



RAYMOND MHLABA LOCAL MUNICIPALITY: FIRE SAFETY BY-LAW

By-law published in Provincial Gazette number 4184 dated 11 February 2019

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Raymond Mhlaba Local Municipality enacts as follows:-

Table of Contents

1. Definitions
- CHAPTER 1: ADMINISTRATIVE PROVISIONS**
2. Application and purpose of this by-law
3. Agreements relating to fire matters
4. Guidelines, standards and requirements in regard to fire matters
5. Appointment of authorized officials
6. Delegation
7. Compliance notices
8. Imminent emergencies and situations that require immediate action
9. Duties of the public
10. Recovery of costs
11. Exemption from liability
- CHAPTER 2: PROTECTION OF FIRE SERVICE WORKS**
12. Definition of fire service works
13. Protection of fire service works and activities
- CHAPTER 3: PROVISIONS RELATING TO THE RENDERING OF FIRE SERVICES**
14. Inspections and investigations
15. Surveillance powers of the chief fire officer
16. Prevention of fires and emergencies
17. Fire alarms and fire hydrants
18. Compliance with standards, guidelines and requirements
- CHAPTER 4: FIRE INSTALLATIONS**
19. Provision and maintenance of fire installations
20. Application for approval of installation work
- CHAPTER 5: FIREWORKS**
21. Discharge of fireworks
- 1 22. Offences and penalties
23. Appeal
24. Repeal
25. Short title and commencement

1. Definitions

In this by-law, unless inconsistent with the context:-

“authorized official” means an official of the municipality authorized by the municipal manager to administer, implement and enforce the provisions of this by-law;

“municipal manager” means the official appointed by the council of the municipality in terms of section 82 of the Local Government: Structures Act (Act 117 of 1998);

“chief fire officer” means the person in charge of the fire service of the municipality;

“Council” means the council of the municipality;

“fee” means a fee determined and imposed by the Council in terms of the Tariff Policy By-law;

“fire installation” means any apparatus, equipment, water piping or electrical wiring installed on a property for the prevention, discovery and fighting of fires and includes, but is not limited to, measures such as fire breaks;

“owner” also means lessee, occupier, householder, the person in control of any premises, or any person who obtains a benefit from the premises or is entitled thereto;

“person” includes a juristic person;

“premises” means any immovable property, whether improved or not, or part thereof;

“publish” means:-

- (a) to publish a notice in the Provincial Gazette, and
- (b) to provide interested parties with copies of such publication, and
- (c) to post the notice so published on the notice boards of the municipality.

“surveillance” means the observation of premises, situations, processes, activities and equipment and apparatus, mainly for the purpose of the prevention of fires and emergencies, and

“Tariff Policy By-law” means the Tariff By-law promulgated by the Council in terms of section 75 of the Local Government: Municipal Systems Act, No 32 of 2000, or pending such promulgation, a decision by the Council in terms of section 75A of that Act to levy and recover fees, charges or tariffs.

CHAPTER 1: ADMINISTRATIVE PROVISIONS

2. Application and purpose of this by-law

(1) This by-law binds any organ of state.

(2) This by-law does not derogate from the provisions of the fire Brigade Services Act, Act 99 of 1987.

(3) Unless the contrary is proved, a breach of this by-law committed on premises in respect of the fire installation shall be deemed to be a breach by the owner of the premises;

(4) Any provision of this by-law conferring any power or imposing any duty upon the chief fire officer or any person in the service of the municipality also applies in respect of-

- (a) any person or thing on any land or premises;
- (b) any matter relating to such land, premises, person or thing, as if such land or premises, as the case may be, were owned and occupied by a private person.

3. Agreements relating to fire matters

The Council may enter into agreements in regard to any matter relating to firefighting or fire protection with any other municipality, government or provincial department, agency or person, if it is to the benefit of the municipality.

4. Guidelines, standards and requirements in regard to fire matters

(1) The chief fire officer may, for the purposes of:-

- (a) preventing the outbreak or spread of fires;
- (b) fighting or extinguishing fires;
- (b) fighting or extinguishing fires or other threatening dangers, or
- (d) the rescue of life or property from fire or other danger,

compile and publish guidelines, standards and requirements, provided that different guidelines, standards and requirements may be published for different areas, types of properties and uses of properties.

(2) The guidelines, standards and requirements contemplated in subsection (1), may only be of a technical nature and may include, but is not limited to, the following:

- (a) the fire protection of buildings, including tents and temporary buildings;
- (b) the fire protection of mountains, open spaces and agricultural areas;
- (c) the maintenance of, and compliance with, fire protection measures for mountains, open spaces and agricultural areas;
- (d) the provision, testing and maintenance of fire safety equipment;
- (e) public safety measures, including emergency evacuation plans;
- (f) the accumulation and storage of combustible materials and waste;
- (g) measures to safeguard sources of ignition, including smoking;
- (h) fire hazards and flammable substances, including the storage thereof; and
- (i) the transport of dangerous goods.

(3) The measures contemplated in subsection (2) may include the compliance with any national standards.

(4) The chief fire officer may, for the purposes contemplated in subsection (1) (a) to (d), require from any person to comply with any requirement, whether or not such requirement was published.

(5) Any person who, for the purposes of conducting any activity that is subject to guidelines, standards and requirements published in terms of this by-law, is required to comply with such guidelines, standards and requirements-

- (a) before commencing with such activity; and
- (b) for the duration of such activity.

5. Appointment of authorized officials

The municipal manager may appoint employees of the Council as authorized officials.

6. Delegation

(1) The municipal manager may delegate any of his or her functions and duties in terms of this by-law to any official.

(2) The chief fire officer may, with the exclusion of those functions mentioned in section 3 of this by-law, delegate any of his or her functions and duties to any official.

7. Compliance notices

(1) When an authorized official finds that a provision of this by-law is contravened or that a condition has arisen that has the potential to lead to a contravention of this by-law, such authorized official may issue a compliance notice to the owner concerned or person who is contravening the provisions of this by-law.

(2) A notice issued in terms of subsection (1) must state:-

- (a) the provision of the by-law that is being contravened or will be contravened if the condition is allowed to continue;
- (b) measures that must be taken to rectify the condition, and
- (c) the time period in which the notice must be complied with.

(3) If a person on whom notice was served in terms of subsection (2), fails to comply to the requirements of the notice, the chief fire officer may take such steps as may be necessary to rectify the condition at the cost of the person responsible.

8. Imminent emergencies and situations that require immediate action

- (1) In cases where imminent emergencies or situations that require immediate action come to the attention of the chief fire officer, he or she may take any reasonable measures to prevent or eradicate such imminent emergencies or situations.
- (2) Measures contemplated in subsection (1) include, but is not limited to:-
 - (a) the evacuation of premises;
 - (b) the closure of premises until such time as a situation has been rectified;
 - (c) an order for compliance to any requirement necessary to abate the emergency;
 - (d) an order for the cessation of any activity, and
 - (e) an order for the removal of the immediate threat.
- (3) When an imminent emergency or situation as contemplated by subsection (1) occurs on private property, the chief fire officer may, in the event that the owner cannot be found or the owner fails to immediately comply to the requirements of the chief fire officer, take such measures as may be deemed necessary to prevent or eradicate the imminent emergency or the situation at the cost of the owner.
- (4) In the case of action taken as contemplated by subsection (3), the chief fire officer reports the matter to the municipal manager without delay.

9. Duties of the public

Every member of the public must, on becoming aware of any emergency or imminent situation that requires immediate attention, immediately inform the Fire Brigade.

10. Recovery of costs

- (1) Any person committing a breach of the provisions of this by-law shall be liable to compensate the municipality for any loss or damage suffered or sustained by it in consequence of such breach.
- (2) The municipality may recover any costs reasonably incurred in taking any measures in terms of this by-law from any person who was under a legal obligation to take those measures.
- (3) The municipal manager may issue a cost order requiring a person who is liable to pay costs incurred in terms of subsections (1) and (2) to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

11. Exemption from liability

The Council will not be liable for any damage to property caused by the fire brigade in any action undertaken in the event of a fire or other emergency.

CHAPTER 2: PROTECTION OF FIRE SERVICE WORKS

12. Definition of fire service works

For the purpose of this chapter, "fire service works" means any building, infrastructure, process, equipment, apparatus or vehicle under the control of the municipality that is used in connection with the fire service.

13. Protection of fire service works and activities

No person may:-

- (a) render less effective, inoperative, inaccessible, or tamper and interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or testing;
- (d) remove, obscure, deface, alter, tamper with or damage a fire alarm, hydrant, transmission equipment for warning of a fire or other emergency, board, decal, metal plate or painted marker;
- (c) prevent, or obstruct in any way, members or vehicles of the fire brigade from making their way to or from a fire or emergency or carrying out their duties while attending a fire or emergency, or
- (d) without the prior written permission of the chief fire officer, and subject to such conditions as the chief fire officer may impose:-
 - (i) construct, erect, or lay any building, structure, material or other thing over or in such a position or in such a manner as to interfere with or endanger any fire service works;
 - (ii) excavate, open up or remove ground above, next to, under or near fire service works;
 - (iv) damage, endanger or destroy or do any act likely to damage, endanger or destroy any fire service works; or
 - (iii) discharge, permit to enter or put into any natural watercourse or reservoir from which water is taken for the purpose of the fire service, any substance or thing likely to damage it, to interfere with the free flow of water therein or to contaminate or impair the quality of the water therein.

CHAPTER 3: PROVISIONS RELATING TO THE RENDERING OF FIRE SERVICES

14. Inspections and investigations

Notwithstanding anything contained in any other legislation, the chief fire officer has the authority to:-

- (a) inspect any premises, vehicle, equipment or apparatus;
- (b) investigate the cause, origin, and circumstances of any fire or situation that is or may become a threat, and
- (c) require from any person to institute measures to comply to any guideline, standard or requirement published in terms of section 3.

15. Surveillance powers of the chief fire officer

The chief fire officer may:-

- (a) use any legal method of surveillance;
- (b) carry out any test or install any apparatus in regard to surveillance on municipal land;
- (c) subject to the provisions of any other legislation, carry out any test or install any apparatus in regard to surveillance on any private property;
- (d) require from any owner of premises to install at own cost such apparatus as may be deemed necessary by the chief fire officer, in regard to surveillance on the premises concerned;
- (e) require from any owner of premises to provide reports, readings or measurements on any situation or process on the premises concerned, at such intervals as may be required by the chief fire officer;
- (f) require from any owner of premises to carry out surveillance tests or arrange for the carrying out of such tests by a competent person, on the premises concerned and to provide the chief fire officer with reports at such intervals as may be required by the chief fire officer;
- (g) when granting any approval in terms of this by-law or any other applicable legislation, require as a condition of approval that surveillance measures be instituted, maintained and reported on at such intervals as may be required by the chief fire officer;
- (h) in consultation with the official in charge of the relevant department, instruct any municipal official to provide reports on any matter regarding surveillance, provided that such

official is in a position to do so and deemed to be competent by the chief fire officer to provide such reports;

- (i) send any samples to a competent person or laboratory for analysis, and
- (j) in cases of emergency, employ any competent person to carry out any tests or serve as consultant on the matter concerned, provided that a report in this regard be furnished to the municipal manager as soon as possible.

16. Prevention of fires and emergencies

The chief fire officer may:

- (a) when granting any approval in terms of this by-law or any other applicable legislation, require as a condition of approval that measures for the prevention of fires and emergencies be instituted, maintained and reported on at such intervals as may be required by the chief fire officer;
- (b) in a case of emergency, institute any measures deemed necessary to prevent the spread of fires and emergency situations, provided that a full report in this respect be provided to the municipal manager as soon as possible;
- (c) instruct any person to institute such measures as may be deemed necessary to prevent the spread of fires and emergencies, and
- (d) in consultation with the official in charge of the relevant department, instruct any municipal official to institute any measures or to provide any assistance necessary to prevent the spread of fires and emergencies.

17. Fire alarms and fire hydrants

(1) The chief fire officer may, without compensation to the owner of the premises concerned, cause:-

- (a) a fire alarm;
- (b) a transmission instrument for calls of fire or other emergency, or
- (c) a transmission instrument for warning residents of fire or other emergency,

to be affixed to any building, wall, fence, pole or tree.

(2) The chief fire officer may, without compensation to the owner of the premises concerned, cause the position of a fire hydrant and fire alarm or any other protection information to be marked on any building, wall, fence, pole, tree, road, pavement or hydrant cover with a board, decal, metal plate or painted marker or by any other means.

18. Compliance with standards, guidelines and requirements

Every owner of premises must comply with the standards, guidelines and requirements published or issued by the chief fire officer in regard to the prevention of fires and emergencies.

CHAPTER 4: FIRE INSTALLATIONS

19. Provision and maintenance of fire installations

(1) Where required, an owner must provide and maintain the fire installation on the premises at own cost and, except where permitted in terms of this bylaw, must ensure that the installation is situated within the boundary of the premises.

(2) Before doing work in connection with the maintenance of a portion of a fire installation, which is situated outside the boundary of the premises, an owner must obtain the written consent of the chief fire officer or the owner of the land on which such portion is situated, as the case may be.

20. Application for approval of installation work

- (1) If an owner wishes to have installation work done, the owner must first obtain the written approval of the chief fire officer, provided that approval is not required in the case of fire installations in dwelling units or installations where no fire installation is required in terms of any law.
- (2) An application for the approval referred to in subsection (1) must be accompanied by:-
 - (a) the fee, if applicable; and
 - (b) copies of the drawings as prescribed by the chief fire officer;
 - (c) a certificate from a registered engineer or registered architect certifying that the installation has been designed in accordance with the appropriate SABS Code or, where compliance with that standard is impractical or impossible to achieve, has been designed on another basis acceptable to the chief fire officer.
- (3) Any authority given in terms of subsection (1) lapses at the expiry of a period of twenty-four months after the first day of the month succeeding the month in which the authority is given.
- (4) Where approval is required in terms of subsection (1), a complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed.
- (5) If installation work has been done in contravention of subsections (1) and (2), the chief fire officer may order the owner-
 - (a) to comply with either or both subsections, as the case may be, within a specified period;
 - (b) if the work is still in progress, to cease the work; and
 - (c) to remove all such work as does not comply with this by-law.
- (6) An installation work approved in terms of subsection (1), must be inspected and a certificate of approval issued by the chief fire officer, before it can be put into service.
- (7) The chief fire officer may revoke any certificate of approval, or may alter the conditions attached to such approval.

CHAPTER 5: FIREWORKS

21. Discharge of fireworks

- (1) Subject to the provisions of subsection (2), no person may discharge or cause to be discharged any fireworks in streets, buildings or public places.
- (2) The chief fire officer may, subject to any conditions which may be imposed:-
 - (a) give written permission for the discharge of fireworks; and
 - (b) designate specific areas for the discharge of fireworks.
- (3) No person may sell fireworks to any person under the age of 16 years.
- (4) Unless under the supervision of an adult, no person under the age of 16 years may be permitted to be in possession of fireworks.
- (5) No person may discharge fireworks in such a manner:-
 - (a) that the possibility may be created that it may fall on adjacent properties;

- (b) that a fire hazard may be caused, or
 - (c) that a nuisance may be caused.
- (6) Any authorized official who is a peace officer, member of the South African Police Services or Inspector of Explosives may confiscate any fireworks found in the possession of any person who is reasonably suspected of or who intends, contravening the provisions of this by-law.

2 22. Offences and penalties

A person who contravenes the provisions of section 4(4) or (5), 7(3), 9. 13, 18 19(1) or (2),20 and 21(1), (2), (3) (4) or (5) and any person who -

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

is guilty of an offence and is liable to a fine as approved by the Chief Magistrate of the District in a fine schedule or to imprisonment for a period not exceeding three years and in addition, the payment of a further amount which, in the opinion of the court, is equal to the expenditure incurred by the municipality as a result of such contravention.

23. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

24. Repeal

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

Provincial Notice No.	Title	Extent of repeal
P.G. 1476 dated 2/2/2006	Nxuba Local Municipality: By-law Relating to Community Fire Safety	The whole
P.G. 1477 dated 20/2/2006	Nkonkobe Local Municipality: By-law Relating to Community Fire Safety	The whole

25. Short title and commencement

This by-law may be cited as the Raymond Mhlaba Local Municipality Fire Safety By-law and commences on the date of publication thereof in the Provincial Gazette.

By-law published in Provincial Gazette number 4184 dated 11 February 2019

FIRE SAFETY BY-LAW – OFFENCES AND FINES

By-law published in Provincial Gazette number 4184 dated 11 February 2019

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
4 r/w 22	Failing to comply with an instruction given by a member of the force	R1000	R1000
5 r/w22	Interference with or obstruction of the chief fire officer in execution of duties	No fine	No fine
7 r/w22	Failing to comply with conditions of certificate of fitness	R1500	R1500

9 r/w22	Fail to immediately inform the Fire Brigade of any danger .	No fine	No fine
13 r/w 22	Tamper , prevent , obstruct and interfere with fire personnel or a fire extinguisher or fire protection system , damage or destroy any fire service works	1500	1500
18 r/w 22	Not comply with the standards, guidelines and requirements	No fine	No fine
19 r/w22	Not complying in maintain the fire installation on the premises at own cost	1500	1500
20 r /w 22	Fail to request in written approval of installation work done to the chief fire officer .	1500	1500
21 r/w 22	discharge or cause to be discharged any fireworks in streets, buildings or public places.	1000	1000

In addition to the fines above, the following admission of guilt fines relate to contraventions of the National Building Regulations (Regulation T1(2)(b) and the SANS Code Of Practice(0400) relating to Fire Safety.

TT2 & TT12	<u>Safety Distances</u> Erecting a building in disregard of safety distances	R1500	R1500
TT3, TT5 & TT6	<u>Different occupancies</u> Owner or tenant allowing division of building without approval	R1500	R1500
TT4	<u>Maximum division area</u> Owner exceeding maximum division area	R1500	R1500
TT9 & TT10	<u>Partitions and protection of openings</u> Inadequate fire resistance and failure to protect openings	R1500	R1500
TT12	<u>Roof Assemblies and Coverings</u> Allowing combustible material to be used on a roof structure without approval	R1500	R1500
TT16 to TT29	<u>Escape Routes and Exits</u> Allowing an escape route to be made less efficient	R1500	R1500
TT23, TT24, &TT25	<u>Stairways</u> Installing a stairway that does not comply with part M of the rules	R1500	R1500
TT29	<u>Markings and Sign Posting</u> Failing to indicate the location of fire equipment or emergency exits with symbolic signs	R1500	R1500
TT30	<u>Lighting of Emergency Routes</u> Failing to light emergency route	R1500	R1500
TT31	<u>Fire Detection and Alarm System</u> Failing to install fire detection and alarm systems in compliance with SANS 0139	R1500	R1500
TT33 & WW5	<u>Water Reticulation System</u> Failing to install an approved water reticulation system for fire fighting	R1500	R1500
TT34	<u>Hose Reels</u>	R1500	R1500

	Failing to supply hose reels		
TT35	<u>Hydrants</u> Failing to supply fire hydrants	R1500	R1500
TT36	<u>Sprinkler System</u> Failing to supply sprinkler system where required	R1500	R1500

TT42	<u>Smoke Control</u> Failing to provide mechanical smoke ventilation or roof ventilators and windows	R1500	R1500
TT52	<u>Operating Theatres and Intensive Care Units</u> Failing to comply with the fire safety requirements of the rule	No fine	No fine
TT53	<u>Liquid Fuel Tanks</u> Installation of fuel dispensing pumps and tanks in disregard of prescribed measurements and distances	No fine	No fine
TT54	<u>Gas Installations</u> Installation of gas storage facilities not complying with SANS Code 087	No fine	No fine

Hereby certify that the admission of guilt fines listed in Column 2 above as submitted by the Raymond Mhlaba Local Municipality have been approved by me in terms of Section 57(5)(a) and 341(5) of the Criminal Procedure Act, 51 of 1977, for the Magisterial District of:

Middledrift , Fort Beaufort , Adelaide , Bedford , Cathcart , Alice , Seymour

This determination replaces any previous determination for the said Magisterial District.

Signed 04/2019
Magistrate: Middledrift Date Stamp

Signed 04/2019
Magistrate: Fort Beaufort Date Stamp

Signed 04/2019
Magistrate: Adelaide Date Stamp

Signed 04/2019
Magistrate: Bedford Date Stamp

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Magistrate: Cathcart
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Magistrate: Alice

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Magistrate: Seymour

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