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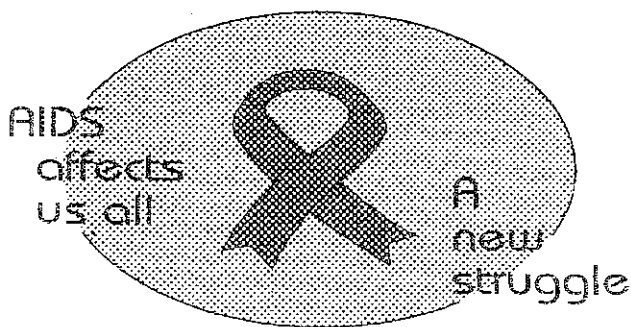
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Vol. 251

25 JULY 2008
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No. 6510

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RUSTENBURG LOCAL MUNICIPALITY

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SERVICES
UNIT ADMINISTRATIVE SERVICES



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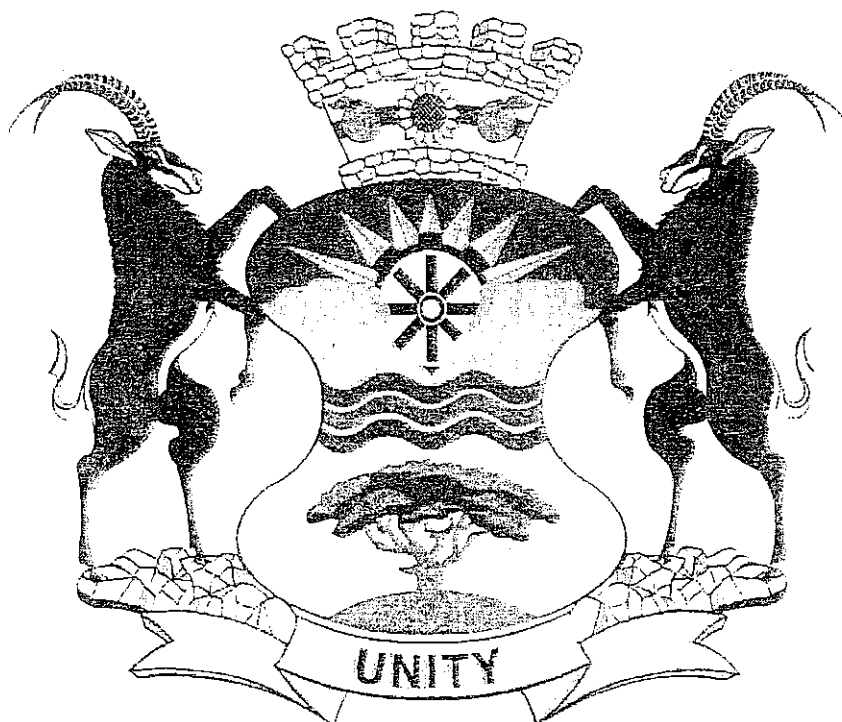
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RUSTENBURG LOCAL MUNICIPALITY

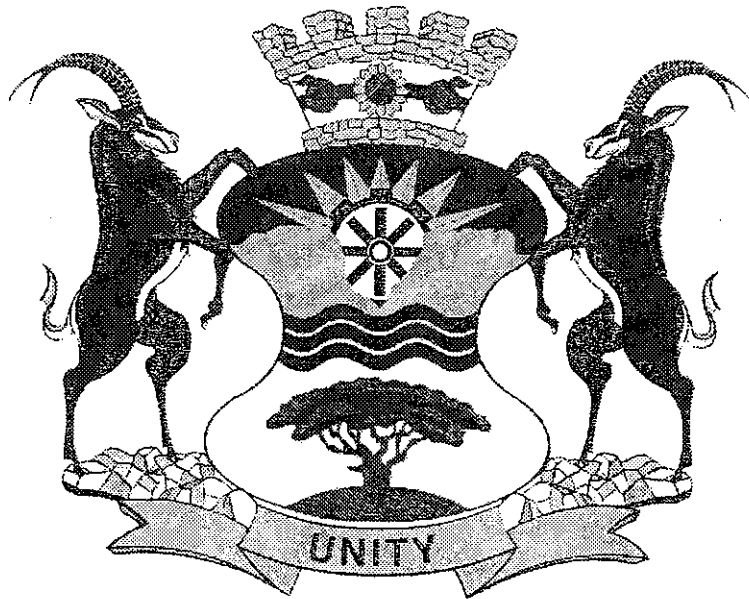
FIRE BRIGADE SERVICES BY - LAW NO. 1 OF 2008



The Municipal Manager hereby publishes in terms of Section 12 and 13 of the Local Government: Municipal Systems Act, 200 as amended, read with Section 162 of the Constitution of the Republic of South Africa, Act 1996 (Act 108 of 1996)

The by-law relating to Fire Brigade Services, of which shall come into operation on the date of publication thereof.

RUSTENBURG LOCAL MUNICIPALITY



FIRE BRIGADE SERVICES

BY-LAW

NO. 1 OF 2008

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FIRE SERVICE BY-LAWS

The Rustenburg Local Municipality hereby promulgates the by-laws set out below for its area of jurisdiction in terms of section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), together with section 15 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

PART A

DEFINITIONS

1. In these by-laws, unless the context indicates otherwise -

"**access door**" means any door that provides access to an emergency route;

"**activity**" means any work that needs to be performed to test, to service, to renew and/or to replace an extinguisher, hose reel, fire installation and/or service installation;

"**animal**" means any animal that is kept for domestic or agricultural purposes within the area of the controlling authority;

"**area**" means any residential area or any other area within the boundaries of the Municipality;

"**building**" includes -

- (a) any structure, whether temporary or permanent, irrespective of the materials used in its erection, erected or used for or in connection with -
 - (i) the accommodation or convenience of human beings and animals;
 - (ii) the manufacture, processing, storage, display or sale of any goods;
 - (iii) the provision of any service;
 - (iv) the destruction or treatment of refuse or other waste materials; and
 - (v) the cultivation of any plant or crop;
- (b) any wall, swimming-bath, swimming-pool, reservoir or bridge, or any other structure connected with it;
- (c) any fuel pump or any tank used in connection with it;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c); and

- (e) any facility or system, or part or portion of it, within or outside but incidental to a building, used for the provision of a water supply, drainage, sewerage, storm water discharge, electricity supply or other similar service in respect of the building;

"Building Control Officer" means the person appointed or deemed to be appointed as a building control officer by a local authority in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"certificate of appointment" means an identification document issued by the Chief Fire Officer to a member as set out in Annexure IV to these by-laws;

"certificate of fitness" means a certificate contemplated in section 20 of these by-laws, which certificate has been issued by the Service and authorizes a person to occupy designated premises (which are a public building);

"certificate of registration" means a certificate issued by the Service in terms of section 24 of these by-laws which authorizes a person to occupy registered premises, or to use the premises for spray-painting activities or for the storage or handling of hazardous substances;

"Chief Fire Officer" means the person appointed by the controlling authority in terms of section 5(1) of the Fire Brigade Services Act, 1987 (Act 99 of 1987), and includes any member who exercises any power or performs any duty delegated by the Chief Fire Officer to the member under section 19 of the Act, and also includes an Acting Chief Fire Officer appointed in terms of section 5(3) of the Act, and "Manager: Fire Services" has a corresponding meaning;

"code of practice" means the code of practice as defined in section 1 of the Standards Act, 1993 (Act 29 of 1993);

"controlling authority" means the local authority in control of the Service as defined in the Fire Brigade Services Act, 1987;

"control room" means a room on any premises which is specifically designed, built and equipped to coordinate and control an emergency situation in or on the premises in question;

"designated premises" means any premises designated by the Service with a view to an emergency evacuation plan as contemplated in section 19 of these by-laws;

"device" means any vehicle, mechanical or electrical implement, electrical motor, machine, instrument, apparatus or other implement of which the whole or any part is used or is capable of being used for, in or in connection with the

manufacture, treatment, provision, delivery, supply, packaging, labeling, storage, conveyance, loading and unloading, handling, preparation, serving or administering of any grouped hazardous substance, and includes any delivery pump, filling device, spray-painting device and mechanical hoist;

"discharge" means the ignition or activation of any fireworks whatsoever;

"distance to be covered" means the distance that a person would in normal circumstances have to cover to exit a room, measured from the furthest point in the room;

"dump", in relation to a grouped hazardous substance, means to deposit, discharge, spill or release that substance (whether or not the substance in question is enclosed in a container), or to have it or permit it to be deposited, discharged, spilled or released, or to deposit, discharge, spill or release it in such a way or place, or under such circumstances or for such a period, or to have it or permit it to be so deposited, discharged, spilled or released in a manner that reasonably indicates the intention to abandon or discard the substance, and "dumping", "spilling" and "spill into" have a corresponding meaning;

"emergency" means an incident or eventuality that poses or may pose a serious threat to any person or property, and "emergency situation" has a corresponding meaning;

"emergency evacuation plan" means a written procedure and a set of detailed plans as contemplated in Annexure III to these by-laws;

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

"escape door" means any door at the end of an emergency route, and includes any door leading from the inside to the outside of a building;

"escape route" means the entire path of travel, measured from an escape door to the furthest point in any room in a building;

"explosive(s)" means -

- (a) gunpowder, nitroglycerine, dynamite, gun cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those herein mentioned or not, which is used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect;
- (b) any fuse, rocket, detonator, cartridge, and every adaptation or

preparation of an explosive;

- (c) any other substance which the President may from time to time by proclamation in the *Government Gazette* declare to be an explosive;
- (d) a petrol bomb; and
- (e) any container, apparatus, instrument or article which -
 - (i) contains any inflammable substance and can be used or adapted so that it can be used to cause an explosion or a fire; or
 - (ii) was made or can be adapted to cause, in combination with or by means of any inflammable substance, an explosion or a fire;

"extinguishing stream" means the amount of water that the Service needs to extinguish a fire;

"facility" means any storage tank, whether above ground or below ground, or any transportable or refillable container that can be used for the keeping of hazardous substances, and includes the fuel tank of a motor vehicle, aircraft, vessel, ship or boat;

"feeder route" means that part of an escape route which allows travel in two different directions to access doors of at least two emergency routes;

"fire area" means the area of jurisdiction of the controlling authority in which provision is made for fire protection as defined in SABS 090;

"fire-fighting equipment" means any portable fire extinguisher, mobile fire extinguisher, hose reel or fire hydrant;

"fire grading" means, with regard to materials, components and elements used in the construction and finishing of buildings, those materials, components and elements which have been tested and classified in accordance with SABS 0177, Parts II to V, as amended;

"fire incident" means a fire on any premises in the area;

"fire installation" means any water installation which conveys water solely for fire-fighting;

"fire risk category" means, in relation to a fire area, that area which falls into one of the following categories:

- (a) High-risk area:

- (i) Any area in which the fire risk and the risk of the spread of fire are high, for example a factory area; a high-density shopping area, a warehouse and commercial building; a timber yard; a wooden building; and a residential or other building that is higher than three storeys, and includes any building in which hazardous processes are carried out or housed regularly
- (ii) A plantation
- (b) Moderate-risk area:

Any area in which factories, commercial buildings and residential buildings are generally detached from each other and are not more than three storeys high and in which, owing to the detached nature of the buildings, and because the materials processed or stored in those buildings are not regarded as highly dangerous, the fire risk and the risk of the spread of fire are not as high as in a high-risk area, and includes an area that is not expressly classified as a high- or low-risk area as contemplated in these by-laws

- (c) Low-risk area:

Any area that is suburban or semi-rural, having predominantly detached duet, cluster and/or townhouse developments, where the fire risk and the risk of the spread of fire are slight or insignificant;

"fireworks" means explosives under Class 7, Division 2, shop goods only, as contemplated in Regulation 9.1 under the Explosives Act, 1956 (Act 26 of 1956);

"grouped hazardous substance" means a group of hazardous substances as contemplated in section 1 of the Hazardous Substances Act, 1973 (Act 15 of 1973);

"hazardous substance" means any substance, mixture of substances, product or material that has been declared to be a Group I, II, III, IV, V, VI, VII, VIII or IX hazardous substance in terms of section 2(1) of the Hazardous Substances Act, 1973;

"inspector" means a member appointed as an inspector in terms of section 2(5) of the Explosives Act, 1956, to control fireworks in so far as the storage, use and sale of fireworks are concerned;

"member" means a member of the Service as contemplated in section 6 and 6A(5) of the Fire Brigade Services Act, 1987;

"**Municipality**" means the duly constituted Rustenburg Local Municipality;

"**National Building Regulations**" means the regulations published by Government Notice R2378 of 12 October 1990 in *Government Gazette* 12780, as amended;

"**normative reference list**" means the list of SABS specifications or codes of practice which are contained in Annexure V to these by-laws;

"**occupancy**", in relation to any public building, means the assembly of people in or on any premises or the participation of people in any activity in or on any premises contemplated in the definition of "public building";

"**occupier**" means any person who actually occupies or has control over any premises, irrespective of the title under which he/she occupies or has control over the premises;

"**owner**", in relation to land or premises, means the registered owner of the land or premises, and includes any person who receives the rental or profit from the land or premises from any tenant or occupier, whether for his/her own account or as an agent for a person who is entitled to the rental or profit or who has an interest therein, and, in relation to a sectional title scheme in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), for the purposes of section 18 of the Fire Brigade Services Act, 1987, the body corporate as contemplated in the Sectional Titles Act, 1986, and, in the case of a deceased or insolvent estate, the executor or the curator respectively;

"**power insulating switch**" means a bipolar switch that can be activated with an L-type key of which one end is fitted with a bayonet-type socket switch;

"**premises**" means land, a building or other construction or structure, or any part of it, and includes -

- (a) a train, boat, ship, aircraft or other vehicle, excluding, where applicable, the fuel tank of any such vehicle; and
- (b) any building or room in which explosives are stored, kept or handled for the purpose of sale: Provided that if a building is divided into more than one room, each room used for the storing, keeping or handling of explosives is considered to be separate premises;

"**public building**" means any building where people gather to view theatrical and operatic performances, orchestral and choral recitals, and cinematographic screenings, or to attend or participate in indoor sports activities, including any place where people dance or practise or perform any

physical activity;

"**public place**" means a public place as defined in section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

"**rational design**" means any design involving a process of reasoning and calculation, and includes any such design which is appropriate in the application of a code of practice or other similar design;

"**registered premises**" means premises in respect of which the Service has issued a certificate or permit for spray-painting activities and the storage, handling and use of hazardous substances, as well as a certificate or permit to occupy premises;

"**retail dealer**" means a person or concern that, for the purposes of dealing in explosives, supplies such explosives to any other person for use by that person and not for resale;

"**room**" means any room or other partitioning in a building;

"**Service**" means the Fire Service established by the controlling authority as contemplated in section 1 of the Fire Brigade Services Act, 1987;

"**service installation**" means any automatic extinguishing installation, fire pump connector, fire pump, emergency power and/or standby generator, fire detection system, fire locating system, fire alarm system, emergency lighting system, emergency evacuation communication system, mechanical ventilation system, pressure regulating system, smoke ventilation system, hoists and symbolic safety signs, and includes smoke and fire door assemblies;

"**spill into**" (see the definition of "dump");

"**spraying permit**" means a permit issued by the Service in terms of section 48(1)(a) of these by-laws;

"**spraying room**" means any room, building or structure that is designed, built, equipped or erected solely for spraying or coating vehicles, parts of vehicles, or any other objects with Group III hazardous substances and/or combinations of Group III hazardous substances, or with any other substance, to form a decorative and/or corrosion resistant layer, or for any purpose incidental thereto, and "spraying booth" and "submersion tank", as well as any related process involving electrolysis, have a corresponding meaning;

"**storeroom**" means a room which is constructed, equipped and maintained as contemplated in section 46 of these by-laws;

"**storey**" means that part of a building which is situated between the top of any

floor and the top of the floor above it or, if there is no floor above it, that portion between such floor and the ceiling above it (any mezzanine floor, open work

floor, catwalk or gallery is regarded as part of the storey in which it is situated):
Provided that, in relation to a building -

- (a) the ground storey will be regarded as the storey in which there is an entrance to the building from the level of the adjoining ground or, if there is more than one such storey, the lower or lowest of these storeys;
- (b) a basement will be regarded as any part of the building which is below the level of the ground storey;
- (c) an upper storey will be regarded as any storey of the building which is above the level of the ground storey; and
- (d) the height, expressed in storeys, will be regarded as that number of storeys which includes all storeys other than a basement;

"temporary structure" means any structure that is apparently temporary in nature;

"vehicle" includes a semi-trailer or trailer which has at least four wheels with independent axles and suspension systems and can be hitched to a truck-tractor, a tank truck or any other motor vehicle as contemplated in the National Road Traffic Act, 1996 (Act 93 of 1996), as the case may be;

"wheel blocks" means wedge-shaped blocks, manufactured from material which, when scraped against the surface of any other object or material, does not produce sparks or generate static electricity; and

"wholesale dealer" means a person or concern that, for the purposes of trade, supplies explosives to any other dealer for resale.

PART B**ADMINISTRATIVE PROVISIONS****ORGANISATION OF THE SERVICE**

2. (1) The controlling authority may, subject to section 3(3) of the Fire Brigade Services Act, 1987, establish and maintain a Service within its area, which includes the appointment of personnel and the acquisition of vehicles, machinery, equipment, devices and accessories that may be necessary to operate the Service efficiently, and the Service is intended to be used for -
- (a) preventing the outbreak or spread of a fire;
 - (b) fighting or extinguishing a fire;
 - (c) the protection of life or property against a fire or other threatening danger;
 - (d) the rescue of life or property from a fire or other threatening danger;
 - (e) subject to the provisions of the Health Act, 1977 (Act 63 of 1977), the provision of an ambulance service as an integral part of the Service; or
 - (f) the performance of any other function connected with any of the matters referred to in subsection (1)(a) to (e).
- (2) (a) The Chief Fire Officer is in charge of the Service.
- (b) Whenever the Chief Fire Officer is for any reason unable to perform his/her duties of office, the controlling authority will appoint a member as Acting Chief Fire Officer to perform the duties and functions of the Chief Fire Officer.
- (3) The controlling authority may, in terms of an agreement as contemplated in section 12 of the Fire Brigade Services Act, 1987, employ its Service within or outside its area of jurisdiction, or within or outside the Province of North West, against payment of the tariffs determined in Annexure I to these by-laws, or against payment in terms of or on the conditions contained in the agreement concerned.

DRIVING SERVICE VEHICLES

3. (1) Any member may, with the written authority of the Chief Fire Officer, drive a Service vehicle if he/she has the applicable driving licence for the vehicle in question as required by the National Road Traffic Act, 1996.
- (2) A member who is duly authorised to do so, as contemplated in subsection (1), must drive a Service vehicle in accordance with the National Road Traffic Act, 1996, and any regulations made under the Act.
- (3) Any member who fails to comply with the provisions of this section is guilty of an offence.

PROCEDURE AND DUTIES DURING AN EMERGENCY SITUATION

4. (1) The Chief Fire Officer or a member who is in charge of an emergency situation must, in respect of every emergency situation in which he/she is in charge, ensure that -
 - (a) adequate manpower and the appropriate apparatus and equipment are made available and are used without delay;
 - (b) the emergency situation is assessed on arrival at the premises in question and that additional equipment and/or assistance that he/she may deem necessary is sent for without delay, where applicable, as agreed upon in and subject to the agreement as referred to in section 2(3) of these by-laws; and
 - (c) all pertinent information, including information about places and times and relevant particulars, is recorded during the emergency situation or as soon as possible after the emergency situation, and that the recorded information is preserved in accordance with the provisions of the National Archives of South Africa Act, 1996 (Act 43 of 1996), and any regulations made under the Act.
- (2) All persons and/or bodies, including any State department as contemplated in section 17 of the Fire Brigade Services Act, 1987, the South African Police Service and the Department of Justice, who wish to inspect any information referred to in subsection (1)(c) must send a written application to the Chief Fire Officer, accompanied by the fees prescribed in Annexure I to these by-laws, together with an appropriate substantiation as to why the information is required.

- (3) Any press release concerning emergency situations or any matter connected with an emergency situation must be in accordance with the policy guidelines determined by the controlling authority.

PRETENDING TO BE A MEMBER

5. (1) No person, except a member, may wear any official clothing, uniform, badge or insignia of the Service which creates or may create the impression that he/she is a member.
- (2) No person may falsely present himself/herself as a member or pretend to be a member.
- (3) Any person who so pretends to be or presents himself/herself as a member must, irrespective of whether he/she has been requested to do so, identify himself/herself by producing the relevant certificate of appointment and/or mark of appointment, as prescribed in Annexure IV to these by-laws, or by furnishing proof of identity within a reasonable period.
- (4) Any person who contravenes or fails to comply with this section is guilty of an offence.

POWERS OF MEMBERS AND DESIGNATED OFFICERS

6. (1) Every member, including the Chief Fire Officer, has all the powers provided for in the Fire Brigade Services Act, 1987.
- (2) A designated officer may -
 - (a) seize any certificate of fitness, certificate of registration or spraying permit provided for in these by-laws if the conditions of or endorsements in the document are not being complied with, or if the member has reasonable grounds to suspect that unauthorised changes have been made to the document;
 - (b) institute the relevant prosecution in connection with subsection (2)(a) or have the prosecution instituted, as the case may be; and
 - (c) seize anything (hereinafter called "object") on any premises that is connected with a spraying permit, certificate of registration or certificate of fitness, but must provide reasonable proof of a contravention of any condition of or endorsement in such permit or certificate and must remove the object or have the object removed to a place of safe custody: Provided that the seizure

does not exempt any person from any other relevant provisions of these by-laws: Provided further that the seizure is, subject to section 20 of the Fire Brigade Services Act, 1987, made in accordance with the following conditions:

- (i) The Chief Fire Officer must grant prior approval in writing for the seizure.
 - (ii) Official proof of seizure must be issued to the person from whom the object has been seized, together with a description of the object.
 - (iii) After an order issued in terms of the Fire Brigade Services Act, 1987, or these by-laws has been complied with in full or after a prosecution in terms of section 21 of the Fire Brigade Services Act, 1987, has been instituted and finalised, as the case may be, any object seized must be returned to the person from whose possession it was taken.
- (3) Any officer may seal off any building or premises by temporarily closing a street, passage or place which he/she deems necessary for public safety or for effectively fighting a fire or dealing with any other emergency that may give rise to a fire or explosion, and the member may remove, using no more force than is reasonably necessary, any person who refuses to leave the street, passage or place after having been requested by the member to do so.
- (4) (a) Designated officers must be -
- (i) suitably trained and certified as peace officers and be appointed as such in terms of Government Notice R159 of 2 February 1979, as amended;
 - (ii) appointed as deputy messengers of the court in terms of section 15(2) of the Magistrates' Courts Act, 1944 (Act 32 of 1944);
 - (iii) appointed as inspectors of explosives in terms of section 2(5) of the Explosives Act, 1956, regarding the storage, sale and use of fireworks; and
 - (iv) appointed as inspectors in terms of section 8 of the Hazardous Substances Act, 1973.
- (b) All designated officers have the power -

- (i) in terms of the provisions of section 56, read with section 57, of the Criminal Procedure Act, 1977 (Act 51 of 1977), to issue summons involving a spot fine;
- (ii) in terms of the provisions of section 341 of the Criminal Procedure Act, 1977, to issue spot fines for certain minor offences;
- (iii) in terms of the provisions of section 44 of the Criminal Procedure Act, 1977, to issue a warrant of arrest;
- (iv) in terms of the provisions of section 41 of the Criminal Procedure Act, 1977, to ask certain persons for their names and addresses and to arrest persons without a warrant if duly authorised to do so; and
- (v) in terms of the provisions of section 54 of the Criminal Procedure Act, 1977, to serve summons in order to secure the attendance of the accused in a magistrate's court.

MAKING SERVICE EQUIPMENT AND MANPOWER AVAILABLE

7. (1) With the approval of the controlling authority, the Service may, at the request of any body or person and at the tariffs determined in Annexure I to these by-laws, use any equipment and/or manpower at its disposal to provide any special service in connection with the aims of the Service.
- (2) The said equipment and/or manpower may be withdrawn summarily if the equipment and/or manpower is required elsewhere for or in connection with an emergency situation.

PART C**FIRE PROTECTION AND FIRE-FIGHTING****COMBUSTIBLE MATERIALS AND REFUSE**

8. (1) No person may store any combustible materials of whatever nature, or have them stored or permit them to be stored in such a manner and in such a position as to likely pose a fire hazard to any human being, animal, building or premises.
- (2) No person may allow grass, weeds, reeds, shrubs, trees or any like vegetation to become overgrown on premises to such an extent that it may pose a fire hazard or a probable fire hazard to any adjacent premises and/or any other person's property.
- (3) Any person who fails to comply with the provisions of this section is guilty of an offence.

MAKING FIRES

9. (1) No person may, within the area, make an open, uncontrollable or unattended fire or permit a fire to be made in such a place and/or in such a manner as to pose a real or potentially real threat to any human being, animal, building, premises or other property: Provided that this prohibition is not applicable to -
- (a) a fire in an approved, purpose-made stove, fireplace or hearth which is an integral part of a structure;
- (b) a fire for preparing food on private premises or premises set aside for that purpose; and
- (c) a device for preparing food, which device is heated by means of electricity or liquid petroleum gas and is positioned in such a way that the device poses no threat to life or property on any premises.
- (2) No person may, without the written authority of the Service, burn any refuse, wood, straw or other combustible materials within the area, or have them burnt or permit them to be burnt within the area, unless the refuse, wood, straw or other combustible materials are burnt inside an approved purpose-made incinerator or incinerating device, subject to the provisions of subsection (1).

- (3) Any person who fails to comply with the provisions of this section is guilty of an offence.

FIREBREAKS

10. (1) The owner or occupier of premises in the area may not permit the premises to be or become overgrown with grass, weeds, reeds, shrubs and trees to the extent that the grass, weeds, reeds, shrubs and trees may pose a real or potentially real fire hazard to any adjoining premises or other premises or property.
- (2) The owner or occupier of -
- (a) an erf or premises situated within a proclaimed township in the area must remove the fire hazard or ensure that the fire hazard is removed by -
- (i) cutting to a maximum height of 150 mm above ground level any grass, reeds and/or weeds which may reasonably be connected with the fire hazard;
 - (ii) cutting around any shrubs and/or trees which may be standing in the area being cut;
 - (iii) pruning, chopping down or sawing off such shrubs and/or trees, as the case may be; and
 - (iv) removing all chopped and/or sawn off residue from the erf or premises or ensuring that the residue is removed; and
- (b) an agricultural holding or farm situated in the area must reduce the potential fire hazard by physically clearing a safety fire belt, at least 5 m wide (measured parallel from each boundary line which borders the premises to the inside of the premises) so that no vegetation or residue whatsoever remains on this belt, and the owner or occupier must at all times maintain the belt or ensure that the belt is maintained in such condition: Provided that where obstructions occur within the 5m belt, a 5m belt is also maintained around those obstructions.
- (3) Notwithstanding the above, the provisions of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998), apply *mutatis mutandis* to the application of this section.
- (4) Any person who fails to comply with the provisions of this section is guilty of an offence.