

# **LEKWA LOCAL MUNICIPALITY**



## **DRAFT FIRE BRIGADE SERVICES BY-LAW**

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

## **FIRE BRIGADE SERVICES BY-LAW**

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1. **DEFINITIONS**

(1) For the purpose of this By-law, unless the context otherwise indicates –

- “approved”** means approved by the Chief Fire;
- “Chief Fire”** means the person appointed by the Municipality in terms of section 3(1) of the Ordinance read with section 20 of that Ordinance 18 of 1977 (hereinafter referred to as ordinance) and includes any member of the service representing the Chief Fire in the administration of this By-law and any official representing the Chief Fire and in control of any section, station, substation, firefighting operation or other emergency operation, situation or inspection, as the case may be;
- “emergency situation”** means a situation or event which constitutes or may constitute a serious danger to any person or property;
- “He”** shall also include “she” where applicable
- “Municipality”** means the Lekwa Local Municipality;
- “Municipal Council”** means the Council of the Municipality as referred to in section 157 of the Constitution of 1996:
- “Municipal Manager”** means the person appointed by the municipal council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 32 of 2000 and includes any person –
- a) acting in such a position;
  - b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;
- “occupier”** means any person in actual occupation or control of any land, premises, building, or motor vehicle or any portion thereof without regard to the title under which he occupies or controls such land, premises, building, or portion thereof;
- “Ordinance”** means the Fire Brigade Services Ordinance, 1977, (Ordinance 18 of 1977);
- “owner”** means in relation to land and premises, means the registered owner of the land or premises and includes also any person receiving the rent or profits of such land or premises from any tenant or occupier thereof, whether on his own account or as the agent for any person entitled thereto or interested therein, and in relation to a sectional title scheme, also the body corporate established in terms of the Sectional Titles Act, 1971 (Act 66 of 1971), and in relation to any vehicle it bears its ordinary meaning, and in the case of a deceased or

insolvent estate, it shall also include the executor or trustee respectively;

**“service”**

means a fire brigade service established in terms of section 2 of the Ordinance or deemed to have been established in terms of that section read with section 20 of the Ordinance.

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

## **2. ORGANISATION OF SERVICE**

- (1) The Chief Fire may exercise control over any fire fighting organisation and any fire appliance which is at the scene of a fire whether owned by the Municipality or by any other person, and he shall be entitled to make such use of any fireman, volunteer and any fire appliance and other apparatus as he thinks fit.
- (2) The service may be divided into such sections as the Municipality may determine and each section shall be under the control of an official appointed by the Municipality or by the person appointed in terms of section 3 (1) of the Ordinance if such power is delegated to him.

## **3. DUTY TO ASSIST**

- (1) Any member of a fire brigade service or fire service organisation whether it is controlled by the Municipality or not, shall when called upon to do so by the Chief Fire, render all assistance in his power in connection with the combating or containing of a fire or any other emergency situation.

## **4. PROCEDURE ON THE OUTBREAK OF FIRE**

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

## **5. CLOSING OF STREETS**

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

## **6. OBSTRUCTION AND DAMAGE**

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

## **7. WEARING OF UNIFORM AND INSIGNIA**

- (1) The Chief Fire and every member of the service shall wear the uniform, rank markings and insignia prescribed by the Ordinance.
- (2) No person other than a member of the service shall wear a uniform of the service or wear any uniform intended to convey the impression that he is such a member, or in any other manner represent himself to be a member of the service.

## **8. COMBUSTIBLE MATERIAL**

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

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

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

## **9. SAFETY OF PREMISES AND BUILDINGS**

- (1) The Chief Fire may, whenever he deems it necessary and at any time, which in his opinion is reasonable in the circumstances -
  - (a) enter any land, premises or building and inspect –
    - (i) such land, premises or building for the purpose of ascertaining whether any condition exists which may cause a fire or emergency situation, or which may increase the danger of, or contribute towards the spread of fire, or the creation of any emergency situation, or jeopardise or obstruct the escape of persons to a place of safety;
    - (ii) any fire-alarm, sprinkler system or other fire-fighting or fire-detecting appliance;

- (iii) any manufacturing process involving the danger of fire or explosion;
  - (iv) the method of storing of any flammable gas, chemicals, oils, explosives, fireworks or any hazardous substance; and
  - (v) any installation making use of the substances referred to in subparagraph (iv);
- (b) give such directions as he may deem necessary for lowering the risk of fire or for the protection of life and property.

(2) Where the Chief Fire finds on any premises –

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

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

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

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

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

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

## 10. EXITS

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

#### **11. GAS-FILLED DEVICES**

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

#### **12. MAKING OF FIRES**

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

#### **13. FIRES IN CHIMNEYS, FLUES AND DUCTS**

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

#### **14. ATTENDANCE OF FIREMAN**

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

#### **15. REMOVAL OF LIQUID OR OTHER SUBSTANCES**

- (1) The Chief Fire may at the request of the owner or occupier of any premises pump or otherwise remove any liquid or other substance, from such premises, subject to payment of the charges as determined by Municipal Council.

**16. PAYMENT FOR ATTENDANCE AND SERVICE**

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

**17. EXEMPTION FROM PAYMENT OF CHARGES**

- (1) Notwithstanding the provisions of section 16, no charges shall be payable where -
  - (a) a false alarm has been given in good faith;
  - (b) the services were required as a result of civil commotion, riot or natural disaster;
  - (c) the services were rendered in the interest of public safety;
  - (a) the Chief Fire is of the opinion that the services were of a purely humanitarian nature or were rendered solely for the saving of life;
  - (b) the owner of a vehicle furnishes proof to the satisfaction of the Chief Fire that such vehicle was stolen and that it had not been recovered by him at the time when the services of the service were rendered in respect thereof;



- (c) any person, including the State, has entered into an agreement with the Municipality in terms of section 14 of the Ordinance whereby the services of the service are made available to such person against payment as determined in such agreement.

**18. FALSE INFORMATION**

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

**19. TELEPHONES, FIRE-ALARMS AND OTHER APPARATUS**

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

**20. OFFENCES AND PENALTIES**

- (1) Any person who contravenes or fails to comply with any provision of these By-laws shall be guilty of an offence and liable on conviction to a fine not exceeding Five Thousand Rand (R5 000.00) or, in default of payment, to imprisonment for a period not exceeding six (6) months or to both such fine and imprisonment, and in the case of a continuing offence, to a fine not exceeding Fifty Rand (R500.00) for each day on which such offence continues, subject to a maximum fine of Five Hundred Rand (R2 500.00).

**21. REPEAL**

- (1) The By-laws relating to Fire Brigade Services for the Lekwa Local Municipality, are hereby repealed and replaced by this By-law, which is to become effective on promulgation hereof.

**22. APPLICATION**

- (1) The Municipality may by notice in the *Provincial Gazette*, determine that the provision of this By-law do not apply in certain areas within its area of jurisdiction from a date specified in the notice.

**23. SHORT TITLE**

- (1) This By-law shall be called the Fire Brigade Services By-law 2015.

**SCHEDULE I**

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

**INDEMNITY**

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

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

.....  
**Applicant**

**Witnesses:**

1. ....
2. ....

**DETERMINATION OF CHARGES FOR THE RENDERING  
OF FIRE SERVICES**

Notice is hereby given in terms of the provisions of section 80 B(8) of the Local Government Ordinance, 1939, that the Council of Lekwa Local Municipality determined the charges as set out hereunder, with effect from .....

**1. Within the Lekwa Local Municipality**

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

- (b) Seal of fire hose, per reel: R.....
- 1.13 (a) Test of fire hoses: R..... each.
- (b) Binding of couplings: R..... each.

**2. Outside the Lekwa Local Municipality**

- 2.1 When the fire brigade is summoned, irrespective of the circumstance: R..... plus:
  - (a) for the first hour or part thereof that a machine is in use, per machine: R.....
  - (b) for each subsequent hour or part thereof: R.....
  - (c) where use is made of a service vehicle, per hour or part thereof: R.....
  - (d) where use is made of a portable pump per hour or part thereof (trailer pump included): R.....
  - (e) jaws of life: R.....
- 2.2 For the services of the Chief Fire – per hour or part thereof: R.....
- 2.3 For the services of the Assistant Chief Fire - per hour or part thereof: R.....
- 2.4 For the services of a Divisional Officer – per hour or part thereof: R.....
- 2.5 For the services of a Station Officer – per hour or part thereof: R.....
- 2.6 For the services of a Fireman – per hour or part thereof: R.....
- 2.7 For the services of a retained Fireman – per hour or part thereof: R.....
- 2.8 In addition to the above charges the following also be payable:
  - (a) such expenses for water as may be incurred (at departmental rate to the Municipality);
  - (b) the cost of actual damage to the Municipal property and to the property of its officers or servants;
  - (c) such other actual expenditure as may necessarily be incurred by the Municipality.

**3. For the purpose of determining the amount payable in terms of items 1 and 2 the period of use of a machine and the period during which an officer or fireman renders his services shall be calculated from the time of departure from the Municipality's Fire Station to the time of returning thereto.**