

CAPE WEST COAST FIRE PROTECTION ASSOCIATION

CONSTITUTION

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PREAMBLE AND DEFINITION

- P.1 In the Constitution, unless there is something in the subject or the context inconsistent therewith:
- (a) Words importing the masculine gender they shall include the feminine; and words importing the singular shall include the plural, and vice versa.
 - (b) The term “Association” shall mean Fire Protection Association and likewise the acronym “FPA” shall also mean Fire Protection Association.
 - (c) The term “Committee” shall mean the elected managerial committee as defined in clause 4.2 of the Constitution, likewise the term “Executive” shall have the same meaning.
 - (d) The acronym “CWCFPA” shall mean the Cape West Coast Fire Protection Association.
- P.2 The numbering of the clauses in this document is arranged as follows:
- (a) Preamble and definitions – the capital letter “P” followed by a number and a lower case letter in brackets from P.1 (a) to P.4.
 - (b) Constitution – purely decimalised numbers from 1.1 to 15.4.
- P.3 The Constitution may only be changed by a Special General Meeting of the members as described in Section 13 (2).
- P.4 The constitution follows Chapter 2 of the National Veld and Forest Fire Act, 1998 (No. 101 of 1998) and the regulations under it.
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CONSTITUTION

1. NAME

- 1.1 The name of the association is:
Cape West Coast Fire Protection Association (CWCFPA)

2. AREA OF THE ASSOCIATION

- 2.1 (Area to be described)

(See attached map on a scale of 1:50 000)

3. ADDRESS OF THE ASSOCIATION

- 3.1 The address of the Association is:

3.1.1 **Postal –**

(Postal address to be inserted)

3.1.2 **Physical –**

(Physical address to be inserted)

4. APPLICATION OF THE ACT TO THIS CONSTITUTION

- 4.1 This constitution follows Chapter 2 of the National Veld and Forest Fire Act, 1998 (No. 101 of 1998) and the regulations under it.

5. AIM OF THE ASSOCIATION

- 5.1 The aim of the Association is to predict, prevent, manage and extinguish veldfires in its area.
- 5.2 Comply with the Act, the regulations associated with the Act, this constitution and its by-laws.
- 5.3 Improve the knowledge base for the implementation of integrated fire management strategies.
- 5.4 Promote fire safety through education of its members and the public at large.

6. DUTIES AND FUNCTIONS OF THE ASSOCIATION

- 6.1 The duties and functions of the Association are to –
- 6.1.1 implement a veldfire management strategy for the area,
 - 6.1.2 provide in the strategy agreed mechanisms of co-ordinating actions with adjoining fire protection associations in the event of a fire crossing boundaries,
 - 6.1.3 implement a veldfire management strategy for the area,
 - 6.1.4 provide in the strategy agreed mechanisms of co-ordinating actions with adjoining fire protection associations in the event of a fire crossing boundaries,
 - 6.1.5 make rules (including a code of conduct) which bind its members,
 - 6.1.6 identify the ecological conditions that affect the fire danger and attempt to remedy same,
 - 6.1.7 regularly communicate the fire danger rating referred to in sections 9 and 10 to its members,
 - 6.1.8 organise and train its members in fire-fighting, management and prevention,

7. MEMBERSHIP & RIGHTS OF MEMBERS

- 7.1 Any owners of land in and adjacent to the Association's area of operation may apply at any time to become a member of the Association.
- 7.2 Members are all persons, municipalities, government establishments or communities -
- 7.2.1 whose names are in the register of members referred to in section 7 (9) of this constitution, and
 - 7.2.2 who, by applying for membership have indicated that they are willing to abide by the constitution and the by-laws of the Association.
- 7.3 An owner of land who at any time applies to the Association for membership is, depending on the rules of the Association, able to be admitted as a member.
- 7.4 If any member of the executive committee objects to any applicant's admission as a member or any member's continued membership, they shall within 14 days -
- 7.4.1 give the applicant or member written reasons for the objection,
 - 7.4.2 call a meeting of the executive committee to consider the objection, and
 - 7.4.3 notify the applicant or member of the date, time and place of the meeting.
- 7.5 Should a member of the Executive object to any potential members application or any member's continued membership, the applicant or member may -
- 7.5.1 speak at the meeting and argue for admission or continued membership, and
 - 7.5.2 make a complaint to the Minister if they are not satisfied with the Executive Committee's decision.
- 7.6 Should the Minister appoint a mediator or arbitrator that is acceptable to the Executive Committee and the applicant or member, from a panel referred to in section 45(1) or 45(2) of the National Forests Act 84 of 1998, both the applicant/member and the Executive shall co-operate with the mediator and or the decision of the arbitrator.

- 7.7 Members who have paid the prescribed membership fees or any other fees determined by the Executive will;
- 7.7.1 be allowed to speak at any meeting of the Association
 - 7.7.2 be entitled to have one vote at any meeting of the Association where voting is part of the decision making process.
- 7.8 No member shall have the right to any money, property or assets of the Association.
- 7.9 The Secretary shall maintain a register of all members. As a minimum the register shall contain the following information:
- 7.9.1 the name of the member
 - 7.9.2 the postal and physical address of the owner
 - 7.9.3 the contact telephone numbers of the member
 - 7.9.4 the member's email address
 - 7.9.5 the date of joining the Association
 - 7.9.6 any other relevant information

8. TERMINATION OF MEMBERS

- 8.1 A member may terminate his or her membership by written notice to the Chairperson except in the case of municipalities and owners in respect of State land.
- 8.2 Should a member terminate his or her membership, he or she will forfeit all fees and charges already paid to the Association.
- 8.3 Membership is automatically terminated if a member has not paid the required membership fees, charges or interest within **60** days -
- 8.3.1 after the annual general meeting, or
 - 8.3.2 after these fees, charges or interest are due.
- 8.4 The land of a member who dies will still be protected under this constitution if -
- 8.4.1 the land in question falls within the boundary of the Association, and
 - 8.4.2 on his or her death, the fees, charges or interest are fully paid, and
 - 8.4.3 his or her successor-in-title, applies for registration as a member.
- 8.5 The association may terminate membership of any member who fails to comply with the rules or fails, within a reasonable period of time after receiving a notice, or fails to comply with an agreed rectification plan from the Fire Protection Officer. This shall not apply to municipal owners and owners in respect of state land.
- 8.6 Should a dispute arise with regard to a membership being terminated, the Executive Committee decision will be final.

9. FEES, CHARGES AND INTEREST

- 9.1 The executive committee may from time to time –
- 9.1.1 fix fees for membership registration and charges for services that are necessary for the proper management of the Association
 - 9.1.2 charge interest on unpaid fees that the law allows.

- 9.2 The fee structure of the Association is as contained in the Management Plan of the Association.
- 9.3 Annual membership fees must be paid on or before the 1st day of April every year.
- 9.4 A once off joining fee and membership the fee is payable for when joining the Association.
- 9.5 The once off joining fee will all be the same for all members but the annual membership fees will be charged per hectare of land owned or part thereof and therefore will differ from member to member.
- 9.6 Any increase in registration and membership fees or charges for services must -
- 9.6.1 be ratified at an annual general meeting
 - 9.6.2 if not done at an annual general meeting, be decided on by the majority of members present at a special general meeting called for that purpose.
 - 9.6.3 be based on the Association's Management Plan which will include a sound bases for which the increased fees or charges will be used.
- 9.7 Additional fees may be charged for special services that may be requested by the member or provided by the Association.
- 9.8 The Executive Committee may waiver certain fees or charges for a member while still providing the member with all the benefits of a fully paid up member, provided that -
- 9.8.1 the member has provided the Association with equipment, services or material that, in the opinion of the Executive, would have cost the Association more had the Association purchased the same equipment, services or material.
 - 9.8.2 the Association and its members is not negatively effected by the wavering of such fees or charges.

10. LIABILITIES AND POWER

10.1 Liabilities:

- 10.1.1 Members are only liable for their unpaid fees, charges or interest but will not be individually liable for any debts owed or duties of the Association.
- 10.1.2 Member shall not be individually liable for any claims the Association or for any omissions to carry out duties of the Association

10.2 Powers:

- 10.2.1 *Separate legal entity* – the association is a separate legal entity and is capable of instituting litigation in it's own name and will be sued in its own name.
- 10.2.2 *Limited liability* – the association is capable of incurring obligations and aquiring rights apart from its members.
- 10.2.3 *Assets* – the association may acquire and dispose of any asset.

- 10.2.4 **Loans** – the association may use loans, including overdrafts, to raise the funds it needs to carry out any of its functions provided that;
- (a) whenever the Executive Committee wants to raise a loan of more than R10 000, it must call a meeting a special general meeting of all members, with at least 21 days' notice, to get a mandate to raise the loan.
 - (b) the Executive Committee cannot make a loan that will lead to increased registration or membership fees, unless this is approved by a majority of the members at the meeting.
- 10.2.5 **Employees** – the association may employ any person it considers necessary to help the Association to carry out its functions provided that;
- (a) the employment of any person, or any change to the contract of employment of any employee, must be approved by a resolution of the Executive Committee.
 - (b) all employees remain in employment when there is any change in the Executive Committee.

11. EXECUTIVE COMMITTEE

- 11.1 Subject to the Constitution and in conformity with the By-laws, the management and control of the affairs of the Association shall be vested in the Executive Committee whose members will hold office until their successors have been elected.
- 11.2 The Executive Committee shall consist of the following:
- 11.2.1 the Chairperson
 - 11.2.2 the Vice Chairperson
 - 11.2.3 the Secretary
 - 11.2.4 the Treasurer
 - 11.2.5 the Fire Protection Officer
 - 11.2.6 Additional members
 - 11.2.7 Co-opted members
- 11.3 **Election of the Executive Committee**
- 11.3.1 Except for the Fire Protection Officer who is appointed, the Executive Committee will be elected from the members at the Association's Annual General Meeting and will hold office as follows:
- (a) the Chairperson and Secretary/Treasurer will hold office for three years where after they may be re-elected for another term of office.
 - (b) the Vice-Chairperson and all other member of the executive will hold office for a period of two years where after they may be re-elected for another term of office.
- Note:** *the Secretary and Treasurer position may be combined or left separated as determined at the time of the elections.*
- 11.3.2 Should any member, additional member or co-opted member of the Executive Committee resign, die, become incapacitated or disqualified, or is removed from office, this position shall become vacant and any member may be elected to fill the vacant position for the remaining period.

- 11.4 **Disqualification of an Executive Committee Member**
12.4.1 A member of the Executive Committee shall be disqualified if he or she -
(a) is declared to be of unsound mind by a court
(b) is declared insolvent by a court
(c) is convicted of a crime involving dishonesty
(d) has been absent without leave or a good reason from two consecutive meetings of the committee.
- 11.5 **Co-opted Members**
11.5.1 Any member may be co-opted to serve on the Executive Committee for a period decided upon by the Executive Committee but shall have no voting rights.
- 11.6 **Technical Committee**
11.6.1 The Executive Committee may appoint a Technical Committee to assist with technical advice and expertise with regard to fire management and related issues.
11.6.2 The Technical Committee shall consist of both statutory and private landowners.
11.6.3 Their function and powers are as indicated in the Technical Committee terms of reference as amended from time to time.

12. **FINANCE**

- 12.1 The Association shall only open one general account at a financial institute in the name of the association.
- 12.2 All Association accounts and cheques shall be signed by at least two of the following Executive Committee members, namely the Chairperson, Secretary/Treasurer or the Fire Protection Officer.
- 12.3 The financial year of the Association will run from the date of its registration to 30 March of the following year, and then from 1 April every year to 30 March of the following year.
- 12.4 Should the Executive not make use of a Treasurer on the Committee, then the Secretary shall at each Annual General Meeting -
12.4.1 present an audited financial statement of the Association's accounts for the previous financial year, including full details of any salary paid to members of the executive committee and employees of the Association, and
12.4.2 give a report of the Association's activities.
- 12.5 In the absence of a Treasurer, the Secretary shall be responsible for all the financial business of the Association and must therefore keep a record of all this business.
- 12.6 The financial statement must be available for inspection at reasonable times by any member for a period of 3 weeks (21 days) from the date of the annual general meeting.

13. ANNUAL, SPECIAL & GENERAL MEETING

13.1 Annual General Meeting

13.1.1 An annual general meeting must be called by the Executive Committee -

- (a) within 60 days of the end of the financial year, and
- (b) on 21 days' notice to all members.

13.1.2 In addition to any other business, the annual general meeting must deal with -

- 13.1.3 the Chairperson's report on the general affairs of the Association,
- 13.1.2 the Treasurer or Secretary's presentation of the financial statements of the Association,
- 13.1.3 the Fire Protection Officer's report on his or her activities, and
- 13.1.4 the introduction and approval of any increase of fees, charges or interest.

13.1.3 A quorum will consist of at least 40% representation of all members' title deed areas.

13.1.4 If there is no quorum, the members present must be given notice that a further meeting will be held at least 7 days later.

13.1.5 If there is no quorum at the further meeting, the members present will continue as if there was a quorum.

13.1.6 Only those members, who have paid their registration fees and membership up to date, shall have the right to vote.

13.2 Special general meeting

13.2.1 A special general meeting must be called by the Executive Committee if -

- (a) 25% of paid-up members request this meeting in writing and name the issues to be dealt with,
- (b) the members requesting the meeting promise in writing to pay for the administrative costs of the meeting, and
- (c) the requested meeting is to be held at least 90 days before an annual general meeting.

13.2.2 The Executive Committee may convene a Special General Meeting any time on 14 days' notice.

13.2.3 The Executive Committee may convene a Special General Meeting any time on 14 days' notice.

13.3 Ordinary Member attending an Executive Committee Meeting

13.3.1 An ordinary member may attend an Executive Committee meeting -

- (a) when he or she has been requested to present an issue in order for the committee to gain more insight, or

- (b) when he or she has requested to present an issue to the executive that has been fully motivated and placed on the agenda., or
- (c) to be an observer, in which case, the member may not speak at the proceedings.

14. DISPUTE RESOLUTION

- 14.1 In the case of a dispute related to association matters between members, the members must negotiate to resolve the dispute.
- 14.2 If negotiations as discussed in Section 14 (1) fail, any member may approach the executive committee, which must appoint an arbitrator whose decision is final.

15. DISSOLUTION

- 15.1 The Association may be dissolved -
 - 15.1.1 by a resolution passed at an annual general meeting or a special general meeting called for that purpose and by its deregistration by the Minister under section 8 or
 - 15.1.2 by its deregistration by the Minister under section 8.
 - 15.2 The resolution to dissolve the Association must -
 - 15.2.1 be passed by a two-thirds majority of members present and forming a quorum, and
 - 15.2.2) be confirmed at another special general meeting, held after at least 30 days, by a majority vote of the members present and forming a quorum.
 - 15.3 After confirmation of the dissolution and at that meeting, the members must pass a resolution for the appointment of a liquidator to dispose of the association's assets, pay its debts and settle its liabilities.
 - 15.4 Any capital remaining after all liabilities have been settled will be donated to an FPA functioning in the same region.
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