

## BY-LAW

To provide for a fire brigade service in the EMTHANJENI municipality; and for matters connected therewith.

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**BE IT ENACTED** by the Emthanjeni municipality, as follows:-

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### Definitions

1. In this By-law, unless the context otherwise indicates –

“**approved**” means approved by the chief fire officer;

“**chief fire officer**” means the person appointed by the Municipality in terms of section 5(1) of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) as head of the service;

“**emergency situation**” means a situation or event which constitutes or may constitute a serious danger to life or property;

“**Municipal Manager**” means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Municipality**” means the Emthanjeni municipality;

“**occupier**” means any person who occupies any premises or part thereof, without regard to the title under which he or she occupies;

“**owner**” means an owner as defined in section 18(4) of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987);

“**service**” means the fire brigade service of the Municipality established in terms of section 3 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987) and intended to be employed for –

- (a) preventing the outbreak or spread of a fire;
- (b) fighting or extinguishing a fire;
- (c) the protection of life or property against a fire or other threatening danger;
- (d) the rescue of life or property from a fire or other danger;
- (e) subject to the provisions of any other law, the rendering of an ambulance service as an integral part of the fire brigade service; or
- (f) the performance of any other function connected with any of the matters referred to in paragraphs (a) to (e);

“**tariffs**” means the tariff of charges determined from time to time by Municipality; and

“**the Act**” means the Fire Brigade Services Act, 1987 (Act No. 99 of 1987).

### **Composition of service**

2. The service shall be comprised of –

- (a) the fulltime members of the service, appointed by the Municipality in accordance with section 6 of the Act; and
- (b) members of the fire brigade reserve force, appointed by the Municipality in accordance with section 6A of the Act, as temporary members of the service,

to perform such functions as may be assigned to them from time to time by the chief fire officer.

**Duty to assist**

3. Any member of the service or fire extinguishing organisation whether controlled by the Municipality or not, shall, when called upon to do so by the chief fire officer, render all assistance in his or her power in connection with the combating or containing of a fire or any other emergency situation.

**Procedure on the outbreak of fire**

4. (1) Where the service is notified, or there is reason to believe that a fire has broken out or another situation has occurred where the services of the service are required, the chief fire officer shall, together with such personnel and equipment as he or she may deem necessary, forthwith proceed to the place where the fire or other situation is taking place or is occurring, or to where he or she has reason to believe that it is taking place or is occurring.
- (2) The chief fire officer may assume command of, or interfere with, or put a stop to any existing situation or any action being taken in connection with a fire by any person not employed in the service, including the owner of the premises and his or her employee or agent and no person shall fail to comply with any lawful order or direction given by the chief fire officer in the execution of this subsection.

**Obstruction or damage**

5. (1) No person shall interfere with, or hinder any member of the service in the execution of his or her duties under this By-law.
- (2) No person shall drive a vehicle over any hose, or damage, tamper or interfere with any such hose or any other appliance or apparatus of the service.

**Wearing of uniform and insignia**

6. (1) The chief fire officer and every member of the service shall wear the uniform, rank markings and insignia prescribed by Municipality.
- (2) 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 or she is such a member, or in any other manner represent himself or herself to be a member of the service.

**Combustible material**

7. (1) Where the chief fire officer is of the opinion that any person –

- (a) stores or causes or permits to be stored, whether inside or outside any building, any timber, crates, 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 any premises;
- (b) in occupation or in control of any premises, permits grass, weeds, trees, or other vegetation to grow on the premises, or permits any waste to accumulate there in a manner or in quantities as to create a danger of fire to any building or premises,

the chief fire officer may, by notice in writing, request such person to remove the said combustible materials or to take such other reasonable steps to remove, by a specified date, the danger of fire as he or she may prescribe in such notice.

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

### **Safety of premises and buildings**

- 8. (1) The chief fire officer may, whenever he or she deems it necessary, at any time which in his or her opinion is reasonable in the circumstances –
  - (a) enter any land, premises or building and inspect –
    - (i) such land, premises or building to ascertain 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 an emergency situation, or jeopardise or obstruct the escape of persons to 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 other hazardous substance; and
    - (v) any plant making use of the substances referred to in subparagraph (iv);

(b) give such directions as he or she may deem necessary for lowering the risk of fire or for the protection of life and property.

(2) Where the chief fire officer finds on any premises –

(a) any flammable, combustible or explosive matter so stored or used as to increase the risk of fire or danger to life or property in case of fire;

(b) any situation or practice existing, which in his or her 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 safety; or

(c) any defective, inferior or insufficient number of fire extinguishers,

he or she 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 or she may deem necessary for the elimination of the danger.

(3) Should the chief fire officer find in any building or on any premises –

(a) any obstruction on or in any fire escape, staircase, passage, doorway or window; or

(b) any emergency exit which, in his or her opinion would, in the event of fire be inadequate for the escape to 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 or her 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 chief fire officer shall notify the owner or occupier of such building, in writing, of his or her findings and require of him or her to take such steps as stated in such notice, at such owner's or occupier's own cost, to rectify the irregularity within such time as stated in the 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 Municipality may take such steps as are, in the opinion of the chief fire officer, necessary to remove such risk or danger and the Municipality may recover from such owner or occupier any expenditure incurred.

### **Exits**

9. Every door which affords an escape route from a public building to safety shall be kept unlocked and shall be clearly indicated with approved exit 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.

### **Gas filled devices**

10. (1) No person shall fill any balloon, toy or other device with flammable gas without the written permission of the chief fire officer, who may impose such conditions as he or she may require after having regard to all the circumstances of the case.
- (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 contained in this section shall be so construed as to prohibit the use of any balloon filled with hydrogen for meteorological or other *bona fide* scientific or educational purposes.

### **Making of fires**

11. (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 chief fire officer, 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 the conditions imposed by the chief fire officer.

### **Fires in chimneys, flues and smoke ducts**

12. No owner or occupier of any building shall allow shoot 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 fire hazard.

### **Attendance of fireman**

13. (1) If, at any function to be held at a place of entertainment or recreation, excluding the showing of a film at a cinema or a performance in a theatre, one hundred or more persons are likely to be present, the person convening such function shall deliver a notice, in writing, to the chief fire officer, not less than 48 hours before such function takes place, indicating the time when and premises on which such function is to take place.
- (2) Where, in the opinion of the chief fire officer, the presence of a fireman is necessary on account of safety, he or she may provide one or more firemen to be in attendance at any premises during the whole or part of such function.
- (3) The person in control of such function shall pay to the Municipality the charges set out in the tariffs.

### **Removal of liquid or other substances**

14. The chief fire officer 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 fees set out in the tariffs.

### **Payment for attendance and service**

15. (1) Subject to the provisions of section 16, 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, wherefore or in connection with which the attendance or the service was requested or any service was rendered, shall pay to the Municipality the charges determined by the chief fire officer, to be due in accordance with the charges set out in the tariffs for such attendance or service, including the use and supply of water, chemicals, equipment and other means.
- (2) Notwithstanding the provisions of subsection (1), the chief fire officer may access the whole or portion only of the charges contemplated in subsection (1): Provided that such portion shall not be more than ninety percent lower than the aggregate of the charges which would be payable in terms subsection (1): Provided further that in assessing such charges or portion thereof, due regard shall, amongst other relevant factors, be had to –

- (a) the fact that the amount so assessed, shall be commensurate with the service rendered;
- (b) the manner and place of origin of the fire; and
- (c) the loss which may have been caused by the fire to the person liable to pay the charges if the services had not been rendered.

### **Exemption from payment of charges**

16. Notwithstanding the provisions of section 15, no charges shall be payable where

- (a) a false alarm has been given in good faith;
- (b) the service was required as a result of civil commotion, riot or natural disaster;
- (c) the service was rendered in the interest of public safety;
- (d) the chief fire officer is of the opinion that the service rendered was of a purely humanitarian nature or was rendered solely for the saving of a life;
- (e) the owner of a vehicle furnishes proof to the satisfaction of the chief fire officer that such vehicle was stolen and that it had not been recovered by him or her at the time when the service was rendered in respect thereof;
- (f) any person, including the State, has entered into an agreement with the Municipality in terms of section 12 of the Act, whereby the services of the service are made available to such person against payment as determined in such agreement.

### **False information**

17. No person shall wilfully give to any member of the service any notice, or furnish any information regarding an outbreak of fire, or any other emergency situation requiring the attendance of the service, and which, to his or her knowledge, is false or inaccurate, and such person shall, notwithstanding the provisions of section 16, be liable to pay the turning out charges as prescribed in the tariffs.

### **Telephones, fire alarms and other apparatus**

18. (1) The Municipality 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).

**Penalty clause**

19. Any person who contravenes or fails to comply with any provision of this By-law, shall be guilty of an offence and liable on conviction to a fine or, in default of the payment, to imprisonment not exceeding 6 months, or to both a fine and such imprisonment.

**Repeal of laws and savings**

20. (1) The following laws are hereby repealed:

**All previous by-laws with regard to this matter are hereby repealed.**

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

**Short title**

21. This By-law shall be called the Fire Brigade By-law, 2008