

The Council of Msukaligwa Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-law:

MSUKALIGWA LOCAL MUNICIPALITY

BY-LAW RELATING TO FIRE BRIGADE SERVICES

INDEX

Section

1. Definitions
2. Organisation of service
3. Duty to assist
4. Procedure on the outbreak of fire
5. Closing of streets
6. Obstruction and damage
7. Wearing of uniform and insignia
8. Combustible material
9. Safety of premises and buildings
10. Exits
11. Gas-filled devices
12. Making of fires
13. Fires in chimneys, flues and duets
14. Attendance of firemen
15. Removal of liquid or other substances
16. Payment for attendance and service
17. Exemption from payment of charges
18. False information
19. Telephones, fire alarms and other apparatus
20. Offences and penalties
21. Repeal
22. Application

1. **DEFINITIONS**

(1) In these By-laws, unless the context otherwise indicates –

- “Approved”** means approved by the Director;
- “Director”** means the person appointed by the Council as Director Public Safety for the Department Public Safety or his delegated representative in writing;
- “Council”** means the Msukaligwa Local Municipality;
- “Emergency situation”** means a situation or event which constitutes or may constitute a serious danger to any person or property;
- “occupier”** means any person in actual occupation or control of any land, premises, or building, or any portion thereof without, regard to the title under which he occupies or controls such land, premises, building, or portion thereof;
- “owner”** in relation to land and premises, means the registered owner of the land or premises and includes also any person receiving the rent or profits of such land or premises from any tenant or occupier thereof, whether on his own account or as the agent for any person entitled thereto or interested therein, and in relation to a sectional title scheme, also the body corporate established in terms of the Sectional Titles Act, 1971 (Act 66 of 1971), and in relation to any vehicle it bears its ordinary meaning, and in the case of a deceased or insolvent estate, it shall also include the executor or trustee respectively;

(1) Words applying to any individual shall include persons, companies and corporations, and the masculine gender shall include females as well as males, and the singular number shall include the plural and *vice versa*.

2. **ORGANISATION OF SERVICE**

- (1) The Director may exercise control over any fire fighting organisation and any fire appliance which is at the scene of a fire whether owned by the Council or by any other person, and he shall be entitled to make such use of any fireman, volunteer and any fire appliance and other apparatus as he thinks fit.
- (2) The service may be divided into such sections as the Council may determine and each section shall be under the control of an official appointed by the Council or by the person having such power.

3. **DUTY TO ASSIST**

Any member of a fire brigade service or fire service organization whether it is controlled by the Council or not, shall when called upon to do so by the Director, render all assistance in his power in connection with the combating or containing of a fire or any other emergency situation.

4. PROCEDURE ON THE OUTBREAK OF FIRE

- (1) Where the service has been notified of or there is reason to believe that an outbreak of fire or other situation has occurred where the services of the service are required, the Director shall, together with such personnel and appliances as he thinks necessary, forthwith proceed to the place where the fire or other situation is taking place or where he has reason to believe that it is taking place.
- (2) The Chief Fire Officer appointed in terms of the Fire Brigade Services Act, 1987 may assume command of, or interfere with, or put a stop to any existing situation or any operation being conducted in respect of a fire by any person not employed in the service, including the owner of the premises and his employee or agent and no person shall fail to comply with any order or direction given by the Director in pursuance of this subsection.

5. CLOSING OF STREETS

- (1) The Director or any fire officer, or any traffic officer or any member of a police force may close off any street, passage or place for as long as he deems necessary for the effective fighting of a fire or dealing with any emergency situation.
- (2) Any person ordered to leave an area closed off in terms of subsection (1), shall forthwith obey such order.

6. OBSTRUCTION AND DAMAGE

- (1) No person shall interfere with, or hinder any official of the service, or any traffic officer or member of a police force or other person acting under the orders of such official, officer, or member in the execution of his duties under these By-laws or any law.
- (2) No person shall wilfully or negligently drive a vehicle over any hose, or damage, tamper with or interfere with any such hose or any appliance or apparatus of the service.

7. WEARING OF UNIFORM AND INSIGNIA

- (1) No person other than a member of the service shall wear a uniform of the service or wear any uniform intended to convey the impression that he is such a member, or in any other manner represent himself to be a member of the service.

8. COMBUSTIBLE MATERIAL

- (1) Where the Director is of the opinion that any person -
 - (a) stores or causes or permits to be stored, whether inside or outside any building any timber, packing cases, forage, straw or other combustible material in such quantities or in such a position or in such manner as to create a danger of fire to any building; or
 - (b) in occupation or control of any premises permits any trees, bushes, weeds, grass or other vegetation to grow on such premises, or any rubbish to accumulate thereon in such a manner or in such quantities as to create a danger of fire to any building or any premises;

the Director may by notice in writing require such person or the owner or occupier or the person in charge of the premises to remove the said combustible material or grass, weeds, trees, other vegetation or rubbish, or to take such other reasonable steps to remove the danger of fire as he may prescribe in such notice by a specified date.

- (2) Where there has been no compliance with the requirements of the notice the Director may take such steps as he deems necessary to remove such danger and the cost thereof shall be paid to the Council by the person to whom the notice was directed.

9. SAFETY OF PREMISES AND BUILDINGS

- (1) The Director may, whenever he deems it necessary and at any time, which in his opinion is reasonable in the circumstances -

- (a) enter any land, premises or building and inspect –
- (i) such land, premises or building for the purpose of ascertaining whether any condition exists which may cause a fire or emergency situation, or which may increase the danger of, or contribute towards the spread of fire, or the creation of any emergency situation, or jeopardise or obstruct the escape of persons to a place of safety;
 - (ii) any fire-alarm, sprinkler system or other fire-fighting or fire-detecting appliance;
 - (iii) any manufacturing process involving the danger of fire or explosion;
 - (iv) the method of storing of any flammable gas, chemicals, oils, explosives, fireworks or any hazardous substance; and
 - (v) any installation making use of the substances referred to in subparagraph (iv);
- (b) give such directions as he may deem necessary for lowering the risk of fire or for the protection of life and property.

- (2) Where the Director finds on any premises –

- (a) any flammable, combustible or explosive matter is so stored or used as to increase the risk of fire or the danger to life or property;
- (b) any situation, or practise existing, which in his opinion is likely to cause or increase such danger or is likely to interfere with the operation of the service or the escape of persons to a place of safety; or
- (c) any defective, inferior or an insufficient number of fire appliances;

he shall subject to the provisions of subsection (3), direct the owner or occupier of such land, premises or building to forthwith take such steps as he may deem expedient for the elimination of the danger.

- (3) Should the Director find in any building or on any premises -

- (a) any obstruction on or in any fire-escape, staircase, passage, doorway or window; or
- (b) a fire-escape or means of escape which, in his opinion would, in the event of fire be inadequate for the escape to a place of safety of the number of persons likely to be in such building or premises at any time; or
- (c) any other object or condition of a structural nature or otherwise, which, in his opinion, may increase the risk of fire or the danger to life or property; or

- (d) that a fire-alarm or other communication system is required;

the Director shall notify the owner or occupier of such building in writing of his findings, and require of him to take such steps at such owner or occupier's own cost to rectify the irregularity within such time as is stated in such notice.

- (4) Where the owner or occupier fails or refuses to comply within a reasonable time with a direction in terms of subsection (2), or to implement the requirements of a notice in terms of subsection (3) within the time specified in such notice, the Council may take such steps as are, in the opinion of the Director, necessary to remove such risk or danger and the Council may recover from such owner or occupier any expenditure incurred thereby.

10. EXITS

Every door which affords an escape route from a public building to a place of safety shall be kept unlocked and shall be clearly indicated with approved exist signs: Provided that such door may be locked by means of an approved device installed in such a manner as to enable such door at all times to be opened from the inside of such building.

11. GAS-FILLED DEVICES

- (1) No person shall fill any balloon, toy or other device with flammable gas without the written permission of the Director, who may impose such conditions as he may require having regard to all the circumstances of the case: Provided that such permission shall only be granted after the person concerned has furnished the Council with an indemnity in the form set out in the appropriate Schedule thereto.
- (2) No person shall keep, store, use or display or permit to be kept, used, stored or displayed any balloon, toy or other device filled with flammable gas on or in any land, building or premises to which the public has access or which is used as a club or any place of assembly.
- (3) Nothing in this section contained shall be so construed as to prevent the use of balloons filled with hydrogen for meteorological or other *bona fide* scientific or educational purposes.

12. MAKING OF FIRES

- (1) No person shall make a fire, or cause, or permit a fire to be made in such a place or in such a manner as to endanger any building, premises or property.
- (2) Subject to the provisions of any other law, no person shall, without the written permission of the Director, burn any rubbish, wood, straw or other material in the open air or cause or permit it to be done, except for the purpose of preparing food.
- (3) Any permission granted in terms of subsection (2) shall be subject to such conditions as are imposed by the Director.

13. FIRES IN CHIMNEYS, FLUES AND DUCTS

No owner or occupier of a building shall wilfully or negligently allow soot or any other combustible substance to accumulate in any chimney, flue or duct of such building in such quantities or in such manner as to create a danger of fire.

14. ATTENDANCE OF FIREMAN

- (1) Where in the opinion of the Director, the presence of a fireman is necessary on the grounds of safety, he may provide one or more firemen to be in attendance at any premises during the whole or part of any entertainment, recreation, meeting or other event.
- (2) The person in control of such entertainment, recreation, meeting or other event shall pay to the Council the charges as determined by Council.

15. REMOVAL OF LIQUID OR OTHER SUBSTANCES

The Director may at the request of the owner or occupier of any premises pump or otherwise remove any liquid or other substance, from such premises, subject to payment of the charges as determined by Council.

16. PAYMENT FOR ATTENDANCE AND SERVICE

- (1) Subject to the provisions of section 17, the owner or occupier of land or premises, or both such owner and occupier jointly and severally, or the owner of a vehicle, as the case may be, in connection with which the attendance of the service was requested or any services of the service was rendered, shall pay to the Council the charges determined by the Director to be due in accordance with the charges set out in the tariff of charges as approved by Council for such attendance or service, including the use and supply of water, chemicals, equipment and other means.
- (2)
 - (a) Notwithstanding the provisions of subsection (1), the Director may assess the whole or portion only of the charges contemplated in subsection (1): Provided that such portion shall not be more than ninety percent (90%) lower than the aggregate of the charges which would have been payable in terms of subsection (7): Provided further that in assessing such charges or portion thereof, due regard shall, amongst other relevant factors, be had to –
 - (i) the fact that the amount so assessed shall be commensurate with the service rendered;
 - (ii) the manner and place of origin of the fire; and
 - (iii) the loss which may have been caused by the fire to the person liable to pay the charges, if the services of the service had not been rendered.
 - (b) Where charges are assessed in terms of paragraph (a) and the person liable to pay such charges is dissatisfied with such assessment, he may lodge an appeal with the Municipal Manager.
 - (c) An appeal in terms of paragraph (b) shall be lodged by forwarding within fourteen (14) days after receipt of an account for the assessed charges a notice of appeal, by registered post or hand delivered.

17. EXEMPTION FROM PAYMENT OF CHARGES

- (1) Notwithstanding the provisions of section 16, no charges shall be payable where -
 - (a) a false alarm has been given in good faith;

- (b) the services were required as a result of civil commotion, riot or natural disaster;
- (c) the services were rendered in the interest of public safety;
- (d) The Director is of the opinion that the services were of a purely humanitarian nature or were rendered solely for the saving of life;
- (e) The owner of a vehicle furnishes proof to the satisfaction of the Director that such vehicle was stolen and that it had not been recovered by him at the time when the services of the service were rendered in respect thereof;
- (f) Any person, including the State, has entered into an agreement with the Council in terms of section 14 of the Ordinance whereby the services of the service are made available to such person against payment as determined in such agreement.

18. FALSE INFORMATION

No person shall wilfully give to any member of the service any notice or furnish any information relating to an outbreak of fire or any other emergency situation requiring the attendance of the service and which to his knowledge is false or inaccurate. Such person shall, notwithstanding the provisions of section 17 be liable to pay the turning out charge prescribed by Council.

19. TELEPHONES, FIRE-ALARMS AND OTHER APPARATUS

- (1) The Council may affix to or remove from any building, wall, fence or other structure any telephone, fire-alarm or other apparatus for the transmission of calls relating to fire as well as any notice indicating the nearest fire-hydrant or other fire fighting equipment.
- (2) No person shall move, remove, deface, damage or interfere with anything affixed in terms of subsection (1).

20. FIREWORKS

- (1) No person may use any fireworks unless he or she is:
 - a) in possession of a permit authorizing such use issued in terms of the Explosives Act (no 15 of 2003); or
 - b) under the immediate and constant supervision of a person who is in possession of such a permit; or
 - c) exempted by the minister in terms of the Explosives Act (no 15 of 2003).
- (2) No person having the authority may use any fireworks intentionally negligently that will cause an explosion which will endanger life, property or animals.
- (3) No person may keep any fireworks unless permitted in terms of the Explosives Act (no 15 of 2003) and keep in such a manner that it is safe.
- (4) Notwithstanding section 1; 2 and 3, no person may discharge any fireworks in the Municipal area; unless:

- (i) an application to discharge fireworks have been made to the Director Public Safety of the Department Public Safety in writing within 20 days prior to the envisaged date and shall set forth:
 - (a) name of applicant;
 - (b) permit authorizing the person;
 - (c) location planned for the display;
 - (d) safety measures in place.

And the Director at his or her sole discretion has approved such application.

- (ii) The Director for festival purposes declared and approved, a specific location, for the discharge of fireworks and provided that people who planned to discharged fireworks at the location is in possession of a permit in terms of the Explosives Act (no 15 of 2003) and such approval/declaration is published in the local newspaper.
- (5) The Director may impose any condition or conditions on a person or group permitted to discharge fireworks.
- (6) The Director may provide any assistance at the display and if cost is incurred as a result of the assistance, such cost shall be borne by the organizers or applicant.
- (7) The Director may stop any firework display on his sole discretion.

No person may enter or remain in an area reserved for fireworks unless permitted to do so.

21. OFFENCES AND PENALTIES

Any person who contravenes or fails to comply with any provision of these By-laws shall be guilty of an offence and liable on conviction to a fine not exceeding Three Thousand Rand (R3 000.00) or, in default of payment, to imprisonment for a period not exceeding six (6) months or to both such fine and imprisonment, and in the case of a continuing offence, to a fine not exceeding Three Thousand Rand (R3 000.00) for each day on which such offence continues, subject to a maximum fine of Five Hundred Rand (R500.00).

22. REPEAL

The By-laws relating to Fire Brigade Services for the Msukaligwa Local Municipality, are hereby repealed and replaced by these By-laws, which are to become effective on promulgation hereof.

23. APPLICATION

The Council may by notice in the *Provincial Gazette*, determine that the provision of these By-laws do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

SCHEDULE I

FORM OF INDEMNITY IN TERMS OF SECTION 11(1) OF THE FIRE BRIGADE SERVICES BY-LAWS

INDEMNITY

In consideration of the permission to be granted to me by the Director of on (date) to inflate certain balloons, toys or other devices as specified therein I, the undersigned hereby indemnify and safeguard against loss the Council and all its employees against all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made against it or be incurred or become payable by it arising out of or in connection with any damage, death or injury caused or alleged to have been caused by or as a result of such inflation, or by the use or mere possession by any person of any of the said toys, balloons or devices.

Signed at on this day of 20.....

.....
Applicant

Witnesses:

1.
2.

DETERMINATION OF CHARGES FOR THE RENDERING OF FIRE SERVICES

Notice is hereby given that the Council of Msukaligwa determined the charges as set out hereunder.

1. Within the Local Municipality

- 1.1 When the fire brigade is summoned irrespective of the circumstances: R100.00 plus:
 - (a) for the first hour or part thereof that a machine is in use, per machine: R20.00.
 - (b) for each subsequent hour or part thereof: R15.00.
 - (c) where a service car is used, per hour or part thereof: R15.00.
 - (d) portable pump, per hour or part thereof (trailer pump included): R15.00.
 - (e) jaws of life: R20.00.
- 1.2 Fire:
 - (a) First occurrence: R100.00.
 - (b) Second or subsequent occurrence within a period of twelve (12) months: R150.00.
- 1.3 For the services of a Fire Fighter – per hour or part thereof: R50.00.
- 1.4 Attendance of a Fireman at theatres or other public functions: R15.00 per fireman per hour or part thereof.
- 1.5 For services of a retained fireman per hour or part thereof: R15.00.
- 1.6 In addition to the above charges the following be payable:
 - (a) such expenses for water as may be incurred (at departmental rate to the Council);
 - (b) the cost of actual damage to the Council's property and to the property of its officers or servants;
 - (c) such other actual expenditure as may necessarily be incurred by the Council.
- 1.7 Testing and charging of extinguishers, per extinguisher R30.00 plus cost of material used.
- 1.8
 - (a) Test of fire hose reels, per reel: R30.00.
 - (b) Seal of fire hose, per reel: R15.00.
- 1.9
 - (a) Test of fire hoses: R15.00 each.
 - (b) Binding of couplings: R15.00 each.

2. Outside the Local Municipality

- 2.1 When the fire brigade is summoned, irrespective of the circumstance: R200.00 plus:

- (a) for the first hour or part thereof that a machine is in use, per machine: R30.00.
 - (b) for each subsequent hour or part thereof: R20.00.
 - (c) where use is made of a service vehicle, per hour or part thereof: R30.00.
 - (d) where use is made of a portable pump per hour or part thereof (trailer pump included): R20.00.
 - (e) jaws of life: R30.00.
- 2.2 For the services of the Fire Officer – per hour or part thereof: R100.00.
- 2.3 In addition to the above charges the following also be payable:
- (a) such expenses for water as may be incurred (at departmental rate to the Council);
 - (b) the cost of actual damage to the Council property and to the property of its officers or servants;
 - (c) such other actual expenditure as may necessarily be incurred by the Council.
- 2.4 The above tariffs shall be applicable at all times unless otherwise agreed upon in terms of a service agreement.
3. For the purpose of determining the amount payable in terms of items 1 and 2 the period of use of a machine and the period during which an officer or fireman renders his services shall be calculated from the time of departure from the Council's Fire Station to the time of returning thereto.

3. AD-HOC CHARGES

3.1 Providing of training:

- (a) Basic fire extinguisher handling (including issuing of certificate of attendance) R 350.00 p/p.
- (b) Basic fire fighting course (including issuing of certificate of attendance) R 500.00 p/p.