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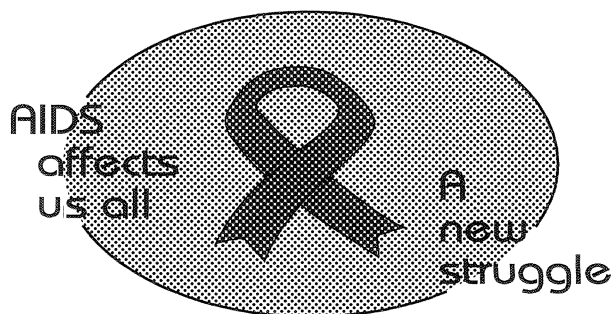
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18 JANUARY 2013
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No. 882

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CONTENTS

<i>No.</i>		<i>Page</i>
	MUNICIPAL NOTICE	
4	Local Government: Municipal Systems Act (32/2000): Msunduzi Municipality: By-laws Regulating the Control and Discharge of Fireworks.....	3

MUNICIPAL NOTICE

No. 4**18 January 2013****MSUNDUZI MUNICIPALITY****BYLAWS REGULATING THE CONTROL AND DISCHARGE OF FIREWORKS**

The Municipal Manager of the Msunduzi Municipality, acting in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby publishes the Bylaws Regulating the Control and Discharge of Fireworks for the Msunduzi Municipality, as adopted by its Council, as set out hereunder.

Definitions

1. In these bylaws, unless the text otherwise indicates -

“the Act” means the Explosives Act, 1956 (Act No. 26 of 1956) and shall include the Regulations under the Act;

“area” means the area of jurisdiction of the Msunduzi Municipality;

“Council” means the Msunduzi Municipality and its successors in law and includes the Council of the 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 official to whom the Executive Committee has delegated any powers and duties relating to these bylaws;

“dealer” means a retail dealer or a wholesale dealer;

“fireworks” means explosives of Class 7, Division 2, shop goods only, as defined in the regulations;

“fireworks inspector” means a person deputised to act as an inspector under the Act;

“fire officer” means the Manager, Fire and Disaster Management who is authorised and delegated to administer these bylaws, subject to any policy directions of the Council;

“inspector” means a chief inspector of explosives appointed by the Minister, or a peace officer of the Municipality appointed by the Chief Inspector of Explosives as an inspector under the Act;

“law enforcement officer” means a duly authorised officer appointed by the Council as a traffic officer/peace officer or a member of the South African Police Services;

“Minister” means the Minister of Safety and Security;

Municipality” means the Msunduzi Municipality;

“person” means a natural person or a juristic person and for the purposes of these bylaws, shall include a religious or cultural organisation;

“premises” means any building or room in which fireworks are stored, kept or handled for the purposes of sale;

“regulations” means the Explosives Regulations;

“retail dealer” means a person, including a juristic person, who sells or supplies fireworks to any person for use or consumption by that person and not for resale;

“technician” means the person qualified to discharge display fireworks safely.

“wholesale dealer” means a person, including a juristic person, who supplies or sells fireworks to any other person or dealer for the purposes of resale.

Licence to deal in fireworks

- 2(1) No person shall sell or supply fireworks unless he is in possession of a licence granted under Chapter 9 of the regulations, which licence shall be in addition to any other licence or consent which may be required in terms of these bylaws or any other law.
- (2) Any person applying for a licence referred to in (a) above shall pay such fees as are prescribed by the Municipality.

Requirements for the handling and storage of fireworks

- 3(1) Premises in which fireworks are handled 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.
- (2) The doors to the exits shall be kept unlocked and unbolted during trading hours and a clear passage shall exist between the counters holding the fireworks and all exits, and no obstacles shall be placed in these passages.
- (3) A dealer shall have a 9kg dry chemical fire extinguisher which shall be serviced annually on the premises, in a readily accessible position or as determined by a designated Fire Officer.
- (4) A retail dealer may keep on his premises no more than 500 kilograms gross mass of fireworks, provided that the fireworks, contained in their inner or outer packages, are kept on shelves or other fittings separated from goods of an inflammable or combustible nature.
- (5) Fireworks in excess of 1000 kilograms gross mass shall be stored in a fireworks magazine built according to the specifications as provided for in Chapters 7 and 8 of the Regulations.
- (6) A dealer shall not interfere with the inner packing of the fireworks, or allow or permit it to be interfered with.
- (7) Fireworks shall not be displayed in any window or any other places where such fireworks can be interfered with by the public.
- (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, reading “Dealer in Fireworks”;
 - (b) in prominent positions inside the premises, “No smoking” signs in appropriate official languages.
- (9) (a) Every dealer and every person employed in or about the premises shall take all due precautions for the prevention of the accidents by fire and for preventing unauthorised persons having access to the fireworks and shall

abstain from any act whatsoever which tends to cause fire.

(b) 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.

- (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.
- (11) Every person shall, on premises where fireworks are kept, abstain from any act whatsoever which tends to cause fire.

Sale of fireworks

- 4(1) A retail dealer in fireworks, when purchasing or obtaining fireworks shall demand from the manufacturer 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 of an inspector or fire officer.
- (2) A manufacturer or wholesale dealer shall supply fireworks only to a retail dealer who is in possession of a valid licence issued in terms of the regulations, and the number of such licence shall be quoted on the invoice.
- (3) The manufacturer or wholesale dealer shall keep a register in which full particulars of each transaction and the aforementioned licence number shall be recorded. Such register shall be kept up to date and be available for inspection at any time, and shall not be destroyed until after the lapse of two years from the date of the last entry therein.
- (4) A dealer shall not sell or allow or permit to be sold any fireworks to a child under the age of 16 years.
- (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.
- (6) A dealer's premises may be inspected at anytime by a fireworks inspector or fire officer.
- (7) Any person on a dealer's 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.
- (8) Sale, distribution or storage of fireworks in or from a vehicle, trailer or temporary structure on a street is prohibited.
- (9) Notwithstanding the provisions of section 4(1) to (8), a dealer shall comply with the provisions of Chapter 9 of the regulations.

Use or exploding of fireworks

- 5. No person shall set off, discharge or explode any fireworks on any street, in any public place or in or on any public thoroughfare.
- 6. No fireworks shall be set off, detonated or exploded within a distance of 200 metres of any hospital, clinic, petrol service station, old age or nursing home, animal welfare organisation or institution

7. Fireworks may be set off, discharged or exploded on the lot of a private dwelling only with the knowledge and consent of the occupant or owner and subject to the provisions of these bylaws.
8. No person shall direct a firework at any person, animal, building or motor vehicle where such firework is in the process of exploding or detonating and where it is capable of projecting or discharging a charge or pyrotechnical effect from a distance of one meter.
9. No person shall set off, discharge or explode any fireworks within a distance of 500 meters of a nature reserve.
10. No person shall set off, discharge or explode any fireworks in any place where an animal is present.
11. Any firework which fires a projectile shall be so set up that the projectile will go up into the air as nearly as possible in a vertical direction.

Public fireworks displays

12. Unless authorized in terms of section 17, no person may set off, discharge or explode any fireworks on any day or at any time except –
 - (a) New Years Eve from 23h00 to 01h00;
 - (b) Hindu New year from 19h00 to 22h00;
 - (c) Lag b'omer from 19h00 to 22h0;
 - (d) Guy Fawkes day from 19h00 to 22h00; and
 - (e) Diwali/Deepavali from 19h00 to 22h00.
13. No person shall set off, detonate, or explode any fireworks for religious, cultural or ceremonial purposes without first having obtained the written permission of the fire officer.
14. A person or organization referred to in section 13 shall comply with any conditions of usage and time imposed by the fire officer.
15. The Municipality may approve cultural, religious and other days and times during which fireworks may be set off, detonated or exploded after consultation with the local inspector of explosives and the relevant cultural and religious body or organisation.
16. No public display of fireworks shall be set off, detonated or exploded on any day or time except for those days and times declared by the Municipality as religious, cultural or ceremonial in respect of that particular person or organisation for which prior written approval had been obtained from the fire officer.
17. Application for permission to operate a public display of fireworks shall be made in writing to the fire officer at least seven days prior to such event and shall provide -
 - (1) the name of the person or the organisation sponsoring the display, together with the names and qualifications of the persons in actual charge of the firing of the display who shall be at least 18 years of age and competent for the work;
 - (2) the date and time of the day at which the display is to be held;
 - (3) the exact location planned for the display ;
 - (4) the numbers and kinds of fireworks to be discharged and the value of the display;

- (5) the manner and the place of storage of the fireworks prior to the display; and
 - (a) 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 metres from the nearest building, road or railway, and at least 20 metres 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 clear of persons which shall extend at least 50 metres 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 metres to the rear of the firing point; and
 - (v) the location of all buildings and the roads within 200 metres of the firing site and the location of all tress, telegraph or telephone lines or other overhead obstructions at or adjacent to the firing site.
- 18(1) Where any person has received the written authority of the fire officer to hold a public display of fireworks, such person shall complete a form indemnifying the Municipality against any criminal or civil claims arising from such public display.
- (2) Where a person has received written authority in terms of section 17, such person shall notify the local office of the Society for the Prevention of Cruelty to Animals that such authority has been obtained, prior to the commencement of the display.
- 19. At a public display of fireworks it shall be an offence -
 - (a) for any person wilfully to enter into, or remain in, an area reserved for receiving falling residue from aerial fireworks; and
 - (b) for any unauthorised person to wilfully proceed beyond the area demarcated by the organisers of the display, for spectators; and
 - (c) to disobey the instruction of any uniformed law enforcement officer.

Compliance with Act and regulations

- 20(1) Notwithstanding the provisions of these bylaws, any person who deals in, sells, handles, stores, uses or explodes fireworks shall comply with all the relevant provisions of the Act and regulations.
- (2) The provisions of the Act and regulations relating to fireworks, as defined in the regulations, and any penalties relating to the contravention of any provisions of the Act and regulations relating to fireworks, shall be deemed to form part of these bylaws.

Seizure of fireworks

- 21. A law enforcement officer, inspector or fire officer may seize any fireworks being held in violation of these bylaws or the Act or which have been set off, discharged or exploded in violation of these bylaws or the Act and such officer, inspector or fire officer may confiscate and dispose of such fireworks without compensation.

Offences and penalties

22. Any person who -

- (1) contravenes or fails to comply with any provision of these bylaws; or
- (2) fails to comply with any lawful instruction given, or any notice issued or displayed in terms of these bylaws; or
- (3) obstructs or hinders any authorised official or representative or employee, of the Municipality in the execution of his or her duties under these bylaws,

is guilty of an offence and liable on conviction to a fine in an amount, and or imprisonment for a period, to be determined by a court, provided that in the case of a continuing offence, an additional fine and/or imprisonment for a period for each day on which such offence continued, may be imposed and, provided further, that in addition to any penalty imposed in terms of these bylaws, the person so convicted shall be liable to pay the cost of repair of any damage caused, or costs incurred in remedying any damage, resulting from the offence.
