

7.8 TRAFFIC CALMING POLICY

File number : 8/1 Engineering Services
Compiled by : Head: Traffic Engineering (Nigell Winter)
Report by : Manager: Transport, Roads and Stormwater (EJ Wentzel)
Delegated Authority : Council

Strategic intent of item

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input checked="" type="checkbox"/>
Good Governance	<input type="checkbox"/>

1. PURPOSE OF REPORT

To inform Council that the existing Draft Traffic Calming policy as tabled to Council in 2007 has been revised and will be advertised for comment, whereafter a final Traffic Calming Policy will be prepared for Mayco and Council for final approval.

2. BACKGROUND

Over the past number of years requests for traffic calming measures were received on a continuous basis. The requests were scrutinized and implemented according to the Draft Traffic Calming policy dated August 1997. The Traffic Engineer was requested to update the policy and submit to this Committee for consideration.

3. DISCUSSION

The purpose of this document is to set out the policy for traffic calming for the Stellenbosch Municipality.

The document firstly describes the evaluation procedure to be followed by the Stellenbosch Municipality should it receive requests relating to any traffic problems, i.e. a procedure that commences with a preliminary evaluation and the steps that follow onto a detailed evaluation.

The remainder of the document focuses very specifically on traffic calming and deals with:

- the road hierarchy (from a traffic calming perspective);
- principles for evaluating traffic calming;
- traffic calming techniques;
- warrants.

The **objective** with the introduction of traffic calming measures is to moderate traffic behaviour, through physical and legislative measures, with the aim to reduce the vehicle speeds and/or traffic volumes, thereby improving traffic

safety, and quality of life in the urban environment, but with due regard to mobility and accessibility.

The objectives of this policy document are as follows:

- i) to ensure that traffic calming is part of the overall transport strategy for the area;
- ii) to ensure that traffic is accommodated and applied at the correct road hierarchy level;
- iii) to provide communication channels for the public to participate in the “calming” process;
- iv) to improve the efficiency and safety of the road network without compromising costs;
- v) to minimise the extent of pollution and damage caused by motorised vehicles;
- vi) to protect residential areas and the resident from unwanted through traffic and associated dangers;
- vii) to moderate extraneous traffic behaviour;
- viii) to promote road safety;
- ix) to improve traffic flows; and
- x) to ensure that other low order roads are not negatively impacted through the implementation of specific traffic calming measures.

Principles of Evaluating Potential Traffic Calming

The principle philosophy in evaluating potential traffic calming is to eliminate hazards on minor roads and not later alter traffic characteristics on main roads.

Potential traffic calming should be evaluated and prioritized using the following principles:

First order priorities:

1. No traffic calming measures are to be imposed on roads classified as Classes 1, 2 and 3.
2. Traffic calming measures should not be considered :
 - on an ad hoc basis;
 - in addressing other social problems ;
 - where it will be detrimental to road safety or
 - where other traffic engineering or alternative procedures could address the problem.
 - on public transport routes
 - emergence vehicle routes

Second order priorities:

3. The implementation of appropriate road signs and road markings should be considered before other traffic calming techniques are proposed.
4. Traffic calming measures must not cause traffic to deviate to other minor order roads.
5. Traffic calming measures should only be considered where :
 - there are inherent safety problems caused by road layout, geometrics, sight distances, etc.;
 - these will contribute directly to safety at schools, community centres, etc. when no other methods are possible;
 - where rat-running is causing serious safety problems.

Compliance's:

- Traffic calming proposals should be considered with the participation of the Ward Councillor in liaison with the Ward Committee and other residents.
- Where possible upgrading of the existing major road network is to be undertaken in the short or medium term.
- Traffic calming should
 - comply with the Warrants stated in this Policy Document,
 - be in accordance with the National Guideline for Traffic Calming

Traffic Calming Techniques

There is a variety of traffic calming techniques, having different applications and serving different functions. The following measures are primarily for speed and capacity reduction

i) Planting/Greening

Tree planting should be an essential part of all traffic calming schemes and its use is applicable on all road types. This contributes to visual side friction.

ii) Narrow Carriageways

The narrowing of any carriageway tends to reduce speeds. This also applies to median islands.

iii) Optical Width (Visual Narrowing)

This refers to such measures as tree planting.

iv) Footway Extensions

Footway extensions can be built on all roads of a lower classification than arterial standards wherever there is a surplus carriageway space, at junctions, pedestrian crossings places and bus stops.

v) Shared Surfaces

Shared surfaces (i.e. between vehicles and pedestrians) are suitable to local streets with no through traffic and where traffic flow is below 300 vehicles per hour.

vi) Surface Texture/Type/Colour/Location

Textured surfaces are useful where visual or sensory reinforcement of a situation is required. These measures should not be used on roads where speed limits are higher than 50 km/h.

vii) Synchronization

The synchronization of traffic signals can be used to control speed along such a road but could prove to be detrimental to traffic flow.

-
- viii) Electronic Enforcement
- This refers to normal law enforcement.
- ix) Priority Management
- This refers to the type of control at intersections.
- x) Road Markings and Signs
- These measures can be used to change lane width thus slowing traffic. Alternatively signs and markings can be used to highlight potentially unsafe conditions for the driver,
- xi) Small Corner Radii
- The small corner radii are useful at all junctions within residential areas where the speeds of turning movements need to be reduced. Radius design should be appropriate to the classification of roads involved.
- xii) Roundabouts
- Conventional roundabouts are appropriate for major collectors and arterials where they can reduce accidents and assist traffic flow.
- Mini roundabouts should only be used on distributors and minor collectors within residential areas – where they will increase the intersection capacity.
- xiii) Carriageway Constrictions
- Constrictions are localized measures to reduce the capacity on a road. Constrictions are appropriate for both access streets and mixed priority roads where volumes are less than 500 vph.
- xiv) Lateral Shifts in the Carriageway:
- Alternative footway extensions
 - Islands and medians in the carriageway
 - Alternate angled parking (with permanent features, e.g. planters)
- Lateral shifts, which force change in direction and limits the driver's view of the road ahead. These are not suitable for bus routes.
- xv) Vertical Shifts in the Carriageway:
- These vary according to the severity of the obstacle. i.e. humps, cushions, plateaux (tables) and ramps.
- These measures are applicable where excessive speeds on local access streets need to be controlled.

When considering the techniques that can be used it is recommended that the use of Road signs and Markings be investigated prior implementing other traffic calming techniques.

For routes that have been identified as emergency routes, traffic calming measures will not be permitted if the measure will negatively impact on emergency response times. It is therefore suggested that traffic calming measures that will not result in vertical deviation (example; speed hump), be considered.

Where traffic calming measures have already been implemented on emergency routes and these measures result in vertical deviation then the measures should be re-evaluated and where justified replaced with an alternative technique.

Implementation of Traffic Calming Techniques

The implementation of Traffic Calming proposals is twofold, namely the detailed investigation and design, and the construction of the proposal.

Detailed Investigation & Design

Should a request be evaluated and meets the requirements for progression to the detailed investigation and design stage, the project will require further technical input.

This technical input will involve the following:

- A detailed analysis of the traffic patterns, traffic volumes, intersection geometry, intersection levels of service, alternative routes, unintended implementation consequences (eg rat runs) pedestrian and cyclist patterns and environmental aspects of the route.
- A detailed design of the recommended appropriate calming solution, entailing exact location, geometric design, road markings and signage.

Construction of the Proposal

Once the investigation and the design have been completed the project will then be placed on a priority program for funding, including any ward funding available. It must be emphasized that should the request not meet the technical warrants for traffic calming, then the construction will not be approved notwithstanding the availability of funding from any source.

4. LEGAL IMPLICATION

Refer to legal comments.

5. FINANCIAL IMPLICATION

None

6. COMMENTS FROM OTHER RELEVANT DEPARTMENTS

6.1 DIRECTORATE: PUBLIC SAFETY & COMMUNITY SERVICES (JANINE WALDIS)

I perused the document and found no further input required, therefore the department supports the draft proposal.

6.2 DIRECTORATE: STRATEGIC & CORPORATE SERVICES (Snr Legal Advisor EA Williams)

The National Road Traffic Regulations, 2000 provides for the "free and proper passage of traffic". As such it is incumbent on the Municipality to be cautious when introducing traffic calming measures on the road networks. There is thus the need to develop a policy to ensure a clear and consistent approach is adopted with regard to traffic calming.

Road safety problems within the municipality must be addressed in such a way that sustainable partnerships between the municipality, the business sector and civil society are formed. An action plan must as such be implemented to improve road safety for all users in WCO24. Special attention must be given to vulnerable road users especially scholars.

Though Legislation does not make specific provision for traffic calming, the municipality may implement traffic calming measures which must meet Constitutional scrutiny and legal scrutiny.

6.3 DIRECTORATE: FINANCIAL SERVICES

Finance supports the item.

RECOMMENDED

- (a) that the revised Traffic Calming Policy, as amended and attached as **APPENDIX 1**, be accepted as a draft policy;
- (b) that the draft policy be advertised for public input; and
- (c) that the Director: Engineering Services be requested to finalise the draft Traffic Calming Policy after public input and present it to Council for final approval by February 2016.

**(ACTING DIRECTOR: ENGINEERING
SERVICE TO ACTION)**

**ENGINEERING SERVICES AND HUMAN SETTLEMENTS COMMITTEE MEETING:
2015-12-01: ITEM 6.1.1****RECOMMENDED**

- (a) that the revised Traffic Calming Policy, as amended and attached as **APPENDIX 1**, be accepted as a draft policy;
- (b) that the draft policy be advertised for public input; and
- (c) that the Director: Engineering Services be requested to finalise the draft Traffic Calming Policy after public input and present it to Council for final approval by February 2016.

**(ACTING DIRECTOR: ENGINEERING
SERVICE TO ACTION)**

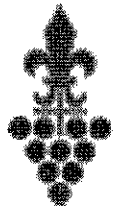
MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.2

RECOMMENDED BY THE EXECUTIVE MAYOR

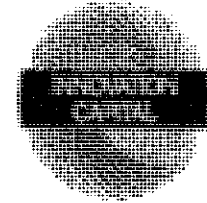
KINDLY NOTE: The Mayco recommendation will be distributed under separate cover at the Council meeting on 2016-01-27.

APPENDIX 1

APPENDIX 1



STELLENBOSCH
STELLENBOSCH • FNIEL • FRANSCHHOEK
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



Traffic Calming Policy

Revised Draft – November 2015

TABLE OF CONTENTS

	PAGE
1. INTRODUCTION	2
1.1. Purpose of document.....	2
1.2. Definition.....	2
1.3. Objectives.....	2
2. MACRO EVALUATION	3
2.1. Receiving the complaint.....	3
2.2. Preliminary evaluation.....	3
2.3. Courses of action.....	5
3. ESTABLISHMENT OF AREA WIDE TRAFFIC CALMING PLANS	6
3.1. Introduction.....	6
3.2. Developing area traffic calming plans (ATCP).....	7
3.3. Advantages of ATCP's.....	7
4. FEASIBILITY OF TRAFFIC CALMING	8
4.1. Introduction.....	8
4.2. Road Hierarchy.....	8
4.3. Principles of Evaluating Potential Traffic Calming.....	Error! Bookmark not defined.
4.4. Traffic Calming Techniques	Error! Bookmark not defined.
4.5. Warrants.....	16
5. IMPLEMENTATION	20
 List of tables	
Table 1: Qualitative assessment table.....	4
Table 2: Rural Functional Road Classification	9
Table 3: Rural Access Management Requirements and Features.....	10
Table 4: Urban Functional Road Classification.....	11
Table 5: Urban Access Management Requirements and Features.....	12
Table 6: Warrants for determining the need for traffic calming techniques	17



TRAFFIC CALMING POLICY STELLENBOSCH MUNICIPALITY

1. INTRODUCTION

1.1. Purpose of document

The purpose of this document is to set out the policy for traffic calming for the Stellenbosch Municipality.

The document firstly describes the evaluation procedure to be followed by the Stellenbosch Municipality should it receive requests relating to any traffic problems, i.e. a procedure that commences with a preliminary evaluation and the steps that follow onto a detailed evaluation.

The remainder of the document focuses very specifically on traffic calming and deals with:

- the road hierarchy (from a traffic calming perspective);
- principles for evaluating traffic calming;
- traffic calming techniques;
- warrants.

1.2. Definition

The objective with the introduction of traffic calming measures is to moderate traffic behaviour, through physical and legislative measures, with the aim to reduce the vehicle speeds and/or traffic volumes, thereby improving traffic safety, and quality of life in the urban environment, but with due regard to mobility and accessibility.

1.3. Objectives

The objectives of this policy document are as follows:

- i) to ensure that traffic calming is part of the overall transport strategy for the area;
- ii) to ensure that traffic is accommodated and applied at the correct road hierarchy level;



- iii) to provide communication channels for the public to participate in the “calming” process;
- iv) to improve the efficiency and safety of the road network without compromising costs;
- v) to minimise the extent of pollution and damage caused by motorised vehicles;
- vi) to protect residential areas and the residents from unwanted through traffic and associated dangers;
- vii) to moderate extraneous traffic behaviour;
- viii) to promote road safety;
- ix) to improve traffic flows; and
- x) to ensure that other low order roads are not negatively impacted through the implementation of specific traffic calming measures.

2. MACRO EVALUATION

Any traffic issue stemming from a request or complaint, regardless of its extent and possible course of action, should firstly follow a preliminary or macro evaluation procedure as set out below.

2.1. Receiving the complaint

All complaints and requests are to be reported to the Stellenbosch Municipality, in writing. This can take the form of a letter, an email or a facsimile message. No verbal requests will be investigated.

2.2. Preliminary evaluation

The preliminary evaluation will follow a four step process:

Step 1: The Nature of the request or complaint

The complaint should describe the problem as clearly as possible. Further discussions with the Ward Councillor or Community Representative may be necessary to clarify the request. An assessment will then be made as to whether an Engineering, Enforcement, Education or Combination course of action could be implemented.



Step 2: Planning Assessment

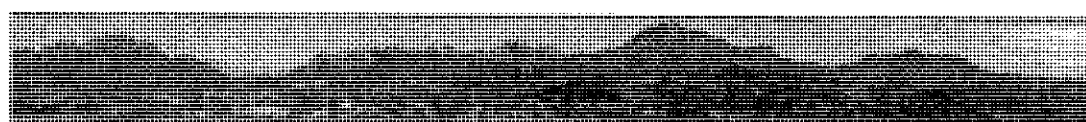
Each complaint/request will be compared to the approved traffic plan for an area, should there be one. Only those measures that are reasonably considered safe and are technically feasible and affordable may be used.

Step 3: Qualitative Assessment

If the road is classified as either a R1, R2, R2, U1, U2 or U3 route in terms of Section 4.2 then traffic calming is not permitted. **Table 1** below must be completed to determine if a more detailed assessment is justified.

Table 1: Qualitative assessment table

	Aspect	Yes	No
GENERAL			
1	No emergency vehicle route present		
2	Falls within an Area Traffic Calming Plan		
3	Are there bus routes along the route		
4	Did accidents recently occur at the specific location		
SPEED / SAFETY			
5	Cycle/pedestrian paths within roadway		
6	Sharp horizontal curves present		
7	Method of control at intersections not applicable (e.g. yield should be stop)		
8	Spacing of accesses close together		
9	Straight sections on road >180m		
10	Road signs and markings absent or in poor condition		
11	Schools/crèches/old age homes / recreational facilities in proximity		
12	Sub-standard road layout, geometrics and sight distances		
13	Steep grade that encourages speeding		
VOLUMES			
14	Is through traffic possible		
15	Road network – higher order roads with capacity problems result in rat running		
TOTAL NUMBER YES/NO			



QUALITATIVE ASSESSMENT (YES / POSSIBLE YES / NO)		
---	--	--

Step 4: Geographical Assessment

The road hierarchy of the problem area will be evaluated and the “traffic calming” class of road established. Physical features such as the surrounding road network, proximity of schools, road safety characteristics will also be evaluated at this point. An assessment will then also be made to whether an Engineering, Enforcement, Education or Combination course of action (see 2.3 below) is to be implemented.

2.3. Courses of action

The following possible alternative courses of action may be taken once the preliminary evaluation has been completed.

Engineering (E1)

This could be one of the following:

- Major engineering in which the problem requires substantive planning, design and construction. It would be proposed for inclusion in future budget programs.
- Traffic Systems Management in which the problem requires improvements to traffic management such as elimination of accident black spots, intersection improvements, traffic lights, etc. It would likewise be proposed for inclusion in future budget programs.
- Traffic calming in which the problem requires calming techniques for specific safety problems, etc. It would be proposed for inclusion on a priority program for detailed evaluation on Traffic Calming Techniques, Principles and Warrants as set out in Chapter 3 of this document.

Enforcement (E2)

This could be one or a combination of the following:

- Technical traffic actions such as improvements to road signs and markings, parking prohibitions, etc.
- Traffic enforcement actions such as speed checks and moving violations.
- Patrols such as scholar patrols, traffic wardens, etc.



Any traffic enforcement measures or arrangements, which would solve or reduce the problem, will be proposed.

Education (E3)

This could be one or a combination of the following:

- Liaison with the local and NGO organisations
- Announcements or notices to schools, sporting centres, etc.
- Limited public involvement with specific institutions such as schools, community development forums (CDF's) etc.
- Open public meetings with ratepayers associations, community based organisations, ward meetings, etc.
- Involvement with organizations such as "DRIVE ALIVE" and "ARRIVE ALIVE"

Any education measures or arrangements, which would solve or reduce problems, will be proposed.

Combination of E1, E2 and E3

This could be a combination of the above three mechanisms.

3. ESTABLISHMENT OF AREA TRAFFIC CALMING PLANS

3.1. Introduction

The need for traffic calming comes due to a number of reasons:

Inappropriate driver behaviour

This inappropriate behaviour prevails in the form of driving at speeds too high for the adjacent environment, drivers using residential roads as shortcuts or to avoid congestion on the major road network and increased potential for pedestrian/vehicle conflicts.

Presence of vulnerable road users

Vulnerable road users are young children, scholars, the elderly and the infirm.

The behaviour of these road users can be unpredictable and/or their movement is constrained leading to increased potential for pedestrian/ vehicular conflict.



3.2. Developing area traffic calming plans (ATCP)

The process to develop an ATCP set out below:

1. Define the boundaries of the area.
2. Prepare plans showing road classification, land use and identify locations where there are high concentrations of vulnerable road users (schools, hospitals, old age homes/retirement villages, parks, etc.)
3. Consultation with emergency service providers to identify emergency routes into the area. Routes identified as emergency routes are not disqualified from traffic calming measures, but the severity of the measures implemented on the road, if warranted in terms of this policy, should be reduced.
4. Consultation with the affected community together with their Ward Councillor.
5. Moderation of comments received and development of draft ATCP. It is important to note the municipal officials have responsibilities to both the larger road user group and the local community, and the ATCP must reflect the required balance.
6. Submission of draft ATCP to all parties who have contributed to the development of the draft ATCP for acceptance.
7. Submission of ATCP to Council for approval and ratification.
8. Traffic calming measure must be prioritized for implementation based on budgeting constraints. The score achieved through the evaluation process described in Section 5.5 dealing with the warrants will be used as the first level for prioritisation.

3.3. Advantages of ATCP's

The development of ATCP's allows for a structured approach to implementing traffic calming measures. Not all measures requested/investigated need to be incorporated into an ATCP particularly in isolated areas. The advantages of an ATCP are:

1. Assessment of traffic calming requests simplified
2. Emergency routes are identified, typically Class 4 roads



3. Community participation defines the principles guiding the implementation of traffic calming in their area
4. Acceptance of the plan by the Council will provide positive control for municipal officials responsible for the evaluation and implementation of traffic calming measures.

4. FEASIBILITY OF TRAFFIC CALMING

4.1. Introduction

Should the macro evaluation described in Chapter 2 indicate that the identified traffic problem or complaint could possibly best be addressed by traffic calming measures; the feasibility of such measures should then be further tested and investigated using the following procedure:

- Step 1: Reconsider information collected as part of “geographical assessment” (Section 2.2) and obtain additional data if necessary.
- Step 2: Determine the road classification for which the traffic calming measures are suggested, refer to Section 4.2 below.
- Step 3: Test the proposed implementation of traffic calming against the first and second order principles given in Section 4.3, also taking into account the pre-requisites for attending to traffic calming aspects as given in this section.
- Step 4: In the event of a proposal complying with the principles (i.e. step 3 above), carry out a detailed evaluation, through selection of an appropriate traffic calming technique (refer to Section 4.4). The collection of data as required and the testing of the proposal against the warrants are given in Section 4.5.

4.2. Road Hierarchy

The road hierarchy set out in this section is based on TRH26: South African Road Classification and Access Management Manual and this document should be referred to if further detail is required. The tables below set out the functional road classification and the road access management and features for both rural and urban roads.



RURAL ROAD CLASSIFICATION

Table 2: Rural Functional Road Classification

Basic Function	Function		Description		Mobility		AADT (average annual daily traffic)		
	Arterial functional descriptions	Determining function	Class No	Class name	Origin/destination	Through traffic component		Reach of connectivity (km)	% of built km
Mobility	Vehicle priority, vehicles only long distance, through, high order, high speed, numbered, commercial, economic, strategic, route, arterial road or highway.	Movement is dominant, through traffic is dominant, the majority of traffic does not originate or terminate in the immediate vicinity, the function of the road is to carry high volumes of traffic between urban areas.	1	Principal arterial*	Metro areas, large cities, large border posts, joint national routes	Exclusively	> 50 km	2 - 4% Classes 1 and 2	1000 - 100 000+
			2	Major arterial*	Cities and large towns, transport nodes (harbours and international airports), smaller border posts, joint major routes	Exclusively	> 25 km		500 - 25 000+
			3	Minor arterial*	Towns, villages and rural settlements, tourist destinations, transport nodes (railway sidings, seaports, landing strips), small border posts, other routes	Predominant	> 10 km	6 - 12% Classes 1, 2 and 3	100 - 2 000+
Access/Activity	Access, mixed pedestrian and vehicle traffic, short distance, low order, lower speed, community / farm, road or street.	Access, turning and crossing movements are allowed, the majority of traffic has an origin or destination in the district, the function of the road is to provide a safe environment for vehicles and pedestrians using access points.	4	Collector road	Connect farming districts, rural settlements, tourist areas, national and private parks and mines to mobility routes	Minimal	< 10 km	20 - 25%	< 1 000
			5	Local road	Farm or property access, connection to other routes	Nil	< 5 km	65 - 75%	< 500
			6	Walkway (path or track)	Settlements, farms, transport nodes, water points	Discontinuous	n/a		

* In rural areas, the term distributor may be preferred to arterial

Table 3: Rural Access Management Requirements and Features

Basic Function	Descriptor		REQUIREMENTS				TYPICAL FEATURES (use appropriate context sensitive standards for design)								
	Class No (R)	Class name	Design category	Route no.	Access to property	Parking	Speed (km/h)	Inter-section control	Typical cross-section	Roadway lane width	Road reserve width	Public transport stops and facilities (ped. xing, bus stop, etc.)	Footways (con-structed)	Cycle lanes	Animal drawn vehicles
Mobility	1	Principal arterial	Expressway	Yes (N)	Not allowed*	No (off road rest stops allowed)	120	Grade or separate or priority to through	2 / 3 / 4 lane, surfaced shoulders, climbing lanes	3.5 - 3.7 m	60 - 80 m (62 m)	No	No	No	No
	2	Major arterial	Highway	Yes (R, 2 or 3-digit or N)	Not allowed**	No (off road rest stops allowed)	120	Priority or grade separate	2 / 3 lane, surfaced shoulders, climbing lanes	3.5 - 3.7 m	40 - 70 m (48 m)	As required	Isolated	Recreational on shoulder	No
	3	Minor arterial	Main road	Yes (R, 3 or 2-digit)	Not allowed**	No (off road rest stops allowed)	100-120	Priority, roundabout	2 lane surfaced, gravel shoulders	4.0 m	30 - 50 m (30 m)	As required	Isolated	Recreational widen roadway both sides	Widen shoulder
Access / Activity	4	Collector road	Collector	Allowed, T (tourist) or D (district)	Yes	No (off road edge or in lay-byes / viewpoints)	80 -100	Priority	2 lane surfaced or gravel, gravel shoulders	3.5 m	25 m	As required	Rare, isolated	Widen roadway	Widen shoulder
	5	Local road	Farm road	Allowed, T (tourist) or L (local)	Yes	No (on verge or shoulder)	60 - 80	Priority	1 / 2 lane gravel, 600 mm concrete setps in environmental areas		20 m	As required	Rare	Use roadway	Use roadway
	6	Walkway	Track or pathway	No	Yes	n/a							Not constructed, formed by use		

* Access to properties sufficiently large to warrant a private intersection / interchange can be considered if access spacing requirement met and there is no future need for a public road.

** Low volume farm gate and tourist access (less than 10 vehicles per day) can be considered if no alternative exists.

URBAN ROAD CLASSIFICATION

Table 4: Urban Functional Road Classification

Basic Function	Alternate functional descriptions	Function	Determination function	Description			Mobility			Traffic	
				Class No. (U)	Class name	Through traffic component	Distance between parallel roads (m)	% of total km	Reach of Connectivity	Expected range of ADT (average daily traffic)	% of travel veh-km
Mobility	Vehicle priority, vehicle only long distance, through, high order, high speed, numbered, commercial, economic, strategic, route, arterial road or highway	Movement is dominant through traffic is dominant, the majority of traffic does not originate or terminate in the immediate vicinity, the function of the road is to carry high volumes of traffic between urban districts	Determining function:	1	Principal arterial (freeway)	Exclusively	5 - 10 km	5 - 10% Classes U1 and U2	> 20 km	40 000 - 120 000+	40 - 65% Classes U1 and U2
				2	Major arterial	Predominant	1.5 - 5.0 km		> 10 km	20 000 - 60 000	
				3	Minor arterial	Major	0.8 - 2.0 km	15 - 25% Classes U1, U2 and U3	> 2 km	10 000 - 40 000	65 - 80% Classes U1, U2 and U3
Access/Activity	Access, mixed pedestrian and vehicle traffic, short distance, low order, low speed, community street	Access, turning and crossing movements are allowed, the majority of traffic has an origin or destination in the immediate area, the function of the road is to provide a safe environment for vehicles and pedestrians using access points	Determining function:	4a	Collector street, commercial	Discourage		5 - 10%	< 2 to 3 km	< 25 000	5 - 10%
				4b	Collector street, residential	Discourage			< 2 km	< 10 000	
				5a	Local street, commercial	Prevent		65 - 80%	< 1 km	< 5 000	10 - 30%
				5b	Local street, residential	Prevent			< 0.5 km (1 km Max)	< 1 000	
				6a	Walkway, pedestrian priority	Ban					
				6b	Walkway, pedestrian only	Ban					

Table 5: Urban Access Management Requirements and Features

Basic Function	REQUIREMENTS										TYPICAL FEATURES (use appropriate context sensitive standards for design)					
	Description Class No. (L)	Class name	Design typeology	Route no. (M/R/N)	Intersection spacing (km)	Access to property	Parking	Speed (km/h)	Inter-section control	Typical cross section	Roadway / lane width	Road reserve width (m)	Public transport stops and ped. xing.	Pedestrian footways (concrete or asphalt)	Cycle lanes	Traffic Calming
Mobility	1	Principal arterial	Freeway	Yes (M/R/N)	2.4 km (1.6 km - 3.6 km)	not allowed	No	100-120	Interchange	4 / 6 / 8 lane freeway	3.3 - 3.7 m lanes	50 - 120 m (60 m)	No	No	No	No
	2	Major arterial	Highway	Yes (M/R)	600 m (± 15%)	Not allowed ^{**}	No	80	Co-ordinated traffic signal, interchange	4 / 6 lane divided, kerbed	3.3 - 3.6 m lanes	38 - 62 m (40 m)	Yes at inter-sections	Off road	Yes - widen roadway	No
	3	Minor arterial	Main road	Yes (M)	600 m (± 20%)	Not allowed ^{**}	No	70	Co-ordinated traffic signal, roundabout	4 lane divided or undivided, kerbed	3.3 - 3.5 m lanes	25 - 40 m (30 m)	Yes at inter-sections	Yes	Yes - widen roadway	No
Access / Activity	4a	Collector street, commercial	Commercial major collector	No (A for temp. routing)	> 150 m	Yes (larger properties)	Yes if conditions allow ^{**}	60	Traffic signal, roundabout or priority	4 lane, median at ped. xing., boulevard, CBD one-way		20 - 40 m (25 m)	Yes at inter-sections or mid block	Yes	Yes, widen road or on verge	Median for peds, curbed roadway
	4b	Collector street, residential	Residential minor collector	No	> 150 m	Yes	Yes if appropriate	50	Roundabout, mini-circle or priority	2 / 3 lane undivided	5 - 9m roadway, < 3.3 m lanes	16 - 30 m (20 m)	Yes anywhere	Yes, on road or verge	Raised ped. median, narrow lanes	
	5a	Local street, commercial	Commercial access street	No		Yes	Yes if conditions allow	40	Priority	2 lane plus parking		15 - 25 m (22 m)	If applicable, anywhere	Normally yes	Use roadway	Raised ped. crossing
	5b	Local street, residential	Local residential street	No		Yes	Yes on verge	40	Mini-circle, priority or none	1 / 2 lane mountable kerbs	3.0 - 5.5 m roadway (two way)	10 - 15 m (14 m)	If applicable, anywhere	Not normally, pedestrians can use roadway	Use roadway	Yes, but should not be necessary
Access / Activity	6a	Walkway, non-motorized priority	Pedestrian priority	No	500 m maximum	Yes	Yes if parking lot or vacant	15	None, pedestrians have right of way	Surfaced			If applicable, anywhere	Yes or use roadway	Rare	Yes
	6b	Walkway, non-motorized only	Pedestrian only	No	500 m maximum	Yes	No vehicles		None, pedestrian signal	Block paving		6 m		Yes	Yes	

* Access to properties sufficiently large to warrant a private intersection / interchange can be considered if access spacing requirement met and there is no future need for a public road.

** Partial and marginal access at reduced spacing allowed to relieve congestion, reduce excessive travel distances or remove the need for a full intersection

4.3. Principles of Evaluating Potential Traffic Calming

The principle philosophy in evaluating potential traffic calming is to eliminate hazards on minor roads and not later alter traffic characteristics on main roads.

Potential traffic calming should be evaluated and prioritized using the following principles:

First order priorities:

1. No traffic calming measures are to be imposed on roads classified as Classes 1, 2 and 3.
2. Traffic calming measures should not be considered :
 - on an ad hoc basis;
 - in addressing other social problems ;
 - where it will be detrimental to road safety or
 - where other traffic engineering or alternative procedures could address the problem; and
 - on public transport routes;
 - emergency vehicle routes.

Second order priorities:

3. The implementation of appropriate road signs and road markings should be considered before other traffic calming techniques are proposed.
4. Traffic calming measures must not cause traffic to deviate to other minor order roads.
5. Traffic calming measures should only be considered where :
 - there are inherent safety problems caused by road layout, geometrics, sight distances, etc.;
 - these will contribute directly to safety at schools, community centres, etc. when no other methods are possible;
 - where rat-running is causing serious safety problems.

Compliance's:

- Traffic calming proposals should be considered with the participation of the Ward Councillor in liaison with the Ward Committee and other residents.



- Where possible upgrading of the existing major road network is to be undertaken in the short or medium term.
- Traffic calming should
 - comply with the Warrants stated in this Policy Document,
 - be in accordance with the National Guideline for Traffic Calming

4.4 Traffic Calming Techniques

There are a variety of traffic calming techniques, having different applications and serving different functions. The following measures are primarily for speed and capacity reduction

i) Planting/Greening

Tree planting should be an essential part of all traffic calming schemes and its use is applicable on all road types. This contributes to visual side friction.

ii) Narrow Carriageways

The narrowing of any carriageway tends to reduce speeds. This also applies to median islands.

iii) Optical Width (Visual Narrowing)

This refers to such measures as tree planting.

iv) Footway Extensions

Footway extensions can be built on all roads of a lower classification than arterial standards wherever there is a surplus carriageway space, at junctions, pedestrian crossings places and bus stops.

v) Shared Surfaces

Shared surfaces (i.e. between vehicles and pedestrians) are suitable to local streets with no through traffic and where traffic flow is below 300 vehicles per hour.

vi) Surface Texture/Type/Colour/Location

Textured surfaces are useful where visual or sensory reinforcement of a situation is required. These measures should not be used on roads where speed limits are higher than 50 km/h.

vii) Synchronization



The synchronization of traffic signals can be used to control speed along such a road but could prove to be detrimental to traffic flow.

viii) Electronic Enforcement

This refers to normal law enforcement.

ix) Priority Management

This refers to the type of control at intersections.

x) Road Markings and Signs

These measures can be used to change lane width thus slowing traffic. Alternatively signs and markings can be used to highlight potentially unsafe conditions for the driver,

xi) Small Corner Radii

The small corner radii are useful at all junctions within residential areas where the speeds of turning movements need to be reduced. Radius design should be appropriate to the classification of roads involved.

xii) Roundabouts

Conventional roundabouts are appropriate for major collectors and arterials where they can reduce accidents and assist traffic flow. Mini roundabouts should only be used on distributors and minor collectors within residential areas – where they will increase the intersection capacity.

xiii) Carriageway Constrictions

Constrictions are localized measures to reduce the capacity on a road. Constrictions are appropriate for both access streets and mixed priority roads where volumes are less than 500 vph.

xiv) Lateral Shifts in the Carriageway:

- Alternative footway extensions
- Islands and medians in the carriageway
- Alternate angled parking (with permanent features, e.g. planters)

Lateral shifts, which force change in direction and limits the driver's view of the road ahead. These are not suitable for bus routes.

xv) Vertical Shifts in the Carriageway:



These vary according to the severity of the obstacle. i.e. humps, cushions, plateaux (tables) and ramps. These measures are applicable where excessive speeds on local access streets need to be controlled.

When considering the techniques that can be used it is recommended that the use of Road signs and Markings be investigated prior to implementing other traffic calming techniques.

For routes that have been identified as emergency routes, traffic calming measures will not be permitted if the measure will negatively impact on emergency response times. It is therefore suggested that traffic calming measures that will not result in vertical deviation (example; speed hump), be considered.

Where traffic calming measures have already been implemented on emergency routes and these measures result in vertical deviation then the measures should be re-evaluated and where justified replaced with an alternative technique.

4.5 Warrants

The warrants for determining the need for the implementation of traffic calming techniques are as shown in **Table 6**. To calculate compliance with the warrants the following calculations must be applied to determine the weighted score:

$$TS = \sum_{i=1}^n P_i W_i$$

i = Warrant number

Where

TS	=	Weighted Total Score
P ₁	=	Point for Warrant i
W ₁	=	Weight for Warrant i
N	=	Number of Warrants

The following weighted score must be used to determine whether the proposed measures are warranted.

Condition 1 : Score below 31 points – Not warranted for implementation.

Condition 2 : Score between 32 and 37. Warranted for implementation only if there are vulnerable road users/sensitive areas.

Condition 3 : Score above 37– Warranted for implementation.

Note: In Table 6 where data does not exist, realistic estimates or a minor investigation may be initiated.

Table 6: Warrants for determining the need for traffic calming techniques

Warrants for evaluating feasibility					
No	Warrants	Point Score			Weight
		0	1	2	
1	Traffic volumes	<50 vph	50-150 vph	>150 vph	3
2	Accidents per year	<1 per year	2 – 4 per year	> 5 per year	3
3	Public service vehicles	>5 vph	3-5 vph	<3 vph	-1
4	Pedestrian / risk	Low	Medium	High	2
5	85 th percentile speed	<40	40-60	>60	2
6	Through traffic volume	<5 %	5-50 %	>50 %	2
7	Pedestrian volumes (Vol/4h over 150 m)	<250/4h	250-500/4h	>500/4h	3
8	Parking / loading movements	<100/h/km	100-200/h/km	>200/h/km	1
9	Schools / playgrounds	No	-	Yes	3
10	Footways / verges	Made	Rough	None	2
11	Frontage / accesses spacing	>75m	50-75 m	<50 m	1



12	Sensitive area	No	Slightly	Yes	2
13	One or two way	One		Two	1
14	Stopping sight distance	>130 m	50-130 m	<50 m	1
15	Gradient (Longitudinal)	>5 %	3-5 %	< 3 %	1



Where:

Traffic volumes	Average hourly off peak traffic volumes between 06:00 and 18:00
Accidents per year	Number of accidents per year
Public service vehicles	Average peak hour volumes (buses, refuse removal etc.)
Pedestrian / risk	The potential risk that pedestrian and vulnerable road users are exposed to in the presence of traffic can be subjectively assessed. (e.g. brake lights, swerving etc.)
85th Percentile speed	The speed at or below which 85 percent of the vehicles travel.
Through traffic volume	That proportion of traffic that has another origin or destination along the road, or within the area, under study.
Pedestrian volumes	The volume of pedestrians crossing a road over a four hour period, and measures over a 150 meters roadway length.
Parking / loading movements	The number of parking/loading manoeuvres per hour over a kilometre section of road
Schools / playgrounds	The presence of schools/crèches/playgroups etc. within the study area
Footways / verges	The provision of pedestrian facilities (pavements etc.) within the verges.
Frontage / access spacing	The average distance between accesses to properties within the studied area/road
Sensitive area	The presence of hospitals, old age homes, clinics and recreation facilities that may be sensitive to traffic, traffic noise, fumes, etc.
One or two way	Whether roads accommodate two or one-way traffic flow.
Stopping sight distance	The minimum distance required for a driver to bring his vehicle to a standstill and based on speed, driver reaction time and skid resistance.
Gradient	The vertical rise or fall of the roadway measured from the base to the apex and expressed as a percentage.



5. IMPLEMENTATION

The implementation of Traffic Calming proposals is twofold, namely the detailed investigation and design, and the construction of the proposal.

Detailed Investigation & Design

Should a request be evaluated and meets the requirements for progression to the detailed investigation and design stage, the project will require further technical input.

This technical input will involve the following:

- A detailed analysis of the traffic patterns, traffic volumes, intersection geometry, intersection levels of service, alternative routes, unintended implementation consequences (e.g. rat runs) pedestrian and cyclist patterns and environmental aspects of the route.
- A detailed design of the recommended appropriate calming solution, entailing exact location, geometric design, road markings and signage.

Construction of the Proposal

Once the investigation and the design have been completed the project will then be placed on a priority program for funding, including any ward funding available. It must be emphasized that should the request not meet the technical warrants for traffic calming, then the construction will not be approved notwithstanding the availability of funding from any source.



Cost analysis of Traffic Calming Techniques

NR	TYPE OF FACILITY	DESCRIPTION	APPLICATION	ESTIMATED COST (R)	ADVANTAGES	DISADVANTAGES
1	All-way stops	All approaches are stops controlled to force vehicles to reduce speed before stopping at the intersection	Intersection of 2 roads where traffic signals are not warranted. All-way stop should NOT be implemented to reduce speed where it is not warranted.	Typically R 10 000 to R50 000	Low cost, law enforcement can be effectively carried out	If implemented to reduce speed, can result in motorists ignoring stop street
2	Mini-circles	A circle is built in the existing roadway without road widening.	To reduce speed of through vehicles, improve capacity of side roads, reduce severity of accidents	Typically R 75 000 to R150 000	Reduced delay, especially on side streets, circles effectively reduce severity of accidents	Relative expensive, geometry can be tight, especially for emergency vehicles, driver
3	Speed humps	Raise road surface over 3.5 to 4.0m with 75mm to 100-120mm, typically	Reduce speed on long straight road sections.	Typically R 20 000 to R50 000	Effective in reducing speed on long, straight road	Visibility poor at night if road markings are not visible



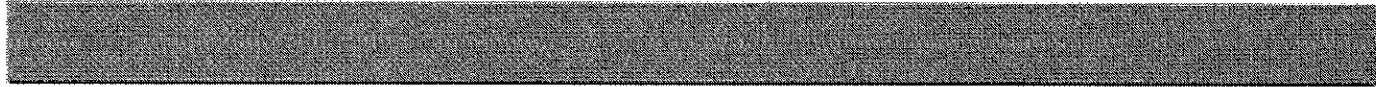
4	Raised Pedestrian Crossings	Raise road surface with 120mm at pedestrian crossings (length 5m)	Reduce speed at pedestrian crossings	Typically R 35 000 to R50 000	Increase safety of pedestrians effectively	Relative high cost, visibility poor at night if road markings are not maintain regularly
5	Raised Intersections	The road surface within the intersection is raised with 75 to 200mm. The control of the intersection can be 4-way or 2-way stop controlled.	The speed of motorists through the intersection is reduced	Typically R 90 000 to R150 000	Reduce speed through intersections, reduce severity of accidents	Relative high cost, driver discomfort
6	Raised Mini-circles	The road surface within the intersection is raised with 75mm to 200mm. A mini-circle with small diameter is provided on top of this	Normal mini-circles have limited applications where cycle paths cross at intersections as vehicles are deflected into the cycle path.	Typically R80 000 to R180 000	Reduce speed through intersections, accommodate cyclists and pedestrians with traffic circle control	Relative high cost, driver discomfort
7	Access limitations	Access is restricted with one-ways, no access signs	To reduce through traffic	Typically R 100 000 to R300 000	Low cost	Access limitations can result in problems with waste collection, emergency vehicles



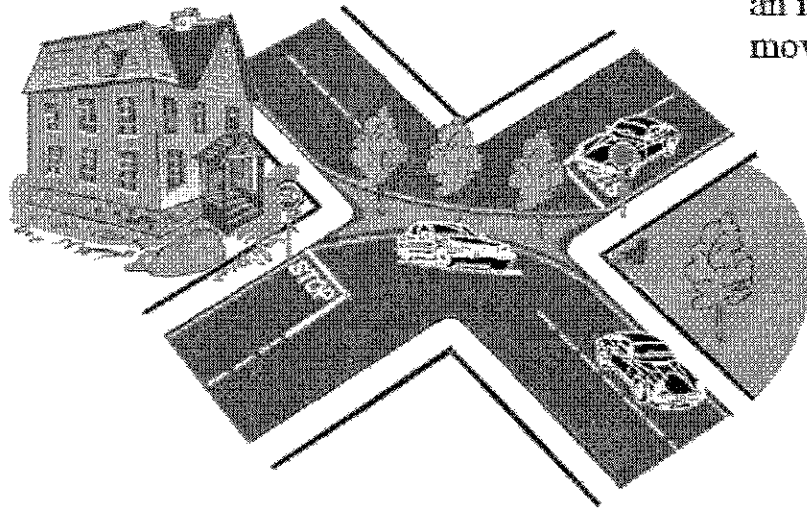
8	Reduction in road width (chokers)	Road is narrowed with kerbs	Reduce speed, discourage through traffic, especially heavy	Typically R 60 000 to R200 000	Can exclude heavy vehicles from road	Cost, driver discomfort
9	Rumble strips	Strips across the road, consisting of bitumen and 13 to 19mm stone	Rumble strips are implemented close to intersections, before sharp horizontal curves to caution motorists of the dangerous situation	Typically R 6 000 to R20 000 per set	Effective in increasing awareness of drivers	Noise
10	Semi street closures	The road is closed for one direction of traffic by installing kerbs or by planting bollards	Reduce through traffic and to reduce speed	Typically R50 000 to R200 000		Increase conflict as one direction of traffic has to yield for the other direction, driver discomfort.
11	Cycle/Pedestrian paths	Provide separate road surfaces	Conflict between pedestrians, cyclists and motorists is reduced	Typically R400 to R850 per m ²		Cost
12	Change in road surface	Asphalt road surface is changed to paving blocks	Increase driver alertness and reduced speed	Typically R50 000 to R200 000 per site	Can be aesthetically more acceptable than other forms of traffic calming	Cost, limited speed reduction



Traffic Calming



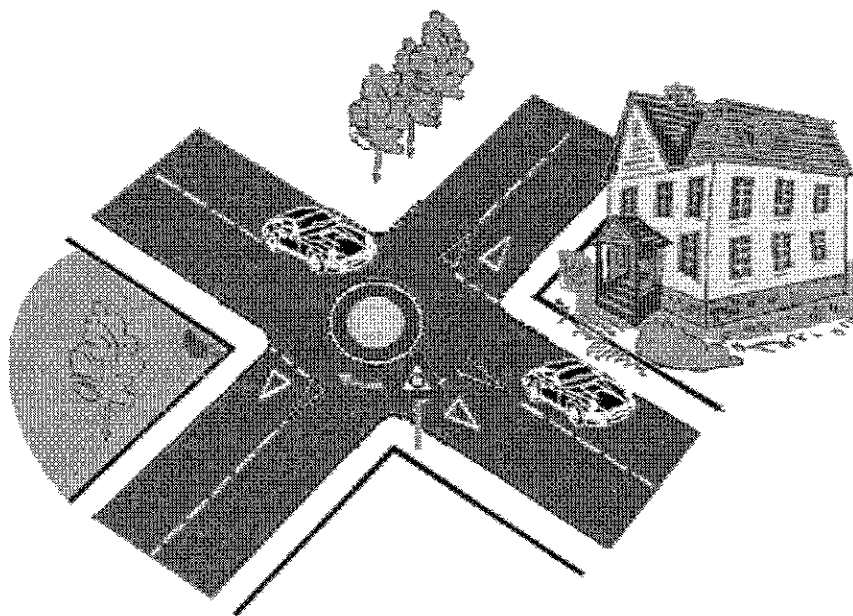
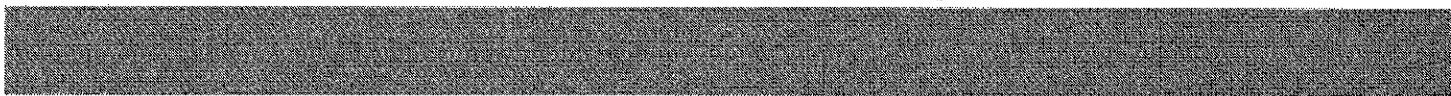
“Barriers placed diagonally across an intersection to prevent through movement.”



Diagonal Diverters



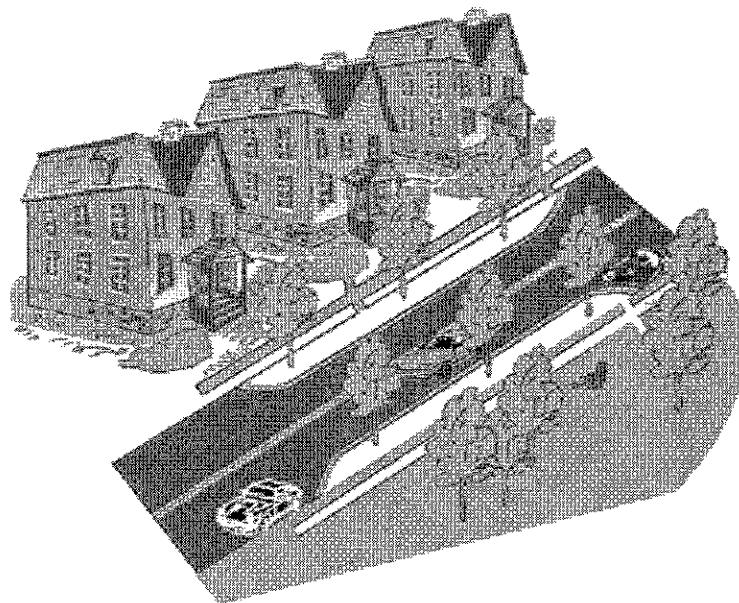
Traffic Calming



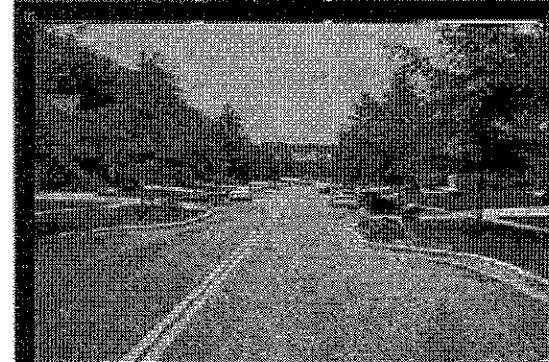
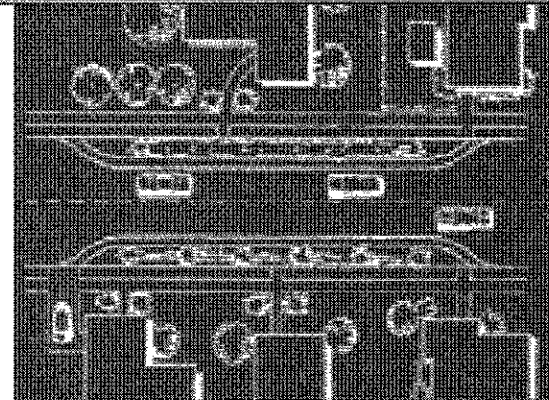
Mini Traffic Circle



Traffic Calming



“Kerb extensions or islands on one or both sides of the street that narrow the street at that location.”

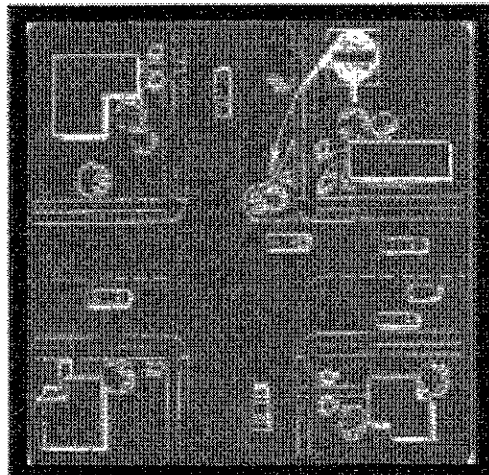


Chokers

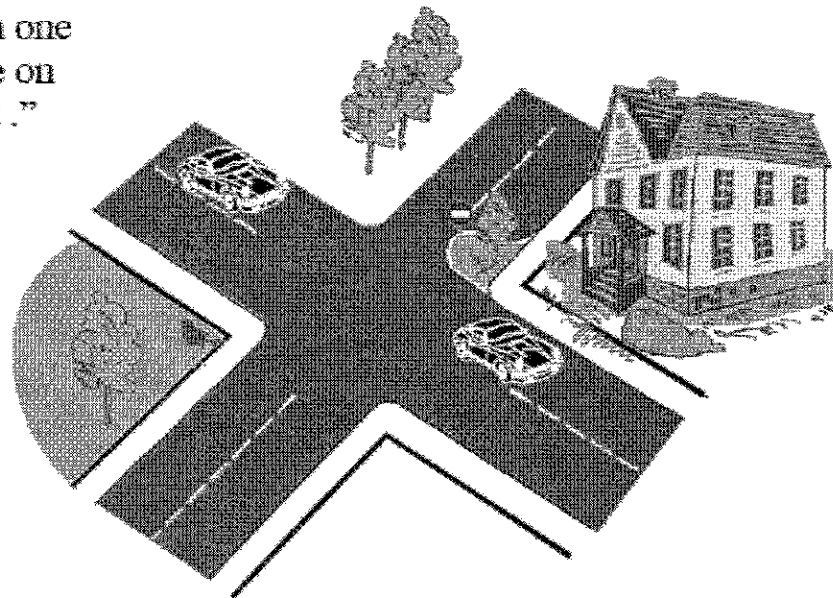


Traffic Calming

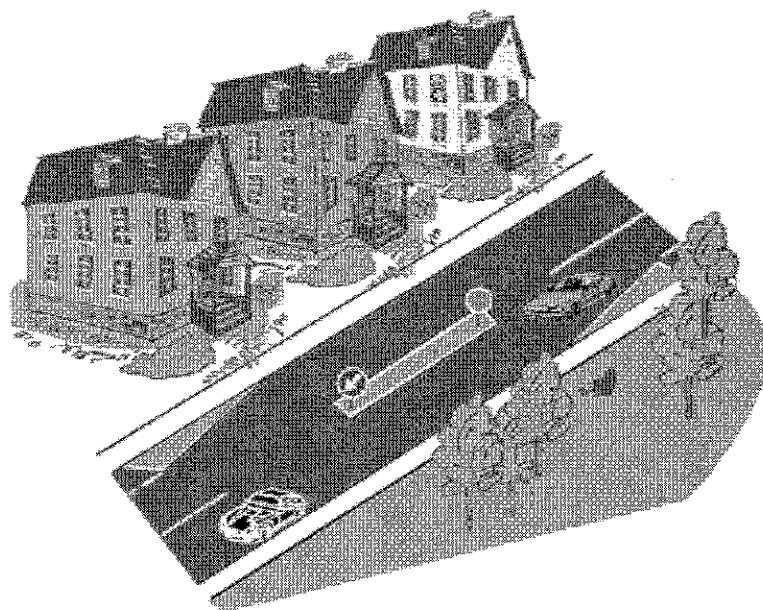
“Barriers that block travel in one direction for a short distance on an otherwise two-way street .”



Half Closures



Traffic Calming



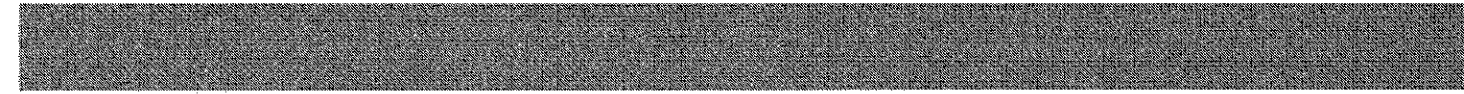
“Median centrally placed on roadway ensure conspicuity with vertical elements, marking and lighting.”



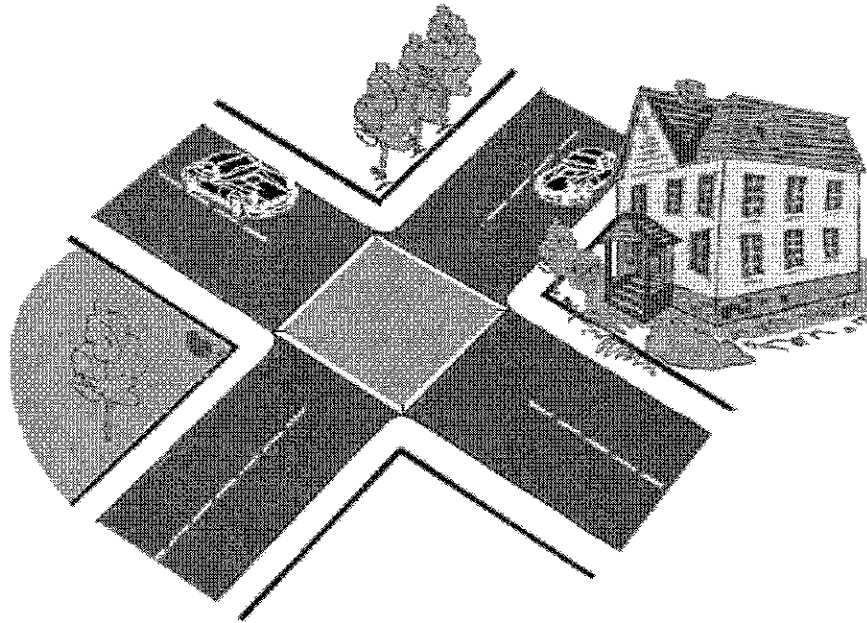
Median with one sided parking



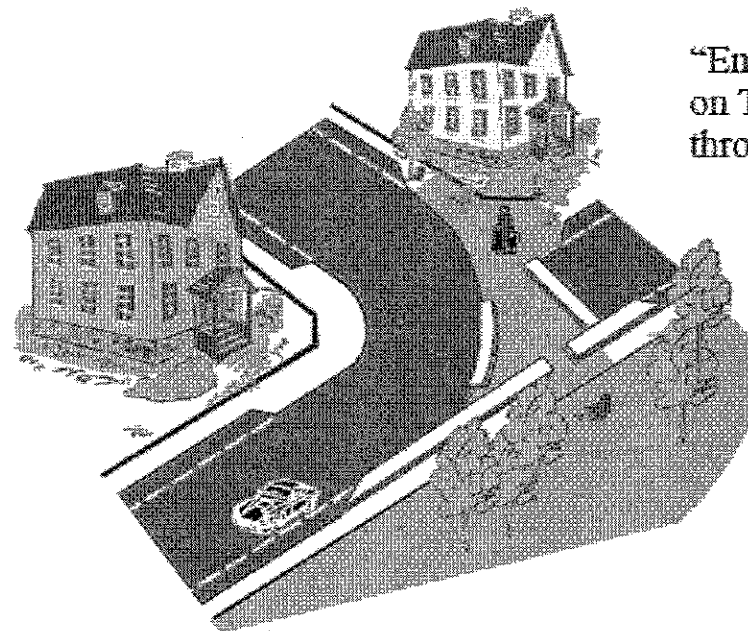
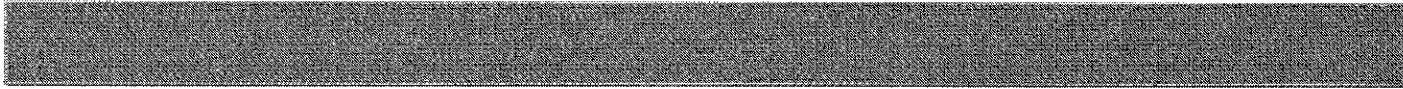
Traffic Calming



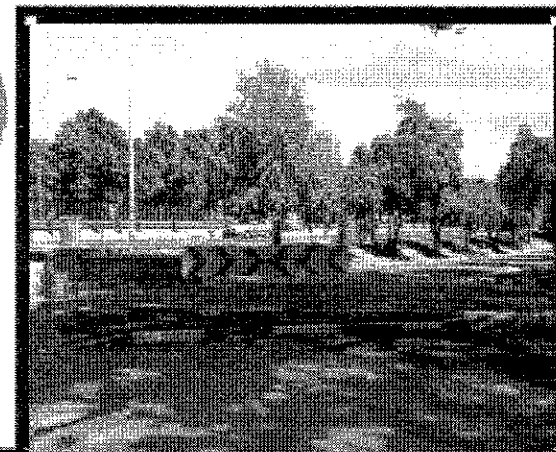
Raised Intersection



Traffic Calming



“Entrance to speed reduced zone
on T-junction with exit construction
through road.”

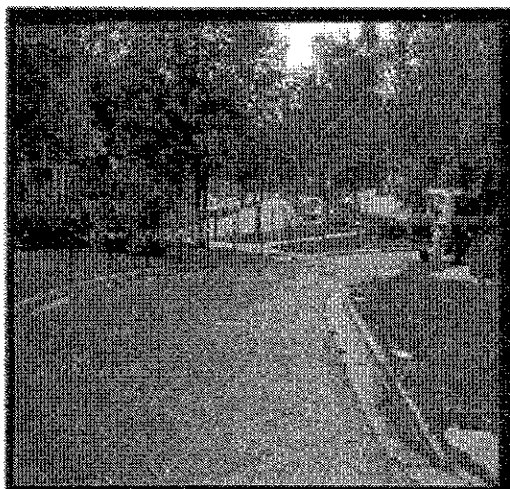


Construction Through Road

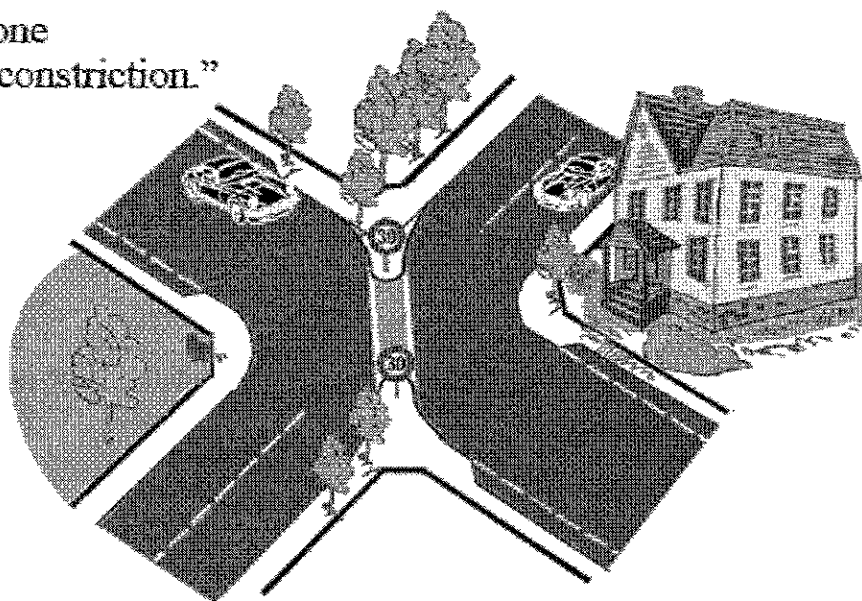


Traffic Calming

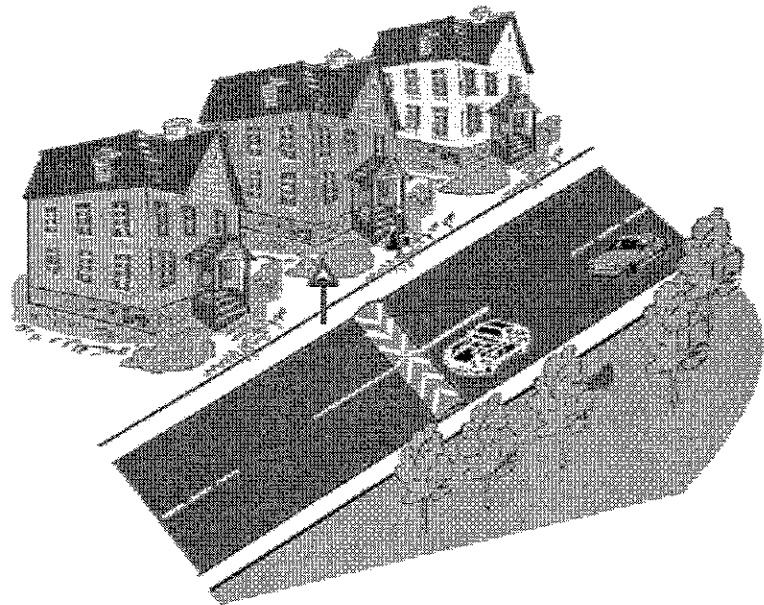
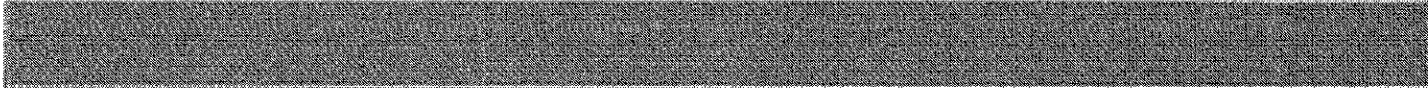
“Entrance to speed reduced zone
on intersection with diagonal constriction.”



Diagonal Constriction



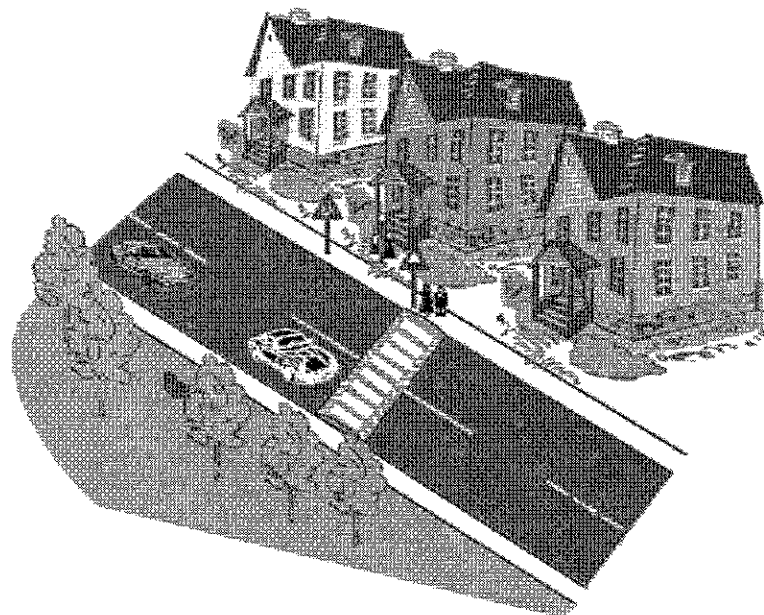
Traffic Calming



Speed Restriction



Traffic Calming



Raised Pedestrian Crossing



7.9 DRAFT POLICY FOR THE MANAGEMENT OF MUNICIPAL AGRICULTURAL LAND

File number : 7/P/2

Compiled by : Manager: Local Economic Development

Report by : Director: Planning and Economic Development

Delegated Authority : Council

Strategic intent of item

<i>Preferred investment destination</i>	X
<i>Greenest municipality</i>	
<i>Safest valley</i>	
<i>Dignified Living</i>	X
<i>Good Governance</i>	

1. PURPOSE OF REPORT

To obtain inputs from Council regarding the Draft Policy for the Management of Municipal Agricultural Land which will govern the management and allocation of municipal agricultural land based on the principles of sustainable development.

2. BACKGROUND

The vision of the third generation Integrated Development Plan (IDP) indicates that Stellenbosch strives to be the “Preferred Investment Destination” and to create a place for “Dignified Living”. Agriculture has been identified as one of the key economic sectors through which economic growth and job creation can be achieved.

Last year, Council approved the Draft Policy on the Management of Stellenbosch Municipality’s Immovable Property (COUNCIL MEETING: 2014-09-02) on condition that a policy is developed for the management of municipal agricultural land.

To this end, an Ad-Hoc Committee was established comprising of representation from all political parties to devise recommendations on the way forward for the management of municipal agricultural land. Consequently, the Ad-Hoc Committee in collaboration with the administration (Property and LED Department) undertook to work together to implement the Council decision.

The purpose of this item is therefore to solicit comments from the Mayoral Committee regarding the policy for the management of municipal agricultural land and provide recommendations for the way forward.

3. DISCUSSION

In May 2014 the Draft Policy on Immovable Property was tabled and approved by Council. The decision was taken by Council that parallel to the process

dealing with Immovable Property (overarching policy), an Agricultural /Land Reform Policy should be developed. The overarching policy was advertised for public comments which were incorporated into the draft for final approval from Council. However, the overarching policy will only be approved if it includes an Agricultural Land Reform Policy.

To this end, the Property Management and LED Department decided to work collaboratively on the development of the agricultural policy with the Ad-Hoc Committee providing strategic input including critical issues which need to be taken into consideration and playing an oversight role. In execution of the Council decision, the two departments agreed on the scope of work to be undertaken (**See APPENDIX 1**). It was decided that because of the complexity of such a policy, it would be better if such a policy is developed by competent, experienced service providers. To this end, at the same time in which the Ad-Hoc Committee was established, the administration appointed a group of experienced service providers through the supply chain management process to undertake the development of the policy.

Upon an extensive consultation process with the Ad-Hoc Committee, organised agriculture, government representatives and small farmers, a draft policy was developed based on the scope of work provided. In honouring the scope of work and given the complexity of such a contentious issue, drafting this policy was no easy task. However, the policy provides a balanced approach to guide the municipality in executing its responsibility to manage its property (agricultural land) in a manner that ensures that it achieves the overall developmental objectives of Council.

4. INPUTS BY OTHER DEPARTMENTS / COMMENTS BY RELEVANT DEPARTMENTS

The draft policy was circulated to the relevant departments (Property, Legal, Spatial Planning, Land Use Management, Community Services, Financial Services, Transport and Traffic Services) for comments on 20 October 2015, however to date, no comments were received.

5. CONCLUSION

The Municipality is being pro-active in making land available for the purposes of land reform and ensuring that Council's objectives as the preferred investment destination is achieved.

RECOMMENDED

- (a) that the Draft Agricultural Land Reform Policy be adopted, in principle; and
- (b) that the said Policy be advertised for public comment, whereafter same be re-submitted to Council for consideration and conclusion.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2015-12-01: ITEM 5.1.1

RECOMMENDED

- (a) that the Draft Agricultural Land Reform Policy be adopted, in principle; and
- (b) that the said Policy be advertised for public comment, whereafter same be re-submitted to Council for consideration and conclusion.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.3

RECOMMENDED BY THE EXECUTIVE MAYOR

KINDLY NOTE: The Mayco recommendation will be distributed under separate cover at the Council meeting on 2016-01-27.

APPENDIX 1



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

TERMS OF REFERENCE

PROCUREMENT OF A SERVICE PROVIDER TO A) FACILITATE A WORKSHOP WITH THE RELEVANT STAKEHOLDERS WITH THE AIM OF B) DRAFTING A POLICY ON THE MANAGEMENT OF THE MUNICIPALITY'S AGRICULTURAL LAND ON A SUSTAINABLE BASIS

1. PURPOSE

The Stellenbosch Municipality seeks the services of a service provider to:-

- a) facilitate a workshop with relevant stakeholders; and
- b) draft a policy on the Management of the municipality's agricultural land, based on the principles of sustainable development.

The purpose of the policy will be to provide a framework for delivery and collaboration to accelerate the rate and sustainability and transformation through aligned and joint action by all involved stakeholders.

2. BACKGROUND

- 2.1 Land productivity is intricately linked to social, economic and environmental issues and for this reason the Municipality aims to implement an integrated approach to sustainable agricultural land management.
- 2.1 Therefore, Stellenbosch Municipality, through its Local Economic Development Department and Property Management Department, as part of its contribution to sustainable development, is embarking on a process of developing a Policy on the management of municipal agricultural land on a sustainable basis.

3. COMPULSORY BRIEFING SESSION

A compulsory briefing session must be scheduled in collaboration with the Department: Property Management and Local Economic Development Department.

4. DELIVERABLES AND KEY TASKS

4.1 Investigation

- a) Investigate and assess the current availability of municipal-owned agricultural land; and
- b) Examine current local, district, provincial and national policies with regard to management of agricultural land on a social, economic and environmentally friendly basis to ensure alignment.

4.2 Compilation of Information package/presentation:

- a) Compile an information package and/or presentation(s) in collaboration with the Manager: Property Management and the Manager: LED to be delivered at a workshop with all relevant stakeholders.

Please Note: Cost of venue(s) and catering will be for the account of Stellenbosch Municipality.

4.3 Facilitation of Workshop

Facilitation of workshop with relevant stakeholders as identified by Stellenbosch Municipality Local Economic Development Department and Property Management Department.

4.4 Compilation of Draft Policy

- a) Compilation of Draft Policy for consideration by Council
 b) Public participation process which must include the facilitation and leading of at least two information sessions with relevant stakeholders to solicit input.
 c) Amend draft policy, taking into account public inputs received.
 d) Completion of final draft policy for consideration by Council.

5. TIMEFRAMES, REPORTING AND MONITORING ACTIONS**5.1 The milestones and associated time line are as follows:**

The commencement date will depend on the date of appointment is [insert date] and the process should be concluded by no later than [insert date] and the process should be concluded by no later than [insert date].

5.2 Reporting and monitoring actions.

The successful service provider will be required to undertake the following mechanisms in collaboration with the department:

- 5.2.1 Drafting of workshop programme and identification of relevant stakeholders
 5.2.2 Discuss dates of the two information sessions with LED & Property Management Departments
 5.2.3 develop an agreed upon work-plan in order to ensure that timeframes are clear; and
 5.2.4 Make all written comments and comments received through public participation process available to Local Economic Development Department and Property Management Department.

6. CONSULTANT PROPOSAL SUBMISSION REQUIREMENTS**6.1 The bidder is required to submit a detailed proposal, failing which his/her bid will be disqualified. Proposals should consist of:**

- References of previous work undertaken;

- Experience and qualifications of applicants;
- Detailed cost breakdown;
- Pricing:

Tender price should be a fixed amount, and should include incidental costs, such as travelling, printing and stationary, ect.

The following should not be included in the amount:

Legal costs (if needed)

- A proposed outline of the process.

6.1.1 The applicants should show demonstrated experience in facilitation of workshops and have relevant years of experience. For this purpose a CV with references should be provided.

6.1.2 The service provider should demonstrate an understanding of local, district, provincial and national policies on management of agricultural land on a social, economic and environmentally basis.

6.1.3 The proposal must be of decent quality and the applicant must illustrate a good understanding/conceptualisation of brief.

6.1.4 The applicant must have experience in engaging with both the public and private sector at senior levels.

7. EVALUATION AND ADJUDICATION OF THE BID

7.1 Evaluation of the tender will be determined according to the following schedule:

CRITERIA: Functionality	Points 100
1.1 Track record of developing similar policies as requested. (List of previous work been done.	70
1.2 Demonstration of the facilitation of workshops	10
1.3 Demonstrated an understanding of management of agricultural land	10
1.4 Quality of Proposal. Understanding/conceptualisation of brief for the Stellenbosch Municipal scenario.	10
TOTAL	100

- 7.2 Applicants who do not meet the minimum qualifying score of 70 points for Functionality **will not be considered further**. Applicants meeting the minimum criteria will progress to the next phase of the evaluation.

8. BID DEADLINE

This Formal quotation closes on [insert date and time]. All applications must be placed in the tender box.

9. CONFLICT OF INTEREST

The contractor to be appointed may not in any way that is inconsistent with his/her duties; expose him/herself to any situation involving the risk of a conflict of interest between the official responsibilities required of the outsourced tender and with that of private interests.

10. DECLARATION OF INTEREST

- 10.1 The reviewer and/or selection panel will regard all information presented in, or in support of the application, as confidential and may not use any information for personal or 3rd party gain.

- 10.2 All data, information, analyses, reports and other project related documents and deliverables will become the property of Stellenbosch Municipality and will be transferred by the service provider to the LED Department on completion of the project. The use of the information by the service provider will only be permitted by obtaining written confirmation from the LED Department.

11. PLEASE NOTE THE FOLLOWING IMPORTANT MATTERS:

All quotations need to include vat (if applicable).

All quotations need to be inclusive of all costs to be incurred (e.g. travelling, materials).

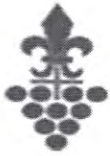
The final product delivery date will be determined after the appointment of the preferred service provider. The successful Service Provider should be available when and as needed by the LED Department to facilitate the uploading of SMME details.

12. ENQUIRIES CAN BE DIRECTED AS FOLLOWS:

Specifications Enquiries:

Widmark Moses
Tel: (021) 808 8179- 9295
E-mail: Widmark.Moses@stellenbosch.gov.za

Cheryl Persensie
(021) 808 – 8173
E-mail: Cheryl.Persensie@stellenbosch.gov.za



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



DRAFT POLICY FOR MANAGEMENT OF MUNICIPAL AGRICULTURAL LAND

The matter to address with Agri -land is not;

Whether it is productive

but rather

whether it can be productive

2015

CHAPTER 1 TABLE OF CONTENTS	2
1.1 Definitions.....	3-4
1.2 Acronyms.....	5
1.3 Introduction and background.....	6
 CHAPTER 2: SCOPE AND PURPOSE OF THE POLICY	
2.1. Scope of the policy.....	7
2.2 Purpose of the policy.....	7
2.3 Legislative framework.....	8
2.4 Further relevant pieces of legislation governing property management.....	8-9
 CHAPTER 3: POLICY GUIDING PRINCIPLES	
3.1. Guiding principles.....	10
3.2 Bill of Rights – Equality.....	11
3.3 Sustainable development.....	12
3.4 Council Powers.....	12
3.5 Guidelines for the allocation of municipal agricultural land.....	13-14
 CHAPTER 4: STELLENBOSCH MUNICIPALITY	
4.1 Historical context.....	15
4.2 Land situation and infrastructure available.....	16
4.2.1 Identify land currently occupied through under long term lease.....	16-20
4.2.2 Current vacant agricultural land.....	20
4.2.3 Black Economic Empowerment Projects.....	21
4.3 Institutional and Governance Structure.....	22
4.3.1 Compilation of Strategic Advisory Committee.....	23
4.3.1.1 Functions of Strategic Advisory Committee.....	23
4.3.2 Compilation of Operational Committee.....	24
4.3.2.1 Functions of the Operational Committee.....	24
4.4 Criteria to obtain access to land.....	24
4.5 Exclusion.....	25
4.6 Process of land acquisition.....	26
4.7 Monitoring and evaluation.....	27
4.8 Policy review process.....	27
 LIST OF REFERENCES	28
LIST OF ANNEXURES	29

1.1 DEFINITIONS

“acquire” in relation to land includes, but is not limited to acquisition by purchasing, expropriation, exchange, donation or leasing, or as a result of the conclusion of any farm of land availability agreement, and ‘acquisition’ has a corresponding meaning;

“Asset” means a tangible resource capable of ownership;

“Basic municipal service” means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health, safety or the environment;

“Capital assets” in terms of this policy, means land and other immovable capital assets which vests in the Municipality;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Contract” means a deed of alienation under which land is sold against payment by the purchaser to, or to any person on behalf of the seller;

“Council” means the Council of the Stellenbosch Municipality as envisaged in chapter 3 of the Municipal Structures Act (Act No. 117 of 1998);

“Disposal” in relation to a capital asset, includes –

- (a) The demolition, dismantling or destruction of the capital asset; or
- (b) Any other process applied to a capital asset which results in loss of ownership of the capital asset otherwise than by way of transfer of ownership;

“Exempted capital asset” means a capital asset which is exempted by section (14)(6) or section 90(6) of the MFMA, that is, an asset that is needed for the provisions of basic municipal services.

“Fair market value” in relation to a capital asset, means the value at which a knowledgeable willing buyer and a knowledgeable willing seller would sell the capital asset in an arm’s length transaction;

“Granting of rights to use, control or manage” means where the granting of such rights do not amount to the transfer or permanent disposal of an asset, for example when a right is acquired through a leasing, letting or hiring out arrangement;

“High value” in relation to a capital asset of the Stellenbosch Municipality means that the fair market value of the capital asset exceeds R10 million; any such asset disposed of by Council shall require National Treasury consultation. The threshold for public participation shall be R1 million which is consistent one per cent of the total

value of the capital assets of the Municipality as determined from the latest available audited annual financial statements;

“Immovable capital asset” means any immovable asset such as land, asset or building, referred to as capital assets in this Policy;

“Integrated Development Plan (IDP)” means the Integrated Development Plan of the Municipality as envisaged in section 25 of the Municipal Systems Act (Act No. 32 of 2000);

“LED Strategy” means the Local Economic Development Strategy of the Municipality; **“long term”** means a period of longer than three (3) years;

“Local agenda 21” principles of sustainable development and environmental preservation;

“MFMA” means the Municipal Finance Management Act (Act No. 56 of 2003);

“Municipality” means the Stellenbosch Municipality as envisaged in chapter 1 of the Municipal Structures Act;

“Municipal Manager” means the Municipal Manager of the Municipality as envisaged in section 82 of the Municipal Structures Act;

“Supply Chain Management Policy” means the Supply Chain Management Policy of the Municipality as contemplated in chapter 11 of the MFMA and the Supply Chain Management Regulations (No. 27636 of 30 May 2005);

“Transfer” in relation to a capital or subsidiary asset, means transfer of ownership in the asset as a result of a sale or other transaction. This Policy must be read with the Supply Chain Management Policy of the Stellenbosch Municipality and the Municipal Asset Transfer Regulations (R878 in GG No. 31346 of 22 August 2008) issued in terms of the MFMA.

1.2 ACRONYMS

HDI	Historically Disadvantaged Individuals
IDP	Integrated Development Plan
LED	Local Economic Development
MATR	Municipal Asset Transfer Regulations
MFMA	Municipal Financial Management Act
PACA	Participatory Appraisal of Competitive Advantage
SCM	Supply Chain Management
SDF	Spatial Development Framework

1.3 INTRODUCTION AND BACKGROUND

For all South Africans, irrespective of colour or creed, land is an emotive issue. Throughout our history of more than three decades the biggest bone of contention was always ownership and usage of land. Lately, by virtue of the exponential growth of our population, both as a result of natural growth as well as urbanisation, even more value is placed on ownership as well as optimal beneficiation of land that is available. This in turn can be directly ascribed to a looming scarcity of food, and a righting of a ship that listed dangerously to one side with regard to ownership.

Whilst this policy document is not meant to gloss over historical facts, one must nevertheless not forget that Stellenbosch Municipality has a very colourful past and that its history plays a particular important role to give the town the ambiance and character which makes it one of the outstanding tourist attractions of South Africa. The same history and the “listing of the ship” mentioned above, however, also causes the drafting of a comprehensive, fair and sustainable policy document to be a challenging and formidable task due to the fact that some long term leases does not do justice to the guiding principles of economic optimization of agricultural land and fair and equitable distribution of what should be available.

It is equally important to maximise the potential of the scarce but high quality agricultural land to ensure that appropriate land is set aside for tourism and conservation upon which Stellenbosch is heavily dependent. Retention and conservation of the historical treasures that lies within the borders of the Municipality must also be a priority. The economic development of the town depends on the sensible use of its land resources. In managing its agricultural land portfolio, a policy for the management of municipal agricultural land based on the principles of sustainability, equality, efficiency, fairness and good governance is required. It is widely acknowledged that policies that facilitate access to land play a significant role in reducing poverty and income inequality. Stellenbosch Municipality boasts large tracts of high value agricultural land especially commonage land however, there is very little is available since approximately 80% of the land is currently under long term lease agreements. Furthermore, in the absence of a clear policy framework, the process for accessing municipal agricultural land has been very cumbersome.

Stellenbosch Municipality, through its Local Economic Development Department and Property Management Department as part of its contribution to sustainable development have thus embarked on a process of developing a policy on the management of municipal agricultural land based on sustainability principles.

CHAPTER 2: SCOPE AND PURPOSE OF THE POLICY

2.1 Scope of the policy

The sound Management of the Municipality's agricultural land resources is crucial if it is to be conserved for future generations. The scope of this policy is to set out the decision-making guidelines for the management of municipal agricultural land with due regard to the legislative provisions in particular of the Local Government: Municipal Finance Management Act, 2003, Supply Chain Management Legislation and the Asset Transfer Regulations, 2008.

Furthermore, the aim of the policy is to provide for the core principles, mechanisms, processes and procedures that are necessary to enable the Municipality to manage and administer municipal agricultural land, of which Council is the custodian.

It allows for social and sustainable economic development and encourages the involvement of individuals, communities and community organizations and regulate the management and use of municipal agricultural land. It is, however, important that land disposal is treated on its own merits although alternative methods of disposal, not specifically mentioned in this policy, may be used where appropriate, subject to obtaining proper authority.

2.2 Purpose of the Policy is to:

- (a) Provide a policy framework for the management of the Council's capital assets with specific reference to municipal agricultural land in accordance with the Municipality's Supply Chain Management Policy.
- (b) Promote the acquisition and use of municipal agricultural land mainly through leasehold preferably by historically disadvantaged individuals as envisaged in section 25(5) of the Constitution.
- (c) Regulate the use, acquisition and disposal of municipal agricultural land in accordance with the applicable regulations.
- (d) Ensure that municipal agricultural land held by it, which is not envisaged for or already used for public purposes and/or in the public's interest, be dealt with in a manner that will ensure the greatest benefit to the Council and the community.
- (e) Ensure current long term lease agreements pertaining to agricultural land are periodically revisited, especially where land is not currently being optimally used and provide for the necessary procedure for the alienation of such land in terms of the applicable regulations.
- (f) Ensure fairness, equity, transparency, cost effectiveness and competitiveness.
- (g) Ensure speedy availability of land to residents.

(h) Provide for a standard process to be followed for the application and allocation of municipal agricultural land in line with the MFMA and the Municipal Supply Chain Management Policy.

(i) Provide for the institutional arrangements for the management and administration of municipal agricultural land and guide the establishment of an intergovernmental and public/private sector body to monitor implementation and provide support.

(j) Discourage the direct sale of municipal agricultural land.

The Council may dispose of land or other immovable capital assets only once it is satisfied that such an asset is not needed to provide the minimum level of basic municipal service and that it has considered fair market value for the asset and the economic and community value to be received in exchange for the asset, in accordance with section 14(2) of the MFMA and Council has complied with subsections (1) to (6) thereof.

However, the above must be done with the greatest circumspection as it is imperative to keep a balance between righting wrongs of the past, with conservation of the town's greatest cultural and economic asset – its historical treasures that give the town its special ambiance.

2.3 Legislative Framework

The legislative framework for the management of the Stellenbosch municipal property is contained and governed in a number of pieces of legislation, including but not limited to:

2.1.1 The Local Government: Municipal Finance Management Act 2003, Act 56 of 2003 (MFMA), in particular section 14, which deals with disposal of capital assets;

2.1.2 The Local Government: Municipal Asset Transfer Regulations, 2008 (MATR), which governs –

2.1.2.1 The transfer and disposal of capital assets by municipalities and municipal entities; and

2.2.2.2 The granting by municipalities and municipal entities of rights to lease, use, control or manage capital assets;

2.2.3 Supply Chain Management Policy of Stellenbosch Municipal Council;

2.2.4. Any other applicable legislation, regulations and policies that may govern the disposal, letting or transfer of ownership of municipal land and related activities that are not in contradiction with the primary legislation referred to above.

2.4 Further relevant pieces of legislation governing property management include the following:

- Broad Based Black Economic Empowerment Act (Act No. 53 of 2003);
- Constitution of the Republic of South Africa, 1996;

- Extension of Security of Tenure Act (Act No. 62 of 1997);
- Local Government: Municipal Structures Act (Act No. 117 of 1998);
- Local Government: Municipal Systems Act (Act No. 32 of 2000);
- Preferential Procurement Policy Framework Act (Act No. 5 of 2000);
- Preferential Procurement Policy Framework Regulations of 2011;
- Property Rates Act (Act No. 6 of 2004);
- Land Reform: Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993).

CHAPTER 3: POLICY GUIDING PRINCIPLES

3.1. Guiding principles

The following guiding principles will guide the implementation of this Policy:

3.1.1 Promote social integration, provide redress to the Council's existing spatial inequalities, build strong and dignified communities and provide adequate infrastructure for easier access to places of work.

3.1.2. Optimizing property, in particular municipal agricultural land as a sustainable resource to provide better economic growth and improve agricultural diversity with regard to value adding to fresh produce.

3.1.3. Promote land reform by fundamentally changing unequal land ownership patterns through optimization and redistribution of long term leased land, especially that which is lying fallow.

3.1.4. Use property as a catalyst for economic development by establishment of agriculture beneficiation nodes.

3.1.5 Acquisition of additional land to further the Municipality's strategic objectives.

3.1.7. No rights or usage of municipal owned land shall be sublet or ceded to a third party.

3.1.8. Under no circumstances should any mining of land, excavation of soil for selling purposes or any permanent damage to land be allowed.

3.1.9. No new buildings shall be permitted on leased, whether long term or not, municipal land unless with specific agreement of the Council and then for a use and in a style that complements the environment.

3.1.10 Utilization of land and other immovable assets is guided by the Municipality's Integrated Development Plan (IDP), the Spatial Development Framework and the Local Economic Development Strategy through the PACA process;

3.1.11 Create an enabling environment to users of the land to participate meaningfully in agricultural activities to:

- Promote entrepreneurship
- Contribute to food production and economic opportunities
- Leverage the expertise and markets of existing commercial farmers to assist emerging farmers through strategic partnerships and/or shareholding especially new entrants.

3.2 Bill of Rights – Equality

Fundamental human rights are entrenched in Chapter 2, sections 7 to 39, of the 1996 Constitution. *'The Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. The state must respect, protect, promote and fulfil the rights in the Bill of Rights.'*

Rural development is a central pillar of the struggle against unemployment, poverty and inequality. High levels of rural poverty and inequality inhibit the growth of the economy and undermine any efforts to ensure that growth is more equitably shared amongst citizens.

Although agriculture is not a local government mandate, Council has a developmental role to play in facilitating and advancing rural development to bring about sustainable change in socio-economic situation of the area and supporting economic growth. This developmental role is further emphasized in sections 152 and 153 of the South African Constitution.

The objects of Local Government in particular are set out in section 152 of the Constitution, which reads thus:

“(1) the objects of local government are-

- (a) to provide democratic and accountable government for local communities;*
- (b) to ensure the provision of services to communities in a sustainable manner;*
- (c) to promote social and economic development*
- (d) to promote safe and healthy environment and;*
- (e) to encourage the involvement of communities and community;*
- (f) Organization in the matters of local government.*

(2) A municipality must strive with its financial and administrative capacity to achieve the objectives as set out in this sub-section.

(3) The Constitution further determines that local government shall have the developmental duties as set out in section 153 that reads as follows:

'A municipality must-

(4.4) Structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and

(4.5) Participate in national and provincial development programs.”

A reformist policy, particularly incorporating previous disadvantaged groups is to be implemented in line with the above objectives prescribed for local governments. This

policy must at all times include the fair distribution of the land with particular reference to optimal production and allocation to suitable qualifying beneficiaries.

Considering the fact that the bulk of Stellenbosch municipal agricultural land has already been allocated in long term leases, there is limited agricultural land available which can be gainfully applied. A further hindrance is the availability of water without which agricultural land is virtually worthless as far as viticulture and fresh produce is concerned.

It is therefore incumbent on the administration of the Municipality to ensure that the limited land currently available is optimized for the benefit of the community as a whole without taking away from the historical heritage which ensures economic progress.

3.3 Sustainable development

Implicit in the concept of sustainable development is the requirement that a broader view of the Stellenbosch economy is always at the forefront of the process; the town and surrounds are highly dependent on the historical heritage and tourism and agriculture which are the main sources of job creation.

Sustainability in this instance implies the usage of land to feed the urban residents and to provide for additional economic value, but then not to cause any harm to the aesthetic appearance and ambiance of the countryside which is the attraction for tourism income.

Due regard for the scarcity of water and prudent use of other resources together with the application of innovative new methods of farming lies at the bottom of these efforts.

Recognition should be given to the wealth of farming experience on the one hand but a lack of business acumen on the other which should direct any training efforts towards access to markets and proper planning for the longer term. It is also essential that new farmers pool their resources to obtain maximum value for their produce.

3.4. Council Powers

3.4.1. Council is permitted to reserve and manage immovable property in its ownership for municipal purposes in a manner that supports its strategic objectives and permit such property to be enclosed and cultivated.

3.4.2. Council is permitted to reserve and manage immovable property in its ownership for municipal purposes aligned with operational needs.

3.4.3. Council is permitted to acquire immovable property and rights in property by way of private treaty, cession, donation and expropriation to support its strategic objectives.

3.4.4. Council is permitted to alienate immovable property and rights in property by way of direct sale, public tender, auction and donation.

3.4.5. Council is permitted to let immovable property in its ownership on a long term or short term basis by way of direct negotiation or public tender.

3.4.6 Council may acquire, use or dispose of any capital assets owned by the Municipality, unless it is precluded from so doing by law or the conditions under which such immovable assets were acquired by the Municipality.

The execution of these powers is guided by the responsibilities of the municipality as set out in the Draft Policy for the Management of Stellenbosch Municipality's Immovable Property. The Disposal of Immovable Property and awarding of rights in Immovable Property will be undertaken in terms of the applicable legislation as set out in Chapter 5 of the aforementioned policy (Annexure A).

3.5 The Policy prescribe the following guidelines to be followed by Council for the allocation and management of municipal agricultural land

Ensure compliance with the applicable legislation and regulations.

- 3.5.1 Any disposal of municipal agricultural land shall not unfairly discriminate against individuals not defined as HDIs.
- 3.5.2 In a bid for municipal agricultural land, where bidders are equally competitive; preference will be given to HDIs, in accordance with the Supply Chain Management Policy of the Municipality.
- 3.5.3 Special affirmative measures towards HDI's may be applied by the Municipality to ensure fairness in the disposal process of agricultural land in accordance with the Preferential Procurement Regulations as long as it does not infringe the historical heritage of Stellenbosch and have negative economic effects.
- 3.5.4 Ensure the protection or advancement of persons, or categories of persons, disadvantaged by previous unfair discrimination.
- 3.5.5 Market forces will always be the point of departure in any land or property transaction and this must be recognised and acknowledged.
- 3.5.6 Preference will be given to bids that support economic development initiatives on a macro scale, including tourism initiatives;
- 3.5.7 May enter into public-private partnership agreements, but only in accordance with the provisions of Section 120 of the MFMA.

- 3.5.8 Must aim to redress past land ownership patterns to reflect the population demographics of the Municipality.
- 3.5.9 Council will set aside some parcels of land to be utilized at its own discretion, and the rest may be alienated to the public;
- 3.5.10 Council reserves the right not to dispose of any portion of land.
- 3.5.11 Council is not obliged to justify any policy decision.
- 3.5.12 Local Agenda 21 principles of sustainable development and environmental preservation.
- 3.5.13 Certain concessions (e.g. provision of water rights) have already been announced. The implication is far-reaching in that land which previously had little value can now become highly sought after if the promise of special arrangements for water provision can become reality.

CHAPTER 4: STELLENBOSCH MUNICIPALITY –CURRENT SITUATION

4.1 Historical context

Stellenbosch is one of the first settlements in the Cape Colony at the founding of South Africa. It is arguably one of the most beautiful parts of the country and its climate is conducive to excellent agriculture production.

The municipal area comprises of Stellenbosch town, Franschhoek, Pniel, Klapmuts and some minor hamlets in the area. Whilst its economy is primarily built on financial and business services sectors, the area boasts a vibrant tourism industry. The area's wine lands are a major draw card and are also well-known for the close linkages in the agri-tourism industry, manufacturing and services sectors.

Stellenbosch is also home to a vibrant education sector, including a leading world renowned university and hosts a range of innovation industries, as well as the headquarters of major multi-national and national companies.

The municipal area comprises 900 square kilometres with a population of 165,000 people. The region's largest portion of export products, namely wine and vegetables are produced in Stellenbosch. The majority of arable land is used for the production of wine, with only a small proportion of the region's food being produced locally.

Whilst significant investments have been made in the farming sector, not all are related to productive uses of the land. This has led to fertile land being rendered unproductive, and this in turn has diminished employment opportunities for low skilled workers and increased reliance on food imported from elsewhere. The unemployment rate of 26% together with the steady rate of urbanisation adds to the pressure of the availability of jobs in the area.

Properties, especially agricultural land (commonage) provide an enormous opportunity for Council to achieve its strategic objectives. Therefore this policy provides for the implementation of a process of identifying agricultural land which is currently available as well as land under long term lease which is not being optimally used and which is aligned to the Spatial Development Framework, LED strategy, the IDP and the objects of local government as set out in the Constitution.

4.2 Land situation and infrastructure available

Stellenbosch is one of the municipalities in the country with the most municipal land under its control; however, due to the agriculture potential of farm land, most of the arable land has been leased to established farmers on long term lease contracts. The capital investment in developing and using the land requires these long term leases to allow lessees to redeem the large investments.

To this end, 80% of the 2,000 ha municipal land has thus been taken up by established farmers whilst another 10% is being farmed by new entrants (small farmers) in various widely spread out locations. The current available 200 ha that is available should be allocated to eligible emerging farmers who have sufficient skills and experience to make a success of small holder farming.

Fallow land – long fallow periods when nothing seems to happen

4.2.1 Land currently under long term leasehold

Property Description	Size	Lessee	Contract Period
29	40 ha, no water	Vacant	
165/1	0,14 ha, no water	Vacant	
165/1A	10,5 ha, no water	Vacant	
183	1,55ha, no water	Vacant	
183A	35.54 ha, 12,0 ha water	W.S Smit Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
183B	11 ha, 3 ha water	W.S Smit Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
183C	8,5 ha, 2 ha water	W.S Smit Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
183D	24 ha, 8 ha water	Joretha Boerdery	01/04/1994- 31/03/2044
183E	21,84 ha, 7 ha water	Devon Valley Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
183F	8,13ha, 3 ha water	Devon Valley Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
183G	0,43 ha, No water	Devon Valley Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
183/23	20,5 ha, 8 ha water	W.S Smit Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
203/2A	4,36 ha, 2 ha water	Devon Valley Boerdery (Edms) Bpk	01/04/1994- 31/03/2044
279A	6,8 ha, 5 ha water	Asara Properties (Pty) Ltd	01/04/1994- 31/03/2044
279BN	25,3 ha, no water	Vacant	
279D	5 ha, no water	Vacant	
295/3 Remainder Erf 376 Remainder Erf 9190	70,4 ha, 10 ha water	Stellenbosch Golf Club	20/12/1994- 31/03/2041

352/2	.0297 ha, no water	Okkie Jooste Kampterrein	24/03/1934-23/03/2033
352/2 other	174,8 ha, no water	MTO	24/03/1934-23/03/2033
368/2	3,5 ha, no water	Vacant	
369/C	3,5 ha, no water	Vacant	
369F	8,5 ha, 2,5 ha water	Paradyskloof Boerdery (Edms) Bpk	01/04/1991-31/03/2041
369P	60,5 ha, 25 ha water	KWV (Pty) Ltd	01/04/1991-31/03/2041
369T	1,2 ha, no water	Paradyskloof Tennis Club	21/06/1999-20/06/2041
369U	0,31 ha, 0,1 ha water	Paradyskloof Boerdery (Edms) Bpk	01/04/1991-31/03/2041
369V	2,84 ha , 0,9 ha water	Paradyskloof Boerdery (Edms) Bpk	01/04/1991-31/03/2041
369W	38,1 ha, 11,4 ha water	Paradyskloof Boerdery (Edms) Bpk	01/04/1991-31/03/2041
377A	9,42 ha, no water	Vacant	
377B	16,27 ha, no water	Goedvertrouw (Kirsten)	01/04/2007-31/03/2032
377C	36 ha, 10 ha water (Originally 39,4ha see erf 9190)	J.P Roux & Son	01/09/1999-31/03/2041
Lease Area 2 of over Rem Erf 9190 (Originally part of 377 C)	3,4 ha, no water	J.P Roux & Son	01/09/1999-31/03/2041
Lease area 1 over Rem Farm 377 (Originally part of 377F)	16,2241 ha, 12 ha water	Blaauwklippen Agricultural Estate	01/09/1999-31/03/2041
Portion 13 of 491/1	11,36 ha, 5 ha water	Spier Holdings (Pty) Ltd (Newshelf 31 (Pty) Ltd	01/04/1999-31/03/2041
502AA	11,1 ha, 6 ha water	Spier Holdings (Pty) Ltd (Newshelf 31 (Pty) Ltd	01/04/1999-31/03/2041

502AB	17,5 ha, 9 ha water	Spier Holdings (Pty) Ltd (Newshelf 31 (Pty) Ltd	01/04/1999-31/03/2041
502AC	3,5 ha, 1 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AD	8 ha, 3 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AE	27,4 ha, 8 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AF	14,1 ha, 4 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AG	13,3 ha, 4 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AH	7,2 ha, 2 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AJ	10,7 ha, 3 ha water	Roulou Boerdery Trust	01/04/1999-31/03/2041
502AK	22,5 ha, 8 ha water	Poker Hill Vineyards (Pty) Ltd	01/04/1999-31/03/2041
502AL	13,5 ha, 4 ha water	Poker Hill Vineyards (Pty) Ltd	01/04/1999-31/03/2041
502AM	8,56 ha, 3 ha water	Vacant	
502AN	28,5 ha, 9 ha water	Paul Roos Boerdery (Edms) Bpk	
502AP	7 ha, 2 ha water	Vacant	
502AQ	8 ha, 3 ha water	Paul Roos Boerdery (Edms) Bpk	
502AR	4 ha, 1 ha water	Paul Roos Boerdery (Edms) Bpk	
502AS	26,5 ha, no water	H. W Gebers	
502AU	8,9ha, no water	Vacant	
205AW	6 ha, no water	Vacant	
502AX	6,96 ha, 2,3 ha water	R Myburgh Boerdery	01/04/1991- 31/03/2041
502AY	4,28 ha, 1,3 ha water	H.C Myburgh Boerdery	01/04/1991- 31/03/2041
502BB	18,84 ha, 6 ha water	Roulou Boerdery Trust	01/04/1991- 31/03/2041
502BC	8,5 ha, 2,5 ha water	H.C Myburgh Boerdery	01/04/1991- 31/03/2041
502BD	8,5 ha, 3 ha water	Roulou Boerdery Trust	01/04/1991- 31/03/2041
502BE	11 ha, 4 ha water	Roulou Boerdery Trust	01/04/1991- 31/03/2041
502BFN	15,5 ha, 6 ha water	Vacant	
502BH	65,5 ha, 26 ha water	Organic Small Farm	01/04/1991- 31/03/2041

		Holding Trust	
505BJ	5,9 ha, 3 ha water	Limberlost Berry Farm	01/04/1991- 31/03/2041
502BK	72 ha, 22 ha water	Roulou Boerdery Trust	01/04/1991- 31/03/2041
502BL	12 ha, 4 ha water	Medi-Prop cc	01/04/1991- 31/03/2041
502BM	5,35 ha, 1 ha water	Vacant	
502E	15,5 ha, 5,2 ha water	Gielie Hanekom Trust	01/04/1991- 31/03/2041
502L	28,2 ha, 2 ha water	Stellenbosch Vliegveld Maatskappy	01/04/1991- 31/03/2021
502M	5,1 ha, 3 ha water	Higgs Trust (Pty) Ltd	01/04/2002- 31/03/2041
502N	4,2 ha, 1,5 ha water	Stellenbosch District Riding Club	01/04/1991- 31/03/2021
502R	28, 8 Ha, 8 ha water	Roulou Boerdery Trust	01/04/1991- 31/03/2041
502S	23,6 ha, 7,9 ha water	Gielie Hanekom Trust	01/04/1991- 31/03/2041
502T	11,3 ha, 3,8 ha water	Gielie Hanekom Trust	01/04/1991- 31/03/2041
502V	21,6 ha, 8 ha water	Vacant	
502W	9 ha, 3 ha water	Gielie Hanekom Trust	01/04/1991- 31/03/2041
502X	7,8 ha, 2 ha water .6855ha – sub-leased	Die Groothoek Trust Sub-lease of 6855 ha to Stellenbosch Restaurant CC	01/04/1991- 31/03/2041
527A	2 ha, 1ha water	G.JC Norval	
527E	14,78 ha, 7 ha water	Blaauwklippen Agricultural Estate	01/09/1999-31/03/2041
527F	53,5 ha, 8 ha water	Redlex 421 (Edms) Bpk	01/04/1991- 31/03/2041
527J	28,3 ha, 9 ha water	Nietbegin Boerdery	01/04/1991- 31/03/2041
528A 529C	20,3 ha, 2 ha water	Mountain Breeze Caravan Park cc	01/04/1991- 31/03/2021
529A	51,7 ha, 25 ha water	P.G Du Toit Boerdery	01/04/1991- 31/03/2041
529B	17,4 ha, 9 ha water	Redlex 421 (Edms) Bpk	01/04/1991- 31/03/2041
619/1	26 ha c/water	Vacant	
1024/1 Franschoek	43,7 ha, no water	Franschoek Trust	11/08/2012

1135/1	127,2 ha, no water	Theewater Bevaria	20/06/2032
Lease area 1 over Rem Erf 9190 (Originally 377F)	6,418 ha, no water	Blaauwklippen Agricultural Estate	01/09/1999-31/03/2041

Figure 1: Long term lease agreements

Total leased	1 416.79ha
Total Vacant	286.34 ha
Total	1703.13 ha

Figure 1: Long term lease

agreements

4.2.2 Current vacant land

Property Description	Size	Lessee	Total	Water
29(26)	40 ha No water	Vacant	40	
165/1A	10.5 ha No water	Vacant	10.5	
165/1B	0.14 ha No water	Vacant	0.14	
279BN	25.3 ha No water	Vacant	25.3	
368/2	20ha	Vacant	20	
369/C	3.5 ha No water	Vacant	3.5	
377A	9.42 ha No water	Vacant	9.42	
502AM	8.56 ha 3 ha water	Vacant	8.56	3
502AP	7 ha 2 ha water	Vacant	7	2
502AU	8.9 ha No water	Vacant	8.9	
502AW	6 ha No water	Vacant	6	
502BFN	15.5 ha 6 ha c/water	Vacant	15.5	6
502BM	5.35 ha 1 ha water	Vacant	5.35	1
502V	21.6 8 ha water	Vacant	21.6	8

619/1	26 ha c/water	Vacant	26	
		Total	207.77 Ha	20 Ha

(Figure 2: Current vacant land), Source: Stellenbosch Property Management 2013/7/12)

The column to the far right shows that approximately 10% of the available land has water rights allocated to it.

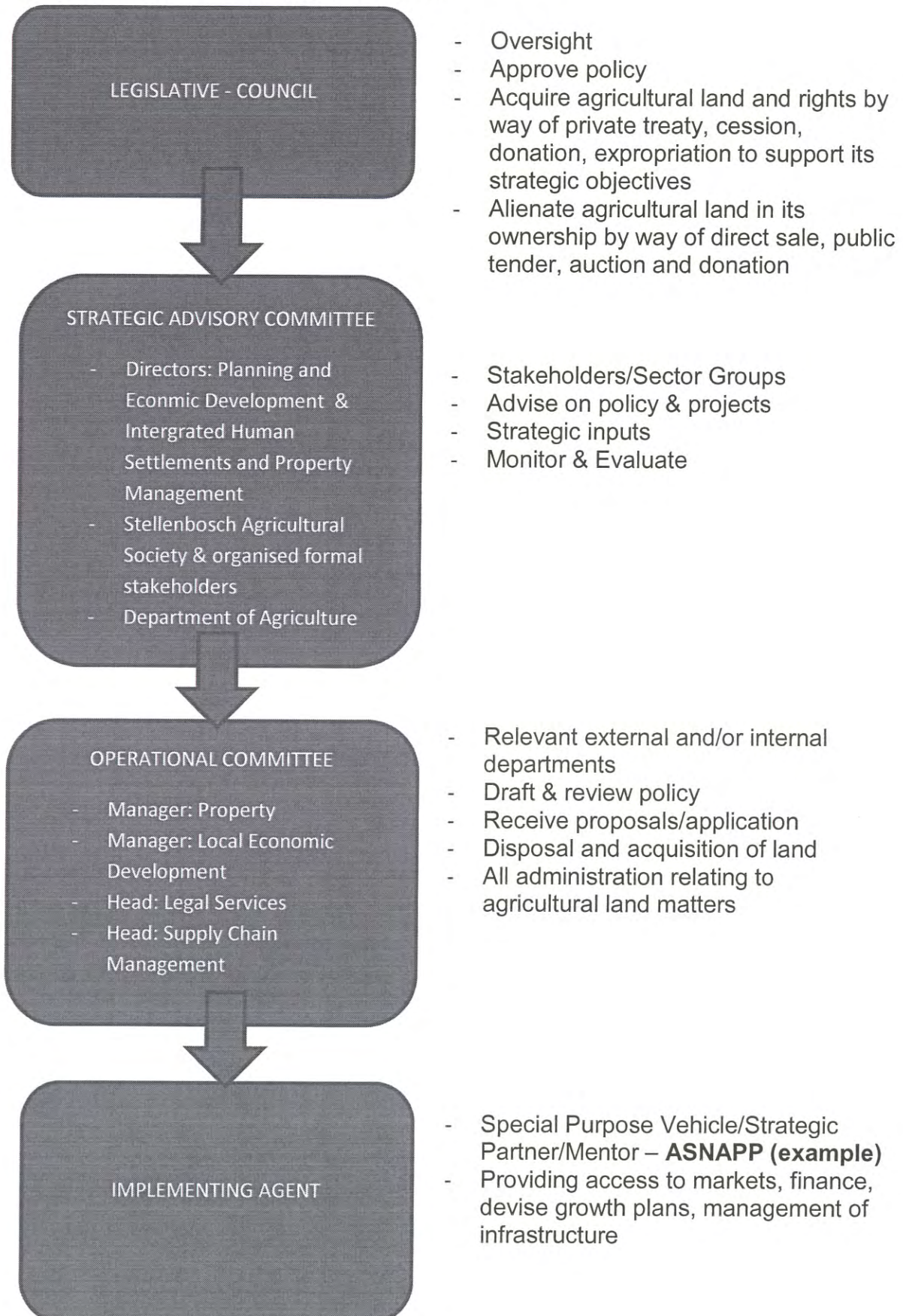
4.2.3 Stellenbosch municipal land under BEE projects

Farm Number	Size (approximate)	Owner	Water available
377c	36 Ha	Eerste Oorkant Boerdery	10 ha water
2/9190	3.4 Ha	Eerste Oorkant Boerdery	No water
502 AX	TBC	TBC	TBC
502AY	TBC	TBC	TBC
502BC	TBC	TBC	TBC
502BH	65 Ha	Organic Small Farm Holding Trust	26ha water
502BL	12 Ha	Medi Prop	4ha water
502M	5.1 Ha (60%)	Higgs Trust (Pty) Ltd J de Munk	3 ha water
527F	53.5 Ha (51%)	Redlex 421 (Edms) Bpk	8ha water
529B	17.4 Ha (51%)	Redlex 421 (Edms) Bpk	9ha water
Total	6 Ha	212.1	

Figure 3: BEE projects

Current long term lease agreements pertaining to agricultural land should be revisited, especially where land is not currently being optimally used, with the aim of achieving socio-economic development, providing access to land for eligible emerging farmers and in fulfilling council's strategic objectives. Local Economic Development should therefore on a continuous basis verify that land allocated on long term leaseholds to established farmers; industry and other bodies is used for the purpose for which it was allocated every 12 months from date of allocation.

4.3 Institutional & Governance Structure



4.3.1 Compilation of a Strategic Advisory Committee:

It is suggested that a Committee be established to play a key role in municipal agricultural land administration and management in line with the applicable legislation as explained in Chapter 2. The committee should ideally comprise of:

- The Municipal Manager (or assigned)
- Director: Planning and Economic Development, (Including officials from LED),
- Director: Integrated Human Settlements and Property Management, (Including officials from Property Management)
- Senior Legal Advisors of Legal Department;
- Department of Agriculture;
- Stellenbosch University
- Department of Rural Development and Land Reform
- Strategic partner/Special Purpose Vehicle
- Organised stakeholders with formalised relationships, e.g. Agricultural Society

4.3.1.1 Functions of the Strategic Advisory Committee:

Guided by the Policy principles as stated in previous chapters, the responsibilities of the Strategic Advisory Committee are varied and include providing strategic land access management and information to Council (among others):

- Changing the existing land ownership patterns whilst respecting and upholding current property rights. This should be undertaken by renegotiating current leases where municipal agricultural land is not currently being used optimally;
- Ensure the productive and sustainable use of land to attain both household and food security as well as increase agricultural output;
- Provide sound and competent advisory service regarding municipal agricultural land allocations and matters of access;
- Identify where to acquire land from and identify eligible occupants based on specified criteria
- Ensure compliance with the relevant strategic plans, policies and legislation;
- Ensure equitable balance between interests of the public,
- Ensure that inter-departmental and inter-sectoral cooperation and alignment takes place;
- Ensure alignment with National Development Plan, Municipal Integrated Development Plan, Municipal Spatial Development Framework and other relevant development plans;
- Supporting the formulation and implementation of limitations on land holdings and monitor ownership patterns in the Stellenbosch Municipal area;
- Coordinate the municipal agricultural land allocation system to ensure the success of implementing this policy;

4.3.2 Compilation of Operational Committee:

Guided by the Policy principles as stated in previous chapters, the responsibilities of the Operational Committee are varied and include providing land administration and information to Strategic Advisory Committee. It is recommended that the following departments form part of the Operational Committee:

- Property Management
- Local Economic Development
- Supply Chain Management
- Legal Services

4.3.2.1 Functions of the Operational Committee

- Facilitate partnerships between established and emerging farmers, industry and government to facilitate investment, sustainability and efficiency of farming enterprises.
- Coordinate local support services.
- Receive and review land applications and/or proposals in terms of principles and specified criteria as set out in this policy and the applicable legislation.
- Maintain a database or register of land inventory and conduct a land audit periodically.

4.4 Criteria to obtain access to land

It must be stated upfront that rural development is not a municipal function per se, however, rural development has a spatial dimension and is implemented in municipal spaces. Therefore, the role of local government in rural development cannot be overemphasized. As the custodian to relatively large tracts of land, Stellenbosch can make a meaningful contribution to Government's efforts to correct disparities in land use as a result of policies of a previous dispensation. The Municipality has a core responsibility to acquire and avail land, in the first instance, for its own use for purposes of developing and maintaining municipal infrastructure, promoting service delivery and for facilitating social and economic development and spatial integration. The Municipality has a further responsibility in terms of acquiring, managing, developing and releasing its land and other immovable assets and rights on behalf of its residents and ratepayers. In this regard, the key consideration is that the best interests of the Municipality (and thus its residents) should be paramount in all land transactions that the Municipality enters into. Beneficiaries will be selected from lists compiled from advertising in all the printed media in Stellenbosch. The advertisements will specify the size and type of land available and for which type of farming or land use the land is earmarked. Applicants for land lease must complete a set of documents obtainable from LED which will specify inter alia:

- What documents should be attached to the application (ID's etc)
- Type of application (Cooperative, Trust or individual Farmer)
- Farming category: Community gardens; emerging farmers; commercial farmers

- Agricultural beneficiation: Development or use of existing or agreed infrastructure for value adding by refinement, bottling, packaging, processing, etc
- A business plan covering:
 - Proposed business model
 - Production viability
 - Market access
 - Financial Viability
 - Support Services
 - Financial model.
- Must have been a resident of Stellenbosch for a period of 10 years or more.
- Must have a related agricultural sector background, with manufacturing or farming experience and preferably an oversight background in manufacturing or farming.
- Must not earn a family income less than R7 500,00 or in excess of R20 000,00 per month
- Must ascribe to the policies of the Municipality and other applicable legislation and be prepared to conform to the rules and regulations as set out by the Municipality from time to time.


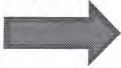
4.5 Exclusions

Land allocation will exclusively be made available for agricultural purposes and beneficiation of locally produced products. Due to the fact that the historical character and rural ambiance is important to maintain the status quo of Stellenbosch as destination of choice which is responsible for an important part of the local economy, all efforts must be made to conserve the natural environment. Unless by special decision of the Municipal Council, no agricultural land will be made available for industrial, residential, special nodal developments or any such developments that may take away from the charisma of the District.

- No permanent land rights for inefficient land users. Therefore continuous review, evaluation and increased productivity checks will be put in place;
- Immediate exclusion for any fraudulent activities by beneficiaries in application, during process or after allocation resulting in disqualification and prohibition of future participation (of the beneficiary or beneficiary group);
- Ensure land access only to capable, skilled, hardworking groups without farming activities in other regions of South Africa or internationally;
- Discourage speculative and unproductive land use.
- Save with prior approval, the municipal agricultural land may only be used for the purpose for which occupation was granted and purposes regularised by the relevant zoning schemes.

4.6 Process to acquire land

The disposal of land will be dealt with terms of the MFMA, the Supply Chain Management Policy and the Draft Immovable Asset Management Policy.

- Step 1:** Identify unused vacant land: LED request Property Management to advertise vacant land
 Draft terms of reference, include criteria for application
 Sign-off: Director Planning
- Step 2:** Advertise in all relevant newspapers
- Step 3:** Panel of internal departments evaluate and provide recommendations (Operational Committee)
- Step 4:** Supply Chain Management processes
 Bid Evaluation Committee
 Bid Adjudication Committee
- Step 5:** Inform successful bidders
- Step 6:** Property Management provide lease agreement with all conditions
- Step 7:** Provide copy of contract to the relevant department (Legal Services & Finance) to activate water and rental accounts
- Step 8:** Successful bidder receives copy of contract
- Step 9:** LED introduce bidder to strategic partner/mentor and register project on its database
- Step 10:** Strategic partner and LED assesses interventions required
- Step 11:** Induction and programme of production schedule.
 Develop indicators of measurement
 Quarterly evaluation of progress

4.7 Monitoring and evaluation

The municipality does not have the capacity to monitor and evaluate the progress of every piece of allocated land. It will therefore adopt the modus and condition of Rural Development and Land Reform that a Strategic Partner must be contractually involved to ensure long term sustainability. Such a Strategic Partner will be selected from a list of approved service providers who are financed by the Department of Rural Development and Land Reform. Should any complaints of the public emerge alleging abuse or neglect of such land, the matter should be reported to above Operational Committee who must advise the Manager: Property Management to:

- Enter into a formal process to ascertain:
 - That the holder of the lease is aware of their obligation in terms of the leasehold;
 - Enquire what the plans for development for agricultural purposes are;
 - Serve the lease holder with a notice that steps will be taken to cancel the leasehold and repossess the land;
 - Give such a leaseholder a six months period to commence with active farming activities or be able to prove that a process is underway for planning to cultivate the land or prepare it for production.

- If the leaseholder fails to comply with the instruction duly issued, notice of eviction and cancellation of the lease must be served to the lessee that the lease is terminated and the case must be:
 - Referred to the Legal Department to formally repossess the land;
 - Notify LED that the land is available for reallocation, preferably to a deserving Previous Disadvantaged Individual(s) complying with the selection criteria as described further in this document.

4.8 Policy Review process:

- This Policy shall come into effect on the date of the council resolution;
- This Policy may be reviewed annually and when required by way of Council resolution.

List of references

Breede Valley. Land Management and Disposal Policy. Accessed [03 August 2015]. <https://www.google.co.za/#q=Breede+Valley.+Land+Management+and+Disposal+Policy>.

City of Cape Town. 2008. Agricultural Land Review. Accessed [16 September 2015]. <https://www.google.co.za/#q=City+of+Cape+Town.+2008.+Agricultural+Land+Review>.

Mogalakwena Municipality. Final Draft Policy on Sale and Disposal of Municipal Land/Property. Accessed [15 July 2015]. https://www.google.co.za/?gws_rd=ssl#q=Mogalakwena+Municipality.+Final+Draft+Policy+on+Sale+and+Disposal+of+Municipal+Land%2FProperty.

Sol Plaatjie. 2010. Draft Policy on Land and Other Immovable Capital assets. Accessed [2 August 2015]. https://www.google.co.za/?gws_rd=ssl#q=Sol+Plaatjie.+2010.+Draft+Policy+on+Land+and+Other+Immovable+Capital+assets.

South African Government. 2015. Spatial Planning and Land Use Management White Paper. Wise Land Use. Accessed [29 September 2015]. <https://www.google.co.za/#q=South+African+Government.+2015.+Spatial+Planning+and+Land+Use+Management+White+Paper.+Wise+Land+Use>.

Stellenbosch Municipality. 2005. Draft Land Management Policy. Accessed [14 December 2014]. https://www.google.co.za/?gws_rd=ssl#q=Stellenbosch+Municipality.+2005.+Draft+Land+Management+Policy.

Stellenbosch Municipality. 2011. Draft Commonage Framework for Agricultural Land in the Stellenbosch Municipal Area (WCO24).

Ubuntu Municipality. Policy for the Disposal of the Municipality's land and other immovable capital assets. Accessed [16 August 2015]. https://www.google.co.za/?gws_rd=ssl#q=Ubuntu+Municipality.+Policy+for+the+Disposal+of+the+Municipality%E2%80%99s+land+and+other+immovable+capital+assets

Zimmerman, W. 2008. Effective and Transparent Management of Public Land Experiences, Guiding Principles and tools for implementation. International Seminar on State and Public Land Management in Verona, Italy, 9-10 September 2008.

7.10 THE PROPOSED AMENDMENT OF THE BY-LAW FOR THE SUPERVISION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER PN 166/1998 AS WELL AS THE BY-LAW FOR THE DECLARATION OF PLACES WHERE THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR AND HAWKER IS PROHIBITED (PN 189/1998) (APPLICABLE ON THE STELLENBOSCH TOWN) AND THE BY-LAW FOR THE SUPERVISION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER PN 386/1996 AND THE BY-LAW FOR THE DECLARATION OF PLACES WHERE THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER IS PROHIBITED PN 5127 (APPLICABLE ON FRANSCHHOEK TOWN)

File number : 1/3/1/10/1x1/3/1/10/2
Report by : Director: Planning and Development
Compiled by : Manager: Local Economic Development
Delegated Authority : Council

Strategic intent of item

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input type="checkbox"/>

1. PURPOSE OF REPORT

To obtain approval from Council to advertise the proposed intention of Council to amend the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 and the proposed intention to proclaim the additional sites in terms of the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar and Hawker is prohibited (PN 189/1998) which is applicable to Stellenbosch Town and pursuant thereto to amend same accordingly after the relevant comments are considered.

Furthermore that the proposed intention of Council to amend the By-Law for the Supervision and Control of the Carrying on of Business of Street Vendor, Pedlar or Hawker (PN 386/1996) and the proposed intention to proclaim certain additional sites in terms of the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar or Hawker is Prohibited (PN 5127/1997) which is applicable on Franschoek.

2. BACKGROUND

The informal trading sites in Stellenbosch (pre 2000 dispensation) is regulated by the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 and Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor,

Pedlar and Hawker is prohibited, copies of which are attached hereto as **APPENDICES 1 AND 2**.

Furthermore informal trading sites in Franschoek (pre 2000 dispensation) is regulated by the By-law for the Carrying on of Business of Street Vendor, Pedlar or Hawker (PN 386/1996) and the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar or Hawker is Prohibited (PN 5127/1997), (the Notices and By-laws are collectively referred to as "the By-laws") copies of which is attached annexed hereto as **APPENDICES 3 AND 4**. The above-mentioned request for approval is an interim measure to remove the restrictive clauses in the current By-laws in order to create an enabling environment and to include additional sites for informal trading within Stellenbosch and Franschoek while an integrated policy framework and by-law for informal trading for the entire municipal area been developed

The proclaimed sites have been disproportionate to the population growth in the Stellenbosch WC024 municipal area. Areas such as *inter alia* Pniel, Jamestown, Klappmuts, Languedoc had unfortunately not been addressed, by the By-laws alluded to above.

Furthermore Site 6 and 7 of the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 read with the Notice/Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar and Hawker is prohibited (PN 189/1998) was de-proclaimed by Council on 25 October 2012. The de-proclamation was advertised on or about 13 January 2013 which left approximately 17 informal traders without an income since 25 January 2013.

In 2011 the informal sector created 11, 2 % employment of the total employment in the Stellenbosch Municipal Area. Consequently the Stellenbosch Municipality recognizes the contribution of this sector to the local economy and intends to seize the opportunity to further encourage the development of new entrepreneurs while simultaneously seeking to offer growth opportunities for existing traders.

In a study of Africa's rapidly growing cities, markets and street vendors were found to be major sources of providing income to poor urban households. It is recognized that Informal Trading forms a vital part of any emerging economy.

Against this reality a review of the informal trading sites was embarked upon to accommodate new additional sites. It is important for Council to consider the proposed amendment of the above-mentioned By-laws.

3. DISCUSSION

South Africa, street trading is largely governed and regulated by municipal by-laws and policies. The **Businesses Act 72 of 1991 ("Businesses Act")** together with the **Businesses Amendment Act 186 of 1993**, give municipalities the mandate to adopt and implement such by-laws. Municipal by-laws must ultimately be in line with the Constitution of the Republic of South Africa Act 108 of 1996 ("Constitution") and applicable legislation which gives effect to it e.g. the Local Government: Municipal Systems Act 32 of 2000 ("the Systems Act").

The Constitution sets out the objectives, developmental duties and powers and functions of local government, and provides the authority for local government to develop by-laws in order to administer street trading. Section

152(1) of the Constitution sets out that the objectives of local government, which include providing democratic and accountable government for local communities, promoting social and economic development and encouraging the involvement of communities and community organisations in the matters of local government.

Section 153 of the Constitution provides that a municipality must structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.

Section 156 of the Constitution relates to the powers and functions of municipalities and states that a municipality has executive authority in respect of, and the right to administer, certain local government matters including street trading (which is listed in Part B of Schedule 5). A Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer. Municipalities thus have the mandate to develop and adopt *inter alia* street trading by-laws. Section 162 of the Constitution provides that a municipal by-law may be enforced only after it has been published in the official gazette of the relevant province which must be accessible to the public. These provisions are given effect to by the Systems Act, as alluded to below.

Section 22 of the Constitution relates to freedom of trade and states that every citizen has the right to choose their trade, occupation or profession freely”, however this is qualified by the clause that states “the practice of a trade, occupation or profession may be regulated by law.” Therefore, while the freedom of trade is extended to informal trading, it can be regulated.

Section 12(3) of the Systems Act provides further that no by-laws may be passed by a municipal council unless-

- (a) all the members of the council have been given reasonable notice; and
- (b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.

Section 13 of the Systems Act provides that a by-law passed by a municipal council-

- (a) must be published promptly in the Provincial Gazette, and when feasible, also in a local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and
- (b) takes effect when published or on a future date determined in or in terms of the by-law.

Section 6A(1)(a) of the Businesses Act provides that a local authority may, with the approval of the Administrator, make by-laws regarding-

- (i) the supervision and control of the carrying on of the business of street vendor, pedlar or hawker;
- (ii) the restriction of the carrying on of such business-
 - (aa) ...

-
- (bb) On a verge as defined in section 1 of the Road traffic Act, 1989 (Act No. 29 of 1989), contiguous to-
 - (A) a building belonging to, or occupied solely by, the State or the local authority concerned;
 - (B) a church or other place of worship;
 - (C) a building declared to be a national monument under the National Monuments Act, 1969 (Act No 28 of 1969); (cc) in a area declared or to be declared under subsection (2)(a);

Section 6(2)(a) of the Businesses Act provides that a local authority may, subject to the provision of paragraph (b) up to and including (j), by resolution declare any place in its area of jurisdiction to be an area in which the carrying on of the business of street vendors, pedlar or hawker may be restricted or prohibited.

- (b) A motion that steps be taken to declare an area under this subsection shall be dealt with at a meeting of the local authority;
- (c) Before a motion is adopted, the local authority shall have regard to the effect of the presence of a large number of street vendors, pedlars or hawkers in that area and shall consider whether-
 - (i) more effective supervision or control in that area, including negotiations with any person carrying on in that area the business of street vendor, pedlar or hawker or their representatives, will make such declaration unnecessary; and
 - (ii) the intended restriction or prohibition will drive out of business a substantial number of street vendors, pedlars or hawkers;
- (d) If such a motion is adopted the local authority shall cause a plan to be prepared showing the position of the area concerned;
- (e) On completion of the said plan the local authority shall cause to be published in a newspaper circulating in the area of jurisdiction of that local authority, a notice setting out its intention to effect the restriction or prohibition concerned as well as its reasons therefore, stating that the said plan is open for inspection at a place and during the hours mentioned in the notice and calling upon any person who has any objection to the intended restriction or prohibition to submit in writing to the local authority within a period mentioned in the notice, which period shall not be shorter than 21 days following the day upon which the notice appeared in the newspaper, such objection or objections;
- (f) The local authority shall consider every objection submitted in terms of paragraph (e) or (f) and may thereafter resolve on the declaration of the area concerned;
- (h) The local authority shall cause the declaration to be published in the Official Gazette, and such declaration shall take effect on the date of such publication;
- (i) The local authority shall forthwith after the publication referred to in paragraph (h), submit to the Administrator a copy of the plan of the

area, the notice published in the newspaper in terms of paragraph (e), the notice published in the Official Gazette in terms of paragraph (h) and all objections received, together with its comments thereon;

- (j) The Administrator may within 60 days after such submission and after consultation with the local authority concerned, by notice in the Official Gazette amend or revoke the declaration concerned;

Section 6(3) of the Businesses Act provides that notwithstanding the provision of any other law, a local authority may-

- (b)(i) set apart by resolution and demarcate stands or areas for the purpose of the carrying on of the business of street vendor, pedlar or hawker on any public road the ownership or management of which is vested in the local authority or on any other property in the occupation and under the control of the local authority; and
- (ii) in like manner extend, reduce or disestablish any such stand or area.
- (c) by agreement let or otherwise allocate any stand or area demarcated under paragraph (b)(i) or otherwise established for such purpose.

The Director: Strategic and Corporate Services under delegation 56(18) of the Stellenbosch Municipality System of Delegation is delegated to draft proposed by-laws and amendments to by-laws after departments have obtained the approval of the relevant portfolio committee, prior to necessary authority being obtained from the Executive Mayor's office to proceed with the legislative process.

The By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) was proclaimed on or about 20 March 1998 while the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar and Hawker is prohibited (PN 189/1998) (Stellenbosch) was proclaimed on or about 9 April 1998. Furthermore the By-law for the Carrying on of Business of Street Vendor, Pedlar or Hawker (PN 386/1996) (Franschhoek) was proclaimed on or about 13 September 1996 and the Notice/Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar or Hawker is Prohibited (PN 5127/1997) (Franschhoek) was proclaimed on or about 11 April 1997.

These By-laws were already promulgated during the 1990's in terms of the Businesses Act, 71 of 1991 and are currently in operation in the municipal areas of the disestablish Stellenbosch Municipal area excluding Pniel and the rural areas.

Clause 2 of the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) provides that a person shall not carry on the business of street vendor, pedlar or hawker-

- (a) ...
- (b) On a verge contiguous to –

- (i) a building belonging to, or occupied solely by, the State or the local authority;
- (ii) a church or other place of worship, or
- (iii) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).

In terms of the abovementioned legislative framework, any proposed site on a verge continuous to a building belonging to, or occupied solely by, the State or the local authority, a church or a national monument (the Rhenish Church in Stellenbosch and the NG Church in Franschoek) may not be utilized as a site for informal trading. Bird, Blom, and Market Street in Stellenbosch as well as Le Roux, Mark (Groendal), Lambrecht, Huguenot and Church Street in Franschoek are on a verge continuous to building/s belonging to, or occupied solely by, the State or the local authority, a church or place of worship and a building declared to be a national monument. In light of the aforesaid any proposed sites in the vicinity of these streets would be on the verge of a street contiguous to a building belonging to, or occupied solely by, the State or the local authority, national monument and to a church. In light of the aforesaid, the By-laws as alluded to above need to be amended to remove the restrictive clauses (b)(i)(ii)(iii) alluded above in order to accommodate the proposed proclamation of the additional sites. The intention is to proclaim the proposed additional trading sites for the first time as trading sites as listed hereunder, except for those informal traders currently trading in Franschoek next to the NG Church and no existing Street Vendor, Pedlar or Hawker will be affected by the proposed proclamation. The sites listed hereunder are additions to those sites that already exist.

The following proposed sites were identified for possible informal trading between approximately 09h00 until 18h00 – (See **APPENDIX 5** for more information. Please be advised that further comments on the proposed sites will be solicited internally and externally.)

1. **Stellenbosch:** A portion of the Braak opposite Nedbank along Bird Street;
2. **Stellenbosch:** A portion of the Braak along Blom Street
3. **Stellenbosch:** A site opposite the Telkom Building, next to the Magistrate Court;
4. **Stellenbosch:** A site on the corner of Andringa and Plein Street, next to the parking of the Town Hall;
5. **Stellenbosch:** A site at the corner of First National Bank in Plein Street;
6. **Stellenbosch:** An open space along Bird Street near the bridge in the direction of Kayamandi;
7. **Kayamandi:** The formalizing of informal trading along both Masithandani and Rand Street (a) opposite the KETC, (b) across the old municipal building and (c) piece of land near Watergang)
8. **Klapmuts:** A site in Merchant Street next to the proposed taxi rank;
9. **Pniel:** The parking site next to the municipal offices in Pniel;

-
10. **Kylemore:** A portion of land at the entrance of Kylemore
 11. **Kylemore:** Erf 11 next to the Clinic in Skool Street;
 12. **Franschhoek:** Pavement along Church Street next to the Municipal Offices;
 13. **Franschhoek:** The park at the entrance of Groendal;
 14. **Idas Valley:** The portion of land at the corner of Helshoogte and Rustenburg Road.
 15. **Cloetesville:** A portion of the parking area next to the Filling Station in Lang Street

The By-law as alluded to is applicable to the proposed sites listed under 1 to 5 above and clause 2(b)(i) to (iii) of the By-law should be deleted prior to proclaiming the abovementioned sites under 1 to 4 as sites identified for possible informal trading. The sites listed under 5 to 6 above are however not affected by clause 2(b)(i) to (iii) of the By-law.

4. COMMENTS BY RELEVANT DEPARTMENTS

4.1 Financial Services

The recommendations are supported.

4.2 Strategic and Corporate Services

Legal Department

The Legal Department support the proposal listed under number 2 to 4 of this item, except for the proposal under number 1 thereof relating to a portion of the Braak along Blom Street in Stellenbosch. The propose site was one of two sites (previously site 6 and 7) of the By-law which was de-proclaimed on 25 October 2012 by Council after a duly public participation process was followed.

Various complaints were received from *inter alia* the Rhenish Church regarding the informal traders who occupied site 6 which were duly considered by the Municipal Council. The previous site 6 is situated next to the Rhenish Church in Bird Street while site 7 is situated in front of the Rhenish Church.

We are of the view that the proclamation of previous site 7 cannot be supported by this department as this site is situated in front of the Rhenish Church and we are of the view that the presence of informal traders will have a negative effect on the church and its operation. Blom Street is also a very short street and the presence of informal traders in Blom Street might also possibly affect traffic flow. Furthermore the Rhenish Church might perceive the re-proclamation of site 7 with possibly racial connotation. In this regard we concur with the view express by the Law Enforcement Department.

Be that as it may, we suggest that a portion of the Braak opposite Nedbank at Bird Street or a portion of the Braak opposite the "Kruit Huis" be considered as a site which should be utilized for this purpose. This portion is situated approximately between the two churches and would not have a negative

effect on the churches and its operations as the propose site in front of the Rhenish Church or in Blom Street.

Alternatively the pedestrian footpath in the middle of the Braak is considered for possible sites for purposes of informal trading. The informal traders craft are largely intended for the tourist market. The busses which convey these tourist parks opposite the "Kruit Huis" and these sites would be visible and accessible for tourist whilst absolute minimum impact on both churches and the general public.

The propose site/s are temporary in nature until the finalization of a By-law and policy and will not be permanent. Furthermore a condition should be incorporated should this proposal be considered or approved that the Braak is also utilized for other events, which would result that these sites would for certain periods not be available for informal trading.

4.2 Planning & Development

Department Spatial Planning, Heritage and Environment

1. Stellenbosch: A portion of the Braak along Blom Street

This department supports the above area as an interim measure until such time the integrated Informal Trading policy and by-law have been approved.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

This department supports the above area as an interim measure until such time the integrated Informal Trading policy and by-law have been approved.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

This department supports the site identified to be used for informal trading.

4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

This department supports the site identified to be used for informal trading.

Land Use Management

Comments on the proposed amendment of the bylaw for the supervision of street vendor, pedlar or hawker PN 166/1998 as well as the bylaw for the declaration of places where the carrying on of the business of street vendor, pedlar and hawker is prohibited (PN 189/1998)

1. Stellenbosch: A portion of the Braak along Blom Street

No objection subject that only arts and crafts being sold

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

No objection subject that only arts and crafts being sold

-
3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

No objection

4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

No objection

4.3 Engineering Services

Comments from Transport, Roads and Stormwater section, including Traffic Engineering:

1. Stellenbosch: A portion of the Braak along Blom Street

Location is supported subjected to the following conditions;

1. Structures to be erected at least 2m behind the existing kerbline
2. Structures must not obscure any traffic signs.
3. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements.
4. Structures to be erected at least 1m away from existing municipal services such as manholes, poles etc.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

Location is supported subjected to the following conditions;

1. Structures to be erected at least 2m behind the existing kerbline.
2. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements. Sidewalk space is also required in front of buildings. A site inspection can identify the side walk space required.
3. Side walk space may not be used for informal trading.
4. Structures must not obscure any traffic signs.
5. Structures to be erected at least 1m away from existing municipal services such as manholes, poles ect.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

Location is supported subjected to the following conditions;

1. Site forms part of future Bird Street widening, approval will be temporary and will be withdrawn once road construction commences.
2. This space is also currently used as an informal taxi rank. Informal trading should not interfere with taxi operations. As a result of the taxi

operations the safety of informal traders must be taken into account when determining the final position of stalls and other structures.

3. Structures to be erected at least 1.5m behind the existing kerbline.
 4. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements.
 5. Structures must not obscure any traffic signs
 6. Structures to be erected at least 1m away from existing municipal services such as manholes, poles ect.
4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

Location is supported subjected to the following conditions;

1. Structures to be erected at least 1.5m behind the existing kerbline.
2. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements.
3. This space is also currently used as an informal taxi rank. Informal trading should not interfere with taxi operations. As a result of the taxi operations the safety of informal traders must be taken into account when determining the final position of stalls and other structures.
4. Structures must not obscure any traffic signs
5. Structures to be erected at least 1m away from existing municipal services such as manholes, poles etc.

4.4 Community and Protection Services

Law Enforcement

1. Stellenbosch: A portion of the Braak along Blom Street

This department does not support the above area as an interim measure as the proposed site will be directly in front of Die Rynse Kerk negatively impacting on church services especially with funerals on Saturdays. This site is one of the two sites which were recently de-proclaimed as a result of complaints received over years from the church.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

This department supports the above area as an interim measure until such time the integrated Informal Trading policy and by-law have been approved.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

This department supports the site identified to be used for informal trading.

-
4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

This department supports the site identified to be used for informal trading.

Traffic Services

1. Stellenbosch: A portion of the Braak along Blom Street

The department supports location only as interim measure until new sites are identified and By-law revised due to current lack of parking in general Stellenbosch CBD.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

No objection and agree to requirements as set by Engineering Department.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

No objection and agree to requirements as set by Engineering Department and in addition propose investigation to traffic calming measures with an intended increase to vehicular traffic at proposed site.

4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

No objection and agree to requirements as set by Engineering Department.

RECOMMENDED

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker; and
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

SPECIAL PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE MEETING: 2013-11-12: ITEM 6.1.2

During deliberations the DA requested a caucus, which the Chairperson allowed.

After the meeting resumed, it was

RECOMMENDED

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker;
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council;
- (c) that the amendment to the various By-laws and all trading sites except the portion of the Braak along Blom Street, be advertised for public and internal comment whereafter same be re-submitted to Council; and
- (d) that the Beyers alley in the CBD (Eikestad Mall) also be included in partnership with land owners.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

MAYORAL COMMITTEE MEETING: 2013-11-27: ITEM 5.1.5**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Walker;
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council; and
- (c) that the amendment to the various By-laws and all trading sites except the portion of Die Braak along Blom Street, be advertised for public and internal comment whereafter same be re-submitted to Council; and
- (d) that the Beyers alley in the CBD (Eikestad Mall) also be included in partnership with land owners.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

17TH COUNCIL MEETING: 2014-01-16: ITEM 7.7**RESOLVED** (nem con)

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Walker;
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council;
- (c) that the amendment to the various By-laws and all trading sites except the portion of Die Braak along Blom Street, be advertised for public and internal comment whereafter same be re-submitted to Council; and
- (d) that the Beyers alley in the CBD (Eikestad Mall) also be included in partnership with land owners.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)****FUTHER COMMENTS BY THE DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT**

Subsequent to the resolution as contemplated above further comments by the relevant departments (**APPENDIX 6**) and from the broader public (**APPENDIX 7**), as well a summary (**APPENDIX 8**), are attached herewith.

The additional sites proposed for approval will result in approximately 106 trading opportunities.

RECOMMENDED

- (a) that Council approve the amendments to the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) by removing the following restrictive clauses:

On a verge contiguous to –

- (iv) a building belonging to, or occupied solely by, the State or the local authority;
 - (v) a church or other place of worship, or
 - (vi) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).
- (b) that any concerns or inadequacies regarding the identification of proposed sites be addressed in the single Informal Trading By-law for the WCO24 which is now in its conceptual phase.

- (c) that, based on the comments received from the public as well as the internal departmental comments provided, the following proposed additional sites be proclaimed as informal trading areas:

Town/Township	Specific locality
Stellenbosch	Site opposite Telkom Building next to the Magistrate Court
Kayamandi	<ol style="list-style-type: none"> 1. Open space along Bird Street near the bridge in the direction of Kayamandi 2. Site opposite the old municipal building 3. A piece of land near Watergang; and 4. Informal trading site opposite the KETC
Pniel	Parking site next to the municipal offices
Kylemore	Erf 11 next to clinic in School Street
Franschhoek	<ol style="list-style-type: none"> 5. Pavement along Church Street next to the Municipal Offices 6. The park at the entrance to Groendal
Ida's Valley	Portion of land at the corner of New Helshoogte and Rustenburg Road
Cloetesville	A portion of the parking area next to the Filling Station in Long Street

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2015-12-01: ITEM 5.1.2

RECOMMENDED (majority vote with 3 abstentions)

- (a) that Council approve the amendments to the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) by removing the following restrictive clauses:

On a verge contiguous to –

- (vii) a building belonging to, or occupied solely by, the State or the local authority;
 - (viii) a church or other place of worship, or
 - (ix) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).
- (b) that any concerns or inadequacies regarding the identification of proposed sites be addressed in the single Informal Trading By-law for the WCO24 which is now in its conceptual phase.
- (c) that, based on the comments received from the public as well as the internal departmental comments provided, the following proposed additional sites be proclaimed as informal trading areas:

Town/Township	Specific locality
Stellenbosch	Site opposite Telkom Building next to the Magistrate Court
Kayamandi	<ol style="list-style-type: none"> 1. Open space along Bird Street near the bridge in the direction of Kayamandi 2. Site opposite the old municipal building 3. A piece of land near Watergang; and 4. Informal trading site opposite the KETC
Pniel	Parking site next to the municipal offices
Kylemore	Erf 11 next to clinic in School Street
Franschhoek	<ol style="list-style-type: none"> 5. Pavement along Church Street next to the Municipal Offices 6. The park at the entrance to Groendal
Ida's Valley	Portion of land at the corner of New Helshoogte and Rustenburg Road
Cloetesville	A portion of the parking area next to the Filling Station in Long Street

Councillor F Adams requested that his vote of dissent be minuted.

**(DIRECTOR: PLANNING AND ECONOMIC
DEVELOPMENT TO ACTION)**

MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.4

RECOMMENDED BY THE EXECUTIVE MAYOR

KINDLY NOTE: The Mayco recommendation will be distributed under separate cover at the Council meeting on 2016-01-27.

APPENDIX 1

22 Augustus 1997

Provinsie Wes-Kaap: Provinsiale Koerant 5165

651

P.K. 291/1997

22 Augustus 1997

MUNISIPALITEIT STELLENBOSCH:

VERORDENING VIR DIE TOESIG EN BEHEER OOR DIE BEDRYF
VAN DIE BESIGHEID VAN STRAATHANDELAAR,
VENTER OF SMOUS

AANHEF

AANGESIEN erken word dat 'n behoefte bestaan om 'n omgewing te skep waarin die bedryf van die besigheid van informele handel in openbare strate en openbare plekke toegelaat word, onderworpe aan die regte van alle burgers soos vervat in die Grondwet van die Republiek van Suid-Afrika en die bepalings van die Wet op Besighede, 1991 (Wet 71 van 1991);

EN AANGESIEN erken word dat alle aktiewe deelnemers aan die Wes-Kaapse ekonomie hulle verbind tot die skepping van toestande wat straathandel kommersieel lewensvatbaar sal maak en tot die ekonomiese bedrywighede en groei van die Wes-Kaapse ekonomie sal bydrae;

EN AANGESIEN die Plaaslike Regering 'n instaatstellende omgewing vir informele handel moet skep deur die instelling van 'n jaarlikse begroting omramings vir inkomste en uitgawes te weerspieël wat spesifiek betrekking het op die voorsiening van basiese dienste en infrastruktuur;

EN AANGESIEN daar 'n gepaardgaande verpligting op die informele sektor rus om ten volle deel te neem aan die ekonomiese groei van die Provinsie en om by te dra tot die belastingbasis van die Provinsie;

WORD DAAR DERHALWE hierdie verordening afgekondig om die bedryf van daardie besigheid te vergemaklik en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

Woordomskrifings

1. In hierdie verordening, tensy uit die sinsverband anders blyk, het 'n woord of uitdrukking hierin vervat die betekenis wat in die Wet op Besighede, 1991 (Wet 71 van 1991), daaraan toegewys is, en beteken —

“beampte” —

- (a) 'n verkeersbeampte aangestel kragtens artikel 3 van die Padverkeerswet, 1989 (Wet 29 van 1989);
- (b) 'n lid van die Mag soos omskryf in artikel 1(1) van die Polisiewet, 1958 (Wet 7 van 1958);
- (c) 'n vredesbeampte beoog in artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977), of
- (d) 'n Omgewingsgesondheidsbeampte in diens van die plaaslike owerheid.

“die Wet” die Wet op Besighede, 1991 (Wet 71 van 1991);

“eiendom” met betrekking tot 'n straathandelaar, geld, goedere, 'n houër, 'n voertuig of 'n beweegbare struktuur wat gebruik word of bestem is om gebruik te word in verband met die bedryf van sy of haar besigheid as sodanig;

“oorlas” gedrag wat 'n toedrag van sake of toestand in die hand werk of in die hand kan werk wat 'n bron van gevaar vir ander persone of hul eiendom inhou of wat wesenlik inbreuk maak op hul gewone gemak, gerief, vrede of rus;

“openbare pad” enige pad, straat, deurgang of enige ander plek (hetsy 'n deurgang of nie) wat gewoonlik deur die publiek of 'n deel daarvan gebruik word of waartoe die publiek of enige deel daarvan 'n reg van toegang het, en sluit ook in —

- (a) die soom van enige sodanige pad, straat of deurgang;
- (b) enige brug, pont of drif waaroor of waardeur enige sodanige pad, straat of deurgang loop, en
- (c) enige ander werk of voorwerp wat 'n deel uitmaak van of verbind is met of behoort tot sodanige pad, straat of deurgang;

“openbare plek” 'n plein, park, ontspanningsterrein, sportterrein, nagsteeg of oop ruimte wat —

P.N. 291/1997

22 August 1997

STELLENBOSCH MUNICIPALITY:

BY-LAW FOR THE SUPERVISION AND CONTROL OF THE
CARRYING ON OF THE BUSINESS OF STREET VENDOR,
PEDLAR OR HAWKER

PREAMBLE

WHEREAS it is recognised that there is a need to create an environment in which the carrying on of the business of informal trading is permitted in public streets and public places subject to the rights of all citizens as contained in the Constitution of the Republic of South Africa and the provisions of the Businesses Act, 1991 (Act 71 of 1991);

AND WHEREAS it is recognised that all active participants in the Western Cape economy are committed to creating conditions that will make street trading commercially viable and contribute to the economic activity and growth of the Western Cape economy;

AND WHEREAS Local Government shall create an enabling environment for informal trading by the establishment of an annual budget reflecting the estimates of revenue and expenditure relating specifically to the provision of basic services and infrastructure;

AND WHEREAS there shall be a concomitant duty on the informal sector to participate fully in the economic growth of the Province and contribute to the tax base of the Province;

NOW THEREFORE this by-law is promulgated to facilitate the carrying on of that business and to provide for matters incidental thereto.

Definitions

1. In this by-law, unless the context indicates otherwise, a word or an expression contained herein shall have the meaning assigned thereto in the Businesses Act, 1991 (Act 71 of 1991), and —

“litter” means any receptacle, container or other object or matter discarded or abandoned by a street trader or his or her customers;

“local authority” means the local authority of Stellenbosch and includes a committee or an employee of the local authority exercising powers or performing duties or functions delegated by the local authority;

“nuisance” means conduct which brings about or may bring about circumstances or conditions which constitute a source of danger to others or their property or which materially interfere with their ordinary comfort, convenience, peace or quiet;

“officer” means —

- (a) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act 29 of 1989);
- (b) a member of the Force as defined in section 1(1) of the Police Act, 1958 (Act 7 of 1958);
- (c) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), or
- (d) an Environmental Health Officer employed by the local authority;

“property” in relation to a street trader, means money, goods, a receptacle, a vehicle or a movable structure used or intended to be used in connection with the carrying on of his or her business as such;

“public place” means a square, a park, recreation grounds, sports grounds, a sanitary lane or an open space which has or have —

- (a) in connection with a subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of those erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;

(a) in verband met 'n onderverdeling of uitleg van grond in erwe, standplase of boupersele voorsien, gereserveer of opsy gesit is vir gebruik deur die publiek of die eienaars of bewoners van daardie erwe, standplase of boupersele, ongeag of dit op 'n algemene plan, onderverdelingsplan of diagram aangetoon word al dan nie;

(b) te eniger tyd aan die publiek opgedra is;

(c) te eniger tyd deur 'n plaaslike owerheid of 'n ander bevoegde gesag tot openbare plek verklaar of 'n openbare plek gemaak is;

“plaaslike owerheid” die plaaslike owerheid van Stellenbosch en sluit dit 'n komitee of werknemer van die plaaslike owerheid in wat bevoegdheid, pligte of werksaamhede uitoefen soos deur die plaaslike owerheid gedelegeer;

“rommel” enige houder of ander voorwerp of materiaal wat 'n straathandelaar of sy of haar klante weggooi of agterlaat;

“straathandel” ook die verkoop van goedere of die lewering van 'n diens of die aanbied van 'n diens teen vergoeding as straathandelaar in 'n openbare pad of openbare plek, maar sluit dit nie die verkoop van koerante alleen in nie;

“straathandelaar” 'n persoon wat die besigheid van straathandelaar, venter of smous bedryf en dit sluit 'n werknemer van sodanige persoon in, en vir die toepassing van hierdie verordening sluit dit 'n persoon in wat in 'n openbare pad of openbare plek handel dryf, en

“sypaadjie” daardie gedeelte van 'n soom wat uitsluitlik vir die gebruik van voetgangers bedoel is.

Algemene gedrag

2. 'n Persoon wat die besigheid van straathandelaar bedryf —

(a) mag nie sy of haar eiendom op 'n openbare pad of openbare plek plaas nie, behalwe met die doel om handel te begin dryf of te dryf;

(b) moet verseker dat sy of haar eiendom op 'n openbare pad of openbare plek nie 'n oppervlakte van meer as 3 m lank en 2 m breed beslaan nie; met dien verstande dat in gebiede waar voldoende ruimte beskikbaar is, die afmetings toeneem tot 4 m lank en 2 m breed;

(c) mag nie toegang tot 'n brandkraan of enige ander aangewysde fasiliteit of gebied versper wat slegs vir die gebruik van noodvoertuie en nooddienste afgebaken is nie;

(a) mag nie die besigheid van straathandelaar bedryf op 'n soom aangrensend aan —

(i) 'n kerk of ander plek van aanbidding nie, of

(ii) 'n gebou wat kragtens die Wet op Nasionale Gedenkwaardighede, 1969 (Wet 28 van 1969), tot nasionale gedenkwaardigheid, verklaar is nie;

behalwe in soverre die bedryf van daardie besigheid toegelaat word deur 'n kennisgewing of teken wat deur die plaaslike owerheid opgerig of vertoon word;

(e) mag nie die besigheid van straathandelaar op daardie helfte van 'n openbare pad aangrensend aan 'n gebou wat vir residensiële doeleindes gebruik word, bedryf nie, indien die eenaar of persoon in beheer of enige bewoner van die gebou daarteen beswaar maak;

(f) mag nie die besigheid van straathandelaar bedryf op 'n plek waar dit voetgangers se gebruik van 'n sypaadjie wesenslik verhoed nie;

(g) mag nie die besigheid van straathandelaar bedryf op 'n plek waar dit voertuigverkeer belemmer nie;

(h) mag nie die besigheid van straathandelaar bedryf nie op 'n plek waar dit 'n versperring veroorsaak voor —

(i) 'n ingang tot of uitgang uit 'n gebou, of

(ii) 'n brandkraan;

(b) at any time been dedicated to the public;

(c) at any time been declared or rendered a public place by the local authority or another competent authority;

“public road” means any road, street, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof or to which the public or any section thereof has right of access and includes —

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“sidewalk” means that portion of a verge intended for the exclusive use of pedestrians;

“street trader” means a person who carries on the business of a street vendor, pedlar or hawker and includes an employee of such a person and shall, for the purposes of this by-law, include such a person who trades in a public road or public place;

“street trading” includes the selling of goods or the supplying or suffering to supply a service for reward as a street trader in a public road or public place but does not include the sale of newspapers only, and

“the Act” means the Businesses Act, 1991 (Act 71 of 1991).

General conduct

2. A person carrying on the business of street trader shall —

(a) not place his or her property on a public road or public place except for the purpose of commencing and conducting trade;

(b) ensure that his or her property does not on a public road or public place cover an area of which is greater than 3 m in length and 2 m in width; provided that in areas where adequate space is available these space dimensions may be increased to 4 m in length and 2 m in width;

(c) not obstruct access to a fire hydrant or any other designated facility or area demarcated solely for the use of emergency vehicles and services;

(d) not carrying on the business of street trader on a verge contiguous to —

(i) a church or other place of worship, or

(ii) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969),

except to the extent that the carrying on of that business is permitted by a notice or sign erected or displayed by the local authority;

(e) not carry on the business of street trader on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects to it;

(f) not carry on the business of street trader at a place where it substantially obstructs pedestrians in their use of a sidewalk;

(g) not carry on the business of street trader at a place where it causes an obstruction to vehicular traffic;

(h) not carry on the business of street trader at a place where it causes an obstruction in front of —

(i) an entrance to or exit from a building, or

(ii) a fire hydrant;

- (i) mag nie die besigheid van straat-handelaar bedryf op 'n staanplek of in 'n gebied in artikel 6A(3)(b) van die Wet beoog nie indien hy of sy nie in besit is van skriftelike bewys dat hy of sy daardie staanplek of gebied van die plaaslike owerheid gehuur het of dat dit anders aan hom of haar toegewys is nie; en
- (j) mag nie die besigheid van straat-handelaar bedryf in stryd met die bedinge en voorwaardes van die huurkontrak of toewysing aan hom of haar van 'n staanplek ingevolge artikel 6A(3)(c) van die Wet nie.

Algemene beperkings

3. 'n Persoon wat die besigheid van straat-handelaar bedryf mag nie —

(a) waar die besigheid in 'n openbare pad of openbare plek bedryf word —

- (i) oornag op die plek van die besigheid, of
- (ii) 'n struktuur oprig met die doel om beskutting te voorsien,

sonder die voorafverkreë skriftelike toestemming van die plaaslike owerheid nie. 'n Persoon wat veronreg voel deur 'n besluit van die plaaslike owerheid wat ingevolge hierdie bepaling handel, het die reg om binne 30 dae vanaf skriftelike kennisgewing van daardie besluit by die erkende Appèlkomitee van die plaaslike owerheid te appelleer;

(b) besigheid op so 'n wyse bedryf dat dit —

- (i) die oppervlak van 'n openbare pad of 'n openbare plek of openbare of private eiendom beskadig of skend nie, of
- (ii) 'n gevaar vir verkeer veroorsaak nie;

(c) rommel op grond of 'n perseel of op 'n openbare pad of openbare plek opgaar, stort, opberg of agterlaat, of laat opgaar, stort, opberg of agterlaat of toelaat dat dit gedoen word nie, behalwe in 'n vullishouer wat deur die plaaslike owerheid goedgekeur of voorsien is;

(d) toegang tot 'n diens of dienswerke van die plaaslike owerheid versper nie;

(e) toegang tot 'n voetgangerarkade of winkellaan versper nie;

(f) toegang tot 'n voetganger-, parkeer- of laaivakke of ander geriewe vir voertuigverkeer of voetgangerverkeer versper nie;

(g) toegang tot of die gebruik van straattoebehore, soos banke, skuilings of toustaanplekke vir buspassasiers, of vullishouers en ander geriewe wat vir die gebruik van die algemene publiek bedoel is, versper nie, of

(h) 'n padverkeersteken kragtens die Padverkeerswet, 1989 (Wet 29 van 1989), en die regulasies daarkragtens uitgevaardig of enige merk, kennisgewing of teken kragtens hierdie verordening vertoon of gemaak, versper nie.

Sindelikheid en beskerming van openbare gesondheid

4. (1) Elke straat-handelaar moet —

(a) sy of haar besigheid op so 'n wyse bedryf dat dit nie vir die openbare gesondheid of openbare veiligheid 'n gevaar of bedreiging inhou nie;

(b) op versoek van 'n werknemer van die plaaslike owerheid sy of haar eiendom verskuif ten einde toe te laat dat die oppervlak van die staanplek of perseel waar hy of sy handel dryf, skoongemaak kan word;

(c) die staanplek of gebied wat hy of sy vir die doel van sy of haar besigheid gebruik, asook sy of haar eiendom, in 'n skoon en higiëniese toestand en rommelvry hou; en

(d) indien sy of haar bedrywighede die kook of ander bereiding van voedingsmiddele behels, stappe doen om te verseker dat geen vet, olie of iets anders op die oppervlak van 'n openbare pad of openbare plek drup of stort, of teen 'n gebou of ander struktuur spat nie.

(i) not carry on the business of street trader at a stand or in an area contemplated in section 6A(3)(b) of the Act if he or she is not in possession of written proof of having hired that stand or area from the local authority or that it has otherwise been allocated to him or her; and

(j) not carry on the business of street trader in contravention of the terms and conditions of the lease or allocation to him or her of a stand in terms of section 6A(3)(c) of the Act.

General restrictions

3. A person carrying on the business of street trader shall not —

(a) if the business is carried on in a public road or public place —

- (i) sleep overnight at the place of the business, or
- (ii) erect a structure for the purpose of providing shelter,

without the prior written approval of the local authority. A person who feels aggrieved by a decision taken by the local authority acting in terms of this provision shall have the right to appeal to the recognised Appeal Committee of the local authority within 30 days of written notice of that decision;

(b) carry on the business in a manner as to —

- (i) damage or deface the surface of a public road or a public place or public or private property, or
- (ii) create a traffic hazard;

(c) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited litter on land or premises or on a public road or public place other than in a refuse receptacle approved or provided by the local authority;

(d) obstruct access to a local authority service or service works;

(e) obstruct access to a pedestrian arcade or mall;

(f) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;

(g) obstruct access to or the use of street furniture such as bus passenger benches or shelters and queuing lines, refuse disposal bins and other facilities designed for the use of the general public, or

(h) obscure a road traffic sign displayed in terms of the Road Traffic Act, 1989 (Act 29 of 1989), and the regulations made thereunder or any marking, notice or sign displayed or made in terms of this by-law.

Cleanliness and protection of public health

4. (1) Every street trader shall —

(a) carry on his or her business in a manner as not to be a danger or threat to public health or public safety;

(b) at the request of an employee of the local authority move his or her property in order to permit the cleaning of the surface of the area or of the site where he or she is trading;

(c) keep the stand or area occupied by him or her for the purpose of his or her business as well as his or her property in a clean and sanitary condition and free of litter; and

(d) if his or her activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of a public road or public place or splashes against a building or other structure.

(2) Die plaaslike owerheid moet —

- (a) verseker dat persele waar straathandelaars handel dryf op 'n gereelde grondslag skoongemaak en gereinig word;
- (b) houers op die persele voorsien ten einde die wegdoen van rommel deur die straathandelaars te vergemaklik, en
- (c) verseker dat die houers op 'n gereelde grondslag leegmaak word ten einde die skoonmaak van handelspersele te vergemaklik.

Handeldryf in parke en tuine

5. Geen straathandelaar mag handel dryf in 'n tuin of park waartoe die publiek die reg op toegang het nie, behalwe met die voorafverkreë skriftelike goedkeuring van die plaaslike owerheid, en goedkeuring mag nie sonder 'n goeie rede geweier word nie en kan onderworpe aan sekere voorwaardes verleen word.

Voorwerpe gebruik vir vertoning van goedere

6. 'n Straathandelaar moet verseker dat enige struktuur, houer, oppervlak of ander voorwerp wat hy of sy vir die voorbereiding, vertoning, opberging of vervoer van goedere gebruik —
- (a) in 'n goeie, skoon en higiëniese toestand gehou word, en
 - (b) nie op so 'n wyse geplaas of opgestapel word dat dit 'n gevaar vir enige persoon of die moontlike besering van enige persoon inhou nie.

Verwydering en skut

7. (1) Indien 'n persoon wat die besigheid van straathandelaar bedryf, versuim of weier om te voldoen aan 'n skriftelike versoek, waarvan die inhoud aan hom of haar verduidelik is, om sy of haar eiendom te verskuif of te verwyder, of daardie eiendom vir 'n tydperk van meer as agt uur sonder toesig laat, kan 'n beampte eiendom verwyder of skut —
- (a) wat hy of sy redelikerwyse vermoed gebruik word of bestem is om gebruik te word of gebruik is in verband met die bedryf van die besigheid van straathandelaar, en
 - (b) wat hy of sy op 'n plek vind waar die bedryf van daardie besigheid ingevolge hierdie verordening beperk of verbied word en wat na sy of haar mening op 'n oortreding van hierdie verordening neerkom.
- (2) 'n Beampte wat ingevolge hierdie artikel handel, moet —
- (a) behalwe in die geval van goedere wat agtergelaat of weggegooi is, onmiddellik 'n gedetailleerde ontvangsbewys vir eiendom wat op die wyse verwyder en geskut is, aan die persoon wat die besigheid van straathandelaar bedryf, uitreik, en die kwitansie moet voldoende inligting bevat oor waar die eiendom geskut word en die prosedure vir die terugreis van daardie eiendom, en
 - (b) onmiddellik daardie eiendom aan die plaaslike owerheid besorg.
- (3) Eiendom wat verwyder of geskut word soos in artikel 6A van die Wet beoog —
- (a) kan, in die geval van bederfbare eiendom, binne 'n redelike tydperk na die skut daarvan deur die plaaslike owerheid verkoop of vernietig word; met dien verstande dat die eiendom, behoudens die bepalinge van subartikel (4), te eniger tyd voordat daarvoor beskik word, aan die eienaar terugbesorg kan word op versoek van en bewys van eienaarskap deur die eienaar aan die plaaslike owerheid, en
 - (b) moet, behoudens die bepalinge van subartikel (4), in die geval van ander eiendom as bederfbare eiendom, binne 'n tydperk van een maand vanaf die datum van skut aan die eienaar terugbesorg word op versoek van en bewys van eienaarskap deur die eienaar aan die plaaslike owerheid.

(2) The local authority shall —

- (a) ensure that the sites on which the street traders trade are cleaned and sanitised on a regular basis;
- (b) provide receptacles on the sites in order to facilitate the disposal of litter by the street traders; and
- (c) ensure that the receptacles are emptied on a regular basis in order to facilitate the cleaning of trading sites.

Trading in parks and gardens

5. No street trader shall carry on business in a garden or park to which the public has the right of access except with the prior written approval of the local authority, which approval shall not be unreasonably withheld and may be granted subject to certain conditions.

Objects used for display of goods

6. A street trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods —
- (a) is maintained in a good state of repair and in a clean and sanitary condition, and
 - (b) is not so placed or stacked as to constitute a danger to any person or as to be likely to injure any person.

Removal and impoundment

7. (1) If a person carrying on the business of street trader fails or refuses to comply with a written request, the content of which has been explained to him or her, to move or remove his or her property, or leaves that property unsupervised for a period of more than eight hours, an officer may remove and impound property —
- (a) which he or she reasonably suspects is being used or is intended to be used or has been used in or in connection with the carrying on of the business of street trader, and
 - (b) which he or she finds at a place where the carrying on of that business is restricted or prohibited in terms of this by-law, and which in his or her opinion constitutes an infringement of this by-law.
- (2) An officer acting in terms of this section shall —
- (a) except in the case of goods which have been left or discarded, immediately issue to the person carrying on the business of street trader a detailed receipt for property so removed and impounded, which receipt shall contain adequate information as to where the property will be impounded and the procedure for reclaiming that property, and
 - (b) immediately deliver that property to the local authority.
- (3) Property removed and impounded as contemplated in section 6A of the Act —
- (a) may, in the case of perishable property, be sold or destroyed by the local authority within a reasonable time after its impoundment; provided that the property shall, subject to the provisions of subsection (4), at any time prior to its disposal, be returned to the owner at the request of and on proof of ownership by the owner to the local authority; and
 - (b) shall, subject to the provisions of subsection (4), in the case of property other than perishable property, be returned to the owner at the request of and on proof of ownership by the owner to the local authority within a period of one month from the date of impoundment.

- (4) Die plaaslike owerheid is daarop geregtig om die eiendom te behou totdat alle redelike uitgawes aan die plaaslike owerheid betaal is, en by versuim daarvan kan die eiendom verkoop word of, in die geval van bederfbare goed, deur die plaaslike owerheid óf verkoop óf vernietig word.
- (5) In die geval van die verkoop van geskutte eiendom deur die plaaslike owerheid, moet die opbrengs van die verkoping minus die redelike uitgawes deur die plaaslike owerheid aangegaan ten opsigte van die verwydering of skut van of die beskikking oor die eiendom, betaal word aan die persoon wat die eienaar van die eiendom was toe dit geskut is. Indien die eienaar in gebreke bly om die opbrengs binne drie maande van die datum waarop die eiendom verkoop is op te eis, word die opbrengs aan die plaaslike owerheid verbeur en in 'n spesiale fonds gestort wat die plaaslike owerheid ingestel het vir die ontwikkeling van die informele sektor en verwante aangeleenthede.
- (6) As die opbrengs van 'n verkoping van eiendom in hierdie artikel beoog, nie voldoende is om die redelike uitgawes te dek wat die plaaslike owerheid aangegaan het in verband met die eiendom nie, is die eienaar van die eiendom wat verwyder en geskut is of waarvoor beskik is soos hierin beoog, aanspreeklik vir alle redelike uitgawes deur die plaaslike owerheid aangegaan in verband met die verwydering, skut of beskikking daaroor.

Appèlle

8. (1) 'n Persoon wat veronreg voel deur die besluit van die plaaslike owerheid kan by 'n appèlkomitee appelleer in ooreenstemming met die bepalinge hierin uiteengesit.
- (2) 'n Persoon wat veronreg voel deur die besluit van die plaaslike owerheid moet die plaaslike owerheid binne 10 dae nadat hy of sy die kennisgewing ontvang het, die plaaslike owerheid skriftelik in kennis stel van sy of haar voorneme om teen die besluit te appelleer.

Samestelling van Appèlkomitee

9. (1) Die Lid van die Uitvoerende Raad verantwoordelik vir Ekonomiese Aangeleenthede kan, met die medewerking van die plaaslike owerheid, verteenwoordigers van die informele handelaars en enige ander belanghebbende persone, as lede van die Appèlkomitee aanwys.
- (2) Die Appèlkomitee moet bestaan uit 'n maksimum van vyf lede met minstens een lid uit die straatsektor.
- (3) Die lede van die Appèlkomitee moet twee lede aanstel om onderskeidelik as voorsitter en ondervoorsitter te dien.
- (4) Wanneer die voorsitter nie in staat is om die werksaamhede van voorsitter uit toe voer nie, moet die ondervoorsitter die werksaamhede van voorsitter uitvoer.
- (5) As die voorsitter van mening is dat 'n bepaalde persoon in staat is om die Appèlkomitee behulpsaam te wees, kan hy of sy daardie persoon vir daardie doel koöpteer.
- (6) 'n Persoon wat aldus gekoöpteer is, is nie geregtig om op 'n vergadering van die Appèlkomitee te stem nie.
- (7) Die voorsitter moet die veronregte persoon binne 10 dae vanaf ontvangs van die kennisgewing van appèl verwittig van die datum, tyd en plek van die vergadering van die Appèlkomitee waar sy of haar teenwoordigheid vereis word.
- (8) Die veronregte persoon wat ingevolge subartikel (7) kennis ontvang het, moet die vergadering persoonlik bywoon of 'n regsvertegenwoordiger of enige ander persoon aanstel om namens hom of haar te verskyn.

Prosedure op appèlvergaderings

10. (1) Die voorsitter bepaal die prosedure op die vergadering.
- (2) Al die lede moet op die vergadering van die Appèlkomitee teenwoordig wees.
- (3) Enige persoon wat die vergadering bywoon, kan —

- (4) The local authority shall be entitled to keep the property until all reasonable expenses have been paid to it, failing which the property may be sold or, in the case of perishable goods, either be sold or destroyed by the local authority.
- (5) In the case of a sale of impounded property by the local authority, the proceeds of the sale less the reasonable expenses incurred by the local authority in connection with the removal, impoundment or disposal of the property shall be paid to the person who was the owner of the property when it was impounded. If the owner fails to claim the proceeds within three months of the date on which the property was sold, the proceeds shall be forfeited to the local authority and shall be paid into a special fund created by the local authority dedicated to the development of the informal sector and matters ancillary thereto.
- (6) If the proceeds of a sale of property contemplated in this section is not sufficient to defray the reasonable expenses incurred by the local authority in connection with the property, the owner of the property which has been removed and impounded or disposed of, as contemplated, shall be liable for all reasonable expenses incurred by the local authority in connection with the removal, impoundment or disposal.

Appeals

8. (1) A person who feels himself or herself aggrieved by the decision of the local authority may appeal against the decision to an appeal committee in accordance with the provisions set out herein.
- (2) A person who feels himself or herself aggrieved by the decision of the local authority shall notify the local authority of his or her intention to appeal against the decision in writing within 10 days of having received notification of the local authority's decision.

Constitution of Appeal Committee

9. (1) The Member of the Executive Council responsible for Economic Affairs may, with the concurrence of the local authority, representatives of the informal traders and any other interested person, designate persons as members of the Appeal Committee.
- (2) The Appeal Committee shall consist of a maximum of five members with at least one member from the street-trading sector.
- (3) The members of the Appeal Committee shall appoint two members to act as chairperson and a vice-chairperson.
- (4) When the chairperson is unable to perform the function of chairperson, the vice-chairperson shall perform the function of chairperson.
- (5) If the chairperson is of the opinion that a particular person is able to assist the Appeal Committee, he or she may co-opt that person for that purpose.
- (6) A person so co-opted shall not be entitled to vote at a meeting of the Committee.
- (7) The chairperson shall notify the aggrieved person of the date, time and place of the meeting of the Appeal Committee at which his or her presence is required within 10 days of receipt of the notice of appeal.
- (8) The aggrieved person who has received notice in terms of subsection (7) shall personally appear at the meeting or appoint a legal representative or any other person to appear on his or her behalf.

Procedure at appeal meetings

10. (1) The chairperson shall determine the procedure at the meeting.
- (2) All members shall be present at the meeting of the Appeal Committee.
- (3) Any person present at the meeting may —

- (a) deur die voorsitter versoek word om getuienis af te lê;
- (b) deur die voorsitter versoek word om 'n dokument of ander eiendom in sy of haar besit of onder sy of haar beheer aan die Appèlkomitee voor te lê, of
- (c) deur die Appèlkomitee ondervra word oor die aangeleentheid wat voor die Komitee dien.
- (4) Die Appèlkomitee moet die besluit van die plaaslike owerheid hersien en 'n bevinding doen, met inagneming van die volgende:
- (a) of die besluit van die plaaslike owerheid in die omstandighede billik en regverdig was;
- (b) hoe die besluit die vermoë van die veronregte persoon om handel te dryf, sal raak, en
- (c) of alternatiewe maatreëls getref kan word om die veronregte persoon in staat te stel om sy of haar besigheid voort te sit.
- (5) 'n Besluit van die Appèlkomitee moet geneem word met 'n meerderheid van stemme van die lede wat op die vergadering teenwoordig is, en in die geval van 'n staking van stemme het die voorsitter 'n beslissende stem behewens sy of haar gewone stem.
- (6) Die Appèlkomitee kan, nadat hy die getuienis wat gelewer is, oorweeg het —
- (a) die appèl van die hand wys;
- (b) die appèl handhaaf, of
- (c) die ander stappe doen soos wat hy goeddink.
- (7) Die Appèlkomitee moet so gou doenlik —
- (a) die veronregte persoon skriftelik van sy besluit verwittig, en
- (b) die veronregte persoon van skriftelik redes vir die besluit voorsien.

Oortredings

11. (1) 'n Persoon wat —
- (a) 'n bepaling van hierdie verordening oortree of versuim om daaraan te voldoen;
- (b) 'n kennisgewing, teken of merk wat vir die toepassing van hierdie verordening vertoon of opgerig is, ignoreer, verontagsaam of nie gehoorsaam nie;
- (c) 'n goedkeuring of voorwaarde wat ingevolge hierdie verordening verleen of opgelê is, oortree of versuim om daaraan te voldoen;
- (d) versuim om te voldoen aan 'n skriftelike versoek om sy of haar eiendom te verskuif of te verwyder;
- (e) opsetlik vals of misleidende inligting aan 'n beampte of werknemer van die plaaslike owerheid verstrek, of
- (f) 'n beampte of werknemer van die plaaslike owerheid by die uitoefening of uitvoering van sy of haar bevoegdhede, pligte of werksaamhede dreig, teenstaan, hinder of dwarsboom,
- is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens eenduisend rand (R1 000) of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Herroeping van Regulasies

12. Die Regulasies insake Venters en Smouse, afgekondig in die Provinsiale Koerant by Provinsiale Kennisgewing 558 van 5 Oktober 1950, soos gewysig met P.K. 791/1955 en P.K. 465/1988, word hiermee herroep in soverre dit op die munisipale gebied van Stellenbosch betrekking het.

BYLAE VAN BEGINSELS

In ooreenstemming met die bepalings van die Wet op Besighede, 1991

- (a) be called upon by the chairperson to give evidence;
- (b) be called upon by the chairperson to produce to the Appeal Committee a document or other property which is in his or her possession or under his or her control, or
- (c) be questioned by the Appeal Committee on the matter before it.
- (4) The Appeal Committee shall review the decision of the local authority and make a finding, having regard to the following:
- (a) whether the decision of the local authority was fair and equitable in the circumstances;
- (b) how the decision will affect the aggrieved person's ability to trade, and
- (c) whether alternative measures may be adopted to enable the aggrieved person to continue his or her business.
- (5) A decision of the Committee shall be taken by a majority of votes of the members present at the meeting and if there is an equality of votes, the chairperson shall have a casting vote in addition to his or her deliberative vote.
- (6) The Appeal Committee, having considered the evidence presented, may —
- (a) refuse the appeal;
- (b) uphold the appeal, or
- (c) take any other steps that it may think fit.
- (7) The Appeal Committee shall as soon as is practicable —
- (a) notify the aggrieved person of its decision in writing, and
- (b) furnish the aggrieved person with written reasons for the decision.

Offences

11. A person who —
- (a) contravenes or fails to comply with a provision of this by-law;
- (b) ignores, disregards or disobeys a notice, sign or marking displayed or erected for the purposes of this by-law;
- (c) contravenes or fails to comply with an approval or a condition granted or imposed in terms of this by-law;
- (d) fails to comply with a written request to move or remove his or her property;
- (e) deliberately furnishes false or misleading information to an officer or employee of the local authority, or
- (f) threatens, resists, interferes with or obstructs an officer or employee of the local authority in the exercise or performance of his or her powers, duties or functions under this by-law,
- shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand (R1 000) or to imprisonment for a period not exceeding three months.

Repeal of regulations

12. The Regulations relating to Hawkers and Pedlars published in the Provincial Gazette under Provincial Notice 558 dated 5 October 1950, as amended by P.N. 791/1955 and P.N. 465/1988, are hereby repealed in so far as they apply to the municipal area of Stellenbosch.

SCHEDULE OF PRINCIPLES

In accordance with the provisions of the Businesses Act, 1991 (Act 71

(Wet 71 van 1991) en verordenings en regulasies ingevolge daarvan afgekondig, is die volgende beginsels van toepassing:

1. Daardie wetgewing moet 'n raamwerk voorsien ten einde straat-handelaars in staat te stel om as regmatige bydraers tot die ekonomiese aktiwiteit en groei van die Provinsie werksaam te wees.
2. Straathandelaars moet die vryheid hê om in 'n oop ekonomiese handel te dryf en 'n bestaan te maak as bydraers tot die ekonomie van die Provinsie.
3. Straathandelaars moet gelyke toegang tot markgeleenthede hê.
4. Straathandelaars moet as entrepreneurs wat meedoen aan formele ekonomiese bedrywighede, behandel word; die historiese agtergrond waaruit die sektor ontstaan het en die spesifieke logistiese probleme waarmee die sektor te kampe het, moet egter in gedagte gehou word.
5. Straathandelaars moet die vryheid van assosiasie hê en hulle tot liggame en organisasies van hul keuse kan konstitueer, op voorwaarde dat hulle formeel gekonstitueer word en erkende lidmaatskap het. Hierdie behoorlik gekonstitueerde liggame en organisasies moet deur die regering en ander sektore erken word.
6. Straathandelaars moet bydra tot die skepping van 'n ekonomie wat groei en uitbrei.
7. Straathandelaars moet bydra tot die bevordering van deelname aan die groei en ontwikkeling van die Wes-Kaapse ekonomie, met besondere aandag aan die bevordering van histories agtergeblewe entrepreneurs en groepe.
8. Straathandelaar moet bydra tot die skepping van lewensvatbare werksgeleenthede.
9. Straathandelaars moet bydra tot die beskerming van die omgewing en die behoorlike beplanning en ontwikkeling van die ekonomie van die Provinsie.
10. Straathandelaars moet binne die raamwerk van die wet werk en tot die belastingbasis van die Provinsie bydra.
11. Straathandelaars en plaaslike owerhede moet die beginsel van onderhandel en regverdigheid in die oplossing van konflik aanvaar.
12. Straathandelaars moet bydra tot die bevordering van 'n skoon en gesonde omgewing en die beskerming van die openbare gesondheid en veiligheid.

MUNISIPALITEIT STELLENBOSCH:

VERKLARING VAN PLEKKE WAAR DIE DRYF VAN DIE BESIGHEID VAN STRAATHANDELAAR, VENTER OF SMOUS VERBOD WORD

Kennis geskied hiermee ingevolge Artikel 6(A)(2)(h) van die Wet op Besighede, No 71 van 1991 soos gewysig deur Wet, No 186 van 1993 (Wysigingswet op Besighede, 1993) dat die Stelmarksentrum wandellaan, Beyersstraat wandellaan, die plek begrens deur albei kante van Merrimanlaan, Maraisstraat, Eersterivier, Plankenbrugrivier en Adam Tasweg in Stellenbosch, soos aangedui op die planne wat hierdie kennisgewing vergesel, gebiede is waarin die dryf van die besigheid van straat-handelaar, venter of smous verbied word, uitgesonderd die 9 staanplekke gemerk "Site 1" tot "Site 9", met 'n verdere uitsondering dat "Site 7" (mark op die Braak) slegs eenkeer per maand gereserveer word vir straat-handelaar, venter, smous/handwerk stalletjies en dat "Site 9" (Strandpad) gereserveer word vir straat-handelaar, venter, smous gedurende weksdae vanaf Maandag tot Saterdag tussen 09h00 tot 18h00.

Herroeping van Regulasies Provinsiale Kennisgewing Nr 101/1993, synde verklaring van Plekke waar die Dryf van die Besigheid van straat-handelaar, venter of smous, verbied is, word hiermee herroep in soverre dit op die munisipale gebied van Stellenbosch van toepassing is.

Hierdie kennisgewing tree met ingang van die datum van publikasie in die Offisiële Koerant in werking.

JP RETIEF
UITVOERENDE HOOF/STADSKLERK

of 1991), and the by-laws and regulations promulgated in terms thereof, the following principles shall apply:

1. That legislation shall provide a framework to allow street traders to operate as legitimate contributors to the economic activity and growth of the Province.
2. Street traders shall have the freedom to trade in an open economy and pursue a livelihood as contributors to the economy of the Province.
3. Street traders shall have equal access to market opportunities.
4. Street traders shall be treated as entrepreneurs engaged in formal economic activity; however, the historical background from which the sector has emerged and the specific logistical problems associated with the sector shall be borne in mind.
5. Street traders shall have the freedom to associate and constitute themselves into bodies and organisations of their choice, provided that they are formally constituted and have a recognised membership. These properly constituted bodies shall be recognised by government and other sectors.
6. Street traders shall contribute to the creation of a growing and expanding economy.
7. Street traders shall assist in the promotion of participation in the growth and development of the Western Cape economy with particular attention to the advancement of historically disadvantaged entrepreneurs and groups.
8. Street traders shall contribute to the creation of viable employment opportunities.
9. Street traders shall contribute to the protection of the environment and the proper planning and development of the economy of the Province.
10. Street traders shall operate within the legal framework and contribute to the tax base of the Province.
11. Street traders and local authorities shall accept the principle of negotiation and fairness in the resolution of conflict.
12. Street traders shall contribute to the promotion of a clean and healthy environment and the protection of public health and safety.

STELLENBOSCH MUNICIPALITY:

DECLARATION OF PLACES WHERE THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER IS PROHIBITED

Notice is hereby given in terms of Section 6(A)(2)(h) of the Business Act, No 71 of 1991 as amended by Act, No 186 of 1993 (Business Amendment Act, 1993), that the Stelmark Centre pedestrian mall, Beyers Street pedestrian mall, both sides of Merriman Avenue, Marais Street, Eerste River, Plankenbrug River and Adam Tas Road in Stellenbosch, as shown on the plans which accompany this notice, are areas in which the carrying on of the business of street vendor, pedlar or hawker is prohibited, with the exception of the 9 stands marked "Site 1" to "Site 9" and with a further exception that "Site 7" (market on the Braak) be reserved for street vendor, pedlar, hawker/craft markets, once a month only and that "Site 9" (Strand Road) be reserved for street vendor, pedlar, hawker during weekdays from Monday to Saturday between 09h00 and 18h00.

Repeal of Regulations Provincial Notice No 101/1993 being Declaration of Places where the carrying on of the Business of street vendor, pedlar or hawker is prohibited, is hereby repealed in so far as it applies to the municipal area of Stellenbosch.

This notice shall take effect on the date of publication in the Official Gazette.

JP RETIEF
CHIEF EXECUTIVE/TOWN CLERK



