 mm back from the front edge of any kerb.

(6) No person shall place a twin or double veranda column over any public road or pavement.

(7) If a veranda is supported on columns, the columns shall not have square arris, no base may project more than 50 mm beyond the bottom diameter of the column and the maximum horizontal axial dimensions of such base shall not exceed 350 mm.

(8) If the form of a column is classic in character, the shaft shall have suitable entasis and cap and base in due proportions.

(9) No column, including cap and base, shall be less than 3m or more than 3,6 m in height and more than 4,5 m including plinth.

(10) No person shall, without the prior written permission of the Council place a column on a public road where the footway or sidewalk is, or is likely to be occupied by any cable, pipe or other municipal service.

(11) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3m.

(12) Plain piping or tubing shall not be used for any column for a veranda and balcony over or on a public road unless architecturally treated for aesthetic purposes.

(13) The coping, blocking course or balustrade, if any, shall not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.

(14) Nothing in these By-laws prohibits –

(a) the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same; or

(b) in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment and all the other provisions of these By-laws are complied with.

(15) Any person who contravenes subsections (1) to (14) shall be guilty of an offence and liable to a penalty prescribed as per Council budget.

***Balconies and bay windows***

7. (1) No balcony, bay window or encroachment shall overhang a public road if it is at a height of less than 3m above the pavement.

(2) No balcony shall encroach more than 1,35 m over any public road.

(3) No bay window shall encroach more than 900 mm over any public road.

(4) The aggregate horizontal length of a bay window at any level over a public road shall not exceed one-third of the length of the building frontage on to that road.

(5) Any balcony superimposed upon a veranda must be set back at least 1,2 m from the line of such veranda.

(6) No part of a balcony which is attached to any veranda shall be carried up to a height greater than two storeys above the pavement level except that, if the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.

(7) No dividing wall across a balcony over a public road shall exceed 1 m in height or 230 mm in thickness.

(8) A balcony over any public road shall not be the sole means of access to any room or apartment.

(9) No person shall place or permit or cause to be placed any article upon any balcony over a public road, except ornamental plants, tables, chairs, canvas blinds and awnings not used for signs or advertisements.

(10) If any floor of a building is used solely for the parking of motor vehicles, no bay window at the level of the floor shall project over any public road for more than 1,35 m for the full length of the building frontage on to that road.

(11) Any person who contravenes subsections (1) to (10) shall be guilty of an offence and liable to a penalty as per Council budjet.

***Plinths, pilasters, corbels and cornices***

8. (1) No plinth, pilaster or other encroachment beyond a building line carried up from ground level is permitted to encroach on a public road.

(2) Any pilaster, cornice, corbel or similar architectural feature which is at least 3 m above the ground may not exceed the following encroachment over a public road:

(a) A pilaster: 450 mm the total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and any bay window in the same storey must be included in the calculation of the maximum aggregate length for bay windows;

(b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement;

(c) a cornice: 1,05 m if not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

(3) Any person who contravenes subsections (1) to (2) shall be guilty of an offence, liable to a penalty as per Council budget and or demolition of the structure at owner’s cost.

***Verandas around corners***

9. (1) If a veranda is built around a corner of a public road, it must be properly splayed or rounded to follow the curve of the kerb.

(2) Any person who contravenes subsection (1) shall be guilty of an offence, liable to a penalty as per Council budget and or Council shall cause the demolition of the illegal structure at owner’s cost.

***Pavement openings***

10. (1) No pavement opening shall be the sole means of access to any vault or cellar.

(2) No pavement opening on any public road shall extend more than 1,2 m beyond the building line.

(3) If flaps are permitted in a pavement opening, no flap shall exceed 0,75 square metres in area and shall open upwards and while open, shall be provided with stout iron guardrails and stanchions.

(4) A flap opening shall be opened and used only for the purpose of lowering and raising goods and shall be kept closed except when lowering and raising operations are in progress.

(5) The front wall or wall parallel to the kerb in every pavement opening shall be built with a suitable batter to the satisfaction of the Council.

(6) No pavement opening shall be covered with a metal bar grating or with a metal plate or wood.

(7) Any person who contravenes subsection (1) to (5) shall be guilty of an offence, liable to a penalty as per Council budget and Council shall cause the demolition of the illegal structure at owner’s cost or the encroachment shall be regularized at the discretion of Council upon payment of a regularization fee as per Council budget.

***Maintenance, removal and tenancy of projections***

11. (1) The owner of any encroachment must maintain the encroachment in good order and repair.

(2) Any pavement opening, pavement light, wall thereof and basement wall shall be made and kept water-tight by the owner.

(3) Any person who contravenes subsection (1), (2) shall be guilty of an offence and liable to a penalty as per Council budget.

***Paving of footways or pavements under or in front of encroachment***

12. (1) If any encroachment has been erected or constructed in front of any building, the owner must at his own expense –

(a) pave the whole of the footway or pavement under the encroachment or in front of the building in which the pavement opening is fixed; and

(b) lay the road kerbing and guttering and paving in front of the building for the full width of the footway or pavement.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a penalty as per Council budget.

***Encroachments/Projections***

13. (1) (a) Any person wishing to erect or construct an encroachment on, under or over any public road, or any immovable property owned by or vested in the Council, must apply to Council upon payment a prescribed fee.

(b) Council shall require submission of designs of encroachments for approval. The applicant shall pay design approval fee as per Council budget.

(2) The owner of any encroachment or fixture, whether in the course of construction or erection or completed, on, under or over any public road, is regarded as a tenant in respect of the encroachment and shall be required to pay rental fee as per Council budget. If notified in writing by the Council to remove any such encroachment or fixture. The owner must do so within a reasonable period stated in the notice.

(3) The owner of the building in connection with which any encroachment exists, or is proposed –

(a) shall defray any cost incurred in connection with wires or property of the Council;

(b) shall allow the Council to erect on, or attach to the encroachment or fixture or anything required in connection with electrical or other activities of the Council.

 (4) No person shall obstruct or hinder any authorized officer in the execution of his duties.

(5) any person who contravenes subsections (1),(2),(3) and (4) shall be guilty of an offence and liable to a penalty as per Council budget.