

MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

MUNICIPAL NOTICE 124 OF 2016

RAY NKONYENI MUNICIPALITY

**STANDING RULES AND ORDERS
FOR THE MEETINGS OF THE COUNCIL
AND
ALL ITS COMMITTEES**

2016

RULES AND ORDERS OF MUNICIPAL COUNCILS AND COMMITTEES OF THE COUNCIL BY-LAW

Be it enacted by the Council of the Ray Nkonyeni Municipality, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

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CHAPTER 1 DEFINITIONS

Definitions

1. In these Rules and Orders, unless inconsistent with the context –

“Authorised person” means an official of the municipality authorised by the Municipal Manager to perform a specific task in terms of these Rules and Orders;

“by-law” means legislation passed by the council of a municipality;

“calendar day” means a twenty-four hour day as denoted on the calendar;

“chairperson” means a councillor elected in a permanent or acting capacity to control and conduct any meeting of a committee of council;

“Constitution” means the Constitution of the Republic of South Africa, 1996

“Council” means —

- (a) the Ray Nkonyeni Municipality, exercising its legislative and executive authority through its municipal council;
- (b) its successor-in-title;
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these Rules and Orders has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Systems Act; and
- (d) a service provider fulfilling a responsibility under these Rules and Orders;

“Code of Conduct” means the Code of Conduct for Councillors contained in Schedule 1 to the Systems Act;

“contact details” means a physical address, postal address, electronic mail address, telephone number, facsimile number and cellular phone number;

“councillor” means a member of a municipal council;

"day" means any ordinary day other than a Saturday, Sunday or Public Holiday, except where otherwise stated;

"deputation" means a person or group of persons who wish to appear personally before the council or a committee of the council in order to address the council or committee of the council;

"executive committee" means the council's executive committee established in terms of section 43 of the Structures Act;

"in-committee" means any council or committee meeting at which the public and or officials of the municipality are excluded;

"integrated development plan" means a single, inclusive and strategic plan for the development of the municipality and applicable in terms of Chapter 5 of the Systems Act;

"mayor" means a councillor elected as the mayor of the municipality in terms of section 48 of the Structures Act;

"meeting" means a meeting of the council or any one of its committees;

"municipality" means the Ray Nkonyeni Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Structures Act, read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000);

"municipal asset" means any movable, immovable, corporeal, incorporeal, tangible and intangible property to which the municipality holds title;

"municipal manager" means the person appointed municipal manager in terms of section 54A of the Systems Act and includes any person acting in that capacity;

"notice of motion" means the instrument by which councillors may bring items on to the agenda of a council meeting in terms of section 23 of these Rules and Orders;

"Peace Officer" means any person declared as a Peace Officer in terms of the

Criminal Procedure Act No. 51 of 1977;

"point of order" means the pointing out of any deviation from or anything contrary to, the conduct and or any other irregularity in the proceedings of a meeting;

"precincts" means the council chamber and all places of meeting, the areas to which the public are allowed access and all other venues where the meetings of the council or a committee of the council are conducted;

"public" includes the media and means any person residing within the Republic of South Africa;

"service delivery agreement" means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Systems Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the municipality;

"speaker" means the chairperson of the council elected in terms of section 36 of the Structures Act and includes any acting speaker when he or she is elected to perform the functions of the speaker;

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"table" means to submit a report or any official document to the council or a committee of council for consideration at a meeting of the council or a committee of council of which notice has been given in terms of these Rules and Orders;

CHAPTER 2

APPLICATION AND INTERPRETATION OF RULES AND ORDERS

Application of this by-law these Rules and Orders

2.1 The rules of order contained herein apply to all meetings of the municipal council and any committee of the municipal council as well as any other committee of councillors established within the municipality, unless the terms of reference for a specific structure explicitly excludes the application of the rules for such structure.

2.2 these Rules and Orders governs the proceedings of the council and committees of the council which bind and must be complied with by –

- (a) all councillors;
- (b) any member of the public while present in the precincts;
- (c) any deputation addressing the council or a committee of the council;
- (d) any municipal official of the municipality; and
- (e) Traditional Leaders participating in Council and its committees in terms of section 81 of the Municipal Structures Act

Interpretation of these Rules and Orders

3. (a) Any interpretation of these Rules and Orders must be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.
- (b) The ruling of the speaker or chairperson with regard to the interpretation of these Rules and Orders at a meeting of the council or committee of the council will, subject to sections 3(e) and 3(f), be final and binding.
- (c) The interpretation and the ruling of the speaker or chairperson on any of these Rules and Orders must be recorded in the minutes of the council or committee meeting.
- (d) The municipal manager must keep a register of the rulings and legal opinions.
- (e) Any councillor may request the municipal manager, in writing within five days from a ruling made in terms of section 3(b), to obtain clarity on the interpretation and ruling and to report to the council or committee of the council.
- (f) The council or committee of the council may after consideration of the report in terms of section 3(e) confirm, amend or substitute the ruling of the speaker or chairperson, subject to any rights which any third party may have accrued as a result of the ruling and all decisions effecting the rights of others must be in writing and reasons must be recorded of such decisions.

CHAPTER 3
FREQUENCY, ADMISSION OF PUBLIC AND NOTICE OF MEETINGS

Council meetings

4. (a) The council must hold an ordinary meeting of the council not less than once every three months.
- (b) The speaker must convene all meetings of the council in accordance with section 4(a) and subject to section 6.

Admission of public

5. (1) All meetings of the council and those of its committees must be open to the public, and the council or committee of the council may not exclude the public from a meeting, other than when the council or committee, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so having due regard to the principles of an open and democratic society.
- (2) The council or a committee of the council, may not for any reason whatsoever, exclude the public when considering, voting or noting any of the following matters –
- (a) a draft by-law tabled in the council;
 - (b) a budget tabled in the council;
 - (c) the municipality's integrated development plan, or any amendment of the plan, or any amendment of the plan tabled in council;
 - (d) the municipality's performance management system, or any amendment of the system, tabled in council;
 - (e) the decision to enter into a service delivery agreement;
 - (f) any reports on an award in terms of supply chain management policy;
 - (g) the disposal or acquisition of municipal capital asset;
 - (h) any other matter prescribed by legislation.
- (3) The municipal manager must give notice to the public, in a manner determined by the council, of the time, date and venue of every ordinary meeting of the

council or committee of the council and any special or urgent meeting of the council or committee of the council, except when time constraints make this impossible.

- (4) Members of the council together with members of the public attending any council or committee meetings must accord the meeting the dignity it deserves by dressing appropriately (formal attire (*corporate or traditional*) as per Rule 41(d) and must not wear any attire which could be ascribed to a political party
- (5) The use of cellular telephones at meetings is prohibited.

Notice to attend an ordinary council meeting

6. (1) The speaker must convene meetings of the council, at least once every three months, through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.
- (2) Notice to attend a meeting in terms of section 6(1) must be given at least –
(a) 72 hours prior to an ordinary meeting; and
(b) 48 hours prior to a special meeting.

Special meetings

7. (1) The speaker must call a special meeting of the council –
(a) for the purpose of pertinent or urgent council business; or
(b) or at the request of a majority of the councillors of the municipality.
- (2) A special meeting must be held in compliance with section 6(2)(b) and in terms of section 7(1)(b) no later than four days from the date of receipt of a request.
- (3) A request for the calling of a special meeting, as contemplated in section 7(1)(b), must –
(a) be signed by no less than fifty percent plus one of all councillors of the municipality; and
(b) be accompanied by –
 - (i) a duly signed notice of motion; and
 - (ii) a written statement by the councillor signing the notice of motion giving

reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.

- (c) If the speaker fails to convene a meeting in terms of this section, the municipal manager must convene such meeting and conduct an election of an acting speaker in terms of section 41 of the Structures Act.

Service of notices and agenda

8. (1) Notice to attend a meeting or any other official communication from the council, must be delivered to –
- (a) a physical address within the area of jurisdiction of the municipality; or
 - (b) an e-mail address;
 - (c) facsimile; or
 - (d) by a short message service:

Provided that contact details must be supplied by each councillor to the municipal manager in writing within two days of a councillor's election and, thereafter, whenever the councillor wishes to change either address and at which address the councillor will accept service and or receipt of any notice to attend a meeting and any other official communication from the council.

- (2) All documentation relevant to any council or committee meeting, except special meetings convened in terms of section 7, must be given to all councillors at least five calendar days prior to an ordinary council or committee meeting and two calendar days prior to a special council or special committee meeting.
- (3) All councillors must inform the speaker of any change of his contact details within three days of such change.
- (4) Subject to section 5(3), notice to attend a meeting must be displayed on the public notice boards of the municipality.

Non-receipt of notice

9. (a) A councillor may request an investigation regarding the non-receipt of a notice to attend a meeting.
- (b) Non-receipt of a notice to attend a meeting will not affect the validity of any meeting or proceedings of council or any of its committees.

CHAPTER 4 QUORUM

Quorum

10. (1)(a) Notwithstanding that there may be vacancies, the quorum of a council must be fifty percent plus one of the total number of councillors determined in accordance with the municipality's establishment notice, before a vote may be taken on any matter.
- (b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the council meeting.
- (2)(a) Notwithstanding that there may be vacancies, a majority of the number of councillors appointed to a committee of council must be present at a meeting of the committee before a vote may be taken on any matter.
- b) Subject to a quorum, the failure of any councillor to vote will not invalidate the proceedings of the committee meeting.

Cancellation and adjournment in absence of quorum

Cancellation

11. (1) No meeting may take place, if no quorum is present fifteen minutes after the time at which a meeting was due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding a further fifteen minutes for a quorum, where after if no quorum is present, the meeting must be postponed and convened the following week on the same day of the failed meeting, same venue and at 16h00.

Adjournment

- (2) If during discussion on an item at any meeting of council or any of its committees the attention of the speaker or chairperson is called to the number of councillors present, he or she must –
- (a) count the councillors present;
 - (b) if it is found that there is no quorum, the speaker or chairperson must adjourn the meeting and allow an interval of fifteen minutes for a quorum to become present;
 - (c) if a quorum becomes present after the adjournment then the meeting must continue;
 - (d) if no quorum becomes present after the adjournment then the chairperson or

speaker must forthwith adjourn the meeting.

- (3) When a meeting is adjourned as a result of no quorum, the meeting will be re-convened within seven days as a continuation meeting.

CHAPTER 5 ATTENDANCE

Attendance

12. (1) All councillors must punctually attend and remain in attendance at each meeting of the council and a committee of which that councillor is a member except when –
- (a) leave of absence is granted in terms of section 13;
 - (b) that councillor is required to withdraw in terms of section 46(b); or
 - (c) that councillor is absent with the permission of the speaker or chairperson.
- (2) Each councillor attending any meeting of the council or a committee of the council must sign an attendance register provided for that purpose.
- (3) The attendance register must be filed in the office of the municipal manager.
- (4) Any councillor who is entitled to leave of absence in terms of section 13 and no longer requires such leave, is entitled to attend, participate and vote in the meeting from which leave of absence was granted and sign the attendance register.

Leave of absence

13. (1) Leave of absence must not be granted by the Speaker in such a manner that more than the number required for a quorum will at any one time be absent.
- (2) If a councillor –
- (a) is unable to attend a meeting of which notice had been given; or
 - (b) is unable to remain in attendance at a meeting; or
 - (c) will arrive after the stipulated commencement time of a meeting,
- he or she will, as soon as is reasonably possible and prior to that meeting, lodge with the municipal manager a written application for leave of absence from the whole or any part of the meeting concerned, which application must provide reasonable and bona fide reasons for the application and show good cause for the

granting of the application.

- (3) The municipal manager must as soon as possible inform the speaker or chairperson of the meeting concerned of any application for leave of absence received.
- (4) The speaker or chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons and immediately inform the municipal manager of his decision.
- (5) The municipal manager must as soon as is reasonably possible, inform a councillor who has applied for leave of absence of the speaker or chairperson's decision.
- (6) A councillor will be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she –
 - (a) failed to attend a meeting; or
 - (b) failed to remain in attendance at a meeting.
- (7) Where a councillor fails to remain in attendance at a meeting –
 - (a) without being granted permission to do so; or
 - (b) without obtaining permission from the speaker or chairperson to leave prior to the close of the meeting,the time of leaving must be recorded in the minutes of the meeting and that councillor will be deemed to have been absent without leave at that meeting.
- (8) Where a councillor arrives late at a meeting, without obtaining permission to do so, the time of arrival and the reasons for the late attendance must be recorded in the minutes of the meeting and the councillor may attend the meeting and sign the attendance register in terms of section 12(2).
- (9) Leave of absence for two or more consecutive council or committee meetings must be sanctioned by the council or the relevant committee.

Non-attendance

14. (1) (a) Subject to compliance with the procedure set out in section 13 and the provisions of item 4(2) of Schedule 1 of the Systems Act, a councillor who is absent without good cause from a meeting, of which notice has been given, will be liable to pay a fine equivalent to one week's remuneration, which fine may be deducted from remuneration due to the councillor concerned.
- (b) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3 of Schedule 1 of the Systems Act, must be removed from office as a councillor in accordance with section 14(2)(e) of the Systems Act.
- (c) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt.
- (2) Where a councillor has been absent without obtaining leave from a meeting—
- (a) the Ethics Committee as contemplated in section 43 or the speaker or chairperson as the case may be, must invite the councillor to provide a formal explanation setting out the reasons for the councillor's absenteeism from the meeting;
- (b) the speaker or chairperson must consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
- (c) the councillor may appeal in writing to the speaker's or chairperson's decision within seven days of receipt of such decision.
- (d) the council or committee, as the case may be, must –
- (i) allow the councillor an opportunity to make representations, oral or written; and
- (ii) consider the councillor's appeal, together with any comments from the speaker or chairperson of the meeting concerned;
- (iii) make a finding as to whether the councillor was absent with or without good cause.
- (3) The municipal manager must keep a record of all incidents in respect of which councillors have been found to be absent or deemed to be absent without leave and without good cause and must submit a written report to the speaker whenever a councillor is absent from three or more consecutive meetings which that councillor was

required to attend.

- (4) Where the speaker receives a report in terms of section 14(3), the speaker must submit the report to council and direct that the matter be investigated in accordance with Item 14 of the Code of Conduct.

CHAPTER 6 ADJOURNMENT

Adjourned meetings

15. Subject to section 11(3), a council or committee meeting may, by majority vote, be adjourned to another day or hour but no later than 14 days after the original meeting.

Continuation meeting

16. (1) When a meeting is adjourned, notice of the continuation meeting must be served in terms of section 8.
- (2) No business will be transacted at a continuation meeting except such as is specified in the notice of the meeting, which was adjourned.

CHAPTER 7 PROCEEDINGS

Speaker and chairpersons of meetings

17. (1) At every meeting of the council, the speaker, or if he or she is absent, an acting speaker, will be the chairperson and will perform the duties stipulated in terms of section 37 of the Structures Act and must ensure that each councillor when taking office is given a copy of these Rules and Orders and the Code of Conduct.
- (2) The speaker and chairperson of council and committee meetings –
- (a) must maintain order during meetings;
 - (b) must ensure compliance in the council with the Code of Conduct for Councillors; and
 - (c) must ensure that meetings are conducted in accordance with these Rules and Orders.

- (3) If the speaker or chairperson of the council or committee of the council is absent or not available to perform the functions of speaker or chairperson, or during a vacancy, the council or committee under the direction of the municipal manager or his/her nominee must elect another councillor to act as speaker or chairperson as the case may be.
- (4) No meeting of the council or a committee of the council may commence or continue unless a speaker or chairperson presides at a meeting.

Minutes

18. (a) The proceedings of every council meeting must be accurately and electronically recorded and retained in accordance with the Archives and Record Service of South Africa Act, 43 of 1996.
- (b) Written minutes of the proceedings of each council and committee meeting must contain an accurate record of the resolutions adopted by council at such meeting.
- (c) The approved minutes of every meeting of a council or committee other than in-committee meetings must be available to the public.
- (d) Where the municipal manager is of the opinion that any resolution or proceeding of a council or committee meeting may be in contravention of any law or by-law, he or she must advise the council or committee accordingly and full details of such opinion must be recorded in the minutes.

Order of business

19. (1) The order of business at every meeting of the council or its executive committee or committee of council, as may be applicable, is as follows:

(a)

Council	Executive Committee	Committee
<ul style="list-style-type: none"> • Opening prayer • Notice of the meeting • Granted leave of absence • Acceptance of the agenda • Declaration of interest • Announcements 	<ul style="list-style-type: none"> • Opening prayer • Notice of the meeting • Applications for leave of absence • Acceptance of the agenda • Declaration of interest 	<ul style="list-style-type: none"> • Opening prayer • Notice of the meeting • Applications for leave of absence • Acceptance of the agenda

<ul style="list-style-type: none"> • <u>Presentation</u> • Confirmation of minutes from the previous meeting • Outstanding matters • Submission of reports from Council representatives from District/Local municipality • Reports of the Executive Committee / Executive Mayor, under the sections: recommendations to the council, decisions under delegated authority and decisions of the Executive Committee • Reports from MPAC • Report from the Audit Committee • Reports on ward committees/ consolidated report on ward committees • Report on SALGA activities • Monthly Activities; Mayor and Deputy Mayor • Input by the Traditional Leader • Reports for noting • Reports for consideration • Reports - In-Committee; • Notice of Motion • Urgent reports - allowed only with the consensus of the chairperson; and • General matters of an urgent nature • <u>Date of next meeting</u> 	<ul style="list-style-type: none"> • Announcements • Presentations • Confirmation of minutes from previous minutes • Outstanding matters • Reports from Portfolio Committees • Reports for noting • Reports for consideration • In-Committee reports • Urgent reports allowed-only with the consensus of the chairperson; and • <u>Date of next meeting</u> 	<ul style="list-style-type: none"> • Declaration of interest • Announcements • Presentations • Confirmation of minutes from previous minutes • Outstanding matters • Reports for noting • Reports for consideration • In-Committee reports • Urgent reports allowed only with the consensus of the chairperson; and • <u>Date of next meeting</u>
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- (2) The speaker or chairperson may, in his discretion, at any stage bring forward any business that is on the agenda paper.

Confirmation of minutes of previous meeting

20. (1) The minutes of every meeting must be confirmed at the next ordinary meeting of that council or committee and must be signed by the speaker or chairperson.
- (2) No motion or discussion will be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

Deputations

21. (a) A deputation wishing to address the council or a committee of council must submit a memorandum to the municipal manager in which is set out the representations it wishes to make.

- (b) A request by a deputation to address the council or a committee of the council must be approved by the speaker or relevant chairperson.
- (c) The municipal manager must submit the memorandum to the council or a committee of the council, which may receive the deputation.
- (d) Any matter requiring consideration arising from a deputation, will not be further considered by the council or committee until the deputation has withdrawn provided that questions of clarity may be permitted.
- (e) A member of the public, other than a deputation, who wishes to speak at a council or committee meeting, must obtain the permission of the speaker or chairperson to do so, prior to the commencement of the meeting.
- (f) When speaking at a council or committee meeting, a member of the public and a deputation must comply with any directions or orders given by the speaker or chairperson.
- (g) If a member of the public or a deputation conducts himself/herself in a disorderly and unruly manner at any time, the speaker or chairperson must direct that that member remove himself or be removed by a Peace Officer from the precincts.
- (h) Any member of the public or deputation who fails or refuses to comply with the speaker's or chairperson's directions in terms of section 21(f) and section 21(g) will be guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one month or both such fine and such imprisonment.

Reports

- 22.
- (a) Any report submitted to the council or a committee of the council must, with the exception of a report accepted by the speaker or chairperson as a matter of urgency, be provided to councillors in terms of section 8.
 - (b) The speaker or chairperson must allow debate in accordance with sections 34, 35, 36, 37, 38, 39 and 40 on any report submitted to the council or a

committee of the council, at the meeting at which that report is submitted and if the debate is incomplete or does not take place for any reason whatsoever, then the debate in respect of that report must be held, at the next meeting.

Motions

23. (1) No subject will be brought before council or a committee of council by a councillor except by way of notice of motion.
- (2) A notice of motion must –
- (a) be in writing; and
 - (b) be signed by the councillor submitting it and by another councillor acting as a seconder; and
 - (c) refer to one matter only.
- (3) A notice of motion must, subject to section 7, be lodged with the municipal manager before 12h00 seven calendar days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.
- (4) The municipal manager must –
- (a) date and number each notice of motion;
 - (b) enter each notice of motion lodged in a register, which must be open to inspection by any councillor and the public; and must
 - (c) enter each notice of motion on the agenda in the order received.
- (5) The speaker or chairperson must –
- (a) read out the number of every motion and the name of the mover and seconder;
 - (b) ascertain which motions are unopposed and these will be passed without debate; and
 - (c) call the movers of the opposed motions in the order they appear on the agenda.
- (6) A councillor submitting a motion must move such motion and will have the right of reply.
- (7) A motion will lapse if the councillor and seconder who submitted it is not present

at the meeting when such motion is being debated.

- (8) A councillor will be allowed not more than three notices of motion on the same agenda.
- (9) The speaker or chairperson must not reject a motion received by him or her in terms of these Rules and Orders.

Questions

- 24
- (a) A councillor may put a question requiring a written reply from any political or municipal office bearer of the municipality concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers, provided that written notice of the question has been lodged with the speaker or chairperson and the municipal manager at least seven days prior to the council or committee meeting and the municipal manager must ensure that the councillor receives a written reply from that political or municipal office bearer, at the council or committee meeting.
 - (b) If after a question has been replied to, a councillor is of the opinion that the reply is not clear and is ambiguous, he or she may, with the consent of the speaker or chairperson, request a follow-up question.

Supply of information to a councillor

- 25.
- (a) No councillor may approach or communicate with any officer of the municipal administration concerning the business of the municipality other than when exercising his rights or liberties as an ordinary member of the public.
 - (b) A councillor may approach and communicate with the municipal manager or any head of department or any officer of the municipal administration specifically designated by the municipal manager or by the head of department concerned for this purpose, in order to obtain such information as he or her may reasonably require for the proper performance of his duties as a councillor.

General matters of an urgent nature

26. (a) General items of an urgent nature may be placed on an agenda by the municipal manager and any member of the council with the prior consent of the speaker or chairperson, which consent will not be unreasonably withheld.
- (b) Prior to adoption, councillors must be afforded reasonable time to peruse and consider any report or official documents submitted to the council.

Interpretation

27. If a majority of councillors present so resolve, an interpreter may be used in meetings of the council and committees of the council.

In-committee

28. 1. (a) Subject to section 5, the council or a committee of council may, at any time, resolve to proceed in-committee.
- (b) The public will be excluded from any in-committee meetings.
- (c) The municipal manager or another official exempted from this section by the speaker or chairperson, will not be excluded from any in-committee meeting.
- (d) All proceedings in-committee must be recorded in terms of section 18(1) and 18(2) and must be confidential.
- (e) Unauthorised disclosure of any confidential matter must be dealt with in terms of the Code of Conduct.
- 2 The Council will deal In Committee when discussing any of the following matters:
- (a) a trade secret or confidential commercial information of any supplier of the municipality or any person rendering a service to the municipality;
- (b) personal and private information of any councillor or an employee of the municipality;
- (c) the intention of the municipality to purchase or acquire land or buildings;
- (d) the price a municipality may offer for the purchase or acquisition of land or buildings;
- (e) any report addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;
- (f) disciplinary proceedings or proposed disciplinary proceedings against any employee;

- (g) any matter that might not be disclosed in terms of legislation;
 - (h) consideration of the minutes of previous In Committee discussions.
3. A councillor may, when an item in the agenda is put to order, other than a matter referred to in 28.2 above, and provided it is not a matter that is required in law to be dealt with in open council, propose with motivation, that the matter be further dealt with In Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.

CHAPTER 8 VOTING

Decisions by voting

29. (1) A quorum must be present in order for a vote to be taken.
- (2) All questions concerning the following matters must be determined by a decision taken by the council with a supporting vote of a majority of the number of councillors determined in accordance with the municipality's establishment notice –
- (a) the passing of by-laws;
 - (b) the approval of budgets;
 - (c) the imposition of rates and other taxes, levies and duties;
 - (d) the raising of loans;
 - (e) the rescission of a council resolution within 6 months of the taking thereof;
- and
- (f) any other matter prescribed by legislation.
- (3) All other questions before the council must be decided by a majority of the votes cast by the councillors present.
- (4) If on any matter there is an equality of votes, the speaker or chairperson may exercise a casting vote in addition to a deliberative vote as a councillor, provided that a speaker or chairperson will not exercise a casting vote during the election of any office bearer of council and when Council considers matters listed in section 160 of the Constitution.

Method of voting

30. (a) Voting will be by a show of hands unless the law prescribes otherwise, or the council or committee by resolution of a majority of the councillors present resolves to proceed with a secret written ballot.
- (b) During the taking of a vote no councillor may leave the council chamber or committee room.
- (c) The municipal manager or his nominee, will count the votes cast and will record the result of voting, but the speaker or chairperson will announce the result.

Dissenting votes and Abstention

31. 1. A councillor may request that his dissenting vote be recorded as evidence of how he or she voted on the motion.
- .2 A member may abstain from voting without leaving the chamber.

CHAPTER 9**REVOCAION OF COUNCIL AND COMMITTEE RESOLUTIONS****Revocation of Council Resolutions**

32. (a) Approval to revoke or alter a resolution of council may not be delegated to any person or committee.
- (b) Prior notice of an intention to move a motion for the revocation or alteration of a council resolution must be given.
- (c) Any revocation or alteration of a council resolution must be made within a period of six months as provided for in section 29(2)(e).

Revocation of Committee Resolutions

- 33 (a) Approval to revoke or alter a resolution of a committee of the council may not be delegated to any person.
- (b) Prior notice of an intention to move a motion for the revocation or alteration of a resolution of a committee of the council must be given.

- (c) Any revocation or alteration of a resolution of a committee of the council must be approved by a majority of the number of the members of that committee.

CHAPTER 10

DEBATE

Opportunity to speak

34. (a) A councillor may only speak when so directed by the speaker or chairperson.
- (b) A councillor may indicate a desire to speak by raising his hand and awaiting the direction of the speaker or chairperson, which direction must not be withheld.
- (c) Councillors and officials must direct their address to the speaker or chairperson.

Relevance

35. Every speaker must restrict him or herself strictly to the matter under consideration.

Length of speeches

36. Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech will exceed three minutes in length without the consent of the speaker or chairperson.

Councillors to speak only once

37. A councillor may not speak more than once on any motion or proposal provided that the mover of the motion may speak to the motion, will have the right of reply and the reply will be confined to answering previous speakers and will not introduce any new matter into the debate.

Precedence of the speaker or chairperson

38. Whenever the speaker or chairperson rises during a debate, any councillor then speaking or offering to speak must seat himself and the councillor must be silent, so that the speaker or chairperson may be heard without interruption.

Points of order

39. (a) Any councillor may raise a point of order at any time by standing to draw the attention of the speaker or chairperson.
- (b) Any member will only be allowed to raise one point of order and one point of personal explanation during the council meeting. Only one point of order on the same matter will be allowed.
- (c) The ruling of the speaker or chairperson on a point of order will be final and will not be open to discussion.

Explanation

40. Any councillor may speak in explanation, provided that such explanation is confined to some material part of the discussion, which may have been misunderstood.

**CHAPTER 11
CONDUCT****General conduct**

41. (1) The Speaker or the chairperson of the meeting in the event of a meeting other than a council meeting shall:
- a) Maintain order during meetings
 - b) Ensure compliance with the Code of Conduct for Councillors during meetings
 - c) Ensure that meetings are conducted in accordance with the Council's Rules and Orders
 - d) Ensure that members conduct themselves in a dignified and orderly manner during meetings are dressed appropriately (formal attire – *corporate or traditional*) for the dignity of the meeting and ensure that no political party attire or regalia is acceptable within the Council Chamber
 - e) Ensure that members of the public attending meetings are seated in areas designated for that purpose
 - f) Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or chairperson of the meeting
 - g) Ensure that any councillor or member of the public refusing to comply with

- the ruling of the Speaker or chairperson leaves the meeting
- h) Ensure that Council conduct its business in the highest decorum and integrity that the occasion deserves;
 - i) Ensure adherence to the code of conduct (j) Ensure adherence to the rules of law and the by-laws of the municipality;
 - j) Ensure that all members do not use offensive or objectionable language;
 - k) Ensure that members do not make or receive any cellphone calls during, bring in a firearm or any dangerous weapon into, a meeting of council or any of its committees; and
 - l) Ensure the adherence to formal attire at all meetings of Council (*corporate wear or traditional*)

Misconduct and Disorderly Conduct of a Councillor or persons other than Councillors

42. (a) The speaker may order a councillor to withdraw and apologise for any word, statement, opinion or gesture made by that councillor.
- (b) If a councillor or councillors behave improperly during a meeting of council or any of its committees, the speaker must direct the councillor or councillors to conduct himself or themselves properly, and if speaking, to stop speaking and resume his seat or their seats.
- (c) In the event of persistent disregard of the directions of the speaker, the speaker must direct such councillor or councillors to retire from the meeting and remove himself or themselves from the place of meeting until the item under discussion has been finalised.
- (c) In the event that any misconduct by a councillor or councillors prejudices the proceedings of the council or committee the speaker or chairperson must adjourn the meeting and any such misconduct by a councillor or councillors must be dealt with in terms of these Rules and Orders and the Code of Conduct.
- (e) Where a councillor refuses to retire from a meeting or in the event of more than one councillor having to be ejected from the meeting, and such councillor/s refuse/s to leave the meeting, the Speaker shall request an authorised official to facilitate the removal of such councillor/s from the chamber. If this cannot be done orderly, the chairperson of a meeting may

adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councillors to retire or to be ejected from the venue of the meeting. If, at the resumption of proceedings, the councillor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation. The chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any councillor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue. The authorised official of the council will ensure that such councillor/s do/es not enter such an alternative venue.

- (f) Any person, other than a councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the council or any committee at any meeting shall, if the Speaker or chairperson so directs, be removed from the chamber or the venue where the meeting is being held. If the person refuses to leave, the authorised official will be responsible to remove such person from the meeting. The chairperson may exclude such person from further admittance to the council chamber or the meeting venue for such period as it may be deemed fit.

CHAPTER 12 COMMITTEES

Ethics Committee

43. (a) The municipal council may by resolution of a majority of councillors establish a special committee to be known as the Ethics Committee to investigate and make findings on any alleged breaches of the Code of Conduct, including sanctions for non-attendance at meetings and to make recommendations regarding any other matter concerning these Rules and Orders.
- (b) The Ethics Committee shall comprise of five (5) members from the various political parties which are represented in Council: (3 from the ANC, 1 from the DA, 1 from the IFP)

Own rules

44. (a) These Rules and Orders are applicable to all Committees of the Council. No Committee of the Council may determine its own rules. .

The Chairperson

45. (1) The chairperson of a committee must—
- (a) preside at every meeting of the committee at which he or she is present; and
 - (b) be entitled to vote in the first instance and in the case of an equality of votes in addition to his deliberative vote, will give a second or casting vote.
- (2) In his absence, the acting or deputy chairperson will have the same powers and rights of voting as those possessed by the chairperson.

CHAPTER 13 PECUNIARY INTEREST

Declaration of pecuniary interest

46. (a) A councillor must disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or committee.
- (b) The councillor making a declaration must withdraw from the proceedings of the council or committee unless the council or committee decides that the councillor's direct or indirect interest in that matter is trivial or irrelevant.
- (c) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council at which it is possible for the councillor to make disclosure.
- (d) The disclosure of interests in terms of section 46(a) and benefit in terms of section 46(c) does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.
- (e) When elected or appointed, a councillor must within 60 days or as soon as possible thereafter declare in writing to the municipal manager the financial interests referred to in item 7 of schedule 1 of the Systems Act.

**CHAPTER 14
BREACH AND SANCTIONS**

Breach

47. Any councillor who fails or refuses to obey these Rules and Orders, or any resolution of Council, may be guilty of a breach of the Code of Conduct.

Sanction

48. Where it is alleged that a councillor has breached these Rules and Orders, the council must, in terms of Item 14 of the Code of Conduct, investigate the alleged breach and may impose a sanction in keeping with the Uniform Standing procedure.

**CHAPTER 15
GENERAL PROVISIONS**

Suspension of a rule or order

49. (1) In instances of urgency or where a council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting of the council, then the council may with the approval of the majority of the number of councillors of the municipality and for the duration of that meeting, temporarily relax the provisions of a section, provided that:
- (a) such relaxation must not be in contravention of any national or provincial legislation or any by-law of the municipality;
 - (b) no section may be relaxed when the removal of any political office bearer is before the council.
 - (b) the suspension or relaxation of the section relates to an item on the agenda for the meeting of the council or committee of the council; and
 - (c) section 23 must not be suspended; and
 - (d) the reasons for the suspension of the section are recorded in the minutes of the meeting.

Adoption as by-law

50. These Rules and Orders must be adopted as a by-law of the Ray Nkonyeni municipality.

Repeal of existing Rules and Orders

51. The council's existing Rules and Orders are hereby repealed.

Short title and commencement

52. These Rules and Orders will be called the Ray Nkonyeni Municipal Standing Rules and Orders, 2016.

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MUNICIPAL NOTICE 125 OF 2016
FIRE PREVENTION BY-LAW

Be it enacted by the Council of the Umzimkhulu Local Municipality, and approval of the Member of the Executive Council responsible for local government in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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CHAPTER 1

DEFINITIONS

1. Definitions

In this bylaw, unless the context indicates otherwise-

"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 operate on the detection of a fire to close the fire door;

"building" means 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;

(v) The cultivation or growing of any plant or crop;

(a) Any wall, swimming pool, reservoir or bridge or any other structure connected therewith;

(b) any fuel pump or any tank used in connection therewith;

(c) any facilities or system, or part or portion thereof, within or outside or 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 the building;

"bund wall" means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 100% of the contents of the tank;

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

"combustible refuse" means any combustible rubbish, litter or other material that has been discarded;

"combustible waste" means any combustible waste material, which is salvageable, retained or collected for scrap or reprocessing;

"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;

"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, 1987 (Act 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 that at 20 degrees centigrade 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 give off a flammable vapour at or below 60,5 degrees centigrade;

"flammable solid" 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, 1973 (Act 15 of 1973);

"National Building Regulations" means the regulations promulgated in terms section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and:

- (a) "National Building Regulations (A2)" means the provisions regulating the submission of building plans and particulars to the Council;
- (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, 1996 (Act 93 of 1996);

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

"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, 1993 (Act 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 a 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 Council 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, 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 Council being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the Council deemed to be in charge of such premises, building or installation;

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

"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, 1993 (Act 29 of 1993);

"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" 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;

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

"vehicle" means a vehicle as defined in the National Road Traffic Act.

and any reference to an SABS Code shall refer to the relevant Code published by the South African Bureau of Standards and issued in terms of the Standards Act.

CHAPTER 2

FIRE PROTECTION OF BUILDINGS

2. Reporting a fire hazard and other threatening danger

An owner or the person in charge of any premises must, upon discovering any evidence of a fire hazard or other threatening danger pertaining to this by-law, immediately notify the Council of such fire hazard or threatening danger.

3. Access for emergency vehicles

(1) When, in the opinion of the Council, premises are not readily accessible from public roads it must be provided with emergency vehicle access which must -

(a) 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; and

(b) where the premises have a motorized or electronically operated gate, be equipped in such a manner that access to the premises can be gained without the use of a motor or electronic device.

(2) Fire lanes must be provided for all premises which are set back more than 45 meters from a public road or exceed nine meters in height and are set back over 15 meters from a public road.

(3) Fire lanes must be at least four meters in width, the position of which must be decided upon after consultation with the Council, and the area from ground level to a clearance height of four meters above the fire lane must remain unobstructed.

(4) A cul-de-sac that is more than 90 meters 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.

(5) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the Council.

(6) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

4. Division and occupancy separating elements

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

5. 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 Council.

(3) A fire door and assembly may not be rendered less effective through:-

- (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.

6. Escape Routes

(1) No part of a fire escape route shall be obstructed or rendered less effective in any way.

(2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Council.

(3) Where required by the Council, an escape route must be clearly indicated with signage, which complies with SABS 1186, indicating the direction of travel in the event of fire or any other emergency.

CHAPTER 3

FIRE SAFETY EQUIPMENT

7. Fire extinguishers

(1) Fire extinguishers must be provided and installed on premises as required by the National Building Regulations (T1) and (T2).

(2) Fire extinguishers must be maintained 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) No person may 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 certificate mentioned in subsection (3).

(5) Where 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), the Council 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) When, in the opinion of the Council, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the Council 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.

8. 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 test 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).

(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 owner or person in charge of the premises must immediately notify the Council when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the Council as soon as the system is restored.

(6) The owner or person in charge of the premises must take all steps deemed necessary by the Council to provide alternate equipment to maintain the level of safety within the premises.

9. Interference with fire protection systems and fire extinguishers

No person shall tamper or interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

CHAPTER 4

PUBLIC SAFETY

10. Attendance of a service

(1) When the Council is of the opinion that a representatives of the fire brigade service are required to be in attendance during a function in a place used for entertainment or public assembly, the Council may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a vehicle or equipment of a service to be in attendance on the premises for the duration of the

function or part thereof.

(2) Where the entertainment or public assembly is taking place on Council property, the costs of the attendance of the representatives of the fire brigade service shall be recoverable from the organizers

11. 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 Council may order the owner or person in charge of the premises, other than those 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 Council.

(7) The Council 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.

12. Displaying of escape route plans

The escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.

13. 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 there from and lock, barricade or otherwise secure all windows, doors and other openings in the building to the satisfaction of the Council which will prevent the creation of a fire hazard caused by the entering of an unauthorized person.

CHAPTER 5

HOUSEKEEPING

14. Combustible waste and refuse

(1) The owner or person in charge of the 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.

(2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other danger.

15. Combustible or flammable substances and sweeping compounds

(1) Only water-based solutions, detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.

(2) The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.

16. Accumulations in chimneys, flues and ducts

The owner or person in charge of the 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.

17. Sources of ignition

(1) Smoking, the carrying of matches, the use of heating, flame-emitting devices or 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 Council, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.

(4) Portable heaters must be secured so that they cannot be overturned and the Council may prohibit the use of portable heaters in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

18. Smoking

(1) If conditions exist where smoking creates a fire hazard on the premises, smoking is prohibited and "No Smoking" signs must be displayed as directed by the Council and the signs must comply with SABS 1186: Part 1.

(2) No person may remove a "No Smoking" sign.

(3) No person may 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) 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 public road or public place.

19. Electrical fittings, equipment and appliances

No person may cause or permit –

- (1) an electrical supply outlet to be overloaded; or
- (2) an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

20. Flame-emitting device

A person may not 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 6**FIRE HAZARDS****21. Combustible material**

(1) A person may not store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside any 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.

(2) The owner or person in charge of any premises may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

22. 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) 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 the prior approval is obtained from the Council.

CHAPTER 7

FLAMMABLE SUBSTANCES

23. 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 Council, 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 is applicable) in the presence of the Council.

(3) Notwithstanding subsection (2), the Council 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 Council must be notified at least 48 hours prior to the pressure test.

(5) The owner or person in charge of the premises may not store or use:

- (a) a flammable gas in excess of 19 kilogram, or
- (b) a flammable liquid of a danger group (i), (ii), (iii) or (iv) in excess of 200 litres,

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

24. Flammable substance certificate

(1) The owner or person in charge of the premises, who requires a flammable substance certificate mentioned in section 23(5), must submit an application to the Council.

(2) The Council must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this by-law, and where the Council is of the opinion that the non-compliance of the premises can be remedied, the Council 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 and the issuing of the certificate.

(3) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever the quantity or class of the flammable substance requires to be changed.

(4) Premises must be used in accordance with any conditions specified in the flammable substances certificate and when in the opinion of the Council, a flammable substance is stored or utilised for any process in a manner which is hazardous to life or property, or an installation is unauthorised, an order may be issued for the removal of the flammable substance or installation from the premises.

(5) 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 Council.

(6) 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.

(7) The flammable substance certificate must be available on the premises for

inspection at all times.

25. Permanent or temporary above ground storage tank for a flammable liquid

(1) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the Council, on the merit of the situation, provided that the following requirements are complied with:

- (a) if it has a capacity not exceeding 9 000 litres and is not used for the storage of flammable substances with a flash point below 40 degrees centigrade;
- (b) to be on the premises for a period not exceeding six 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 Council for the erection of the tank.

(2) Notwithstanding section 28(1), if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Council for approval in terms of the National Building Regulations (T1).

(3) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognised codes.

(4) The rated capacity of a permanent or temporary tank must provide sufficient ullage to permit expansion of the product contained therein by reason of the rise in temperature during storage.

(5) A permanent or temporary tank must be erected at least 3,5 meters from boundaries, buildings and other flammable substances or combustible materials.

(6) 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.

- (7) A permanent or temporary tank must have a bund wall.
- (8) Adequate precautions must be taken to prevent spillage during the filling of a tank.
- (9) Sufficient fire extinguishers, as determined by the Council, must be provided in weatherproof boxes in close proximity to a tank.
- (10) 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.
- (11) The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.
- (12) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.
- (13) The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

26. 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.

27. 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.

28. Small installations for liquefied petroleum gas

Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 liters and a combined water capacity not exceeding 3 000 liters per installation must be installed and handled in accordance

with SABS 087: Part 1.

29. 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.

30. 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.

31. The storage and filling of refillable liquid petroleum gas containers

Storage and filling sites used for refillable liquid petroleum gas containers of capacity not exceeding 9kg must be in accordance with SABS 087: Part 7.

32. 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.

33. 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, the owner or person in charge of the premises on which the installation was erected must:

- (a) within seven days of the cessation, notify the Council in writing thereof;
- (b) within 30 days of the cessation, remove the flammable substance from the installation and render it safe;
- (c) within six months of the 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 satisfaction of the Council within a period of seven 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, the owner or person in charge of the installation must apply in writing to the Council to fill the tank with liquid cement slurry.

34. 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, the owner or person in charge of the premises must immediately notify the Council.

35. 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 two-hour fire resistance when it forms part of another building;

(b) the ventilation of a flammable store must be achieved by the use of 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 1 100 meshes per meter, and

(d) the wire gauze must be held in position by metal straps, a metal frame or cement.

(5) When required by the Council, the flammable store must be ventilated by a

mechanical ventilation system approved by the Council and must comply with the following requirements:

- (a) the ventilation system is to 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 meter above roof height or at least 3,6 meters above ground level, whichever is the greater;
- (c) ducting material that is external to the store, but communicates with the remainder of the building, must be fitted with a fire damper of two-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 two hours, provided that all relevant safety distances are complied with, and the door must open outwards.

(7) When required by the Council, 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 millimeter 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 millimeter 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", and the permissible quantity allowed within the flammable store, indicated in 100 millimeter block letters on both the inside and outside of all doors communicating directly with 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 Council, 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 Council has been notified in terms of the following procedure:

- (a) within seven days of the cessation, notify the Council in writing thereof;
- (b) within 30 days of the cessation, remove the flammable substance from the flammable store and render it safe, and
- (c) within 30 days of the cessation, remove all signage.

(18) Subject to the provisions in this section, the Council may call for additional requirements to improve the fire safety of a flammable store.

36. 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 liters, unless the container is fitted with an adequately sealed pump or tap.
- (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 vapor-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 as to be reasonably safe from damage and to prevent leakage of flammable substances or vapors there from.
- (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 Council 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 opinion of the Council, 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 two meter 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 Council.

(8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

37. 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.

38. 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 nine kilogram must be filled and stored in accordance with SABS 087: Part 7.

CHAPTER 8

GENERAL PROVISIONS

39. Indemnity

The Council is not 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.

40. Offences and penalties

Any person who -

- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any notice issued in terms of these by-laws;
- (c) fails to comply with any lawful instruction given in terms of these by-laws; or
- (d) obstructs or hinders any authorised official in the execution of his or her duties under these by-laws –

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R15 000 or imprisonment for a period not exceeding 6 months or both.

41. Enforcement provisions

Any authorized official of the Council may –

(1) enter any premises at any reasonable time to inspect the premises for compliance with this by-law;

(2) summarily abate any condition on any premises which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger and to this end may-

- (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.

42. Authority to investigate

The Council has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

43. Failure to comply with provisions

(1) When the Council finds that there is non-compliance with the provisions of this by-law a written notice must be issued and 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) Nothing in this by-law prevents the Council or any authorized official from taking immediate action to take immediate corrective action in respect of any fire or other threatening danger found on any premises and to recover any costs incurred from the owner

44. 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.

45. Repeal of by-laws

Any by-laws relating to Fire Prevention 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.

46. Short title

This by-law is called the Fire Prevention By-Law, 2008, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

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