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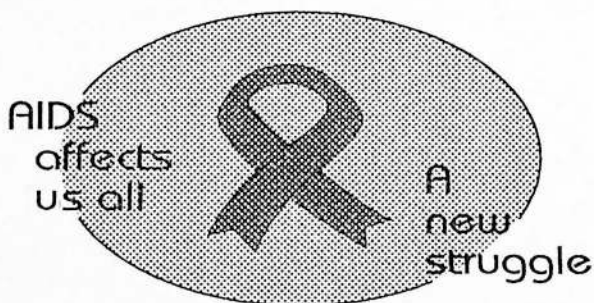
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No. 32**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO WARD COMMITTEES, 2004 – PUBLICATION FOR INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Ward Committees, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO WARD COMMITTEES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the By-Law Relating to Ward Committees.

Purpose of by-law

The purpose of this by-law is to promote the enhancement of participatory democracy in local government through the operation of ward committees and to provide for practices and procedures in relation thereto.

- 1 **Definitions** - In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

'Code of Conduct' means the Code of Conduct for councillors contained in Schedule 1 to the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000];

'Constitution' means the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996];

'day' means a calendar day, including a Saturday, Sunday and any public holiday;

'municipality' means the Municipality of Nkonkobe, established in terms of section 12 of the Local Government : Municipal Structures Act, of 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law 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;

'municipal council' means the municipal council of the municipality and 'Council' shall have a corresponding meaning;

'municipal manager' means the official who is appointed in terms of section 82 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998]

'Municipal Structures Act' means the Local Government : Municipal Structures Act No. 117 of 1998, as amended from time to time;

'Municipal Systems Act' means the Local Government : Municipal Systems Act No. 32 of 2000, as amended from time to time;

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'political office bearer' means the speaker, executive mayor, mayor, deputy mayor or a member of the executive committee as referred to in the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998];

'section 12 notice' means the notice published in the Provincial Gazette in terms of section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] whereby the municipality has been established;

'speaker' means a councillor elected in terms of section 36 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] to the chairperson of a municipal council as envisaged in section 160(1)(b) of the Constitution; and

'ward councillor' means the councillor responsible for and representative of a ward demarcated in respect of the municipality.

- 2 **Application of by-law** – This by-law shall only apply to the metropolitan and local municipalities of the types envisaged by section 72(1) of the Municipal Structures Act.
- 3 **Establishment of ward committees** – The municipality may establish a ward committee for each ward falling within its municipal boundaries, subject to the provisions therefor contained in the section 12 notice.
- 4 **Functions and powers of ward committees**
 - (1) A ward committee may make recommendations on any matter affecting its ward –
 - (a) to the ward councillor; or
 - (b) through the ward councillor, to the municipal council, the executive committee, the executive mayor or any other relevant political office bearer.
 - (2) A ward committee shall have such functions and powers as the municipal council may delegate to it in terms of section 59 of the Municipal Systems Act.
 - (3) The municipal council may delegate at least the following functions and powers -
 - (a) to serve as a specialised participatory structure in the municipality;
 - (b) to facilitate communication between the community and the municipality, achieved as follows : by -
 - (i) advising and making recommendations to the ward councillor on matters and policies affecting the ward;

- (ii) assisting the ward councillor in identifying conditions, challenges and the needs of residents;
 - (iii) disseminating information in the ward concerning municipal affairs such as the budget, integrated development planning, service delivery options and municipal properties;
 - (iv) receiving queries and complaints from residents concerning municipal service delivery, communicating such queries and complaints to the municipality and advising the community on the municipality's response;
 - (v) ensuring constructive and harmonious interaction between the municipality and the community through the use and co-ordination of ward residents' meetings and other community development forums; and
 - (vi) interacting with other forums and organisations on matters and policies affecting the ward;
- (c) to serve as a mobilising agent for community action by –
- (i) attending to all matters that affect and benefit the community;
 - (ii) acting in the best interests of the community;
 - (iii) ensuring the active participation of the community in municipal campaigns and process; and
 - (iv) co-ordinating and chairing zonal meetings.
- (4) No executive or legislative powers shall be delegated to a ward committee.

5 Responsibilities of the speaker –

- (1) The speaker shall –
- (a) make administrative arrangements, including the provision of a secretariat where necessary, to enable a ward committee to perform its functions and exercise its powers efficiently and effectively;
 - (b) ensure the smooth functioning of a ward committee, in conjunction with the ward councillor and the secretariat of such a committee;
 - (c) assist a ward committee secretariat with meeting venues and other logistical needs as may be required from time to time;

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- (d) provide members of ward committees and a ward committee secretariat with adequate stationery and office equipment to enable them to perform their duties efficiently and effectively and to ensure proper minute and record keeping; and
 - (e) be responsible for the administration of elections and by-elections for members of ward committees.
- (2) Notwithstanding the delegation of any functions and powers to a ward committee, it shall remain the responsibility of the municipality to ensure that ward committees enhance participatory democracy in local government.

6 Election of ward committee members

- (1) The municipal council shall determine the interest groups who qualify for representation in a ward committee and the election criteria that must be met by nominees, provided that the municipal council takes into account -
- (a) the need -
 - (i) for women to be equitably represented in a ward committee; and
 - (ii) for a diversity of interests in the ward to be represented;
 - (b) the provisions of section 7.
- (2) After consultation with the speaker and the municipal manager or delegated official, the ward councillor shall cause a notice to be published in a local newspaper and to be broadcast by radio, calling upon interest groups and the community to submit nominations for membership of a ward committee.
- (3) The ward councillor shall ensure that the notice referred to in the preceding sub-section stipulates that nominations must be submitted -
- (a) in writing and in accordance with any prescribed form that may be determined by the municipality; and
 - (b) within a period of 14 (fourteen) days from the date of publication or broadcast, as the case may be.
- (4) A general meeting of all registered voters in a ward shall be convened and presided over by the ward councillor within 21 (twenty one) days of the expiry of the period for submission of nominations, for purposes of electing the members of a ward committee.
- (5) The nominees for membership of a ward committee shall -

- (a) be representative of the interest groups determined by the municipality;
 - (b) meet any election criteria determined by the municipal council; and
 - (c) be elected by a majority vote of all registered voters present at the general meeting convened in terms of the previous sub-section.
- (6) Upon election to membership of a ward committee, the elected member must –
 - (a) confirm in writing his or her availability to serve in a ward committee; and
 - (b) receive a copy of the Code of Conduct from the ward councillor or any secretariat provided by the speaker in terms of section 5(1) and confirm in writing that he or she understands its contents and agrees to be bound by its provisions.
- (7) The written confirmation required from an elected member in terms of the preceding sub-section may be in accordance with any form prescribed by the municipality.

7 Composition of ward committees

- (1) A ward committee must consist of –
 - (a) the councillor representing that ward in the municipal council; and
 - (b) not more than ten other persons.
- (2) Representation on ward committees shall not be according to party political affiliation but may include the following interest groups -
 - (a) youth;
 - (b) women;
 - (c) religious associations;
 - (d) sports and culture;
 - (e) health and welfare;
 - (f) business;
 - (g) environment;
 - (h) education;

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- (i) the elderly;
 - (j) community safety forums;
 - (k) community based organisations;
 - (l) ratepayers' associations;
 - (m) traditional leaders;
 - (n) agricultural organisations;
 - (o) informal traders' associations;
 - (p) the disabled; and
 - (q) the unemployed.
- (3) Various criteria shall be stipulated by the municipal council for the election of ward committee members. In this regard the municipal council shall stipulate at least the following : that a nominee must be –
- (a) a registered voter in the ward;
 - (b) ineligible for election if he or she –
 - (i) works for the municipality or the district municipality within which the municipality is situated;
 - (ii) was convicted of a criminal offence within a period of 5 (five) years prior to his or her nomination;
 - (c) in good standing with regard to the payment of rates and service charges;
 - (d) active in the interest group that the nominee claims to represent; and
 - (e) considered disqualified for election in the event that he or she is –
 - (i) an unrehabilitated insolvent;
 - (ii) under curatorship; or
 - (iii) of unsound mind, as declared by a High Court.

8. Internal structures

- (1) The councillor representing that ward in the municipal council shall be the chairperson of a ward committee.

- (2) The ward committee may appoint members to carry out the duties associated with the office of –
 - (a) secretary; and
 - (b) assistant secretary.
- (3) Sub-committees may be formed by a ward committee in accordance with the committees of the municipal council or as circumstances may require.

9 Term of office for members

- (a) The term of office of a member of a ward committee shall be a period of 2 (two) years.
- (b) The municipality may, after consultation with interest groups and the community, extend the period of office for a member of a ward committee for such period as the municipality may determine, provided that such period shall not exceed the period of office of the municipality itself.

10 Sanctions for non-compliance with Code of Conduct

- (1) The Code of Conduct shall apply to -
 - (a) the exercise and performance of powers and functions by a ward committee member; and
 - (b) the refusal or failure to exercise and perform such powers and functions.
- (2) With regard to the non-attendance of meetings by a ward committee member –
 - (a) a fine of not more than R250 may be imposed for –
 - (i) non-attendance at a meeting which a member is required to attend in terms of section 12; and
 - (ii) failing to remain in attendance at such meeting;
 - (b) the said member shall be removed from a ward committee where he or she is absent from 3 (three) consecutive meetings without first obtaining leave of absence from the chairperson, failing which the speaker;
 - (c) any sanction, contemplated in terms of –
 - (i) sub-section (a), shall be implemented by the chairperson at his or her sole discretion; and

- (ii) sub-section (b), shall be implemented by the chairperson, provided that –
 - (aa) within 14 (fourteen) days of the last meeting, the chairperson shall appoint a committee of at least 2 (two) members to investigate any allegation of non-attendance;
 - (bb) the committee shall investigate and invite the defaulting member to make representations within 21 (twenty-one) days of its appointment;
 - (cc) within 7 (seven) days of the said representations, the committee shall report its finding and recommendation to the chairperson;
 - (dd) the chairperson shall consider the said finding and recommendation and refer any decision to remove a defaulting member to the speaker for confirmation within 3 (three) days of the committee's report;
 - (ee) the speaker shall either confirm or reject the said decision after considering all relevant factors and within 14 (fourteen) days of referral by the chairperson; and
 - (ff) the chairperson shall implement any confirmation by the speaker, alternatively communicate any other decision by the speaker, forthwith.
- (3) Sanctions for any contravention other than one contemplated in terms of sub-section (2) shall be determined by the speaker at his or her discretion and in compliance with the Code of Conduct.
- (4) Where the chairperson of the ward committee is alleged to have committed any contravention envisaged by this section, the speaker shall take whatever steps may be required in terms of the Code of Conduct to investigate the alleged contravention and impose whatever sanction may be appropriate.

11 Vacancies

- (1) A vacancy in a ward committee shall arise if a member thereof -
 - (a) becomes deceased;
 - (b) is removed in accordance with the provisions of section 10;

- (c) ceases to be a member of the interest group that he or she represents;
 - (d) becomes insolvent ;
 - (e) is declared by a High Court to be of unsound mind;
 - (f) resigns;
 - (g) is no longer a registered voter in a ward, he or she having being nominated to serve the interests of such ward; and
 - (h) is elected as a councillor to the municipality or the district municipality within which the municipality is situated.
- (2) Whenever a vacancy in the ward committee arises, the secretary of the relevant ward committee shall report the circumstances thereof to the ward committee which shall, through its chairperson, report same to the speaker.
- (3) If a vacancy arises in the ward committee, then a by-election shall be held to fill such vacancy and the procedures referred to in section 6 shall be followed with regard to the filling of such vacancy.

12 Procedures for meetings

- (1) The members of the ward committee shall meet at least once per quarter and shall report details of their activities and their recommendations on matters referred to them to the speaker through their ward councillor at least quarterly or when required by the speaker.
- (2) A ward councillor shall chair meetings of the ward committee for which he or she is responsible.
- (3) In the event that a ward councillor is not available to chair a meeting of a ward committee, the ward committee shall nominate from amongst its members an interim chairperson for that particular meeting.
- (4) The ward committee shall elect its secretary from among its members and such secretary shall keep records of documents, agenda and minutes, consult with the ward councillor, call ward committee and ward residents' meetings, provided that the speaker may arrange secretarial services for the ward committee.
- (5) The order of business for meetings of ward committees shall be as follows-
 - (a) opening;
 - (b) applications for leave of absence;
 - (c) minutes of the previous meeting;

- (d) report of the speaker or municipal manager, where applicable;
 - (e) report of the ward councillor;
 - (f) report of the chairperson, where applicable;
 - (g) report of the members;
 - (h) future course of action;
 - (i) date of next meeting; and
 - (j) closure.
- (6) All decisions of a ward committee shall be adopted by a majority vote of the members present.
- (7) The quorum for a meeting of a ward committee shall be a majority of its members, provided that the chairperson of a ward committee shall not be regarded as a member of the ward committee for the purpose of determining a quorum.
- (8) All matters requiring a decision or recommendation from a ward committee will be referred to the secretariat thereof in writing by the speaker or his or her nominee.
- (9) Meetings of ward committees shall, with the necessary adjustments, be conducted in accordance with the Standing Rules of Council adopted by the municipality.

13 Remuneration

- (a) Subject to national legislation, no remuneration shall be payable to members of a ward committee for the attendance by them at meetings of a ward committee.
- (b) The municipality may reimburse members of ward committees for travel costs and other out-of-pocket expenses incurred by them in connection with the performance of their duties and obligations provided that proof of such expenditure is submitted to the satisfaction of the municipality.

14 Dissolution

A ward committee may be dissolved by the municipal council under the following circumstances -

- (a) when the ward councillor for the ward becomes deceased or is disqualified in terms of any law from remaining a councillor;
- (b) when it has exceeded its authority or acted *ultra vires* with regard to its powers or functions;
- (c) when it seeks to unreasonably prescribe to a ward councillor how to exercise and perform his or her powers and functions;
- (d) when it fails to meet upon 3 (three) consecutive occasions;

- (e) when members thereof decide to dissolve, provided that such a decision is supported by a majority of at least $\frac{2}{3}$ (two thirds) of members present at a special meeting convened for this purpose;
- (f) when there are reasonable grounds for allegations of misrepresentation, corruption, and dishonesty against a ward committee which, if proved, will bring the municipality into disrepute or will be likely to bring the municipality into disrepute and the municipal council decides, upon the recommendation of the speaker and after consultation with the ward councillor, that it would be in the interests of the municipality to dissolve such a ward committee.

15 Overall responsibility for ward committees

- (a) The speaker shall be responsible for the overall functioning of ward committees and shall at least once per quarter hold a meeting with all ward councillors in order to discuss matters of common concern affecting wards and any problems being experienced by ward committees.
- (b) The speaker shall, on a 6 (six) monthly –basis, submit a written report to the municipal council on the activities of ward committees, the general matters being considered by them, their recommendations concerning Council policies, any problems they are experiencing, recommendations to resolve such problems and any other incidental matters.

16 Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing –

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

17 Repeal of by-laws

Any by-laws relating to ward committees adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

18 Short title

This by-law is called the By-law Relating to Ward Committees, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 33**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO THE
DELEGATION OF POWERS, 2004 – PUBLICATION FOR INFORMATION
PURPOSES**

The NKonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to the Delegation of Powers, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO THE DELEGATION OF POWERS**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the by-law Relating to the Delegation of Powers.

Purpose of By-law

The purpose of this by-law is to promote the development of a system of delegation by a municipality to maximise administrative and operational efficiency and to provide for adequate checks and balances in relation thereto.

1. **Definitions** - In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates -

'accounting officer', in relation to the municipality, means the municipal official referred to in Section 60 of the Local Government : Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

'chief financial officer', in relation to the municipality, means the person designated in terms of Section 80(2)(a) of the Local Government : Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

'council' means the municipal council of the municipality and includes any committee or staff member thereof acting in terms of a delegated power;

'councillor' means a member of the council;

'day' means a calendar day, including a Saturday, Sunday and any public holiday;

'delegating authority', in relation to the delegation of a power or a duty by a municipal council, means the council or, in relation to the sub-delegation of a power or a duty by another political structure, political office bearer, councillor or staff member, means that political structure, political office bearer, councillor or staff member;

'delegation' means the delegation of a power, as envisaged by Section 59 of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000] and includes the delegation of a duty and **'delegate'** has a corresponding meaning;

'MFMA' means the Local Government : Municipal Finance Management Act, 2003 [Act No. 56 of 2003], as amended from time to time;

'municipal manager' means a person appointed in terms of Section 82 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998];

'Municipal Structures Act' means the Local Government : Municipal Structures Act No. 117 of 1998, as amended from time to time;

'Municipal Systems Act' means the Local Government : Municipal Systems Act No. 32 of 2000, as amended from time to time;

'political office bearer' in relation to the municipality, means the speaker, executive mayor, mayor, deputy mayor or a member of the executive committee referred to in the Municipal Structures Act;

'political structure', in relation to the municipality, means the council or any committee or other collective structure of the municipality that has been elected, designated or appointed in terms of a specific provision of the Municipal Structures Act;

'reserved power' includes a power mentioned in Section 160(2) of the Constitution, the power to set tariffs, the decision to enter into a service delivery agreement in terms of Section 76(b) of the Municipal Systems Act and to approve or amend the municipality's integrated development plan; and

'staff' or **'staff member'** means the employees of the municipality, including the municipal manager.

2. **Development of system of delegation** - The council shall develop a system of delegation that will maximise administrative and operational efficiency.
3. **Delegation of powers**
 - (a) The council shall delegate appropriate powers, except reserved powers, to the appropriate political structure, political office bearer, councillor or staff member so as to give effect to the objects of section 2.
 - (b) A delegation of power in terms of this section shall include an instruction to any political structure, political office bearer, councillor or staff member to perform any of the municipality's duties.
4. **Withdrawal of delegated powers**

A delegation in terms of section 3 may be withdrawn by the council at any time, provided that –

- (a) reasonable notification is given beforehand, unless the urgency of the matter prevents such notification; and
- (b) the administrative and operational efficiency of the municipality will not be prejudiced.

5. Requirements for delegation

A delegation of power in terms of section 3 shall -

- (1) not conflict with the Constitution, the Municipal Structures Act or the Municipal Systems Act;
- (2) be recorded in writing in a resolution adopted by the council;
- (3) be subject to any limitations, conditions and directions the council may impose;
- (4) not divest the council of the responsibility concerning the exercise of the power or the performance of the duty; and
- (5) be reviewed when a new council is elected or, if it is a district council, elected and appointed.

6. Review of delegated power

- (a) In accordance with the procedures contained in its rules and orders or at the request in writing of at least $\frac{1}{4}$ (one quarter) of the councillors, the council must review any decision taken by a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction referred to in section 3 and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person as a result of such decision.
- (b) Where appropriate, the council may require its executive committee or mayor to review any decision taken by such a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction given in terms of section 3.

7. Certain delegations restricted

- (1) Where the municipality is a type that is entitled to have an executive committee or an executive mayor, the following powers may, within a policy framework determined by the council, only be delegated to such executive committee or executive mayor, as the case may be -

- (a) decisions to expropriate immovable property or rights in or to immovable property; and
 - (b) the determination or alteration of the remuneration, benefits or other conditions of service of the municipal manager or managers directly responsible to the municipal manager.
 - (2) The accounting officer may not delegate to any political structure or political office bearer any of the powers or duties assigned to the accounting officer in terms of the MFMA.
8. **Referral of matters to delegating authority for decision** - A political structure, political office bearer, councillor or staff member to whom a delegating authority has delegated or sub-delegated a power may, or must, if instructed to do so by the relevant delegating authority, refer a matter to the relevant authority for decision.
9. **Delegations in terms of the MFMA**
- (a) The accounting officer shall develop an appropriate system of delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration.
 - (b) No provision contained in this by-law shall be construed as limiting or detracting from the powers and duties of the accounting officer and chief financial officer, respectively, with regard to delegations in terms of the MFMA.
10. **Appeals**
- (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member in terms of a power or duty delegated or sub-delegated by a delegating authority to such political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons therefor to the municipal manager within 21 (twenty one) days of the date the appellant is notified of such decision.
 - (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in Subsection 10(4).
 - (3) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no variation or revocation of a decision may detract from any rights that may have accrued to any person as a result of the decision.

- (4) If the appeal is against a decision taken by -
- (a) a staff member other than the municipal manager, then the municipal manager shall be the appeal authority;
 - (b) the municipal manager, then the executive committee or executive mayor shall be the appeal authority, or if the municipality does not have an executive committee or executive mayor, then the council shall be the appeal authority; or
 - (c) a political structure, political office bearer or a councillor -
 - (i) then the municipal council shall be the appeal authority where the council comprises less than 15 (fifteen) councillors; or
 - (ii) a committee of councillors who were not involved in the decision and who are appointed by the municipal council for this purpose shall be the appeal authority where the council comprises more than 14 (fourteen) councillors.
- (5) An appeal authority must commence with an appeal hearing within 6 (six) weeks of the appellant's submission of written notice of the appeal and must decide the appeal within a period of 14 (fourteen) days calculated from the date of commencement of the appeal hearing.
11. **Duty to report to delegating authorities** - A political structure, political office bearer, councillor or staff member, to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require on decisions taken in terms of that delegated or sub-delegated power or duty.
12. **Withdrawal, amendment or lapsing of delegation or sub-delegation** - The withdrawal, amendment or lapsing of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation.
13. **Review of delegations**
- (1) Whenever it becomes necessary in terms of section 5(5) of this by-law to review the municipality's delegations, the municipal manager must submit to the council -
 - (a) a report on the existing delegations issued in terms of section 3 of this by-law by the council and other delegating authorities;

- (b) recommendations on any changes to the existing delegations which the municipal manager may consider necessary.
- (2) If the municipality has an executive committee or executive mayor, then the municipal manager must submit the report and any recommendations in terms of sub-section 13(1) to the council through the executive committee or executive mayor, as the case may be.
- 14. **Delegation or sub-delegation to staff member** - Any delegation or sub-delegation to a staff member of a power conferred on a municipal manager must be approved by the council in accordance with the system of delegation referred to in section 2.
- 15. **Register of delegations and sub-delegations**- The municipal manager shall maintain a register detailing all resolutions adopted by the council concerning delegations made in terms of this by-law. Such details shall include the text of the council resolution, the date when such resolution was adopted and the subject matter of such delegation.
- 16. **Decisions adopted under delegated power**
 - (a) Any report containing a recommendation which, if adopted shall constitute a council resolution adopted under delegated power, shall contain a reference to the authority for such delegated power.
 - (b) The authority for a decision adopted as a result of a delegated power shall be quoted in any applicable minute or be endorsed on any document containing such decision.
- 17. **Regulations**

The municipality may make regulations not inconsistent with this by-law, prescribing –

 - (a) any matter that may or must be prescribed in terms of this by-law; and
 - (b) any matter that may facilitate the application of this by-law.
- 18. **Repeal of by-laws**

Any by-laws relating to the delegation of powers adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

19. Short title

This by-law is called the By-law Relating to the Delegation of Powers, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 34**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO
COMMUNITY FIRE SAFETY, 2004 – PUBLICATION FOR INFORMATION
PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Community Fire Safety, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO COMMUNITY FIRE SAFETY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996], the By-law Relating to Community Fire Safety.

Purpose of By-law

The purpose of this by-law is to promote the achievement of a fire-safe environment and to provide for procedures, methods and practices to regulate fire safety for the benefit of all persons residing within the municipal boundaries of the municipality.

CHAPTER 1**DEFINITIONS**

- 1 **Definitions** - In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates -

"above ground storage tank" means a tank situated above ground for the storage of a flammable liquid;

"automatic releasing hold-open device" means a device used to hold open a fire door and which operates on the detection of a fire to close the fire door;

"boundary" means any lateral or street boundary of a site;

"building" means -

- [a] any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with -
 - [i] the accommodation or convenience of human beings or animals;
 - [ii] the manufacture, processing, storage or sale of any goods;
 - [iii] the rendering of any service;

- [iv] the destruction or treatment of combustible refuse or combustible waste; or
- [v] the cultivation or growing of any plant or crop;
- [b] any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
- [c] any fuel pump or any tank used in connection therewith;
- [d] any part of a building, including a building as defined in paragraph [a], [b] or [c];
- [e] any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of such building;

"bund wall" means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;

"chief fire officer" means the person in charge of a service, or the acting chief officer, as contemplated in the Fire Brigade Services Act, 1987 [Act No. 99 of 1987];

"combustible material" means combustible refuse, combustible waste or any other material capable of igniting;

"combustible refuse" means combustible rubbish, litter or material that is discarded, refused, rejected, or considered worthless;

"combustible waste" means combustible waste material which is salvageable, retained or collected for scrap or reprocessing and includes all combustible fibres, hay, straw, hair, feathers, down, wood shavings, turnings, all types of paper products, soiled cloth trimmings and cuttings, rubber trimmings and buffing, metal fines, and any mixture of the above items, or any other salvageable combustible waste material;

"Constitution" means the Constitution of the Republic of South Africa Act, 1996 No. 108 of 1996];

"controlling authority" means either a chief fire officer, the municipal manager or their respective delegates as contemplated in sections 2 and 3 of this by-law;

"dangerous goods" means a flammable gas, liquid or solid as contemplated in SABS 0228;

"division separating element" means a building element or component which separates one area in a building from another and has a fire resistance of not less than that required by the National Building Regulations [T1] read with the SABS 0400;

"emergency evacuation plan" means a plan specifically designed to aid in the evacuation of occupants from a building in the event of a fire or other threatening danger and assigns responsibility to various staff, indicates escape routes to be used and provides for general contingencies for a safe and quick evacuation from a building;

"emergency route" means that part of an escape route that provides fire protection to the occupants of any building and which leads to an escape door;

"emergency vehicle" means any fire, rescue or other vehicle intended for use at fires and other threatening dangers;

"entertainment and public assembly occupancy" means a place where people gather to eat, drink, dance or participate in other recreation;

"escape door" means the door in an escape route, which at ground level leads directly to a street or public place or to any approved open space which leads to a street or public place;

"escape route" means the entire path of travel from the furthest point in any room in a building to the nearest escape door and may include an emergency route;

"escape route plan" means a diagram indicating the floor layout, the occupant's current position and the route of travel to the nearest primary and secondary escape routes in the building, as well as the action to be taken in the event of a fire or other threatening danger;

"Fire Brigade Services Act" means the Fire Brigade Services Act No. 99 of 1987;

"fire damper" means an automatic damper and its assembly that complies with the requirements contained in SABS 193;

"fire door" means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

"fire extinguisher" means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

"fire hazard" means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire or explosion and which poses a threat to life or property;

"fire lanes" means the road, path or other passageway constructed or designated to allow access for emergency vehicles;

"fire protection system" means any device or system designed and installed to -

- [a] detect, control or extinguish a fire, or
- [b] alert occupants or the fire service, or both, to a fire, but excludes portable and mobile fire extinguishers;

"fire wall" means a wall that is able to withstand the effects of fire for a specific period of time as contemplated in the National Building Regulations [T1] read with SABS 0400;

"flammable gas" as contemplated in SABS 0228, means a gas which at 20⁰ C and at a standard pressure of 101,3 kilopascals -

- [a] is ignitable when in a mixture of 13% or less [by volume] with air; or
- [b] has a flammable range with air of at least 12 percentage points, regardless of the lower flammable limit;

"flammable liquid" means a liquid, or mixtures of liquids, or a liquid containing solids in solution or in suspension that gives off a flammable vapour at or below 60,5⁰C and also includes a liquid within the danger groups as determined in SABS 0228;

"flammable solid" - as contemplated in SABS 0228, means a solid that is easily ignited by external sources, such as sparks and flames, solids that are readily combustible, solids that are liable to cause, or contribute to, a fire through friction or solids that are desensitised [wetted] explosives that can explode if not diluted sufficiently;

"flammable substance" means a flammable liquid or a flammable gas;

"flammable store" means a store that is used for the storage of flammable liquids and complies with the criteria set out in section 46 of this by-law;

"Hazardous Substances Act" means the Hazardous Substances Act No.15 of 1973;

"municipality" means the Municipality of Nkonkobe, established in terms of section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal manager" means a person appointed in terms of section 82 of the Municipal Structures Act;

"Municipal Structures Act" means the Local Government: Municipal Structures Act No. 117 of 1998, as amended from time to time;

"Municipal Systems Act" means the Local Government: Municipal Systems Act No. 32 of 2000, as amended from time to time;

"National Building Regulations" means the regulations promulgated in terms of section 17[1] of the National Building Regulations and Building Standards Act, 1977, and:

- [a] National Building Regulations [A2] means the provisions regulating the submission of building plans and particulars to the municipality;
- [b] National Building Regulations [A20] means the provisions regulating the classification and designation of occupancies;
- [c] National Building Regulations [A21] means the provisions regulating the population of a building;
- [d] National Building Regulations [T1] means the provisions regulating general requirements for fire protection of a building; and
- [e] National Building Regulations [T2] means the provisions regulating the offences for non-compliance with the National Building Regulations [T1];

"National Road Traffic Act" means the National Road Traffic Act No.93 of 1996;

"non-combustible" means a substance or material classified as non-combustible when tested in accordance with SABS 0177: Part 5;

"occupancy" means the particular use or type of use to which a building, or portion thereof, is normally put or intended to be put as provided for in the National Building Regulations [A20];

"occupancy separating element" means a building element or component which separates one occupancy in a building from another and has a fire resistance of not less than that required by the National Building Regulations [T1] read with the SABS 0400;

"Occupational Health and Safety Act" means the Occupational Health and Safety Act No. 85 of 1993;

"operator" means the person responsible for the use of a motor vehicle and who has been registered as the operator of such a vehicle in terms of the National Road Traffic Act;

"owner" means -

- [a] in relation to premises, other than a building, either a natural or juristic person whose identity is determined by operation of law;
- [b] in relation to a building, either a natural or juristic person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question;
- [c] in relation to an installation, either a natural or juristic person in whose name a contract is entered into regarding approval, erection and maintenance of the installation, provided that such a person is not the owner mentioned in [b]; and
- [d] in the event of the controlling authority being unable to determine the identity of a person mentioned in [a], [b] and [c], any person who is entitled to the benefit of the use of such premises, building or installation or who enjoys such benefit;

"person in charge" means -

- [a] in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the premises;
- [b] in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;
- [c] in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilisation of the installation, provided that such a person is not the person mentioned in [a]; and
- [d] in the event of the controlling authority being unable to determine the identity of a person mentioned in [a], [b] and [c], any person who is in the reasonable opinion of the controlling authority deemed to be in charge of such premises, building or installation;

"population" means the population determined in accordance with the National Building Regulations [A21];

"premises" means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft;

"public place" means any square, park, recreation ground or open space which -

- [a] is vested in the Municipality;
- [b] the public has the right to use; or
- [c] is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

"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;

"SABS Codes" means South African Bureau of Standards Codes of Practice and Specifications issued in terms of the Standards Act;

"service" means a fire brigade service as defined in the Fire Brigade Services Act;

"site" means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

"Standards Act" means the Standards Act No. 29 of 1993;

"state" means: -

- [a] any department of state or administration in the national, provincial or local sphere of government; or
- [b] any other functionary or institution -
 - [i] exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - [ii] exercising a public power or performing a public function in terms of any legislation, but does not include a court or judicial officer;

"storage vessel" means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act;

"summary abatement" means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

"tank" for purposes of chapter 9 of this by-law, means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

"this by-law" includes any schedules published in terms of this by-law;

"underground tank" means a tank used or intended to be used for the storage of flammable liquid and which is wholly sunk into and below the surface of the ground;

"vehicle" means a vehicle as defined in the National Road Traffic Act and includes the following -

- [a] **"road tank vehicle"** means a tank truck, tank trailer or truck-tractor and tank-semi-trailer combination;
- [b] **"tank-semi-trailer"** means a vehicle with a tank mounted on it or built as an integral part of it and so constructed that the semi-trailer is drawn by a truck-tractor or another trailer, through a fifth wheel connecting part of the load rest to the towing vehicle;
- [c] **"tank trailer"** means a vehicle with a tank mounted on it or built as an integral part of it and so constructed that, when the tank trailer is drawn by a tank truck, practically all of its load rests on its own wheels;
- [d] **"tank truck"** means a single, self-propelled vehicle with a tank mounted on it;
- [e] **"truck-tractor"** means a self-propelled vehicle used to pull a tank-semi-trailer; and
- [f] any other vehicle which in the reasonable opinion of the controlling authority, is a vehicle contemplated in chapter 9 of this by-law.

CHAPTER 2

ADMINISTRATIVE PROVISIONS

2 Administration and enforcement

- [1] The chief fire officer is responsible for the administration and enforcement of this by-law.

[2] Where no chief fire officer has been appointed in terms of the Fire Brigade Services Act, the municipal manager shall be responsible for the administration and enforcement of this by-law.

[3] Where there is no service established in the area of jurisdiction of the municipality, the municipal manager shall be responsible for the administration and enforcement of this by-law.

3 Delegation

[a] A chief fire officer may delegate any power granted to him or her, in terms of this by-law, in accordance with section 19 of the Fire Brigade Services Act.

[b] A municipal manager may delegate any power granted to him or her in terms of this by-law, in accordance with the system of delegation of the municipality developed in terms of section 59 of the Municipal Systems Act.

4 Enforcement provisions

[1] A controlling authority may, whenever he or she regards it as necessary or expedient to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

[2] A controlling authority has the authority to summarily abate any condition which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger.

[3] A controlling authority must remedy any violation, mentioned in subsection [2], by performing any reasonable and necessary act and may also -

[a] call for the immediate evacuation of the premises;

[b] order the closure of the premises until such time as the violation has been rectified;

[c] order the cessation of any activity; and

[d] order the removal of the immediate threat.

[4] Any costs of such action must be borne by the person reasonably deemed by a controlling authority to be responsible for the existence of such condition.

5 Authority to investigate - Notwithstanding anything to the contrary contained in any other law, a controlling authority has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

6 Failure to comply with provisions

- [1] When a controlling authority finds that there is non-compliance with the provisions of this by-law, excluding the situation in section 4[2], a written notice must be issued and must include the following -
- [a] confirmation of the findings;
 - [b] provisions of this by-law that are being contravened;
 - [c] the remedial action required; and
 - [d] set forth a time for compliance.
- [2] An order or notice issued under this by-law must be served either by personal delivery or registered mail upon a person who is, in the reasonable opinion of the controlling authority, deemed to be the appropriate person.
- [3] For unattended or abandoned premises, a copy of such order or notice must be posted on the premises in a conspicuous place at or near the entrance to such premises and the order or notice must be mailed by registered mail to the last known address of the owner, the person in charge of the premises or both.

7 Denial, suspension or revocation of an approval or a certificate

A controlling authority may refuse, suspend or revoke an approval or a certificate required by this by-law for -

- [a] failure to meet the provisions of this by-law for the issue of the approval or certificate; or
- [b] non-compliance with the provisions of the approval or certificate.

8 Records required - The safekeeping of all relevant records and documents is the responsibility of the controlling authority.

9 Charges

- [a] The municipality may determine the fees payable by a person on whose behalf the controlling authority has rendered a service, as contemplated in section 10 of the Fire Brigade Services Act.
- [b] The municipality may charge a fee for the provision of an inspection, re-inspection or any other service as well as the issuing of permits, approvals or certificates in accordance with the applicable local government legislation regulating the charging of fees.

- 10 **Indemnity** - The municipality, controlling authority or a member of a service shall not be liable for damage or loss as a result of, but not limited to, bodily injury, loss of life or loss of or damage to property or financial loss, or consequential loss, which is caused by or arises out of or in connection with anything done or performed or omitted in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of this by-law.
- 11 **Reporting a fire hazard and other threatening danger** - An owner or the person in charge of any premises, upon discovering evidence of a fire hazard or other threatening danger pertaining to this by-law, must immediately notify the controlling authority.

CHAPTER 3

FIRE PROTECTION OF BUILDINGS

- 12 **General** - The controlling authority must, in terms of section 4[3] or section 6[1] of this By-law, abate a contravention of the National Building Regulations relating to fire and safety of buildings.
- 13 **Access for emergency vehicles**
- [1] If, in the reasonable opinion of the controlling authority, premises are not readily accessible from public roads, then the premises must be provided with emergency vehicle access and, notwithstanding the provisions in the National Building Regulations [T1], may be required to comply with any or all of the following -
- [a] an access road must be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises;
 - [b] a motorised or electronically operated gate must be equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device;
 - [c] fire lanes must be provided for all premises which are set back more than 45 metres from a public road or which exceed 9 metres in height and are set back more than 15 metres from a public road;
 - [d] fire lanes must be at least 4 metres in width, the position of which must be decided upon after consultation with the controlling authority, and the area from ground level to a clearance height of 4 metres above the fire lane must remain unobstructed; and

- [e] a cul-de-sac which is more than 90 metres in length must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.

- [2] The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the controlling authority.

- [3] It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

- 14 Division and occupancy separating elements** - An owner or person in charge of a building may not alter a division or occupancy separating element in any way that would render it less effective or to allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

15 Fire doors and assemblies

- [1] Subject to the provisions of SABS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.

- [2] A fire door may be kept open only when it is equipped with an automatic releasing hold-open device approved by the municipality.

- [3] A fire door and assembly shall not be rendered less effective through the following actions -

- [a] altering the integrity, insulation or stability of a particular class of door;
- [b] disconnecting the self-closing mechanism;
- [c] wedging, blocking or obstructing the door so that it cannot close;
- [d] painting the fusible link actuating mechanism of a door;
- [e] disconnecting or rendering less effective an electric or electronic release mechanism; or
- [f] any other action that renders a fire door or assembly less effective.

16 Escape Routes

- [a] A component which forms part of an escape route, such as the feeder routes, access doors, emergency routes or escape doors, must not be

obstructed or rendered less effective in any way such that it could hinder or prevent the escape of any person from a building in the case of fire or any other emergency.

- [b] A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the municipality.
- [c] Where required by the controlling authority, an escape route must be clearly indicated with signage which complies with SABS 1186 and which indicates the direction of travel in the event of fire or any other emergency.

17 Tents

- [1] Prior to the erection and usage of a tent as an occupancy contemplated in the National Building Regulations [A20], the person intending to erect and use such tent must -
 - [a] submit an application in terms of the National Building Regulations [A2] to the municipality for the erection and usage of the tent; and
 - [b] submit an application in terms of section 22 of this by-law to the controlling authority for a temporary population certificate.
- [2] The application submitted in terms of subsection [1][a] must comply with the following -
 - [a] the tent must be erected at least 4,5 metres from a boundary, combustible store or material and the controlling authority may require that this distance be increased should the situation require it;
 - [b] where tents are erected adjacent to one another, an unobstructed minimum distance of 4,5 metres must be provided between them and where applicable between the stakes and guys of the adjacent tents, in order to ensure emergency vehicle access;
 - [c] the requirements set out in the National Building Regulations [T1] must be complied with in the following instances -
 - [i] where the population of a tent exceeds 25 people;
 - [ii] where a tent is occupied during the hours of darkness;
 - [iii] for seating arrangements and aisle dimensions; and
 - [iv] for the provision of fire extinguishers;

- [d] the population density of a tent must comply with the National Building Regulations [A21];
 - [e] no cooking may be carried out in a tent occupied by the public and if cooking is required then it must be carried out in a separate tent or an area to which the public does not have access;
 - [f] no open fire is permitted in a tent, provided that any flame emitting device, such as a candle, lantern or torch, but not limited thereto, is only permitted in a tent after approval by the controlling authority;
 - [g] no open fire or flame is permitted within 5 metres of a tent, stake or guy of a tent;
 - [h] smoking is prohibited in a tent and a "No Smoking" sign must be prominently displayed at each entrance and must comply with SABS 1186: Part 1; and
 - [i] lighting and wiring installed in a tent must comply with the requirements set out in SABS 0142 in such a manner that direct contact is not made with combustible material and radiated heat does not pose an ignition hazard.
- [3] Notwithstanding the provisions in subsections [1] and [2], the controlling authority may request the applicant to fulfil additional requirements for the erection and usage of a tent.

CHAPTER 4

FIRE SAFETY EQUIPMENT

18 Fire extinguishers

- [1] Fire extinguishers must be provided and installed on premises as required by the controlling authority and in accordance with National Building Regulations [T1] and [T2].
- [2] Fire extinguishers must be maintained strictly in accordance with the requirements of the Occupational Health and Safety Regulations, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part I.
- [3] A juristic or a natural person may not fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher, in terms of SABS 1475: Part I, unless such a person is the holder of a permit issued by the South African Bureau of Standards or a certificate of competence issued by the South African Qualifications Certification Committee.

- [4] The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or a certificate mentioned in subsection [3].
- [5] If the controlling authority finds that a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection [3], then the controlling authority must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.
- [6] If, in the reasonable opinion of the controlling authority, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, then the controlling authority must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571.
- [7] A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.
- [8] A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

19 Testing and maintenance of fire protection systems

- [1] A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the testing and maintenance of the system.
- [2] A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test and, where applicable, the parties who monitor the fire protection system.
- [3] A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations [T2] read in conjunction with a recognised national code or standard and, in the absence of a national code or standard, an applicable international code or standard must be used.
- [4] A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.
- [5] The person carrying out the maintenance of a fire protection system must inform the owner or person in charge of the premises in writing of

any defects discovered and maintenance performed or still outstanding, and when the person in charge receives such notice then he or she must inform the owner accordingly and without delay.

[6] The owner or person in charge of the premises must immediately notify the controlling authority when the fire protection system or a component thereof is rendered inoperable or taken out of service and must notify the controlling authority as soon as the system is restored.

[7] The owner or person in charge of the premises must take all steps deemed necessary by the controlling authority to provide alternate equipment to maintain the level of safety within the premises.

20 Interference with and access to fire protection systems and fire extinguishers - A person is not permitted to render less effective, inoperative, inaccessible, or tamper and interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

21 Fire alarms and fire hydrants

[1] Without compensation to the owner of the premises concerned and provided that reasonable care is taken with regard to the installation, the controlling authority may cause to be affixed to any building, wall, fence, pole or tree -

[a] a fire alarm;

[b] a transmission instrument for calls of fire or other emergencies; or

[c] a transmission instrument for warning residents of a fire or other emergency.

[2] Without compensation to the owner of the premises concerned and provided that reasonable care is taken with regard to the marking, the controlling authority may cause the position of a fire hydrant and fire alarm or any other fire protection information to be marked on any building, wall, fence, pole, tree, road, pavement or hydrant cover with a board, decal, metal plate or painted marker or by any other means.

[3] The controlling authority may at any time cause a fire alarm, other transmission instrument mentioned in subsection [1], board, decal, metal plate or painted marker to be removed without compensating the owner of the premises concerned.

[4] An unauthorised person is prohibited from removing, defacing, altering, tampering or damaging a fire alarm, other transmission instrument mentioned in subsection [1], board, decal, metal plate or painted marker.

- [5] A person shall not render less effective, inoperative, inaccessible, tamper or interfere with a fire hydrant.

CHAPTER 5

PUBLIC SAFETY

22 Prevention and control of overcrowding

- [1] Prior to the usage of the premises for entertainment or public assembly, the owner or person in charge of such premises must submit an application for a population certificate to the controlling authority, as may be prescribed.
- [2] The controlling authority may request additional information from the applicant.
- [3] Notwithstanding the provision in subsection [1], the controlling authority may instruct the owner or person in charge of the premises to apply for either a temporary or a permanent population certificate, should the premises be used in respect of any other occupancy contemplated in the National Building Regulations [A20].
- [4] A temporary population certificate is valid for a period not exceeding 30 calendar days.
- [5] The controlling authority must refuse to issue the temporary or permanent population certificate if the premises do not comply with the requirements of the National Building Regulations [T1].
- [6] If the controlling authority is of the reasonable opinion that the non-compliance contemplated in terms of section 22(5) can be remedied, then he or she must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to the usage of the premises and the issuing of a temporary or permanent population certificate.
- [7] If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with a temporary or permanent population certificate, then he or she must act in terms of sections 4[2] or 6[1] and section 7 of this by-law.
- [8] A temporary or permanent population certificate is valid only for the premises or portion of the premises for which it was issued and when changes of occupancy occur or alterations are made to the premises for which the certificate was issued, the owner or person in charge of the premises must re-apply for the certificate in accordance with subsection [1].

- [9] A temporary or permanent population certificate must be displayed in a clearly visible and conspicuous position in or on the premises for which the certificate was issued.
- [10] The owner or the person in charge of the premises must prevent overcrowding by limiting the maximum population to that which is specified on a temporary or permanent population certificate.
- [11] A person must vacate the premises that are overcrowded when instructed to do so by the controlling authority, the owner or person in charge of the premises.

23 Availability of a service

- [1] When the controlling authority is of the reasonable opinion that a service is required to be available during a function in a place used for entertainment or public assembly, he or she may ensure that, in the interest of public safety and subject to the requirements of the service, one or more members, a vehicle or equipment will be available on the premises for the duration of the function or part thereof.
- [2] When the availability of a service during a function in a place used for entertainment or public assembly involves costs, the costs incurred by the municipality may be recovered from the person in charge of the function in accordance with section 9 of this by-law.

24 Formulation of an emergency evacuation plan

- [1] The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons, including staff, must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- [2] The controlling authority may order the owner or person in charge of premises, other than those premises contemplated in subsection [1], to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- [3] The plan mentioned in subsections [1] and [2] must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.
- [4] The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.

- [5] The register mentioned in subsection [4] must contain the following information -
- [a] the date and time of the test;
 - [b] the number of participants;
 - [c] the outcome of the test and any corrective actions required; and
 - [d] the name and signature of the person supervising the test.
- [6] The register, together with the emergency evacuation plan, must be available on the premises for inspection by the controlling authority.
- [7] The controlling authority may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

25 Displaying of escape route plans

- [a] In a hospital, residential institution, hotel, guest house, hostel or other similar occupancy designed or intended for or used by patients, residents or transient persons, the escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.
- [b] The displaying of escape route plans for any other premises is subject to the approval of the controlling authority.

- 26 **Barricading of vacant buildings** - The owner or person in charge of a building or portion thereof which is vacant must remove all combustible waste or refuse therefrom and lock, barricade or otherwise secure all windows, doors and other openings in the building, to the satisfaction of the municipality, so as to prevent the creation of a fire hazard caused by the entering of an unauthorised person.

CHAPTER 6

DOMESTIC PRECAUTIONS

27 Combustible waste and refuse

- [a] The owner or person in charge of a premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.
- [b] Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other threatening danger as prescribed in applicable legislation dealing with the storage and disposal of that

specific type of combustible waste and refuse or, in the absence of applicable legislation, as determined by the controlling authority.

- 28 Dust** - The owner or person in charge of a premises or a portion thereof may not allow the accumulation of dust in quantities sufficient to create a fire or other threatening danger and must store or dispose of dust as prescribed in the applicable legislation dealing with the storage and disposal of that specific type of dust.
- 29 Combustible or flammable substances and sweeping compounds**
- [a]** Notwithstanding anything to the contrary contained in any other law, only approved water-based solutions or detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.
 - [b]** The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.
- 30 Accumulations in chimneys, flues and ducts** - The owner or person in charge of a premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.
- 31 Sources of ignition**
- [1]** Smoking, the carrying of matches, the use of heating or other flame-emitting devices or the use of any spark-producing equipment is prohibited in areas containing combustible or flammable substances.
 - [2]** Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.
 - [3]** An adequate distance, as deemed appropriate by the controlling authority, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.
 - [4]** A portable heaters must be secured so that it cannot be overturned and the controlling authority may prohibit the use of a portable heater in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.
- 32 Smoking**
- [1]** If conditions exist where smoking creates a fire hazard on the premises, then smoking is prohibited and "No Smoking" signs must be displayed

as directed by the controlling authority and the signs must comply with SABS 1186: Part 1.

- [2] No person shall remove a "No Smoking" sign, unless instructed to do so by the controlling authority.
- [3] A person may not light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited.
- [4] Where smoking is allowed, provisions must be made for the safe disposal of the smoking material and matches to prevent the creation of a fire hazard or other threatening danger.
- [5] A person may not throw, put down or drop a burning match, burning cigarette or other burning material or any material capable of spontaneous combustion or self-ignition in a road or any other public place.

33 Electrical fittings, equipment and appliances

- [a] A person shall not cause or permit an electrical supply outlet to be overloaded.
- [b] No person shall cause or permit an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

34 Flame-emitting device - No person shall cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

CHAPTER 7

FIRE HAZARDS

35 Combustible material

- [a] A person may not store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside a premises, any combustible material or a flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.
- [b] The owner or person in charge of a premises may not permit vegetation to grow or accumulate thereon or permit other combustible material to accumulate thereon in a manner likely to cause a fire hazard or other threatening danger.

36 Lighting of fires and burning of combustible material

- [1] The lighting of fires and the disposal of combustible material by burning is prohibited, save in the circumstances set out in this section.
- [2] A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.
- [3] The owner or person in charge of the premises used in respect of an occupancy of entertainment or public assembly must ensure that a cooking fire or flame-emitting device is placed in designated areas so as to prevent a fire hazard or other threatening danger.
- [4] Burning may take place on state land, a farm, a small holding, or land within a proclaimed township that is not utilised for residential purposes; provided that prior approval is obtained from the controlling authority, which approval shall be applied for in writing, subject to compliance with any other applicable legislation; provided further that the controlling authority may exempt the owner or lawful occupier of rural land or premises from having to obtain the said approval.

CHAPTER 8**FLAMMABLE SUBSTANCES**

- 37 Application of this chapter** - Notwithstanding the provisions in either the Hazardous Substances Act or the Occupational Health and Safety Act, this chapter shall regulate flammable substances within the municipal boundaries of the municipality so as to prevent and reduce fire hazards or other threatening dangers.

38 Storage and use of a flammable substance

- [1] Prior to the construction of a new installation or the alteration of an existing installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the municipality in accordance with the National Building Regulations and a copy of the approved plan must be available at the site where the installation is being constructed.
- [2] Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations [T1], SABS 0131: Parts 1 and 2, SABS

089: Part 3 and SABS 087: Parts 1,3 and 7, whichever may be applicable, in the presence of the controlling authority.

- [3] Notwithstanding subsection [2], the controlling authority may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework to be pressure-tested in accordance with the provisions of the National Building Regulations [T1].
- [4] The controlling authority must be notified at least 48 hours prior to the pressure test.
- [5] Prior to the alteration of premises such that the alteration will affect or potentially have an impact on the fire safety of an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the premises must notify the controlling authority, who may call for the premises or installation to be rendered safe.
- [6] The owner or person in charge of the premises may not store or use -
 - [a] a flammable gas in excess of 19 kilogrammes; or
 - [b] a flammable liquid of a danger group; or
 - [c] a flammable liquid in excess of 200 litres,

unless he or she has obtained a flammable substance certificate from the controlling authority.

39 Flammable substance certificate

- [1] The owner or person in charge of a premises who requires a flammable substance certificate mentioned in section 38[6] must submit an application to the controlling authority as may be prescribed.
- [2] The controlling authority may request additional information from the applicant.
- [3] The controlling authority must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations [T1] and any additional requirements set out in this by-law and if the controlling authority is of the reasonable opinion that the non-compliance of the premises can be remedied then he or she must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises in accordance with section 38[6] and the issuing of the certificate.
- [4] A flammable substance certificate must be renewed annually on or before the date indicated thereon and whenever the quantity or class of

the flammable substance is required to be changed or when section 38[5] applies.

- [5] If at any time the controlling authority becomes aware that the usage of the premises is not in accordance with the flammable substance certificate, then he must act in terms of sections 4[2] or 6[1] and section 7 of this by-law.
- [6] Notwithstanding subsection [5], when, in the reasonable opinion of the controlling authority, a flammable substance is stored or utilised for any purpose in a manner which is hazardous to life or property or an installation is unauthorised then an order may be issued for the removal of the flammable substance or installation from the premises.
- [7] A supplier may not supply flammable substances to the owner or person in charge of the premises unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the controlling authority.
- [8] A flammable substance certificate is valid only -
 - [a] for the installation for which it was issued;
 - [b] for the state of the premises at the time of issue; and
 - [c] for the quantities stated on the certificate.
- [9] The flammable substance certificate must be available on the premises for inspection at all times.
- [10] The controlling authority must keep records of all premises in respect of which a flammable substance certificate has been issued, amended or renewed.

40 Permanent or temporary above ground storage tank for a flammable liquid

- [1] In this section only a permanent or temporary above ground tank used for the storage of flammable liquids is regulated.
- [2] A temporary above ground storage tank, other than that at a bulk storage depot, is permitted at the discretion of the controlling authority provided that the following requirements are complied with -
 - [a] it must have a capacity not exceeding 9 000 litres and shall not be used for the storage of flammable substances with a flash point below 40°C;
 - [b] it shall be on the premises for a period not exceeding 6 months;

- [c] the entire installation must comply with SABS 0131: Part 1 or SABS 0131: Part 2, whichever is applicable; and
 - [d] written application together with a plan must be forwarded to the controlling authority at least 14 days prior to the erection of the tank and prior written permission must be obtained from the controlling authority for the erection of the tank.
- [3] Notwithstanding section 38[1], if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, then an acceptable national design, based on a relevant national or international code or standard, must be submitted to the municipality for approval in terms of the National Building Regulations [T1].
 - [4] The design requirements and construction of a permanent tank must be in accordance with relevant national or international codes.
 - [5] The rated capacity of a permanent or temporary tank must provide sufficient usage to permit expansion of the product contained therein by reason of a rise in temperature during storage.
 - [6] A permanent or temporary tank must be erected at least 3,5 metres from boundaries, buildings and other flammable substances or combustible materials.
 - [7] A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.
 - [8] A permanent or temporary tank must have a bund wall.
 - [9] Adequate precautions must be taken to prevent spillage during the filling of a tank.
 - [10] Sufficient fire extinguishers, as determined by the controlling authority, must be provided in weatherproof boxes in close proximity to a tank.
 - [11] Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank and the signs must comply with SABS 1186: Part 1.
 - [12] The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.
 - [13] An electrical or an internal combustion-driven pump must be equipped and so positioned so as to eliminate the danger of the flammable liquid being ignited.
 - [14] The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

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- 41 Underground storage tank for a flammable liquid** - The installation of underground storage tanks, pumps, dispensers and pipework at service stations and consumer installations must be in accordance with National Building Regulations [T1] read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3.
- 42 Bulk storage depot for flammable substances** - The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations [T1], read in conjunction with SABS 089: Part 1.
- 43 Small installations for liquified petroleum gas** - Liquified petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3 000 litres per installation, must be installed and handled in accordance with SABS 087: Part 1.
- 44 Liquid petroleum gas installation in mobile units and small non-permanent buildings** - A liquid petroleum gas installation in mobile units and small non-permanent buildings shall be in accordance with SABS 087: Part 2.
- 45 The fuelling of forklift trucks and other LP gas operated vehicles** - The fuelling of forklift trucks and other LP gas operated vehicles shall be in accordance with SABS 087: Part 8.
- 46 The storage and filling of refillable liquid petroleum gas containers** - Storage and filling sites used for refillable liquid petroleum gas containers of a capacity not exceeding 9 kilogrammes must be in accordance with SABS 087: Part 7.
- 47 Bulk storage vessel for liquid petroleum gas** - The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations [T1], read in conjunction with SABS 087: Part 3.
- 48 Termination of the storage and use of flammable substances**
- [1]** If an above ground or underground tank installation, liquid petroleum gas installation or associated pipework is no longer required for the storage or use of a flammable substance, then the owner or person in charge of the premises on which the installation was erected must -
- [a]** within 7 days of the cessation of use, notify the controlling authority in writing thereof;
- [b]** within 30 days of the said cessation, remove the flammable substance from the installation and render it safe;

- [c] within 6 months of the said cessation, remove the installation, including any associated pipework, from the premises entirely, unless the controlling authority otherwise instructs; and
 - [d] restore a public footpath or roadway, which has been disturbed by the removal, to the reasonable satisfaction of the municipality within a period of 7 days of the completion of the removal of the installation.
 - [2] If the removal of an underground tank installation detrimentally affects the stability of the premises, then the owner or person in charge of the installation must apply in writing to the controlling authority to fill the tank with liquid cement slurry.
- 49 **Reporting accidents** - If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of a flammable substance, as well as personal injury or death, then the owner or person in charge of the premises must immediately notify the controlling authority.
- 50 **Flammable stores**
- [1] The construction of a flammable store must be in accordance with the National Building Regulations [T1] read in conjunction with SABS 0400.
 - [2] The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.
 - [3] The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid as indicated on the flammable substance certificate and an additional 10% of the quantity mentioned on the certificate.
 - [4] Notwithstanding the National Building Regulations [T1] read in conjunction with SABS 0400 -
 - [a] the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a 2 hour fire-resistance when it forms part of another building;
 - [b] the ventilation of a flammable store must be achieved by the use of air bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5 m² of wall area or part thereof, so that vapour cannot accumulate inside the store;
 - [c] the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1100 meshes per metre; and

- [d] the wire gauze must be held in position by metal straps, a metal frame or cement.
- [5] When required by the controlling authority, the flammable store must be ventilated by a mechanical ventilation system approved by the municipality and must comply with the following requirements -
 - [a] the ventilation system shall be intrinsically safe, provide 30 air changes per hour and must operate continuously;
 - [b] the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least 1 metre above roof height or at least 3,6 metres above ground level, whichever is the greater;
 - [c] ducting material, which is external to the store but forms part of the remainder of the building, must be fitted with a fire damper of 2 hour fire-resistance at the point of exit from a flammable store; and
 - [d] the ducting must be as short as possible and must not have sharp bends.
- [6] Notwithstanding the National Building Regulations [T1] read in conjunction with SABS 0400, a flammable store door must be constructed of material with a fire resistance of 2 hours, provided that all relevant safety distances are complied with and the door must open outwards.
- [7] When required by the controlling authority, a flammable store door must be a D-class fire door, which complies with SABS 1253.
- [8] Notwithstanding the National Building Regulations [T1] read in conjunction with SABS 0400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.
- [9] No other electrical apparatus may be installed in the flammable store.
- [10] A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipework leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimetre block letters.
- [11] Racking or shelving erected in the flammable store must be of non-combustible material.
- [12] The flammable store must be identified by the words, "Flammable Store-Bewaarplek vir Vlambare Vloeistowwe-Isitoro Indawo Yokugcina

Izixhobo Ezithatha Lula Umlilo" including a similar warning in any of the other official languages as may be deemed necessary by the controlling authority, the permissible quantity allowed within the flammable store being indicated in 100 millimetre block letters on both the inside and outside of all doors governing access to the store.

- [13] The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.
- [14] A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.
- [15] Sufficient fire extinguishers, as determined by the controlling authority, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.
- [16] Any hand tool used in the flammable store must be intrinsically safe.
- [17] A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the controlling authority has been notified in terms of the following procedure -
 - [a] within 7 days of the cessation of use, the controlling authority shall be notified in writing thereof;
 - [b] within 30 days of the said cessation, the flammable substance shall be removed from the flammable store and rendered safe; and
 - [c] within 30 days of the said cessation, all signage shall be removed.
- [18] Subject to the provisions in this section, the controlling authority may call for additional requirements to improve the fire safety of a flammable store.

51 Container handling and storage

- [1] All flammable substance containers must be kept closed when not in use.
- [2] A person may not extract flammable liquids from a container of a capacity exceeding 20 litres unless the container is fitted with an adequately sealed pump or tap.

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- [3] Flammable liquid containers must be labelled and marked with words and decals which indicate the flammable liquids contained therein as well as the hazard of the liquids.
- [4] Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.
- [5] All flammable substance containers must be manufactured and maintained in such a condition so as to be reasonably safe from damage and so as to prevent leakage of flammable substances or vapours therefrom.
- [6] An empty flammable liquid container must be placed in a flammable store.
- [7] Where a flammable store is not available for the storage of empty flammable liquid containers, the controlling authority may permit such storage in the open, provided that -
 - [a] the storage area must be in a position and of sufficient size which, in the reasonable opinion of the controlling authority, will not cause a fire hazard or other threatening danger;
 - [b] the storage area is well ventilated and enclosed by a wire mesh fence and -
 - [i] the fence supports are of steel or reinforced concrete;
 - [ii] has an outward opening gate that is kept locked when not in use; and
 - [iii] when the floor area exceeds 10 m² an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key;
 - [c] the storage area is free of vegetation and has a non-combustible firm level base;
 - [d] a 2 metre distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials;
 - [e] when the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material;
 - [f] open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SABS 1186: Part 1; and

- [g] fire-fighting equipment is installed as determined by the controlling authority.
- [8] An empty flammable liquid container must be securely closed with a bung or other suitable stopper.
- 52 **Spray rooms and booths** - A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act.
- 53 **Liquid petroleum gas containers**
- [1] A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019.
- [2] A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.
- [3] A liquid petroleum gas container of a capacity not exceeding 9 kilogrammes must be filled and stored in accordance with SABS 087: Part 7.

CHAPTER 9

TRANSPORTATION OF DANGEROUS GOODS

- 54 **Dangerous goods certificate**
- [1] The operator of a vehicle designed for the transportation of dangerous goods may not operate such a vehicle in the jurisdiction of the controlling authority unless he or she has obtained a dangerous goods certificate issued by a service in terms of the National Road Traffic Act.
- [2] An operator of a vehicle mentioned in subsection [1] must submit an application to the controlling authority as may be prescribed.
- [3] The controlling authority may request additional information from the applicant.
- [4] The controlling authority must refuse to issue the dangerous goods certificate if a vehicle does not comply with the requirements of SABS 087: Part 4, SABS 089: Part 1, SABS 0230, SABS 1398 or SABS 1518, whichever may be applicable.
- [5] If the controlling authority is of the reasonable opinion that the non-compliance of a vehicle can be remedied, then he or she must instruct an operator of a vehicle in writing to take all reasonable steps to

remedy the defaults prior to the use of the vehicle in accordance with subsection [1] as well as the issue of a dangerous goods certificate.

- [6] A dangerous goods certificate must be renewed annually on or before the date as indicated thereon or whenever major maintenance or repairs have been performed on the vehicle.
- [7] If at any time the controlling authority becomes aware that the usage of a vehicle is not in accordance with the dangerous goods certificate, then he or she must act in terms of section 4[2] or 6[1] and section 7 of this by-law.
- [8] A consignor may not supply a flammable substance to an operator of a vehicle mentioned in subsection [1] unless the operator is in possession of a valid dangerous goods certificate issued by the controlling authority.
- [9] A consignee may not receive a flammable substance from an operator of a vehicle mentioned in subsection [1] unless the operator meets the requirement in subsection [7].
- [10] A dangerous goods certificate is valid only -
 - [a] for the vehicle for which it was issued;
 - [b] for the state of the vehicle at the time of issue; and
 - [c] for the quantities stated on the certificate.
- [11] The dangerous goods certificate must be available in the vehicle mentioned in subsection [1] for inspection at all times.
- [12] The controlling authority must keep records of all vehicles in respect of which a dangerous goods certificate has been issued, amended or renewed.

CHAPTER 10

GENERAL PROVISIONS

- 55 **State bound** - This by-law binds the state and any person in the service of the state.
- 56 **Offences and penalties**
 - [1] Any person who -
 - [a] contravenes any of the provisions of this by-law 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 liable for a maximum fine of R10 000 or imprisonment for a period not exceeding 12 (twelve) months.

- [2] In the case of a continuing offence, the said person shall be liable for an additional fine of R250 or an additional period of imprisonment of 1 (one) day or for such additional imprisonment without the option of a fine or for both such additional fine and imprisonment, for each day on which such offence is continued.
- [3] The said person shall also be liable for a further amount equal to any costs and expenses found by a court to have been reasonably incurred by the municipality as a result of such contravention or failure.
- [4] The controlling authority must instruct a person found guilty to correct or remedy the contravention or defect concerned within a time period specified by the controlling authority.

57 Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing -

- [a] any matter that may or must be prescribed in terms of this by-law; and
- [b] any matter that may facilitate the application of this by-law.

58 Repeal of by-law

- [a] Any by-law relating to community fire safety adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.
- [b] A certificate which was issued, a written notice which was served or any other enforcement act carried out in terms of a by-law repealed in subsection [a], within 6 (six) months prior to the commencement of this by-law, shall be deemed to be a certificate issued, a notice served or an enforcement act done by a controlling authority in terms of this by-law.

58 Short title and commencement

This by-law is called the Community Fire Safety By-law, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

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