

## PROVINCIAL NOTICE 35 OF 2016

## UBUHLEBEZWE MUNICIPALITY



## BYLAWS FOR CONTROL AND DISCHARGE OF FIREWORKS

1 <sup>ST</sup> DRAFT DATE	30 <sup>th</sup> June 2014
ADOPTION BY COUNCIL	4 <sup>th</sup> December 2014
PROMULGATION DATE	9 <sup>th</sup> February 2016

The Municipal Council of Ubhlebezwe has adopted the following bylaws at its meeting held on the 4<sup>th</sup> December 2014 in terms of Section 156(2) of the Constitution of the Republic of South Africa (Act No 108 of 1996) read with section 31(2) of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) and hereby publishes the subjoined bylaws in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) to come into effect on the date of publication hereof in the Provincial Gazette.

## UBUHLEBEZWE MUNICIPALITY

### BYLAWS FOR THE CONTROL AND DISCHARGE OF FIREWORKS

#### Definitions

In these bylaws, unless the context otherwise indicates:-

“**Area of Jurisdiction**” means the area of jurisdiction of the Ubhlebezwe Municipality;

“**Municipal Manager**” means the person duly appointed by the Council or the person temporarily acting as such or his duly authorized representative;

“**Council**” means the Ubhlebezwe Municipality or its successors in title, and includes the council of that municipality or its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Executive Committee has delegated any powers and duties with regard to these bylaws;

“**Designated Fire Officer**” or “**Fireworks Inspector**” means the official/s appointed by the Council, whether on a full-time, part-time or contractual basis, or his duly authorized representative, to deal with the requirements of these bylaws;

“**Authorized Officer**” means:

- (a) a traffic officer or warden appointed in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (b) a member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 58 of 1995);
- (c) a peace officer contemplated in section 34 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (d) any other official duly authorized by the council, as defined herein.

#### 1. LICENCE TO DEAL IN FIREWORKS

A person wishing to deal in fireworks, will make application to the South African Police Services for a licence to deal in fireworks. The designated fire officer may submit the application on behalf of the dealers. On receipt of the licence the designated fire officer will inspect the premises of the dealer and should the building requirement be met will issue a permit to trade in fireworks. Only when the permit has been issued may the dealer accept delivery of fireworks.

## 1.1 Requirements for the Handling and Storage of Fireworks

- 1.1.1 Premises in which fireworks are handled preferably should have at least two exits. Where any premises have only one exit the fireworks shall be kept at the rear (relative to the exit) of the premises.
- 1.1.2 The doors to the exit shall be kept **unlocked** and **unbolted** during trading hours and a **clear passage** shall exist between the counters holding the fireworks and all the exits, and no obstacles shall be placed in these passages.
- 1.1.3 A dealer must have at all times on his premises a 9kg chemical fire extinguisher which must be serviced and kept in a readily accessible position or as determined by a designated fire officer.
- 1.1.4 A dealer may keep on his premises not more than 500 kilograms gross mass of fireworks, provided the fireworks, contained in their inner or outer packings, are kept on shelves. When packs are opened these must be kept in glass cabinets or metal containers under lock and key and separated from goods of an inflammable or combustible nature.
- 1.1.5 Fireworks in excess of 500 kilograms gross mass must be stored in a fireworks magazine built according to the specifications as per the regulations.
- 1.1.6 A dealer shall not interfere with the inner packing of the fireworks, or allow or permit it to be interfered with.
- 1.1.7 Fireworks shall not be displayed in any window or any other place where such fireworks can be interfered with by the public.
- 1.1.8 Notices with 100mm red lettering on a white background must be provided as follows:-
- (a) to the outside of the premises in a prominent position adjacent to every entrance, notices reading “Dealer in Fireworks”;
  - (b) in prominent positions inside the premises “No Smoking” signs in appropriate official languages.
- 1.1.9 Every dealer and every person employed in or about the premises shall take all due precautions for the prevention of accidents by fire and for preventing unauthorized persons having access to the fireworks and shall abstain from any act whatsoever which tends to cause fire. Goods of a dangerous nature such as inflammable liquids, acids, alkalis and the like shall not be kept on the same premises together with fireworks and safety matches, and Bengal matches shall be kept at least 5 meters away from the fireworks.
- 1.1.10 No person shall smoke in, or take a naked light or fire into, premises where fireworks are kept, stored or being handled, nor shall any person be allowed to do so.
- 1.1.11 Every person on such premises shall abstain from any act whatsoever which tends to

cause fire.

## 1.2 Trade

- 1.2.1 A dealer in fireworks when purchasing or obtaining fireworks shall demand from the seller or supplier a properly executed, signed and dated invoice which he shall retain for a period of at least two (2) years for production on demand by an inspector.
- 1.2.2 A manufacturer or wholesale dealer shall furnish a properly executed, signed and dated invoice with each sale or supply of fireworks.
- 1.2.3 A dealer shall supply fireworks to the public only in the **sealed inner packing** as received from the manufacturer or wholesale dealer, provided that the packages are still in good condition.
- 1.2.4 Fireworks shall only be sold to members of the public by an authorized Dealer in Fireworks and no dealer shall sell or allow or permit to be sold any fireworks to a child under the age of 16 years,
- 1.2.5 A dealer shall furnish each employee engaged in selling fireworks with a copy of the regulations and Bylaws and of the conditions attaching to his licence to deal.
- 1.2.6 A dealer shall keep a register in which full particulars of each transaction and the aforementioned licence number shall be recorded. This register shall be kept up to date and available for inspection at any time and shall not be destroyed until after the lapse of two (2) years from the date of the last entry.
- 1.2.7 A dealer's premises may be inspected at any time by a fireworks inspector or fire officer.
- 1.2.8 Any person on such premises who fails to comply with a request made by the licensee or his employees in the interest of safety, shall be guilty of an offence.

## 2. FIREWORKS FOR SALE TO THE PUBLIC

- 2.1 The following fireworks are illegal and may not be sold to the public:
- (a) Firecrackers larger than 30mm long and 8mm diameter
  - (b) Match crackers or match strike crackers
  - (c) Firecrackers commonly known as "Bombs", e.g. Indian King, King India, Classic Foils etc.
- 2.2 The sale of fireworks must be recorded and all invoices must bear a certificate to the effect that the crackers contain genuine gunpowder (black powder) only.

"The term "gunpowder" shall include blasting powder and shall mean exclusively gunpowder ordinarily so called, consisting of an intimate mixture of saltpetre

(potassium nitrate), sulphur and charcoal, such saltpetre not containing as an impurity perchlorate of potash in greater quantity than one per cent.”

- 2.3 All fireworks manufactured in the Republic or imported into it, or which are offered for sale within the Republic shall be marked, labelled and packed in accordance with the Explosives Regulations and any person found in possession of fireworks not so marked and labelled shall be deemed to be in possession of “unauthorized explosives” and guilty of an offence.
- 2.4 Fireworks shall be packed by the manufacturer or importer in suitable cartons which shall be sealed ready for sale to the public and shall be supplied only to a dealer who is in possession of a valid licence issued in terms of these bylaws, and the number of such licence shall be quoted on the invoice.
- 2.5 No fireworks shall be sold to any member of the public by any street trader, vender, hawker or pedlar or by any person acting on their behalf.

### 3. USE OR EXPLODING OF FIREWORKS

The discharge of fireworks within the municipal area is unlawful with the exception of the following days:

5 November

1 January; and

the seven (7) days of the Deepavali Festival;

and any other day for the public display of fireworks if Council’s permission is first obtained prior to the event.

- 3.1 It shall be unlawful for any person to use or explode any fireworks:-
- (a) within 500 meters of any explosives magazine, explosives factory, petroleum depot or gasometer; or
  - (b) in any building or on any public thoroughfare or public place without the prior consent of the Council;
- 3.2 No person, other than a technician, shall operate a public display of fireworks on any premises without the written consent of the Municipal Manager acting on the recommendation of the local designated fire officer;
- 3.3 Such permission shall stipulate the conditions to be complied with and non-compliance with any of these conditions shall constitute an offence under this bylaw.
- 3.4 Application for permission to operate a public display of fireworks shall be made in writing and set forth:-

- (a) the name of the person or organization sponsoring the display together with the names of the persons actually in charge of the firing of the display who shall be at least 18 years of age and competent for the work;
- (b) the date and time of day at which the display is to be held;
- (c) the exact location planned for the display;
- (d) a description setting forth the age and qualifications of the persons who are to do the actual discharging of the fireworks;
- (e) the numbers and kinds of fireworks to be discharged; and
- (f) the manner and place of storage of such fireworks prior to the display; and
- (g) a diagram of the grounds on which the display is to be held showing:-
  - i. The point at which the fireworks are to be discharged, which shall be at least 100 meters from the nearest building, road or railway, and at least 20 meters from the nearest telephone, telegraph or power line, tree or other overhead obstruction;
  - ii. The direction in which aerial fireworks, if any, are to be fired;
  - iii. The area to be kept clear of persons which shall extend at least 50 meters from the front and to the sides of the point at which the fireworks are to be discharged;
  - iv. The area to be kept clear on which falling residue from aerial fireworks is expected to drop, which shall extend for at least 100 meters to the rear of the firing point; and
  - v. The location of all buildings and roads within 200 meters of the firing site and of all the trees, telegraph or telephone lines or other overhead obstructions at or adjacent to the firing site.
- (h) Completion of an indemnity form absolving the Council from any civil claims.
- (i) Acknowledgement that authority is at Council's discretion and that the requirements of legislation will be complied with.

3.5 At a public display of fireworks it shall be an offence:-

- (a) for any person willfully to enter or remain in that area reserved for receiving falling residue from aerial fireworks;
- (b) for any unauthorized person willfully to proceed beyond that area demarcated by the organizers of the display for spectators; and

(c) to disobey the instruction of a uniformed law enforcement officer.

**4. PYROTECHNIC DISPLAYS**

In the event of a pyrotechnic display emergency flares must accompany the displayers.

**5. TRANSPORT OF FIREWORKS**

The transport of fireworks shall comply with the conditions as laid down in the National Building Regulations as promulgated in Government Gazette No. 3648 dated 8 September 1972.

**6. USE OF OTHER EXPLOSIVES**

Any explosives for the use of which provision is not made in the preceding sections of these Bylaws, shall be used only in such manner and under such conditions as may be prescribed in writing by an inspector.

**7. DISTRIBUTION POINT**

The number of distribution points for the sale of fireworks shall be restricted to Six.

**8. OFFENCES, PENALTIES AND APPEALS**

The provisions of the council's Offences, Penalties and Appeals Bylaws shall apply mutatis mutandis to these bylaws.