



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2022-08-11

MAYORAL COMMITTEE MEETING
TUESDAY, 2022-08-16 AT 10:00

TO The Executive Mayor, Ald G Van Deventer (Ms)
The Deputy Executive Mayor, Cllr J Fasser

COUNCILLORS R Adams
FJ Badenhorst
Z Dalling (Ms)
R du Toit (Ms)
P Johnson
J Joon

L Nkamisa

C van Wyk (Ms)

J Williams

Notice is hereby given that a Mayoral Committee Meeting will be held via **MS Teams** on **Tuesday, 2022-08-16 at 10:00** to consider the attached agenda.

EXECUTIVE MAYOR, ALD GM VAN DEVENTER (MS)

CHAIRPERSON

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2022-08-16
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**Confirmation of
Minutes: Mayoral
Committee Meeting:
2022-07-20 and 2022-
07-25**



STELLENBOSCH
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MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2022-07-20 & 25

MINUTES

MAYORAL COMMITTEE MEETING:

2022-07-20 AT 10:00

AND

**THE CONTINUATION OF MAYORAL COMMITTEE
MEETING:2022-07-25**

MINUTES
MAYORAL COMMITTEE MEETING
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PRESENT: Executive Mayor, Ald GM Van Deventer (Ms) (**Chairperson**)
Deputy Mayor, Cllr J Fassler

Councillors: R Adams
FJ Badenhorst
R du Toit (Ms)
J Joon
L Nkamisa
C van Wyk (Ms)
J Williams

Also Present: Councillor P Crawley (Chief Whip)
Speaker Q Smit
W Petersen (MPAC Chairperson)

Officials: Municipal Manager (G Mettler (Ms))
Director: Corporate Services (A de Beer (Ms))
Director: Community & Protection Services (G Boshoff)
Director: Planning and Economic Development (A Barnes)
Director : Infrastructure Services (D Louw)
Chief Financial Officer (K Carolus)
Senior Administration Officer (B Mgcushe (Ms))

1.	OPENING AND WELCOME
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The Chairperson, Executive Mayor, welcomed everyone present to the Mayoral Committee Meeting.

2.	COMMUNICATION BY THE CHAIRPERSON
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Speaker;

Deputy Mayor;

Chief Whip of the Ruling Party;

Members of the Mayoral Committee;

Municipal Manager and Senior Management;

Members of the public;

Members of the media present;

All protocol observed

Good morning, Goeiemore, Molweni, Assalamu alaikum;

- On Monday our country celebrated Mandela Day by giving back, and paying it forward;
- I had the opportunity to visit families in Klappmuts that were affected by devastating fires and lost everything;
- **I would also like to thank every Councilor and Resident who used this day to give back to our communities.**
- This morning one of our councilors shared a profound message with me from Mandela that I would like to share with everyone this morning:
 - **When you are at the top, be careful of the monster called PRIDE – Pride will make you look down on the people who haven't attained your level of success**
 - **When you are at the bottom, be careful of the monster called BITTERNESS – Bitterness will make you jealous and think that other people are the reason you haven't made it.**
 - **When you are at the top, be careful of the monster called GREED – Greed will make you impatient and make you steal or seek shortcuts.**
 - **When you are on your way down, be careful of the monster called DESPAIR – Despair will make you think it's all over yet there is still hope.**
- School holidays are over and the town is buzzing with students;
- I hope that everyone had some time to spend with their family and returned safely back;
- Speaker, council was also in recess until Monday. While I know that the work of a public representative never ends, I hope that our councilors had time to reflect on the first half of this term and got some time to rest;
- I can't believe that this year is flying by so quick;
- Christmas is only 158 days away and we still have a lot of work to do.
- Over the past week our country had a lot to celebrate, and I would like to specifically mention the following:
 - Dit was wonderlik om te sien hoe ons Springbokke die naweek afgereken het met Die Drake van Wallis en met die oorwinning in die Kaapstad Stadion dan ook die reeks beklink het. Welgedaan Bokke, ons is trots op julle. Ek dink die sukkelende All Blacks moet maar kom notas neem oor hoe om rugby te speel.
 - Also, a big congratulations to our national female soccer team Banyana Banyana for securing a spot in the FIFA Women's World Cup after beating Zambia 1-0! This is a remarkable achievement and I encourage our residents and all South Africans to get behind this team! The Final will take place on Saturday against Morocco.
 - Lastly a heartfelt congratulations to Miss South Africa, Lalela Mawane for being crowned Miss Supernatural this past weekend. Lalela represented our beautiful country on the world stage with so much grace, intelligence and poise and is a deserved winner of this international title. May she have a meaningful and successful reign as Miss Supernatural

Load Shedding

- While it seems that load shedding has eased up a bit this week, we've experienced extreme blackouts over the past three weeks;
- I want to reiterate that all Municipal owned traffic lights in the Stellenbosch Municipality had been fitted with a UPS system to keep the traffic light working during load shedding;
- These systems are able to keep the lights working for approximately 3 hours;
- We are also in the process of taking over more traffic lights from Province;
- Residents are reminded that traffic lights that are not working, or flashing red should be treated as a four-way stop. It's important that we work together to keep our roads safe;
- While load shedding has a huge impact on our daily lives and how we need to plan our week and day, the impact on our infrastructure cannot be understated;
- The municipality requires electricity to ensure our water systems, sewerage systems and safety systems work;

- The constant outages put immense strain on these systems and can potentially have devastating consequences if not managed properly during load shedding;
- I want to ensure our residents that we are doing everything in our power to maintain our systems and ensure that services are delivered to our residents.

Franschhoek

- Our beautiful town, Franschhoek has made Time Magazine's prestigious list of 'Greatest Places in the World' for 2022.
- This collection includes 50 destinations from around the world that Time's correspondents and contributors nominated for exploring because of the destination's offer of "new and exciting experiences."
- Speaker, it isn't difficult to see where Franschhoek gets its flair - from the majestic mountains surrounding the historic village to an endless array of activities, from internationally acclaimed wine farms to a wide array of local businesses.
- This gem of a town has cemented itself not only as one of South Africa's culinary capitals but also as a must-see for any local and international tourist.
- We are proud that Franschhoek has made this prestigious list and welcome all visitors to our Valley with open arms.
- Their continued support sustains thousands of jobs

CLOSING

- **I want to leave you with the following quote – “Live your best, and think your best each day, for there may be no tomorrow”**
- People always tell me that you only live once, but the truth is that you live every day, you only die once, tomorrow is promised to no one.
- **Live each day as if it is your last.**
- Baie dankie, Thank you very much, Enkosi kakhulu.

3.	DISCLOSURE OF INTERESTS
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NONE

4.	APPLICATIONS FOR LEAVE OF ABSENCE
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The following application for leave of absence were approved in terms of the Rules and Order By-law of Council: -

Cllr Z Dalling (Ms)	– 20 July 2022
Cllr P Johnson	– 20 July 2022

5.	CONFIRMATION OF PREVIOUS MINUTES
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The minutes of the Mayoral Committee Meeting held on 2022-06-08 were **confirmed as correct without any amendments.**

6.	STATUTORY MATTERS
6.1	APPROVED TOP LAYER (TL) SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) 2022/23

Collaborator No: 732510
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: APPROVED TOP LAYER (TL) SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) 2022/23

2. PURPOSE

To inform the Council that the Executive Mayor has approved the Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) 2022/23.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Section 53(1)(c)(ii) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) requires the Executive Mayor of a municipality to take all reasonable steps to ensure that the municipality's Service Delivery and Budget Implementation Plan (SDBIP) is approved by the mayor within 28 days after the approval of the budget.

The TL SDBIP 2022/23 was approved by the Executive Mayor on 22 June 2022, which falls within the prescribed 28 days after the approval of the Budget.

The TL SDBIP 2022/23 is herewith submitted to Council for notification.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 6.1

- (a) that Council **TAKE NOTE** of the approved TL SDBIP 2022/23 attached hereto as **ANNEXURE A**;
- (b) that Council **TAKE NOTE** that the approved TL SDBIP 2022/23 has been made public within 10 working days after the approval of the TL SDBIP 2022/23 and duly submitted to the MEC for Local Government in the Province; and
- (c) that Council **TAKE NOTE** that the Approved TL SDBIP 2022/23 must be read together with the Fifth Generation Integrated Development Plan (IDP) 2022 – 2027 and that the performance indicators and targets contained in the approved TL SDBIP 2022/23 be considered to have been made in the IDP to ensure accurate technical alignment between the IDP 2022 – 2027 and the TL SDBIP 2022/23.

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager

DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	mm@stellenbosch.gov.za
REPORT DATE	07 July 2022

6.2	OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY-REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: QUARTER 4 (01 APRIL 2022 - 30 JUNE 2022)
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Collaborator No: 732804
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY-REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: QUARTER 4 (01 APRIL 2022 - 30 JUNE 2022)

2. PURPOSE

To submit to Management a report for the period 01 April 2021 - 30 June 2022 on the implementation of Council's Supply Chain Management Policy. The report covers the performance of the various delegated functions and the implementation thereof.

3. FOR DECISION BY MUNICIPAL COUNCIL

Section 6 (3) & 4 of the SCM Policy 2021/2022, determines that the Accounting Officer must within 10 days at the end of each quarter; submit a report on the implementation of the SCM Policy to the Executive Mayor. This report must be made public in accordance with section 21A of the Municipal Systems Act (32 of 2000).

4. EXECUTIVE SUMMARY

On a quarterly basis the Accounting Officer must submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor. In terms of the SCM Regulations and Council's SCM Policy the SCM unit has been delegated to perform powers and functions that related to the procurement of goods and services, disposal of goods no longer needed, the selection of contractors to aid in the provision of municipal services.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 6.2

- (a) that Council approves this report and **ANNEXURE A** attached to the report, and
- (b) that the report be made public in accordance with section 21A of the Municipal Systems Act.

FOR FURTHER DETAILS CONTACT:

NAME	Kevin Carolus
CONTACT NUMBERS	021 808 8528
E-MAIL ADDRESS	Kevin.Carolus@Stellenbosch.gov.za
DIRECTORATE	Financial Services
REPORT DATE	06 May 2022

6.3	OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY-REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: ANNUAL IMPLEMENTATION REPORT (01 JULY 2021 - 30 JUNE 2022)
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Collaborator No: 732510
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY-REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: ANNUAL IMPLEMENTATION REPORT (01 JULY 2021 - 30 JUNE 2022)

2. PURPOSE

To submit to Management a report for the period 01 July 2022 - 30 June 2022 on the implementation of Council's Supply Chain Management Policy. The report covers the performance of the various delegated functions and the implementation thereof.

3. FOR DECISION BY MUNICIPAL COUNCIL

Section 6 (2) (i) & 4 of the SCM Policy 2021/2022 determines that the Accounting Officer must within 30 days of the end of each financial year; submit a report on the implementation of the SCM Policy to the Executive Mayor. This report must be made public in accordance with section 21A of the Municipal Systems Act (32 of 2000).

4. EXECUTIVE SUMMARY

Within 30 days of the end of each financial year the Accounting Officer must submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor. In terms of the SCM Regulations and Council's SCM Policy the SCM unit has been delegated to perform powers and functions that related to the procurement of goods and services, disposal of goods no longer needed, the selection of contractors to provide assistance in the provision of municipal services.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 6.3

- (a) that Council approves report and **ANNEXURE A** attached to the report, and
- (b) that the report be made public in accordance with section 21A of the Municipal Systems Act.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Kevin Carolus</i>
CONTACT NUMBERS	<i>021 808 8528</i>
E-MAIL ADDRESS	Kevin.Carolus@Stellenbosch.gov.za
DIRECTORATE	<i>Financial Services</i>
REPORT DATE	<i>06 May 2022</i>

6.4	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR JUNE 2022
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Collaborator No: 732812
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 20 July 2022

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR JUNE 2022

2. PURPOSE

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2021/2022 to report the deviations to Council.

3. DELEGATED AUTHORITY

Council

FOR NOTING.

4. EXECUTIVE SUMMARY

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2021/2022) stipulate that SCM deviations be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during June 2022.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 6.4

that Council notes the deviation as listed for the month of June 2022.

FOR FURTHER DETAILS CONTACT:

NAME	Kevin Carolus
POSITION	CFO
DIRECTORATE	Finance
CONTACT NUMBERS	021 808 8528
E-MAIL ADDRESS	Kevin.Carolus@stellenbosch.gov.za
REPORT DATE	07 July 2022

6.5	MFMA SECTION 52 REPORTING UP TO JUNE 2022
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Collaborator No: 732818
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: MFMA SECTION 52 REPORTING UP TO JUNE 2022

2. PURPOSE

To comply with section 52(d) of the Municipal Finance Management Act and report to Council on the budget; financial and service delivery budget implementation plan by the Municipality for quarter 4 of the 2021/22 financial year.

3. DELEGATED AUTHORITY

THE EXECUTIVE MAYOR TO SUBMIT TO COUNCIL

In terms of section 52 (d) of the Municipal Finance Management Act:

“The mayor of a municipality—

(d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget as well as the non-financial performance of the municipality;”

4. EXECUTIVE SUMMARY

The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and is required by Section 52(d) of the Municipal Finance Management Act to submit a report on the implementation of the budget and the financial and non-financial performance of the Municipality, to the Council within 30 days after end of each quarter.

The Section 52 report is a summary of the budget performance. It compares the implementation of the budget to the commitments made and contained in the Service Delivery and Budget Implementation Plan (SDBIP) and is intended to enable Council to give effect to their oversight responsibility.

This report provides the overall performance of the Municipality for the period 1 July 2021 to 30 June 2022.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 6.5

that Council notes Section 52 Report (including quarterly performance report) – Fourth Quarter.

FOR FURTHER DETAILS CONTACT:

NAME	Monique Steyl
POSITION	Senior Manager Financial Management Services
DIRECTORATE	Financial Services
CONTACT NUMBERS	021 – 808 8512
E-MAIL ADDRESS	Monique.Steyl@ Stellenbosch.gov.za
REPORT DATE	JUNE 2022

DIRECTOR: FINANCIAL SERVICES

7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER (MS)]
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7.1	PROTECTION SERVICES: (PC: CLLR R BADENHORST)
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NONE

7.2	YOUTH, SPORTS AND CULTURE: [PC: CLLR R ADAMS]
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NONE

7.3	CORPORATE SERVICES: (PC: CLLR L NKAMISA)
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7.3.1	SECURITY OF TENURE FOR STELLENBOSCH GOLF CLUB
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

20 July 2022

1. SUBJECT: SECURITY OF TENURE FOR STELLENBOSCH GOLF CLUB

2. PURPOSE

To inform Council of a request received from the Stellenbosch Golf Club.

3. DELEGATED AUTHORITY

For decision by Municipal Council.

4. EXECUTIVE SUMMARY

Stellenbosch Municipality resolved on 15 April 1991 to lease erven 16530, 16529 and 16531 Stellenbosch to the Stellenbosch Golf Club for a period from 1 April 1991 to 31 March 2041 for R100 per year. A copy of the rental agreement is attached as **APPENDIX 1**. With escalations the rental for 2021/22 financial year was R174 428.32.

The Golf Club has requested the municipality for security of tenure and has made three proposals:

1. Selling the three properties to the Golf Club at a market related price;
2. Entering into a public private Partnership;
3. An extension of the lease agreement that currently would expire in 2041.

A copy of the request is attached as **APPENDIX 2**.

Any actions in regard to the erven will have to follow the provisions of the Asset transfer regulations and the forming of a public private partnership has its own requirements in terms of the MFMA. All of these provisions involve public participation processes before a final decision can be taken.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.1

RESOLVED

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

7.3.2	FEEDBACK AFTER PUBLICATION OF INFORMATION STATEMENT: MOUNTAIN BREEZE CARAVAN PARK
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

20 July 2022

1. SUBJEC: FEEDBACK AFTER PUBLICATION OF INFORMATION STATEMENT: MOUNTAIN BREEZE CARAVAN PARK

2. PURPOSE

To provide feedback to council in regard to the inputs received on the information statement after it was published for inputs/comments from the public.

3. DELEGATED AUTHORITY

Council must consider the matter.

4. EXECUTIVE SUMMARY

At the Council meeting held on 28 July 2021, Council decided to provide an opportunity for the public to submit written inputs on the most possible future use of the facility, before deciding on a way forward. The public notice requested inputs on/before 3 September 2021. Various written submissions were received. Council resolved on 30 March 2022:

- (a) that Council take note of all the proposals received;
- (b) that Council identifies Portions 528 and 529C, Stellenbosch as not currently needed for minimum municipal services;
- (c) that a call for proposal for development of the facilities for Cycling, hiking groups, an Eco-education and Adventure centre for school groups along with overnight facilities be advertised;
- (d) that the existing buildings and infrastructure be use for the above purpose;
- (e) that the facility to be leased for a period of 5 years; and
- (f) that successful lessee enter into a rental agreement with the municipality and be responsible for the security, maintenance and the payment of all services of the facility.

This decision was subject to section 34 and 35 of the Asset Transfer Regulations published under the MFMA that entailed a further public participation process indicating the specific intent for the land moving forward. The combined municipal valuation for the land is R16,7 million and the current zoning is business, taking into consideration that it is situated in an area surrounded by agricultural use and the airfield. Council must approve the Information statement that will be published to adhere to this legislative provisions. Council approved the Information statement on 25 May 2022, which was subsequently published. Reponses were received from four people – see discussion under 6.2.6 below. Council must consider the inputs and make an in-principle decision on the way forward. Should Council resolve to continue on the road as indicated in March 2022, a supply chain process will follow this in-principle decision to enable us to award a lease to the person that scores the highest points after which it will be re-submitted to Council for a final decision.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.2**RESOLVED**

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	Director
<i>DIRECTORATE</i>	Corporate Services
<i>CONTACT NUMBERS</i>	021-8088018
<i>E-MAIL ADDRESS</i>	Annalene.deBeer@stellenbosch.gov.za
<i>REPORT DATE</i>	2022 – 07-11

7.3.3	REQUEST TO LEASE/BUY ERF 11713, CLOETESVILLE, STELLENBOSCH: HANNA CHARITY & EMPOWERMENT FOUNDATION
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

20 July 2022

1. SUBJECT: REQUEST TO LEASE/BUY ERF 11713, CLOETESVILLE, STELLENBOSCH: HANNA CHARITY & EMPOWERMENT FOUNDATION

2. PURPOSE

To inform Council of the request from Hanna Charity & Empowerment Foundation to buy or lease erf 11713 for the purposes of an ECD.

3. DELEGATED AUTHORITY

In terms of Delegation EM85 the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated authority to “*Approve Lease Agreements on Council properties for a period shorter than 10 years and a contract value of less than R5M*”.

Should the disposal of the site be considered as the preferred option then Council must consider the matter.

4. EXECUTIVE SUMMARY

The Hanna Charity & Empowerment Foundation has applied for a long-term lease agreement to buy erf 11713, Cloeteville to enable them to construct and operate an ECD Centre. A copy of the request is attached as **APPENDIX 1**. The request was sent in 2020, but have not served before Council due to Covid (where no formal council meetings took place during hard lock down) and the subsequent property framework process.

The ownership of Erf 11713 vests with the Municipality.

The policy on the Management of Council-owned properties allows for direct negotiations (private treaty) in specific circumstances, *inter alia* for the purpose of social care purposes. The new Children’s Act put an obligation on Council to make land available for this purpose and even to support the ECD’s and maintain such facilities. The need for ECD facilities is high and there may be more such requests. It is therefore not recommended that the erf is dealt with under the private treaty provisions of the policy. The land is zoned as utility service zone and was not earmarked up to now for an ECD facility. There must be a public participation process during which the public’s inputs/comments/other alternatives should be taken into account before a final decision is made. The departments have also not indicated whether this land may not be needed for municipal services and council can only decide to lease or sell the land should it not be needed for municipal services. Given the zoning this may not be the ideal land for an ECD.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.3

RESOLVED

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

7.3.4	PROPERTY MANAGEMENT STRATEGY: PROPERTY REGISTER
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Collaborator No:
IDP KPA Ref No: Good Governance
Meeting Date: 20 July 2022

1. SUBJECT: PROPERTY MANAGEMENT STRATEGY: PROPERTY REGISTER

2. PURPOSE

is to report back on the changes that was requested in regard to the property register and the different categories that is registered under the name of the Stellenbosch Municipality to allow Council to make strategic decisions on the future use of the properties.

3. DELEGATED AUTHORITY

The Municipal Manager as the Accounting Officer constituted a committee and delegated such a committee with authority to investigate and submit a report which relates to property register for MAYCO and Council on request of the Executive Mayor.

When decisions are made it will be by Council or where delegations have been approved by the body that is delegated to make such a decision.

4. EXECUTIVE SUMMARY

Council tasked the Municipal Manager on 31 March 2021 to compile a property register and present the register to Council for consideration. The Municipal Manager as the Accounting Officer constituted an inclusive committee of representatives from various departments and delegated such a committee with the task to investigate all the properties, compile a property register and submit a report which contains all the council properties for consideration as a reliable source on decision making processes in dealing with properties within the WCO24. This will identify all council-owned properties and include all such properties on an asset register. This will enable council to develop a property management strategy to determine the future of these properties.

The report served before the Executive Mayor and Mayoral committee on various occasions, the last time was in March 2022.

The report was referred back for refinement in the clustering of the property groups. The report is now resubmitted with the change in the property categories as follows:

Categories of properties:

1. Strategic properties
 Defined as Buildings and land used for core Municipal Functions/Services
 Including the following:
 - 1.1 Office space and related buildings (previously under(f))
 - 1.2 Engineering Service Build Infrastructure (previously under (d))
 - 1.3 Heritage portfolio (previously under (c)).
2. Properties used for Community Benefit (previously listed (e)).
3. Rural Properties/Agricultural (containing all leases and land not under lease used for agricultural purposes).

4. Non-Core Assets (Land nor required for municipal purposes)
 - 4.1 Encroachments – outdoor dining
 - 4.2 Encroachments – gardening
 - 4.3 Encroachments – parking
 - 4.4 Leases (long/medium/short term) used for non-agricultural purposes.

5. Other Properties to be considered.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.4**RESOLVED**

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director
DIRECTORATE	CORPORATE SERVICES
CONTACT NUMBERS	021-8088018
E-MAIL ADDRESS	Annalene.deBeer@ Stellenbosch.gov.za
REPORT DATE	2022-07-15

7.4	FINANCIAL SERVICES: (PC: CLLR P JOHNSON)
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7.4.1	MANAGEMENT OF CONTRACTS OR AGREEMENTS AND CONTRACTOR PERFORMANCE AS AT 01 JANUARY 2022 – 30 JUNE 2022 MFMA S116(2)(d) REPORT
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Collaborator No: 732816
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: MANAGEMENT OF CONTRACTS OR AGREEMENTS AND CONTRACTOR PERFORMANCE AS AT 01 JANUARY 2022 – 30 JUNE 2022 MFMA S116(2)(d) REPORT

2. PURPOSE

To report in accordance with MFMA, Section 116(2)(d) on the management of contracts or agreements and the performance of contractors.

**3. DELEGATED AUTHORITY
 (FOR DECISION BY MUNICIPAL COUNCIL, EXECUTIVE MAYOR AND MAYORAL COMMITTEE, PORTFOLIO COMMITTEE, EXECUTIVE MANAGEMENT, ETCETERA)**

None

4. EXECUTIVE SUMMARY

The report indicates the performance of service providers who were active on contracts secured by means of a competitive bidding process for the period 01 January 2022 to 30 June 2022.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 7.4.1

that the Annual MFMA S116(2)(d) report: Management of contracts or agreements and contractor performance from 01 January 2022 to 30 June 2022 be noted.

FOR FURTHER DETAILS CONTACT:

NAME	Kevin Carolus
POSITION	<i>Chief Financial Officer</i>
DIRECTORATE	<i>Financial services</i>
CONTACT NUMBERS	<i>021 808 8528</i>
E-MAIL ADDRESS	<i>Kevin.carolus@ Stellenbosch.gov.za</i>
REPORT DATE	<i>07 July 2022</i>

7.5	HUMAN SETTLEMENTS: (PC: CLLR J FASSER)
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NONE

7.6	INFRASTRUCTURE SERVICES : (PC : CLLR Z DALLING (MS))
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7.6.1	RETURN ITEM: LEASING OF PARKING AREAS (CHECKERS / STELMARK) TO RETAILERS ADJACENT TO THE PARKING AREAS, CONSIDERATION OF COMMENTS RECEIVED
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Collaborator No: 732885
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: RETURN ITEM: LEASING OF PARKING AREAS (CHECKERS/ STELMARK) TO RETAILERS ADJACENT TO THE PARKING AREAS, CONSIDERATION OF COMMENTS RECEIVED

2. PURPOSE

To inform Council of the outcome of the public participation process and to consider the recommendations.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

The Municipality had previously commenced formulating its parking strategy and had tabled several Council items that details the Municipality's approach to implementing its parking strategy, which includes amongst others the upgrading and developing of council owned parking areas.

Council launched and completed a Municipal Systems Act, Section 78 process to determine the most appropriate method of providing a parking service and for the development of the Eikestad parking area. The Municipality had also previously embarked upon internal parking management models, however on review these were found to be less favorable and not sustainable. The municipality intends to improve on parking management and reviewed alternative parking management models.

The Municipality had tabled Council items, to improve on parking management and had in principle, approved as pilot projects the management of Checkers Parking Complex and the Stelmark Parking Centre by adjacent retail outlet / owners.

As part of the public participation process, an Information Statement was placed on the Municipal Website on the 11 May 2022 and was published in the Eikestad news on the 19 May 2022. A copy is attached as **APPENDIX 2**. One (1) comment in support of the pilot project was received. The comment is attached as **APPENDIX 1**.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.6.1**RESOLVED**

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

FOR FURTHER DETAILS CONTACT:

NAME	Deon Louw
POSITION	<i>Director</i>
DIRECTORATE	<i>Infrastructure Services</i>
CONTACT NUMBERS	021 808 8213
E-MAIL ADDRESS	Deon.louw@Stellenbosch.gov.za
REPORT DATE	14 July 2022

7.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J JOON)
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NONE

7.8	PLANNING :(PC: CLLR C VAN WYK (MS)
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7.8.1	TERM OF OFFICE OF THE MEMBERS OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL (MPT)
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Collaborator No: 732759
 IDP KPA Ref No: Good Governance
 Meeting Date: 20 July 2022

1. SUBJECT: TERM OF OFFICE OF THE MEMBERS OF THE STELLENBOSCH MUNICIPAL PLANNING TRIBUNAL (MPT)

2. PURPOSE

The term of office for the members of the current MPT will expire on 31 August 2022. The purpose of this report is to present and consider an approach for the next term of office of the MPT.

3. DELEGATED AUTHORITY

3.1 The extension of the term of office of the serving Municipal Planning Tribunal (MPT): **Council** by virtue of Delegation LUP57 for the appointment of the members of the MPT.

3.2 Conducting the process with a recommendation to Council to appoint a new term of office and Municipal Planning Tribunal (MPT) members: **Senior Administrative Officer (MPT)** by virtue of LUP58; LUP59 and LUP 60.

4. EXECUTIVE SUMMARY

A Municipality is compelled to establish an MPT to decide on a category of land use and land development applications. The three-year term of office of the current MPT members that was appointed by Council, will end on 31 August 2022.

Whilst it is possible to extend the term of office of the current membership, there is also a need to ensure that the MPT benefits from new members with the ideal being a healthy mix of new and experienced members so as to secure long-term continuity of experience amongst the membership.

It is thus proposed to extend the term of office of the current MPT members for a limited time period (6 months) in order to run the prescribed recruitment and selection process for the appointment of some new MPT members to serve together with some of the existing experienced members.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 7.8.1

(a) that the term of office of the current serving Stellenbosch Municipal Planning Tribunal with the following serving members:

4.1.1 External Members:

- (a) Dr. D.J. Du Plessis (Chairperson)
- (b) Mrs. C. Havenga (Deputy Chairperson_
- (c) Mr. C. Rabie

- (d) Dr. R. Pool-Sanvliet
- (e) Mr. E. Delpont
- (f) Mr. J. Knight
- (g) Mrs. H. Crooijmans-Lemmer

5.1.2 Internal Members

- (a) Mr. M. Williams (Snr. Manager Legal Services)
- (b) Mr. A. van der Merwe (Snr. Manager Community Services)
- (c) Mr. C. Alexander (Snr. Manager Development Planning)
- (d) Mrs. M. Francis (Snr. Manager Infrastructure Planning, Development and Implementation)

BE EXTENDED in terms of Section 73(1)(b) of the Stellenbosch Municipal Planning Bylaw (2015) for a period of six months up to 28 February 2023.

- (b) that it **BE NOTED** that the Directorate Planning and Economic Development will commence with the prescribed process to appoint a new term of office of the MPT with an external membership which may consist of existing serving members as well as newly recruited members. The outcome with recommendations of the evaluation panel will be submitted to Council for the appointment of the MPT members.

FOR FURTHER DETAILS CONTACT:

NAME	Stiaan Carstens
POSITION	Senior Manager: Development Management
DIRECTORATE	Planning and Economic Development
CONTACT NUMBERS	021 808 8674
E-MAIL ADDRESS	Stiaan.Carstens@stellenbosch.gov.za
REPORT DATE	June 2022

7.8.2	ADOPTION OF THE POLICY FOR THE NAMING AND RENAMING OF STREETS, PUBLIC PLACES, NATURAL AREAS, ARTEFACTS AND COUNCIL-OWNED BUILDINGS AND FACILITIES
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Collaborator No: 732801
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. **SUBJECT: ADOPTION OF THE POLICY FOR THE NAMING AND RENAMING OF STREETS, PUBLIC PLACES, NATURAL AREAS, ARTEFACTS AND COUNCIL-OWNED BUILDINGS AND FACILITIES.**

2. **PURPOSE**

Provide the Executive Mayor and Council feedback on the outcome of the public participation process and to request Council to adopt the policy on **NAMING AND RENAMING OF STREETS, PUBLIC PLACES, NATURAL AREAS, ARTEFACTS AND COUNCIL-OWNED BUILDINGS AND FACILITIES** for Stellenbosch Municipality.

3. **DELEGATED AUTHORITY**

Council

4. **EXECUTIVE SUMMARY**

The purpose of this Policy is to provide a standard and consistent policy framework dealing with, naming and renaming of streets, public places, natural areas, artefacts and council-owned buildings and facilities and to set out the responsibilities of the relevant parties involved in the process.

For the Municipality to name or rename streets or places and to allocate street numbers, criteria need to be in place to guide how these names or numbers are allocated and approved. This policy will provide the essential criteria and rules required for effective administrative and decision-making procedures in order to guide the various departmental functions relating to street naming, numbering and renaming.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 7.8.1

that the policy on **NAMING AND RENAMING OF STREETS, PUBLIC PLACES, NATURAL AREAS, ARTEFACTS AND COUNCIL-OWNED BUILDINGS AND FACILITIES** for Stellenbosch Municipality (WC024) attached as **ANNEXURE 1** be adopted in accordance with Sections 11(3) (a) and (m) of the Local Government Municipal Systems Amendment Act 32 of 20.

FOR FURTHER DETAILS CONTACT:

NAME	Stiaan Carstens
POSITION	Senior Manager: Development Management
DIRECTORATE	Planning and Economic Development
CONTACT NUMBERS	021 808 8674
E-MAIL ADDRESS	Stiaan.Carstens@stellenbosch.gov.za
REPORT DATE	14 July 2022

7.9	LOCAL ECONOMIC DEVELOPMENT AND TOURISM:(PC: CLLR R DE TOIT (MS)
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NONE

7.10	RURAL MANAGEMENT: (PC: CLLR J WILLIAMS)
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NONE

7.11	MUNICIPAL MANAGER
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7.11.1	SIGNED PERFORMANCE AGREEMENTS 2022/23 OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER (THE CFO AND DIRECTORS)
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Collaborator No: 732512
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: SIGNED PERFORMANCE AGREEMENTS 2022/23 OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER (THE CFO AND DIRECTORS)

2. PURPOSE

To submit to Council, for notification, the following:

- (a) The signed Performance Agreements 2022/23 of the Municipal Manager and Managers Directly Accountable to the Municipal Manager (the Chief Financial Officer (CFO) and Directors).

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

According to Section 57(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA) the performance agreement/s must be concluded annually:

“(a) ...within one month after the beginning of each financial year of the municipality.”

The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) further requires that the signed performance agreements be promptly submitted to the Council.

Performance Agreements 2022/23 was developed in consultation with the Municipal Manager and each Director and signed on 22 June 2022.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 7.11.1

that the signed Performance Agreements 2022/23 of the Municipal Manager, the CFO and Directors be noted.

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	mm@stellenbosch.gov.za
REPORT DATE	07 July 2022

7.11.2	DECISIONS TAKEN BY DIRECTORATES IN TERMS OF DELEGATED AUTHORITY FROM 1 APRIL 2022 UNTIL 30 JUNE 2022
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Collaborator No:
 IDP KPA Ref No: Good Governance
 Meeting Date: 20 July 2022

1. SUBJECT: DECISIONS TAKEN BY DIRECTORATES IN TERMS OF DELEGATED AUTHORITY FROM 1 APRIL 2022 UNTIL 30 JUNE 2022

2. PURPOSE OF REPORT

To report to Council on the decisions taken by the Municipal Manager and Directors in terms of Council's System of Delegations for the period 1 April 2022 until 30 June 2022, in compliance with Section 63 of the Local Government: Municipal Systems Act read in conjunction with the System of Delegations as approved by Council.

3. DELEGATED AUTHORITY

Municipal Council

4. EXECUTIVE SUMMARY

In view of the legislative stipulations, attached is a summary as **ANNEXURE 1** of decisions taken by each Directorate. The report is for noting purposes.

Please note that these delegations only indicate the delegations exercised as delegated by Council to the various Senior Managers.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 7.11.2

That Council takes note of the decisions taken, for the period 1 April 2022 until 30 June 2022, by the following Section 56 Managers:

- Municipal Manager – Ms G Mettler (1 April 2022 – 30 June 2022)
- Chief Financial Officer – Mr K Carolus (1 April 2022 – 30 June 2022)
- Director Infrastructure Services – Act Mr D Louw (1 April 2022 – 30 June 2022)
- Director Planning and Economic Development – Mr A Barnes (1 April 2022 – 30 June 2022)
- Director Corporate Services – Ms A de Beer (1 April 2022 – 30 June 2022)
- Director Community and Protection Services Mr G Boshoff (1 April 2022 – 30 June 2022)

POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	municipal.manager@stellenbosch.gov.za
REPORT DATE	June 2022

7.11.3	TO ATTEND THE 2ND SOUTH AFRICAN – GERMAN PEER LEARNING NETWORK WORKSHOP AND FEDERAL NATIONAL URBAN POLICY CONGRESS, 10 – 16 SEPTEMBER 2022, GERMANY
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

20 July 2022

1. **SUBJECT: TO ATTEND THE 2ND SOUTH AFRICAN – GERMAN PEER LEARNING NETWORK WORKSHOP AND FEDERAL NATIONAL URBAN POLICY CONGRESS, 10 – 16 SEPTEMBER 2022, GERMANY**

2. **PURPOSE OF REPORT**

To obtain Council approval to attend the 2nd South African – German peer learning network workshop and Federal National Urban Policy Congress that will be hosted in Germany from 10 to 16 September 2022 under the theme: ***“Dialogues for Urban Change Programme”***

3. **DELEGATED AUTHORITY**

In terms of 9.2 of the Cost Containment Policy 2019, only the municipal council in a council meeting can approve the international travel for any official or political bearer.

4. **EXECUTIVE SUMMARY**

The Senior Manager: Protection Services, Mr Charl Kitching, and the Senior Manager: Asset Management & Systems, Development Services & Project Management Unit (PMU), Ms Myrah Francis, was nominated to participate as the two members of the learning network group that will represent Stellenbosch Municipality. The invitation for the 2nd South African – German peer learning network workshop and Federal National Urban Policy Congress that will be hosted in Germany from 10 to 16 September 2022.

The invitation by the Learning Network, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), sponsor's two people from a municipality to attend the German peer learning network workshop and Federal National Urban Policy Congress that will be hosted in Germany from 10 to 16 September 2022.

As in previous network meetings, costs for accommodation, transport (air tickets in economy class, ground transport in Germany), and visa costs will be covered by GIZ. The municipality must take care of any further travel related costs (daily allowances, transport to and from airport, and dinners). See attached as **APPENDIX 1**.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-20: ITEM 7.11.3

- (a) that Council approves the request for attendance of the 2nd South African – German peer learning network workshop and Federal National Urban Policy Congress that will be hosted in Germany from 10 to 16 September 2022; and
- (b) that Council approves the daily allowance for the duration of the forum.

8.	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

9.	URGENT MATTERS
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10.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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The meeting adjourned at 10:40

CHAIRPERSON:

DATE:

Confirmed on

PRESENT: Executive Mayor, Ald GM Van Deventer (Ms) (**Chairperson**)
Deputy Mayor, Cllr J Fasser

Councillors: R Adams
Z Dalling (Ms)
R du Toit (Ms)
P Johnson
J Joon
L Nkamisa
C van Wyk (Ms)
J Williams

Also Present: Councillor P Crawley (Chief Whip)
Speaker Q Smit
W Petersen (MPAC Chairperson)

Officials: Municipal Manager (G Mettler (Ms))
Director: Corporate Services (A de Beer (Ms))
Director: Community & Protection Services (G Boshoff)
Director: Planning and Economic Development (A Barnes)
Director : Infrastructure Services (D Louw)
Chief Financial Officer (K Carolus)
Senior Administration Officer (B Mgcushe (Ms))

1.	OPENING AND WELCOME
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The Chairperson, Executive Mayor, welcomed everyone present at the Mayoral Committee Meeting.

2.	COMMUNICATION BY THE CHAIRPERSON
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The Chairperson, Executive Mayor, welcomed everyone present at the Continuation of Mayoral Committee Meeting and thanked them for their availability for the discussion of the items that stood over on the 20th July 2022.

3.	DISCLOSURE OF INTERESTS
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NONE

4.	APPLICATIONS FOR LEAVE OF ABSENCE
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The following application for leave of absence was approved in terms of the Rules and Order By-law of Council: -

7.3	CORPORATE SERVICES: (PC: CLLR L NKAMISA)
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7.3.1	SECURITY OF TENURE FOR STELLENBOSCH GOLF CLUB
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

25 July 2022

1. SUBJECT: SECURITY OF TENURE FOR STELLENBOSCH GOLF CLUB

2. PURPOSE

To inform Council of a request received from the Stellenbosch Golf Club.

3. DELEGATED AUTHORITY

For decision by Municipal Council.

4. EXECUTIVE SUMMARY

Stellenbosch Municipality resolved on 15 April 1991 to lease erven 16530, 16529 and 16531 Stellenbosch to the Stellenbosch Golf Club for a period from 1 April 1991 to 31 March 2041 for R100 per year. A copy of the rental agreement is attached as **APPENDIX 1**. With escalations the rental for 2021/22 financial year was R174 428.32.

The Golf Club has requested the municipality for security of tenure and has made three proposals:

1. Selling the three properties to the Golf Club at a market related price;
2. Entering into a public private Partnership;
3. An extension of the lease agreement that currently would expire in 2041.

A copy of the request is attached as **APPENDIX 2**.

Any actions in regard to the erven will have to follow the provisions of the Asset transfer regulations and the forming of a public private partnership has its own requirements in terms of the MFMA. All of these provisions involve public participation processes before a final decision can be taken.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.1

RESOLVED

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

MAYORAL COMMITTEE CONTINUATION: 2022-07-25: ITEM 7.3.1**RESOLVED**

that this item be referred back for an information statement.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>Corporate Services</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	<i>Annalene.deBeer@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>12.07.2022</i>

7.3.2	FEEDBACK AFTER PUBLICATION OF INFORMATION STATEMENT: MOUNTAIN BREEZE CARAVAN PARK
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

20 July 2022

1. SUBJEC: FEEDBACK AFTER PUBLICATION OF INFORMATION STATEMENT: MOUNTAIN BREEZE CARAVAN PARK

2. PURPOSE

To provide feedback to council in regard to the inputs received on the information statement after it was published for inputs/comments from the public.

3. DELEGATED AUTHORITY

Council must consider the matter.

4. EXECUTIVE SUMMARY

At the Council meeting held on 28 July 2021, Council decided to provide an opportunity for the public to submit written inputs on the most possible future use of the facility, before deciding on a way forward. The public notice requested inputs on/before 3 September 2021. Various written submissions were received. Council resolved on 30 March 2022:

- (g) that Council take note of all the proposals received;
- (h) that Council identifies Portions 528 and 529C, Stellenbosch as not currently needed for minimum municipal services;
- (i) that a call for proposal for development of the facilities for Cycling, hiking groups, an Eco-education and Adventure centre for school groups along with overnight facilities be advertised;
- (j) that the existing buildings and infrastructure be use for the above purpose;
- (k) that the facility to be leased for a period of 5 years; and
- (l) that successful lessee enter into a rental agreement with the municipality and be responsible for the security, maintenance and the payment of all services of the facility.

This decision was subject to section 34 and 35 of the Asset Transfer Regulations published under the MFMA that entailed a further public participation process indicating the specific intent for the land moving forward. The combined municipal valuation for the land is R16,7 million and the current zoning is business, taking into consideration that it is situated in an area surrounded by agricultural use and the airfield. Council must approve the Information statement that will be published to adhere to this legislative provisions. Council approved the Information statement on 25 May 2022, which was subsequently published. Reponses were received from four people – see discussion under 6.2.6 below. Council must consider the inputs and make an in-principle decision on the way forward. Should Council resolve to continue on the road as indicated in March 2022, a supply chain process will follow this in-principle decision to enable us to award a lease to the person that scores the highest points after which it will be re-submitted to Council for a final decision.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.2**RESOLVED**

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-25: ITEM 7.3.2

- (a) that Council considers the input received on the Information Statement;
- (b) that Council confirms the decision to identify Portions 528 and 529C, Stellenbosch as land not needed for municipal services;
- (c) For consideration:
- that a call for proposal for development of the facilities for Cycling, hiking groups, an Eco-education and Adventure centre for school groups along with overnight facilities be advertised;
- that the existing buildings and infrastructure be use for the above purpose;
- that the facility be leased for a period of 9 years and 11 months; and
- (d) the successful lessee must enter into a rental agreement with the municipality and be responsible for the security, maintenance and the payment of all services of the facility.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	Director
<i>DIRECTORATE</i>	Corporate Services
<i>CONTACT NUMBERS</i>	021-8088018
<i>E-MAIL ADDRESS</i>	Annalene.deBeer@stellenbosch.gov.za
<i>REPORT DATE</i>	2022 – 07-11

7.3.3	REQUEST TO LEASE/BUY ERF 11713, CLOETESVILLE, STELLENBOSCH: HANNA CHARITY & EMPOWERMENT FOUNDATION
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Collaborator No:

IDP KPA Ref No:

Good Governance

Meeting Date:

20 July 2022

1. SUBJECT: REQUEST TO LEASE/BUY ERF 11713, CLOETESVILLE, STELLENBOSCH: HANNA CHARITY & EMPOWERMENT FOUNDATION

2. PURPOSE

To inform Council of the request from Hanna Charity & Empowerment Foundation to buy or lease erf 11713 for the purposes of an ECD.

3. DELEGATED AUTHORITY

In terms of Delegation EM85 the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated authority to “*Approve Lease Agreements on Council properties for a period shorter than 10 years and a contract value of less than R5M*”.

Should the disposal of the site be considered as the preferred option then Council must consider the matter.

4. EXECUTIVE SUMMARY

The Hanna Charity & Empowerment Foundation has applied for a long-term lease agreement to buy erf 11713, Cloeteville to enable them to construct and operate an ECD Centre. A copy of the request is attached as **APPENDIX 1**. The request was sent in 2020, but have not served before Council due to Covid (where no formal council meetings took place during hard lock down) and the subsequent property framework process.

The ownership of Erf 11713 vests with the Municipality.

The policy on the Management of Council-owned properties allows for direct negotiations (private treaty) in specific circumstances, *inter alia* for the purpose of social care purposes. The new Children’s Act put an obligation on Council to make land available for this purpose and even to support the ECD’s and maintain such facilities. The need for ECD facilities is high and there may be more such requests. It is therefore not recommended that the erf is dealt with under the private treaty provisions of the policy. The land is zoned as utility service zone and was not earmarked up to now for an ECD facility. There must be a public participation process during which the public’s inputs/comments/other alternatives should be taken into account before a final decision is made. The departments have also not indicated whether this land may not be needed for municipal services and council can only decide to lease or sell the land should it not be needed for municipal services. Given the zoning this may not be the ideal land for an ECD.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.3

RESOLVED

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

MAYORAL COMMITTEE CONTINUATION: 2022-07-25: ITEM 7.3.3**RESOLVED**

that this item be referred back to the Administration for refinement.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	<i>Annalene de Beer</i>
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>Corporate Services</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	<i>Annalene.deBeer@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>11.07.2022</i>

DIRECTOR: CORPORATE SERVICES

7.3.4	PROPERTY MANAGEMENT STRATEGY: PROPERTY REGISTER
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

20 July 2022

1. SUBJECT: PROPERTY MANAGEMENT STRATEGY: PROPERTY REGISTER

2. PURPOSE

Is to report back on the changes that was requested in regard to the property register and the different categories that is registered under the name of the Stellenbosch Municipality to allow Council to make strategic decisions on the future use of the properties.

3. DELEGATED AUTHORITY

The Municipal Manager as the Accounting Officer constituted a committee and delegated such a committee with authority to investigate and submit a report which relates to property register for MAYCO and Council on request of the Executive Mayor.

When decisions are made it will be by Council or where delegations have been approved by the body that is delegated to make such a decision.

4. EXECUTIVE SUMMARY

Council tasked the Municipal Manager on 31 March 2021 to compile a property register and present the register to Council for consideration. The Municipal Manager as the Accounting Officer constituted an inclusive committee of representatives from various departments and delegated such a committee with the task to investigate all the properties, compile a property register and submit a report which contains all the council properties for consideration as a reliable source on decision making processes in dealing with properties within the WCO24. This will identify all council-owned properties and include all such properties on an asset register. This will enable council to develop a property management strategy to determine the future of these properties.

The report served before the Executive Mayor and Mayoral committee on various occasions, the last time was in March 2022.

The report was referred back for refinement in the clustering of the property groups. The report is now resubmitted with the change in the property categories as follows:

Categories of properties:

1. Strategic properties

Defined as Buildings and land used for core Municipal Functions/Services

Including the following:

1.1 Office space and related buildings (previously under(f))

1.2 Engineering Service Build Infrastructure (previously under (d))

1.3 Heritage portfolio (previously under (c)).

2. Properties used for Community Benefit (previously listed (e)).

3. Rural Properties/Agricultural (containing all leases and land not under lease used for agricultural purposes).

4. Non-Core Assets (Land nor required for municipal purposes)

- 4.1 Encroachments – outdoor dining
 - 4.2 Encroachments – gardening
 - 4.3 Encroachments – parking
 - 4.4 Leases (long/medium/short term) used for non-agricultural purposes.
5. Other Properties to be considered.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.3.4**RESOLVED**

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-25: ITEM 7.3.4

- (a) that the new list of categories be approved by Council;
- (b) that council identify and classify the properties under strategic properties (as discussed under 6.1.2 below as strategic properties needed for municipal services and not to be disposed of (kept) unless specifically dealt with per property in future (**APPENDIX 1**);
- (c) that Corporate Services investigate the possibility of adding this decision on the title deed of these properties;
- (d) that the Municipal Manager be requested to investigate how to maintain the heritage portfolio in a sustainable manner and make a proposal to council;
- (e) that the properties identified under Community Benefit be classified as properties to be used for community benefit and retained for that purpose until otherwise determined by Council (**APPENDIX 2**);
- (f) that the properties identified as Rural Properties be referred back for further refinement in sub-categories and be brought back to the next Mayco meeting for consideration;
- (g) that the properties identified under non-core assets be referred back for further refinement, whilst council note the process approved to deal with encroachments during the June 2022 Council meeting; and
- (h) that the properties identified under “other properties be referred back for further discussions and refinement.

7.3.5	EXTENSION OF RENTAL AGREEMENTS: ABSA BUILDING; ECCLESIA BUILDING; REDUCED SPACE IN EIKESTAD MALL
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Collaborator No:

IDP KPA Ref No:

Good Governance

Meeting Date:

20 July 2022

1. SUBJECT: EXTENSION OF RENTAL AGREEMENTS: ABSA BUILDING; ECCLESIA BUILDING; REDUCED SPACE IN EIKESTAD MALL

2. PURPOSE

To obtain the necessary authorisation to extend the lease agreements with ABSA Bank Ltd, Eikestad Joint Venture and Octofin Commercial (Pty) Ltd regarding office space in the CBD on a month-to-month basis to accommodate the staff currently occupying the space until the NPK building is ready for occupation.

3. DELEGATED AUTHORITY

Council must consider the matter.

4. EXECUTIVE SUMMARY

The staff that needs to work within the CBD cannot all be accommodated in Council owned buildings. There are currently 3 (three) lease agreements in place for office space in Stellenbosch CBD:

ABSA bank building

Ecclesia Building

Stellenbosch Mall (reduced space)

All three lease agreements terminated on 30 June 2022 although the agreement with Octofin was only signed in September 2019 and therefore the agreement exists with them until 30 September 2022. The contracts were entered into after it was advertised in 2019. Subsequently Council purchased the NPK building and the construction on changes and upgrades started in April 2022. The completion period is an estimated 6 months, and we will not be able to occupy the office side of the building before September 2022, if no delays occur. As with all older buildings there are inevitable hidden issues, but the process is closely monitored. The ground floor will take a month or so longer to finish, but the employees earmarked for those areas does not impact hugely on the current rental occupation. It also needs to be noted that we did not take up the additional space rental in the ABSA building.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-25: ITEM 7.3.5

- (a) that Council approves the extension of the current lease agreements with ABSA Bank Ltd, Eikestad Joint Venture and Octofin Commercial (Pty) Ltd from 1 July 2022 on a month-to-month basis until the NPK building is ready for occupation;
- (b) that Council note that even when the NPK building is fully occupied there will still be a need to rent office space for at least the Infrastructure Directorate for which a separate process will be followed; and
- (c) that the Municipal Manager be authorised, to allocate the new office space to the department(s) as needed.

7.6	INFRASTRUCTURE SERVICES : (PC : CLLR Z DALLING (MS))
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7.6.1	RETURN ITEM: LEASING OF PARKING AREAS (CHECKERS / STELMARK) TO RETAILERS ADJACENT TO THE PARKING AREAS, CONSIDERATION OF COMMENTS RECEIVED
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Collaborator No: 732885
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 20 July 2022

1. SUBJECT: RETURN ITEM: LEASING OF PARKING AREAS (CHECKERS/ STELMARK) TO RETAILERS ADJACENT TO THE PARKING AREAS, CONSIDERATION OF COMMENTS RECEIVED

2. PURPOSE

To inform Council of the outcome of the public participation process and to consider the recommendations.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

The Municipality had previously commenced formulating its parking strategy and had tabled several Council items that details the Municipality's approach to implementing its parking strategy, which includes amongst others the upgrading and developing of council owned parking areas.

Council launched and completed a Municipal Systems Act, Section 78 process to determine the most appropriate method of providing a parking service and for the development of the Eikestad parking area. The Municipality had also previously embarked upon internal parking management models, however on review these were found to be less favorable and not sustainable. The municipality intends to improve on parking management and reviewed alternative parking management models.

The Municipality had tabled Council items, to improve on parking management and had in principle, approved as pilot projects the management of Checkers Parking Complex and the Stelmark Parking Centre by adjacent retail outlet / owners.

As part of the public participation process, an Information Statement was placed on the Municipal Website on the 11 May 2022 and was published in the Eikestad news on the 19 May 2022. A copy is attached as **APPENDIX 2**. One (1) comment in support of the pilot project was received. The comment is attached as **APPENDIX 1**.

MAYORAL COMMITTEE: 2022-07-20: ITEM 7.6.1

RESOLVED

that this item stands over till Monday 25th July 2022 for the Mayoral Committee continuation.

RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2022-07-25: ITEM 7.6.1

- (a) that Council takes note that the information statement was published as part of the public participation process that was followed;
- (b) that Council considers the comment received;
- (c) that Council approves the leasing of parking areas (Checkers / Stelmark) to retailers / owners adjacent to the parking areas for a period of three years at a rental price to be determined;
- (d) that the Municipal Manager be authorised to negotiate a rental with the retailers and report back to Council; and
- (e) that the lease agreement, with the relevant parties, be compiled and concluded.

FOR FURTHER DETAILS CONTACT:

NAME	Deon Louw
POSITION	<i>Director</i>
DIRECTORATE	<i>Infrastructure Services</i>
CONTACT NUMBERS	<i>021 808 8213</i>
E-MAIL ADDRESS	Deon.louw@Stellenbosch.gov.za
REPORT DATE	<i>14 July 2022</i>

The meeting adjourned at 10:28

CHAIRPERSON:

DATE:

Confirmed on

6.	STATUTORY MATTERS
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6.1	SDF / IDP / BUDGET TIME SCHEDULE / PROCESS PLAN FOR 2023/24
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Collaborator No: 733856
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 16 August 2022

1. SUBJECT: SDF / IDP / BUDGET TIME SCHEDULE / PROCESS PLAN FOR 2023/24

2. PURPOSE

To table to Council for consideration and approval:

- (a) The SDF / IDP / Budget Time Schedule / Process Plan for 2023/24, attached as **ANNEXURE A.**

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Each municipality is legally required to adopt a time schedule listing the key activities and deadlines 10 months before the start of the new financial year.

The Spatial Development Framework (SDF) / Integrated Development Plan (IDP) / Budget Time Schedule / Process Plan for 2023/24 outlines the key strategic activities and consultative processes that will guide the planning, drafting and adoption of the First Review of the 5th Generation IDP 2022 – 2027 and the Medium – Term Revenue Expenditure Framework (Budget) to be implemented in the 2023/24 financial year.

The SDF / IDP / Budget Time Schedule / Process Plan for 2023/24 is, therefore, compiled in terms of Section 21(b) of the Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003) (MFMA), which states that “the mayor of a municipality **must** –

at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for –

- (i) the preparation, tabling and approval of the annual budget;
- (ii) the annual review of-
 - (aa) the integrated development plan in terms of section 34 of the Municipal Systems Act; and
 - (bb) the budget-related policies;
- (iii) the tabling and adoption of any amendments to the integrated development plan and budget-related policies; and
- (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii)

The SDF / IDP / Budget Time Schedule / Process Plan for the 2023/24 financial year is also compiled in terms of Section 29 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA).

Section 29(1) of the MSA specifies that:

The process followed by a municipality to draft its integrated plan, including its consideration and adoption of the draft plan, must-

- (a) be in accordance with a predetermined programme specifying timeframes for the different steps;
- (b) through appropriate mechanisms, processes and procedures established in terms of Chapter 4, allow for:
 - (i) the local community to be consulted on its development needs and priorities;
 - (ii) the local community to participate in the drafting of the integrated development plan; and
 - (iii) organs of state, including traditional authorities and other role players to be identified and consulted on the drafting of the integrated development plan;
- (c) provide for the identification of all plan and planning requirements binding on the municipality in terms of national and provincial legislation; and
- (d) be consistent with any other matters that may be prescribed by regulation.

The public participation process will comprise the period **07 – 28 September 2022**, to allow all members of the community and stakeholders to provide written inputs and oral representations which the municipality must consider in reviewing the IDP.

Public participation meetings are provisionally scheduled to be held from **19 – 22 September 2022**. The meeting schedule will be published in the local newspaper, on the municipality's website, on the notice boards of libraries and on social media platforms (Facebook, Twitter, Stellenbosch Citizens App, WhatsApp and Email).

5. RECOMMENDATIONS

- (a) that Council adopts the SDF / IDP / Budget Time Schedule / Process Plan 2023/24 for the compilation of the annual budget in terms of Section 21(1) of the MFMA and Section 29 of the MSA, to guide the planning, drafting and adoption of the First Review of the 5th Generation IDP 2022 – 2027, attached as **ANNEXURE A**; and
- (b) that an advertisement is placed on the official website of the municipality and in the local newspaper notifying the public of the adopted SDF / IDP / Budget Time Schedule / Process Plan 2023/24.

6. DISCUSSION

6.1 Background

The SDF / IDP / Budget are inextricably linked with one another, and this link has been formalised through the promulgation of the MFMA.

The requirements for a Time Schedule are outlined in Section 21(1) of the MFMA and indicate:

The Mayor of a municipality must –

- (a) *coordinate the processes for preparing the annual budget and for reviewing the municipality's integrated development plan and budget-related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget-related policies are mutually consistent and credible;*
- (b) *at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for–*
 - (i) *the preparation, tabling and approval of the annual budget;*
 - (ii) *the annual review of –*
 - aa) *the integrated development plan in terms of section 34 of the Municipal Systems Act; and*

- bb) *the budget related policies.*
- (iii) *the tabling and adoption of any amendments to the integrated development plan and the budget-related policies; and*
- (iv) *any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).*

The new planning dispensation includes the Spatial Planning and Land Use Management Act, 2013 (Act No.16 of 2013) (SPLUMA), the Western Cape Land Use Planning Act, 2014 (Act No.3 of 2014) and the Stellenbosch Municipal Planning By-law, 2015 imposes new requirements to compile or amend a municipal Spatial Development Framework (mSDF).

The SDF / IDP / Budget Time Schedule for 2023/24 also takes cognizance of the regulatory framework for the review, amendment, and approval of the SDF, IDP, Budget and the annual Service Delivery and Budget Implementation Plan (SDBIP). The SDBIP is the implementation tool to give effect to those objectives and targets as indicated in the IDP and Budget. The importance of synchronising the timelines for the revision of the IDP and Annual Budget with those of the SDBIP is captured in Section 41 of the MSA, which states that:

Section 41:

- “(1) A municipality must in terms of its performance management system and in accordance with any regulations and guidelines that may be prescribed –*
- (a) set appropriate key performance indicators as a yardstick for measuring performance, including outcomes and impact, with regard to the municipality’s development priorities and objectives set out in its integrated development plan”.*

Section 26(e) of the MSA refers to the municipal SDF as a ‘core component’ of the municipal IDP and requires that the IDP reflect an mSDF, which must include the provision of basic guidelines for a land use management system for the municipality.

A municipal SDF (new and / or amended) has to follow a timeline set out in the SDF / IDP / Budget Time Schedule for 2023/24. Moreover, the SDF and IDP processes need to be aligned.

6.2 Financial Implications.

There are no financial implications beyond that which was approved in the 2022/23 MTREF Budget.

6.3 Legal Implications

In accordance with Section 21(b) of the MFMA “the mayor of a municipality must –

at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for –

- (i) the preparation, tabling and approval of the annual budget;
- (ii) the annual review of-
 - (aa) the integrated development plan in terms of section 34 of the Municipal Systems Act; and
 - (bb) the budget-related policies;

- (iii) the tabling and adoption of any amendments to the integrated development plan and budget-related policies; and
- (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).

Section 29(1) of the MSA further specifies that:

The process followed by a municipality to draft its integrated development plan, including its consideration and adoption of the draft plan, must –

- (a) be in accordance with a predetermined programme specifying timeframes for the different steps;
- (b) through appropriate mechanisms, processes and procedures established in terms of Chapter 4, allow for-
 - (iv) the local community to be consulted on its development needs and priorities;
 - (v) the local community to participate in the drafting of the integrated development plan; and
 - (vi) organs of state, including traditional authorities and other role players to be identified and consulted on the drafting of the integrated development plan;
- (c) provide for the identification of all plan and planning requirements binding on the municipality in terms of national and provincial legislation; and
- (d) be consistent with any other matters that may be prescribed by regulation.

Section 41 of the MSA also states that:

- (1) A municipality must in terms of its performance management system and in accordance with any regulations and guidelines that may be prescribed –
 - (b) set appropriate key performance indicators as a yardstick for measuring performance, including outcomes and impact, with regard to the municipality's development priorities and objectives set out in its integrated development plan".

6.4 Staff Implications

This report has no additional staff implications for the municipality.

6.5 Risk Implication

This report has no direct risk implications for the municipality.

6.6 Previous / Relevant Council Resolutions

Item 8.2 of the 3rd Council Meeting held on 30 March 2022.

6.7 Comments from Senior Management

6.7.1 Director: Community and Protection Services

Supported

6.7.2 Chief Financial Officer

Supported

6.7.3 Director: Infrastructure Services

Supported

6.7.4 Director: Corporate Services

Supported.

6.7.5 Director: Planning and Economic Development

Supported

6.7.6 Comments from the Municipal Manager

Supported

ANNEXURES

Annexure A: SDF / IDP / BUDGET TIME SCHEDULE / PROCESS PLAN FOR 2023/24

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	geraldine.mettler@stellenbosch.gov.za
REPORT DATE	03 August 2022

ANNEXURE A

SDF / IDP / BUDGET TIME SCHEDULE / PROCESS PLAN FOR 2023/24

(In accordance with Section 21(1)(b) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and Section 29 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and the Regulations made under these Acts)

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
AUGUST 2022									
1	Place 4th Quarter Performance Report 2021/22 on website (must be placed on the website not later than 5 days) after its tabling in the council or on the date on which it must be made public, which ever occurs first)	MFMA - Section 75 (2) MSA 21 (b)					02 August 2022		Snr Manager: Financial Management Services
2	Submit 4th Quarter Performance Reports 2021/22 - SDBIP and Finance Performance Reports to National and Provincial Treasury	MPPMR - Reg 13						02 August 2022	Snr Manager: Financial Management Services
3	Submit the intention to amend the MSDF and the process to be followed in the amendment and confirm that the ISC process will not be undertaken	MPBL - Chapter 2 Section 2(b)		05 August 2022					Manager: Spatial Planning
4	Establishment of Project Committee and Terms of reference - MSDF	MPBL - Chapter 2 Section 4(1), (2) and Section 8(1)		05 August 2022					Director: Planning and Economic Development
5	Executive Mayor and Mayoral Committee considers the 2022/23 Capital Roll-Over Budget	MFMA - Sec 28(2)(e) MBRR - Reg 23(5)				17 August 2022			Chief Financial Officer
6	Executive Mayor and Mayoral Committee recommend that SDF/IDP/Budget Time Schedule / Process Plan (at least 10 months before the start of the budget year) and IDP Public Participation Meeting Schedule be approved by Council	MFMA - Sec 21(1)(b)	17 August 2022						Manager: IDP/PMS/PP
7	Council considers the 2022/23 Capital Roll-Over Budget (to be tabled before 25 August 2022)	MFMA - Sec 28(2)(e) MBRR - Reg 23(5)				24 August 2022			Chief Financial Officer
8	Council approve the SDF/IDP/Budget Time Schedule / Process Plan for 2023/24 (at least 10 months before the start of the budget year) and IDP Public Participation Meeting Schedule	MFMA - Sec 21(1)(b)	24 August 2022						Manager: IDP/PMS/PP

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
9	Council approve the SDF status quo report	MSA Regulations - Chapter 2 section 3(6); LUPA - Section 13(1)(a); MPBL - Chapter 2 Section 3(b) and 7(1)(b)		24 August 2022					Manager: Spatial Planning
10	Place advertisement to notify the public of the approved SDF/IDP/Budget Time Schedule and IIDP Public Participation Meeting Schedule on website, local newspapers and notice boards	MSA - Sec 21, 21A, 28(3)	29 August 2022						Manager: IDP/PMS/PP
11	Place 2022/23 Capital Roll-Over Budget on website (must be placed on the website not later than 5 days after its tabling in the council or on the date on which it must be made public, which ever occurs first)	MFMA - Sec 75(2) MSA - Sec 21(b)				29 August 2022			Snr Manager: Financial Management Services
12	Submit Annual Financial Statements (AFS) and Annual Performance Report (APR) 2021/22 to the Auditor - General for auditing (the accounting officer of a municipality must prepare the annual financial statements of the municipality and within 2 months after the end of the financial year to which those statements relate, submit the statements to the Auditor - General for auditing)	MFMA Sec 126 (1)(a) MSA - Sec 46 (1) (2)					31 August 2022	31 August 2022	Chief Financial Officer Manager: IDP/PMS/PP
SEPTEMBER 2022									
13	District IDP Managers Forum	MSA Section 24	01 September 2022						Manager: IDP/PMS/PP
14	Provincial IDP Managers Forum	MSA Section 24	16 September 2022						Manager: IDP/PMS/PP
15	IDP Public Participation period: during this period the community and stakeholders will be able to submit inputs for the review of the 5th Generation IDP 2022 - 2027	MSA Section 29(1)(b)(i)	07 - 28 September 2022						Manager: IDP/PMS/PP
16	SDF project team to draft the amendment to the MSDF (minor amendments)	MSA Regulations - Chapter 2 section 3(6); LUPA - Section 13(1)(a); MPBL - Chapter 2 Section 3(b) and 7(1)(b)		01 September - 31 October 2022					Manager: Spatial Planning

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
17	SDF/ IDP/ Budget public participation meetings for the review of the 5th Generation IDP 2022 – 2027	MSA Section 29(1)(b)(i)	19 – 22 September 2022						Manager: IDP/PMS/PP
18	SDF/ IDP/ Budget stakeholder engagement	Chapter 4 MSA	27 September 2022						Manager: IDP/PMS/PP
19	Capture and refine all community inputs from the needs analysis process and sector engagement	Not Applicable	28 - 30 September 2022						Manager: IDP/PMS/PP
20	Review of Long Terms Financial Plan	MSA Section 26(a)				1 September 2022 - 30 January 2023			Chief Financial Officer
OCTOBER 2022									
21	District IDP Managers Forum	MSA Section 24	6 October 2022						Manager: IDP/PMS/PP
22	Submission of priority requests to sector departments and the district municipality	Not Applicable	12 October 2022						Manager: IDP/PMS/PP
23	Strategic Integrated Municipal Engagements (SIME)		28 October 2022						Manager: IDP/PMS/PP
24	The formulation of disaster strategies: Prevention and mitigation strategies, Vulnerability reduction strategies, Capacity building, Contingency building, Emergency preparedness.	DM Act, No 57 of 2002, Section 53(1) (a-d), Section 53(2)(a)			30 October 2022				Manager: Fire and Disaster
25	Submit 1st Quarterly report for period ending 30 September 2022 on implementation of the budget and financial state of affairs of the Municipality to Council	MFMA - Sec 52(d) MFMA - Sec 71(1) MBRR - Reg 28						30 October 2022	Snr Manager: Financial Management Services
26	Submit 1st Quarter Performance Reports 2022/23 - SDBIP and Finance Performance Reports to National and Provincial Treasury	MFMA - Sec 75(2) MSA - Sec 21(b)						30 October 2022	Snr Manager: Financial Management Services
27	Operationalise disaster management in the municipality by means of identifying projects such as setting up the relevant structures.	DM Act, No 57 of 2002, Section 53(1) (a-d), Section 53(2)(a)			30 October 2022				Manager: Fire and Disaster

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
NOVEMBER 2022									
28	Place 1st Quarter Performance Report 2022/23 on website (must be placed on the website not later than 5 days after its tabling in the council or on the date on which it must be made public, which ever occurs first)	MFMA - Sec 75(2) MSA - Sec 21(b)						2 November 2022	Snr Manager: Financial Management Services
29	District IDP Managers Forum	MSA Section 24	4 November 2022						Manager: IDP/PMS/PP
30	Submit inputs for 2022/23 Operating and Capital Adjustments Budget to Manager: Budgeting and Costing	MFMA - Section 21 and 28				18 November 2022			All Directorates
31	Identify all plans and planning requirements binding on the municipality in terms of national and provincial legislation	MSA - Sect 29(1)(c)	01 - 30 November 2022						Manager: IDP/PMS/PP
32	SDF project team to draft the amendment to the MSDF and submit it to Council to approve the publication thereof for public comment and to request comment from the Provincial Minister and the District Municipality. (major amendments)	MSA Regulations - Chapter 2 section 3(6); LUPA - Section 13(1)(a); MPBL - Chapter 2 Section 3(b) and		23 November 2022					Manager: Spatial Planning
33	Finalise all IDP inputs (Chapters) and distribute to all Departments for input and revisions / amendments	MSA Section 34	30 November 2022						Manager: IDP/PMS/PP
DECEMBER 2022									
34	SDF amendment notice of the proposed MSDF amendments in the Gazette and media (inform public, Provincial Minister and District Municipality) (60 days)(minor amended)	MSA - Chapter 4 Section 21(1) and (2); SPLUMA Section 20(3);		01 December - 31 January 2023					Manager: Spatial Planning
35	District IDP Managers Forum	MSA - Sec 24	2 December 2022						Manager: IDP/PMS/PP
36	District Public Participation Forum	MSA - Sec 24	8 December 2022						Manager: IDP/PMS/PP
37	Provincial IDP Managers' Forum	MSA - Sec 24	09 December 2022						Manager: IDP/PMS/PP
38	Design of disaster management projects:	DM Act, No 57 of 2002, Section 53(1) (a-d), Section 53(2)(a)			30 December 2022				Manager: Fire and Disaster

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
JANUARY 2023									
39	Directorates complete template for 2023 - 2026 Capital and Operational Budget for Budget Prioritisation	MSA Section 26(h)				20 January 2023			Snr Manager: Financial Management Services
40	Submit Mid-year Budget and Performance Assessment Report 2022/23 to Executive Mayor	MFMA - Sec 72				25 January 2023	25 January 2023		Manager: IDP/PMS/PP
41	Submit Mid-year Budget and Performance Report 2022/23 to Provincial Treasury and National Treasury by 25 January	MFMA - Section 72(1)(b) MBRR - Reg 35				25 January 2023			Manager: IDP/PMS/PP and Chief Financial Officer
42	Submit 2nd Quarterly report for period ending 31 December 2022 on implementation of the budget and financial state of affairs of the Municipality to Council	MFMA - Sec 52(d) MFMA - Sec 71(1) MBRR - Reg 29						25 January 2023	Chief Financial Officer and Manager: IDP/PMS/PP
43	Submit Mid-year Budget and Performance Assessment Reports 2022/23 to Council	MFMA - Section 72(1)(b) MBRR - Reg 35				25 January 2023	25 January 2023	25 January 2023	Snr Manager: Financial Management Services
44	Council considers the Draft Annual Report 2021/22 before advertising it for public comment	MFMA - Sec 127						25 January 2023	Manager: IDP/PMS/PP and Chief Financial Officer
45	Make public the Mid-Year Budget and Performance Report 2022/23 in the local newspaper and on municipal website	MFMA - Section 75 (2) MSA - Sec 21(b)						30 January 2023	Chief Financial Officer and Manager: IDP/PMS/PP
46	Submit the Draft Annual Report 2021/22 , within five (5) days via e-mail and hard copy to the National Treasury, the Western Cape Department of Local Government, the Western Cape Provincial Treasury and the Auditor General	MFMA - Section 127(5)(b)					30 January 2023		Manager: IDP/PMS/PP

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
FEBRUARY 2023									
47	Project committee to consider the comments and representations received from the public and the Provincial Minister on the MSDF amendments (minor amended)	SPLUMA Section 20(3)(c); MPBL Section 7(1)(d), 7(2)		01 February - 31 March 2023					Manager: Spatial Planning
48	Project committee to compile amended MSDF and memorandum to Council highlighting reasons for the proposal and alignment with District Municipality's Framework for Integrated Planning. (minor amended)	MSA Regulations - Chapter 2 Section 3(2); District Framework for IDP requirement - MSA Section 27		01 February - 31 March 2023					Manager: Spatial Planning
49	Place advertisement in local newspapers to notify the public and other stakeholders to submit written comments on the Draft Annual Report 2021/22	MFMA - Sec 127(5)(a) MSA - Sec 21A					02 February 2023		Manager: IDP/PMS/PP
50	Place 2nd Quarter Performance Report 2022/23 on website	MFMA - Section 75 (2) MSA - Sec 21(b)						05 February 2023	Snr Manager: Financial Management Services
51	Table the draft Annual Report 2021/22 to the MPAC to considers and evaluates the content of the Annual Report 2021/22	MFMA 127 and 129 (1)					07 - 08 February 2023		Manager: IDP/PMS/PP
52	Public Hearing: Consultation on the draft Annual Report 2021/22 with the local community	MFMA - Sec 127(5) MFMA - Sec 127(6)					09 February 2023		Manager: IDP/PMS/PP
53	Complete tariff setting exercise for 2023/24	MFMA Section 71					15 February 2023		Snr Manager: Financial Management Services
54	Review current budget related policies and compile newly needed budget related policies	MFMA - Sec 21 MBRR - Part 3					15 February 2023		Snr Manager: Financial Management Services
55	MAYCO considers and adopts 2022/23 Adjustments Budget and Draft Revised SDBIP 2022/23	MFMA - Sec 28 MBRR - Part 4				15 February 2023	15 February 2023		Snr Manager: Financial Management Services and Manager: IDP/PMS/PP
56	Feedback from officials confirming internal arrangements if the content of the Annual Report 2021/22 are credible, reliable and accurate. (Modification to the report before tabling it to Council)	MFMA Sec 121 and 122					21 February 2023		Manager: IDP/PMS/PP

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
57	Council considers the 2022/23 Adjustments Budget and Draft Revised TL SDBIP 2022/23	MFMA - Sec 28 MBRR - Part 4 MSA - Sec 28 and 29				22 February 2023	22 February 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
58	Annual (2021/22) Performance Assessments for the Municipal Manager and Managers directly accountable to the Municipal Manager	MPPMR - Reg 13 GN 21- 17/01/2014					24 February 2023		Manager: IDP/PMS/PP
59	Technical Integrated Municipal Engagements (TIME)	MSA - Chapter 5	28 February 2023						Municipal Manager
60	Compilation of the Disaster Management Plan	DM Act, No 57 of 2002, Section 53 (1)(a-d) Section 53(2)(a))			28 February 2023				Manager: Fire and Disaster
MARCH 2023									
61	Advertise the approved Adjustments Budget 2022/23 and Revised SDBIP 2022/23 and submit budget and B Schedules to National Treasury and Provincial Treasury as required per legislation (within 10 working days)	MFMA - Sec 28(7) MSA - Sec 21A MBRR - Part 4				02 March 2023	02 March 2023		Snr Manager: Financial Management Services and Manager: IDP/PMS/PP
62	District IDP Managers' Forum	MSA - Sec 24	09 March 2023						Manager: IDP/PMS/PP
63	District Municipality submit draft IDP and budget to Council	MFMA - Sec 16(2) MSA - Sec 25 (b)(c) MBRR - Part 3	30 March 2023						Cape Winelands District Municipality
64	Council considers Oversight Report and Annual Report 2021/22 for approval	MFMA - Sec 129					30 March 2023		Manager: IDP/PMS/PP
65	Review the Municipality's Performance Management System (PMS) - submit Revised Performance Management Policy to Council	MPPR - Reg 3(4)(b) and Reg 11 (2)					30 March 2023		Manager: IDP/PMS/PP
66	Submission of the draft IDP, budget, tariffs, budget related policies and SDBIP (at least 90 days before the start of the budget year) to Council for approval for the purpose of obtaining public comment and inputs (21 days)	MFMA - Sec 16(2) MSA - Sec 25 (b)(c) MBRR - Part 3				30 March 2023	30 March 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
APRIL 2023									
67	Submit the budget to Department of Local Government, National and Provincial Treasury, prescribed national or provincial organs of state and to other municipalities affected by budget	MFMA - Sec 22(b) MBRR - Reg 20				04 April 2023			Snr Manager: Financial Management Services
68	Place advertisement for the Oversight Report and the Annual Report 2021/22 to be released for information which must be placed on the municipal website within five (5) days after it is approved	MFMA - Sec 129(3) MFMA - Sec 75 ©					04 April 2023		Manager: IDP/PMS/PP
69	Submit the Draft IDP, Draft SDBIP 2023/24 to Department of Local Government, National and Provincial Treasury, prescribed national or provincial organs of state and to other municipalities affected by the IDP and budget	MFMA - Sec 22(b) MSA - Sec 29(3)(b) MSA - Sec 32(1) MBRR - Reg 20	07 April 2023				07 April 2023		Manager: IDP/PMS/PP and Manager: Spatial Planning and Snr Manager: Financial Management Services
70	Ensure that the Oversight Report and Annual Report 2021/22 are made available at all municipal offices and libraries for information	MFMA - Sec 129(3)					07 April 2023		Manager: IDP/PMS/PP
71	Advertise the Draft IDP and Draft Budget and other required documents and provide at least 21 days for public comments and written submissions	MFMA - Sec 22(a) MSA - Sec 21A, 42 MPPMR - Reg 15(3)	03 - 24 April 2023			03 - 24 April 2023	03 - 24 April 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
72	Public Participation Meetings to consult the Draft IDP, Draft SDBIP 2023/24 and Draft Budget	MFMA - Sec 22(a) MSA - Sec 21A, 42 MPPMR - Reg 15(3)	13 - 19 April 2023			13 - 19 April 2023	13 - 19 April 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
73	Submit 3rd Quarter report for period ending 31 March 2023 on implementation of the budget and financial state of affairs of the Municipality to Council	MFMA - Sec 52(d) MFMA - Sec 71(1) MBRR - Reg 29						26 April 2023	Snr Manager: Financial Management Services
74	Submit 3rd Quarter Performance Reports 2022/23 - SDBIP and Performance Reports to National and Provincial Treasury	MPPMR - Reg 13						28 April 2023	Snr Manager: Financial Management Services

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
MAY 2023									
75	Place 3rd Quarter Performance Report 2022/23 on website	MFMA - Sec 75(2) MSA - Sec 21(b)						01 May 2023	Manager: IDP/PMS/PP
76	SIME / LG MTEC 3 IDP and Budget Assessments by Provincial Treasury and Department of Local Government	MSA Chapter 5 MFMA	08 May 2023			08 May 2023	08 May 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
77	MAYCO meeting to consider the draft IDP, Draft Budget and Draft SDBIP 2023/24 (at least 30 days before the start of the budget year)	MFMA - Sec 24	24 May 2023			24 May 2023	24 May 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
78	Council meeting to adopt the amended SDF , with reasons and response of the municipality to the comments submitted during public participation			31 May 2023					Manager: Spatial Planning
79	Council meeting to adopt final IDP, Performance Management Measures and targets and the budget (at least 30 days before the start of the budget year)	MFMA - Sec 24	31 May 2023			31 May 2023	31 May 2023		Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
80	Place the adopted IDP, multi-year budget, all budget-related documents and all budget-related policies on the website	MFMA - Sec 22 and 75 (1)(2) MSA - Sec 21A and 21B	29 May 2023			31 May 2023			Manager: IDP/PMS/PP and Snr Manager: Financial Management Services
81	District Municipality adopt final IDP and budget	MFMA - Sec 24	31 May 2023						Cape Winelands District Municipality
JUNE 2023									
82	MM to submit the written notice of the decision to amend the MSDF with reasons, the amended MSDF and a report setting out the response of the municipality to the comments submitted during public participation. (minor amended)	LUPA - Section 14		02 June 2023					Manager: Spatial Planning
83	Submit a copy of the IDP and amended SDF to the MEC for LG (within 10 days of the adoption of the plan)	MSA - Sec 21, 21A, 28(3)	02 June 2023						Manager: IDP/PMS/PP
84	Submit approved budget to National and Provincial Treasuries (both printed and electronic formats)	MFMA - Sec 24(3) MBRR - Reg 20				05 June 2023			Snr Manager: Financial Management Services
85	Give notice to the public of the adoption of the IDP and Budget (within 14 days of the adoption of the plan) and budget (within 10 working days)	MBRR - Reg 18 MSA - Sec 25(4)(a)(b) MFMA - Sec 75(1)	07 June 2023			09 June 2023			Manager: IDP/PMS/PP and Snr Manager: Financial Management Services

ACTIVITY / TASK		LEGISLATIVE REQUIREMENTS	TARGET DATES					RESPONSIBLE OFFICIAL	
NO	DESCRIPTION		IDP/ PP	SDF	DISASTER MANAGEMENT	BUDGET	PMS		REPORTING
86	Submit to the Executive Mayor the TL SDBIP 2023/24 (no later than 14 days after the approval of an annual budget)	MFMA - Sec 69(3)(a)					12 June 2023		Manager: IDP/PMS/PP
87	Executive Mayor takes all reasonable steps to ensure that the SDBIP is approved (within 28 days after approval of the budget)	MFMA - Sec 53(1)(c) (ii)					26 June 2023		Manager: IDP/PMS/PP
JULY 2023									
88	Make public the projections, targets and indicators as set out in the TL SDBIP (no later than 14 days after the approval of the SDBIP) and submit to National and Provincial Treasuries (no later than 10 working days after the approval of the SDBIP)	MFMA Section 53(3)(a) MBRR Reg 19					10 July 2023		Manager: IDP/PMS/PP
89	Make public the performance agreements of the Municipal Manager and Managers directly accountable to the Municipal Manager (no later than 14 days after the approval of the SDBIP)	MFMA Section 53(3)(b)					10 July 2023		Manager: IDP/PMS/PP

6.2	ADJUSTMENTS BUDGET (ROLL-OVER) 2022/2023
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Collaborator No: 733857
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 August 2022

1. SUBJECT: ADJUSTMENTS BUDGET (ROLL-OVER) 2022/2023

2. PURPOSE

Is to present the adjustments budget roll-over for the 2022/2023 financial year to Council for approval.

3. DELEGATED AUTHORITY

FOR APPROVAL BY MUNICIPAL COUNCIL

4. EXECUTIVE SUMMARY

Attached as **APPENDIX 1** is an executive summary by the Accounting Officer.

5. RECOMMENDATIONS

- (a) that the Adjustments Budget for 2022/2023 as set out in **APPENDIX 2**, be approved;
- (b) that the Adjustments Budget Tables as prescribed by the Budgeting and Reporting Regulations, as set out in **APPENDIX 3**, be approved; and
- (c) that the Service Delivery and Budget Implementation Plan be adjusted accordingly inclusive of the non-financial information (performance measurement).

6. DISCUSSION / CONTENTS

6.1 Background/ Legislative Framework

In terms of section 28 (2) (e) of the Municipal Finance Management Act:

“An adjustments budget may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council”.

According to regulation 23 (5) of the Municipal Budget and Reporting Regulations:

“An adjustments budget referred to in section 28 (2) (e) of the Act may only be tabled after the end of the financial year to which the roll-overs relate, and must be approved by the municipal council by 25 August of the financial year following the financial year to which the roll-overs relate.”

6.2 Discussion

These adjustments budget addresses the spending of funds that were unspent and committed at the end of the 2021/2022 financial year where the under-spending could not reasonably have been foreseen at the time of concluding the annual budget of the current financial year.

Capital Adjustments Budget

Council approved a Capital Budget for the 2022/2023 financial year amounting to R 409 273 204 in May 2022. This adjustments budget effectively changes the Amended budget by means of the inclusion of the roll-overs from the 2021/2022 financial year.

The criteria applied for roll over of capital projects included supporting evidence that must be provided for each project that the work has commenced, namely the following:

- Proof that the project tender was published and the period for tender submissions closed before 30 June 2022.
- Detailed reference numbers of the Supply Chain Management process followed needs to be provided.
- Evidence that all projects linked to an allocation will be fully utilised by 30 June 2023.

Details of the proposed adjustments are reflected in APPENDIX 2.

Operating Revenue Adjustments Budget

The approved Operating Revenue Budget for the 2022/2023 financial year amounted to R 2 256 812 246 in May 2022. These adjustments budget effectively changes the amended budget by means of the inclusion of the grant roll-overs from the 2021/2022 financial year.

Details of the proposed adjustments are reflected in **APPENDIX 2.**

Operating Expenditure Adjustments Budget

Council adopted an Operating Expenditure Budget for the 2022/2023 financial year amounting to R 2 02 064 809 in May 2022. This adjustments budget changes the approved budget by means of the inclusion of the roll-overs from the 2021/2022 financial year.

Details of the proposed adjustments are reflected in **APPENDIX 2.**

6.3 Financial Implications

Financial impact is reflected in the appendices.

6.4 External Loan roll over from 2021/2022

Council approved the debt agreement in terms of Section 46 (2) of the Municipal Finance Management Act (Act No 56 of 2003) on 22 June 2022.

The specific loan capital projects formed part of the information statement in terms of S46(3) and the loan funding can only be utilised for these identified projects.

The details of the proposed adjustments are reflected in **APPENDIX 2.**

6.5 Legal Implications

The item is compliant with the relevant legislative framework

6.6 Staff Implications

None

6.7 Previous / Relevant Council Resolutions:

5th Council Meeting on 25 May 2022 - Item 8.3

6.8 Risk Implications

None

6.9 Comments from Senior Management:

The item was not circulated for comment except to the Municipal Manager

6.9.1 Municipal Manager:

Supports the recommendations

ANNEXURES

Appendix 1: Executive summary

Appendix 2: Adjustments Budget

Appendix 3: Budgeting and Reporting Regulations: Schedule B

Appendix 4: Other supporting documents

Appendix 5: Quality certificate

(APPENDICES WILL BE DISRIBUTED UNDER SEPARATE COVER)

FOR FURTHER DETAILS CONTACT:

NAME	MONIQUE STEYL
POSITION	SENIOR ANAGER: FINANCIAL MANGEMENT SERVICES
DIRECTORATE	FINANCIAL SERVICES
CONTACT NUMBERS	021 808 8512
E-MAIL ADDRESS	Monique.Steyl@stellenbosch.gov.za
REPORT DATE	10 August 2022

6.3	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR JULY 2022
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Collaborator No: 733857
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 August 2022

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR JULY 2022

2. PURPOSE

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2022/2023 to report the deviations to Council.

3. DELEGATED AUTHORITY

Council

FOR NOTING.

4. EXECUTIVE SUMMARY

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2022/2023) stipulate that SCM deviations be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during July 2022.

5. RECOMMENDATION

that Council notes the deviations as listed for the month of July 2022.

6. DISCUSSION / CONTENTS

6.1. Background/Legislative Framework

The regulation applicable is as follows:

GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations

Deviation from and ratification of minor breaches of, procurement processes

36. (1) A supply chain management policy may **allow the accounting officer—**

(a) To **dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only—**

(i) in an emergency;

(ii) if such goods or services are produced or available from a single provider only;

(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iv) acquisition of animals for zoos; or

(v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

(b) to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) The accounting officer must record the reasons for any deviations in terms of sub regulation (1) (a) and (b) and **report them to the next meeting of the council**, or board of directors in the case of a municipal entity and include as a note to the annual financial statements.

6.2. Discussion

Reporting the deviations as approved by the Accounting Officer for July 2022:

The following deviations were approved with the reasons as indicated below:

DEVIATION NUMBER	CONTRACT DATE	NAME OF CONTRACTOR	CONTRACT DESCRIPTION	REASON	SUBSTANTIATION WHY SCM PROCESS COULD NOT BE FOLLOWED	TOTAL CONTRACT PRICE R
D/SM 01/23	01 July 2022	Evolution Technology (ETG)	Appointment of Evolution Technology (ETG) for printing services on a month-to-month basis until the new RT3 2022 contract is implemented	Exceptional case and it is impractical or impossible to follow the official procurement processes	There is a current transversal tender in place until 30 June 2022 as per the BAC resolution of 18 April 2019. The new transversal tender only became available on 1 April 2022 with amendments running through into June 2022, and the municipality must still go through the processes to implement the transversal tender which we anticipate will take 4 to 5 months. This is a critical service to the Municipality and as such the Municipality cannot be without the printing service. It is impractical to follow another procurement process due to the transversal tender we want to take part in. The printers that we currently used was provided by the proposed service provider. If we have to get a new service provider it will lead to a disruption in the service and it will only be for a few months until the new transversal tender can be implemented. This deviation ensures that there is no interruption in this critical service to the Municipality as the recommended service provider is the current service provider.	R2 763 62,61 (Incl.Vat)

D/SM 02/23	12 July 2022	Levendal Attorneys	To appoint a service provider to oppose the default judgement and statement of claim instituted against Stellenbosch municipality in terms of Rule 6 of the Labour Court rules	Exceptional case and it is impractical or impossible to follow the official procurement processes	The Employee alleged that in 2014 the Municipality embarked on a process of restructuring the T-grading system. The employee received a letter in 2016 from the Municipality stating that there would be restructuring in the organogram which would affect the T grading of individuals. The employee is alleging that she is the subject of an unfair labour practice in relation to failure to promote and/or demotion and is being unfairly discriminated against and that she is victimized by the Municipality. The employee's attorneys Ismail and Dahya Attorneys served an Application for Default Judgment on the Municipality, subsequent to which Levendal Attorneys were appointed via formal quotation to oppose the Default Judgment and Statement of Claim instituted by the employee. The Municipality has served and filed its statement of response in the matter and the matter was set down for argument. The court referred the matter back to the parties for round table discussion and possible settlement. Levendal Attorneys has been appointed to attend to this matter via a formal quotation process and has the relevant background, institutional experience and expertise to attend to this matter. Except for a deviation no other supply chain management process can be followed to appoint Levendal Attorneys for this matter.	R 101 332,00 (Incl.Vat)
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6.4 Legal Implications

The regulation applicable is:

GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations: Deviations from and ratification of minor breaches of, procurement processes.

6.5 Staff Implications:

No staff implications

6.6 Previous / Relevant Council Resolutions:

None

6.7 Risk Implications

That the market may not be tested.

The measures in place to deal with deviations mitigate the risk to an acceptable level. The auditor general also audit the deviations during the yearly audit.

6.8 Comments from Senior Management:

The item was not circulated for comment except to Municipal Manager

6.8.1 Municipal Manager

Supports the recommendations

FOR FURTHER DETAILS CONTACT:

NAME	Kevin Carolus
POSITION	CFO
DIRECTORATE	Finance
CONTACT NUMBERS	021 808 8528
E-MAIL ADDRESS	Kevin.Carolus@stellenbosch.gov.za
REPORT DATE	03 August 2022

7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER (MS)]
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7.1	PROTECTION SERVICES: (PC: CLLR R BADENHORST)
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NONE

7.2	YOUTH, SPORTS AND CULTURE: [PC: CLLR R ADAMS]
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NONE

7.3	CORPORATE SERVICES: (PC: CLLR L NKAMISA)
7.3.1	RETURN ITEM: APPLICATION TO LEASE A PORTION OF MUNICIPAL OFFICES AT PNIEL FOR THE PURPOSE OF A SATELITE CLINIC: WESTERN CAPE GOVERNMENT: DEPARTMENT OF TRANSPORT AND PUBLIC WORKS

Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance

16 August 2022

1. SUBJECT: RETURN ITEM: APPLICATION TO LEASE A PORTION OF MUNICIPAL OFFICES AT PNIEL FOR THE PURPOSE OF A SATELITE CLINIC: WESTERN CAPE GOVERNMENT: DEPARTMENT OF TRANSPORT AND PUBLIC WORKS

2. PURPOSE

Is to provide feedback on the public participation process that took place after the in-principle decision to approve the request from the Provincial Government of the Western Cape: Department of Transport and Public Works to use a portion of the Municipal Offices in Pniel for the purpose of a Satellite Clinic for the Dwarsrivier Area free of charge. A Final decision must be made.

3. DELEGATED AUTHORITY

In terms of the approved System of Delegations the Executive Mayor, in consultation with the Executive Mayoral Committee, has the delegated authority to consider applications to lease council-owned property for a period shorter than 10 years on a contract value of less than R5M (See delegation EM85).

4. EXECUTIVE SUMMARY

The Provincial Government of the Western Cape requested the use of a portion of the Municipal Office in Pniel to be used as a Satellite Clinic for the Dwarsrivier area. The only other clinic is situated in Kylemore. They want to lease the property free of charge for a period of 9 years and 11 months with the option to renew. The Property Management Policy allows for direct negotiations in specific circumstances, where a public competitive process would not serve any purpose.

The Executive Mayor in consultation with the Mayoral committee resolved on 23 March 2022 to in principle agree to the lease of the portion of the Pniel office to the Department of Public Works for a satellite clinic free of charge provided that a public participation process be followed to provide an opportunity for any inputs on the in-principle decision.

The advertisement was published and the date for comments closed on 5 August 2022 (copy as per **APPENDIX 1**). We have received no inputs.

5. RECOMMENDATIONS

- (a) that it be noted that no inputs were received during the public participation process;
- (b) that Council approves the lease of the portion of the Pniel municipal building used by the post office, be made available to the provincial department of public works for purpose of the satellite clinic;

- (c) that the Department be responsible for any renovations and upgrades required at their own costs and without any future compensation from the Municipality;
- (d) that the department enters into a lease agreement with the Municipality and agrees to pay a pro rata amount for services based on the square meters used per month; and
- (e) that the portion be lease for a period of 9 years and 11 months.

6. DISCUSSION / CONTENT

6.1 Background

6.1.1 Application to use a portion of the Municipal Offices for a Satellite Clinic

The Provincial Department of Transport and Public Works applied for the lease of a portion of the Pniel complex to use as a satellite clinic, until such time as a new clinic has been constructed for the bigger Dwarsrivier area.

According to the Department the Dwarsrivier Valley is in desperate need of a health facility that will provide improved access with a full package of care for the Groot Drakenstein, Lanquedoc and Pniel communities. Currently Kylemore Clinic and Simondium clinics renders health services to the community, together with a mobile outreach.

A project has been registered for the construction of a satellite clinic in Pniel and possible land has been identified, but due to the financial constraints and the lengthy process to acquire such land, as well as to plan and construct a new building, it is unlikely that the new clinic will be operational before 2029.

For this reason, the Municipal Building in Pniel has been identified as a possible site to be used as a satellite clinic, until such time a new clinic has been built (9 years and eleven months). They request that the subject property be let to the Western Cape Government at no cost. They, however, undertake to pay for the *pro-rata* use of Municipal Services and will undertake any upgrades/refurbishments at their cost.

6.2. DISCUSSION

The Executive Mayor in consultation with the Mayoral committee resolved on 23 March 2022 to in principle agree to the lease of the portion of the Pniel office to the Department of Public Works for a satellite clinic free of charge provided that a public participation process be followed to provide an opportunity for any inputs on the in-principle decision.

6.2.1 Location and context

The Municipal building in Pniel is situated on a portion of erf 721, Pniel, as shown on Fig 1 and 2, below.



Fig 1: Location and context



Fig 2: The site

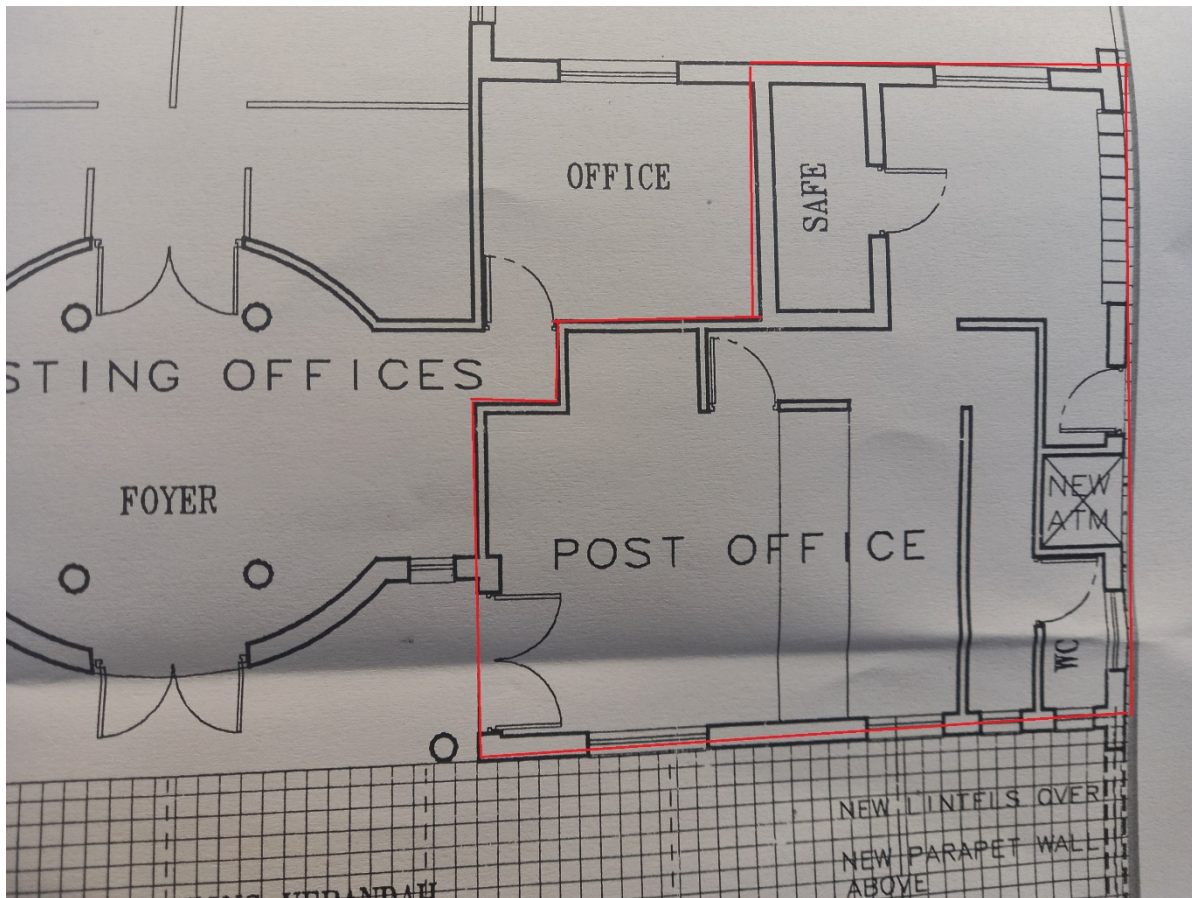


Fig 3: Area to be used as satellite clinic

6.2.2 Current/historic use of space

The area identified by the Department for use of a clinic was previously used as a satellite Post Office. The level of service however, has drastically lowered over the past few years to such an extent that less than 50 post boxes are currently in use.

During discussions with a representative of the Post Office, and following a site visit on 10 January 2022, the Post Office has indicated that they are willing to vacate the premises, on condition that they be allowed to put up a mobile post box (on the northern side of the building). As soon as we receive their application, it will be dealt with separately.

The intention to lease the property for the use of a satellite clinic was published for public inputs and no inputs were received.

6.3 Financial Implications

The Provincial Government will attend to all upgrades at their cost. The request to lease the property free of charge except for the payment of services and maintenance was approved in principle by The Executive Mayor on 23 March 2022 – see 6.6 below.

6.4 Legal Implications

The recommendations are in line with Council policy and legislation.

6.5 Staff Implications

No additional staff implications.

6.6 Previous / Relevant Council Resolutions**EXECUTIVE MAYORAL COMMITTEE: 2022-03-23: ITEM 7.2.5****RESOLVED**

- (a) that the portion of the Pniel municipal building currently used by the post office be identified as currently not required for minimum Municipal Services;
- (b) that Council in principle agree that the portion of the Pniel municipal building currently used by the post office, be made available to the provincial department of public works for purpose of the satellite clinic;
- (c) that the intention of Council to lease the property to the Department of Public Works for the purposes of a satellite clinic be advertised for public comment;
- (d) that the item be returned to The Executive Mayor in consultation with the Mayoral Committee for a final decision after the public participation process has closed;
- (e) that the Department be responsible for any renovations and upgrades required at their own costs and without any future compensation from the Municipality;
- (f) that the department enters into a lease agreement with the Municipality and agrees to pay a pro rata amount for services based on the square meters used per month; and
- (g) that the portion be lease for a period of 9 years and 11 months.

6.7 Risk Implications

The risks are addressed in the content of the item and the terms and conditions of a lease agreement will further address any risks for the Municipality.

6.8 Comments from Senior Management**6.8.1 Director: Infrastructure Services**

We have recently taken over electricity within Pniel and Johannesburg. We are delivering all other services within Dwarsrivier area, but there is no dedicated complaint office. I, however, agree that a Clinic carries a bigger need than a services complaint office.

6.8.2 Director: Planning and Economic Development

I have no objection if a portion of the municipal building at Pniel is used for a clinic. The building is under-utilized and the portion previously used by the post office even more so. The area is in desperate need of a local clinic which will enable the public to receive much needed care locally and save many an unnecessary trip to Stellenbosch. The municipal offices is centrally located and very accessible to the public. I therefore support the request fully.

6.8.3 Chief Financial Officer

It is important that the Clinic pay for all services.

6.8.4 Municipal Manager

In IDP meetings the need for a clinic in the area was identified.

ANNEXURES: Notice in the newspaper.

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Annalene de Beer
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>CORPORATE SERVICES</i>
<i>CONTACT NUMBERS</i>	<i>021-8088018</i>
<i>E-MAIL ADDRESS</i>	<i>Annalene.deBeer@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>11 August 2022</i>

APPENDIX 1

H.J. Bothma
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

H.J. BOTHMA (ID-nr.830914 5017 08 0). Meestersverwysingsnr. C293/2021.

Kragtens Art. 40(3), 56(3) en 77 van die Insolvensiewet van 1936, soos gewysig, geskied kennis hiermee dat die ondergetekende aangestel is as mede-trustees en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die trustee te betaal. Die tweede vergadering van krediteurs sal plaasvind voor die voorsittende beamppte, landdroshof Bellville, op 29 Julie 2022 om 11:00: a) om verdere eise te bewys; b) om die trustee se verslag voor te lê; c) om resolusies te aanvaar.

MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK, Posbus 50861, West Beach 7449. Trusteese: Lielzel Venter & J. Mashamba. 270719 Jul. 8 - (4215)

Home from Home Cape CBD
KENNISGEWING

HOME FROM HOME CAPE CBD (EDMS.) BPK. (in likwidasië), Meestersverwysing: C1110/2021.

Kragtens Artikels 399, 366, 375(5)(b) en 402 van die Maatskappijwet-nr. 61 van 1973, soos gewysig, geskied hiermee kennis dat die Tweede Vergadering van Skuldeisers, Lede en Kontributante, gehou sal word voor die Voorsittende Beamppte te die Meester van die Hoogeregshof, Kaapstad op Dinsdag, 26 Julie 2022 om 09h00, vir: a) die bewys van vorderings teen die maatskappy; b) om die Gesamentlike Likwidateurs se verslag te ontvang; en c) om opdragte aangaande die administrasie van die boedel te gee. CK TRUST, C.B. St Clair Cooper & M.S. Knipe, Posbus 3065, Tygervallei, 7536. Tel. 021 910 2902. 611723 Jul. 8-(4215)V

J. Burger
KENNISGEWING VAN TWEEDE VERGADERING VAN KREDITEURE

Insolvente boedel JAN BURGER, ID-nr. 820406 5220 08 9, Meestersverwysing: C1086/2021.

Kragtens Artikel 40(3), 56(3) en 77 van die Insolvensiewet geskied kennis hiermee dat die ondergetekende, aangestel is as Kurators, en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die Kurator te betaal. Die Tweede Vergadering van Krediteure, sal plaasvind voor die Landdroskantoor te Kullsrivier op Woensdag, 27 Julie 2022 om 09h00 vir: a) Om verdere eise te bewys; b) Om die Kurator se verslag voor te lê en te aanvaar; en c) Om besluite te aanvaar. CK TRUST, C.B. St Clair Cooper & C.A. Johannes, Posbus 3065, Tygervallei, 7536. Tel. 021 910 2902. 611723 Jul. 8-(4215)V

K. Gush
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

KIM GUSH (ID-nr.860218 0081 08 0). Meestersverwysingsnr. C515/2020.

Kragtens Art. 40(3), 56(3) en 77 van die Insolvensiewet van 1936, soos gewysig, geskied kennis hiermee dat die ondergetekende aangestel is as mede-trustees en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die trustee te betaal. Die tweede vergadering van krediteurs sal plaasvind voor die voorsittende beamppte, landdroshof Wynberg, op 4 Augustus 2022 om 09:00: a) om verdere eise te bewys; b) om die trustee se verslag voor te lê; c) om resolusies te aanvaar. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK, Posbus 50861, West Beach 7449. Trusteese: Lielzel Venter & A.T. Dlamini. 270719 Jul. 8 - (4215)

L. Combrinck
INSOLVENTE BOEDEL

Rekening ter insae

L. COMBRINCK (ID-nr. 830123 0067 08 8). Meestersverw.: C577/2019.

Kennis geskied hiermee dat die eerste en finale likwidasië en distribusierekening in bovermelde saak ter insae sal lê in die kantoor van die meester van die Hoogeregshof, Kaapstad, en die landdroshof, Strand, vir 14 dae vanaf datum van publikasie hiervan. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK., Posbus 50861, West Beach 7449. Medetrusteese: Lielzel Venter & N. Cronje. 270719 Jul. 8 - (4215)

L. & D. Snyders
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

L. SNYDERS (ID-nr.561018 5017 08 5) & D. SNYDERS (ID-nr. 570227 0075 08 4). Meestersverwysingsnr. C1177/2021.

Kragtens Art. 40(3), 56(3) en 77 van die Insolvensiewet van 1936, soos gewysig, geskied kennis hiermee dat die ondergetekende aangestel is as mede-trustees en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die trustee te betaal. Die tweede vergadering van krediteurs sal plaasvind voor die voorsittende beamppte, landdroshof Bellville, op 29 Julie 2022 om 11:00: a) om verdere eise te bewys; b) om die trustee se verslag voor te lê; c) om resolusies te aanvaar. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK, Posbus 50861, West Beach 7449. Trusteese: Lielzel Venter & L.C. Muller. 270719 Jul. 8 - (4215)

Living Story (Edms) Bpk
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

LIVING STORY (EDMS) BPK (in likwidasië). Meestersverwysingsnr. C505/2021.

Ingevolge Art. 40(3) van die Insolvensiewet van 1936, soos gewysig, saamegelees met Art. 402 van die Maatskappijwet, 1973, geskied kennis hiermee dat 'n tweede vergadering van krediteure gehou sal word voor die voorsittende beamppte, meester van die Hoogeregshof, Kaapstad, op 29 Julie 2022 om 11:00 vir die bewys van eise teen die boedel, om die trustee se verslag in ontvangs te neem en om die trustee se verslag te gee ten opsigte van die realisering van die bate en die administrasie van die boedel se sake in die aanvaarding van resolusies. WALLACE TRUST, Posbus 1121, Durbanville 7551. Likwidateurs: G.D. Wallace & C. van den Heever. 270719 Jul. 8 - (4215)

Louis Group International
Foundation
INSOLVENTE BOEDEL

Rekening wat ter insae lê

Insolvente boedel: LOUIS GROUP INTERNATIONAL FOUNDATION. Meestersverw.-nr. C149/2019.

Kennis geskied hiermee dat inge- volge Artikel 108(2) van die Insolvensiewet nr. 24 van 1936, soos gewysig, dat die eerste en finale likwidasië en kontribusierekening in bogemelde saak vir krediteure ter insae sal lê by die kantoor van die meester van die Wes-Kaapse hoogeregshof, Dullah Omar-gebou, Kasteelstraat 45, Kaapstad, en die landdroshof, Goodwood, vir veertien (14) dae vanaf datum van publikasie hiervan. SANEK TRUST RECOVERY SERVICES (EDMS.) BPK, 3de Vloer, St. George's Mall 5, Kaapstad. Trusteese: S.M. Gore, J. Eckhoff & M. Mohamed. 261968 Jul. 8 - (4215)

M.D. & R.E. Cooley
INSOLVENTE BOEDEL

Rekening ter insae

M.D. COOLEY (ID-nr. 861230 5175 08 9) en R.E. COOLEY (ID-nr. 860622 0203 08 3). Meestersverw.: C208/2019.

Kennis geskied hiermee dat die eerste en finale likwidasië en distribusierekening in bovermelde saak ter insae sal lê in die kantoor van die meester van die Hoogeregshof, Kaapstad, en die landdroshof, Caledon, vir 14 dae vanaf datum van publikasie hiervan. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK., Posbus 50861, West Beach 7449. Medetrusteese: Lielzel Venter & S. Smit. 270719 Jul. 8 - (4215)

M.G. Smith
INSOLVENTE BOEDEL

Rekening wat ter insae lê

Insolvente boedel: MARK GEOFFREY SMITH. Meestersverw.-nr. C870/2020.

Kennis geskied hiermee dat inge- volge Artikel 108(2) van die Insolvensiewet nr. 24 van 1936, soos gewysig, dat die eerste en finale likwidasië en kontribusierekening in bogemelde saak vir krediteurs ter insae sal lê by die kantoor van die meester van die Wes-Kaapse hoogeregshof, Dullah Omar-gebou, Kasteelstraat 45, Kaapstad vir veertien (14) dae vanaf 8 Julie 2022. SANEK TRUST RECOVERY SERVICES (EDMS.) BPK, 3de Vloer, St. George's Mall 5, Kaapstad. Trusteese: S.M. Gore, J. Eckhoff & M. Mohamed. 261968 Jul. 8 - (4215)

M. Smith
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

MICHAEL SMITH (ID-nr.750715 5166 08 2). Meestersverwysingsnr. C238/2021.

Kragtens Art. 40(3), 56(3) en 77 van die Insolvensiewet van 1936, soos gewysig, geskied kennis hiermee dat die ondergetekende aangestel is as mede-trustees en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die trustee te betaal. Die tweede vergadering van krediteure sal plaasvind voor die voorsittende beamppte, landdroshof Bellville, op 29 Julie 2022 om 11:00: a) om verdere eise te bewys; b) om die trustee se verslag voor te lê; c) om resolusies te aanvaar. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK, Posbus 50861, West Beach 7449. Trusteese: Lielzel Venter & T.M. Maponya. 270719 Jul. 8 - (4215)

M.Z. Barday
KENNISGEWING VAN REKENING WAT TER INSAE LÊ

Insolvente boedel MOHAMED ZUBAIR BARDAY, Meestersverwysing: C213/2021.

Die Eerste en Finale Likwidasië, Distribusie- en Kontribusierekening in bogenoemde boedel, Meestersverwysing C.213/2021 sal vir 'n tydperk van veertien (14) dae vanaf 8 Julie 2022 ter insae lê in die kantore van die Meester van die Hoogeregshof te Kaapstad en die Landdroshof te Wynberg. JJS ADMINISTRATORS (EDMS.) BPK., C.F. Bester & N.A.M. Tshiv-hase, Mede-Kurators, 3de Vloer, Tjig-ger Park 3, vanaf Willie Van Schoor-rylaan, Tygervallei, 7530. Tel. 021 271 0415. 868638 Jul. 8-(4215)V

Ormonde Vineyards
KENNISGEWING

Boedel ORMONDE VINEYARDS (EDMS.) BPK. (in likwidasië), Mee-ster se verwysings-nr. C1231/2021. Kragtens Artikels 40(3), 56(3) en 77 van die Insolvensiewet, 1936 en Arti- kels 339, 366, 375 (5) (b), 386(1)(d) en 402 van die Maatskappijwet-nr. 61 van 1973, soos gewysig, geskied kennis hiermee dat die Algemene Vergadering van Krediteure of Kon- tributante in bogemelde maatskappy in likwidasië gehou gaan word by die Landdroshof, Malmesbury, op Don- derdag, 28 Julie 2022 om 09:00 vm: (1) vir die bewys van vorderings teen die maatskappy; (2) vir die ontvangs van verslae van die Likwidateur oor die sake en toestand van die maats- kappy; en (3) om aanwysings te gee aan die Likwidateur aangaande die administrasie van die boedel. JJS ADMINISTRATORS (EDMS.) BPK., Likwidateure: Renee Bernice Bailey/Jochen Eckhoff/Reynard Ray- mond Richards Roberts, Kantoor 303, 3de Vloer, Tjigterpark 3, Willie van Schoorrylaan, Tygervallei, Bell- ville, 7530. 868638 Jul. 8-(4215)V

Purefruit Marketing
KENNISGEWING

PUREFRUIT MARKETING (EDMS.) BPK. (in likwidasië), Meestersver- wysings-nr. C872/2020. Ingevolge Artikels 339, 366, 375(5)(b) en 402 van die Maatskap- pywet-nr. 61 van 1973, soos gewysig, geskied hiermee kennis dat die Tweede Vergadering van Skuldeisers en Kontributante om 09h00 op Dins- dag, 26 Julie 2022 by die Meester van die Hoogeregshof, Kaapstad gehou sal word vir die bewys van vorderings teen die maatskappy, om die likwi- dateur se verslag te ontvang en om opdragte aangaande die adminis- trasie van die boedel te gee. PROGRESSIVE ADMINISTRATION, Likwidateur: T.C. van Zyl & A. Taunyane, Devonshireweg 20, Wyn- berg, 7800. Tel. 021 224 0335. 262311 Jul. 8-(4215)V

R.J. Ferreira
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

R.J. FERREIRA (ID-nr.590926 5077 08 8). Meestersverwysingsnr. C545/2019.

Kragtens Art. 40(3), 56(3) en 77 van die Insolvensiewet van 1936, soos gewysig, geskied kennis hiermee dat die ondergetekende aangestel is as mede-trustees en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die trustee te betaal. Die tweede vergadering van krediteure sal plaasvind voor die voorsittende beamppte, landdroshof Bellville, op 29 Julie 2022 om 11:00: a) om verdere eise te bewys; b) om die trustee se verslag voor te lê; c) om resolusies te aanvaar. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK, Posbus 50861, West Beach 7449. Trusteese: Lielzel Venter & B. Dicks. 270719 Jul. 8 - (4215)

S. Roman
INSOLVENTE BOEDEL

Rekening ter insae

SAMUEL ROMAN (ID-nr. 611017 5242 08 1). Meestersverw.: C942/2019.

Kennis geskied hiermee dat die eer- ste en finale likwidasië en distribu- sierekening in bovermelde saak ter insae sal lê in die kantoor van die meester van die hoogeregshof, Kaapstad, en die landdroshof, Mit- chells Plain, vir 14 dae vanaf datum van publikasie hiervan. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK., Posbus 50861, West Beach 7449. Medetrusteese: Lielzel Venter & J.A. Snyders. 270719 Jul. 8 - (4215)

K. L. Wiese

Rekening wat ter insae lê

Insolvente Boedel: KARIN LOUISE WIESE. Meestersverwysingsnr. C142/2014.

Kennis geskied hiermee ingevolge Artikel 108(2) van die Insolvensie- wet nr. 24 van 1936, soos gewysig, dat die tweede likwidasië-, distribu- sie- en kontribusierekening sal ter insae lê vir krediteure van die boedel in die kantoor van die Meester van die Hoogeregshof, Kaapstad en die Landdroshof, George vir 'n tydperk van veertien (14) dae vanaf 08 Julie 2022. ABDOL WHAHEED BADRODIEN, AMAANULLAH AYUB, Medetru- stees. Posbus 245, Athlone 7760. Tel: 021 689 9038. 690932 Jul. 8 - 4215

S. Steyl
INSOLVENTE BOEDEL

Tweede vergadering van krediteure

SIMONE STEYL (ID-nr.751003 0117 08 0). Meestersverwysingsnr. C378/2020.

Kragtens Art. 40(3), 56(3) en 77 van die Insolvensiewet van 1936, soos gewysig, geskied kennis hiermee dat die ondergetekende aangestel is as mede-trustees en alle debiteure in die boedel hiermee versoek word om onmiddellik hul skulde by die kantoor van die trustee te betaal. Die tweede vergadering van krediteurs sal plaasvind voor die voorsittende beamppte, landdroshof Atlantis, op 28 Julie 2022 om 11:00: a) om verdere eise te bewys; b) om die trustee se verslag voor te lê; c) om resolusies te aanvaar. MAURICE SCHWARTZ VENTER & GENOTE (EDMS) BPK, Posbus 50861, West Beach 7449. Trusteese: Lielzel Venter & C.M. Ledwaba. 270719 Jul. 8 - (4215)

Stelmed
KENNISGEWING

STELMED BK (in likwidasië), Mee-ster se verwysings-nr. C1138/2021. Kragtens Artikel 79 van die Beslote Korporasie Wet 1984 geskied kennis hiermee dat M. Roux en S. Maku- mure, aangestel is as Mede Likwida- teurs, en alle debiteure in die Beslote Korporasie hiermee versoek word om onmiddellik hul skulde by die kan- toor van die Likwidateur te betaal. Die Eerste & Tweede Vergaderings van Krediteure, Lede en Kontribu- tante, sal plaasvind voor die Voorsit- tende Beamppte, Landdroshof, Stel- lenbosch, op Woensdag 27 Julie 2022 om 10h00 vir: a) Bewys van eise; en b) om die Likwidateurs se verslag voor te lê; en c) die opdragte aangaande die adminis- trasie van die boedel te gee. DGF ATTORNEYS, M. Roux, Posbus 3441, Tygervallei. 844311 Jul. 8-(4215)V

Toga Engineering
KENNISGEWING VAN TWEEDE VERGADERING VAN KREDITEURE, LEDE EN KONTRIBUANTE

TOGA ENGINEERING BK (in likwidasië), Meestersverwysings-nommer C1367/2021.

Kragtens Artikel 79 van die Beslote Korporasie Wet 1984 geskied kennis hiermee dat C.B. St Clair Cooper en E.M.E. van Rooyen aangestel is as Likwidateur, en alle debiteure in die Beslote Korporasie hiermee versoek word om onmiddellik hul skulde by die kantoor van die Likwidateur te betaal. Die Tweede Vergadering van Krediteure, Lede en Kontributante, sal plaasvind voor die Landdroshof, Kaapstad, op 29 Julie 2022 om 11h00: a) Om verdere eise te bewys; en b) Om die Gesamentlike Likwida- teurs se verslag voor te lê. CK TRUST, C.B. St Clair Cooper & E.M.E. van Rooyen, Posbus 3065, Tygervallei, 7536. Tel. 021 910 2902. 611723 Jul. 8-(4215)V

Uvest Construction
KENNISGEWING VAN ALGEMENE VERGADERING VAN SKULDEISERS

UVEST CONSTRUCTION (EDMS.) BPK. (in likwidasië), Meestersver- wysing: C347/2020.

Kragtens Artikel 339, 366, 375(5)(b) en 402 van die Maatskappijwet ges- kied kennis hiermee dat J.J. Steen- kamp & L. van der Merwe aangestel is as Mede-Likwidateurs en alle debi- teure in die Maatskappy hiermee versoek word om onmiddellik hul skulde te betaal by die kantoor van die Mede-Likwidateurs. Die Alge- mene Vergadering van Skuldeisers sal plaasvind by die Landdroshof te Bell- ville op 29 Julie 2022 om 11:00: a) Om verdere eise te bewys; b) Om die Mede-Likwidateurs se verslag voor te lê; c) Om besluite te aanvaar.

JJS ADMINISTRATORS (EDMS.) BPK., J.J. Steenkamp & L. van der Merwe, Mede-Likwidateurs, Tijger Park 3, vanaf Willie van Schoor- rylaan, Tygervallei 7530. Tel. 021 271 0415. 868638 Jul. 8-(4215)V

Zoom Industries
KENNISGEWING

ZOOM INDUSTRIES (EDMS.) BPK. (in likwidasië), Meestersverwy- sings-nr. C144/2022.

Ingevolge Artikels 339, 366, 375(5)(b) en 402 van die Maatskap- pywet-nr. 61 van 1973, soos gewysig, geskied hiermee kennis dat die Tweede Vergadering van Skuldeisers en Kontributante om 09:00 op Dins- dag, 26 Julie 2022 by die Meester van die Hoogeregshof, Kaapstad gehou sal word vir die bewys van vorderings teen die maatskappy, om die likwi- dateur se verslag te ontvang en om opdragte aangaande die adminis- trasie van die boedel te gee. PRO- GRESSIVE ADMINISTRATION, Lik- widateurs, C.P. van Zyl & S. Suliman, Devonshireweg 20, Wynberg, 7800. Tel. 021 224 0335. 262311 Jul. 8-(4215)V

BOEDEL- OORGAWES

4220

A. Ngondo
KENNISGEWING VAN OORGAWE VAN 'N SKULDENAAR SE BOEDEL ARTIKEL 4(1)

Kennisgewing van oorgawe van skul- denaar se boedel ingevolge Artikel 4(1) van die Insolvensiewet-nr. 24 van 1936 soos gewysig.

Kennis word hiermee gegee dat aan- soek gedoen sal word by die Hoog- geregshof van Suid-Afrika, Wes- Kaapse Afdeling, Kaapstad op 11 Junie 2022 vir die aanvaarding van die oorgawe van die skuldenaar se boedel: Naam: ANDILE NGONZO, beroep: besigheidsman van Daffodilweg 18, Pinelands en dat die vermoestaat ter insae sal lê vir inspeksie by die Meer- ster van die Hoogeregshof Kaap- stad vir 'n periode van veertien (14) dae vanaf 8 Julie 2022. Geteken te Kaapstad op 30 Junie 2022. Verw: N545/22. 765002 Jul. 8 - (4220)V

N. Petersen
BOEDELORGAWE ARTIKEL 4(1) WET 24/1936

Kennis geskied dat aansoek gedoen sal word by die Hoogeregshof van Suid-Afrika, Wes-Kaapse Afdeling, Kaapstad op 5 Augustus 2022 vir die boedeloorgawe van: Naam: NADIA PETERSEN, beroep: onderwyseres, ongetroud van Besterweg 1, B002 The Block, Glen- haven en dat die vermoestaat ter insae sal lê vir inspeksie by die Meer- sterskantoor Kaapstad vir veertien (14) dae vanaf 8 Julie 2022. Geteken te Kaapstad op 3 Julie 2022. 285253 Jul. 8-(4220)V

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OFFICIAL NOTICE

PROPOSED LEASE AGREEMENT WITH THE WESTERN CAPE GOVERNMENT: DEPARTMENT OF TRANSPORT AND PUBLIC WORKS REGARDING A PORTION OF THE MUNICIPAL OFFICES IN PNIEL TO BE USED AS A SATELITE CLINIC

Notice is hereby given in terms of par. 9.2.2 of the Municipality's Property Management Policy of Council's intention to conclude a 9 year and 11 month's lease agreement with the Provincial Department of Transport and Public Works in relation to a portion of the Municipal Offices in Pniel.

Further Particulars:

Further particulars, including the agenda item that served before the Executive Mayoral Committee, are available at the office of the Manager: Property Management during office hours.

Any interested and effected party who wishes to submit comment/inputs, may do so in writing within 21 days of this notice to the Manager: Property Management during working hours.

Any such inputs/comments/objections can be submitted by hand, posted or by e-mail to:

Physical Address: 3rd Floor Absa (Oude Bloemhof) Building, Corner of Plein and Rhyneveld Street 7600

e-mail: piet.smit@stellenbosch.gov.za

In terms of the provisions of Section 21(4) of the Municipal Systems Act, anyone who cannot read or write is welcome to contact the office of the Manager: Property Management for assistance.

**G Metter
Municipal Manager**



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7.4	FINANCIAL SERVICES: (PC: CLLR P JOHNSON)
-----	--

NONE

7.5	HUMAN SETTLEMENTS: (PC: CLLR J FASSER)
-----	--

NONE

7.6	INFRASTRUCTURE SERVICES : (PC : CLLR Z DALLING (MS))
-----	---

7.6.1	APPROVAL OF THE MUNICIPALITY'S ROADS AND STREETS BYLAW – DELEGATIONS AND PROPOSED DRAFT ADMISSION OF GUILT FINES
-------	---

Collaborator No: 733491
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 16 August 2022

1. SUBJECT: APPROVAL OF THE MUNICIPALITY'S ROADS AND STREETS BYLAW – DELEGATIONS AND PROPOSED DRAFT ADMISSION OF GUILT FINES

2. PURPOSE

That Council considers and approves the Municipality's, Roads and Streets By-Law's, Delegations and Proposed Admission of Guilt Fines.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

Council had approved the Municipality's By-Law on Roads and Street, following a public participation process and all relevant processes, on the 24th August 2021 (**ANNEXURE A**).

As the Road Authority for Municipal Roads and Streets within the jurisdiction of the Municipality, the Council may define and regulate, activities and functions on roadways, walkways and other spaces within road reserves.

Under Section 59: Delegations of the Municipal Systems Act, Council is to approve the proposed delegations of powers in terms of this By Law to various key officials and incorporate these into the System of Delegations. A proposed set of delegations is shown under **ANNEXURE B**.

The issuing of fines will assist the Municipality with its aim to promote a safe environment allowing for penalties to be imposed for activities that are hazardous to users and damaging to roads and sidewalks to Municipal Infrastructure. The proposed Admission of Guilt Fines is attached as **ANNEXURE C**.

5. RECOMMENDATIONS

- (a) that the content of this report be noted,
- (b) that the set of delegations as proposed in **ANNEXURE B** be accepted and attached to the System of Delegations, and
- (c) that the proposed set of Admission of Guilt Fines (Attached as **ANNEXURE C**) be accepted as the fines to be sought from the Chief Magistrate for this By-Law.

6. DISCUSSION / CONTENTS**6.1 Background**

Council had approved the Municipality's By-Law on Roads and Streets, following a public participation process and all relevant processes, on the 24th August 2021 (**ANNEXURE A**). The Municipality's By-Law on Roads and Street, is in process of being promulgated.

6.2 Discussion

The proposed By-law on Roads and Streets aims to promote a safe and enabling environment for the benefit of all road and sidewalk uses and provides a framework to manage activities of roads, streets, sidewalks and road verges.

In order to manage this By Law and in terms of Section 59 of the Municipal Systems Act, various functions are to be assigned to various officials. These delegations are taken up in the proposed set of Delegations within **ANNEXURE B**.

The issuing of fines will assist the Municipality with its aim to promote a safe environment allowing for penalties to be imposed for activities that are hazardous to users and damaging to roads and sidewalks to Municipal Infrastructure. The proposed fines are attached as **ANNEXURE C**.

6.3 Financial Implications

There are no financial implications, other than an income generated through the issuing of fines, should the recommendations as set out in the report be accepted.

6.4 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 Staff Implications

None

6.6 Previous / Relevant Council Resolutions:

COUNCIL MEETING: 2021-08-25: ITEM

RESOLVED (majority vote)

- (a) that the Draft By-Law on Roads and Streets, attached as **ANNEXURE A**, be accepted as the Final By-Law as per Section 12(2) to 12(4) & 13; and
- (b) that Council notes that a public participation process was followed and considered the discussion on comments received.

6.7 Risk Implications

None

6.8 Comments from Senior Management:**6.8.1 Director: Infrastructure Services**

Agree with the recommendations

ANNEXURES

Annexure A: BY-LAW ON ROADS AND STREETS

Annexure B: PROPOSED SET OF DELEGATIONS

Annexure C: PROPOSED ADMISSION OF GUILT FINES

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	Deon Louw
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>Infrastructure Services</i>
<i>CONTACT NUMBERS</i>	<i>021 808 8213</i>
<i>E-MAIL ADDRESS</i>	<i>Deon.louw@ Stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>21 July 2022</i>

ANNEXURE A



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

**Provincial Gazette
Extraordinary**

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Friday, 28 May 2021

Vrydag, 28 Mei 2021

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LOCAL AUTHORITY

Stellenbosch Municipality: Roads and Streets By-law (2021) 2

[STELLENBOSCH MUNICIPALITY.]

[DATE OF COMMENCEMENT: 28 MAY 2021.]

This By-Law

was published by *Provincial Gazette* No. 8436 dated 28 May 2021.

STELLENBOSCH MUNICIPALITY

ROADS AND STREETS BY-LAW

APPROVED BY COUNCIL ON 28 April 2021

AND

PROMULGATED IN TERMS OF SECTION 13 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000)

STELLENBOSCH MUNICIPALITY ROADS AND STREETS BY-LAW
(2021)

To give effect to the right contained in section 24 of the Constitution of the Republic of South Africa, 1996 and to—

- promote the realisation of a safe environment for the benefit of residents within the area of jurisdiction of the Municipality;
- promote universal accessibility to streets; and
- provide for procedures, methods and practices to manage the use and utilisation of streets in the area of jurisdiction of the Stellenbosch Municipality.

Under the provisions of sections 152 and 156 of the Constitution of the Republic of South Africa, 1996, and section 11 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), Stellenbosch Municipality enacts as follows:

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1. Definitions

In this By-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the Afrikaans text shall prevail in the event of an inconsistency between the different texts, and, unless the context otherwise indicates –

“animals” mean any means any tame or wild mammal, reptile, amphibia, fish or bird, and includes domesticated animals;

“caravan” means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

“Council” means the municipal Council of Stellenbosch;

“encroachment” includes any source of annoyance, damage, danger, intrusion or inconvenience to persons using a street, sidewalk, walkway, road reserve forming part thereof, or public place;

“firearm” means a firearm, as contemplated in the Firearms Control, 2000 (Act 60 of 2000);

“heavy motor vehicle” includes a truck, light truck, bus, horse-and-trailer, caravan, or any other like vehicle wherein it is possible to have persons residing, sleeping or committing any unlawful act or conduct;

“informal parking attendant” means a person who is in possession of a permit issued by the Municipality and who assists with the pointing out of parking or supervising over vehicles in a street, parking area or public place;

“kerb line” means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;

“motor vehicle” means any self-propelled vehicle and includes –

- (a) a trailer, and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or electric motor, or both such pedals, engine or electric motor, but does not include –
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian;
 - (ii) any vehicle with a mass not exceeding 230 kg and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person; or
 - (iii) a pedal cycle having pedals and an engine or an electrical motor as an integral part thereof with a maximum design speed not exceeding 45 km/h;

“municipal area” means the area of jurisdiction of Stellenbosch Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

“municipal manager” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Municipality” means the Stellenbosch Municipality established by Provincial Notice No. 489 of 2000 in *Provincial Gazette* 5590 of 22 September 2000 as amended from time to time, or its successors in title; and includes any –

- (a) political structure;
- (b) political office bearer;
- (c) Councillor;
- (d) duly authorised agent, service provider or any employee thereof, acting in connection with this By-law by virtue of a power vested in the Municipality and so authorised, delegated or sub-delegated to such –
 - (i) political structure;
 - (ii) political office bearer;
 - (iii) councillor;
 - (iv) agent;
 - (v) service provider; or
 - (vi) employee;

“park” means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods from such vehicle, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle;

“parking area” means any area provided by the Municipality for the parking of vehicles and pedal cycles;

“parking meter” means a device for registering and visibly recording of a parking period in accordance with the insertion of a coin or other prescribed object therein and includes a post or fixture to which it is attached;

“parking period” means that period of parking in a demarcated space which is permitted by the insertion into the parking meter allocated to such space of a coin or other object as prescribed;

“pedal cycle” means –

- (a) any bicycle or tricycle designed for propulsion solely by means of human power; or
- (b) any bicycle or tricycle with operable pedals and an electric motor with a total weight that does not exceed 30kg: Provided that the electric motor may not be capable of propelling the bicycle or tricycle unassisted at a speed not exceeding 25km/h; and

“pedal cyclist” has a corresponding meaning;

“prescribed” means determined by resolution of the Council from time to time, and in relation to a fee, means as set out in the tariff policy of the Municipality;

“prior written permission of the Municipality” means permission granted by the Municipality –

- (a) in writing and in the prescribed format; and
- (b) upon receipt of a written application in accordance with the applicable process prescribed by the Municipality for that matter, from time to time;

and such permission may be made subject to conditions determined by the Municipality after due consideration of the application;

“Provincial Gazette” means the official gazette of the Western Cape Province contemplated in section 33(1) of the Constitution of the Western Cape, 1998 (Act 1 of 1998);

“public place” includes any of the following, located in the area of jurisdiction of the Municipality, which has either been declared as such in terms of applicable legislation, or to which the public or any section thereof has free access, or which is commonly used by the public or any section thereof:

- (a) thoroughfare;
- (b) bridge;
- (c) trail;
- (d) pavement;
- (e) alley square;
- (f) garden;
- (g) parking area;
- (h) square;
- (j) park;
- (k) recreation ground;
- (l) sports ground;
- (m) sanitary lane;
- (n) open space;
- (o) shopping centre on municipal land;
- (p) unused or vacant municipal land; or
- (q) cemetery, and includes
- (r) any place contemplated in subsections (a) – (q) which has –
 - (i) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;
 - (ii) at any time been dedicated to the public;
 - (iii) been used by the public without interruption for a period of at least thirty years; or
 - (iv) at any time been declared or rendered such by the Municipality or other competent authority;

“semi-trailer” means a trailer having no front axle and so designed that at least 15% of its tare is super-imposed on and borne by a vehicle drawing such trailer;

“sidewalk” means that portion of a street between the outer boundary of the roadway and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians, pedal cyclists and any other category of vehicles as may be determined by the Municipality in accordance with section 42(1);

“street” means

- (a) any path, road, cycle path, thoroughfare or any other place, and includes –
 - (i) the verge of any such road, street or thoroughfare;
 - (ii) any footpath, sidewalk or similar portion of a road reserve;
 - (iii) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (b) any other object belonging to an area contemplated in subsection (a) which was –
 - (i) declared or rendered such by the Municipality or other competent authority, or
 - (ii) constructed by a local authority, and
- (c) any land, with or without buildings or structures thereon, which is shown as an area contemplated in subsection (a) on –
 - (i) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon, or
 - (ii) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General’s office;
 unless such land is on such plan or diagram described as a private street;

“trailer” means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a sidecar fitted to a motorcycle;

“trolley” means a push trolley, pushcart or any table, stand or basket on wheels;

“vehicle” –

- (a) means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails; and
- (b) includes –
 - (i) a motor vehicle;
 - (ii) a pedal cycle; and
 - (iii) any other subcategory of vehicles as may be determined by the Municipality in accordance with section 42(1)(a).

“verge” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“walkway” means a structure built for exclusive use by pedestrians, pedal cyclists and other subcategories of vehicles as may be determined by the Municipality in accordance with section 42(1);

“work” means work of any nature whatsoever undertaken on any land within the area of jurisdiction of the Municipality and, without in any way limiting the ordinary meaning of the word, includes the –

- (a) erection of a new building;
- (b) alterations or additions to any existing building;
- (c) laying of cables and pipes;
- (d) dumping of building or other material anywhere in a street, on a sidewalk or walkway, or in a public place; or
- (e) delivery to, or removal from, any site of any soil or material of any nature whatsoever.

2. Application of this By-law, exemptions and conditions. –(1) This By-law does not derogate from the provisions of any other legislation and also binds an organ of state.

(2)(a) Notwithstanding the provisions in subsection (1), any person may, by means of a prior written application stating the reasons in full, apply to the Municipality for exemption from any provision of this By-law.

- (b) The Municipality may –
 - (i) approve such exemption in full or subject to reasonable conditions; or
 - (ii) refuse such exemption on reasonable grounds.
- (c) The Municipality may, on reasonable grounds, revise or cancel such exemption or condition of an exemption.
- (d) Where applicable, an exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed under subsection (2)(b)(i).
- (e) In the event that –
 - (i) an activity for which exemption has been applied, commences before receipt of the undertaking contemplated in subsection (2)(d) by the Municipality, or
 - (ii) any condition of an exemption granted by the Municipality is not fully complied with, the exemption granted, lapses with immediate effect.

3. Construction and maintenance of streets, sidewalks and walkways. –(1) The Municipality may construct and maintain streets, sidewalks and walkways as required and with due consideration of any legal process, to accommodate the necessary pedestrian, pedal cyclist and other vehicle traffic flow.

- (2) The Municipality may –
 - (a) exercise its duty to construct or maintain such streets, sidewalks or walkways irrespective of the existence of a structure in the area where the sidewalk or walkway will be built; and
 - (b) issue a written notice to the owner of said structure to remove it within a specific period.
- (3) The owner of a structure contemplated in section 4(2) must remove the structure at own cost and within the period stipulated in a written notice issued by the Municipality to do so.

(4) If the owner does not comply with the written notice, the Municipality may remove the structure at the cost of the Owner.

4. Regulating encroachments on streets, sidewalks, walkways and road reserves. –

(1) No person may, without prior written permission of the Municipality, cause and encroachment on a street, sidewalk, walkway or road reserve forming part thereof by –

- (a) making, constructing, reconstructing, or altering;
 - (b) constructing a veranda, stoep, steps or other protrusion within;
 - (c) erecting a post or any other structure on;
 - (d) planting or cause to be planted, any tree, shrub or other plant on or allowing any such tree, shrub or plant to remain on; or
 - (e) placing or cause to be placed any other impediment or obstruction on,
- such a street, sidewalk, walkway or road reserve forming part thereof, other than in accordance with conditions prescribed by the Municipality.

(2) If an encroachment is caused in contravention with subsection (1), the Municipality may, –

- (a) by written notice, order the person responsible for causing such encroachment, to remove said encroachment within the period specified in the notice; and
- (b) in the event of non-compliance with such written notice, remove said encroachment.

(3) The Municipality must immediately thereafter notify the person concerned in writing of their liability to pay the costs of the carrying out of the removal as contemplated in subsection (2)(b).

(4) Any person failing to comply with a notice issued in terms of subsection (2) is guilty of an offence.

5. Regulating goods or building materials causing obstruction. –(1) No person may, except in accordance with prior written permission of the Municipality, deposit, place, pack, unpack or leave any goods in a street, on a sidewalk or walkway, in a public place, or in an area specifically designated therefore, other than for a reasonable period during the loading, off-loading or removal thereof.

(2) No person may bore or cut stone, slake or sift lime, or mix building materials in a street, on a sidewalk or walkway, in a public place.

6. Prohibitions on objects and animals causing an obstruction. –(1) No person may –

- (a) in any way obstruct the pedestrians, pedal cyclists and other vehicle traffic on a sidewalk, walkway or in a public place by bringing, or allowing to be brought thereon, any animal, object or vehicle;

- (b) allow their animals to roam freely on sidewalks or in public roads without the necessary control mechanisms; or
- (c) allow, permit or cause any animal to graze or stray in or about any street or public space.

(2) A person contemplated in subsection (1) must at all times keep such animal in a manner that does not pose a danger or annoyance to the traffic or public.

(3) The prohibition in subsection (1)(a) does not apply to a perambulator or wheel-chair used for the conveyance of children or the disabled.

7. Rules on advertising. –(1) Subject to the applicable By-laws of the Municipality, no person may, except in accordance with prior written permission of the Municipality, display any

–

- (a) advertisement;
- (b) placard;
- (c) poster; or
- (d) bill,

in a street, on a sidewalk or walkway, in a public place.

(2) A written application for the erection of advertising signs contemplated in subsection (1) must be submitted to the Municipality as prescribed, or as determined by the By-laws on Outdoor Advertising/Advertising Signs of the Municipality.

8. Regulating planting of trees, shrubs or plants. –(1) No person may, except in accordance with prior written permission of the Municipality, in a street, on a sidewalk or walkway, or in a public place –

- (a) plant a tree, shrub or plant;
- (b) in any way cut down, remove, climb, break or damage a tree, shrub or plant growing there;
- (c) mark or paint any tree, shrub or plant growing there; or
- (d) attach any advertisement thereto.

(2) Any tree, shrub or plant planted in a street, on a sidewalk or walkway, or in a public place become the property of the Municipality.

9. Regulating trees or growth causing an interference or obstruction. –(1) The Municipality may, by written notice, order the owner or occupier of any property upon which any tree or other growth interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a street, sidewalk, walkway or public place, to prune or remove such tree or growth to the extent and within the period specified in such notice.

(2) Any person failing to comply with a notice issued in terms of subsection (1) is guilty of an offence.

(3) If any person fails to comply with a notice in terms of this section, the Municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

10. Regulating conduct regarding refuse, motor vehicle wrecks, waste material, etc. – No person may, except in accordance with prior written permission of the Municipality, and subject to the applicable By-laws of the Municipality on waste management –

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street, sidewalk, walkway or public place; or
- (b) allow, or permit any of, the prohibitions contemplated in paragraph (a).

11. Regulating activities related to vehicles. –(1) No person may, in a street, sidewalk, walkway or public place, –

- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident;
- (b) clean or wash a vehicle;
- (c) wash, clean, dry, paint or bleach any other article or thing;
- (d) park or leave a heavy motor vehicle parked overnight in a public place in a residential area.

(2) The Municipality may issue a written notice to the owner or person in control of the said vehicle, to remove it within a specific period, failing which it may itself remove the vehicle at the expense of the person on whom the notice was served.

(3) Any person failing to comply with the notice contemplated in subsection (2), is guilty of an offence.

(4) No driver, person in control of a motor vehicle or passenger in the motor vehicle shall permit any amplified noise to emanate from the motor vehicle such that it is audible at more than 50 meters.

12. Regulating specific acts regarding games, sports and events. –(1) No person may–

- (a) play games, roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or a missile, or throw a stone, stick or other projectile in, onto or across a street, sidewalk, walkway or public place; or
- (b) do anything in a street, sidewalk, walkway or public place which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public,

unless that place is provided with clear signs, identifiable paving or equipment which distinguishes it as "street park".

(2) No person may play cricket, football or any game, or indulge in any pastime whatsoever in a street, sidewalk, walkway or public place, except on such places as the municipality may set apart for the purposes of a particular game, sport or pastime.

(3) No person may erect a tent or place chairs or any article in, onto or across a street, sidewalk, walkway or public place for the purpose of a funeral, party or any other event, except in accordance with prior written permission of the Municipality/Council.

13. Regulating use of explosives and firearms. –(1) No person may use explosives or undertake blasting operations in a street, sidewalk, walkway or public place, except in accordance with –

- (a) prior written permission of the Municipality; and
- (b) any other applicable By-law.

(2) No person may, except for a lawful purpose, discharge any firearm or air, gas or alarm gun or pistol, unless discharged –

- (a) in any shooting range which complies with the provisions of any law applicable thereto;
- (b) for signalling the start of a race at an organised and controlled sports meeting, provided that blank cartridges only are fired thereby; or
- (c) in accordance with prior written permission of the Municipality.

14. Regulating conveyance of animal carcasses or other waste. –No person may carry or convey through a street, sidewalk, walkway or public place the carcass, parts or offal of an animal or fish, polluted liquid, or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand, unless –

- (a) properly covered; and
- (b) conveyed in such type of container or in such a manner as will not allow any of the items contemplated, or parts thereof, to be spilt in a street, sidewalk, walkway or public place, and

subject to the applicable By-laws of the Municipality.

15. Regulating erection of fences, etc. –(1)(a) No person may, except in accordance with prior written permission of the Municipality, erect, cause or permit to be erected, a barbed wire, razor wire, electrified or other dangerous fence, railing, paling or other barrier which is, or may become, a danger to a member of the public by reason of –

- (i) spikes or other sharp or pointed protrusions; or
- (ii) the nature of its construction or design,

on the boundary of a street, sidewalk, walkway or public place.

- (b) The full technical details of the proposed electrified fence, railing, wall or other barrier must accompany any written application for permission submitted to the Municipality.

(2) The safety of pedestrian, pedal cyclist and other vehicle traffic may not be compromised by the height of any tree, bush, vegetation, wall, hedge or fence at the junction of a street.

(3) No person may dry or spread washing, bedding or other items on or from a fence on the boundary of a street or public place.

16. Regulating building materials, dangerous objects and cleanliness.— (1) No person may, except in accordance with prior written permission of the Municipality, —

- (a) bore or cut stone or bricks, slake or sift lime;
- (b) mix building materials; or
- (c) store, deposit, leave or cause to be stored, deposited or left —
 - (i) sand, stone, earth, bricks, timber, corrugated iron sheets, lime, cement; or
 - (ii) other building or excavated material of whatever nature, in a street, sidewalk, walkway, or public place or on municipal property.

(2) No person may leave, accumulate or cause to be left or accumulated from premises owned or occupied by him or her, any broken glass or other potentially dangerous object in a street, sidewalk, walkway or public place.

(3) No person may drop or place or permit to be spilled, dropped or placed, any matter or substance in a street, on a sidewalk or walkway, or in a public place that may interfere with the cleanliness of such area, without removing it or causing it to be removed within a reasonable time in the circumstances.

(4) The Municipality may remove any materials, objects, matter and substance contemplated in this section and recover the cost of removal and/or storage from the person in breach thereof.

17. Prohibition on placing article in or on a building.—No person may place any article in or on a building facing a street, on a sidewalk or walkway, or a public place, where it is likely to cause injury or damage to any person or property if it were to fall on that street, a sidewalk, walkway, or public place, without taking all reasonable steps to prevent the article from falling onto such area.

18. Regulating races and sports events.—(1) No person may, except in accordance with prior written permission of the Municipality, hold a race or sporting event in a street, on a sidewalk or walkway, or a public place.

(2) An applicant for permission to hold such a race or sporting event must pay the prescribed tariff and deposit for the costs to be incurred by the Municipality during and after the race or sports event, at least 15 working days prior to commencement of the race or event: Provided that, if the actual costs incurred are higher than the deposited amount, such person is liable to pay the difference to the Municipality upon proof of such expenses.

19. Prohibitions regarding balconies and verandas. –No person may use a balcony or veranda erected beyond the boundary line of a street, sidewalk, walkway or public place for purposes of–

- (a) trading or the storage of goods, or
- (b) washing or drying of clothes thereon, or enclose or partition a balcony or veranda erected beyond the boundary line of such a street, sidewalk, walkway or public place thereof as a living or bedroom.

20. Prohibition of parking of heavy motor vehicles, trailers and caravans. –(1) No person may park a –

- (a) heavy motor vehicle;
- (b) trailer;
- (c) semi-trailer; or
- (d) caravan,

on a street within the Municipal area for an uninterrupted period exceeding two hours, except on places reserved for parking of heavy motor vehicles: Provided further that the above provisions do not apply to the actual loading or unloading of such vehicle.

(2) Unless the contrary is proved, any vehicle parked in contravention of subsection (1) is deemed to have been parked by the owner thereof.

21. Regulating the protection of surfaces. –(1) No person may, except in accordance with prior written permission of the Municipality, make, or cause to be made, an excavation or dig, or cause to be dug, a pit, trench or hole in any street, on any sidewalk or walkway, or in any public place.

(2) No person may –

- (a) use a vehicle or allow it to be used in any street, on any sidewalk or walkway, or in any public place, if such vehicle is in such a defective condition that it will or may cause damage to such area;
- (b) drive, push, roll, pull or propel any object, machine or other material through or along a street, sidewalk, walkway or public place, –
 - (i) in such a way, or
 - (ii) while such object, machine or material is in such a condition, as may damage, break or destroy the surface of such area in any way; or
- (c) without prior written permission of the Municipality, except a necessary excavation, pit, trench or hole, undertake any work which may cause the surface of any street, sidewalk, walkway or public place to be altered, damaged or broken: Provided that such permission may be subject to payment of an amount sufficient to cover the cost of repairing any damages resulting from such actions, as a deposit before commencement of the work.

(3) If the Municipality identifies a person who, as a result of any action referred to in subsection (1), has damaged, broken or destroyed the surface of any street, sidewalk, walkway or public place, the cost of repairing any damages, as determined by the Municipality, may be recovered from the offender.

(4) Any person who is the owner of land on which any work is done is liable to the Municipality for any damage to any portion of any street, sidewalk, walkway or public place caused by or in connection with the execution of such work by such owner, his employee or any independent contractor acting on behalf of such owner.

(5) When any work which has to be undertaken on any land entails the driving of vehicles over kerbs, sidewalks, walkways or road verges, the owner of such land shall not commence, or allow any other person to commence, any such work unless and until such a person has deposited with the Municipality an amount sufficient to cover the cost of repairing any damage which may be caused to any portion of such area as a result of, or in connection with, the execution of such work by such owner, his employee or any independent contractor acting on behalf of such owner.

(6) After completion of the work contemplated in subsection (5), the Municipality may itself undertake the repair of any portion of the damaged area to the account of the owner and may set off the cost of such repairs against such deposit: Provided that if the cost is less than the amount of the deposit, the Municipality must refund the balance to the depositor and if the amount deposited does not cover such cost, the owner is liable for the difference, which becomes payable on receipt of an invoice from the Municipality specifying the additional amount due.

(7) No person other than an authorised official of the Municipality in the performance of his duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a street, sidewalk, walkway or public place.

22. Prohibition of damaging specific property. –No person may deface, damage, tamper or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any advertisement which has been erected in a street, on a sidewalk or walkway, or in public place by, or with the permission of, the Municipality.

23. Regulating street and door-to-door collections and distribution of handbills. –(1) No person may, except in accordance with prior written permission of the Municipality, –

- (a) collect, or attempt to collect, money, organise, or in any way assist in the organisation of such collection;
 - (b) from door-to-door collect, beg, solicit or accept donations;
 - (c) distribute any handbill or similar advertising material, or cause it to be distributed; or
 - (d) place any handbill or similar advertising material, or cause it to be placed on or in any vehicle,
- in any street, on any sidewalk or walkway, or in any public place.

(2) The Municipality may levy an application fee, as determined from time to time by the Municipality, in respect of any application in terms of this section: Provided that this subsection does not apply to any registered welfare or benevolent organisation.

24. Prohibition on administering poison. –No person other than an official of the Municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any street, on any sidewalk or walkway, or in any public place.

25. Regulating processions. –(1) Subject to the provisions of subsection (7), no person may, except in accordance with prior written permission of the Municipality, –

- (a) hold, organise, initiate, control or actively participate in a procession or gathering;
- (b) dance or sing or play a musical instrument;
- (c) do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic; or
- (d) use any loudspeaker or other device for the reproduction or amplification of sound, in any street, on any sidewalk or walkway, or in any public place.

(2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) in any street, on any sidewalk or walkway, or in any public place must submit a written application for permission thereto, to reach the Municipality at least seven days before the date upon which any one or more of such actions is or are intended to be performed or carried out.

(3) An application contemplated in subsection (2) must contain the following –

- (a) full details of the name, address and occupation of the applicant;
- (b) full details of the –
 - (i) street or public place where or route along which any one or more of the actions is or are intended to be performed or carried out; and
 - (ii) proposed starting and finishing times or any one or more of the aforesaid actions;
- (c) in the case of processions and gatherings, the number of persons expected to attend;
- (d) request for assistance by traffic officers, if required; and
- (e) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.

(4) Any application submitted in accordance with subsection (3) must be considered by the Municipality, and if, in the opinion of the Municipality any one or more of the actions to be performed or carried out as proposed in such application –

- (a) is, or are not likely to be, in conflict with the interests of public peace, good order or safety, the Municipality must issue a certificate granting permission and authorisation for the performance or carrying out of any one, or more, of such actions: Provided that the Municipality may determine such conditions as it deem necessary to uphold public peace, good order or safety; or

(b) will, or is likely to, be in conflict with the interests of public peace, good order or safety may be refused by the Municipality.

(5) The Municipality may withdraw any permission granted in terms of subsection (4), if, as a result of further information, it is of the opinion that the performance or carrying out of the action or action in question will be in conflict with the interests of public peace, good order or safety.

(6) Persons who intend participating actively in a procession, or gathering in any street need not apply to the Municipality for permission thereto and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller thereof has obtained the permission of the Municipality.

(7) The provisions of this section do not apply to a –

- (a) wedding or funeral processions; and
- (b) gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993), in which case the provisions of the said Act apply.

26. Prohibition on public indecency. –No person may, in any street, sidewalk, walkway or public place–

- (a) appear without being clothed in such a manner as decency demands;
- (b) or in view of such a place, urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act;
- (c) sing any obscene or profane song;
- (d) use any profane, foul, indecent or obscene language;
- (e) in any way loiter or solicit or inconvenience or harass any other person for the purpose of begging; or
- (f) use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be caused.

27. Prohibition regarding overflow water. –With the exception of rainwater, no person may cause or allow any dirty, waste, swimming pool, infected or otherwise polluted water to flow from his premises into a street, sidewalk, walkway or public place.

28. Control of stormwater and watercourses on public road. –(1) No person may, except in accordance with prior written permission of the Municipality, –

- (a) lead or discharge any water on, over or across; or
- (b) by any means whatever, raise the level of water in any river, dam or watercourse to cause interference with or endanger, a street, sidewalk, walkway or public place.

(2) The Municipality may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any, of the land concerned –

- (a) deviate any watercourse, stream or river: Provided that the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with or belonging to a street, sidewalk, walkway or public place;
- (b) divert stormwater from, or under, a street, sidewalk, walkway or public place onto private property other than land occupied by buildings, other structures or improvements; and
- (c) pay reasonable compensation as agreed between the owner or occupier and the Council, for any damage caused as a result of any action taken in terms of this subsection, or failing such agreement, compensation determined by arbitration in terms of the Arbitration Act 42 of 1965 or an alternative dispute resolution process.

29. Prohibitions regarding behaviour in public. –(1) No person may–

- (a) cause a nuisance to other persons by loitering, standing, sitting, lying, congregating or begging;
- (b) sleep, overnight or erect any shelter;
- (c) wash or dry clothes, blankets or any other domestic articles;
- (d) use abusive, insulting, obscene, threatening or blasphemous language;
- (e) fight or act in a riotous manner;
- (f) discharge a firearm, airgun or air-pistol;
- (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
- (h) defecate, urinate or wash himself;
- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage or participate in gambling;
- (k) use intoxicating liquor or drugs;
- (l) spit;
- (m) be drunk;
- (n) obstruct traffic in any manner; or
- (o) litter or leave behind, or allow, permit or cause littering, by means of cigarette butts, matches, beer- or cold drink cans or bottles, any glass or plastic bottles, disposable nappies or any other container, rubbish or refuse,
in any street, sidewalk, walkway or public place.

(2) Any person contravening subsection (1) must, upon instruction by an authorised official, discontinue doing so.

30. Prohibitions regarding handling of animals. –No owner or person in charge of, or responsible to supervise, any wild or ferocious animal, monkey, livestock, or trek- or horned cattle may –

- (a) turn such animal loose;
- (b) leave such animal at any time insufficiently attended in;
- (c) keep such animal –
 - (i) at large; or

(ii) in such a manner as to be a danger or annoyance to the traffic or public, or
 (d) allow, permit or cause the animal to graze or stray,
 in, or about a street, sidewalk, walkway or public place.

(2) No person may walk a dog in a street, sidewalk, walkway or public place unless it is on a leash and under control of that person.

(3) No person may leave any injured, feeble, emaciated, diseased or dying animal on a street, sidewalk, walkway or public place except for the purpose of seeking assistance for the removal of such animal from that area.

31. Regulating display of street number of places. –(1) The Municipality may prescribe, by written notice to the owner of any premises, that a number allocated to such premises by the Municipality shall be displayed and the owner of such premises shall, within 30 days of the date of such notice, display the allocated number on the premises.

(2) A number contemplated in subsection (1) must be–
 (a) displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
 (b) replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

(3) If the owner contemplated in subsection (1) fails to comply with such notice, the Municipality may execute the notice and the owner is liable for the reasonable cost incurred by the Municipality in so doing.

32 Regulating bridges and crossings. –No person may, except in accordance with prior written permission of the Municipality, make, or built to or in front of, –

(a) any dwelling; or
 (b) other premises in any street or public place,
 a private crossing, walkway, bridge or culvert.

33. Regulating amusement shows and devices. –(1) No person may, except in accordance with prior written permission of the Municipality, set up or use in any street, sidewalk, walkway or public place any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public –

(a) unless suitable sanitary conveniences for both sexes of the staff have been provided;
 and
 (b) if it is in any way dangerous or unsafe for public use.

(2) Assistance by traffic officers will be provided by the municipality on application.

(3) An applicant for permission to hold such a show or set up such a device must pay the prescribed tariff and deposit for the costs to be incurred by the Municipality during and after the

event, at least seven working days prior to commencement of the race or event: Provided that, if the actual costs incurred are higher than the deposited amount, such person is liable to pay the difference to the Municipality upon proof of such expenses.

(4) An authorised official of the Municipality must, for the purposes of inspection, at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

34. Prohibitions regarding animal-drawn vehicles and push or pull carts. –(1) No person may drive, or cause to be driven, an animal-drawn vehicle along or through streets, –

(a) during the hours when it would be required of motor vehicles to have their lights switched on; or
(b) with a gradient of 20° or more.

(2) No person may push or pull any cart along or through streets –

(a) during the hours when it would be required of motor vehicles to have their lights switched on; or
(b) with a gradient of 20° or more.

(3) No person may –

(a) simultaneously drive, or be in control of, more than one animal-drawn vehicle in a street or public place;
(b) drive, or be in control of, an animal-drawn vehicle in a street or public place if he is under 16 years of age;
(c) if he or she is in control of an animal-drawn vehicle in a street, allow a person under 16 years of age to drive or be in control of such vehicle; or
(d) outspan, or allowed to be outspanned, any vehicle drawn by animals in a street or public place.

35. Regulating sleeping in vehicles. –No person may sleep in a vehicle in a street or public place, other than a motor vehicle parked at stands duly so allocated by the Municipality.

36. Regulating informal parking attendants. –(1) No person may act as an informal parking attendant in a street, parking area or public place, except in accordance with prior written permission of the Municipality.

(2) The Municipality may levy a registration tariff, the amount of which is determined by Municipality and fixed in the registration, as a requirement for the registration of parking attendants, provided that where a Memorandum of Agreement exists between the municipality and a service provider for the provision of a parking management system, such a tariff will not be levied.

37. Regulating costs and tariffs. –(1) The Municipality may charge fees and monies for the permission granted in terms of this By-law and may require the deposit of an amount of money as security for damages, repair, mopping up, losses and other costs.

- (2) Notwithstanding any other provisions of this By-law, the Municipality may, –
- (a) where the permission of the Municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
 - (b) where any provision of this By-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance,

serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, to remove the structure, object, material or substance, or to take such other steps as the Municipality may require to rectify such contravention, within the period stated in such notice.

(3) Any person who fails to comply with a notice in terms of subsection (1) is guilty of an offence, and the Municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

- (4) The payment of deposits and tariffs to the Municipality are subject to the following:
- (a) the Municipality may determine the estimated tariffs, and a deposit equal to these tariffs in respect, must be paid in cash or by bank-guaranteed cheque at the date of application;
 - (b) any mutual adjustment must be made after conclusion of the sporting event, procession or gathering, or the setting up of the circus, whirligig, roundabout or other side-show or device, as the case may be, as soon as the actual costs have been determined by the Municipality;
 - (c) the Municipality may, at its sole discretion, exempt an applicant from the payment of the tariffs and the deposit upon written reasons being provided to the Municipality prior to the commencement of the escorting, race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device: Provided that, in the event that the municipality is unable to grant exemption for whatever reason prior to the commencement of the event, the applicant must pay the tariffs, which must, if exemption is granted thereafter, be refunded to the applicant;
 - (d) the Municipality may approve the appointment of marshals and prescribe their responsibilities and attire to perform functions on a street, sidewalk, walkway or in a public place; and
 - (e) the Municipality must prescribe the minimum number of marshals required to assist at a race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show, or device, racing event, sporting event, procession and a gathering in general.

(5) Subsection (1) does not apply to a funeral procession.

38. Regulating limitation on access to certain areas. –No person may, except in accordance with prior written permission of the Municipality, close or barricade any street, sidewalk, walkway or a public place, or part thereof, or restrict access to any such place.

39. Regulating closure or diversion of certain areas. –(1) The Municipality may permanently close or divert any street, sidewalk, walkway or a public place, or part thereof, or restrict access to any such place.

(2) When the Municipality decides to act in terms of subsection (1), it must –
 (a) give written notice of such intention in terms of its communication policy; or
 (b) in the absence of such policy, give notice of its intention in a local newspaper in at least two official languages.

(3) Any objection against the decision to act as contemplated in subsection (2) must be delivered in writing to the Municipal manager within 30 days from the date of the notification contemplated in subsection (2) for consideration by the Council, a committee or person who has delegated powers to decide upon it.

(4) Notwithstanding the provisions of subsection (2), the Municipality may temporarily close or restrict access to any street, sidewalk, walkway or a public place, or part thereof –

- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of such place;
- (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such place;
 - (i) if such street or public place is, in the opinion of the Municipality, in a state dangerous to traffic;
 - (ii) by reason of any emergency or public event which, in the opinion of the Municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds; or
 - (iii) for any other reason which, in the opinion of the Municipality, renders the temporary closing of such street necessary,
- (c) and temporarily divert such access.

(2) The municipal manager may in his discretion, for general information, place a notice of such temporary closure, restriction or diversion in a local newspaper.

40. Certain functions of Municipality regarding streets, sidewalks, walkways and public places. –The Municipality may, in its area,

- (a) make, construct, reconstruct, alter and maintain;
- (b) name and re-name; and
- (c) allocate and re-allocate numbers to properties abutting on, streets, sidewalks, walkways and public places.

- 41. Declaration of streets and public places.** –(1) The Municipality may –
- (a) declare any land, or portion of land, under its control to be a street, sidewalk or walkway, or any street, sidewalk or walkway, or portion thereof to be a public place; and
 - (b) declare any private street or portion thereof to be a public street, or any place or portion thereof to be a public place.
- (2) When the Municipality decides to act in terms of subsection (1), it must –
- (a) give written notice of such intention in terms of its communication policy; or
 - (b) in the absence of such policy, give notice of its intention in a local newspaper in at least two official languages
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (2) for submission to Council, a committee or person who has delegated powers to decide upon it.
- 42. Determination of subcategories and regulation of pedestrians, pedal cyclists and subcategories.** –(1) The Municipality may –
- (a) by Notice in the *Provincial Gazette* determine any other subcategory of vehicles and regulate such subcategory as contemplated in paragraph (b); and
 - (b) regulate the use by pedestrians, pedal cyclists and other subcategories of vehicles of a specific street, sidewalk, walkway or public place, or a section or part thereof, where the use thereof is not suitable for pedestrians, pedal cyclists or such subcategory of vehicles, as the case may be.
- (2) When exercising its powers as contemplated in subsection (1)(b), the Municipality must erect a road traffic sign which clearly indicates the regulated use and area of application.
- 43. Offences and penalties.** –Any person who contravenes or fails to comply with any provision of this By-law is guilty of an offence and liable upon conviction to –
- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment;
 - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.
- 44. Repeal of By-laws.** –The By-laws listed in the Schedule hereto are hereby repealed to the extent indicated in the third column thereof.
- 45. Short title and commencement.** –This By-law shall be known as the By-law relating to Roads and Streets and comes into operation on the date of publication thereof in the *Provincial Gazette*.

ANNEXURE B

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/LIMITATIONS/INSTRUCTION TO ASSIST
ROADS AND STREETS BY-LAW DATED July 2020						
RSB1	Roads and Streets By-Law S3	Decision to construct and maintain roads, sidewalks and walkways	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB2	Roads and Streets By-Law S4	Conclude encroachment agreements	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB3	Roads and Streets By-Law S7	Authorization to advertise	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB4	Roads and Streets By-Law S9	Instruct owner or occupier to cut tree branches away from overhead lines	Municipal Manager	Director: Infrastructure Services	Senior Manager: Electricity Services	
RSB5	Roads and Streets By-Law S11(2)	Instruct Person to remove Vehicles	Municipal Manager	Director: Community Services	Senior Manager: Protection Services	
RSB6	Roads and Streets By-Law S16	Regulating building materials, dangerous objects and cleanliness	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB7	Roads and Streets By-Law S18	Issuing permits for races and sport events	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
RSB8	Roads and Streets By-Law S21(5)	Issuing permits to travel over curbs, sidewalks, walkways or road verges	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB9	Roads and Streets By-Law S23	Regulating street and door-to-door collections and distribution of handbills	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
RSB10	Roads and Streets By-Law S24	Regulating administration of poison for weed killing	Municipal manager	Director: Community & Protection Services	Senior Manager: Community Services	
RSB11	Roads and Streets By-Law S25	Regulating Processions	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
RSB12	Roads and Streets By-Law S28	Allow a deviation to allow stormwater or watercourse water to run onto a street	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	

RSB13	Roads and Streets By-Law S31	Regulating display of street numbers	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB14	Roads and Streets By-Law S32	Regulating bridges and crossings	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB15	Roads and Streets By-Law S33	Regulating Amusement Shows and Devices	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
RSB16	Roads and Streets By-Law S35	Regulating Informal Parking Attendants	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
RSB17	Roads and Streets By-Law S37	Regulating costs and tariffs	Council			
RSB18	Roads and Streets By-Law S38	Regulating Limited Access	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	Manager: Traffic Engineering	
RSB19	Roads and Streets By-Law S39	Regulating Closure or diversions	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	Manager: Traffic Engineering	
RSB20	Roads and Streets By-Law S40(a)	Make, reconstruct, alter and maintain roads	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	
RSB21	Roads and Streets By-Law S40(b)	Name and rename roads and streets	Council			
RSB22	Roads and Streets By-Law S40(c)	Allocate and reallocate numbers to properties	Municipal Manager	Director: Planning and Economic Development	Senior Manager: Development Planning	
RSB23	Roads and Streets By-Law S41	Declaration of Streets and public places	Municipal Manager	Director: Planning and Economic Development	Senior Manager: Development Planning	
RSB24	Roads and Streets By-Law S42	Determination of subcategories and regulation of pedestrians, pedal cyclists and subcategories	Municipal Manager	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	

ANNEXURE C

**STELLENBOSCH MUNICIPALITY
PROPOSED ADMISSION OF GUILT FINES
BY-LAW ON ROADS & STREETS**

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
Reg 4 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Regulating encroachments on streets, sidewalks, walkways and road reserves-</p> <p>(1) No person may, without prior written permission of the Municipality, cause an encroachment on a street, sidewalk, walkway or road reserve forming part thereof by –</p> <p>(a) making, constructing, reconstructing, or altering;</p> <p>(b) constructing a veranda, stoep, steps or other protrusion within;</p> <p>(c) erecting a post or any other structure on;</p> <p>(d) planting or cause to be planted, any tree, shrub or other plant on or allowing any such tree, shrub or plant to remain on; or</p> <p>(e) placing or cause to be placed any other impediment or obstruction on, such a street, sidewalk, walkway or road reserve forming part</p>	R1000	
Reg 5 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Regulating goods or building materials causing obstruction –</p> <p>(1) No person may, deposit, place, pack, unpack or leave any goods in a street, on a sidewalk or walkway, in a public place without prior written permission of the Municipality.</p>	R1000	
Reg 6 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Prohibitions on objects and animals causing an obstruction –</p> <p>(1) No person may</p> <p>(a) obstruct the pedestrians, pedal cyclists and other vehicle traffic on a sidewalk, walkway or in a public place by bringing, or allowing to be brought thereon, any animal, object or vehicle;</p> <p>(b) allow their animals to roam freely on sidewalks or in public roads without the necessary control mechanisms; or</p> <p>(c) allow, permit or cause any animal to graze or stray in or about any street or public space.</p>	R1000	

<p>Ref 7 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Rules on advertising –</p> <p>No person may, except in accordance with prior written permission of the Municipality, display any –</p> <p>(a) advertisement; (b) placard; (c) poster; or (d) bill, in a street, on a sidewalk or walkway, in a public place.</p>	<p>R500</p>	
<p>Ref 8 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating planting of trees, shrubs or plants –</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, in a street, sidewalk or walkway, or in a public place –</p> <p>(a) plant a tree, shrub or plant; (b) in any way cut down, remove, climb, break or damage a tree, shrub or plant growing there; (c) mark or paint any tree, shrub or plant growing there; or (d) attach any advertisement thereto.</p>	<p>R500</p>	
<p>Reg 10 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating conduct regarding refuse, motor vehicle wrecks, waste material, etc. –</p> <p>No person may,</p> <p>(a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street, sidewalk, walkway, public place; or (b) allow, or permit any of, the prohibitions contemplated in paragraph (a) without written</p>	<p>R1000</p>	
<p>Reg 11 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating activities related to vehicles –</p> <p>(1) No person may, in a street, sidewalk, walkway or public place, –</p> <p>(a) effect any repairs or service to a vehicle, (c) wash, clean, dry, paint or bleach any other article or thing; (d) park or leave a heavy motor vehicle parked overnight in a public place in a residential area</p>	<p>R1000</p>	

<p>Reg 12 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating specific acts regarding games, sports and events –</p> <p>(1) No person may – (a) play games, roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or a missile, or throw a stone, stick or other projectile in, onto or across a street, sidewalk, walkway or public place; or (b) do anything in a street, sidewalk, walkway or public place which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public. (3) No person may erect a tent or place chairs or any article in, onto or across a street, sidewalk, walkway or public place for the purpose of a funeral, party or <u>any other event except in accordance with prior</u></p>	<p>R1000</p>	
<p>Reg 13 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating use of explosives and firearms –</p> <p>(1) No person may use explosives or undertake blasting operations in a street, sidewalk, walkway or public place, except in accordance with – (a) <u>prior written permission of the Municipality.</u></p>	<p>R2500</p>	
<p>Reg 14 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating conveyance of animal carcasses or other waste –</p> <p>No person may carry or convey through a street, sidewalk, walkway or public place the carcass, parts or offal of an animal or fish, polluted liquid, or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand, unless – (a) properly covered; and (b) conveyed in such type of container or in such a manner as will not allow any of the items contemplated, or parts thereof, to be spilt in a street, sidewalk, walkway or public place.</p>	<p>R1000</p>	
<p>Reg 15 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating erection of fences, etc. –</p> <p>(1)(a) No person may, except in accordance with prior written permission of the Municipality, erect, cause or permit to be erected, a barbed wire, razor wire, electrified or other dangerous fence, railing, paling or other barrier which is, or may become, a danger to a member of the public by reason of – (i) spikes or other sharp or pointed protrusions; or (ii) the nature of its construction or design, on the boundary of a street, sidewalk, walkway or public place.</p>	<p>R1500</p>	

Reg 16 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Regulating building materials, dangerous objects and cleanliness –</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, –</p> <p>(a) bore or cut stone or bricks, slake or sift lime;</p> <p>(b) mix building materials; or</p> <p>(c) store, deposit, leave or cause to be stored, deposited or left –</p> <p>(i) sand, stone, earth, bricks, timber, corrugated iron sheets, lime, cement; or</p> <p>(ii) other building or excavated material of whatever nature, in a street, sidewalk, walkway, or public place or on municipal property.</p>	R1000	
Reg 18 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Regulating races and sports events –</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, hold a race or sporting event in a street, on a sidewalk or walkway, or a public place.</p>	R1500	
Reg 19 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Prohibitions regarding balconies and verandas –</p> <p>No person may use a balcony or veranda erected beyond the boundary line of a street, sidewalk, walkway or public place for purposes of–</p> <p>(a) trading or the storage of goods, or</p> <p>(b) washing or drying of clothes thereon, or</p> <p>enclose or partition a balcony or veranda erected beyond the boundary line of such a street, sidewalk, walkway or public place thereof as a living or bedroom.</p>	R1000	
Reg 20 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Prohibition of parking of heavy motor vehicles, trailers and caravans –</p> <p>(1) No person may park a –</p> <p>(a) heavy motor vehicle;</p> <p>(b) trailer;</p> <p>(c) semi-trailer; or</p> <p>(d) caravan, on a street within the Municipal area for an uninterrupted period exceeding two hours, except on places reserved for parking of heavy motor vehicles:</p> <p>NB provisions do not apply to the actual loading or unloading of such vehicle.</p>	R500	

<p>Reg 21 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating the protection of surfaces –</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, make, or cause to be made, an excavation or dig, or cause to be dug, a pit, trench or hole in any street, on any sidewalk or walkway, or in any public place.</p> <p>(2) No person may –</p> <p>(a) use a vehicle or allow it to be used in any street, on any sidewalk or walkway, or in any public place, if such vehicle is in such a defective condition that it will or may cause damage to such area;</p> <p>(b) drive, push, roll, pull or propel any object, machine or other material through or along a street, sidewalk, walkway or public place, –</p> <p>(i) in such a way, or</p> <p>(ii) while such object, machine or material is in such a condition, as may damage, break or destroy the surface of such area in any way.</p>	<p>R2500</p>	
<p>Reg 22 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Prohibition of damaging specific property –</p> <p>No person may deface, damage, tamper or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any advertisement which has been erected in a street, on a sidewalk or walkway, or in public place by, or with the permission of, the Municipality.</p>	<p>R2500</p>	
<p>Reg 23 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Regulating street and door-to-door collections and distribution of handbills –</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, –</p> <p>(a) collect, or attempt to collect, money, organise, or in any way assist in the organisation of such collection;</p> <p>(b) from door-to-door collect, beg, solicit or accept donations;</p> <p>(c) distribute any handbill or similar advertising material, or cause it to be distributed; or</p> <p>(d) place any handbill or similar advertising material, or cause it to be placed on or in any vehicle, in any street, on any sidewalk or walkway, or in any public place.</p>	<p>R500</p>	

Reg 24 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Prohibition on administering poison –</p> <p>No person other than an official of the Municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any street, on any sidewalk or walkway, or in any public place.</p>	R1000	
Reg 25 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Regulating any processions –</p> <p>(7), No person may, except in accordance with prior written permission of the Municipality, –</p> <p>(a) hold, organise, initiate, control or actively participate in a procession or gathering;</p> <p>(b) dance or sing or play a musical instrument;</p> <p>(c) do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic; or</p> <p>(d) use any loudspeaker or other device for the reproduction or amplification of sound, in any street, on any sidewalk or walkway, or in any public place.</p>	R2500	
Reg 26 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Prohibition on public indecency</p> <p>No person may, in any street, sidewalk, walkway or public place–</p> <p>(a) appear without being clothed in such a manner as decency demands;</p> <p>(b) or in view of such a place, urinate, excrete, behave in any indecent manner by exposing his or her person or otherwise, make use of any indecent gesture, or commit, solicit or provoke any person to commit any riotous, disorderly or indecent act;</p> <p>(c) sing any obscene or profane song;</p> <p>(d) use any profane, foul, indecent or obscene language;</p> <p>(e) in any way loiter or solicit or inconvenience or harass any other person for the purpose of begging; or</p> <p>(f) use any threatening, abusive or insulting words or gestures or behaviour with intent to cause a breach of the peace or whereby a breach of the peace is likely to be caused</p>	R1000	
Reg 27 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021	<p>Prohibition regarding overflow water</p> <p>With the exception of rainwater, no person may cause or allow any dirty, waste, swimming pool, infected or otherwise polluted water to flow from his premises into a street, sidewalk, walkway or public place.</p>	R500	

<p>Reg 28 R/W Reg 43 (a), (b) and (c) P.N. 8436 dated 28 May 2021</p>	<p>Control of stormwater and watercourses on public road</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, –</p> <p>(a) lead or discharge any water on, over or across; or</p> <p>(b) by any means whatever, raise the level of water in any river, dam or watercourse to cause interference with or endanger, a street, sidewalk, walkway or public place.</p>	<p>R2500</p>	
<p>Reg 29 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Prohibitions regarding behaviour in public</p> <p>(1) No person may–</p> <p>(a) cause a nuisance to other persons by loitering, standing, sitting, lying, congregating or begging;</p> <p>(b) sleep, overnight or erect any shelter;</p> <p>(c) wash or dry clothes, blankets or any other domestic articles;</p> <p>(d) use abusive, insulting, obscene, threatening or blasphemous language;</p> <p>(e) fight or act in a riotous manner;</p> <p>(f) discharge a firearm, airgun or air-pistol;</p> <p>(g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;</p> <p>(h) defecate, urinate or wash himself;</p> <p>(i) solicit or importune any person for the purpose of prostitution or immorality;</p> <p>(j) engage or participate in gambling;</p> <p>(k) use intoxicating liquor or drugs;</p> <p>(l) spit;</p> <p>(m) be drunk;</p> <p>(n) obstruct traffic in any manner; or</p> <p>(o) litter or leave behind, or allow, permit or cause littering, by means of cigarette butts, matches, beer- or cold drink cans or bottles, any glass or plastic bottles, disposable nappies or any other container, rubbish or refuse, in any street, sidewalk, walkway or public place.</p> <p>(2) Any person contravening subsection (1) must, unfailing upon instruction by an authorised official, discontinue a behaviour as per subsection (1) (a) – (o).</p>	<p>R500</p>	

<p>Reg 30 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Prohibitions regarding handling of animals</p> <p>No owner or person in charge of, or responsible to supervise, any wild or ferocious animal, monkey, livestock, or trek- or horned cattle may –</p> <p>(a) turn such animal loose;</p> <p>(b) leave such animal at any time insufficiently attended in;</p> <p>(c) keep such animal –</p> <p>(i) at large; or</p> <p>(ii) in such a manner as to be a danger or annoyance to the traffic or public, or</p> <p>(d) allow, permit or cause the animal to graze or stray, in, or about a street, sidewalk, walkway or public place.</p> <p>(2) No person may walk a dog in a street, sidewalk, walkway or public place unless it is on a leash and under control of that person.</p> <p>(3) No person may leave any injured, feeble, emaciated, diseased or dying animal on a street, sidewalk, walkway or public place except for the purpose of seeking assistance for the</p>	<p>R500</p>	
<p>Reg 32 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Regulating bridges and crossings</p> <p>No person may, except in accordance with prior written permission of the Municipality, make, or built to or in front of, –</p> <p>(a) any dwelling; or</p> <p>(b) other premises in any street or public place, a private crossing, walkway, bridge or culvert.</p>	<p>R1000</p>	
<p>Reg 33 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Regulating amusement shows and devices</p> <p>(1) No person may, except in accordance with prior written permission of the Municipality, set up or use in any street, sidewalk, walkway or public place any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public –</p> <p>(a) unless suitable sanitary conveniences for both sexes of the staff have been provided; and</p> <p>(b) if it is in any way dangerous or unsafe for public use.</p>	<p>R1000</p>	

<p>Reg 34 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Prohibitions regarding animal-drawn vehicles and push or pull carts –</p> <p>(1) No person may drive, or cause to be driven, an animal-drawn vehicle along or through streets, – (a) during the hours when it would be required of motor vehicles to have their lights switched on; or (b) with a gradient of 20° or more.</p> <p>(2) No person may push or pull any cart along or through streets – (a) during the hours when it would be required of motor vehicles to have their lights switched on; or (b) with a gradient of 20° or more.</p> <p>(3) No person may – (a) simultaneously drive, or be in control of, more than one animal-drawn vehicle in a street or public place; (b) drive, or be in control of, an animal-drawn vehicle in a street or public place if he is under 16 years of age; (c) if he or she is in control of an animal-drawn vehicle in a street, allow a person under 16 years of age to drive or be in control of such vehicle; or (d) outspan, or allowed to be outspanned, any vehicle drawn by animals in a street or public place.</p>	<p>R500</p>	
<p>Reg 35 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Regulating sleeping in vehicles No person may sleep in any vehicle in or on a public street or public place without the prior written permission of the Municipality.</p>	<p>R250</p>	
<p>Reg 36 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Regulating informal parking attendants –</p> <p>(1) No person may act as an informal parking attendant in a street, parking area or public place, except in accordance with prior written permission of the Municipality.</p>	<p>R250</p>	
<p>Reg 38 R/W Reg 43 (a), (b) and (C) P.N. 8436 dated 28 May 2021</p>	<p>Regulating limitation on access to certain areas. No person may, except in accordance with prior written permission of the Municipality, close or barricade any street, sidewalk, walkway or a public place, or part thereof, or restrict access to any such place.</p>	<p>R1 000</p>	

7.6.2	APPROVAL OF THE STELLENBOSCH MUNICIPALITY INTEGRATED WASTE MANAGEMENT BY-LAW DELEGATIONS AND ADMISSION OF GUILT FINES
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Collaborator No: 733486
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 August 2022

1. SUBJECT: APPROVAL OF THE STELLENBOSCH MUNICIPALITY INTEGRATED WASTE MANAGEMENT BY-LAW DELEGATIONS AND ADMISSION OF GUILT FINES

2. PURPOSE

To request approval from Council to finally approve the Integrated Waste Management By-Law Delegations and Admission of Guilt Fines.

3. DELEGATED AUTHORITY

The Stellenbosch Municipality By-Law relating to Integrated Waste Management was approved by Council. And published in the Provincial Gazette No. 8441 dated 4 June 2021 (**ANNEXURE A**).

4. EXECUTIVE SUMMARY

The Stellenbosch Municipality Integrated Waste Management By-Law (2020) regulates the avoidance, minimisation, generation, collection, cleaning and disposal of waste; and matters related thereto.

Under Section 59: Delegations of the Municipal Systems Act, Council is to approve the proposed delegations of powers in terms of this By Law to various key officials and incorporate these into the System of Delegations. A proposed set of delegations is shown under **ANNEXURE B**.

Under the provisions of section 45 of the By-Law a person convicted of an offence in terms of section 44(1)(a), (b), (c) or (e) of the By-Law is liable to a fine. A set of proposed Admission of Guilt Fines (AGF) has been attached as **ANNEXURE C**.

5. RECOMMENDATIONS

- (a) that the content of this report be noted,
- (b) that the set of delegations as proposed in **ANNEXURE B** be accepted and attached to the System of Delegations, and
- (c) that the proposed set of Admission of Guilt Fines (Attached as **ANNEXURE C**) be accepted as the fines to be sought from the Chief Magistrate for this By-Law.

6. DISCUSSION / CONTENTS

6.1 Background

The Stellenbosch Municipality By-Law relating to Integrated Waste Management was promulgated and published on 4 June 2021 (**ANNEXURE A**).

In order to manage this By Law and in terms of Section 59 of the Municipal Systems Act, various functions are to be assigned to various officials. These delegations are taken up in the proposed set of Delegations within **ANNEXURE B**.

In order to give effect to section 44 of the By-Law a set of fines in terms of section 45 of the By-Law is proposed for consideration by Council. The proposal of fines is attached as **ANNEXURE C**.

6.2 **Financial Implications**

There are no financial implications, other than an income generated through the issuing of fines, should the recommendations as set out in the report be accepted.

6.3 **Legal Implications**

None

6.4 **Risk Implications**

This report has no risk implications for the Municipality.

ANNEXURES

Annexure A: BY-LAW RELATING TO INTEGRATED WASTE MANAGEMENT

Annexure B: PROPOSED SET OF DELEGATIONS

Annexure C: PROPOSED ADMISSION OF GUILT FINES

FOR FURTHER DETAILS CONTACT:

NAME	Deon Louw
POSITION	<i>Director</i>
DIRECTORATE	<i>Infrastructure Services</i>
CONTACT NUMBERS	<i>021 808 8213</i>
E-MAIL ADDRESS	<u>Deon.louw@Stellenbosch.gov.za</u>
REPORT DATE	<i>20 July 2022</i>

ANNEXURE A



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

8441

8441

Friday, 4 June 2021

Vrydag, 4 Junie 2021

Registered at the Post Office as a Newspaper

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*(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)*

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LOCAL AUTHORITY

Stellenbosch Municipality: By-law Relating to Integrated Waste
Management (2020) 2

[STELLENBOSCH MUNICIPALITY]

[DATE OF COMMENCEMENT: 4 JUNE 2021]

This By-Law

was published by *Provincial Gazette* No. 8441 dated 4 June 2021

STELLENBOSCH MUNICIPALITY

BY-LAW RELATING TO INTEGRATED WASTE MANAGEMENT
APPROVED BY COUNCIL ON 25 NOVEMBER 2020

AND

PROMULGATED IN TERMS OF SECTION 13 OF THE LOCAL GOVERNMENT:
MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000)

STELLENBOSCH MUNICIPALITY INTEGRATED WASTE MANAGEMENT BY-LAW
(2020)

To give effect to the right contained in section 24 of the Constitution of the Republic of South Africa, 1996 and to regulate —

- the avoidance, minimisation, generation, collection, cleaning and disposal of waste; and
- matters related thereto.

Under the provisions of sections 156 (2) of the Constitution of the Republic of South Africa, 1996, and section 11 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the Stellenbosch Municipality enacts as follows:

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PREAMBLE

WHEREAS the Municipality has under the Constitution legislative competence in respect of refuse removal, refuse dumps and solid waste disposal;

Whereas the Stellenbosch Municipality has an obligation to regulate and control waste management so as to ensure a safe, healthy and sustainable environment and to ensure that the rights of individuals are protected;

Whereas the Municipality wishes to reduce the generation and the environmental impact of waste to ensure that the socio-economic development, the health of the people within the Municipality's boundaries and the quality of environmental resources are not unduly adversely affected by waste;

Whereas the Municipality wants to ensure that all residents, organisations, institutions, businesses, visitors, tourists and government departments are able to access services from a legitimate waste management service provider; and

Whereas the Municipality wishes to regulate waste generation, cleaning, collection, separation, storage, processing, treatment, recycling, re-use and disposal of waste, including littering and illegal dumping and the regulation of facilities used for the management of waste, with the ultimate aim of avoiding or minimising the generation of waste.

BE IT ENACTED by the Municipality, as follows: —

1. **Definitions.** —In this By-law, words used in the singular includes the plural and vice versa, the English text shall prevail in the event of an inconsistency between the different texts, and, unless the context otherwise indicates, —

“**accredited service provider**” means a person or entity accredited by the Municipality in accordance with its guidelines published from time to time and who provides a waste management service in the municipal area and may include, but is not limited to waste managers, large and small business, entrepreneurs, community cooperatives, and venture learnerships;

“**building waste**” means waste produced through the construction, alteration, repair or demolition of any structure both manmade and natural, and —

- (a) includes rubble, earth, wood and rock that is displaced during any construction, alteration, repair or demolition; but
- (b) excludes garden waste and hazardous waste;

“**bulky waste**” means waste that by virtue of its mass, shape, size or quantity is inconvenient to remove by the routine door-to-door waste removal service provided by the Municipality or a service provider;

“**business waste**” means —

- (a) waste that emanates from premises that are used, whether lawfully or unlawfully mainly, for commercial, retail, wholesale, entertainment or government administration purposes; and
- (b) also includes waste generated by informal traders and residential premises where commercial activities are being conducted;

“**chemical waste**” includes discarded solid, liquid and gaseous chemicals;

“Director” means the Director responsible for solid waste management in the Municipality;

“disposal” means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into, or onto, any land;

“dump”—

- (a) includes the —
- (i) disposal of waste in any manner other than one permitted by this By-law or any other law; and
 - (ii) without derogating from the generality of the foregoing, the —
 - (aa) deposit;
 - (bb) discharge;
 - (cc) spill; or
 - (dd) releaseof waste, whether the said waste is in a container or receptacle or not, in or at any place whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems, but
- (b) excludes littering;

“event waste” means waste that originates from the activities related to an event that is held in the Municipality;

“garden waste” —

- (a) refers to —
- (i) organic waste, including but not limited to, soil, grass cuttings, leaves and branches; and
 - (ii) any biodegradable material, which emanates from gardening, landscaping or other types of activities at residential, business or industrial properties; but
- (c) excludes waste products of animal origin;

“general waste” is a generic term for waste that, because of its composition and characteristics, does not pose an immediate risk to public health or the environment if managed properly, and includes residential waste, building waste, business waste, and any waste classified as non-hazardous waste in terms of national or provincial legislation;

“genotoxic waste” means highly hazardous waste —

- (a) that may have mutagenic, teratogenic or carcinogenic properties; and
- (b) includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material;

“Government Gazette” means the Government Gazette of the Republic of South Africa;

“hazardous waste” means —

- (a) any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on human health, the health of other living organisms and the environment; and
- (b) includes —
- (i) health care risk waste; and
 - (ii) the hazardous substances, materials or objects within business waste, residue deposits and residue stockpiles;

“health care risk waste” means —

- (a) that portion of health care waste that is hazardous including infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, waste with heavy metals, radioactive waste, and
- (b) any other health care waste that is defined as hazardous in terms of the Western Cape Health Care Waste Management Act, 2007 (Act 7 of 2007) read with applicable national legislation;

“holder of waste” means —

- (a) any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of waste; and
- (b) includes recyclers and scrap dealers;

“industrial waste” means waste emanated from the manufacturing, industrial, fabricating or operational processes on premises that are used wholly or mainly for —

- (a) industrial purposes;
- (b) agricultural activities;
- (c) mining activities; or
- (d) the operation of power stations;

“infectious waste” means waste that is suspected to contain pathogens in a sufficient concentration or quantity to cause disease in susceptible hosts, and includes —

- (a) cultures and stocks of infectious agents from laboratory work;
- (b) waste from surgery and autopsies on corpses with infectious diseases;
- (c) waste from infected patients in isolation wards;
- (d) waste that has been in contact with —
 - (i) infected patients undergoing haemodialysis,
 - (ii) infected animals from laboratories, sanitary waste materials and tissues including swabs; and

any other instruments or materials that have been in contact with infected persons or materials;

“integrated waste management plan” means an integrated waste management plan that is required by the Municipality in terms of this By-law or any other applicable legislation;

“licenced waste disposal facility” means any site or premise which is licenced by the Province of the Western Cape or the National Government and used for the accumulation of waste for the purpose of disposing of that waste at that site or on that premise;

“litter” means waste, excluding hazardous waste, that has been thrown, dropped, deposited, spilled or in any other way discarded somewhere other than in an assigned receptacle, and “littering” has a corresponding meaning;

“minimisation”, when used in relation to waste, means the avoidance of the amount and toxicity of waste that is generated and, in the event where waste is generated, the reduction of the amount and toxicity of waste that is disposed of;

“Minister” means a minister in the Province appointed as such by the Premier of the Province in accordance with the provisions of section 35 of the Constitution of the Western Cape, 1998 (Act 1 of 1998) read with section 125 of the Constitution of the Republic of South Africa, 1996;

“municipal area” means the area of jurisdiction of the Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

“municipal manager” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“Municipality” means the Stellenbosch Municipality established by Provincial Notice No. 489 of 2000 in *Provincial Gazette* 5590 of 22 September 2000 as amended from time to time, or its successors in title;

“National Building Regulations” refers to the regulations made in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act 107 of 1977) as published in Government Notice R2378 of 1990 in *Government Gazette* 12780 dated 12 October 1990;

“National government” means the national sphere of government as established by the Constitution of the Republic of South Africa, 1996, and “national” has a corresponding meaning;

“National Minister” means a minister in the national sphere of government appointed as such by the President of the Republic of Africa in accordance with section 85 of the Constitution of the Republic of South Africa, 1996;

“NEM:WA” means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

“nuisance” means any damage, inconvenience or annoyance to a person caused by the improper generation, handling, management, storage, placement, collection, transport or disposal of waste, including littering;

“organ of state” has the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996;

“owner” includes any of the following:

- (a) the person in whom is vested the legal title to the premises, lessee, resident, director of a company, member of a close corporation, the person in control of any premises;
- (b) any person who obtains a benefit from the premises or is entitled thereto; and
- (c) the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, dead or of unsound mind;

“pathological waste” includes all human and animal tissues, organs, body parts, foetuses, blood and bodily fluids;

“peace officer” has the meaning assigned to it in the Criminal Procedure Act, 1977 (Act 51 of 1977);

“person” has the meaning assigned to it in the Interpretation Act, 1957 (Act 33 of 1957), and includes any —

- (a) organ of state;
- (b) company incorporated or registered as such under any law; and
- (c) body of persons corporate or unincorporate;

“pharmaceutical waste” includes expired, unused, spilt and contaminated pharmaceutical products, drugs, vaccines and sera that are no longer required and that need to be disposed of appropriately;

“pressurised container waste” includes pressurised cylinders and cartridges used in health care facilities to store gases;

“priority waste” means a waste declared to be such –

- (a) in terms of section 14 of NEM:WA; and
- (b) by the Director in terms of this By-law, national or provincial legislation;

“Provincial Gazette” means the official gazette of the Western Cape Province contemplated in section 33(1) of the Constitution of the Western Cape, 1998 (Act 1 of 1998);

“Province” means the Province of the Western Cape as established by the Constitution of the Republic of South Africa, 1996, and “provincial” has a corresponding meaning;

“public road” has the meaning assigned to it in the National Road Traffic Act, 1996 (Act 93 of 1996);

“radioactive waste” includes —

- (a) solid, liquid and gaseous materials contaminated with radionuclides,
- (b) waste produced as a result of procedures such as —
 - (i) in vitro analysis of body tissue and fluid,
 - (ii) in vivo organ imaging and tumour localization; and
 - (iii) various investigative and therapeutic practices;

“receptacle” means a container approved by the Municipality and having the capacity for the temporary storage of waste;

“recyclable materials” means any material that can be converted into raw or another form of material that can be re-used to make new products or resources;

“recycle” means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material;

“residential waste” means waste, that emanates from premises used wholly or mainly for residential, educational, healthcare, sport or recreational purposes, and —

- (a) includes recyclable materials and non-recyclable material; and
- (b) excludes hazardous waste;

“re-use” means to utilise the whole, a portion of or a specific part of any substance, material or object from the waste stream for a similar or different purpose without changing the form or properties of such substance, material or object;

“SANS” means a South African National Standard, issued by the South African Bureau of Standards, in terms of applicable law;

“sharp waste” includes items that could cause cuts or puncture wounds and includes, but is not limited to, needles, hypodermic needles, scalpels and other blades, knives, infusion sets, saws, broken glass and nails, and the word “sharp” has a corresponding meaning;

“storage” means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste;

“Tariff Policy and Tariff By-Law” means the Tariff Policy and Tariff By-Law adopted by the Council of the Municipality and published in the *Provincial Gazette* from time to time;

“transit” means the continuous passage from one municipal boundary of the Municipality to another such boundary of the Municipality without storage other than temporary storage incidental to transport;

“treatment” means any method, technique or process that is designed to —

- (a) change the physical, biological or chemical character or composition of waste; or
 - (b) remove, separate, concentrate or recover a hazardous or toxic component of waste; or
 - (c) destroy or reduce the toxicity of a waste,
- in order to minimise the impact of the waste on human health, the health of other living organisms, or the environment, prior to further use or disposal;

“waste”—

- (a) means any substance, material or object that is —
 - (i) unwanted, rejected, abandoned, discarded or disposed of; or
 - (ii) intended or required to be discarded or disposed of by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered; and includes all wastes as defined in Schedule 3 to NEM:WA; and
- (b) includes the following categories:
 - (i) building waste;
 - (ii) business waste;
 - (iii) bulky waste;
 - (iv) event waste;
 - (v) infectious waste;
 - (vi) garden waste;
 - (vii) general waste;
 - (viii) genotoxic waste;
 - (ix) hazardous waste;
 - (x) health care risk waste;
 - (xi) residential waste;
 - (xii) industrial waste;
 - (xiii) pressurised container waste;
 - (xiv) pathological waste;
 - (xv) pharmaceutical waste;
 - (xvi) radioactive waste;
 - (xvii) recyclable waste;
 - (xviii) residential waste;
 - (xix) waste with heavy metals;
 - (xx) all wastes as defined in the NEM:WA; and
 - (xxi) any other substance, material or object that is not included in the NEM:WA that the Minister, in accordance with section 69(1)(a) of NEM:WA, may define as a waste by Notice in the *Government Gazette*:

Provided that any waste, or portion thereof, contemplated in subparagraphs (a) and (b), ceases to be waste —

- (i) once an application for its re-use, recycling or recovery has been approved or, after such approval, once it is, or has been re-used, recycled or recovered;
- (ii) where approval is not required, once a waste is, or has been re-used, recycled or recovered;

- (iii) where the Minister has, in terms of section 74 of NEM:WA, exempted any waste, or a portion of waste, generated by a particular process from the definition of waste; or
- (iv) where the Minister has, in the prescribed manner, excluded any waste stream, or a portion of a waste stream, from the definition of waste;

“waste generator” —

- (a) means —
 - (i) a property owner;
 - (ii) a household;
 - (iii) an organisation; or
 - (iv) a business entity,
 the inhabitants, occupants or employees of which generate waste; and
- (b) includes sorters of waste such as —
 - (i) recycling or waste minimisation groups;
 - (ii) scrap dealers; and
 - (iii) buy-back centres;

“waste management activity” means any activity listed in Schedule 1 of NEM:WA or published by the Minister by notice in the *Government Gazette* in terms of section 19 of NEM:WA, and includes –

- (a) the importation and exportation of waste;
- (b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;
- (c) the accumulation and storage of waste;
- (d) the collection and handling of waste;
- (e) the reduction, re-use, recycling and recovery of waste;
- (f) the trading in waste;
- (g) the transportation of waste;
- (h) the transfer of waste;
- (i) the treatment of waste; and
- (j) the disposal of waste;

“waste management club” means a group of persons, typically residing in a high density residential or office building, or a multi-property cluster residential or business development, that has an agreement approved by the Director in terms of this By-law to minimise waste in exchange for a lower tariff according to an approved integrated waste management plan;

“waste management hierarchy” means a method of managing waste in the following order: avoidance, reduction, re-use, recycling, recovery, treatment and disposal;

“waste management officer” means the Director or an officer designated under section 58(1) of NEM:WA or designated by the Council of the Municipality;

“waste management service” means waste collection, treatment, recycling and disposal service;

“waste manager” means any person who re-uses, recycles, recovers, treats or disposes of waste and the words “to manage waste” has a similar meaning;

“waste minimisation club” means a group of persons, typically residing in a —
 (a) high density residential or office building; or
 (b) multi-property cluster residential or business development,
 that have an agreement, approved by the Director in terms of this By-law, to minimise waste according to an integrated waste management plan, in exchange for a lower tariff;

“waste stream” means waste that is divisible into different types of waste, including building waste, business waste, bulky waste, residential waste, garden waste, hazardous waste, health care risk waste, industrial waste and recyclable waste;

“waste transfer facility” means a facility that is used to accumulate and temporarily store waste before it is transported to a recycling, treatment or waste disposal facility;

“waste transporter” means any person who conveys or transfers waste between —
 (a) the waste generator and a waste management facility; or
 (b) waste management facilities; and

“waste with heavy metals” includes mercury waste from thermometers, blood- pressure gauges, residues from dentistry, cadmium waste from discarded batteries, reinforced wood panels used in radiation proofing, and drugs containing arsenic.

2. Application and scope. — (1) In the event of conflict between this By-law and any other By-law of the Municipality dealing with waste management, this By-law must prevail.

(2) This By-law must be read with the applicable provisions of the NEM:WA.

(3) This By-law applies to all persons.

3. Principles. —(1) The principles contemplated in Chapter 1 of NEM:WA apply in all instances where this By-law applies.

(2) The waste management hierarchy must be applied in the implementation of this By-law.

(3) The application of this By-law must promote —

- (a) sustainable development and a healthy environment through the management of waste within the area of the Municipality; and
- (b) responsible citizenship by residents in the area of the Municipality to ensure sound waste management practices.

4. Categorisation of waste. —(1) Waste shall be categorised in accordance with the definitions of the various types of waste in this By-law.

(2) The decision of the Director in respect of the categorisation of waste is, subject to any other applicable law, final.

(3) Service categories for waste management, as provided for in the tariff policy of the Municipality, must be defined in the integrated waste management policy of the Municipality.

5. Obligations of waste generators. —(1) A person must manage any waste generated by —

- (a) his or her activities, or
- (b) the activities of persons working —
 - (i) in his or her employ; or
 - (ii) under his or her direction or control,

in such a manner that the waste does not cause harm to human health, the health of other living organisms, or damage to the environment.

(2) A waste generator must —

- (a) avoid the generation of waste, or where it cannot be avoided, minimise the toxicity and amounts of waste generated;
- (b) re-use, recycle or recover waste where possible;
- (c) separate waste with the aim to —
 - (i) minimise its impacts on the environment; and
 - (ii) store the recyclable waste separately from non-recyclable waste:
Provided that industrial waste must be separated into liquids, components and materials that can be treated for recycling or re-use;
- (d) manage waste in a manner that does not endanger health, the environment or create a nuisance;
- (e) maintain suitable cleanliness and hygiene standards on their premises as prescribed by any law;
- (f) pay tariffs and rates charged by the Municipality for waste removal services according to the Municipality's Tariff By-law.

(3) A waste generator must conclude a contract with the Municipality or an accredited service provider, to collect waste generated by him or her, for the standard fee in terms of the Tariff By-law, at least once a week according to the routes as published by the Municipality or the service provider from time to time: Provided that residential waste must be collected in the manner contemplated in section 31(2).

(4) A waste generator must, prior to collection by the Municipality or the accredited service provider —

- (a) store waste in the receptacles provided in accordance with the contract contemplated in subsection (3); or
- (b) where a receptacle is not provided, store waste in plastic black bags.

(5) A waste generator must dispose of waste —

- (a) in accordance the contract contemplated in subsection (3); or
- (b) by delivering waste to a licenced waste disposal facility and ensuring that said waste is treated or disposed of in an environmentally sensitive manner at the facility.

6. Excess and additional waste. —(1) A waste generator may apply to the waste management officer for an additional container and shall be liable for the additional costs as per the Municipality's Tariff By-Law and Tariff Policy.

(2) In the event that the waste generated by a waste generator exceeds the volume that can be stored in the containers provided, the waste generator must arrange for the collection of additional containers.

(3) If no arrangement is made for collection of excess waste, the municipality may provide an additional container to the property and the cost thereof will be added to the property owner's municipal account.

(4) Where the owner of a formal dwelling has other structures on the property with persons living in these separate structures, the Municipality must allocate one container per household and the additional cost thereof will be added to the property owner's municipal account.

(5) The owner of the formal dwelling must sign an additional contract with the Municipality for collection as contemplated in subsection (4) and is liable for the charges levied in connection therewith.

(6) Any business disposing of waste, or an agent disposing of waste on behalf of such business, must provide a waste manifest to the waste management officer on request.

7. Industrial waste. —(1) A waste generator generating industrial waste must —

(a) conclude a contract with the Municipality or an accredited service provider for the collection and disposal of such waste to an appropriate licenced waste disposal facility —

- (i) at least once per week; or
- (ii) as determined by the waste management officer; and

(b) on request, provide proof of such contract to the waste management officer.

(2) Industrial waste, for purposes of subsection (1), refers to that part of industrial waste that is classified as non-hazardous waste in terms of national or provincial legislation.

(3) Industrial waste that is classified as hazardous waste, must be dealt with in accordance with the provisions of section 10 of this By-law.

8. Garden waste. —(1) Garden waste generated at properties being used mainly for residential purposes may be —

- (a) composted on the property;
- (b) stored in a compost heap or suitable bags as per the Municipality's requirements; and
- (c) kept on the property until collection or taken to a licenced waste disposal facility.

(2) The Municipality may, from time to time —

- (a) stipulate maximum quantities of garden waste to be collected in respect for rural and urban areas; and
- (b) impose conditions regarding the disposal of garden waste over a specified mass, and for this purpose call upon a waste generator of garden waste to present a weighbridge ticket as proof of proper disposal of such garden waste.

9. Building waste. —(1) A building waste generator —

- (a) may not mix building waste with residential waste to be collected by the Municipality in accordance with the waste collection day schedule;
- (b) must ensure that the building waste is recycled or, where it cannot be recycled, is disposed of at a facility designated by the Municipality to receive building waste; and
- (c) must ensure that —
 - (i) contaminated building waste is treated or disposed of in which event a fee may be applicable; and
 - (ii) any other building waste containing a hazardous or dangerous agent, is deposited at a licenced waste disposal facility for the treatment and disposal of such waste.

- (2) The municipal manager may issue a directive to a building waste generator after receipt of the building plan concerned, during the construction of the building, or after the completion of such building, to —
- (a) separate the waste for treatment, recycling or reuse;
 - (b) report monthly to the Municipality on the quantities of building or demolition waste —
 - (i) generated;
 - (ii) disposed of at an authorised waste disposal facility;
 - (iii) separated for recycling and reuse; or
 - (c) record the details contemplated in paragraph (b) monthly on the municipal waste information system.
- (3) A person who applies for approval from the Municipality to undertake demolition work in terms of the National Building Regulations and Building Standards Act, 1977 (Act 107 of 1977) and the National Building Regulations, must submit an integrated demolition waste plan with the application.
- (4) An integrated demolition waste plan must —
- (a) include a detailed description of the proposed demolition process;
 - (b) entail detailed plans for maximising the recovery of reusable and recyclable waste;
 - (c) make provision for collection and disposal of the building and other waste;
 - (d) include provision for the storage of the waste on the property concerned: Provided that if such storage is intended to be on municipal property, a valid waste management license must be attached.
- (5) The Municipality may, by Notice in the *Provincial Gazette*, require that a person operating, or wishing to operate, a building waste removal service in the area of the Municipality must —
- (a) register with the Municipality before undertaking such work; and
 - (b) provide such information as is specified in the Notice or as the Municipality may reasonably require.
- (6) An application for registration to operate a building waste removal service must be in the format determined by the Municipality as published in the Notice contemplated in subsection (5).
- (7) The Municipality must, within 30 days of receipt of an application for registration contemplated in subsection (5), consider the application and either—
- (a) register the applicant and issue a registration certificate to the applicant stating —
 - (i) the name of the facility registered to operate as a building waste removal service;
 - (ii) the waste information registration number;
 - (iii) the type of waste handled by the facility;
 - (iv) the location of the facility; and
 - (v) the date of registration; or
 - (b) return the application for correction or any additional information it may require.
- (8) An application for registration which has been returned for correction must be amended and resubmitted by the applicant to the Municipality within 30 days after the date it was returned.
- (9) An application for registration that has been amended and resubmitted as contemplated in subsection (8) must be dealt with as contemplated in subsection (7)(a).
- (10) The Municipality may provide a municipal building waste removal service on payment of a tariff as per the Municipality's Tariff-By-Law and Tariff Policy.

(11) A person who wishes to place an appropriate receptacle for the storage and collection or disposal of building waste on a public road must apply to the Municipality for written consent.

(12) A receptacle contemplated in subsection (11) must be—

- (a) clearly marked with the name, address and telephone number of the person responsible for the receptacle;
- (b) fitted with reflecting chevrons or reflectors that clearly outline the front, sides and the back of the receptacle; and
- (c) covered at all times, except when receiving or being emptied of waste, so that no displacement of its contents can occur.

(13) The owner of the facility where building rubble is disposed of must—

- (a) register on the national or provincial waste information system concerned;
- (b) submit reports to the national or provincial waste information system concerned as required by national or provincial legislation;
- (c) provide proof to the waste management officer of—
 - (i) the registration contemplated in paragraph (a); and
 - (ii) the submission of reports contemplated in paragraph (b).

(14) The building or demolition waste generator or the owner of the property on which building or demolition waste is generated and who disposes or stores such waste on municipal property without the required permit, may be fined.

(15) When a building control officer inspects a property where building works have been undertaken in order to determine whether it has been built in accordance with the approved plans, he or she must also determine whether all building or demolition waste has been disposed of in the prescribed manner.

(16)(a) The building control officer contemplated in subsection (15) may not issue an occupancy certificate; and

(b) the Municipality may not grant final approval that the building has been built in accordance with the approved plans,

unless the owner of the property provides the building control officer with a waste manifest that proves that the full mass of the building or demolition waste was disposed of at a licenced waste disposal facility for that category of waste.

10. Hazardous waste. —(1) A hazardous waste generator, or a person who treats, transports or disposes of hazardous waste, or who intends to generate, treat, transport or dispose of hazardous waste in the municipal area must—

- (a) at all times be in possession of a valid waste management licence as required in terms of NEM:WA and provincial legislation;
- (b) comply with—
 - (i) licencing conditions as contemplated in paragraph (a); and
 - (ii) relevant provisions of NEM:WA and provincial legislation;
- (c) submit reports as required in terms of NEM:WA and provincial legislation; and
- (d) provide proof to the waste management officer of—
 - (i) the licence contemplated in paragraph (a); and
 - (ii) the submission of reports contemplated in paragraph (c).

(2) The Municipality may, by Notice in the *Provincial Gazette*, require that a hazardous waste generator, or a person who treats, transports or disposes of hazardous waste, or who

intends to generate, treat, transport or dispose of hazardous waste in the municipal area must —

- (a) register with the Municipality before undertaking such work; and
- (b) provide such information as is specified in the Notice or as the Municipality may reasonably require.

(3) An application for registration to generate, treat, transport or dispose of hazardous waste must be in the format determined by the Municipality as published in the Notice contemplated in subsection (2).

(4) The Municipality must, within 30 days of receipt of an application for registration as contemplated in subsection (3), consider the application and either—

- (a) register the applicant and issue a registration certificate to the applicant stating the —
 - (i) name of the facility registered to generate, treat, transport or dispose of hazardous waste;
 - (ii) waste information registration number;
 - (iii) type of waste handled by the facility;
 - (iv) location of the facility; and
 - (v) date of registration; or
- (b) return the application for correction or any additional information it may require.

(5) An application for registration which has been returned for correction must be amended and resubmitted by the applicant to the Municipality within 30 days after the date it was returned.

(6) An application for registration that has been amended and resubmitted as contemplated in subsection (5) must be dealt with as contemplated in subsection (4)(a).

(7) A hazardous waste generator or the owner of the premises where hazardous waste is generated must contract with an accredited registered service provider to collect, treat, transport or dispose of such waste at a licenced hazardous waste disposal facility.

(8) A hazardous waste generator must ensure that hazardous waste, except for hazardous waste that does not require classification in terms of national legislation, is classified in accordance with SANS 10234 and any other SANS that may be issued from time to time, within —

- (a) 180 days of its generation;
- (b) 180 days from the date of commencement of this By-law; or
- (c) the time frame specified in a notice delivered by the Municipality.

(9) A hazardous waste generator may not hand over hazardous waste to a service provider unless it is accompanied by a declaration in which —

- (a) the content of the consignment is fully and accurately described;
- (b) it is stated whether or not the hazardous waste requires classification in terms of subsection (8);
- (c) if the waste requires classification, the details of its classification are included.

(10) Accredited and registered service providers may not accept hazardous waste that is —

- (a) not accompanied by a declaration referred to in subsection (9); or
- (b) required to be classified in terms of subsection (8) read with subsection (9)(b), and has not been classified as such.

(11) For the purposes of subsections (8), (9) and (10), a document prepared in terms of national or provincial legislation is acceptable provided that it contains all the required information.

(12) The Municipality may, from time to time, publish a list of additional hazardous waste that requires classification in terms of subsection (8) read with subsection (9)(b).

(13) A person transporting hazardous waste must ensure that the facility or place to which the hazardous waste is transported is authorised to accept such hazardous waste prior to off-loading the hazardous waste from the vehicle concerned.

(14) A person responsible for the transit of hazardous waste through the municipal area, must comply with the provisions of subsections (1)(a), (b) and (d)(i).

11. Event waste. —(1) Any person who —

(a) intends to organise a sporting, entertainment, cultural or religious event which is to take place on private or public property; or
(b) owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including sports stadia and conference centres,
must, together with his or her application to the Municipality for approval to host such event, submit an integrated event waste management plan in respect of the clean-up, storage, collection, recycling and disposal of waste at, and after such event, to the waste management officer.

(2) The event waste management plan must —

(a) be submitted to the Municipality together with the event application contemplated in the Event Management By-law of the Municipality;
(b) identify the person responsible for the execution of the plan;
(c) identify the accredited service provider responsible to clean-up, collect, recycle, remove and dispose of the event waste;
(d) set out in detail the measures to be taken for the clean-up, collection, recycling, removal and disposal of the event waste;
(e) include costing information; and
(f) comply with any terms and conditions as may be determined by the Municipality.

(3) The organiser of the event may be required to pay a refundable deposit to be determined by the Municipality.

(4) A person contemplated in subsection (1) must contract with an accredited service provider for the collection, clean-up, recycling and disposal of the event waste to a licenced waste disposal facility and provide proof of agreement to the Municipality as part of its integrated waste management plan.

(5) The organiser of the event must, after the event, ensure that the event waste is disposed of at an authorised waste management facility and provide the Municipality with proof of the disposal or recycling of the waste concerned.

(6) If any event waste has not been cleaned up and collected after an event has been held, the municipal manager may issue a directive to the organiser of the event to remove the waste to an authorised waste disposal facility.

(7) If a directive is issued as contemplated in subsection (6) and—

(a) the organiser of the event fails to comply, or inadequately complies, with the directive;

(b) there is uncertainty regarding the identity or whereabouts of the organiser of the event or responsible person; or

(c) there is an immediate risk of danger to the public or detriment to the environment, the Municipality may take all reasonable measure necessary to clean up, collect, recycle, remove and dispose, as the case may be, of the event waste.

(8) Should the organiser of an event fail or neglect to obtain the services of an accredited service provider in terms of subsection (4) prior to the event in question, or fail to provide the Municipality with the integrated waste management plan, the waste management officer may arrange for the collection, clean-up, recycling and disposal of the waste, in which case subsection (9) also applies.

(9) The cost for the collection, clean-up, recycling and disposal of the waste is payable by the event organiser and may be recovered from the deposit paid, or in terms of the Municipality's Tariff By-law.

(10) The organiser of an event and any other person responsible for the event arrangements, will be jointly and severally accountable for the costs incurred by the Municipality following the measures contemplated in subsections (8) and (9).

12. Organic waste. —(1) The occupant of premises on which organic waste is generated

(a) may compost the waste on the premises, provided that the composting does not cause a nuisance or harm to human health or damage to the environment;

(b) but not composted, must ensure that the waste is collected and treated or disposed of within a reasonable period after its generation.

(2) The municipal manager may issue a directive to —

(a) an organic waste generator to —

(i) develop an integrated refuse management plan indicating measures to minimise and recover such waste; and

(ii) transport the waste to designated facilities for treatment or disposal; and

(b) a transporter of garden waste or a person providing garden maintenance services to transport any garden waste to a facility designated by the Municipality for disposal.

(3) The Municipality or an accredited service provider may —

(a) upon written request of the occupant of premises on which organic waste is generated; and

(b) on payment of a tariff as per the Municipality's Tariff-By-Law and Tariff Policy, deliver an appropriate receptacle for the purpose of storing organic waste, in addition to any receptacle already provided by the Municipality for general waste.

13. Bulky waste. —(1) A bulky waste generator —

(a) may not place the bulky waste with other waste that is to be collected by the Municipality in accordance with the waste collection day schedule; and

(b) must ensure that the bulky waste is recycled or, when it cannot be recycled, disposed of at a facility designated by the Municipality to receive bulky waste.

(2) The Municipality or an accredited service provider may, on the request of the occupant of premises at which bulky waste is generated, remove bulky waste from those premises on payment of a tariff.

- (3) The municipal manager may issue a directive to an accredited service provider that collects bulky waste to —
- (a) report monthly to the Municipality on the quantities of bulky waste —
 - (i) disposed of; and
 - (ii) separated for recycling; or
 - (b) record the details contemplated in paragraph (a) monthly on the municipal waste information system.

14. Waste tyres. —(1) A person operating, or intending to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor in the municipal area must —

- (a) at all times be in possession of a valid waste management licence as required in terms of NEM:WA and provincial legislation;
- (b) comply with—
 - (i) licencing conditions as contemplated in paragraph (a); and
 - (ii) relevant provisions of NEM:WA and provincial legislation;
- (c) submit reports as required in terms of NEM:WA and provincial legislation; and
- (d) provide proof to the waste management officer of—
 - (iii) the licence contemplated in paragraph (a); and
 - (iv) the submission of reports contemplated in paragraph (c).

(2) The Municipality may, by Notice in the *Provincial Gazette*, require a person operating, or intending to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor to —

- (a) register with the Municipality before undertaking such work; and
- (b) provide the information —
 - (i) specified in the Notice; or
 - (ii) reasonably required by the Municipality.

(3) An application for registration contemplated in subsection (2)(a) must be in the format determined by the Municipality as published in the Notice contemplated in subsection (2).

(4) The Municipality must, within 30 days of receipt of an application contemplated in subsection (2), consider the application and either—

- (a) register the applicant and issue a registration certificate to the applicant stating the —
 - (i) name of the facility registered to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor;
 - (ii) waste information registration number;
 - (iii) type of waste handled by the facility;
 - (iv) location of the facility; and
 - (v) date of registration; or
- (b) return the application for correction or any additional information it may require.

(5) An application for registration which has been returned for correction must be amended and resubmitted by the applicant to the Municipality within 30 days after the date it was returned.

(6) An application for registration that has been amended and resubmitted as contemplated in subsection (5) must be dealt with as contemplated in subsection (4)(a).

(7) The Municipality may, by Notice in the *Provincial Gazette*, require the public to dispose of waste tyres at facilities designated in the notice.

15. Priority waste. —(1) The Director may, in accordance with this By-law, categorise priority waste if —

- (a) it has been declared a priority waste in terms of other applicable legislation;
- (b) he or she reasonably believes that special measures are required in respect of the management of that waste, because it —
 - (i) poses a significant threat to health or the environment;
 - (ii) may persist in the environment; or
 - (iii) contains or could foster pathogens or communicable diseases.

(2) The Municipality may, from time to time, publish guidelines that may be necessary in respect of categorisation of waste.

16. Abandoned articles. —The Municipality may remove and dispose of any article it reasonably considers abandoned, considering the following factors:

- (a) the location of the article;
- (b) the length of time that the article has been at that location; and
- (c) the nature and condition of the article.

17. Emergencies requiring the management of waste. —(1) In the event of an emergency, the Director may —

- (a) call upon the owner of a property, or a waste generator on such property, to manage the waste involved within a stipulated period and to the Municipality's satisfaction;
- (b) arrange for management of an emergency, including the clearing and cleaning of debris and pollution effects and —
 - (i) transporting; and
 - (ii) disposal, of the waste at a licenced waste disposal facility accredited for the specific type of waste generated;
- (c) arrange, manage and co-ordinate the rehabilitation and repair of any infrastructure, buildings, equipment or natural environment damaged in this process.

(2) The cost of such management, rehabilitation and repair, including all costs incurred in the utilisation of the Municipality's resources, equipment and materials is for the account of the person responsible for the emergency.

(3) If an emergency occurs due to an act of God, the Municipality will deal with such emergency in the manner permitted by the circumstances and available funding.

18. Obligations of waste managers. —Waste managers —

- (a) must ensure that they comply with the legislation applicable to the waste management activity that they are engaged in; and
- (b) may not mix or treat waste, if the mixing or treating thereof will reduce the potential for re-use, re-cycling or recovery of such waste.

19. Waste management clubs. —(1) Waste management clubs may apply to the Director for a special dispensation as an enhanced service associated with waste minimisation in terms of the Municipality's Tariff By-Law and Tariff Policy.

(2) The waste management club must submit an integrated waste management plan in writing to the Director for approval, as well as other application documentation for the formation and operation of a waste minimisation club, as may be determined by the Municipality.

(3) The Director may, subject to the provisions of this By-law, determine whether to approve the application for a special dispensation of a waste minimisation club.

(4) If an application to form a waste minimisation club is —

- (a) unsuccessful, the Director must, within a reasonable time and in writing, provide reasons for turning down an approval to the waste minimisation club; and
- (b) approved by the Director, the club must comply with the terms and conditions set out by the Director for the generation, minimisation, storage, collection and disposal of such waste.

20. Integrated waste management plan. —(1) The waste generators named in subsection (12) must submit an integrated waste management plan in writing to the waste management officer for approval prior to the generation of the waste to be dealt with in terms of the said plan.

(2) An integrated waste management plan must include the following:

- (a) an assessment of the quantity and type of waste that will be generated;
- (b) a description of the services required to store, collect, transport and dispose of such waste;
- (c) a description of how separation of recyclable and non-recyclable material at the point of source will be done;
- (d) the waste minimisation and pollution prevention plans of such waste generator;
- (e) targets for waste minimisation through waste reduction, reuse, recycling and recovery;
- (f) measures to prevent pollution or ecological degradation;
- (g) the impact or potential impact on the environment of the waste created;
- (h) the type or characteristics of waste of an environmentally sensitive nature to be produced;
- (i) the amount of natural resources that are consumed in the manufacturing or production process that result in waste;
- (j) targets for waste production through waste minimisation, re-use, recycling;
- (k) recovery measures or programmes that can minimise the consumption of natural resources and the method of disposal of waste;
- (l) the timeframes of the implementation of the plan; and
- (m) methods for monitoring and reporting on the implementation of the plan.

(3) Every integrated waste management plan must comply with applicable additional requirements, if any, as set out in sections 7, 9, 10, 11, 14 and 15, respectively.

(4) An integrated waste management plan for industrial entities must include —

- (a) measures or actions to be taken to manage waste;
- (b) the phasing out of the use of certain substances; and
- (c) opportunities for reduction of waste generation through changes to packaging, product design or production processes.

(5) Industrial and business entities must provide for mechanisms to inform the public of the impact of waste-generating products or packaging on the environment through education, marketing and sales information, in order to influence perception and behaviour of customers to ensure recycling of products.

- (6) When a waste generator is requested to submit an integrated waste management plan or a further integrated waste management plan in terms of this By-law, he or she must do so within the time stipulated and comply with the terms and conditions for the generation, minimisation, storage, collection and disposal of such waste, as set out by the waste management officer.
- (7) The waste management officer must consider the plan and —
- (a) approve it with conditions and give directions for the implementation thereof;
 - (b) request that additional information be furnished or a revised plan be submitted for approval;
 - (c) require amendments to be made within a time frame so specified by them; or
 - (d) reject the plan and provide written reasons therefor.
- (8) If an integrated waste management plan is rejected or not submitted at all, the municipal manager must issue directives to the waste generator as to what waste management measures he or she must take.
- (9) If a waste generator fails to take the waste management measures contemplated in subsection (8) within the time frame specified by the municipal manager, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.
- (10) The waste management officer may, by written notice, require waste generators to —
- (a) take reasonable steps to ensure that he or she —
 - (i) implements the integrated waste management plan;
 - (ii) complies with the directives given by the municipal manager; and
 - (b) report any non-compliance with any —
 - (i) applicable waste management plan; or
 - (ii) directive,to the waste management officer.
- (11) The Director may —
- (a) by written notice require any person to provide such information as he or she requires when preparing the Municipality's integrated waste management plan; and
 - (b) if that person fails to provide the information referred to in paragraph (a), appoint an auditor to obtain such information at the cost of the relevant waste generator.
- (12) The following persons must submit an integrated waste management plan:
- (a) waste generators of —
 - (i) business waste;
 - (ii) industrial waste;
 - (iii) building waste;
 - (iv) event waste;
 - (v) priority waste; and
 - (vi) hazardous waste, and
 - (b) every person who —
 - (i) applies for special dispensation in terms of section 19;
 - (ii) sorts waste or undertake a recycling, a re-use or a waste recovery activity, including but not limited to, scrap dealers, formalised recycling groups and buy back centres, which must register for accreditation with the Municipality, in order to entitle them to perform such activities; or
 - (iii) is given notice to do so by the Director;

21. Exemptions from submitting an integrated waste management plan. —(1) A waste generator of the categories of waste referred to in section 20(12)(b)(ii) who wishes to be exempt from submitting a waste management plan, may apply in writing for exemption to the waste management officer, stipulating reasons for the application.

- (2) A waste management officer may also declare—
- (a) certain types of waste or waste generators;
 - (b) a specified mass or volume of waste; or
 - (c) persons who have submitted such a plan to the other spheres of government in terms of their applicable legislation,
- to be exempt from the submission of an integrated waste management plan.

22. Storage and receptacles for general waste. —(1) A person who —

- (a) generates general waste to be collected by the Municipality; or
- (b) separates waste streams to be collected by the Municipality for recycling,

must place the waste in a receptacle approved, designated or provided for that purpose by the Municipality.

- (2) A person contemplated in subsection (1) must ensure that—
- (a) the receptacle is stored on the premises where the waste is generated and away from a public place between collection days;
 - (b) the receptacle is placed outside the premises in an area accessible to municipal officials or service providers on the collection day determined in the waste collection day schedule;
 - (c) measures are in place to prevent tampering with the receptacle by animals;
- (3) Any holder of waste who stores or transports waste must ensure that —
- (a) the container in which any waste is stored, is —
 - (i) intact;
 - (ii) not corroded or
 - (iii) in any other way rendered unfit for the safe storage or transportation of waste;
 - (b) a receptacle provided by the Municipality is not used for any purpose other than for the storage of waste;
 - (c) the waste is not stored at any public place;
 - (d) suitable measures are in place to prevent accidental spillage or leakage of such waste;
 - (e) the waste cannot be blown away;
 - (f) nuisances such as odour, visual impacts and breeding of vectors do not arise;
 - (g) pollution of the environment and harm to health are prevented;
 - (h) hazardous waste is sealed in an impervious container and suitable measures are in place to prevent tampering; and
 - (i) any waste items or substances are —
 - (i) safe for handling, collection or disposal; and
 - (ii) not harmful to persons when accessed by unauthorised persons or members of the public.
- (4) The waste generator and the holder of waste must ensure that waste is transported to the nearest licenced disposal facility that has capacity to deal with such waste.
- (5) A waste generator or the holder of waste must —
- (a) notify the Municipality if a receptacle contemplated in this section is stolen, damaged or corroded, as soon as the theft, damage or corrosion comes to his or her attention; and
 - (b) arrange for the replacement of the said receptacle.

(6) When a receptacle is stolen an authorised municipal official may request that the waste generator or holder of waste report the theft to the South African Police Service before issuing a new receptacle.

23. Storage, separation, recycling, re-use, sorting and recovery of waste. —(1) A person who undertakes any activity involving the reuse, recycling or recovery of waste, including —

- (a) scrap dealers,
- (b) buy back centres and
- (c) formalised recycling groups,

must, prior to undertaking that activity, ensure by way of an environmental impact assessment or a similar procedure required by national or provincial legislation, that the recycling, re-use or recovery of the waste is less harmful to the environment than its disposal.

(2) A person contemplated in subsection (1) must —

- (a) apply for accreditation from the Municipality in terms of its guidelines as published from time to time;
- (b) submit an integrated waste management plan for consideration and approval of the waste management officer;
- (c) register on the national or provincial waste information system concerned;
- (d) submit reports to the national or provincial waste information system concerned as required by national or provincial legislation; and
- (e) provide proof to the waste management officer of—
 - (i) the registration contemplated in paragraph (c); and
 - (ii) the submission of reports contemplated in paragraph (d).

(3) The waste management officer may exempt certain waste generators, handlers, transporters or agents of waste from such requirements.

(4) The municipal manager may issue a directive to a person contemplated in subsection (1) to —

- (a) report to the Municipality monthly on the quantities of waste —
 - (i) generated;
 - (ii) disposed of at an authorised waste disposal facility; and
 - (iii) separated for recycling and recovery; or
- (b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system of the Municipality.

(5) The municipal manager may issue a directive to a holder of waste or the executive body of a community scheme and the owners and occupants of residential properties within a community scheme to require them to —

- (a) separate specified recyclable waste;
- (b) use different receptacles for different specified categories of recyclable waste; and
- (c) make recyclable waste available for collection in a specified manner.

(6) If the Municipality or an accredited service provider has provided separate receptacles for the purposes of subsection (5)(b), a person may not use any other receptacle for recyclable waste.

- 24. Prohibition on unauthorised disposal of waste.** —(1) No person may —
- (a) dispose of waste other than in accordance with this By-law or National and Provincial legislation;
 - (b) dispose of waste in or on any land or water body or at any facility unless the disposal of that waste is authorised by this By-law;
 - (c) knowingly or negligently dispose waste, cause or permit waste to be disposed of, in a manner that is likely to —
 - (i) cause pollution,
 - (ii) cause harm to the health of humans or of other living organisms or
 - (iii) cause damage to the environment; or
 - (iv) otherwise negatively impact on the environment;
 - (d) knowingly or negligently dispose hazardous waste, cause or permit hazardous waste to be disposed unless in —
 - (i) accordance with an approved waste integrated management plan; and
 - (ii) a container provided by the Municipality that is designed for the storage and disposal of hazardous waste;
 - (e) burn waste, in particular hazardous waste, except —
 - (i) in an approved and licensed incinerator; and
 - (ii) by a person with a permit to operate and incinerator;
 - (f) deposit in a public litter bin any waste that is not generated in a public place: Provided that no residential, business, industrial, garden, building or hazardous waste may be deposited in a public litter bin; or
 - (g) deal with waste in a manner that causes dust, nuisance, spillage or litter.

(2) If waste has been disposed of in contravention of this By-law, the municipal manager may issue a directive to the person responsible for the contravention to remove the waste to an authorised waste disposal facility within a specified period.

(3) If a directive issued in terms of subsection (2) is not complied with, or inadequately complied with, and there is —

- (a) uncertainty regarding the identity or whereabouts of the person responsible; or
 - (b) an immediate risk of danger to the public or detriment to the environment,
- the Municipality may undertake all reasonable measures required to contain, minimise and remedy the effects of the illegally disposed waste, including clean-up procedures.

(4) Every person responsible for the unauthorised disposal of waste as contemplated in this section will be jointly and severally accountable for the costs incurred by the Municipality following the measures contemplated in subsection (3).

25. Prohibition on burning of waste. —No person may burn, incinerate or apply any other thermal treatment technology to waste except in a thermal treatment facility authorised by the Municipality or the relevant competent authority.

- 26. Prohibition on littering and dumping.** —(1) No person may —
- (a) drop, throw, deposit, spill, dump, store or in any other way discard, any litter or waste into or onto any public place, municipal drain, land, vacant erf, stream, water course, street, road, wetland, coastline or on any place to which the public has access or onto any private property that is owned by a third party;
 - (b) otherwise dispose of any litter or waste;
 - (c) disturb anything in, or remove anything from, any receptacle that has been placed for the purposes of collecting waste in such a manner as to cause the contents of the receptacle to spill or fall onto the ground; or

(d) allow a person under his or her employ, direction or control to do any of the acts contemplated in subsections (1)(a), (b) and (c).

(2)(a) The owner of private land to which the public has access must ensure that enough containers are provided to contain litter which is discarded by the public.

(b) If litter has been disposed of or discarded in contravention of this By-law on privately owned land to which the public has access, the owner of that land must remove the litter from the property within a reasonable period.

(3) A person who —

(a) owns;

(b) is in control of; or

(c) has a right to use,

land or premises, may not use or permit the use of such land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of such land or premises for that purpose.

(4) In the event of a contravention of subsections (1), (2) or (3), the Director may issue a written notice to the offender, to —

(a) cease the contravention within a specified time;

(b) prevent a further contravention or continuation of the contravention;

(c) take whatever measures the Director considers necessary to clean up or remove the waste;

(d) rehabilitate the affected facets of the environment; and

(e) ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully:

Provided that the Director may also require the offender to submit a plan for approval with timeframes for the removal of the litter or waste as contemplated in subsections (1)(a), (b) and (c) and the rehabilitation of the area concerned.

(5) In the case of non-compliance with subsection (4), the Municipality may elect to act to remove the litter or waste contemplated in this section, in which event the person concerned shall be liable for the cost of such removal operation.

(6) In the case of hazardous waste, the Municipality may immediately act to remove the litter or waste and immediately thereafter notify the person concerned of their liability to pay the costs of removal, rehabilitation and any other reasonably related costs within the stipulated time.

27. Prohibition of nuisance. —(1) A person handling waste, whether during storage, collection, transportation, recycling, treatment or disposal, must—

(a) take reasonable measures to prevent it from being a nuisance to anybody or the environment; and

(b) take measures at his or her own cost to remedy any nuisance caused,

and the municipal manager may issue a directive to such a person to ensure compliance with this section.

(2) If a directive contemplated in subsection (1) is issued and—

(a) such a person fails to comply, or inadequately complies, with the directive;

(b) there is uncertainty regarding the identity or whereabouts of such a person; or

(c) there is an immediate risk of danger to the public or detriment to the environment,

the Municipality may take any measure it considers necessary to prevent the nuisance, contain and minimise the effects of the nuisance and remedy its effects.

(3) Every person responsible for the nuisance contemplated in this section will be jointly and severally accountable for the costs incurred by the Municipality following the measures contemplated in subsection (2).

28. Licences. —The waste management officer may require that any person who, or entity which, requires a licence to handle waste in terms of national or provincial legislation, provide proof of the appropriate license within a period as stipulated by the waste management officer.

29. Service providers. —(1) The Municipality may discharge any of its functions pertaining to waste separation, collection, storage, processing, recycling, treatment and disposal by entering into a service delivery agreement with an accredited service provider.

- (2) A service delivery agreement must —
- (a) accord with this By-law;
 - (b) stipulate service standards for the services to be rendered, including collection times and frequency;
 - (c) provide for the circumstances in which services rendered by the service provider may be limited;
 - (d) require the service provider to be registered on the national or provincial waste information system; and
 - (e) provide for reporting to the Municipality.

30. Collection and transportation of general waste. —(1) The Municipality must set a schedule of the days for the collection of waste and the location where waste receptacles must be placed on those days.

- (2) The Municipality may —
- (a) set a different waste collection day schedule for commercial and residential properties;
 - (b) collect waste outside of the set schedule on request and at a fixed tariff;
 - (c) set the maximum quantities of waste that will be collected;
 - (d) by Notice in the *Provincial Gazette*, identify waste streams that may not be collected by the Municipality or that are unsuitable for collection.

- (3) The Municipality must—
- (a) publish the waste collection day schedule, in both printed form and electronically; and
 - (b) take other reasonable measures to ensure that the public is notified of the schedule.

(4) If waste that is being transported is spilt, leaked or detached or falls from a receptacle, vehicle or other conveyance, the Municipality may recover costs from the transporter for reasonable remedial measures undertaken by the Municipality.

31. Waste management, collection and removal services. —(1) All persons collecting or removing waste must have a contract for the collection and removal of waste with the Municipality or an accredited service provider.

(2) Residents must apply and register for waste collection and removal services that will be provided exclusively by the Municipality or its contracted accredited service provider, unless the Council authorises otherwise.

- (3) Businesses must contract with —
 - (a) the Municipality; or
 - (b) an accredited service provider,for the waste collection and removal services.
- (4) Industries must contract with —
 - (a) in the case of general waste, contract with the Municipality or an accredited service provider; and
 - (b) in the case of hazardous waste, contract with an accredited service provider,for the waste collection and removal services.
- (5) Commercial and industrial undertakings, including scrap dealers, who require a waste collection and removal service that is not provided by the Municipality, must register with the Municipality and prove that they have contracted with an accredited service provider for such service.
- (6) An entity providing waste management services, or an accredited service provider required to have a licence or approval in terms of national or provincial legislation, must —
 - (a) provide proof of such licence or approval; and
 - (b) comply with criteria determined by the Council,before they will be registered by the Director.
- (7) The Director must keep an updated record of registered accredited service providers.

32. Transporting waste for gain. —A person transporting general waste for gain in the area of the Municipality must, at all times —

- (a) be accredited by the Municipality;
- (b) ensure that the receptacle, vehicle or other conveyance is adequate in size and designed for the type of waste transported;
- (c) transport the waste in a manner that will prevent any nuisance;
- (d) maintain the receptacle, vehicle or other conveyance in a clean and sanitary condition; and
- (e) ensure that the waste is transported to, or deposited at, a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility authorised to accept such waste.

33. Collection of unsuitable waste. —A person may not place waste identified in terms of section 30(2)(d) to be unsuitable for collection, either on its own or mixed with any other waste for which the Municipality provides collection services.

34. Waste transfer facilities. —A waste generator must, where applicable—

- (a) use an appropriate waste transfer facility as instructed by an authorised municipal official, a waste disposal facility operator or a service provider; and
- (b) adhere to the operational procedures of the waste transfer facility as determined by the Municipality.

35. Disposal of waste. —(1) An authorised municipal official, waste disposal facility operator or service provider may inspect all waste loads entering a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility.

(2) The inspection contemplated in subsection (1) may include the visual and physical inspection of the waste.

(3) An authorised municipal official may issue an instruction to the holder of waste that is potentially detrimental to the environment to—

- (a) have independent laboratory tests conducted before the waste is disposed of to assess whether the waste is suitable for a waste disposal facility; or
- (b) dispose of the waste at an appropriate waste disposal facility that is authorised to accept such waste and to provide proof of such disposal.

(4) If the holder of waste contemplated in subsection (3)(b) does not comply with the prescribed disposal, the Municipality may remove and dispose of such waste at an appropriate waste disposal facility.

(5) In the circumstances contemplated in subsections (3) and (4), or where waste contemplated in section 30(2)(d) is removed by the Municipality, every person responsible for that waste will be jointly and severally accountable for the costs incurred, including the costs associated with—

- (a) the use of specialised equipment during the laboratory tests;
- (b) laboratory analysis fees;
- (c) administrative fees;
- (d) transporting and disposal costs; and
- (e) clean-up costs, where applicable.

(6) A person disposing of waste at a waste disposal facility owned or managed by the Municipality must adhere to the operational procedures of the facility.

36. Access to private property. —(1) An owner of private property must, on request, allow a peace officer or any other duly authorised employee of the Municipality access to their property during reasonable hours for the purpose of inspecting the property and investigating any contravention of this By-law and to ensure compliance therewith.

(2) When accessing the property, the authorised employee must, on request, identify him or herself by producing written proof of such authority.

(3) Such employee may be accompanied by a person reasonably required to assist in the inspection or to conduct an investigation, who must be identified as such by the authorised employee.

37. Premises inaccessible for refuse collection. —If employees of the Municipality, or of an accredited service provider as contemplated in section 29, are—

- (a) impeded from handling or collecting waste at any premises due to the layout of the premises; or
- (b) endangered by an impediment on the premises when handling or collecting waste at any premises,

the municipal manager may issue a directive requiring the owner of the premises to undertake such alterations or additions to the premises as are necessary to remove the impediment at the owner's cost.

38. Directives.—(1) The municipal manager may issue a directive to any person contemplated in this By-law, to take specific measures pertaining to waste within a specified period to ensure that the impact of waste on human health or damage to the environment is mitigated and to give effect to the waste management hierarchy.

(2) Before issuing a directive contemplated in this By-law, the municipal manager must give notice in writing to the person to whom the directive is intended to be issued of the intention to issue the directive, and give that person a reasonable opportunity to make representations in writing.

(3) If urgent action is necessary for the protection of the environment, or as contemplated in section 37, the municipal manager—

- (a) may issue the directive without giving written notice to the person beforehand; and
- (b) must give the person to whom the directive was issued an opportunity to make written representations within a reasonable period thereafter.

39. Compliance notices.—(1) An authorised municipal official may issue a written compliance notice to a person if there are reasonable grounds for believing that the person has not complied with a —

- (a) provision of; or
- (b) term or condition of any permit, authorisation, exemption or other document issued in terms of,

this By-law.

(2) Before issuing a compliance notice, an authorised municipal official must give notice in writing to the person to whom the compliance notice is intended to be issued of the intention to issue the compliance notice and provide that person with a reasonable opportunity to make written representations.

(3) If urgent action is necessary for the protection of the environment, an authorised municipal official —

- (a) may issue a compliance notice without giving written notice to the person beforehand; and
- (b) must give the person to whom the compliance notice was issued an opportunity to make written representations within a reasonable period thereafter.

(4) A compliance notice must set out —

- (a) details of the conduct constituting non-compliance;
- (b) any steps the person must take and the period within which the steps must be taken;
- (c) any actions the person may not perform, and the period during which the person may not do so;
- (d) the steps the Municipality is entitled to take in terms of subsection (6) if the notice is not complied with; and
- (e) the procedure to be followed to lodge an appeal against the compliance notice.

(5) An authorised municipal official may, on good cause shown, vary a compliance notice and extend the period within which it must be complied with.

(6) If a person to whom a compliance notice has been issued fails to comply with it, the Municipality may—

- (a) take whatever steps it considers necessary, where applicable, to—
 - (i) clean up or remove the waste;

- (ii) rehabilitate the premises, place or affected area at which the waste has been dumped or disposed of or is stored; and
 - (iii) ensure that waste and any contaminated material that cannot be removed, cleaned or rehabilitated is treated or disposed of lawfully; and
- (b) recover the costs of any steps contemplated in paragraph (a) from every person responsible to take such steps in terms of this By-Law, who will be jointly and severally accountable for those costs.

(7) The Municipality may, in the case of hazardous or priority waste, require the persons generating such waste to close until such time as steps are taken to dispose of the waste as provided for in this By-law and any other applicable law, if there is a real threat of damage or injury to any person or property.

- (8) The following persons may be served with a compliance notice:
- (a) any person who committed, or who directly or indirectly permitted, such contravention;
 - (b) the generator of the waste;
 - (c) the owner of the land or premises where the contravention took place;
 - (d) the person in control of the land or premises where the contravention took place;
 - (e) any person who has or had, at the stage of the contravention, a right to use the land or premises where the contravention took place; or
 - (f) a service provider.

40. Appeals.—(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may, unless the decision was taken by the municipal council, appeal against that decision in terms of section 62 of the Municipal Systems Act.

(2) The appeal authority to consider the appeal will comprise of the person or body contemplated in section 62(4) of the Municipal Systems Act.

(3) Subject to subsections (4) and (5), an appeal under this section suspends the operation of the decision concerned pending the finalisation of the appeal.

(4) A person who receives a directive or compliance notice issued in terms of this By-law must comply with that directive or compliance notice within the period stated in the directive or compliance notice, unless the appeal authority has agreed to suspend the operation of the directive or compliance notice as contemplated in subsection (5)(b).

(5) The appeal authority may, on application and on good cause shown, direct that, pending the finalisation of the appeal —

- (a) the operation of the decision forming the subject of the appeal, or any provision or condition attached thereto, is not suspended, either wholly or in part; or
- (b) the operation of the directive or compliance notice contemplated in subsection (4), or any part of that directive or compliance notice, is suspended.

41. Duty to produce documents.—A person to whom a certificate, permit, authorisation or any other document contemplated in this By-law has been issued must produce it at the request of a peace officer or an authorised municipal official.

42. Service of documents and process.—Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such a person—

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;
- (d) if his or her address is unknown, when it has been served on his or her agent or representative in a manner provided for in paragraph (a), (b) or (c); or
- (e) if his or her address and agent are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

43. Failure to comply. —(1) If the waste management officer has issued a compliance notice in terms of section 39 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she is guilty of an offence.

(2) The waste management officer may, in writing, require any person to submit a report to him or her in respect of the impact of waste in the format stipulated in the Municipality's guidelines as published from time to time.

(3) If the person fails to submit such a report within the period specified, the waste management officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it.

(4) If the waste management officer suspects that —

- (a) the person has on one or more occasion contravened, or failed to comply with, the By-law or a license issued in terms of provincial or national legislation; and
- (b) this has —
 - (i) had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage; or
 - (ii) contributed to the degradation of the environment,

the waste management officer may direct that such a report be compiled by an independent person.

(5) The waste management officer may then direct the person who failed to comply with the By-Law to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened the By-Law shall be liable for the cost thereof.

44. Offences. —(1) A person commits an offence if that person —

- (a) litters or dumps —
 - (i) waste in excess over 8m³; or
 - (ii) any volume of hazardous waste;
- (b) spills or allows leakage of —
 - (i) waste in excess of 8m³; or
 - (ii) any volume of hazardous waste, without putting in place suitable measures;
- (c) conveys an uncovered or unsecured load —
 - (i) of any volume of hazardous waste;
 - (ii) which results in spillage of —
 - (aa) waste in excess of 8m³; or
 - (bb) any volume of hazardous waste;
- (d) hinders or interferes with —
 - (i) a service provider;

- (ii) a waste disposal facility operator; or
 - (iii) an authorised municipal official,
- in the exercise of their powers or the performance of their duties in terms of this By-law;
- (e) contravenes or fails to comply with —
 - (i) sections 9(3), 9(11) and 9(12) (Building waste);
 - (ii) section 11(1) (Event waste);
 - (iii) section 22 (Storage and receptacles for general waste); or
 - (iv) section 41 (Duty to produce documents);
 - (f) contravenes or fails to comply with —
 - (i) section 5 (Obligations of waste generators);
 - (ii) sections 10(1), 10(7), 10(8), 10(13) and 10(14) (Hazardous waste);
 - (iii) sections 11(1) and 11(5) (Event waste);
 - (iv) section 12(1)(b) (Organic waste);
 - (v) section 13(1) (Bulky waste);
 - (vi) section 14(1) (Waste tyres);
 - (vii) sections 23(1), 23(2) and 23(6) (Storage, separation, recycling, re-use, sorting and recovery of waste);
 - (viii) section 24(1) (Prohibition on unauthorised disposal of waste);
 - (ix) section 25 (Prohibition on burning of waste);
 - (x) sections 26(1) and 26(2) (Prohibition on littering and dumping);
 - (xi) section 33 (Collection of unsuitable waste);
 - (xii) section 34 (Waste transfer facility);
 - (xiii) section 35(6) (Disposal of waste); or
 - (xiv) section 51(5) (Ownership of waste);
 - (g) contravenes or fails to comply with a compliance notice issued in terms of section 39(1) (Compliance notices);
 - (h) contravenes or fails to comply with a directive issued in terms of —
 - (i) section 9(2) (Building waste);
 - (ii) section 11(6) (Event waste);
 - (iii) section 12(2) (Organic waste);
 - (iv) section 13(3) (Bulky waste);
 - (v) section 20(8) (Integrated waste management plan);
 - (vi) sections 23(4) and 23(5) (Storage, separation, recycling, re-use, sorting and recovery of waste);
 - (vii) section 24(2) (Prohibition on unauthorised disposal of waste);
 - (viii) section 27(1) (Prohibition of nuisance);
 - (ix) section 37 (Premises inaccessible for waste collection);
 - (x) section 38(1) (Directives); or
 - (xi) section 40(4) (Appeals).
 - (i) falsely pretends to be an authorised municipal official or waste disposal facility operator;
 - (j) furnishes false or misleading information when complying with a provision of this By-law;
 - (k) unlawfully and intentionally or negligently, performs any act or omits to do anything in relation to waste, that detrimentally affects, or is likely to detrimentally affect or impact on health, well-being, public safety and the environment;
 - (l) fails to submit or comply with an integrated waste management plan as provided for in this By-law;
 - (m) contravenes or fails to comply with a notice contemplated in section —
 - (i) section 9(5) (Building waste);
 - (ii) section 10(2) and 10(8)(c) (Hazardous waste);
 - (iii) sections 14(2) and 14(7) (Waste tyres);
 - (iv) sections 20(11) and 20(12)(b)(iii) (Integrated waste management plan);

- (v) section 26(4) (Prohibition on littering and dumping);
- (vi) section 30(2)(d) (Collection and transportation of general waste);
- (vii) section 40(4) (Appeal); or
- (viii) section 43 (Failure to comply);
- (n) contravenes or fails to comply with an instruction issued in terms of section 35(3) (Disposal of waste);
- (o) contravenes or fails to comply with a compliance notice issued in terms of section 39;
- (p) contravenes or fails to comply with an integrated waste management plan contemplated in section 20; or
- (q) contravenes or fails to comply with a condition subject to which exemption from a provision of this By-law was granted in terms of sections 21 and 53.

(2) Any person who —

- (a) induces, influences, persuades or forces an employee of the Municipality or other person to commit an offence in terms of this By-law, or
 - (b) attempts to do so,
- is guilty of an offence.

(3) Any person who induces an employee of the Municipality to collect and dispose of waste without —

- (a) the correct payment to the Council; or
 - (b) the correct methods being employed,
- is guilty of an offence.

45. Penalties. —(1) A person convicted of an offence in terms of section 44(1)(a), (b), (c) or (e) is liable to a fine or imprisonment for a period not exceeding one month, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two months, or in both instances, to both such fines and such imprisonment.

(2) A person convicted of an offence in terms of section 44(1)(d), (f), (g), (h), (k), (l), (m), (n), (o), (p) or (q) or section 44(2) or (3) is liable to a fine or imprisonment for a period not exceeding one year, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two years, or in both instances, to both such fines and such imprisonment.

(3) A person convicted of an offence in terms of section 44(1)(i) or (j) is liable to a fine or imprisonment for a period not exceeding two years, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding four years, or in both instances, to both such fines and such imprisonment.

(4) A sentence contemplated in subsection (1), (2) or (3) must be determined with due consideration of the —

- (a) severity of the offence in terms of its impact or potential impact on health, well-being, public safety and the environment;
- (b) fact that a person delayed in complying with, or failed to comply with, the terms of notices or directions given to that person under this By-law; and
- (c) monetary or other benefits that accrued, or that were to accrue, to the convicted person through the commission of the offence.

(5) The court may in addition to any penalty imposed in terms of subsection (4), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

46. Seizure and impounding of vehicles. —(1) A peace officer may, without a warrant, seize and impound a vehicle which is concerned or is on reasonable grounds believed to be concerned with the commission of an offence under this By-law.

(2) The peace officer must, at the time of impoundment, give the holder of the seized and impounded vehicle a copy of a notice setting out the —

- (a) reason for the impoundment;
- (b) description of the vehicle being impounded;
- (c) address and contact details of the designated pound;
- (d) payment of an impoundment fee; and
- (e) possibility of the impounded vehicle being sold to recover the costs.

(3) A vehicle which has been seized and impounded in terms of subsection (1) and (2) must be taken to a designated pound where it will be retained and dealt with in terms of subsection (4).

(4) The seized and impounded vehicle will be released immediately under the following conditions:

- (a) if a criminal charge is not laid or no fine is issued within 48 hours of the seizure of the vehicle;
- (b) when the criminal charges against the person have been withdrawn;
- (c) when the person has been acquitted of the offence charged; or
- (d) in the case where the person is convicted of the offence charged, and unless the court has ordered otherwise, on payment of the impoundment fee to the authorised official of the vehicle impoundment facility of the Municipality.

47. Designation of certain officials —(1) The municipal manager may—

- (a) designate any staff member of the Municipality as an authorised municipal official;
- (b) designate any staff member of—
 - (i) the Municipality;
 - (ii) any other organ of state; or
 - (iii) a service provider;as a waste disposal facility operator, and
- (c) at any time withdraw a said designation.

(2) A designation contemplated in subsection (1)(b)(ii) may be made only by agreement between the municipal manager and the relevant organ of state.

48. Delegations by waste management officer. —The waste management officer may delegate to any other official of the Municipality any of his or her powers or obligations in terms of this By-law.

49. Functions and powers of waste management officer. —The waste management officer is responsible for —

- (a) regulating and controlling waste management; and
- (b) enforcing the provisions of this By-Law, national and provincial legislation relating to waste management.

50. Functions of authorised municipal officials and waste disposal facility operators. —(1) An authorised municipal official —

- (a) must administer, implement and enforce this By-law; and
- (b) may perform any function assigned to an authorised municipal official by this By-law, including the following: —
 - (i) conducting an inspection,
 - (ii) investigating any act or omission that may constitute an offence in terms of this By-law, and
 - (iii) monitoring and enforcing compliance with this By-law.

(2) A waste disposal facility operator must administer, implement and enforce this By-law at a municipal waste transfer facility, general waste storage facility, recycling facility or waste disposal facility, as the case may be.

51. Ownership of waste. —(1) A person who generates waste is the owner of that waste until it is made available by that person for collection by the Municipality or a service provider in accordance with this By-law.

(2) Waste becomes the property of the Municipality once it is made available for collection, whether put out for collection or made available for collection on the private premises concerned.

(3) Subsections (1) and (2) do not apply to waste streams identified in terms of section 30(2)(d) and to waste disposed of unlawfully.

(4) A person who generates waste contemplated in subsection (3) remains the owner of the waste until the waste is disposed of lawfully.

(5) When the premises listed here, are controlled by the Municipality, waste on such premises is the property of the Municipality:

- (a) waste disposal facilities;
 - (b) waste transfer facilities; and
 - (c) facilities where waste is received, stored, recovered or treated, and
- no person may remove from, or interfere with, waste on such premises, unless authorised to do so by the Municipality.

(6) Notwithstanding the provisions of subsections (2) and (5), the Municipality may, by means of a written agreement, transfer ownership of waste to a contractor, an owner of a landfill, a recycler, a rubble crusher, a green waste chipper or other entity, as the case may be.

52. Liability to pay tariffs. —(1) The owner of premises for which the Municipality is providing waste management services contemplated in this By-law, is liable for the payment of tariffs in accordance with the Tariff Policy and Tariff By-Law.

(2) The Municipality may exempt or grant a rebate to any person or category of persons that is regarded to be indigent in terms of the municipal indigent policy from paying tariffs for waste management services.

53. Exemptions. —(1) A person may apply in writing to the Municipality for exemption from any provision of this By-law.

(2) An application contemplated in subsection (1) must be in a format determined by the Municipality and must be accompanied by a motivation for the exemption.

(3) The Municipality may, in writing, —

- (a) grant a full exemption;
- (b) grant a conditional exemption;
- (c) amend or cancel —
 - (i) an exemption;
 - (ii) a condition of an exemption; or
- (d) refuse to grant an exemption.

(4) In order to consider an application contemplated in subsection (1), the Municipality may obtain comments from members of the public who would be affected by the granting of the exemption.

(5) If an exemption is granted subject to conditions, the exemption does not take effect until the applicant has submitted a written undertaking to the Municipality that he or she will comply with all such conditions.

(6) If the applicant fails to comply with a condition of the exemption, the exemption is suspended with immediate effect.

54. Limitation of liability —Neither the Municipality nor any other person is liable for any damage or loss caused by the —

- (a) exercise of any power or the performance of any duty under this By-law; or
- (b) failure to exercise any power or perform any duty under this By-law, unless the exercise or performance of, or the failure to exercise or perform such power or duty, is unlawful and —
 - (i) negligent; or
 - (ii) in bad faith.

55. Amendments to waste removal services. —The Municipality may amend any existing waste removal or cleansing services once a process of public notification, participation and comment has been completed: Provided the amendment is practical, cost effective and has as its objective the —

- (a) prevention of the proliferation of waste;
- (b) minimisation of waste; or
- (c) reduction of waste to be removed.

56. Transitional provisions. —(1) Any approval given in accordance with previous By-laws will be valid in respect of the premises for which they were granted and in respect of the person to whom they were granted.

(2) No approval as contemplated in subsection (1) may be transferred to any other person.

57. Guidelines. —(1) The Council may issue guidelines to facilitate achievement of the objects and purposes of this By-law not inconsistent with this By-law and any other law.

(2) Any guideline contemplated in subsection (1) must be published in the *Provincial Gazette* and on the Municipality's website.

58. Repeal of By-laws. —The By-laws in Schedule 1 hereto are hereby repealed.

59. Interpretation. —In the event of a conflict between the English, isiXhosa and Afrikaans versions of this By-law, the English version shall be decisive.

60. Short title. —This By-law is called Stellenbosch Municipality: Integrated Waste Management By-law, 2020.

SCHEDULE 1

REPEALED LAWS

ANNEXURE B

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/ LIMITATIONS/ INSTRUCTION TO ASSIST
INTEGRATED WASTE MANAGEMENT BY-LAW DATED July 2020						
IWM1	Integrated Waste Management S5(3)	Conclude a Contract with a Waste Generator	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM2	Integrated Waste Management S6(1)	Granting application for additional containers	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM3	Integrated Waste Management S6(3)	Deciding to provide another container at the cost of the waste generator	Municipal Manager	Director: Infrastructure Services	Senior Manager: Waste management	
IWM4	Integrated Waste Management S6(4)	Awarding a Container to each dwelling or structure on a property	Municipal Manager	Director: Infrastructure Services	Senior Manager: Waste management	
IWM5	Integrated Waste Management S7(1)	Concluding a Contract with an Industrial Waste Generator	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM6	Integrated Waste Management S8(2)	Stipulate Maximum Quantities of Garden Waste that may be collected and imposing conditions regarding disposal of garden waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM7	Integrated Waste Management S9(2)	Issue directives to a building waste generator after receiving building plans of a building to be constructed	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM8	Integrated Waste Management S9(5)	Placing a notice in the Provincial Gazette as to the registration process of building waste removal services	Municipal manager	Director: Infrastructure Services		
IWM9	Integrated Waste Management S9(7)	Consider application to register as a building waste remover	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM10	Integrated Waste Management S9(5)	Approval to allow the placement of an appropriate receptacle on a pavement	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	

IWM11	Integrated Waste Management S9(15)	Building Inspector to determine if building waste has been disposed off in the prescribed manner	Director: Planning and Economic Development	Snr Manager: Development Management New Post	Manager: Building Development Management	
IWM12	Integrated Waste Management S10(2)	Placing a notice in the Provincial Gazette as to the registration process of Hazardous Waste	Municipal manager	Director: Infrastructure Services		
IWM13	Integrated Waste Management S10(4)	Consider application to register as a Hazardous waste remover	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM14	Integrated Waste Management S10(12)	Publish a list of additional hazardous waste that requires classification	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM15	Integrated Waste Management S11(1)	Approve generating of event waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM16	Integrated Waste Management S11(6)	Issue directive for event waste was not cleaned up	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM17	Integrated Waste Management S11(8)	Arrange for waste to be cleaned at the cost of the waste generator	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM18	Integrated Waste Management S12(2)	Issue directive to generate integrated refuse plan for Organic Waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM19	Integrated Waste Management S12(3)	Approval to provide an appropriate Organic Waste receptacle	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM20	Integrated Waste Management S13(1)	Approval to remove Bulky Waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM21	Integrated Waste Management S13(3)	Issue directive to bulky waste collector to submit monthly reports	Municipal manager			
IWM22	Integrated Waste Management S14(2)	Placing a notice in the Provincial Gazette as to the registration process of Waste tyres	Municipal manager	Director: Infrastructure Services		

IWM23	Integrated Waste Management S14(4)	Consider application to register as a waste tyres remover	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM24	Integrated Waste Management S14(7)	Placing a notice in the Provincial Gazette as to the designated facilities that waste tyres may be disposed at.	Municipal manager	Director: Infrastructure Services		
IWM25	Integrated Waste Management S15(1)	Categorize Priority Waste	Director: Infrastructure Services	Senior Manager: Waste management		
IWM26	Integrated Waste Management S16	Approve the removal of abandoned articles	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM27	Integrated Waste Management S17	Emergency procedures to manage waste	Director: Infrastructure Services	Senior Manager: Waste management		
IWM28	Integrated Waste Management S19(1)	Providing special dispensation to waste management clubs	Director: Infrastructure Services	Senior Manager: Waste management		
IWM29	Integrated Waste Management S20(11)	Request information to prepare an Integrated Waste Management Plan	Director: Infrastructure Services	Senior Manager: Waste management		
IWM30	Integrated Waste Management S21(1))	Exempting a waste generator from providing a waste management plan	Director: Infrastructure Services	Senior Manager: Waste management		
IWM31	Integrated Waste Management S23(2)	Awarding accreditation as waste storage, separation, recycling, re-use, sorting and recovering	Director: Infrastructure Services	Senior Manager: Waste management		
IWM32	Integrated Waste Management S23(3)	Exempt waste generators	Director: Infrastructure Services	Senior Manager: Waste management		
IWM33	Integrated Waste Management S23(4)	Providing a directive to a waste generator to report	Municipal Manager			
IWM34	Integrated Waste Management S23(5)	Request Waste Generator to separate recyclable waste	Municipal Manager			
IWM35	Integrated Waste Management S24	Issuing directive when a person is contradiction of this By-Law	Municipal Manager			

IWM36	Integrated Waste Management S25	Approval of the burning of waste in a thermal treatment facility	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM37	Integrated Waste Management S26	Issuing notice to an offender that has littered or dumped	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM38	Integrated Waste Management S27	Issuing a notice of prohibition	Municipal Manager			
IWM39	Integrated Waste Management S28	Issuing a license to any person or entity to handle waste	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM40	Integrated Waste Management S29	Setting a schedule for collection and transporting of waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM41	Integrated Waste Management S31	Keeping a register of accredited service providers	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM42	Integrated Waste Management S32	Accrediting transporter of waste for gain	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM43	Integrated Waste Management S35	Authorize Municipal Officials to inspect any waste facility	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM44	Integrated Waste Management S37	Issuing directive to take specific measures to make the collection of waste possible	Municipal manager			
IWM45	Integrated Waste Management S38	Issuing directives wrt any part of the By Law	Municipal Manager			
IWM46	Integrated Waste Management S39	Authorizing an official to issue written compliance notices	Municipal manager	Director: Infrastructure Services		
IWM47	Integrated Waste Management S43	Issuing compliance notices	Director: Infrastructure Services	Senior Manager: Waste management		
IWM48	Integrated Waste Management S48	Designation of certain officials	Municipal manager			
IWM49	Integrated Waste Management S53	Exemptions	Municipal manager			

ANNEXURE C

INTEGRATED WASTE MANAGEMENT BY-LAW OFFENCES AND FINES

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
44(1)(a)	litters or dumps — (i) waste in excess over 8m ³ ; or (ii) any volume of hazardous waste;	R1000	
44(1)(b)	spills or allows leakage of — (i) waste in excess of 8m ³ ; or (ii) any volume of hazardous waste, without putting in place suitable measures;	R1000	
44(1)(c)	conveys an uncovered or unsecured load — (i) of any volume of hazardous waste; (ii) which results in spillage of — (aa) waste in excess of 8m ³ ; or (bb) any volume of hazardous waste;	R1000	
44(1)(d)	hinders or interferes with — (i) a service provider; (ii) a waste disposal facility operator; or (iii) an authorised municipal official, in the exercise of their powers or the performance of their duties in terms of this By-law;	R500	
44(1)(e)	contravenes or fails to comply with — (i) sections 9(3), 9(11) and 9(12) (Building waste); (ii) section 11(1) (Event waste); (iii) section 22 (Storage and receptacles for general waste); or (iv) section 41 (Duty to produce documents);	R500	

44(1)(f)	<p>contravenes or fails to comply with —</p> <ul style="list-style-type: none"> (i) section 5 (Obligations of waste generators); (ii) sections 10(1), 10(7), 10(8), 10(13) and 10(14) (Hazardous waste); (iii) sections 11(1) and 11(5) (Event waste); (iv) section 12(1)(b) (Organic waste); (v) section 13(1) (Bulky waste); (vi) section 14(1) (Waste tyres); (vii) sections 23(1), 23(2) and 23(6) (Storage, separation, recycling, re-use, sorting and recovery of waste); (viii) section 24(1) (Prohibition on unauthorised disposal of waste); (ix) section 25 (Prohibition on burning of waste); (x) sections 26(1) and 26(2) (Prohibition on littering and dumping); (xi) section 33 (Collection of unsuitable waste); (xii) section 34 (Waste transfer facility); (xiii) section 35(6) (Disposal of waste); or (xiv) section 51(5) Ownership of 	R500	
44(1)(g)	<p>contravenes or fails to comply with a compliance notice issued in terms of section 39(1) (Compliance notices);</p>	R1000	
44(1)(h)	<p>contravenes or fails to comply with a directive issued in terms of —</p> <ul style="list-style-type: none"> (i) section 9(2) (Building waste); (ii) section 11(6) (Event waste); (iii) section 12(2) (Organic waste); (iv) section 13(3) (Bulky waste); (v) section 20(8) (Integrated waste management plan); (vi) sections 23(4) and 23(5) (Storage, separation, recycling, re-use, sorting and recovery of waste); 	R1000	

44(1)(h) Cont	(vii) section 24(2) (Prohibition on unauthorised disposal of waste); (viii) section 27(1) (Prohibition of nuisance); (ix) section 37 (Premises inaccessible for waste collection); (x) section 38(1) (Directives); or (xi) section 40(4) (Appeals).		
44(1)(i)	falsely pretends to be an authorised municipal official or waste disposal facility operator;	NAG	
44(1)(j)	furnishes false or misleading information when complying with a provision of this By-law;	NAG	
44(1)(k)	unlawfully and intentionally or negligently, performs any act or omits to do anything in relation to waste, that detrimentally affects, or is likely to detrimentally affect or impact on health, well-being, public safety and the environment;	R2500	
44(1)(l)	fails to submit or comply with an integrated waste management plan as provided for in this By-law;	R1000	
44(1)(m)	contravenes or fails to comply with a notice contemplated in section — (i) section 9(5) (Building waste); (ii) section 10(2) and 10(8)(c) (Hazardous waste); (iii) sections 14(2) and 14(7) (Waste tyres); (iv) sections 20(11) and 20(12)(b)(iii) (Integrated waste management plan); (v) section 26(4) (Prohibition on littering and dumping); (vi) section 30(2)(d) (Collection and transportation of general waste); (vii) section 40(4) (Appeal); or (viii) section 43 (Failure to comply);	R2 500	
44(1)(n)	contravenes or fails to comply with an instruction issued in terms of section 35(3) (Disposal of waste);	R1 000	

44(1)(o)	contravenes or fails to comply with a compliance notice issued in terms of section 39;	R1 000	
44(1)(p)	contravenes or fails to comply with an integrated waste management plan contemplated in section 20; or	R1 000	
44(1)(q)	contravenes or fails to comply with a condition subject to which exemption from a provision of this By-law was granted in terms of sections 21 and 53.	R2 500	
44(2)	Any person who — (a) induces, influences, persuades or forces an employee of the Municipality or other person to commit an offence in terms of this By-law, or (b) attempts to do so,	NAG	
44(3)	Any person who induces an employee of the Municipality to collect and dispose of waste without — (a) the correct payment to the Council; or (b) the correct methods being employed,	NAG	

NAG = No Admission of Guilt fine allowed

7.6.3	APPROVAL OF THE MUNICIPALITY'S STORMWATER BYLAW – DELEGATIONS AND PROPOSED ADMISSION OF GUILT FINES
-------	--

Collaborator No: 733490
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 16 August 2022

1. SUBJECT: APPROVAL OF THE MUNICIPALITY'S STORMWATER BYLAW – DELEGATIONS AND PROPOSED ADMISSION OF GUILT FINES

2. PURPOSE

That Council considers and approves the Municipality's, Stormwater By-Law's, Delegations and Proposed Admission of Guilt Fines.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

Council had approved the Municipality's By-Law on Stormwater, following a public participation process and all relevant processes, on the 25th November 2020. (**ANNEXURE A**)

The By-Law on Stormwater enables the Municipality to manage its stormwater systems and regulate activities that have a detrimental effect on the development and operation of the stormwater system.

Under Section 59: Delegations of the Municipal Systems Act, Council is to approve the proposed delegations of powers in terms of this By Law to various key officials and incorporate these into the System of Delegations. A proposed set of delegations is shown under **ANNEXURE B**.

The fines schedule will assist the Municipality with the management and regulation of stormwater systems by allowing for penalties to be imposed for activities that are detrimental to the development and operation of the stormwater system. The proposed fines schedule is attached as **ANNEXURE C**.

5. RECOMMENDATIONS

- (a) that the content of this report be noted,
- (b) that the set of delegations as proposed in **ANNEXURE B** be accepted and attached to the System of Delegations, and
- (c) that the proposed set of Admission of Guilt Fines (Attached as **ANNEXURE C**) be accepted as the fines to be sought from the Chief Magistrate for this By-Law.

6. DISCUSSION / CONTENTS**6.1 Background**

Council had approved the Municipality's By-Law on Stormwater, following a public participation process and all relevant processes, on the 25th November 2020. (**ANNEXURE A**). The Municipality's By-Law on Stormwater, was subsequently promulgated under Provincial Gazette 8434 on the 28th May 2021.

6.2 Discussion

The By-Law on Stormwater enables the Municipality to manage stormwater systems in built-up areas and regulates activities which have a detrimental effect on the development, operation and maintenance of the stormwater system.

In order to manage this By Law and in terms of Section 59 of the Municipal Systems Act, various functions are to be assigned to various officials. These delegations are taken up in the proposed set of Delegations within **ANNEXURE B**.

The fines schedule will assist the Municipality with the management and regulation of stormwater systems by allowing for penalties to be imposed for activities that are detrimental to the development, operation and maintenance of the stormwater system. The proposed fine schedule is attached as **ANNEXURE C**.

6.3 Financial Implications

There are no financial implications, other than an income generated through the issuing of fines, should the recommendations as set out in the report be accepted.

6.4 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 Staff Implications

None

6.6 Previous / Relevant Council Resolutions:

39TH COUNCIL MEETING: 2020-11-25: ITEM 13.4

RESOLVED (majority vote)

- (c) that the Draft By-Law on Stormwater, attached as **ANNEXURE A**, be accepted as the Final By-Law as per Section 12(2) to 12(4) & 13; and
- (d) that Council notes that a public participation process was followed and that no comment or feedback were received.

6.7 Risk Implications

None.

6.8 Comments from Senior Management:**6.8.1 Director: Infrastructure Services**

Agree with the recommendations

ANNEXURES

Annexure A: BY-LAW ON STORMWATER

Annexure B: PROPOSED SET OF DELEGATIONS

Annexure C: PROPOSED ADMISSION OF GUILT FINES

FOR FURTHER DETAILS CONTACT:

NAME	Deon Louw
POSITION	<i>Director</i>
DIRECTORATE	<i>Infrastructure Services</i>
CONTACT NUMBERS	021 808 8213
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REPORT DATE	21 July 2022

ANNEXURE A



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

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LOCAL AUTHORITY

Stellenbosch Municipality: Stormwater By-law (2020) 2

[STELLENBOSCH MUNICIPALITY.]

[DATE OF COMMENCEMENT: 28 MAY 2021.]

This By-Law

was published by *Provincial Gazette* No. 8434 dated 28 May 2021.

STELLENBOSCH MUNICIPALITY

BY-LAW RELATING TO STORMWATER

APPROVED BY COUNCIL ON 25 NOVEMBER 2020

AND

PROMULGATED IN TERMS OF SECTION 13 OF THE LOCAL GOVERNMENT:
MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000)

STELLENBOSCH MUNICIPALITY STORMWATER BY-LAW
(2020)

To give effect to the right contained in section 24 of the Constitution of the Republic of South Africa, 1996 and to regulate –

- the stormwater management systems in built-up areas; and
- activities which may have a detrimental effect on the development, operation or maintenance of the stormwater system.

Under the provisions of sections 156 (2) of the Constitution of the Republic of South Africa, 1996, and section 11 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the Municipality of Stellenbosch enacts as follows:

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PREAMBLE

WHEREAS the Municipality has under the Constitution, legislative competence in respect of stormwater management systems in built-up areas;

Whereas the Municipality has an obligation to regulate and control stormwater systems in built-up areas so as to ensure a safe, healthy and sustainable environment and to ensure that the rights of individuals are protected;

Whereas the Municipality wishes to reduce the environmental impact of stormwater to ensure that the socio-economic development, the health of the people within the Municipality's boundaries and the quality of environmental resources are not unduly adversely affected by stormwater;

Whereas the Municipality wants to ensure that all residents, organisations, institutions, businesses, visitors or tourists and government departments enjoy the services from a legitimate stormwater management service provider;

Whereas the Municipality wishes to regulate the stormwater management systems in built-up areas and the regulation of facilities used for the management of stormwater, with the aim of avoiding or minimising the damage to the environment; and

Whereas the Municipality intends to minimise the undesirable impacts of stormwater runoff from developed areas in accordance with Water Sensitive Urban Design Principles.

BE IT ENACTED by the Municipality, as follows: —

1. Definitions. –In this By-law, words used in the singular includes the plural and vice versa, the English text shall prevail in the event of an inconsistency between the different texts, and, unless the context otherwise indicates –

“**Best Management Practices**” refer to devices, practices or methods to –

- (a) prevent, remove, eliminate, reduce or impede runoff flows; or
- (b) prevent targeted stormwater runoff constituents, pollutants and contaminants from reaching receiving waters,

and include structural and non-structural controls and devices, and operation and management procedures;

“**built-up areas**” mean those portions or areas of the Municipality which are divided into erven by means of physical survey or which are surrounded by surveyed erven, including the public roads adjacent thereto as well as portions or areas falling within the urban edge of the approved Spatial Development Framework;

“**catchment**” means the area from which any rainfall will drain into a watercourse or wetland, or part thereof, through surface flow to a common point or points;

“**Council**” means the Council of the Municipality of Stellenbosch;

“**detention basin**” means a storage site (such as a small reservoir) that delays the flow of water downstream;

“**development**” means any man-made change to, or associated preparation of, property, including but not limited to, construction or upgrading of buildings or other structures, filling, paving and municipal services;

“**flood attenuation measures**” means –

- (a) assessing the effects of any increased runoff on the existing downstream stormwater system, and
- (b) preparing and implementing the development plan in such a way that –
 - (i) the peak flow immediately downstream of the planned development; and
 - (ii) where existing detention storage is provided in a stormwater system, the –
 - (aa) the volume of runoff due to increased impermeable areas and lower surface frictions in the upstream developments; and
 - (bb) the effectiveness of the downstream detention dams,are no greater or decreased than it was before the development took place;

“**flood level**” means that level reached by flood waters resulting from a storm designated in terms of recognised engineering criteria as being of a frequency to be expected once in every 50 years, and “**flood line**” has a corresponding meaning;

“**floodplain**” means the land adjoining a watercourse which, in the opinion of the Municipality, is predisposed to inundation by floods up to the 100 year recurrence interval;

“**Municipality**” means the Stellenbosch Municipality established by Provincial Notice No. 489 479 of 2000 in *Provincial Gazette* 5590 of 22 September 2000 as amended from time to time, or its successors in title; and includes any –

- (a) political structure;
- (b) political office bearer;
- (c) Councillor; and
- (d) duly authorised agent, service provider or any employee thereof, acting as contemplated in this By-law by virtue of a power vested in the Municipality and so authorised, delegated or sub-delegated to such –
 - (i) political structure;
 - (ii) political office bearer;
 - (iii) councillor;
 - (iv) agent;
 - (v) service provider; or
 - (v) employee;

“**municipal area**” means the area of jurisdiction of the Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

“municipal manager” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“non-structural measures” refer to planning, institutional and pollution prevention practices designed to –

- (a) prevent or minimize pollutants from entering stormwater runoff; and
- (b) reduce the volume of stormwater requiring management;

“norms and standards” refer to –

- (a) guidelines about how role players should act within the given context; and
- (b) minimum standards set to ensure that services are rendered in a specific, planned and effective manner,

as adopted and amended from time to time by the Municipality, and subsequently published within 30 days of the date of adoption;

“organ of state” bears the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996;

“owner” includes any of the following:

- (a) the person in whom is vested the legal title to the premises, lessee, resident, director of a company, member of a close corporation, the person in control of any premises;
- (b) any person who obtains a benefit from the premises or is entitled thereto; and
- (c) the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, dead or of unsound mind;

“person“ includes –

- (a) any divisional council, municipal council, village management board, or like authority; any organ of state;
- (b) any company incorporated or registered as such under any law; and
- (c) any body of persons corporate or unincorporate;

“pollute” means the direct or indirect alteration of the physical, chemical or biological properties of a water resource to cause it to be –

- (a) less fit for any beneficial purpose for which it may reasonably be expected to be used; or
- (b) harmful or potentially harmful to –
 - (i) the welfare, health or safety of human beings;
 - (ii) any aquatic or non-aquatic organisms;
 - (iii) the resource quality; or
 - (iv) property;

“publish” means to be announced by the Municipality for public notification by means of a Notice in the *Provincial Gazette*;

“prescribed” means –

- (a) a particular resolution of the Council; and
 - (b) in relation to –
 - (i) a fee, the cost as set out in the tariff policy of the Municipality;
 - (ii) an application for approval, the documents and procedures determined by the Municipality in a specific instance;
- as determined from time to time;

“private stormwater system” means a stormwater system owned, operated or maintained by a person other than the Municipality;

“prior written permission of the Municipality” means permission granted by the Municipality in accordance with section 4 of this By-law;

“receiving waters” refer to natural or man-made aquatic systems which receive stormwater runoff and includes, but is not limited to, watercourses, wetlands, canals, estuaries, and groundwater;

“stormwater” means water resulting from natural precipitation or the accumulation thereof, and includes –

- (a) groundwater; and
- (b) spring water

ordinarily conveyed by the stormwater system, but excludes water in a drinking water or waste water reticulation system;

“stormwater policy” means a policy document for the management of stormwater impacts, related activities and incidental matters, as adopted and amended from time to time by the Municipality, and subsequently published within 30 days of the date of adoption;

“stormwater system” means both the constructed and natural facilities, including pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use and disposal of stormwater;

“structural measures” refer to permanent engineered devices implemented to –

- (a) prevent or minimize pollutants from entering stormwater runoff; and
- (b) reduce the volume of stormwater requiring management;

“water pollution incident” means an incident or occurrence whereby a substance or matter, other than stormwater, ends up in the stormwater system and which may have a direct or indirect detrimental, or potentially detrimental, impact on the quality of the water in that system, to such an extent that public health or the health of natural ecosystems may be threatened;

“watercourse” means –

- (a) a river, spring, stream, channel or canal in which water flows regularly or intermittently; and
- (b) a vlei, wetland, dam or lake into which or from which water flows, and includes, where relevant, the bed and the banks of such watercourses;

“Water Sensitive Urban Design” refers to an approach to ensure that development in urban areas is holistically planned, designed, constructed and maintained to –

- (a) reduce negative impacts on the natural water cycle; and
 - (b) protect aquatic ecosystems,
- and includes, but is not limited to, sustainable water supply, sanitation and stormwater management;

“water source” includes any water way, surface water, estuary or aquifer; and

“wetland” means land which is transitional between terrestrial and aquatic systems where the –

- (a) water table is usually at or near the surface, or
 - (b) land, which in normal circumstances supports or would support vegetation typically adapted to life in saturated soil, is periodically covered with shallow water, and
- includes, but is not limited to, water bodies such as lakes, salt marches, estuaries, marshes, swamps, vleis, pools, ponds, pans and artificial impoundments.

2. Aim, application and scope. –(1) The provisions of this By-law aim to –

- (a) reduce the impact of flooding on community livelihoods and regional communities;
- (b) safeguard human health;
- (c) protect natural aquatic environments; and
- (d) maintain recreational water quality.

(2) This By-law binds all persons and organs of state.

(3) This By-law applies to stormwater systems in built-up areas and the natural environment on which it may have an impact, including but not limited to, any land use, development or activity proposals within the municipal area, draining to any watercourse or wetland.

(4) Any provision dealing specifically with stormwater in any other By-law, is subject to the provisions of this By-law: Provided that this By-law does not apply to other aspects of stormwater management such as protection of property and community health and safety.

(5) The provisions of this By-law do not eradicate the need for any other permit, consent or authorisation required under any other law.

(6) The provisions of this By-law must be read together with the –

- (a) National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

- (b) Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983);
- (c) National Water Act, 1998 (Act 36 of 1998);
- (d) National Environmental Management Act 1998 (Act 107 of 1998);
- (e) Disaster Management Act 2002 (Act 57 of 2002);
- (f) National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);
- (g) Western Cape Planning and Development Act, 1999 (Act 7 of 1999); and
- (h) all of the following –
 - (aa) Municipal Code of By-laws;
 - (bb) Land Use Planning By-law of 2015 of the Municipality;
 - (cc) Zoning Scheme By-law 2019 of the Municipality;
 - (dd) Management of Urban Stormwater Impacts Policy of the Municipality;
 - (ee) Municipal Disaster Management Plan of the Municipality; and
 - (ff) other relevant Frameworks, Guides, Norms and Standards, as adopted and published,

where applicable.

(7) In the event that –

- (a) any provision in this By-law; or
- (b) any stipulation in any of the documents contemplated in section 2 (6) (h) (bb) – (ff), no longer conforms to a Notice published in terms of applicable National or Provincial legislation after the date of commencement of this By-law, such Notice applies to the extent reasonably required until this By-law or such document has been updated accordingly.

(8) This By-law and all the documents contemplated in section 2 (6) (h) (bb) – (ff) must be published on the website of the Municipality within 14 days of the date of publication of this By-law in the *Provincial Gazette*.

3. Stormwater policies and guidelines. –(1) The Municipality must develop, adopt, publish on its website and implement its stormwater policies and may amend those policies from time to time, as and when required.

(2) The stormwater policies of the Municipality must –

- (a) incorporate Water Sensitive Urban Design Principles into urban development;
- (b) be based on Best Management Practices; and
- (c) be aligned with other sustainability programmes of the Municipality.

(3) The Municipality may limit the application of any stormwater policy to specific, or categories of, –

- (a) areas;
- (b) development premises; or
- (c) activities,

and may, on reasonable grounds, permit deviation or relaxation of, or exemptions from, any provisions of such policy.

- (4) Any person who –
- (a) contravenes the provisions of a stormwater policy to the extent that same had been adopted in terms of this or any other By-Law of the Municipality; or
 - (b) furnishes false or misleading information required in terms of a stormwater policy, is guilty of an offence, and on conviction may be liable to a fine or imprisonment, or both such fine and imprisonment.
- (5) Stormwater policies must be made public and conveyed to the community in terms of section 21A of the Municipal Systems Act.
- (6) Notwithstanding subsections (1), (4) and (5), the Municipality may –
- (a) develop and approve guidelines that comply with the provisions of subsection (2) and (3); and
 - (b) implement such approved guidelines.
- (7) Any policy developed and adopted in terms of this section replaces the guidelines contemplated in subsection (6).

4. Applications for permits, consent or authorisation. –(1) A person who wishes to obtain a permit, consent or authorisation of the Municipality as contemplated in this By-law, must submit an application in writing and in accordance with the applicable process as prescribed by the Municipality.

- (2) When considering an application contemplated in subsection (1), the Municipality may require the applicant to, at own cost, –
- (a) submit impact studies such as, but not limited to, environmental impact studies or environmental impact investigations as required in terms of national and provincial environmental legislation; and
 - (b) to establish and provide documentation indicating flood lines.
- (3) A permit, consent or authorisation may be granted by the Municipality subject to such conditions as determined by the Municipality after due consideration of the application.
- (4) Where a permit, consent or authorisation is required under this By-law and any other law enforced by the Municipality, such applications shall be lodged simultaneously.

5. Prohibited discharges. –(1) No person may, except in accordance with the prior written permission of the Municipality, discharge, permit, cause or allow to enter or place onto any substance other than stormwater, where that substance could reasonably be expected, or is likely, to find its way into the stormwater system.

- (2) With the exception of rainwater, no person may permit, cause or allow any dirty, waste, swimming pool, infected or otherwise polluted water to flow from his premises into the stormwater system.

6. Measures to protect stormwater system. –(1) Notwithstanding any other provision in this By-law, the Municipality may, in pertinent and lawful instances require from the owner of any private property (person A) to –

- (a) allow the owner of a higher lying property (person B), to, at such owner's cost (person B), lay a stormwater drainpipe or gutter over the owner's property (person A) to allow the draining of concentrated stormwater; or
- (b) retain stormwater on such property (of person A) or, at such owner's cost (person B), to lay a stormwater drain pipe or gutter to a suitable place indicated by the Municipality, irrespective of whether the course of the pipe or gutter will run over the owner's property (person A), or not.

(2) No person may, except in accordance with the prior written permission of the Municipality –

- (a) adjust, alter, damage, endanger, destroy or undertake any action which may, or is likely to, damage, endanger or destroy, the stormwater system or the operation thereof;
- (c) discharge, permit to enter or place anything likely to damage the stormwater system or interfere with the operation thereof or contaminate or pollute the water therein;
- (d) construct or erect any structure or thing over or in such a position or in such a manner which may, or is likely to, interfere with, or endanger the stormwater system or the operation thereof;
- (e) make an opening into a stormwater pipe, canal or culvert;
- (f) drain, abstract or divert any water directly from the stormwater system, or
- (g) fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the stormwater system.

(3) No person may, except in accordance with the prior written permission of the Municipality, –

- (a) lead or discharge any water on, over or across; or
- (b) by any means whatever, raise the level of water in any river, dam or watercourse to cause interference with or endanger, a street, sidewalk, pathway or public place.

(4) No person may carry out, or create the risk of, any activity that causes, or may potentially cause, stormwater to flood the property of the municipality or that of any other person.

(5) When an incident contemplated in section 5 and subsections (2), (3) or (4) of this section occurs without, or not in accordance with, the prior written permission of the Municipality, –

- (a) and the incident is not the result of natural causes, the person responsible for the incident; and
- (b) the owner of the property on which the said incident occurred, or is occurring, must immediately report the incident to the Municipality: Provided that the person responsible for the incident or the owner of the property, as the case may be, must at own cost take all reasonable measures which, in the opinion of the Municipality, will contain and

minimise the effects of the flooding, by undertaking cleaning up procedures, including the rehabilitation of the environment, as required by the Municipality.

(6) A person who contravenes a provision of subsection (2), (3), or (4) commits an offence.

(7) The Municipality may, subject to any laws which may be applicable and after obtaining consent of the owner and the occupier, if any, of the land concerned, –

- (a) deviate any watercourse, stream or river: Provided that the deviation is necessary for the protection of a public road or structure related to a public road or for the construction of a structure connected with or belonging to a street, sidewalk, pathway or public place;
- (b) divert stormwater from, or under, a street, sidewalk, pathway or public place onto private property other than land occupied by buildings, other structures or improvements; and
- (c) pay reasonable compensation as agreed between the owner or occupier and the Municipality, for any damage caused as a result of any action taken in terms of this subparagraph, or failing such agreement, compensation determined by arbitration in terms of the Arbitration Act, 1965 (Act 42 of 1965) or an alternative dispute resolution process.

7. Sustainable urban drainage system. –(1) In order to advance a holistic approach to catchment development and the application of Water Sensitive Urban Design Principles, all developers, owners, professionals and contractors must, at all times, comply with the following provisions:

- (a) Determine all floodlines which may impact on the development concerned, in which event the Municipality must, on written request, make available any floodline information that is on record;
- (b) Do planning and take flood attenuation measures before any development above an existing development or in a catchment area commences;
- (c) Make adequate provision for stormwater servitudes –
 - (i) where overland flow can occur, either naturally or as a result of the development; or
 - (ii) when the minor stormwater system infrastructure is overloaded or rendered ineffective due to a block up;
- (d) Prevent concentration of stormwater runoff both spatially and in time wherever possible;
- (e) Manage steep slopes and soil profiles, where they occur, before, during and after construction;
- (f) Submit an application to the Municipality consisting of detailed plans to control and prevent erosion by water, prior to the commencement of any works, including site clearance on any portion of the site: Provided that the Municipality may grant such approval subject to such conditions as may be determined by the Municipality after due consideration of the application;
- (g) Ensure that vegetation cover is removed with care and with attention to the potential erosion impact;

- (h) Construct stormwater control systems before any construction on a site commences;
- (i) Monitor and adjust the stormwater control measures taken during the construction progress, to ensure complete erosion control and appropriate runoff control;
- (j) Keep earthworks on site to an absolute minimum;
- (k) Design elements of developments so as not to impede the drainage process or cause a flood hazard by unsafely storing storm runoff on the property; and
- (l) Avoid concentration of flow onto downstream properties due to walls and fences around properties that cross natural drainage channels.

(2) In the event that it is impossible to avoid an increase in the downstream peak flow, the Municipality may only allow a development to proceed if it is satisfied that the downstream stormwater systems have the spare capacity to accommodate the additional peak flow.

(3) The Municipality may, for stormwater control purposes, regularly and at all reasonable times enter any premises, or any portion thereof, to inspect the construction of buildings, structures and earthworks in order to minimize risk or damages to properties and to determine the current status of a stormwater system.

(4) In order to fulfil the function contemplated in subsection (1), the Municipality may –

- (a) declare areas as stormwater management areas in respect of which special requirements will apply regarding construction and earthworks of any activity and which, in the opinion of the Municipality, may reduce the risk of floods;
- (b) require that the general plan or lay-out plans of the development or subdivision of any property, indicate lines in an acceptable form, to indicate the maximum level which will probably be reached by the flood water, in an average of 50 years and of 100 years;
- (c) may, subject to other applicable legislation, refuse any –
 - (i) new permanent residential, commercial or industrial development;
 - (ii) request for densification; or
 - (iii) any other plans where the floodlines are not in line with the policy or guidelines contemplated in section 3:

Provided that where such development or application is approved within a flood plain, the lowest level of any new building, structure or addition thereto, must be above the floodlines as specified in the policy or guidelines as contemplated in section 3;

- (d) determine that all services required by the development, be designed to withstand the –
 - (i) effects of flooding without risk of environmental pollution, or
 - (ii) risk of damage, injury or loss to the property owner, residents and general public;
- (e) allow the construction of flood protection embankments: Provided that such embankment –
 - (i) does not materially affect the direction and velocity of the main stream or its tributary watercourses;
 - (ii) serves a useful purpose; and
 - (iii) does not increase the risks of damage to property or injury to any person.

(5) All matters pertaining to sustainable urban drainage systems not provided for in this By-law, including but not limited to the following:

- (a) criteria for achieving Sustainable Urban Drainage Systems Objectives;

- (b) interface with the Municipal Spatial Development Framework;
 - (c) incentive schemes; and
 - (d) monitoring and evaluation of adherence to Best Management Practices,
- must be addressed in stormwater policies of the Municipality.

8. Stormwater management plan. –(1) Where the submission of an approved stormwater management plan is a condition of approval as contemplated in section 7, the person responsible therefore must submit plans detailing the proposed stormwater control measures to the designated official: Provided that no physical work may commence without the prior written approval of the Municipality.

- (2) A stormwater management plan must describe and indicate –
 - (a) the control measures to be implemented before and during the construction period;
 - (b) the final stormwater control measures required for the site on completion of site development;
 - (c) the person responsible for the design of the control measures; and
 - (d) who is, or will be, designated as the responsible person on site during each stage of the implementation of the control measures.
- (3) If the approved stormwater management plan contemplated in subsections (1) and (2) is not adequately implemented or complied with, the owner or developer, as the case may be, is responsible to repair and restore all consequential environmental and other damages at his or her own cost.

9. Stormwater systems on private land. –(1) An owner of property on which private stormwater systems are located, –

- (a) may not carry out any activity which will, or which in the opinion of the Municipality could reasonably be expected to, impair the effective functioning of the stormwater system, and;
 - (b) must, at own cost, keep such stormwater systems functioning effectively, including undertaking the refurbishment and reconstruction thereof if, in the opinion of the Municipality, it should be reconstructed or refurbished.
- (2) The provisions of subsection (1) do not apply to the extent that the Municipality has accepted responsibility for any of such duties, either in –
- (a) accordance with a formal maintenance agreement; or
 - (b) terms of a condition of a servitude.
- (3)(a) If an immediate risk of flooding is identified, the Municipality may access the property concerned, irrespective of whether a servitude exists on that property or not, and without notifying the owner, to carry out the required works to prevent flood damage to upstream, surrounding or downstream properties.
- (b) When accessing the property, the authorised employee must, on request, identify him or herself by producing written proof of such authority.

(c) The Municipality must immediately thereafter notify the owner concerned in writing of their liability to pay the costs of the carrying out of the required works as contemplated in paragraph (a).

10. Provision of infrastructure. –(1) The Municipality may –

- (a) construct, expand, alter, maintain or lay any drains, pipes or other structures related to the stormwater system on or under any immovable property, and ownership of these drains, pipes or structures shall vest in the municipality;
- (b) drain stormwater or discharge water from any municipal service works into any natural watercourse, and
- (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by subparagraph (a).

(2) When the Municipality exercises its powers in terms of subsection (1)(a) regarding immovable property not owned by the municipality, it must do so in compliance with the provisions of the by-law of the Municipality relating to the management and administration of its immovable property.

11. General powers. –(1) The Municipality may –

- (a) demolish, alter or otherwise deal with any building, structure or other thing constructed, erected or laid in contravention of the provisions of this By-law;
- (b) fill in, remove and make good any ground excavated, removed or placed in contravention with the provisions of this By-law;
- (c) repair and make good any damage done in contravention of the provisions of this By-law or resulting from a contravention;
- (d) remove anything discharged, permitted to enter into the stormwater system or natural watercourse in contravention of the provisions of this By-law;
- (e) remove anything damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the stormwater system;
- (f) seal off or block any point of discharge from any premises if such discharge point is in contravention of the provisions of this By-law; and
- (g) cancel any permit, consent or authorisation granted in terms of this By-law if the conditions under which such permit, consent or authorisation, the permission was granted are not complied with.

(2) The Municipality may, in any case where it seems that any action or neglect by any person or owner of property may lead to a contravention of the provisions of this By-law, give notice in writing to such person or owner of property to comply to such requirements as the Municipality may deem necessary to prevent the occurrence of such contravention.

(3) The Municipality may recover all reasonable costs incurred as a result of –

- (a) action taken in terms of subsection (1); or
- (b) a contravention of any other provisions of this By-law,

from a person who was responsible therefor or the owner of the property on which a contravention occurred.

12. Appeal. –(1) A person whose rights are affected by a decision of the Municipality in terms of this By-law, may appeal against the decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Municipal Systems Act to the municipal manager within 21 days of the date of the notification of such decision.

(2) Upon receipt of the notice of appeal, the Municipality must proceed with the matter in accordance with the provisions of section 62 of the Municipal Systems Act.

13. Exemptions. –(1) Any person may, by means of a prior written application stating the reasons in full, apply to the Municipality for exemption from any provision of this By-law.

(2) The Municipality may –

- (a) approve such exemption in full or subject to reasonable conditions; or
- (b) refuse such exemption on reasonable grounds.

(3) The Municipality may, on reasonable grounds, revise or cancel such exemption or conditions of an exemption.

(4) Where applicable, an exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed under subsection (2)(a).

(5) In the event that –

- (a) an activity for which exemption has been applied, commences before receipt of the undertaking contemplated in subsection (4) by the Municipality; or
- (b) any condition of an exemption granted by the Municipality is not fully complied with, the exemption granted, lapses with immediate effect.

14. Community liaison forums. –(1) The Municipality may establish one or more community liaison forum for the purposes of furthering the stormwater activities of the municipality.

(2) A community liaison forum may consist of –

- (a) representatives of a group with a vested interest in the stormwater activities of the municipality;
- (b) affected persons as contemplated in section 2 (4)(f) to (h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
- (c) designated officials of the municipality;
- (d) a councillor; and
- (e) any other persons as determined by the Municipality.

(3) A community liaison forum contemplated in subsection (1) may, upon request of the Municipality or on its own initiative, submit input to the Municipality regarding any matter related to the implementation and application of this By-law.

15. Offences and penalties. –(1) Any person who –

- (a) contravenes any provision of this By-law;
- (b) fails to comply with the terms of any notice issued in terms of this By-law;
- (c) threatens, resists, hinders or obstructs or uses foul, abusive or insulting language towards or at a councillor or an employee or contractor of the Municipality in the exercise of any powers or performance of any duties or function in terms of this By-law, or falsely holds himself or herself to be a councillor, an employee or a contractor of the Municipality,

is guilty of an offence and liable, on conviction, for the payment of a fine.

16. Repeal of By-laws. –The By-laws listed in the Schedule hereto are hereby repealed to the extent indicated in the third column thereof.

17. Short title and commencement. –This By-law shall be known as the By-law relating to Stormwater and comes into operation on the date of publication thereof in the *Provincial Gazette*.

ANNEXURE B

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/LIMITATIONS/ INSTRUCTION TO ASSIST
Stormwater By-Law BY-LAW DATED May 2021						
SWM1	Stormwater By-Law 2020 S3	Develop Policies and Guidelines	Council			
SWM2	Stormwater By-Law 2020 S4	Issuing Permits, consent and Authorization	Municipal Manager	Director: Infrastructure Services	Senior Manager: Roads, Transport and Stormwater (RTS)	
SWM3	Stormwater By-Law 2020 S6(1)	Instituting measures to protect stormwater systems	Municipal Manager	Director: Infrastructure Services	Senior Manager: RTS	
SWM4	Stormwater By-Law 2020 S6(7)	Allow deviations from standard measures	Municipal Manager	Director: Infrastructure Services	Senior Manager: RTS	
SWM5	Stormwater By-Law 2020 S7(2)	Permitting any Development to proceed upon increasing downward stormwater flow	Municipal Manager	Director: Infrastructure Services	Senior Manager: RTS	
SWM6	Stormwater By-Law 2020 S8	Approving Stormwater Management Plans	Municipal Manager	Director: Infrastructure Services	Senior Manager: RTS	
SWM7	Stormwater By-Law 2020 S9	Instructing Land or Property Owners to implement Stormwater Management	Municipal Manager	Director: Infrastructure Services	Senior Manager: RTS	
SWM8	Stormwater By-Law 2020 S11	Instructing the demolishing of building or other structures to be removed	Municipal Manager	Director: Infrastructure Services	Senior Manager: RTS	
SWM9	Stormwater By-Law 2020 S13	Exempting certain requirements	Municipal Manager			
SWM10	Stormwater By-Law 2020 S14	Creating Community Liaison forums	Municipal Manager	Director: Infrastructure Services		

ANNEXURE C

STELLENBOSCH MUNICIPALITY
PROPOSED ADMISSION OF GUILT FINES
BY-LAW ON STORMWATER
Provincial Notice 8434 of 28 May 2021

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
Regulation 5(1) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Prohibited discharges: No person may discharge, permit, cause or allow to enter or place onto any substance other than stormwater, where that substance could reasonably be expected, or is likely, to find its way into the stormwater system, except in accordance with the prior written permission of the Municipality.	R1000	
Regulation 5(2) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	No person may permit, cause or allow any dirty, waste, swimming pool, infected or otherwise polluted water to flow from his premises into the stormwater system, with the exception of rainwater.	R500	
Regulation 6 (2) (a) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Measures to protect stormwater system: No person may adjust, alter, damage, endanger, destroy or undertake any action which may, or is likely to, damage, endanger or destroy, the stormwater system or the operation thereof, except in accordance with the prior written permission of the Municipality.	R2 000	
Regulation 6 (2) (c) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	No person may discharge, permit to enter or place anything likely to damage the stormwater system or interfere with the operation thereof or contaminate or pollute the water therein, except in accordance with the prior written permission of the Municipality.	R2 000	
Regulation 6 (2) (d) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	No person may construct or erect any structure or thing over or in such a position or in such a manner which may, or is likely to, interfere with, or endanger the stormwater system or the operation thereof, except in accordance with the prior written permission of the Municipality.	R2 000	

Regulation 6 (2) (e) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	No person may make an opening into a stormwater pipe, canal or culvert, except in accordance with the prior written permission of the Municipality.	R2 000	
Regulation 6 (2) (f) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	No person may drain, abstract or divert any water directly from the stormwater system, except in accordance with the prior written permission of the Municipality.	R2 000	
Regulation 6 (2) (g) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	No person may fill, excavate, shape, landscape, open up or remove the ground above, within, under or immediately next to any part of the stormwater system, except in accordance with the prior written permission of the Municipality.	R2 000	
Regulation 7(1)(a) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Sustainable urban drainage system: Failing to determine all floodlines which may impact on the development concerned and make available any floodline information that is on record on written request from the Municipality.	R500	
Regulation 7(1)(b) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to do planning and take flood attenuation measures before any development above an existing development or in a catchment area commences.	R 500	
Regulation 7(1)(c) (i) and (ii) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to make adequate provision for stormwater servitudes – (i) where overland flow can occur, either naturally or as a result of the development; Or (ii) when the minor stormwater system infrastructure is overloaded or rendered ineffective due to a block up.	R 500	
Regulation 7(1)(d) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to prevent concentration of stormwater runoff both spatially and in time wherever possible.	R 500	

Regulation 7(1)(e) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to manage steep slopes and soil profiles, where they occur, before, during and after construction.	R 500	
Regulation 7(1)(f) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to submit an application to the Municipality consisting of detailed plans to control and prevent erosion by water, prior to the commencement of any works, including site clearance on any portion of the site.	R 500	
Regulation 7(1)(g) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to ensure that vegetation cover is removed with care and with attention to the potential erosion impact.	R 500	
Regulation 7(1)(h) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Construct stormwater control systems before any construction on a site commences.	R 500	
Regulation 7(1)(i) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to monitor and adjust the stormwater control measures taken during the construction progress, to ensure complete erosion control and appropriate runoff control.	R 500	
Regulation 7(1)(j) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021	Failing to keep earthworks on site to an absolute minimum.	R 500	

<p>Regulation 7(1)(k) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021</p>	<p>Failing to design elements of developments so as not to impede the drainage process or cause a flood hazard by unsafely storing storm runoff on the property.</p>	<p>R 500</p>	
<p>Regulation 7(1)(l) RW Regulation 15(1),(a),(b) and (c) P.N.8434 of 28 May 2021</p>	<p>Failing to avoid concentration of flow onto downstream properties due to walls and fences around properties that cross natural drainage channels.</p>	<p>R 500</p>	

NAG = No Admission of Guilt fine allowed

7.6.4	APPROVAL OF THE MUNICIPALITY'S PARKING BYLAW – DELEGATIONS AND PROPOSED ADMISSION OF GUILT FINES
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Collaborator No: 733488
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 August 2022

1. SUBJECT: APPROVAL OF THE MUNICIPALITY'S PARKING BYLAW – DELEGATIONS AND PROPOSED ADMISSION OF GUILT FINES

2. PURPOSE

That Council considers and approves the Municipality's, Parking By-Law's, Delegations and Proposed Admission of Guilt Fines.

3. DELEGATED AUTHORITY

Municipal Council.

4. EXECUTIVE SUMMARY

Council had approved the Municipality's By-Law on Parking, following a public participation process and all relevant processes, on the 28 April 2021 (**ANNEXURE A**).

Under Section 59: Delegations of the Municipal Systems Act, Council is to approve the proposed delegations of powers in terms of this By Law to various key officials and incorporate these into the System of Delegations. A proposed set of delegations is shown under **ANNEXURE B**.

The fines schedule will assist the Municipality with the management and regulation of parking systems by allowing for penalties to be imposed for parking violations. A set of proposed Admission of Guilt Fines is attached as **ANNEXURE C**.

5. RECOMMENDATIONS

- (a) that the content of this report be noted,
- (b) that the set of delegations as proposed in **ANNEXURE B** be accepted and attached to the System of Delegations, and
- (c) that the proposed set of Admission of Guilt Fines (Attached as **ANNEXURE C**) be accepted as the fines to be sought from the Chief Magistrate for this By-Law.

6. DISCUSSION / CONTENTS

6.1 Background

Council had approved the Municipality's By-Law on Parking, following a public participation process and all relevant processes, on the 28th April 2021. (**ANNEXURE A**). The Municipality's By-Law on Parking is in the process of being promulgated.

6.2 Discussion

The By-Law on Parking enables the Municipality to manage parking systems in built-up areas and regulates activities which have a detrimental effect on the development, operation and maintenance of the parking system.

In order to give effect to section 44 of the By-Law a set of fines in terms of section 45 of the By-Law is proposed for consideration by Council. The proposal of fines is attached as **ANNEXURE C**.

The fines schedule will assist the Municipality with the management and regulation of parking systems by allowing for penalties to be imposed for parking violations. The proposed fines are attached as **ANNEXURE C**.

6.3 Financial Implications

There are no financial implications, other than an income generated through the issuing of fines, should the recommendations as set out in the report be accepted.

6.4 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation.

6.5 Staff Implications

None

6.6 Previous / Relevant Council Resolutions:

42nd COUNCIL MEETING: 2021-04-28: ITEM 11.5.6

RESOLVED (nem con)

- (c) that the Draft By-Law on Parking, attached as **ANNEXURE A**, be accepted Section 12(2) to 12(4) & 13; and
- (d) that Council notes that a public participation process was followed and considered the discussion on comments received.

6.7 Risk Implications

None

6.8 Comments from Senior Management:**6.8.1 Director: Infrastructure Services**

Agree with the recommendations

ANNEXURES**Annexure A: BY-LAW ON PARKING****Annexure B: PROPOSED SET OF DELEGATIONS****Annexure C: PROPOSED ADMISSION OF GUILT FINES****FOR FURTHER DETAILS CONTACT:**

<i>NAME</i>	Deon Louw
<i>POSITION</i>	<i>Director</i>
<i>DIRECTORATE</i>	<i>Infrastructure Services</i>
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<i>REPORT DATE</i>	<i>20 July 2022</i>

ANNEXURE A

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Definitions

1. (1) In this By-law, unless the context otherwise indicates:

“animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal, or reptile

which is in captivity or under the control of a person, or insects, such as, but not limited to, bees which are kept or are under the control of a person;

“approved” means approved by the Municipality, and “approval” has a corresponding meaning;

“authorised officer” means an inspector of licences, examiner of vehicles, examiner for driving licences, traffic warden or a traffic officer, and includes any other person appointed as an inspector of licences, examiner of vehicles, examiner for driving licences, traffic warden or a traffic officer in terms of section 3A of the National Road Traffic Act, 1996 (Act No. 93 of 1996), and includes any person nominated by any organisation and authorised by the Municipality;

“authorized official” means any employee of the Municipality who is acting within the scope of his or her duties on behalf of the Municipality and who is in uniform with a distinctive permit and appointment certificate of office;

“authorised person” means a person nominated by an organization and authorized by the Municipality;

“bridge” means a bridge, as contemplated in the National Road Traffic Act, 1996 (Act 93 of 1996);

“bus” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act 93 of 1996), to carry more than 34 persons, including the driver, and includes a bus train;

“bus stop” means a demarcated place or stand where passengers may board or alight from a bus, and which is distinguished by the appropriate traffic sign to indicate the type of bus or, where applicable, the name of the concern entitled to use the bus stop;

“bus train” means a bus which—

(a) consists of two sections that connect to form a unit;

(b) can swivel in a horizontal plane at the connections between such sections;

(c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and

(d) has a continuous passageway over its length;

“caravan” means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

“Chief Traffic Officer” means the Chief Traffic Officer of the Municipality to whom any function, power or duty has been delegated, and includes any other officer under his or her control;

“Municipality” means the Stellenbosch Municipality established by Provincial Notice 479 of 2000, and includes any political structure, political office bearer, duly authorised agent thereof or any employee acting in terms of delegated or sub-delegated authority; ;

“Parking card” means any document or card, irrespective of the form thereof, issued by the Municipality in order to be used as a method of payment for parking;

“permit/disc” means official document, whether electronic or not, which either by itself or in connection with any other thing entitles or purports to entitle the holder thereof to park any vehicle in a parking bay or parking ground, and includes any device approved by the Municipality from time to time;

“dealer” means a person who, for gain, carries on the business of selling, buying, exchanging or garaging vehicles;

“decal” means a colour-coded sticker or other means of identification issued by the Municipality to the holder of a taxi permit;

“driver” means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle and “drive” or any like word has a corresponding meaning;

“event” means—

(a) any sporting, recreational or entertainment event, including live acts;

(b) any educational, cultural or religious event;

(c) any business event, including marketing, public relations and promotional or exhibition events;

(d) any charitable event, including any conference, organizational or community event, or any similar activity hosted at a stadium, venue or along a route or its precinct that is planned, has a clear programme, control and accountability, but excludes an event hosted by a private person in his or her private capacity at any venue, or filming staged in terms of the by-law relating to Filming;

“footpath” means that portion or lateral extremities of the public road which, although not actually defined or made, is habitually used by pedestrians as a sidewalk;

“goods vehicle” means a motor vehicle, designed or adapted for the conveyance of goods on a public road;

“heavy motor vehicle” means a motor vehicle or a combination of motor vehicles the gross vehicle mass of which vehicle or combination of vehicles exceeds 3,500kg;

“holding area”, in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

“marshal” means a person who arranges passenger and vehicle-related procedures at taxi facilities;

“mechanically or otherwise controlled parking ground” means a parking ground to which entry is controlled by a mechanism, such as a boom, which opens or is manually opened on presentation of proof that any payment was or is to be made as determined by the Municipality in the annual schedule of tariffs;

“metered parking bay” means a parking bay in respect of which a parking meter has been installed or in respect of which a handheld device is used or electronic payment system has been implemented;

“metered parking ground” means a parking ground or any part thereof where parking is controlled by means of a parking meter or meters;

“midi-bus” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act 93 of 1996), to carry more than 16 but less than 35 persons, including the driver;

“mini-bus” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act 93 of 1996), to carry more than nine but not more than 16 seated persons, including the driver;

“minibus-taxi” means a motor car, a midi-bus or a mini-bus with an operating licence authorising it to operate an unscheduled public transport service on a specific route or routes, or where applicable, within a particular area;

“Minister” means the National or Provincial Minister of Transport;

“motor vehicle” means any self-propelled vehicle and—

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine, or motor, but does not include—

(i) a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) a vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

“operate”, in relation to a vehicle, means to use or drive a vehicle, or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road;

“operating license” means an operating licence contemplated by the National Land Transport Act, 2009 (Act 5 of 2009);

“operator” means a public transport operator, as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), being a person carrying on the business of a public passenger road transport service;

“organization” means a group of people, company, association or body representing parking marshals that operates a parking marshal service or a parking management service in certain geographical areas as approved by the Municipality;

“owner” in relation to a vehicle, means—

(a) the person who has the right to the use and enjoyment of a vehicle in terms of common law or a contractual agreement with the titleholder of such vehicle;

(b) a person referred to in paragraph (a), for any period during which such a person has failed to return that vehicle to the titleholder in accordance with the contractual agreement referred to in paragraph (a); and

(c) a person who is registered as such in accordance with regulations issued under section 4 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“park” means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle, and “parking” has a corresponding meaning;

“parking attendant” means a person rendering a parking service for his or her own account;

“parking marshals” means a person in the employ of an organization to render a parking management service to drivers in a public place or on a public road;

“parking bay” means a demarcated area within which a vehicle is to be parked in terms of this By-law, demarcated as such by the Municipality upon the surface of a parking ground or a public road;

“parking ground” means any area of land or any building set aside by the Municipality as a parking ground or garage for the parking of vehicles by members of the public, whether or not charges are prescribed by this By-law for the use thereof;

“parking meter” means a device commissioned in terms of this By-law, registering and visibly recording the parking time either by means of a meter affixed to the device, or on a parking meter ticket issued by the device, or any other device by which parking time can be recorded whether operated by an authorized official or a service provider approved by the Municipality;

“parking period” means the maximum continuous period during which a vehicle is permitted to park in a parking ground or parking bay as indicated by a road traffic sign;

“passenger” means any person in or on a vehicle, but does not include the driver or the conductor;

“pay-and-display machine” means any machine or device installed or operated at a pay-and-display parking ground for the sale of coupons;

“pay-and-display parking ground” means a parking ground in which a parking coupon must be obtained from a parking coupon vending machine which is situated in or in close proximity of the parking ground;

“pedal cycle” means any bicycle or tricycle designed for propulsion solely by means of human power;

“prescribed” means determined by resolution of the Municipality, and in relation to a fee, means as set out in the tariff policy of the Municipality;

“prescribed fee of the denomination indicated on the parking meter concerned and includes debit, credit or Municipality cards and any other method of payment as may be approved and prescribed by the Municipality from time to time;

“public place” means any square, park, recreation ground, sports ground, or open space which has—

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

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

(c) been used by the public without interruption for a period of at least 30 years; or

(d) at any time been declared or rendered as such by the Municipality or other competent authority;

“public road” means any road, street, cycle path, thoroughfare, parking ground, dedicated busway, parking bay or any other similar place, and includes—

- (a) the verge of any such public road;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such public road;
- (d) any other object belonging to such public road, which has at any time been—
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least 30 years;
 - (iii) declared or rendered as such by the Municipality or other competent authority; or
 - (iv) constructed by a local authority; and
- (e) any land, with or without buildings or structures thereon, which is shown as a public road on—
 - (i) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon; or
 - (ii) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor

General’s office, unless such land is on such plan or diagram described as a private public road;

“rank access token” means a colour-coded sticker or other means of identification issued by the Municipality to the holder of a valid operating licence;

“regulation” means a regulation under the National Road Traffic Act, 1996 (Act 93 of 1996);

“residence” means a building, or part of a building, that is—

- (a) fixed to land;
- (b) designed or approved by the Municipality, for human habitation by a single-family unit; and
- (c) used for residential purposes;

“semi-trailer” means a trailer having no front axle and so designed that at least 15% of its tare is super-imposed on and borne by the vehicle drawing such trailer;

“sidewalk” means that portion of a public road between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

“special parking place” means a rank, stand or bus stop established by the Municipality on a public road within the Municipality for the parking or standing of a taxi or a bus;

“stand” in relation to a bus, means the place where a bus route starts or ends;

“stop” in relation to a taxi stopping in a stopping place on a public road, means to keep a taxi, whether occupied or not, stationary for a period of time no longer that is reasonably necessary for the actual loading or off-loading of persons or goods, but does not include any such stopping by reason of a cause beyond the control of the driver of such taxi;

“stopping place” in relation to—

(a) a taxi, means the place designated by the Municipality where a taxi may stop to pick up or drop off passengers; and

(b) a bus, means a bus stop;

“tare” in relation to a motor vehicle, means the mass of such a vehicle ready to travel on a road and includes the mass of—

(a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;

(b) anything which is a permanent part of the structure of such vehicle;

(c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and

(d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of—

(i) fuel; and

(ii) anything attached to such vehicle which is not of the nature referred to in subsection (a) or (b);

“taxi” means a motor vehicle which plies for hire, is operated for reward, and includes—

(a) a mini-bus, a midi-bus, motor tricycle or motor quadricycle, and includes a minibus-taxi; and

(b) a metered taxi;

“taxi association” means a taxi association recognized as such by the Municipality and the Western Cape Provincial Government;

“taxi facility” means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designate by the Municipality for the exclusive use of taxis and, regarding a minibus-taxi making use of a bus stop in terms of section 5, includes a bus stop;

“taxi operator” means the person responsible for the use of a taxi, provided that in terms of Chapter IV of the National Road Traffic Act, 1996 (Act 93 of 1996), it means the person who has been registered as the operator of such vehicle;

“taxi rank” means a taxi facility identified by the Municipality where a taxi may stand to ply for hire or to pick up passengers for their conveyance for reward;

“temporary taxi facility” means a taxi facility contemplated in section 49(2);

“trailer” means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a sidecar fitted to a motorcycle;

“tri-cycle” means a three-wheeled cycle exclusively designed or prepared for the conveyance of goods and propelled solely by human power;

“verge” means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“vehicle” means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged, other than such a device which moves solely on rails.

(2) In this By-law, a word or expression that has been defined in the National Road Traffic Act, 1996 (Act 93 of 1996), has that meaning, unless the context otherwise indicates.

Purpose

2. The purpose of this By-law is to control parking within the area of jurisdiction of the Stellenbosch Municipality in order to provide a safe environment.

CHAPTER 1

GENERAL PROVISIONS RELATING TO PARKING

Part 1: General provisions

Control of parking

3. (1) Whenever the public or a number of persons are entitled or allowed to use, as a parking place, an area of land, including land which is not part of a public road or a public place, an authorised officer may, in cases of emergency or when it is desirable in the public interest, direct and regulate traffic thereon.

(2) The Municipality may manage parking and collect any fees related to parking or appoint a service provider to manage parking and to collect any fees related to parking.

(3) No person may without the prior written approval of the Municipality erect or place any sign or notice in any position or place indicating that parking in any parking bay is either reserved for a person or a class of persons.

(4) The Municipality may operate a parking management system in areas and during times determined by the Municipality from time to time.

(5) A person who disregards an instruction of an authorised officer in terms of subsection (1) or who erects or places a sign or notice in contravention of subsection (3) or who contravenes subsection (4) commits an offence.

Parking in a loading zone

4. (1) No person who operates or who is in charge of a vehicle on a public road may allow, subject to subsections (2) and (3), the vehicle to remain stationary in a loading zone—

(a) between the hours of 07:00 and 19:00 on Mondays to Saturdays,

(b) between the hours of 09:00 to 17:00 on Sundays, or

(c) between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.

(2) No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone, except while actually loading or off-loading goods and while a licensed driver is in attendance at the vehicle.

(3) No person who operates or who is in charge of a vehicle on a public road may allow a goods vehicle to remain stationary in a loading zone for more than 30 minutes continuously, except while the vehicle is being actually loaded or off-loaded.

(4) The driver of a vehicle, other than a goods vehicle, stationary in a loading zone must immediately remove the vehicle from the loading zone upon being directed to do so by an authorised officer (5) A person who contravenes a provision of this section commits an offence.

Parking at a bus stop or public transport facility

5. (1) No person who operates or who is in charge of a vehicle on a public road may—

(a) in the case of a vehicle other than a bus or a minibus-taxi, allow the vehicle to remain stationary at a bus stop or public transport facility;

(2) Subsection (1)(a) does not apply to a driver or person in charge of a vehicle who allows such vehicle to remain stationary at a bus stop where that bus stop is located in a driving lane of a public road, where the vehicle is kept stationary in order to comply with a traffic signal or for another reason linked to road safety; Provided that such driver or person in charge does not allow passengers to board or alight from the vehicle.

(3) A person who contravenes subsection (1) commits an offence.

Parking in a public road

6. (1) No person who operates or who is in charge of a vehicle on a public road may park the vehicle in any public road within the municipal area for a period beyond that indicated on a road traffic sign relevant to the specific area.

(2) No person may leave a vehicle in the same place in a parking bay for a continuous period of more than seven days.

(3) No person may park a heavy motor vehicle designed, adapted or used for the conveyance of goods anywhere in the municipal area, except on private land or in those areas where road traffic signs regulating such parking have been erected.

(4) No person who operates or who is in charge of a vehicle on a public road may park the vehicle in any public road causing obstruction or danger to other road users,

(5) No person who operates or who is in charge of a vehicle on a public road may park the vehicle on an area that is demarcated as a no-stopping area by means of a red line or no-stopping road sign, (6) A person who contravenes a provision of this section commits an offence.

Parking upon a traffic island

7. (1) No person may park a vehicle upon a traffic island, unless directed or instructed to do so by an authorised officer.

(2) A person who parks a vehicle upon a traffic island in contravention of subsection (1), or who fails to comply with a direction or instruction by an authorised officer commits an offence.

Parking by a dealer or seller of a vehicle

8. (1) No dealer or seller of a vehicle may park or allow to be parked on the verge of a public road within the municipal area a vehicle which is for sale or for rental, whether advertised as such or not.

(2) A dealer or seller who contravenes subsection (1) commits an offence.

Parking of a vehicle under repair

9. (1) No person responsible for the control of a business of recovering or repairing vehicles may park, cause or permit to be parked, in any public road or public place within the municipal area any vehicle that is in a state of disrepair, which has been placed in his or her charge in the course of the business of recovering or repairing.

(2) A person who contravenes subsection (1) commits an offence.

Parking of heavy vehicles and caravans

10. (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for the parking of heavy vehicles, park on a public road within the municipal area—

(a) a motor vehicle with a tare exceeding 3500 kg;

(b) a trailer not attached to a vehicle;

(c) a semi-trailer, or

(d) a caravan not attached to a vehicle.

(2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that the owner thereof has parked such vehicle, unless the contrary is proved.

(3) A person who contravenes subsection (1) commits an offence.

Exemption of medical practitioners from parking restrictions

11. (1) (a) Registered general medical practitioners to whom a permit/disc has been issued in terms of subsection (3)(a) are exempt from the provisions of this By-law, subject to paragraph (b), when using, on a bona fide professional domiciliary visit, a motor vehicle on which is displayed a permit/disc conforming with the requirements of subsection (2) issued to him or her by the Municipality.

(b) A person contemplated in paragraph (a) is not exempt from a provision prohibiting the stopping of a vehicle or the parking of a vehicle in a bus stop or across an entrance.

(2) (a) The permit/disc must be a windscreen sticker permit/disc displaying on the face thereof—

(i) a serial number; and

(ii) the name of the person to whom it is issued.

(b) The permit/disc must be displayed on the lower left corner of the windscreen and must have a pocket in which the person contemplated in subsection (1) inserts a white card showing the address at which the holder of the permit/disc is actually making a professional domiciliary visit at the time the motor vehicle to which it is affixed is parked, and the address shown on the card must be easily legible from outside the vehicle.

(c) The address referred to in paragraph (b) must be the same street or a street adjoining and in close proximity to the place where the vehicle is parked.

(3) (a) Written application for the issue of a permit/disc must be made to the Municipality and if the Municipality approves the application, it must issue a permit/disc bearing a registered serial number to the applicant.

(b) The Municipality must keep a register in which it records—

(i) The permit/disc issued by it;

(ii) the serial number allocated to a permit/disc; and

(iii) the name of the holder of a permit/disc.

(c) The Municipality may issue a duplicate permit/disc.

(d) Where the Municipality has reason to believe that any holder of a permit/disc is abusing a privilege conferred by the permit/disc it may withdraw the permit/disc from the holder and the privileges conveyed by the permit/disc shall thereupon cease.

(e) The Municipality may charge a fee for the issuing of a permit/disc or a duplicate thereof.

(f) The Municipality may prescribe the period for which a permit/disc will be valid.

(4) Application for a permit/disc must be made on a form provided for this purpose by the Municipality.

(5) A person who displays a forged permit/disc or a permit/disc which was not issued by the Municipality commits an offence.

Pick-up and set-down areas at schools

12.(1) The Municipality may by notice designate areas in the vicinity of schools and crèches as pick-up and drop-off, kiss and ride areas.

(2) No person may park in a pick-up and drop-off, kiss and ride area's for any longer that necessary to pick-up or drop-off learners.

(3) A person who contravenes subsection (2) commits an offence.

Outspanning in public roads

13. (1) No person may outspan or allow to be outspanned in any public road or public place any vehicle drawn by animals, or detach or leave in any public road or public place any trailer, caravan or vehicle which is not self-propelled, however, this provision does not apply when such vehicle is being loaded or off-loaded.

(2) A person who contravenes subsection (1) commits an offence.

Part 2: Parking permits

Resident parking permit

14. (1) Subject to any conditions the Municipality may impose and subject to section 17(1) and (2), a resident parking permit may be granted to persons—

(a) who reside in a residence—

(i) situated on a section of road in circumstances where parking immediately adjacent to the residence is regulated by time;

(ii) in circumstances where not more than one person who resides in the residence is the holder of a current permit; and

(iii) situated on a section of road in circumstances where the issue of the permit would not unduly impede the flow of traffic either on the road or in the area; and

(b) whose residence does not have and cannot reasonably provide off-street parking.

(2) Subject to any conditions the Municipality may impose and subject to section 17(1) and (2), a resident parking permit may be granted to persons—

(a) who reside in a residence that is situated in an area that is in the vicinity of a sports stadium, field or facility, or any field or facility where an event is hosted; and

(b) in circumstances where such an area is cordoned off or declared a zone where access is denied to vehicles, to enter and park a vehicle in such area, cordoned off or declared zone.

(3) A person who parks a vehicle in contravention of subsection (1) commits an offence.

Temporary parking permit

15. (1) Subject to any conditions the Municipality may impose and subject to section 17(1), a temporary parking permit may be granted to allow the holder of the permit to park one or more vehicles in a designated parking space for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space.

(2) A temporary parking permit may only be granted if the Municipality is satisfied that—

(a) the applicant is engaged in some temporary activity affecting premises immediately adjacent to the designated parking space to which the application relates; and

(b) it is not reasonably practical for the applicant to carry out that activity unless the designated parking space to which the application relates are allocated to the exclusive use of the applicant for the duration of the activity at the approved council tariffs.

(3) A person who parks a vehicle in contravention of subsection (1) commits an offence.

Work zone permit

16. (1) Subject to any conditions the Municipality may impose and subject to section 17(1) and (3), a work zone parking permit may be granted for driving, parking or building or construction purposes in a parking bay or parking ground or on the verge of a road or elsewhere on a public road if the Municipality is satisfied that—

(a) the part of the road or other area referred in subsection (1) to which the application relates is adjacent to or at the site of proposed building, construction or other work; and

- (b) the carrying out of the building, construction or other work is lawful; and
 - (c) having regard to the nature of the building, construction or other work and the characteristics of the site of the work, it is not reasonably practical for all work activity involving the vehicle, including loading and off-loading and associated vehicle movements, to be confined within the site, or to areas within close proximity where parking is permitted.
- (2) Holders of work zone permits may only use such permits for the parking of any vehicle in the execution of their duties at the approved council tariffs.
- (3) A person who parks a vehicle in contravention of subsection (1) or who uses a work zone permit whilst not executing his or her duties commits an offence.

Municipal works parking permit

17. (1) Subject to any conditions the Municipality may impose and subject to section 18(1), a municipal works parking permit may be granted to allow a person to park one or more vehicles in a designated parking space, and for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space if the person is—

- (a) an employee, contractor or agent of the Municipality; and
- (b) parking the vehicle or vehicles in the space—
 - (i) for the purpose of carrying out work for or on behalf of the Municipality; and
 - (ii) in the course of carrying out his or her duties for or on behalf of the Municipality.

Conditions and originality of parking permits

18. (1) (a) The holder of a parking permit must affix the original permit on the windshield of the vehicle identified in the permit facing outwards, and as near as practicable to the registration label for the vehicle.

(b) The Municipality may only issue a replacement permit after the permit holder has declared the facts and circumstances of a loss, destruction or damage of the original permit to the satisfaction of the Municipality.

(2) (a) A resident parking permit must be used only in respect of the parking of a vehicle at the location identified in the permit which must be—

- (i) the road adjacent to the place of residence identified in the permit; or
- (ii) the one or more segments of road in close proximity to the place of residence identified in the permit; and

(b) The holder of a resident parking permit must only use the permit whilst the holder remains a resident at the place of residence identified in the permit.

(c) A resident parking permit is not specific to any particular vehicle.

(d) The Municipality may only issue a maximum of one parking space per residence.

- (3) (a) A work zone permit must specify the part of the road to which the permit relates.
- (b) The holder of a work zone permit must pay the prescribed fee, as determined by the Municipality, for the installation of official traffic signs, or other signs and markings to identify the boundaries of the work zone identified in the permit.
- (c) No person may be stack, place or otherwise leave materials of any kind on the road or footpath within or outside of a work zone.
- (d) No person may park, and load or off-load a vehicle or carry out any other operation in a manner which obstructs pedestrian movement along a footpath within or adjacent to a work zone.
- (e) The holder of a work zone permit must keep the permit on site and produce upon request by an authorised officer.
- (4) No person to whom a permit has been granted in terms of sections 13, 14, 15 and 16 may stop, park or leave a vehicle at any time in a designated parking space unless the vehicle displays an original parking permit.
- (5) Any person who contravenes any provision of this section, or who displays a copy of a parking permit commits an offence.

Reserved parking for the disabled, diplomatic corps, South African Police Services and other identified groups

19. (1) The Municipality may reserve parking areas for the disabled, diplomatic corps, South African Police Services and any other groups identified by the

Municipality, and may designate such areas by notice or road signage and may impose conditions appertaining to the issue of special parking facility permits.

(2) No person may stop, park or leave a vehicle at any time in any designated parking space other than a vehicle displaying a designated parking permit.

(3) Any person who contravenes subsection (2) commits an offence.

CHAPTER 2

PAYMENT FOR PARKING

The installation of parking management devices or use of any other device to record the time parked

20. (1) The Municipality may install or cause to be installed or operate or cause to be operated in a public road or place in the municipal area—

- (a) a parking management device at a parking space demarcated as a parking bay;
- (b) a combined parking management device at a parking space demarcated as parking bays; or
- (c) any other device by which parking time can be recorded and displayed.

(2) The Municipality may install or operate a parking management device contemplated in subsection (1) upon the kerb, footpath or sidewalk which adjoins the parking bay in respect of which it is installed or at any other place in close proximity that serves the parking bay.

Method of parking

21. (1) No driver or person in charge of a vehicle may park the vehicle—

- (a) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay;
- (b) in a parking bay which is already occupied by another vehicle; or
- (c) in a parking bay in contravention of a road traffic sign which prohibits the parking or stopping of vehicles in the public road or portion of the public road concerned.
- (d) In the verge or in an area where parking is prohibited.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

Payment for parking

22. (1) (a) When a vehicle is parked in a parking bay, the driver or person in charge of the vehicle must—

(i) immediately inform the parking marshal which manage the parking bay in respect of the time period which he or she desires to park his or her vehicle in the bay, and must, where applicable, set the device in operation either by inserting the prescribed time period in the appropriate parking device, or where applicable, in accordance with the instructions appearing on the parking device; or

(ii) effect payment by any other means prescribed by the Municipality irrespective of the device used to record the time parked and irrespective of whether payment is required at the beginning or end of the period so parked, and a driver or person in charge of a vehicle who fails to do so, commits an offence.

(b) When a vehicle or a vehicle and a trailer is of such dimensions that it occupies more than one metered parking bay, the driver or person in charge of the vehicle must—

(i) immediately deposit or cause to be deposited in the parking device which adjoin the parking bays in respect of which they are installed the prescribed fee as indicated on the device for the period of time during which he or she desires to park his or her vehicle in the bays, and must, where applicable, set the device in operation either by inserting the prescribed time in the parking device, or where applicable, in accordance with the instructions appearing on the parking signage; or

(ii) effect payment by any other means prescribed by the Municipality irrespective of the device used to record the time parked and irrespective of whether payment is required at the beginning or end of the period so parked, and a driver or person in charge of a vehicle who fails to do so, commits an offence.

(c) On completion of the actions prescribed in paragraphs (a) and (b), the metered parking bay may be lawfully occupied by a vehicle during the period which is indicated on the parking meter.

(d) A driver or person in charge of a vehicle may not utilise a parking bay without payment,

(e) Subsection (d) does not apply to any parking bay where unexpired time is not visibly displayed.

(3) No person may leave a vehicle parked in a parking bay for a continuous period exceeding the maximum permissible parking time as indicated on the device, and a person who leaves a vehicle parked in a parking bay for a continuous period exceeding the maximum permissible parking time as indicated on the sign or device, commits an offence.

(4) Subject to the provisions of section 14, no driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in a parking bay while the indicator of the parking device shows that—

(a) the time has expired; or

(b) that the parking device has not been set in operation either by the insertion of the prescribed time or, where applicable in accordance with the instructions appearing on the parking device,

and a driver or person in charge of a vehicle who contravenes a provision of this subsection commits an offence.

(5) Subject to subsection 1(a), where a parking meter cannot be set in operation despite compliance or attempted compliance with the procedure prescribed in subsection (1)(a)(i), no driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in the parking bay for a continuous period exceeding the period which was indicated by the indicator of the parking device when such vehicle was parked in the said parking bay, however if—

(a) the indicator shows that—

(i) the time has expired;

(ii) the parking device has not been set in operation; or

(b) a hood has been placed over the parking device as envisaged in section 19(4), no driver or person may cause, allow, permit or suffer the vehicle to be or remain parked in the parking bay, and a driver or person in charge of a vehicle who contravenes a provision of this subsection commits an offence.

Prevention of parking at a parking bay

23. An authorised official may display road traffic signs whenever necessary or expedient to do so in the interests of the movement or control of traffic, place or erect a traffic sign or signs indicating “No Stopping” or “No Parking” at a parking bay, and no person may stop or park a vehicle or cause or permit a vehicle to be stopped or parked in such parking bay—

(a) while the sign is so placed or erected; or

(b) during any period when the stopping or parking of a vehicle in the public road or portion of the public road concerned is prohibited in terms of such traffic sign, and a person who contravenes a provision of this section commits an offence.

Tampering with a parking device

24. (1) No person may—

(a) misuse, damage, knock interfere with or tamper with;

(b) attempt to misuse, damage, knock interfere with or tamper with, the working operation or mechanism of a parking device.

(2) No person may, without authority from the Municipality and subject to any other by-law of the Municipality, affix or attempt to affix or place a placard, advertisement, notice, list, document board or thing on a parking device.

(3) No person may paint, write upon or disfigure a parking device.

(4) No person may, without the consent of a parking marshal, remove or tamper with any device from the possession of such parking marshal.

(5) A person who contravenes a provision of this section commits an offence.

Unlawful operation of a parking device

25. (1) No person may operate or attempt to operate a parking device by any means other than as prescribed in this By-law.

(2) A person who contravenes subsection (1) commits an offence.

Unlawful parking and clamping or removal of unlawfully parked vehicles

26. (1) No person may cause, allow, permit or suffer any vehicle to be parked in a parking bay, except as permitted by the provisions of this By-law.

(2) Where any vehicle is found to have been parked in contravention of this By-law, it is deemed to have been parked, or caused to be parked, or allowed to have been parked by the person in whose name the vehicle is registered unless and until he or she adduces evidence to the contrary.

(3) The Municipality may—

(a) attach a wheel clamp to any unlawfully parked vehicle;

(b) Instruct traffic officials appointed by the Municipality to attach a wheel clamp to any unlawfully parked vehicle;

(c) or cause an unlawfully parked vehicle to be removed to a place designated by the Municipality; and

(d) charge a fee for the removal of a wheel clamp attached in terms of subsection (3)(a) or the release of a vehicle which was removed in terms of subsection (3)(b), which fees will be payable upon removal of such wheel clamp or release of such vehicle.

(4) A person who contravenes subsection (1) commits an offence.

Exemptions

27. (1) Notwithstanding any other provision in this By-law, the driver or person in charge of the following vehicles may, subject to the provisions of this section, park in a metered parking bay without payment of the prescribed fee:

(a) a vehicle used as an ambulance and being at the time used to attend to a life-threatening situation;

(b) a vehicle used by a fire brigade for attendance at fires and being at the time used by the brigade in attending to a fire; and

(c) a vehicle used by a member of the South African Police Service, the Traffic Service, the Law Enforcement, service providers identified by the municipality or any other division within the Municipality and being at the time used in connection with doing an operational function that is either in progress, an emergency or scheduled or with the collection or protection of evidence in the aftermath of a crime.

(2) Subject to any time limits or restrictions regarding the stopping or parking of vehicles as are prescribed by any other law, regulation or by-law, a parking bay may be occupied without charge during the hours indicated by the Municipality on a sign erected for that purpose.

(3) A person who contravenes subsection (2) commits an offence.

CHAPTER 3

PARKING GROUNDS

Part 1: General provisions

The Municipality is not liable for loss or damage

28. The Municipality is not liable for the loss of or damage howsoever caused, to any vehicle or person or any accessories or contents of a vehicle which has been parked in a parking ground.

Interference with authorised officials, authorised officers and parking marshals

29. (1) No person may obstruct, hinder or in any manner interfere with an authorised official, authorised officer or a parking marshal in the performance of his or her duties under this By-law.

(2) A person who contravenes subsection (1) commits an offence.

Payment of prescribed fee

30. (1) A person making use of a parking ground or parking bay must, where fees have been determined in respect of the parking ground or parking bay, pay the prescribed fee in any way or format prescribed by the Municipality.

(2) The Municipality may in respect of a parking ground controlled by the issue of permit/disc, issue at the prescribed fee a coupon which entitles the holder for one calendar month or any lesser period stated in the permit/disc to park a vehicle in the ground, if a parking bay is available, at the times stated in the permit.

(3) The Municipality may issue to any of its officials a permit/disc which entitles the holder, when using a vehicle regarding the business of the Municipality, to park the vehicle in a parking ground specified, or any parking owned by the Municipality if space is available.

(4) A permit/disc issued under subsection (2) or (3)—

(a) may not, without the prior written consent of the Municipality—

(i) be transferred to any other person; or

(ii) be used in respect of any vehicle other than the specified vehicle;

(b) must be affixed by the holder of the permit/disc to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the permit/disc is readily legible from the outside of the vehicle; and

(c) will only be valid for the period stated on such permit/disc.

(5) Application for consent contemplated in subsection (4)(a) must be made on a form provided for this purpose by the Municipality.

(6) A person who contravenes subsection (1), or who uses a parking ground or parking bay when the period for which a permit/disc was issued in terms of subsection (2) has lapsed, or who contravenes a provision of subsection (4) commits an offence.

Observance of signs

31. (1) A person in a parking ground must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground.

(2) A person who contravenes subsection (1) commits an offence.

Manner of parking and removal of vehicle

32. (1) No person may in any parking ground park a vehicle otherwise than in compliance with an instruction or direction given by an authorised official or as indicated by way of a sign, or introduce or remove a vehicle otherwise than through an entrance or exit to the parking ground demarcated for that purpose.

(2) Where parking bays have been demarcated in a parking ground, no person having control or charge of a vehicle may park the vehicle—

(a) in a place on the parking ground, which is not a demarcated parking bay, unless instructed to do so by the authorised official or marshal at the parking ground;

(b) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay; or

(c) in a parking bay which is already occupied by another vehicle.

(3) No person may park a vehicle on a roadway within a parking ground or on a sidewalk or in a manner restricting pedestrian movement on a sidewalk.

(4) No person may in a parking ground park a vehicle in a manner which obstructs or inconveniences other users of the parking ground.

(5) No person may park, or cause, or permit a vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), to be parked or to be or remain in a parking ground.

(6) A person who contravenes a provision of this section commits an offence.

Abandoned vehicle

33. (1) The Municipality may remove to the Municipality's pound, a vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days.

(2) The Municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of subsection (1), and if the owner of the vehicle or the person entitled to possession of the vehicle cannot be found within a period of 90 days after the vehicle has been removed, the Municipality may, subject to subsection (3) and sections 59 and 60, sell the vehicle at a public auction.

(3) The Municipality must, 14 days before the auction contemplated in subsection (2), publish or cause to be published in at least two newspapers circulating within the municipal area, a notice of the auction, however, if the owner or the person entitled to possession of the vehicle claims the vehicle before the auction commences, the vehicle may not be sold at the auction, and the person must pay to the Municipality all prescribed fees payable in terms of this By-law and the applicable costs in terms of subsection (4).

(4) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (3) and thereafter to defray the following:

- (a) the costs incurred in endeavouring to trace the owner in terms of subsection (2);
- (b) the costs of removing the vehicle;
- (c) the costs of publishing the notice of the auction;
- (d) the costs of effecting the sale of the vehicle;
- (e) the costs, calculated at a rate determined by the Municipality, of keeping the vehicle in the pound;
- (f) the parking fees applicable for having left the vehicle in the parking ground as contemplated in subsection (1); and
- (g) any unpaid parking fees or unpaid traffic fines or unpaid licence fees in respect of such vehicle and the balance, if any, of the proceeds must be paid, upon claim, to the owner of the vehicle or the person entitled to the vehicle if he or she can prove his or her right to the vehicle.

(5) If no claim is established within one year of the date of the sale, the balance of the proceeds contemplated in subsection (4) is forfeited to the Municipality.

(6) No person may leave a vehicle in the same place in a parking ground for a continuous period of more than seven days, and a person who does so commits an offence.

Damage to notices

34. (1) No person may remove, mutilate, obscure or in any manner damage or interfere with a notice, noticeboard, sign or other thing placed by the Municipality on a parking ground.

(2) A person who contravenes subsection (1) commits an offence.

Negligent and dangerous driving and speed restriction

35. (1) No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.

(2) The Municipality may by sign indicate the maximum speed that may be travelled in a parking ground.

(3) A person who contravenes subsection (1) and a person who exceeds the maximum speed prescribed in terms of subsection (2), commits an offence.

Entering or remaining in parking ground

36. (1) No person may enter, remain or be on a parking ground otherwise than for the purpose of parking on the parking ground a vehicle, or lawfully removing from the parking ground a vehicle, in respect of which he or she has paid the prescribed parking fee, however this section does not apply to—

- (a) a person in the company of a person who is parking or removing a vehicle;

(b) officials of the Municipality engaged in official activities or on instruction from the Municipality; and

(c) a person employed by an appointed parking management service provider engaged in the execution of his or her duties.

(2) A person who contravenes subsection (1) commits an offence.

Tampering with vehicle

37. (1) No person may, on a parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle, or set the machinery of the vehicle in motion.

(2) A person who contravenes subsection (1) commits an offence.

Defacing permit disc

38. (1) No person may, in a parking ground with intent to defraud the Municipality, forge, imitate, deface, mutilate, alter or make a mark upon a parking permit disc issued in terms of this By-law.

(2) A person who contravenes subsection (1) commits an offence.

Defective vehicle

39. (1) No person may park, or cause, or permit a vehicle which is mechanically defective or for any reason incapable of movement, to be parked or to remain in a parking ground not exceeding seven days.

(2) If a vehicle, after having been parked in a parking ground, develops a defect which renders it to be immobile, the person in charge must take all reasonable steps to have the vehicle repaired if minor emergency repairs can be effected, or removed within a reasonable time of seven days.

(3) A person who contravenes subsection (1) or subsection (2) commits an offence.

Cleaning of vehicle

40. (1) No person may, without the prior approval of the Municipality, clean or wash a vehicle in a parking ground or parking bay.

(2) A person who contravenes subsection (1) commits an offence.

Refusal of admission

41. (1) An authorised official may refuse to admit into a parking ground a vehicle which, together with its load, is longer than five metres, or is, by reason of its width or height, likely to cause damage to persons or property, or to cause an obstruction or undue inconvenience.

(2) A person who disregards an authorised officer's refusal of admission commits an offence.

Parking hours and classes of vehicles

42. (1) The Municipality may, subject to the provisions of this By-law, permit the parking on a parking ground during the hours when the parking ground is open for parking of such classes of vehicles as it may determine.

(2) The Municipality must, in a notice posted at the entrance to the parking ground, set out the classes of motor vehicles which may be parked in the parking ground, and the opening and closing hours of the parking ground.

(3) The Municipality may, notwithstanding a notice posted in terms of subsection (2), by notice exhibited on a parking ground, close the parking ground or a portion of a parking ground, either permanently or for a period stated in the notice, for the parking of vehicles.

(4) No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed under subsection (3), or at any time other than during the hours for the parking of vehicles on the parking ground as determined by the Municipality from time to time.

(5) No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice erected at the entrance to the parking ground.

(6) No person may, unless he or she is the holder of a parking permit disc issued in terms of this By-law authorising him or her to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.

(7) A person who contravenes subsection (4), (5) or (6) commits an offence.

Reservation by the Municipality

43. (1) The Municipality may, by notice exhibited in the parking ground, reserve a portion of a parking ground for the parking of vehicles owned by the Municipality or vehicles used by members of its staff on the business of the Municipality.

(2) A person who parks a vehicle in a portion reserved for the parking of vehicles owned by the Municipality or for members of the Municipality's staff commits an offence.

Part 2: Mechanically controlled parking ground

Parking of a vehicle in a mechanically or otherwise controlled parking ground

44. (1) Subject to section 2, a person who—

(a) wishes to park a vehicle;

(b) causes or permits a vehicle to be parked; or

(c) allows a vehicle to be parked, in a mechanically or otherwise controlled parking ground must, when entering the parking ground and after the vehicle has been brought to a standstill and in accordance with the instructions which are displayed on or near the parking coupon vending machine, obtain a parking coupon which is issued by the machine.

(2) A person contemplated in subsection (1) may not park a vehicle—

(a) except in a parking bay and in compliance with such directions as may be given by an authorised official /marshal or where no such bay has been marked, except in a place indicated by the authorised official or marshal;

(b) after an authorised official or marshal has indicated to the person that the parking ground is full;

(c) after the expiry of the parking period indicated on the parking coupon; or

(d) for a longer period than indicated as indicated by sign.

(3) A parking coupon obtained in terms of subsection (1) is valid until the time of expiry thereof as indicated on the coupon, and a person may not allow the vehicle to remain in the parking ground after expiry of the parking period, provided that the Municipality may implement a system where payment is required at the end of the parking period.

(4) A person who does not obtain a coupon in accordance with subsection (1) or who contravenes subsection (2) or (3) commits an offence.

Removal of a vehicle from a mechanically or otherwise controlled parking ground

45. (1) No person may remove, or cause or permit the removal of, a vehicle in a parking ground, unless—

(a) he or she has produced to the authorised official/marshal a coupon authorising him or her to park in the parking ground and which was issued to him or her by the parking coupon vending machine upon entering the parking ground; and

(b) he or she has paid to the authorised official/marshal the prescribed parking fee.

(2) If a person fails to produce a coupon authorising him or her to park in the controlled parking ground, he or she is deemed to have parked the vehicle from the beginning of a period that the ground is open for parking until the time he or she wants to remove the vehicle, and he or she shall be charged a fee as determined by the Municipality from time to time.

(3) A person may not, after he or she fails to produce a coupon, remove, or cause, or permit the removal of a vehicle parked in the parking ground until he or she has produced other proof to an authorised official of his or her right to remove the vehicle, and the authorised official—

(a) must require the person to produce proof of identity and complete and sign an indemnity form as supplied by the Municipality, which form has the effect of indemnifying the Municipality against claims of whatever nature by a person relating to the removal of that vehicle; and

(b) may require the person to furnish such security as may be determined by the Municipality.

(4) Subsection (1)(a) does not apply where the prescribed parking fees were paid upon entering the parking ground and the person who paid such fees produces the required coupon to the authorised official or marshal on demand.

(5) Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as may be determined by the Municipality is payable for the next parking period.

(6) A person who contravenes subsection (1), or who removes, or causes, or permits the removal of a vehicle in contravention of subsection (3), or who does not comply with a request made by an authorised official in terms of subsection (3)(a) or (b) commits an offence.

Part 3: Pay-and-display parking ground

Parking of a vehicle in a pay-and-display parking ground

46. (1) A person who—

(a) wishes to park a vehicle;

(b) causes or permits a vehicle to be parked; or

(c) allows a vehicle to be parked, in a pay-and-display parking ground must immediately, upon entering the parking ground, buy, in accordance with the instructions which are displayed on or in the vicinity of the parking coupon vending machine in the parking ground, a coupon which is issued by the machine, and a person who does not comply with this subsection commits an offence.

(2) The following must be indicated on the parking coupon vending machine:

(a) the period during which a vehicle may be parked in the pay-and-display parking ground; and

(b) the prescribed manner of payment to be used in respect of the parking period into or in connection with the pay and display machine.

(3) The person must display the coupon by affixing it to the inside on the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the coupon by the pay-and-display machine is readily legible from the outside of the vehicle.

(4) No person may allow a vehicle to remain in a pay-and-display parking ground after the expiry of the departure time indicated on the parking coupon and, unless evidence to the contrary is produced, the date or day and time of departure as recorded by a parking coupon vending machine is taken, on the face of it, to be correct evidence of date or day and time.

(6) If a vehicle is removed from a pay-and-display parking ground and returned to the pay-and-display parking ground within the period of validity of the parking coupon, the coupon continues to be valid.

(7) Possession of a valid parking coupon in respect of a vehicle not within a parking bay does not guarantee the availability of a vacant parking bay.

(8) A person who contravenes subsection (3), (4) or (5) commits an offence.

Miscellaneous offences in respect of a pay-and-display parking ground

47. A person commits an offence if he or she—

(a) attempts to utilise counterfeit coupon into a parking coupon vending machine—

(i) a counterfeit method of payment;

(ii) where another kind of object is to be used, a false object;

(iii) a object which is not prescribed by the Municipality; or

- (iv) any object which is not meant to be inserted into the parking coupon vending machine;
- (b) jerks, knocks, shakes or in any way interferes or tampers with, or damages, or defaces a parking coupon vending machine or appurtenance thereto, or affix or attempt to affix or place a sign, placard, advertisement, notice, list, document, board or thing on, or paint, write upon or disfigure a parking coupon vending machine; or
- (c) removes or attempts to remove a parking coupon vending machine or any part of the machine from its mounting.

CHAPTER 4

TAXIS AND BUSES

Part 1: Special parking places for taxis

Establishment of special parking places for taxis and taxi rank permits for these special parking places.

48. (1) The Municipality may, subject to any other by-law of the Municipality relating to taxis, establish special parking places for use by taxis or the parking of a taxi belonging to a person to whom a rank access token to use the parking place or to park a taxi has been issued.

(2) A rank access token may be issued allocating a particular special parking place or subdivision of a special parking place to a particular person or motor vehicle for his, her or its exclusive use.

(3) If no space is available in a special parking place at any particular time for the parking of a taxi by a rank access token holder or for a taxi to which the rank access token relates, the taxi must be parked at a holding area specified by a duly appointed marshal operating at the special parking place, as contemplated in section 49, until the marshal or any other duly appointed person summons and permits the person to park the taxi at the special parking place.

(4) No person or motor vehicle other than the person or motor vehicle referred to in subsection (2) may, except by virtue of a rank access token, use or be parked at the special parking place or its subdivision, and a person who contravenes this provision, or a person who parks a motor vehicle at a holding area other than the one contemplated in subsection (3) commits an offence.

Taxi parking

49. (1) A driver may, subject to subsection (2) and section 48 and subject to any other by-law of the Municipality relating to taxis—

(a) park a taxi at a special parking place or taxi holding area only and only for the purpose of conducting business directly related to the taxi; or

(b) apply for hire or pick up or drop off passengers only at a special parking place or a taxi stopping place provided.

(2) In emergencies or at recreational and other similar functions, the Municipality may set aside temporary taxi facilities identified by the Chief Traffic Officer as suitable for the parking and stopping of taxis.

(3) A person who contravenes subsection (1), or who parks or stops a taxi at a place other than a temporary taxi facility contemplated in subsection

(2) commits an offence.

Use of taxi ranks

50. (1) Subject to any other by-law of the Municipality relating to taxis, a driver—

(a) may, subject to subsection (3), park a taxi at the taxi rank specified on the rank access token issued with respect to that taxi, if space is available and only for the purpose of conducting business directly related to the taxi; and

(b) must, if no space is available, remove and park the taxi at a holding area in accordance with the provisions of section 48.

(2) The driver must, when plying for hire at a taxi rank, do so in a queue and must—

(a) position his or her taxi in the first vacant place available in the queue immediately behind any other taxi already in front; and

(b) move his or her taxi forward as the queue moves forward.

(3) When plying for hire at a taxi rank, a driver—

(a) of any taxi which occupies the first, second or third position from the front of any queue at a rank must be in close and constant attendance of his or her taxi so long as it remains in such a position;

(b) may not position his or her taxi ahead of any taxi that arrived and took up a position in the queue before he or she did; and

(c) may, if his or her taxi is the first taxi in the queue, and any person calls for a taxi, respond to the call, unless the person clearly indicates his or her preference for a taxi not in front of the queue.

(4) No person may park or stop a taxi which is not in good working order as required by the Act, in a taxi rank, or cause or permit the taxi to remain in a rank.

(5) No person may park a vehicle or allow a vehicle to remain stationary in a taxi rank except a taxi in possession of a valid operating licence and for which a rank access token, specifying the rank, has been issued for the year in question, as contemplated in this Part of Chapter 4.

(6) A person who contravenes a provision of this section commits an offence.

Prohibition on parking of a taxi at no-stopping place

51. No taxi driver may park a taxi at a no-stopping place, and a taxi driver who does so, commits an offence.

Servicing and washing taxis at taxi facilities

52. (1) No person may repair or maintain any motor vehicle at a taxi facility.

(2) No person may wash any motor vehicle at a taxi facility, except at a wash bay at the facility that has been specially constructed for this purpose.

(3) A person who contravenes a provision of this section commits an offence.

Behaviour prohibited at a taxi rank

53. A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this By-law and may be removed from a queue, taxi rank or the vicinity of a taxi facility by any authorised official.

Part 3: Bus facilities and permits, and operation of buses

Establishment of bus facilities

54. The provisions of section 48(1),(2) and (3) apply, with the necessary changes, to buses.

Distinguishing bus stops

55. (1) Each bus stop must be distinguished by the appropriate traffic sign to indicate the type of bus or minibus-taxi or, where applicable, the name of the concern entitled to use the bus stop.

(2) The Municipality may demarcate bus stops for tour buses.

Destination signs and stopping or parking at bus stops

56. (1) No driver or person in charge of a bus or minibus-taxi may park such vehicle at any bus stop or allow such vehicle to be parked at any bus stop.

(2) No driver or person in charge of a minibus-taxi may stop or park such vehicle or allow such vehicle to be stopped or parked at any bus stop demarcated for tour buses.

(3) No driver or person in charge of a bus or minibus-taxi may park such vehicle at any bus stop or utilise such stop as an overnight facility.

(4) A driver or person in charge of a bus or minibus-taxi must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed at a bus stop.

(5) Where a traffic sign identifying a bus stop or another sign displayed at the bus stop indicates the name of a concern, no driver or person in charge of a bus or minibus-taxi operated by or on behalf of a concern other than the concern indicated on the sign may stop such vehicle or allow a passenger to board or alight from the vehicle at such bus stop.

(6) A driver or person in charge of a bus must ensure that a destination sign is displayed in the bus.

(7) No driver or person in charge of a bus or minibus-taxi may allow the engine of such bus which is allowed to stop at any bus stop to run for more than 20 minutes after it came to a stop.

(8) A person who contravenes a provision of this section commits an offence.

CHAPTER 5

MISCELLANEOUS PROVISIONS

Obeying and interfering with an authorised official

57. (1) An authorised official may direct all traffic by means of visible or audible signals, and no person may disobey such signals.

(2) No person may obstruct, hinder, abuse or interfere with any authorised official in the exercise of the power referred to in subsection (1).

(3) A person who contravenes a provision of this section commits an offence.

Appeal

58. (1) A person whose rights are affected by a decision made under this By-law and in the event of the power or duty to make that decision is delegated or sub-delegated to the decision-maker, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

(2) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(3) When the appeal is against a decision taken by—

(a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority; or

(b) the Municipal Manager, the Executive Mayoral Committee is the appeal authority.

(4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

Sale of impounded vehicles

59. (1) The Municipality must—

(a) within 14 days of the impounding of a vehicle, apply to the Court or Municipal Court for authority to sell the vehicle; and

(b) in the application contemplated in paragraph (a), provide the Municipal Court or Court with proof that he or she has lodged a statement as contemplated in subsection (2) with the owner.

(2) The statement contemplated in subsection (1)(b) must include the fees and costs due in terms of this By-law.

Procedure to be followed in application to Court or Municipal Court

60. An application to Court or Municipal Court for the sale of an impounded vehicle in terms of this By-law, must comply with the procedure contemplated in section:

66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court, made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

Compliance notices and the recovery of costs

61. (1) Notwithstanding any other provision of this By-law, the Municipality may—

(a) where the permission of the Municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and

(b) where any provision of this By-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the Municipality may require to rectify such contravention within the period stated in such notice.

(2) Any person who fails to comply with a notice in terms of subsection (1) commits an offence, and the Municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

Presumptions

62. (1) For the purpose of this By-law, the person in whose name a vehicle is licensed and which is parked in a parking ground, is deemed to be the person having control or charge of the vehicle, unless and until he or she adduces evidence to the contrary.

(2) A motor vehicle that is found on a taxi facility or bus stop or that has stopped at a taxi facility or bus stop is presumed to be plying for hire, unless the contrary is proved.

(3) (a) Where in any prosecution in terms of the common law relating to the driving of a vehicle on a public road, or in terms of this By-law it is necessary to prove who was the driver of such vehicle, it is presumed, in the absence of evidence to the contrary, that such vehicle was driven by the owner thereof.

(b) Whenever a vehicle is parked in contravention of any provision of this By-law, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was parked by the owner thereof.

(c) For the purposes of this By-law it is presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant, or in furthering, or endeavouring to further the interests of the corporate body.

(4) In any prosecution in terms of this By-law, the fact that any person purports to act or has purported to act as a traffic officer or peace officer is prima facie proof of his or her appointment and authority so to act, however, this section does not apply to a prosecution on a charge for impersonation.

(5) Any person who, by means of any motor vehicle, conveys passengers will be presumed to have conveyed such passengers for hire or reward, and such vehicle shall be presumed to be a taxi unless the contrary is proved.

(6) A document which purports to be a receipt of prepaid registered post, a telefax transmission report or a signed acknowledgement of hand delivery, will on submission by a person being prosecuted under this By-law, be admissible in evidence and prima facie proof that it is such receipt, transmission report or acknowledgement.

Penalties

63. A person who has committed an offence in terms of this By-law is, on conviction, and subject to penalties prescribed in any other law, liable to—

(a) a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment; and

(b) in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

Repeal of by-laws

64. The by-laws listed in the Schedule hereto and any by-law previously promulgated by the Municipality or any of the disestablished municipalities now incorporated into Municipality, in so far as it relates to any matter provided for in this By-law, are hereby repealed.

Short title

65. This By-law is called the Stellenbosch Municipality: Parking By-law, 2018.

ANNEXURE B

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/LIMITATIONS/ INSTRUCTION TO ASSIST
Parking BY-LAW DATED July 2020						
PB1	Parking By Law 2020 S3(2)	Determine fees for parking for own use or use by service provider	Council			
PB2	Parking By Law 2020 S3(3)	To grant written approval to erect sign within Street Reserve	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	Manager: Roads & Stormwater	
PB3	Parking By Law 2020 S11(1)	Issuing of Parking Disc for exemption to Parking Restrictions	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB4	Parking By Law 2020 S11(3)(d)	Withdrawal of Parking Disc	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB5	Parking By Law 2020 S11(3)(e)	Determination of fee for issuing a permit	Council			
PB6	Parking By Law 2020 S11(3)(f)	Determination of Disc Validity Period	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB7	Parking By Law 2020 S12(1)	Approval of Notice of designated areas pick-up and drop-off of learners	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB8	Parking By Law 2020 S14(1)	Granting of Resident Parking Permits	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	

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PB9	Parking By Law 2020 §15(1)	Granting of Temporary Parking Permits	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB10	Parking By Law 2020 §16(1)	Granting of Work Zone Permits	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB11	Parking By Law 2020 §17(1)	Granting of Municipal works parking permits	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB12	Parking By Law 2020 §19(1)	Designating Disabled, Diplomatic corps, SAPS and other identified reserved parking areas	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB13	Parking By Law 2020 §30(2)	Issue permits to effect monthly parking	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB14	Parking By Law 2020 §30(2)	Determine parking fees for permits	Council			
PB15	Parking By Law 2020 §30(3)	Issue permits for official parking	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB16	Parking By Law 2020 §30(4)	Approve the transfer of a permit	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB17	Parking By Law 2020 §33(1)	Authorize the removal of an abandoned vehicle	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	

PB18	Parking By Law 2020 §40(1)	Approval of the cleaning of vehicles within a parking ground	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	Manager: Roads & Stormwater	
PB19	Parking By Law 2020 §42(1)	Approval of parking hours of a parking ground and classes of vehicles allowed to park on this ground	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	Manager: Roads & Stormwater	
PB20	Parking By Law 2020 §43(1)	Approve notices to reserve parking for municipal vehicles and municipal staff vehicles	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB21	Parking By Law 2020 §45(5)	Approval of parking for vehicles exceeding one day's parking time	Director: Community & Protection Services	Senior Manager: Protection Services	Manager: Traffic & Law Enforcement Services	
PB22	Parking By Law 2020 §48(1)	Approval of Special parking spaces for taxis	Director: Infrastructure Services	Senior Manager: Transport, Roads, Stormwater Traffic Engineering	Manager: Roads & Stormwater	
PB23	Parking By Law 2020 §61(1)	Approval of compliance notices and recovery costs	Council			

ANNEXURE C

STELLENBOSCH MUNICIPALITY

PROPOSED ADMISSION OF GUILT FINES

BY-LAW ON PARKING

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
Regulation 3(1) rw Regulation 3(5) rw Regulation 63(a) and (b) Provincial Noticeof	Control of parking: Disobeying an instruction of an authorized officer, in cases of emergency or when desirable in the public interest, to direct and regulate traffic thereon.	R500	
Regulation 3(3) rw Regulation 3(5) rw Regulation 63(a) and (b) Provincial Noticeof	No person may without the prior written approval of the Municipality erect or place any sign or notice in any position or place indicating that parking in any parking bay is either reserved for a person or a class of persons.	R500	
Regulation 4(1)(a),(b) and (c) rw Regulation 4(2) rw Regulation 63(a) and (b) Provincial Noticeof	Parking in loading zone: No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone, except while actually loading or off-loading goods and while a licensed driver is in attendance at the vehicle, between the hours of 07:00 and 19:00 on Mondays to Saturdays, or between the hours of 09:00 to 17:00 on Sundays, or between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.	R500	

Regulation 5(1)(a) rw Regulation 5(3) rw Regulation 63(a) and (b) Provincial Noticeof	Parking at a bus stop or public transport facility: No person who operates or who is in charge of a vehicle on a public road may— (a) in the case of a vehicle other than a bus or a minibus-taxi, allow the vehicle to remain stationary at a bus stop or public transport facility.	R500	
Regulation 6(1) rw Regulation 6(6) rw Regulation 63(a) and (b) Provincial Noticeof	Parking in a public road: No person who operates or who is in charge of a vehicle on a public road may park the vehicle in any public road within the municipal area for a period beyond that indicated on a road traffic sign relevant to the specific area	R500	
Regulation 6(4) rw Regulation 6(6) rw Regulation 63(a) and (b) Provincial Noticeof	No person who operates or who is in charge of a vehicle on a public road may park the vehicle in any public road causing obstruction or danger to other road users.	R500	
Regulation 7(1) rw Regulation 7(2) rw Regulation 63(a) and (b) Provincial Noticeof	Parking upon a traffic island: No person may park a vehicle upon a traffic island, unless directed or instructed to do so by an authorised officer.	R500	
Regulation 8(1) rw Regulation 8(2) rw Regulation 63(a) and (b) Provincial Noticeof	Parking by a dealer or seller of a vehicle: No dealer or seller of a vehicle may park or allow to be parked on the verge of a public road within the municipal area a vehicle which is for sale or for rental, whether advertised as such or not.	R500	

Regulation 9(1) rw Regulation 9(2) rw Regulation 63(a) and (b) Provincial Noticeof	Parking of a vehicle under repair: No person responsible for the control of a business of recovering or repairing vehicles may park, cause or permit to be parked, in any public road or public place within the municipal area any vehicle that is in a state of disrepair, which has been placed in his or her charge in the course of the business of recovering or repairing.	R500	
Regulation 10(1)(a), (b), (c) and (d) rw Regulation 10(3) rw Regulation 63(a) and (b) Provincial Noticeof	Parking of heavy vehicles and caravans: No person may, for an uninterrupted period exceeding two hours, except on places reserved for the parking of heavy vehicles, park on a public road within the municipal area— (a) a motor vehicle with a tare exceeding 3500 kg; (b) a trailer not attached to a vehicle; (c) a semi-trailer, or (d) a caravan not attached to a vehicle.	R1 000	
Regulation 11(5) rw Regulation 63(a) and (b) Provincial Noticeof	Exemption of medical practitioners from parking restrictions: A person who displays a forged permit/disc or a permit/disc which was not issued by the Municipality .	R1 000	
Regulation 12(2) rw Regulation 12(3) rw Regulation 63(a) and (b) Provincial Noticeof	Pick-up and set-down areas at schools: No person may park in a pick-up and drop-off, kiss and ride area's for any longer that necessary to pick-up or drop-off learners.	R500	
Regulation 15(1) rw Regulation 15(3) rw Regulation 63(a) and (b) Provincial Noticeof	Temporary parking permit: Parking a vehicle in contravention of any conditions in terms of subsection (1).	R500	

Regulation 16(1) rw Regulation 16(3) rw Regulation 63(a) and (b) Provincial Noticeof	Work zone permit: A person who parks a vehicle in contravention of subsection (1) or who uses a work zone permit whilst not executing his or her duties.	R500	
Regulation 18(4) rw Regulation 18(5) rw Regulation 63(a) and (b) Provincial Noticeof	Conditions and originality of parking permits: No person to whom a permit has been granted in terms of sections 13, 14, 15 and 16 may stop, park or leave a vehicle at any time in a designated parking space unless the vehicle displays an original parking permit.	R500	
Regulation 19(2) rw Regulation 19(3) rw Regulation 63(a) and (b) Provincial Noticeof	Reserved parking for disabled, diplomatic, corps, South African Police Services and other identified groups: No person may stop, park or leave a vehicle at any time in any designated parking space other than a vehicle displaying a designated parking permit.	R500	
Regulation 21(1)(a), (b), (c) and (d) rw Regulation 21(2) rw Regulation 63(a) and (b) Provincial Noticeof	Method of parking: No driver or person in charge of a vehicle may park the vehicle— (a) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay; (b) in a parking bay which is already occupied by another vehicle; or (c) in a parking bay in contravention of a road traffic sign which prohibits the parking or stopping of vehicles in the public road or portion of the public road concerned. (d) In the verge or in an area where parking is prohibited.	R250	

Regulation 22(4) rw Regulation 63(a) and (b) Provincial Noticeof	<p>Payment for parking: No driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in a parking bay while the indicator of the parking device shows that—</p> <p>(a) the time has expired; or (b) that the parking device has not been set in operation either by the insertion of the prescribed time or, where applicable in accordance with the instructions appearing on the parking device,</p>	R500	
Regulation 23(a) and (b) rw Regulation 63(a) and (b) Provincial Noticeof	<p>Prevention of parking at a parking bay: Parking/ stopping a vehicle at a parking bay while a No Stopping/ No Parking sign is placed or erected.</p>	R500	
Regulation 24(1)(a) and (b) rw Regulation 24(5) rw Regulation 63(a) and (b) Provincial Noticeof	<p>Tampering with Parking Device: No person may—</p> <p>(a) misuse, damage, knock interfere with or tamper with; (b) attempt to misuse, damage, knock interfere with or tamper with, the working operation or mechanism of a parking device</p>	R1000	
Regulation 24(2) rw Regulation 24(5) rw Regulation 63(a) and (b) Provincial Noticeof	No person may, without authority from the Municipality and subject to any other by-law of the Municipality, affix or attempt to affix or place a placard, advertisement, notice, list, document board or thing on a parking device.	R1000	
Regulation 24(3) rw Regulation 24(5) rw Regulation 63(a) and (b) Provincial Noticeof	No person may paint, write upon or disfigure a parking device.	R1000	

Regulation 24(3) rw Regulation 24(5) rw Regulation 63(a) and (b) Provincial Noticeof	No person may, without the consent of a parking marshal, remove or tamper with any device from the possession of such parking marshal.	R1000	
Regulation 25(1) rw Regulation 25(2) rw Regulation 63(a) and (b) Provincial Noticeof	Unlawful operation of a parking device: No person may operate or attempt to operate a parking device by any means other than as prescribed in this By-law.	R500	
Regulation 26(1), (2), (3)(a), (b), (c) and (d) rw Regulation 26(4) rw Regulation 63(a) and (b) Provincial Noticeof	Unlawful parking and clamping or removal of unlawfully parked vehicles: No person may cause, allow, permit or suffer any vehicle to be parked in a parking bay, except as permitted by the provisions of this By-law.	R500	
Regulation 29(1) rw Regulation 29(2) rw Regulation 63(a) and (b) Provincial Noticeof	Interference with authorised official, authorised officers and parking marshals: No person may obstruct, hinder or in any manner interfere with an authorised official, authorised officer or a parking marshal in the performance of his or her duties under this By-law.	R1 000	
Regulation 30(1) rw Regulation 30(6) rw Regulation 63(a) and (b) Provincial Noticeof	Payment of the prescribed fee: A person making use of a parking ground or parking bay of the municipality failing to pay the prescribed fee.	R500	

<p>Regulation 31(1) rw Regulation 31(2) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>Contravention of Observance signs: Failing to observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground</p>	<p>R500</p>	
<p>Regulation 32(2)(a), (b) and(c) rw Regulation 32(6) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>Manner of parking and removal of vehicle: No person may in any parking ground park a vehicle; (a) in a place on the parking ground, which is not a demarcated parking bay, or (b) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay, or (c) in a parking bay which is already occupied by another vehicle.</p>	<p>R500</p>	
<p>Regulation 32(3) rw Regulation 32(6) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>No person may park a vehicle on a roadway within a parking ground or on a sidewalk or in a manner restricting pedestrian movement on a sidewalk.</p>	<p>R500</p>	
<p>Regulation 32(4) rw Regulation 32(6) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>No person may in a parking ground park a vehicle in a manner which obstructs or inconveniences other users of the parking ground.</p>	<p>R500</p>	
<p>Regulation 33(6) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>Abandoned vehicle: No person may leave a vehicle in the same place in a parking ground for a continuous period of more than seven days.</p>	<p>R1 000</p>	

Regulation 34(1) rw Regulation 34(2) rw Regulation 63(a) and (b) Provincial Noticeof	Damage to notices: No person may remove, mutilate, obscure or in any manner damage or interfere with a notice, noticeboard, sign or other thing placed by the Municipality on a parking ground.	R1 000	
Regulation 35(1) rw Regulation 35(3) rw Regulation 63(a) and (b) Provincial Noticeof	Negligent and dangerous driving and speed restriction: No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.	NAG	
Regulation 37(1) rw Regulation 37(2) rw Regulation 63(a) and (b) Provincial Noticeof	Tampering with vehicle: No person may, on a parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle, or set the machinery of the vehicle in motion.	R1000	
Regulation 38(1) rw Regulation 38(2) rw Regulation 63(a) and (b) Provincial Noticeof	Defacing permit disc: No person may, in a parking ground with intent to defraud the Municipality, forge, imitate, deface, mutilate, alter or make a mark upon a parking permit disc issued in terms of this By-law.	NAG	
Regulation 40(1) rw Regulation 40(2) rw Regulation 63(a) and (b) Provincial Noticeof	Cleaning of vehicle: No person may, without the prior approval of the Municipality, clean or wash a vehicle in a parking ground or parking bay.	R500	

Regulation 41(1) rw Regulation 41(2) rw Regulation 63(a) and (b) Provincial Noticeof	Refusal of admission: Disobeying refusal of an authorised official to enter a parking ground with a vehicle which, together with its load, is longer than five metres, or is, by reason of its width or height, likely to cause damage to persons or property, or to cause an obstruction or undue inconvenience.	R1 000	
Regulation 42(4) rw Regulation 42(7) rw Regulation 63(a) and (b) Provincial Noticeof	Parking hours and classes of vehicles: No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed by the Municipality.	R500	
Regulation 42(5) rw Regulation 42(7) rw Regulation 63(a) and (b) Provincial Noticeof	No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice erected at the entrance to the parking ground.	R500	
Regulation 42(6) rw Regulation 42(7) rw Regulation 63(a) and (b) Provincial Noticeof	No person may, unless he or she is the holder of a parking permit disc issued in terms of this By-law authorising him or her to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.	R500	
Regulation 44(2) rw Regulation 44(4) rw Regulation 63(a) and (b) Provincial Noticeof	Mechanical controlled parking ground: A person who fails to obtain a parking coupon in accordance with subsection (2).	R500	

<p>Regulation 45(1)(b) rw Regulation 45(6) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>Removal of a vehicle from a mechanical or otherwise controlled parking ground: Failing to pay the prescribed parking fee to the authorised official/marshal of the municipality..</p>	<p>R1 000</p>	
<p>Regulation 45(2) rw Regulation 45(6) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>A person failing to produce a coupon authorising him or her to park in the controlled parking ground.</p>	<p>R1 000</p>	
<p>Regulation 46(3) rw Regulation 46(8) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>Parking of a vehicle in a pay- and display parking ground: A person failing to display a parking coupon by affixing it to the inside on the driver's side of the front windscreen of a vehicle in such a manner and place that the information printed on the coupon by the pay-and-display machine is readily legible from the outside of the vehicle.</p>	<p>R500</p>	
<p>Regulation 47(b) rw Regulation 63(a) and (b) Provincial Noticeof</p>	<p>Miscellaneous offences in respect of pay- and display parking grounds: A person who jerks, knocks, shakes or in any way interferes or tampers with, or damages, or defaces a parking coupon vending machine or appurtenance thereto, or affix or attempt to affix or place a sign, placard, advertisement, notice, list, document, board or thing on, or paint, write upon or disfigure a parking coupon vending machine.</p>	<p>NAG</p>	

Regulation 47(c) rw Regulation 63(a) and (b) Provincial Noticeof	A person removes or attempts to remove a parking coupon vending machine or any part of the machine from its mounting.	NAG	
Regulation 48(4) rw Regulation 63(a) and (b) Provincial Noticeof	Taxis and buses: Special parking places for taxis: Parking of a motor vehicle at a special parking place or its subdivision, or at a holding place without a rank access token	R1 000	
Regulation 49(1)(b) rw Regulation 49(3) (1) and (2) rw Regulation 63(a) and (b) Provincial Noticeof	Taxi parking: A taxi plying for hire or pick up or drop off passengers other than at a special parking place or taxi stopping provided place.	R1 000	
Regulation 50(5) rw Regulation 50(6) rw Regulation 63(a) and (b) Provincial Noticeof	Use of taxi ranks: No person may park a vehicle or allow a vehicle to remain stationary in a taxi rank except a taxi in possession of a valid operating licence and for which a rank access token, specifying the rank, has been issued for the year in question,	R1 000	
Regulation 51 rw Regulation 63(a) and (b) Provincial Noticeof	Prohibition on parking of a taxi at no-stopping place: No taxi driver may park a taxi at a no-stopping place.	R1 000	

Regulation 52(1) rw Regulation 52(3) rw Regulation 63(a) and (b) Provincial Noticeof	Servicing and washing taxis at taxi facilities: No person may repair or maintain any motor vehicle at a taxi facility.	R1 000	
Regulation 52(2) rw Regulation 52(3) rw Regulation 63(a) and (b) Provincial Noticeof	No person may wash any motor vehicle at a taxi facility, except at a wash bay at the facility that has been specially constructed for this purpose.	R1 000	
Regulation 53(3) rw Regulation 63(a) and (b) Provincial Noticeof	Behaviour prohibited at a taxi rank: A person who causes a disturbance or behaves in a riotous or indecent manner.	R1 000	
Regulation 56(1) rw Regulation 56(8) rw Regulation 63(a) and (b) Provincial Noticeof	Destination signs and stopping or parking at bus stops: No driver or person in charge of a bus or minibus-taxi may park such vehicle at any bus stop or allow such vehicle to be parked at any bus stop.	R500	
Regulation 56(2) rw Regulation 56(8) rw Regulation 63(a) and (b) Provincial	No driver or person in charge of a minibus-taxi may stop or park such vehicle or allow such vehicle to be stopped or parked at any bus stop demarcated for tour buses.	R500	

<p>Regulation 56(3) rw Regulation 56(8) rw Regulation 63(a) and (b) Provincial Noticeof </p>	<p>No driver or person in charge of a bus or minibus-taxi may park such vehicle at any bus stop or utilise such stop as an overnight facility.</p>	<p>R500</p>	
<p>Regulation 56(6) rw Regulation 56(8) rw Regulation 63(a) and (b) Provincial Noticeof </p>	<p>A driver or person in charge of a bus failing to display a destination sign.</p>	<p>R500</p>	
<p>Regulation 56(7) rw Regulation 56(8) rw Regulation 63(a) and (b) Provincial Noticeof </p>	<p>No driver or person in charge of a bus or minibus-taxi may allow the engine of such bus which is allowed to stop at any bus stop to run for more than 20 minutes after it came to a stop.</p>	<p>R500</p>	
<p>Regulation 57(1) rw Regulation 57(3) rw Regulation 63(a) and (b) Provincial Noticeof </p>	<p>Obeying and interfering with an authorised official: Disobeying visible or audible signals of an authorized official directing traffic.</p>	<p>NAG</p>	

Regulation 57(2) rw Regulation 57(3) rw Regulation 63(a) and (b) Provincial Noticeof	Obstruct, hinder, abuse or interfere with any authorised official in the exercise of the power referred to in subsection (1) of Regulation 57.	NAG	
Regulation 61(1)(b) rw Regulation 61(2) rw Regulation 63(a) and (b) Provincial Noticeof	Compliance notices and the recovery of costs: Failure to comply with a compliance and recovery notice issued by the municipality.	R500	

NAG = No Admission of Guilt fine allowed

7.6.5	DRAFT OUTDOOR ADVERTISING & SIGNAGE BY-LAW 2ND DRAFT
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Collaborator No: 733489
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 August 2022

1. SUBJECT: DRAFT OUTDOOR ADVERTISING & SIGNAGE BY-LAW 2ND DRAFT

2. PURPOSE

To obtain Council's acceptance of the attached 2nd Draft By-Law Relating to Outdoor Advertising and Signage.

3. FOR DECISION BY

Council

4. EXECUTIVE SUMMARY

This item deals with the accepting of a 2nd Draft By-Law Relating to Outdoor Advertising and Signage.

The purpose of this By-Law is to control, manage and regulate outdoor advertising and signage and to provide mechanisms and guidelines for the control, regulating and management thereof and for matters connected therewith.

This By-Law was published as a draft before but so many comments have been received, via the public participation processes, that it was resolved to republish the By Law for Public Communication for comment.

The participation process has ended and only comments from the Stellenbosch Interest Group (SIG) has been received. This has been debated and alterations has been made in the sections as indicated and amended as

5. RECOMMENDATIONS

- (a) that the content of this report be noted;
- (b) that the attached 2nd Draft By Law Relating to Outdoor Advertising and Signage be approved and adopted by Council as the final By Law Relating to Outdoor Advertising and Signage;
- (c) that the 2nd Draft By Law Relating to Outdoor Advertising and Signage, attached as Annexure A, once approved and adopted by Council, be promulgated in the Provincial Gazette by the Directorate: Strategic and Corporate Services' Legal Services' team;
- (d) that the by-law becomes active upon the date that it is published in the Western Cape Provincial Gazette
- (e) that the proposed set of Admission of Guilt Fines together with the Proposed System of Delegations, attached as **ANNEXURES C** and **D** to be accepted together with the final draft.

6. DISCUSSION / CONTENTS

6.1 Background

The original Draft By-Law was approved for public participation by Council on 31 October 2018. The Draft By-Law was published for Public Comment on 15 November 2018. Due to number of comments received as well as debates held with participating bodies, it was resolved to republish a 2nd Draft for Public Comment, by Council on 28 April 2021. The 2nd Draft was published for public participation on 13 May 2021.

6.2 Discussion

The entire By-Law has been debated with the public at meetings held on the following dates:

- 3 February 2020
- 19 February 2020
- 2 September 2020

Finalisation was reached by 2 September 2020 and, due to the large number of changes, it has been decided to advertise the update draft for a second time. It was felt that this was necessary to sufficient changes being brought to create an extensively changed document.

After the second public participation process, copy of advert attached as Annexure E, only the Stellenbosch Interest Group (SIG) commented. The comments received from the SIG is attached as **ANNEXURE B**.

The 2d Draft has therefore been updated as per the track changes indicated on **ANNEXURE A**.

6.3 Environmental implications

This report does not have any direct environmental implications, historical implications has been extensively debated.

6.4 Financial Implications

There are existing tariffs for advertising within public places and a set of Spot Fines are proposed for adoption

6.5 Legal Implications

The recommendations in this report comply with Council's policies and all applicable legislation and would constitute an *intra vires* resolution.

The following legislation must be complied with:

- a. The Constitution, Act 106 of 1996, as amended
 - b. The Municipal Systems Act, Act 32 of 2000, as amended
- “**12. Legislative procedures.** — (1) Only a member or committee of a municipal council may introduce a draft by-law in the council.
- (2) A by-law must be made by a decision taken by a municipal council—
 - (a) in accordance with the rules and orders of the council; and
 - (b) with a supporting vote of a majority of its members.
 - (3) No by-law 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.*
- (4) *Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws, provisions of—*
 - (a) *legislation passed by another legislative organ of state; or*
 - (b) *standard draft by-laws made in terms of section 14.*
- 13. *Publication of by-laws. —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.”*

- c. The South African National Roads Agency Limited and National Roads Act, 1998 (ACT NO. 7 OF 1998), as amended
- d. The Consumer Protection Act, Act 68 of 2008, as amended.
- e. The Promotion of the Administrative Justice Act, Act 3 of 2000

6.6 **Staff Implications**

This report has no additional staff implications to the Municipality.

6.7 **Previous / Relevant Council Resolutions:**

“21ST COUNCIL MEETING: 2018-10-31: ITEM 7.6.2 RESOLVED (nem con)

- (a) *that the report be accepted;*
- (b) *that the Draft By-Law Relating to Outdoor Advertising and Signage, attached as ANNEXURE 1, be accepted as the copy of the By-Law to be used in a Public Participation process;*
- (c) *that the Draft By-Law relating to Outdoor Advertising and Signage be duly advertised for the purpose of a public participation process until the end of January 2019; and*
- (d) *that, upon the completion of the public participation process, the Draft By-Law together with any comments/objections by the public be resubmitted to Council for final approval and adoption.”*

“42ND COUNCIL MEETING: 2021-04-28: ITEM 11.5.2

RESOLVED (nem con)

- (a) *that the Second Draft of the By-Law Relating to Outdoor Advertising and Signage, attached as ANNEXURE A, be accepted as the copy of the By-Law to be used in the second Public Participation process;*
- (b) *that this Second Draft By-Law Relating to Outdoor Advertising and Signage be duly advertised for the purpose of a Public Participation process; and*

- (c) *that, upon the completion of the Public Participation process, the Second Draft By-law, together with any comments/objections by the public, be resubmitted to Council for final approval and adoption.*"

6.8 **Comments from Executive Management:**

6.8.1 **EXECUTIVE MANAGER: INFRASTRUCTURE SERVICES:**

Writer of the report

6.8.2 **DIRECTORATE: PLANNING AND ECONOMIC DEVELOPMENT:**

The Department: Development Planning supports the adoption of the Bylaw Relating to Outdoor Advertising and Signage, and also supports the proposed comments submitted by the Stellenbosch Interest Group ("SIG") dated 14 June 2021 to be included for adoption.

The summary of the comments are as follows:

Comments	Departmental Response
<ul style="list-style-type: none"> <i>Rural landscapes are vulnerable to visual degradation through inappropriate signage, which can sometimes form an "urban intrusion" into the landscape.</i> <i>If a sign impacts or alters building fabric older than 60 years, application to HWC under Section 34 of the National Heritage Resources Act would be required, and comment on the proposed sign from the local heritage bodies would be appropriate.</i> <i>Applications for proposed new signs within conservation areas should engage with and receive the comment of any registered conservation bodies within those areas.</i> <i>The Municipality has a conservation team that is in the process of finalising a CMP for the whole area. It would be prudent to workshop this section of the by-law with them, to ensure that adequate control of signage in historic environments is provided.</i> 	<p>The Department supports this comment, it must be noted that the processes in this regard is dealt with in terms of the National Heritage Resource Act, Act 25 of 1999, and such comment will be requested should and where it is required.</p>
<p>The removal of mural from the definition of "sign", as murials must be dealt with in a separate policy / bylaw dealing specifically with Public Mural Art.</p>	<p>The Department supports this exclusion of mural from the definition of sign.</p>
<p>Inclusion and removal of strikethrough words:</p> <p>Urban Area – Partial Control</p> <p>Mixed use commercial and residential areas, (unless within a conservation area). Commercial ribbon development and activity corridors, unless within a conservation area.</p> <p>Commercial and business districts and adjacent streets and rail reserves, unless within a conservation area.</p>	<p>The Department supports the comments of SIG for inclusion.</p>

<p>Entertainment district or complexes with commercial zones, unless within a conservation area. Educational institutions, Sports fields and stadiums, unless within a conservation area. Undetermined zones Limited use zones (including railway reserves, transport use zones).</p>	
<p>Urban Area – Minimum Control Designated areas within undetermined zones limited use zones unless within a conservation area.</p>	<p>The Department supports the comments of SIG for inclusion.</p>
<p>(8) is not allowed on the sides of buildings around the areas of maximum and partial control. Comment: The text should be omitted because it contradicts the introductory paragraph of Schedule 4: the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control.</p>	<p>The Department supports this exclusion.</p>
<p>(9) No signs may be attached to walls or fences of residential buildings.</p>	<p>The Department supports the inclusion of this clause under point (8)</p>
<p>Sky signs are not suitable for Stellenbosch or the Winelands. (2) Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will only be permitted if they are locality bound, un-illuminated and consist of individual cut-out letters or logos. Comment: This at least must be removed. Such signs should not appear on the roof of a cultural, historic or architecturally significant building.</p>	<p>The Department supports this exclusion.</p>
<p>SCHEDULE 6: ROOF SIGNS (1b) When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 1 0,5 metre in height and its total area may not exceed 25% of the roof area to which it is affixed. Comment: 1 metre is too big, consider 0.5metre and a limitation should be set for the total area if the roof is large. 2) It shall be permissible to affix a roof sign along the lower edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m² in total area; with a maximum height of 1 metre 0,5metre.</p>	<p>The Department supports the amendments.</p>
<p>The numbering should be reviewed. Two sections (1) appear under Schedule 7. (1) No signs may be attached to Historical Buildings (1) (2) No such signs will be allowed on or over architectural features of buildings. (2) No such signs will be allowed on or over architectural features of buildings. Comment: Please note that columns, pillars, verandas, and balconies etc are all</p>	<p>The Department supports the amendments.</p>

architectural features.	
<p>SCHEDULE 13: LOOSE PORTABLE SIGNS</p> <p>(d) that the loose portable sign, only one per business, or proposed number thereof does not detract from the amenity of the local streetscape or local environment;</p> <p>(h) that a minimum clear footway width of 1,8 meters must remain clear and 2,5 meters in the urban conservation area central business district and sidewalks with high pedestrian volumes.</p>	The Department supports this comment, and the inclusion on the proposed amendment.

ANNEXURES

Annexure A: Track Changes Copy of the Second Draft By-Law Relating to Outdoor Advertising and Signage, as amended by comments, from Stellenbosch Infrastructure Group (SIG)

Annexure B: Comments received from SIG

Annexure C: Proposed Admission of Guilt Fines

Annexure D: Proposed System of Delegations

Annexure E: Newspaper Advert published for the 2nd Draft By Law Advertisement

FOR FURTHER DETAILS CONTACT:

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REPORT DATE	21 July 2022

ANNEXURE A

ANNEXURE A

STELLENBOSCH MUNICIPALITY SECOND DRAFT BY-LAW RELATING TO OUTDOOR ADVERTISING AND SIGNAGE

To control, manage and regulate outdoor advertising and signage and to provide mechanisms and guidelines and policies for the control, regulating and management thereof and for matters connected therewith.

PREAMBLE

WHEREAS section 156(2) and (5) of the Constitution provides that a Municipality may make and administer By-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 5 to the Constitution lists Billboards and the display of advertisements in public places as local government matters to the extent set out in section 155(6) (a) and (7);

AND WHEREAS the Stellenbosch Municipality seeks to manage, control and regulate outdoor advertising and signage and any matters connected therewith;

BE IT ENACTED by the Council of the Stellenbosch Municipality, as follows:—

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1. Definitions

In this by-law, unless inconsistent with the context-

“advertisement” means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any symbol, or any light which is not intended solely for illumination or as a warning against any dangers and **“advertising”** has a similar meaning;

“advertisement ownership” mean that person or body that has authorised the advertising of information or a product. The authority who contracts a service provider for such an advertisement, the service provider who physically mounts or displays such an advertisement and the owner or body who's information or product is being advertised, will jointly and severally be responsible for such advertisement and may jointly or severally be charged for any misconduct of this By-Law

“advertising structure” means any physical structure designed for an advertising sign, any detached screen or board that is greater than 4.5 m² in overall size; supported by or made from a structure that is used to be affixed, displayed or shown as a sign.

“aerial sign” means a sign that is displayed or performed in the air, including but not limited to balloons and blimps that can be viewed from within the Municipality's area of jurisdiction;

“approval” means approval by the Municipality and “approve” has a corresponding meaning;

“areas of control” means those areas set out in Schedule 1 of this By-Law; and which may be modified or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the Municipality;

“authorized official” an employee of the Municipality or any other person who is appointed or authorized thereto to perform any act, function or duty related to the

provisions of this By-Law, or exercise any power in terms of this By-Law; and “official” has a corresponding meaning;

“**banner**” means any material upon which a sign is displayed in such a manner as to be fully legible in windless conditions, attached to one or more ropes, poles or flagstuffs projecting vertically, horizontally or at an angle, or attached to buildings or special structures, but excludes banners carried as part of a procession. A flag which is not displayed on an approved flagpole shall for the purposes of this By-Law be deemed to be a banner;

“**billboard**” means any screen or board which stands free and is larger than 4.5m² in total area; which is supported by, or consists of, a structure used, for the purpose of posting, displaying or exhibiting a sign;

“**Central Business District (CBD)**” means an area in the build environment demarcated as such on the Spatial Development Framework for a town;

“**class 2 roads**” means the roads which form the primary network for the urban areas as a whole and which are characterized by high volumes, restricted access and fairly high speeds;

“**class 3 roads**” means roads that distribute traffic between the principal residential, industrial and business districts of the town and which form the link between the primary network (class 2 roads) and the roads within residential areas;

“**clear height**”, in relation to a sign, means the vertical distance between the lowest edge of the sign and the natural level of the surrounding ground, footway or roadway immediately below the sign;

“**commercial advertising**” means any words, letters, logos, figures, symbols, pictures relating to the name of a business, trade, partnership, individual, or any information, recommendation or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

“commercially sponsored sign” means a sign which advertises goods or services, but the erection of which has a secondary purpose, which is to promote or contribute to some recognized public or community goal or function;

“common boundary facade” means any façade of a building which is built abutting a rear or side boundary of an erf and which façade is blank, that is, having no architectural features, which includes windows;

“composite sign” means a single freestanding advertising structure for the display of more than one sign;

“consultant” means a suitably qualified independent person or company that acts on behalf of, or as an agent of, an applicant for approval of a sign in terms of this By-Law;

“continuing offence” means an offence in terms of this By-Law, which offence continues to exist after the expiry of the notice period referred to in a notice served in terms of this By-Law;

“custom made design” means the design of any sign, which features special effects such as specialist character cut outs or shapes or three-dimensional presentations or moving parts or a combination thereof, and which is uniquely designed or constructed for erection in a particular location;

“development board” means a sign displayed at premises upon which building operations are currently in progress and relating to any services being provided, work being done or goods being supplied in connection with such building operations, but excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Control Act, 1977 (Act 103 of 1977);

“display” means the display of a sign and includes the erection of any billboard, sign or structure intended solely or primarily for the support of a sign or billboard, and

includes the display of a sign of a business, trade partnership or individual connected with the contents of the sign or sign, and "displayed" has a corresponding meaning;

"electronic sign" means a sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways;

"Environmental Impact Assessment" (EIA) means an assessment carried out in accordance with the Municipality's guidelines for outdoor advertising;

"estate agency" means a person who markets, sells or leases properties with or without buildings erected thereon and **"estate agent"** has a corresponding meaning;

"existing sign" means any sign previously approved by the Municipality;

"flat sign" means a sign which is affixed to, or painted directly onto a wall of a building but not onto or over windows or doors or architectural articulations and which at no point projects more than 250mm in front of the surface of such wall;

"freestanding sign" means any sign or group of signs contained or displayed on one freestanding structure which is not attached to a building or to any structure or object not intended to be used for the primary purpose of advertising;

"gateway route" means a prominent route with an entrance to or exit from a specific part of the Municipality's jurisdiction, consisting of man-made or natural features and creating a strong sense of arrival or departure and which is consistent with city planning or development framework plans or By-Law, and which may be geographically depicted by way of maps or listed by the Municipality;

"graphic" includes but is not limited to any component which contributes to the visual appearance or aesthetics of a sign, including its background;

“headline poster” means a temporary poster advertising the contents of a daily or weekly newspaper;

“height of a sign” is calculated by measuring the vertical distance between the uppermost and lowest parts of the advertising panel;

“Heritage Impact Assessment” (HIA) means a visual and contextual assessment of the impact that any proposed sign may have on the cultural heritage, whether built or recognized at the locality where the proposed sign will be displayed;

“internally illuminated sign” means an advertisement or structure used to display an advertisement which has been installed with electrical or other power and an artificial light source which is fully or partially enclosed within the structure or sign and which light is intended to illuminate the advertisement or a portion thereof;

“law” means any law, proclamation, ordinance, Act of Parliament or Provincial Legislature, or any other enactment having the force of law;

“locality bound advertising” means any sign displayed on a specific erf, premises or building and may include such a sign on municipal owned land, adjacent to, abutting on or within 5 meters of the aforementioned erf, premises or building, which sign refers to an activity, product, service or attraction, located, rendered or provided on or from that erf or those premises;

“loose portable sign” means a freestanding locality bound notice or advertising board placed or erected in the road reserve or in a public place;

“movable sign” means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part on a fixed permanent sign;

“Municipality” means the Municipality of Stellenbosch established in terms of section 12 of the Municipal Structures Act, 117 of 1998, and includes duly authorized agent,

service provider or any employee thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated or sub-delegated to such agent service provider or employee;

“new sign” means any sign first displayed after the promulgation of this By-Law;

“non-profit body” means a body established primarily to promote a community goal or benefit without direct or personal financial gain, and may include educational, sporting, medical, municipal departments, bodies as well as charities or community organizations;

“organ of state” means—

- (a) any department of state or administration in the national, provincial or local sphere of government;
- (b) any other functionary or institution—
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any other Legislation;

“overall height”, in relation to a sign, means the vertical distance between the uppermost edge of the sign and the finished level of the ground, footway or roadway immediately below the centre point of the sign;

“perimeter of an intersection” means the perimeter of the area embraced within the prolongation of the road reserve lines of two or more public roads that join one another at any angle, whether or not one such public road crosses the other;

“person” includes—

- (a) any organ of state;
- (b) any company incorporated or registered as such under any law; and

- (c) any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

“poster” means temporary signs capable of being attached to the Municipal electrical light standards or pasted to fixed structures to advertise events or campaigns, including elections or referenda of limited duration and excluding signs advertising markets, exhibitions or events which are held on a regular basis;

“projected sign” means any sign projected by a laser projector, video projector, or other apparatus;

“projecting sign” means a sign which is affixed to a wall of a building and which at some point projects more than 250mm in front of the surface of such wall;

“public façade” means any façade of a building that has architectural articulations and which is visible to the public;

“public place” means any public road, public street, thoroughfare, bridge, subway, footway, foot pavement, footpath, sidewalk, (or similar pedestrian portion of a road reserve), lane, square, open space, garden, park or enclosed place vested in the Municipality, or other state authority or indicated as such on the Surveyor General's records, or utilized by the public or zoned as such in terms of the applicable zoning scheme;

“public road” means public road as defined in the National Road Traffic Act, 1996 (Act 93 of 1996);

“road reserve” means the area contained within the statutory width of a road, and includes roadways, shoulders and sidewalks and the airspace above such roadways, shoulders and sidewalks and all other areas within the road reserve boundary;

“roadway” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic as defined in the National Road Traffic Act, 1989 (Act 29 of 1989);

“roof sign” means a sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed;

“Rural Area” means an area outside the urban edge excluding natural areas as described in schedule 1;

“scenic route” means a road designated as such on an approved zoning scheme or from which landscapes or features of aesthetic or cultural significance can be seen or viewed as designated by the Municipality;

“security sign” means an outdoor sign for neighbourhood watch and similar schemes, and a sign containing the name, logo, address and telephone number of a security company contracted to protect, or security system installed to protect, the premises on which the sign is displayed;

“service station facility sign” means freestanding signs at petrol filling stations, roadside rest and service areas and includes service station pylon signs;

“shop” means a building used for retail trade or services;

“sign” means any object, product, replica, advertising structure, device or board which is used to publicly display a sign or which is in itself a sign and includes a poster, billboard and an advertisement which is included in the architectural design of a building or structure and which is visible from any public place;

“signalized traffic intersection” means an intersection controlled by traffic signals;

“sky sign” means a sign where the top edge of any point of that sign exceeds the height of the roof plane to which it is affixed;

“sponsored sign” means a sign, the primary purpose of which is not to advertise goods or services but which displays a graphic or content which promotes community or public awareness of a recognized public or community goal;

“street name signs” means pole-mounted, double-sided, internally illuminated or un-illuminated signs displayed in combination with names of streets, not exceeding one (1) m²;

“street furniture” means public facilities and structures which are not intended primarily for advertising and includes but is not limited to seating benches, planters, bins, pole mounted bins, bus shelters, sidewalk clocks, drinking fountains, Telkom boxes, traffic signal controllers, electricity boxes, post boxes and telephone booths, but excludes road traffic signs, traffic signals, street lights or any other road-related structures;

“teardrop banner” means any material in a teardrop shape with or without a printed sign which is fully legible in windless conditions and held taught by a spring tension and supported by a single flexible pole;

“temporary signs” means signs which are displayed for a maximum period of 14 days, or such other period as may be approved by the Municipality;

“thickness”, in relation to a projecting sign, means the width of such sign measured parallel to the plane of the main wall to which such sign is affixed;

“third-party advertising” means the advertising of goods or services that are not made, procured, sold or delivered from the property on which the sign or sign advertising those goods or services is fixed or placed, and includes advertising which is not locality bound;

“three dimensional sign” means a sign containing more than 2 dimensions, including product replicas;

“Traffic Impact Assessment” (TIA) means a study carried out by a registered professional engineer with demonstrable experience in the field of traffic engineering that investigates the impact a proposed sign may have on vehicle, pedestrian, or cyclist safety and traffic operation, which study should recommend any mitigating measures that may be required as a result of that impact;

“traffic sign” means a road traffic sign as prescribed in the National Road Traffic Act, 1996 (Act 93 of 1996);

“traffic signal” means a road traffic signal as prescribed in the National Road Traffic Act, 1996 (Act 93 of 1996);

“transit advertising” means advertising by means of a movable sign which is capable of being transported by road either on or in conjunction with a motorized vehicle, including trailers primarily used for advertising;

“transportation terminals” means any area designated by the Municipality as such, where the formal interchange of modes of public transport takes place by the public, including, but not limited to designated railway stations, official taxi terminals and bus terminals;

“Urban conservation area” means an area in the build environment demarcated as such on the Spatial Development Framework for a town;

“Urban Edge” means an area in the build environment demarcated as such on the Spatial Development Framework for a town;

“urban edge line” means a predetermined point to point boundary line as determined by the Municipality, which has as its purpose, the containment of urban development;

“Urban Areas” means an area within the urban edge of a town;

“veranda” includes a cantilever canopy and sunblind;

“Visual Impact Assessment (or VIA)” means the analysis of the potential visual impacts to boundary walls and fences. The document that contains a visual impact analysis is also often referred to as a visual impact assessment or VIA.

“window signs” means signs which are temporarily or permanently painted on, or attached to the window-glass of a building;

“zone” means a land use zone as set out in the relevant zoning schemes or Town Planning Regulations as amended from time to time and applicable to any erf on which a sign is displayed or intended to be displayed and **“zoning”** has a corresponding meaning.

2. Principles

- 2.1 To maintain the sensitive environmental quality of each area.
- 2.2 To promote the aesthetic sensitivity of the environment
- 2.3 To find a balance between outdoor advertising opportunities and economic development on the one hand, and the conservation of visual, tourist, environmental and heritage characteristics and traffic safety on the other side.
- 2.4 Outdoor advertising must respect the integrity of any site where it is displayed supplement the character of the area.
- 2.5 To give recognition to the substantial amount of technical details that apply to specific types of signs and their effect on specific places.
- 2.6 To give recognition to the Stellenbosch Heritage Guidelines & Policies

CHAPTER 1

3. Submission of applications

(1) Other than those signs referred to in section 13(3) to 13(11) of this By-Law, no person may display any advertisement or erect or use any sign for advertising purposes without the Municipality's approval in terms of this By-Law and any other applicable legislation.

(2) Every person intending to display a new sign or to alter or to add to an existing approved sign or submit a signage plan in terms of a Site Development Plan proposal, must apply in writing to the Municipality which application must be accompanied by the following information in duplicate:

(a) a site plan, drawn to a scale of not less than 1:200, showing the following—

(i) the site on which it is proposed that the sign is to be erected or displayed;

(ii) the position of the sign and the building, if any, to which it is to be attached;

(iii) every building and the existing signs on the site;

(iv) existing and proposed landscaping, traffic signals and road traffic signs; and

(v) the positions, with dimensions, of the sign in relation to the boundaries of the site and the location of the streets abutting the site, together with its existing approved zoning conditions;

(b) a drawing, which complies with the requirements of the National Building and Regulations Standards Act, 1977 (Act 103 of 1977), and is in sufficient detail to enable the Municipality to consider the appearance of the sign and all relevant construction detail, including a description of the materials of which the sign is to be constructed, the colours to be used, and whether or not the sign is to be illuminated; In the latter event, the plan must indicate whether or not the sign is an electronic sign and, if so, full details must be furnished;

(3) The drawing referred to in sub-section (2)(b) must have detailed drawings of such sign to a scale of not less than 1:20 and a site plan indicating the position of the sign on the site to a scale of not less than 1:50;

(4) If a sign is to be attached to or displayed on the wall or façade of a building, the Municipality may require the submission of an additional drawing, drawn to a scale of not less than 1:100, showing—

- (i) an elevation of the building in colour;
- (ii) the details and position of the proposed sign; and
- (iii) the details and the position of every existing sign on the building

Alternatively the Municipality may require a coloured print of or an artist's photographic- or computer-generated impression of the building with the details of the proposed sign superimposed on such graphic and drawn as nearly as is practicable to the same scale as that of the graphic;

(5) If the applicant is not the registered owner of the property on which the sign will be erected, he or she must obtain the consent of the registered owner of the land or building on which the sign is erected, indicating that person's knowledge of the application.

(6) The Municipality may require the submission of any or all of the following studies or assessments—

- (a) an Environmental Impact Assessment (either the 1st stage thereof; being the completion of an Environmental Checklist or in its entirety);
- (b) a Heritage Impact Assessment; and
- (c) a Traffic Impact Assessment.

(7) If a community or portion thereof or a person will be affected by the proposed sign, it may require a public participation process prior to considering the approval.

(8) The Municipality may require a signage master plan in respect of any development where the erection of numerous signs is proposed or the rationalization of previously approved signs is required so as to allow it to consider a consistent design master plan prior to assessment of any individual sign.

(9) The Municipality must notify the applicant of any additional requirements it has within 21 working days of the date of submission of the original application and payment of the application fee.

(10) The Municipality must retain a copy of each document that formed part of an application.

(11) The Municipality may require a written notice from the applicant or person to confirm that an approved sign was erected.

4. Fees and general factors in considering approval of applications, amendments and conditions

(1) Every person who applies to the Municipality for approval in terms of this By-Law must, on making application, pay to the Municipality an application fee as determined by the Municipality and no sign may be erected until such time as the application fees have been paid in full.

(2) In considering an application for the display of an advertisement or the erection of a sign in terms of this By-Law, or an amendment or condition attaching or to be attached to an approval, the Municipality may have regard to the following factors:

(a) The area of control in which the proposed sign is to be erected or displayed as set out in Schedule 1 of this By-Law; provided that if a sign falls into more than one area of control or if a proposed site in one area of control may impact on an adjacent area of control, the Municipality shall be entitled to determine the area of control pertaining to that application;

(b) the locality or landscape and the advertising opportunities pertaining to that area of control; the number of signs already displayed or proposed to be displayed on the erf and in the area surrounding the erf concerned;

(c) the findings of any Traffic Impact Assessment, Environmental or Heritage

(d) Impact Assessment and public participation processes where applicable

(e) locality bound signs must relate to the lawful use of a property provided that no such sign must be affixed to or placed on residential premises or portions thereof other than is permitted by or for home industries and legal temporary uses; uses; and

(f) that no sign or advertisement may be designed or displayed that—

(i) will constitute a danger to any person or property;

(ii) will display any material or graphic which does not comply with the requirements of the Advertising Standards Authority of South Africa.

(iii) will be detrimental to the environment or amenity of the neighbourhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic or locality.

(iv) will obscure any other signs approved in terms of this By-Law or its predecessor; and

(v) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.

(3) Subject to any conditions in Schedule 16, all new signs or advertising structures approved under this By-law and any successive By-Law, may remain on display uninterrupted until such time as they do not comply with the provisions of this By-Law or any other applicable legislation.

5. Factors relating to specific signs, areas of control, and commercial sponsored signs

(1) The Municipality may, in addition to the factors set out in section 4 of this By-Law, apply certain minimum standards to certain specific sign types and proposed localities when an application for approval is made in respect thereof and will apply certain specific criteria to applications for the erection of signs by non-profit bodies.

(2) The specific standards and criteria are set out in schedules 1 to 23 of this By-Law. The Schedules are part of the By-Law and are not any less important than the content of the By-Law itself.

(3) Schedule 1 of this By-law indicates the areas of control in which certain specific sign types may be permitted, subject always to approval in terms of this By-law and furthermore subject to any additional requirement pertaining to a specific sign type as set out in the remaining schedules.

(4) The description of areas or routes in Schedule 1 should be read with the definitions as contained in the Municipality's Zoning Scheme Regulations.

(5) The Municipality may grant an exemption from the terms of this By-Law in respect of sign types or areas of control set out in Schedules 10, 11 and 12 of this By-Law having regard to—

- (a) the area of control where it is proposed to display the signs;
- (b) nature of the event;
- (c) duration of the erection or display of the sign;
- (d) size of the proposed sign;

(e) any traffic, safety, environmental or heritage impact assessment; and

(f) the outcome of any public participation process.

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CHAPTER 2

6. Standard conditions for approval

- (1) All signs and advertising structures must be properly erected and constructed of the requisite strength and must be secure and must comply with the requirements pertaining thereto of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977).
- (2) The applicant to whom approval has been granted and the owner of the property or building to which it is attached shall be jointly and severally liable for the maintenance thereof and must undertake at least one inspection per year thereof with a view to satisfying themselves as to the safety thereof.
- (3) Where any sign or advertising structure is vandalised or becomes torn or damaged or otherwise falls into a state of disrepair, and/or dilapidation the applicant to whom the approval has been granted and the owner of the fixture or property which or to which a sign is attached must within 7 working days of a notice in writing to do so, repair it.
- (4) All signs and their support structures must be constructed of incombustible, durable materials suited to the function, nature and permanence of the sign.
- (5) All glass used in a sign, other than glass used in illumination, must be safety glass of at least 3mm thick.
- (6) Glass panels used in a sign must not exceed 0.9m² in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.
- (7) Every sign and its support structure must be kept in a state of good repair.
- (8) No sign may obstruct the opening and closing of any window or opening provided for ventilation of a building or obstruct any stairway or doorway or other means of exit from the building or prevent movement of people from one part of a roof to another.
- (9) No advertising structure may be closer to overhead electrical equipment than the minimum distance as prescribed in the Occupational Health and Safety Act, Act 85 of 1993.

7. Electrical requirements

- (1) All signs needing an electrical connection must preferably be supplied from the existing electrical supply on the erf where it is to be erected. If this is not possible, application for a metered electricity supply must be made to the relevant authority.
- (2) Every sign in connection with which electricity is used, must be provided with suitable capacitors to prevent interference with radio and television reception.
- (3) Each power cable and conduit containing electrical conductors in respect of a sign must be so positioned and fixed so that it is safe, unseen, inaccessible and child tamper proof and animal proof.
- (4) Each interior high-voltage installation that runs unattended (such as a window display) and each exterior high-voltage installation must have an acceptable type of fireman's switch in accordance with the requirements as stipulated in sections 6.7.2 and 7.5 of SANS 0142 1993 promulgated in terms of the Occupational Health and Safety Act.

8. Illumination requirements

- (1) The Municipality may approve an illuminated sign, provided that the provisions of this By-Law are complied with and that such illumination does not constitute a road safety hazard or cause undue light spillage.
- (2) Signs may not be illuminated if no sign content is displayed.
- (3) Requirement for internal illumination or electronic signs—
 - (a) internally illuminated and electronic signs may only be displayed in areas of partial and minimum control and must be less than 2.1m².
 - (b) electronic signs may not have subliminal flashes; and (c) prior to erection, the Municipality may require a Traffic Impact Assessment, Environmental and Heritage Impact Assessment to be conducted, the results of which must indicate that no detrimental impact on traffic is envisaged. In addition the Municipality may require subsequent traffic monitoring of any internally illuminated or electronic sign.
- (4) Requirements for external illumination:
 - (a) the light source emanating from external illumination must not be visible to traffic traveling in either direction;

(b) external illumination must not be positioned so as to create any undue light spillage beyond the surface area of the sign; and

(c) approved way leaves must be obtained from the Director: Infrastructural Services or his/her nominee prior to any excavations for the installation of signs. This also applies for signs to be erected in the vicinity of overhead power lines.

(5) Electricity Power sources may be applied for as per the conditions of the Electricity Services By-Law

9. Road traffic safety requirements

(1) Signs may not be erected in an area where they are an unacceptable distraction for drivers, which acceptability may be determined in terms of the guidelines laid down in the S.A. Road Traffic Signs Manual.

(2) Electronic signs may not be permitted if they are visible from class 2 or 3 roads, gateway route or a scenic routes unless expressly approved in writing by the Municipality.

(3) Advertising on bridges, towers, telecommunication masts, pylons or street poles shall not be permitted.

(4) The graphic content of signs must not have the potential to be visually interpreted as a road traffic sign, due to any factor, including but not limited to the following:

- (a) any stylised or pictorial presentation of a road traffic sign or traffic signal;
- (b) any word, symbol, logo or other device used on a road traffic sign;
- (c) use of combinations of colours specified for road traffic signs, in a manner likely to lead to confusion; and
- (d) any reflector paint or material.

(5) Signs may not be erected in an area where the traffic volume, the average following headway, or accident history requires a higher degree of awareness from drivers.

(6) Signs may not be attached to or obscure a road traffic sign or traffic signal specifically provided for in the South African Road Traffic Signs Manual or the South African Development Community Road Traffic Signs Manual.

(7) Signs may not be erected within the road reserve of any public road unless expressly approved by the Municipality.

(8) When located at signalized traffic intersections, signs may not have the colours red or yellow or green as main colours and may not obscure or interfere with any road traffic sign or traffic signal.

(9) Electronic signs shall not be permitted within 80 meters of the perimeter of a signalised traffic intersection.

(10) Flashing or running messages or variable transition messages that have a message change interval of greater than 0, 3 seconds or have transition effects between message changes shall not be permitted if viewable from a public road. Such signs will not be permitted within Historical Areas or upon roads with high traffic flow at night.

(11) Static display, simple transition signs must display a complete frame for an information cycle length of not less than 60 seconds when visible from a signalised traffic intersection and 30 seconds at other locations.

(12) All signs larger than 4.5m² erected adjacent to a public road or in a railway reserve intended to advertise to persons using class 2 and 3 roads must be spaced a minimum specified distance from any other sign or road traffic sign, such distance measured parallel to the centre line of the roadway, in accordance with the measurements set out in Table 1 below:

TABLE 1: LINEAR SPACING BETWEEN SIGNS

Instance	Spacing required when visible for traffic on road with a speed of:		
	≤ 60 km/h (Outside of Urban Areas)	61 – 80km/h	≥80km/h
Where a sign follows a road sign	120m	200m	300m
Where a sign follows another sign	250m	250m	300m
Where a sign precedes a road sign	40m	70m	100m

(13) The abovementioned minimum distances specified in Table 1 above may be decreased by the Municipality if the sign falls within an area of minimum control, or in other areas of control on submission of a Traffic Impact Assessment motivating a reduction of this spacing to the satisfaction of the Municipality. The Municipality may prepare a list or map of designated areas in which the abovementioned spacing requirements shall not be applicable.

10. Legal requirements

All signs to be erected or displayed within the area of jurisdiction of the Municipality must, in addition to complying with this By-Law, comply with all other applicable legislation, including any applicable Zoning Scheme Regulations or condition of approval or any departure from the applicable Zoning Scheme Regulations.

11. Approval

(1) The Municipality may refuse any application or grant its approval subject to conditions relating to the erection or use of the sign and including a condition that the owner of any sign or billboard on the land or building on which it is erected or displayed, or both such owners or the person whose product or services are advertised, indemnify the Municipality against any consequences flowing from the erection, display or mere presence of such sign.

(2) The Municipality may, at any time, withdraw an approval granted in terms of this By-Law or its predecessor or amend any condition or impose a further condition in respect of such approval, if a sign or advertising structure:

- (a) is in a state of disrepair and/or dilapidation;
- (b) remains unused for more than 90 consecutive days;
- (c) becomes redundant or obsolete;
- (d) no longer complies with any provision of this By-Law; or

(e) is substantially altered from the original approved application by way of either structure or graphic content.

(3) Should an approved sign not be erected within 12 months from the date of approval or within such other time as is specified in the approval, such approval shall lapse, unless that period is extended in writing by the Municipality prior to such lapse.

(4) In the event that the structure supporting such sign is intentionally demolished before the expiry of the approval period, the approval shall lapse and no further sign or supporting structure may be erected or re-erected without the Municipality's approval.

(5) All decisions made by the Municipality in terms of this ordinance with regard applications must be in writing and within 60 calendar days after a completed application was received, or within 60 calendar days after receipt of additional information as required by the Municipality.

(6) In notifying an applicant of the outcome of the application the Municipality must inform such applicant or an objector of his right to appeal in terms of section 12.

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CHAPTER 3: GENERAL PROVISIONS

12. Appeal

A person whose rights are affected by a decision in terms of a delegated power may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the Municipal Manager within 21 days of the date of the notification of the decision.

13. Signs for which Municipality's approval not required

(1) Should any sign not comply with the conditions relative to each sign type listed below an application in terms of section 3 will be required.

(2) Subject to compliance with the conditions relative to each sign provided for in sub-sections (3) to (11), and any other applicable legislation, or condition imposed by the Municipality, no application for approval is required in terms of this By-Law in respect of the signs provided for in sub-sections (3) to (11).

(3) Development Boards

(a) Development boards shall be removed forthwith when the building operations are complete or if the building operations are discontinued, or when the provisions of the services, the doing of the work, or the supply of the goods to which the sign relates has ceased.

(b) The Municipality may order the removal of any such sign if the building operations have been substantially completed or discontinued or an Occupancy Certificate has been issued by the Municipality, or the provision of the services, the doing of the work or the supply of the goods to which it relates, has for all practical purposes ceased, and such signs may thereupon be forthwith removed but no later than 5 days after the date of the order for removal thereof.

(c) If the premises on which building operations are in progress, are to be used wholly for residential purposes, only one development board may be displayed, and such development board may not exceed 3m² in total area.

(d) If the premises are not to be used wholly for residential purposes, no more than two development boards may be displayed, and the aggregate area of both development boards may not exceed 5m² in total area;

(e) If the signage, whether on freestanding boards, or flexible building covering material, include any other form of third-party advertising, such sign must then comply with the provisions of Schedule 8 hereto and approval for the display thereof must first be obtained in terms of this By-Law.

(4) To Let/For Sale Signs

(a) These include any sign not exceeding (400mm x 500mm) (0.2m²) in total area displayed at existing premises or at properties upon which a new building is being erected and relating to accommodation being offered to rent or purchase in the building; and

(b) on condition that any such sign must be removed within 2 weeks from date of issue of the occupation certificate or conclusion of a contract.

(5) On Premises Business Signs

These include any sign not illuminated, not projecting over a public road and not exceeding 0.2m² in total area notifying only the types of trade, business, industry or profession lawfully conducted by any occupant or permanent resident of the premises to which it is attached, the name of such occupant, the type of activity, the address and telephone number of such premises and the hours of attendance (if any); provided that only one such sign per occupant may be displayed.

(6) Window Signs

These include any locality bound signs which are temporarily or permanently painted on or attached to the window glass of a building used for commercial, office, industrial or entertainment purposes, or any other temporary or permanent sign which is displayed within 2 meters of any window or external opening through which it can be seen from the outside such a building, on condition that no window sign may exceed 4m² in an area of maximum control. (Not more than 50% of window and not more than total area or 4m²)

(7) Signs incorporated in the face of a building

Any sign forming an integral part of the fabric of a building (but excluding a painted sign or a sign affixed in any manner onto the building), on condition that no such sign may exceed 0.2m² in total area.

(8) Security Signs

Any security sign not projecting over a public road and not exceeding 0.2m² in total area indicating either that a security watch scheme is in operation or that a security company has been contracted to protect the premises on which the sign is displayed, on condition that—

(a) only one such sign is displayed on any public road or each street frontage of such premises; and

(b) the said sign displays only the name, logo, address and telephone number of a security company contracted to protect the premises on which the sign is displayed.

(9) Sponsored, Commercially sponsored and Non-Profit Body Signs: less than 4.5m².

(a) Any such sign whether erected by or in connection with a non-profit body or not; not exceeding 4.5m² in total area on condition that no more than 5% of the total surface area of the sign is used for third party advertising; and the sign is not illuminated, and furthermore provided that only one such sign may be permitted per erf.

(b) Signs which comply with provisions of sub-section (a) may, when erected on Municipal land, only be erected once agreement has been concluded with the Municipality, wherein the extent of the community or public benefit and the terms of the erection of the sign has been agreed.

(c) All other sponsored signs are dealt with in Schedule 16 and 17.

(10) Advertising on Vehicles

Signs painted or affixed directly onto the body of a motorised vehicle unless transit advertising

14. Disfigurement

No person may destroy, harm, damage or disfigure or deface the front or frontage of any street, road traffic sign, wall, fence, land, rock, tree or other natural feature, or the front or frontage or roof of any building or structure in any manner whatsoever during construction or through the display or use of a sign or the writing or painting of any sign, symbol, letters or numerals. Furthermore, no person may disfigure any sign legally displayed in terms of this By-Law.

15. Damage to Municipal property

No person may, in the course of erecting or removing any sign, or banner, cause damage to any tree, electric standard or service or other Municipal installation or property and street furniture.

16. Entry and inspections

The Municipality shall be entitled, through its authorized officers, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this By-Law.

17. Presumptions

Any person charged with an offence in terms of this By-law who is—

(a) alone or jointly with any other person responsible for organising, or in control of any meeting, function or event, to which a sign or poster relates, shall be deemed, until the contrary is proved, to have knowingly displayed every unlawful sign or poster displayed in connection with such meeting, function or event or to have caused or allowed it to be so displayed;

(b) the person whose name appears on an unlawful sign or whose product or services are advertised on such sign, shall be deemed, until the contrary is proved, to have displayed such sign, or to have caused or allowed it to be displayed;

(c) the owner of any land or building on which any unlawful sign was or is displayed, shall be deemed, until the contrary is proved, to have knowingly displayed such sign, or caused or allowed it to be displayed.

18. Enforcement and removal of signs

(1) If any sign displayed is in contravention of this By-law, the Municipality may without prejudice to or in addition to the right to take legal steps or prosecute, serve a notice

on the owner or lessee of the sign, or the land owner or occupant on whose land the sign is erected or displayed, or person whose product or services are advertised, calling upon such person to remove such sign or carry out such alteration thereto or do such work as may be specified in such request or notice, within a time frame specified therein.

(2) A notice served in terms of sub-section (1) may be withdrawn or varied by the Municipality, by agreement with the person so served, or failing such agreement, by the service of a further notice.

(3) Should the Municipality's directives, as set out in the notice, not be carried out within the time period specified therein, the Municipality may, without further notice to the person upon whom the notice was served, remove or alter the sign or do such work as may be specified in such notice.

(4) Any costs incurred by the Municipality in removing signs, or in doing alterations or other works required in terms of a notice, may be recovered from the person on whom the notice was served.

(5) Notwithstanding any other clause in this By-law, if a sign is, or is reasonably considered to be an imminent danger to life or property, the Municipality itself may, after a minimum of six (6) hours prior notice carry out or arrange for the removal of such sign in event of the noncompliance with such notice.

(6) Any costs incurred by the Municipality in carrying out or arranging for the removal of any sign may be recovered from the owner or lessee of the sign, or the landowner on whose land the sign was erected, or the person whose product or services were advertised, jointly and severally.

(7) Unlawful or dangerous signs removed by the Municipality may be reclaimed from the Municipality on payment in full to it of any costs incurred by the Municipality in the removal of the said sign, as well as payment of the costs incurred in the storage of such sign.

(8) Any unlawful signs removed by the Municipality and not reclaimed within two months of the date of removal may be disposed of or be sold by the Municipality to defray its removal or storage costs.

19. Service of notices

(1) A notice, order or any other document issued by the Municipality in terms of this By-law is deemed to be duly issued if an official of the Municipality, formally delegated, signed it.

(2) Any notice or other document that is served on a person in terms of this By-law is regarded as having been duly served—

(a) when it has been delivered to that person personally;

(b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;

(c) when it has been posted by registered or certified mail to that person's known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;

(d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or

(e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;

(f) in the event of a body corporate, when it has been delivered at the registered office of the premises of the body corporate; or

(g) when it has been delivered, at the request of that person, to his or her e-mail address.

(3) Service of a copy is deemed to be service of the original.

(4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, holder of the property or right in question, and it is not necessary to name that person.

20. Liaison forums in community

(1) The Municipality may establish liaison forums in the community for the purposes to—

- (a) ensure the local community participation in the implementation and execution of this By-Law; and
- (b) promoting local economic development and the conservation of visual, tourist, environmental and heritage characteristics of the Stellenbosch Municipal area;

(2) A forum as contemplated in sub-section (1) may consist of-

- (a) a person or persons of an interested party or an affected person or community;
- (b) designated official or officials of the Municipality and
- (c) a council member of the relevant council committee

(3) The Municipality may request-

- (a) a forum to give their input or
- (b) make use of a forum's special knowledge or capacity

(4) A forum of persons or a person as defined in sub clause (2) may give input on their own accord to the Municipality for its consideration, but will have no powers

21. Offences and Penalties

(1) A person who contravenes any provision or fails to comply with any provision of this By-law, or fails to comply with a notice issued in terms of this By-law, commits an offence and shall upon conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and

(c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.

(2) A person commits an offence if he or she—

(a) threatens, resists, hinders, obstructs or otherwise interferes with, or who uses foul or abusive language towards or at an employee or contractor of the Municipality in the exercise of any powers or performance of any duty or function in terms of this By-law; or

(b) impersonates an employee or contractor of the Municipality.

22. Conflict with other legislation

(1) In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.

(2) In the event of an inconsistency between the different texts the English text shall prevail.

23. Exemptions

Notwithstanding the provisions of this By-Law, the Municipality may, on written application, exempt any person or class of persons from any or all of the requirements of this By-Law in considering such exemption it may impose any conditions or requirements it deems appropriate.

24. Repeal of By-Law

The stipulations of any By-law previously passed by the municipality or any abolished Municipality

now incorporated in the present Municipality are herewith repealed as far as they relate to matters provided for in this By-Law and insofar as it has been made applicable to the Municipality by the authorization for the execution of powers and functions covered

in Section 84(3) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

25. Transitional arrangements

(1) Anything done before the promulgation of this By-Law, which was not done in terms of a provision repealed in this By-law and was unlawful, shall in the event of such act or sign still not complying with the provisions of this By-law, be unlawful and the Municipality in such case may take the necessary action in terms of section 19 hereof.

(2) All legal signs that exist at the date of publication of this By-Law, must in all respects comply with the regulations within a period of grace of 12 months from the date of publication. Any sign that fail to comply after the grace period of 12 months will be removed.

(3) The municipality could instruct an owner of a sign to remove it should the sign fail to comply to the regulations of this By-Law. Should the owner neglect to remove the sign and/or within the grace period of 12 months then the Municipality reserves the right to remove such sign at the expense of the owner.

(4) When a sign as a result of the change of ownership or occupation or a change in the nature of a business, industry, trade or profession performed on the premises or due to the installation of new traffic signs or a change in the level or location of any road, foot path or kerbstone or due to any other factor what so ever, no longer comply with the regulations of this By-Law then the person responsible for the sign must immediately remove, erase or change the sign to comply to this By- Law.

26. Short title and commencement

This By-Law shall be known as the Outdoor Advertising and Signage By-Law and Signage.

SCHEDULE 1: AREAS OF CONTROL

Area Type	Natural Area	Rural Area	Urban Area	Urban Area	Urban Area
Control Strength	Maximum	Maximum	Maximum	Partial	Minimum
Area Description	<p>Proclaimed, declared or zoned nature reserve and conservation areas.</p> <p>Protected natural environment.</p> <p>Forestry areas.</p> <p>River corridors.</p> <p>1:100 Year flood plains.</p> <p>Wetlands.</p> <p>Game reserves</p>	<p>Agricultural areas/zones.</p> <p>Horticultural areas.</p> <p>Rural small holdings.</p> <p>Large private open spaces (e.g. golf courses).</p> <p>Scenic routes.</p> <p>Scenic landscapes.</p> <p>Scenic features.</p> <p>Municipal parks.</p> <p>Urban edge zones as defined in the Urban Edge Policy.</p> <p>Agricultural and horticultural areas/zones and adjacent road and rail reserves.</p> <p>Specific areas or sites designated as maximum control by way of a map as contained in the zoning scheme regulations prepared by the Municipality.</p>	<p>Urban conservation overlay areas.</p> <p>Declared Heritage sites.</p> <p>Graded buildings and places.</p> <p>Residential zones and adjacent road and rail reserves.</p> <p>Pedestrian malls and pedestrian squares.</p> <p>Private Open Spaces e.g. Golf courses.</p> <p>River corridors.</p> <p>Specific areas or sites designated as maximum control by way of a map as contained in the zoning scheme regulations prepared by the Municipality.</p>	<p>Central business districts, unless within an urban conservation area.</p> <p>Mixed use commercial and residential areas, unless within a conservation area.</p> <p>Commercial ribbon development and activity corridors, unless within a conservation area.</p> <p>Commercial and business districts and adjacent streets and rail reserves, unless within a conservation area.</p> <p>Entertainment district or complexes with commercial zones, unless within a conservation area.</p> <p>Educational institutions, Sports fields and stadiums , unless within a conservation area.</p> <p>Limited zones (including railway reserves, transport use zones).</p> <p>Specific areas or sites designated as partial control by way of a map as contained in the zoning scheme regulations prepared by the Municipality.</p>	<p>In Heritage insensitive areas. Designated transportation terminals unless historical conservation area or graded building or site.</p> <p>Designated areas within limited use zones unless within a conservation area.</p> <p>Specific areas or sites designated as minimum control by way of a map as contained in the zoning scheme regulations prepared by the Municipality.</p> <p>Industrial zones.</p>

SCHEDULE 2: BILLBOARDS

(1) Subject to approval in terms of this By-Law, the erection or display of Billboards, whether custom made or of standard design, is permitted only in areas of minimum control and subject to a traffic safety audit and visual impact assessment. In addition:

(a) If the proposed erf where the billboards are to be erected borders on class 2 and 3 roads the billboard may not be placed less than 5 meters from the property's boundary line. If the proposed site of erection of a billboard has been designated as a gateway then no billboards will be permitted within such gateway;

(b) Billboards must comply with the standard conditions of approval set out in this By-Law;

(c) Billboards must not encroach over the boundary line of the property on which it is erected, whether such encroachment is aerial or on ground level;

(d) Billboards must have a minimum clear height of 2.4m and a sign structure which does not exceed a maximum height of 7.5m above natural ground level;

(e) Billboards must not exceed a maximum total size of 6 x 3m (18m²) provided that on any V-shaped structure, two such panels may be permitted;

(f) Billboards must be displayed between the angles of 90° and 60° to the direction of oncoming traffic;

(g) Billboards must be spaced a minimum distance apart as specified in section 9 of this By-Law;

(h) If located at signalized traffic intersections, Billboards may not be erected or displayed within 50 meters of the perimeter of the intersection if un-illuminated; and within 80 meters of the perimeter of the intersection if illuminated;

(i) If erected along the right hand side of a section of road, such that its graphics are visible to a driver traveling on the left hand side of the road, shall be deemed to have replaced the advertising opportunity that existed on the left hand side of the road;

(j) Billboards must have a minimum letter or number height of 285mm.

SCHEDULE 3: LOCALITY BOUND FREESTANDING AND COMPOSITE SIGNS

(1) Subject to approval in terms of this By-Law and subsection 5, the erection or display of locality Bound freestanding and composite signs are permitted only in urban areas of maximum, partial and minimum control and subject to a traffic safety audit and visual impact assessment. In addition:

(a) Locality bound freestanding signs may only be permitted in the following instances:

- (i) where business premises are set back 15 meters or more from the boundary of the road reserve; or
- (ii) where it is not reasonably possible to affix appropriate signs to a building; or
- (iii) where such a sign is necessary to allow the public to locate the entrance to business premises; or
- (iv) where the existence of a freestanding composite sign may prevent the proliferation of signs.

(2) Locality bound freestanding composite signs may not exceed 4,5 meters in height and in addition may not exceed 4.5m² in total area. This provision may be waived, after having regard to the following factors:

- (a) if such increase reduces the number of individual signs facing any one street boundary of the site, thereby minimising the visual impact on the surrounding environment;
- (b) if more than two significant roads approach the site in question;
- (c) the number of businesses which will be advertising on such sign;
- (d) the number of approach or exit routes to the site in question;
- (e) the applicable zoning of the area surrounding the site in question.

(3) Service Station freestanding pylon signs must be locality bound and may only be erected or displayed at service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one Service Station freestanding facility sign per street boundary may be permitted.

(4) Service station freestanding pylon signs may not exceed 7,5 meters in height and may not consist of more than eight advertising panels of 4.5m² each in total area. In areas of maximum control the maximum height is 4,5 meters and an area of 7.0m² on each side.

(5) In conservation areas and single residential zones only standard locality bound, free standing and

composite signs shall be allowed as prescribed in Schedule 18.

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SCHEDULE 4: SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS

Subject to approval in terms of this By-Law, the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control. In addition, flat and projecting signs may:

- (1) not be allowed within 1.0 meters of the edge of a roadway nor may it extend to within 1.0 meters of the edge of a roadway;
- (2) not project in front of a wall more than 1,5 meters in the case of a sign which has a clear height of more than 7,5 meters or more than 1 meter in the case of any lesser clear height;
- (3) not project more than 250mm over a footway unless such sign has more than 2.4 meters clear height;
- (4) not obstruct the view from any window or any other external opening of any building and no portion of any such sign may obstruct the opening or closing of any window, door or any other openings
- (5) not exceed 5m² in total area and may not exceed 20% (in areas of maximum control), 30% (in areas of minimum and partial control) or one-quarter of the overall area of the surface to which they are affixed or painted whichever is the lesser. This size restriction may be waived on condition that:
 - (a) an Environmental Visual Impact Assessment be submitted to the Municipality indicating no detrimental environmental impact is envisaged;
 - (b) or in a conservation area, a Heritage Impact Assessment be submitted to the Municipality indicating no detrimental heritage impact is envisaged; and
 - (c) only graphics designed and created by a suitably qualified consultant be displayed on such sign;
- (6) may be considered for approval on blank common boundary facades of non-residential buildings.
- (7) if the sign appears on public facades of any building—
 - (a) be so designed as to become an integral part of the building design; and
 - (b) when a third-party sign, only be permitted if custom-made and subject to the requirements of 5(a) to (c) above.

(8) No signs may be attached to walls or fences of residential buildings

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SCHEDULE 5: SKY SIGNS

(1) Subject to approval in terms of this By-Law, the erection or display of sky signs whether custom made or of standard design, is permitted in areas of minimum control only. In addition, sky signs must:

(a) be limited to a maximum total size of 4.5m² and subject to Traffic Safety Assessment and Visual Impact Assessment indicating no detrimental environmental impact is envisaged; and

(b) not obstruct the view from any other building.

(2) Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will not be allowed.

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SCHEDULE 6: ROOF SIGNS

(1) Subject to approval in terms of this By-Law, the erection or display of roof signs is permitted only in areas of minimum control.

In addition:

(a) The total area of any roof sign affixed flush onto or painted onto a roof of a building may not exceed one-quarter of the overall area of the roof to which it is affixed or painted.

(b) When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 500mm in height and its total area may not exceed 25% of the roof area to which it is affixed.

(2) It shall be permissible to affix a roof sign along the edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m² in total area; with a maximum height of 500mm.

SCHEDULE 7: SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS, PILLARS AND POSTS

Subject to approval in terms of this By-Law and subsection 11 below, the erection or display of signs on a veranda, balcony, canopy, supporting columns, pillars and posts may only be permitted in areas of medium and minimum control on the condition that they also comply with the following:

- (1) No signs may be attached to Historical Buildings
- (2) No such signs will be allowed on or over architectural features of buildings.
- (3) Such signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a veranda or balcony, and beam or fascia of a veranda or balcony.
- (4) The sign may not exceed 1m in height or project above or below or beyond either end of the surface to which it is affixed, or project more than 250mm in front of the surface to which it is affixed or project over a roadway or within 0,6 meters of the edge of the roadway.
- (5) Such signs may be affixed flat onto or painted on supporting columns, pillars and posts. In this regard, no sign may project more than 50mm in front of the surface to which it is affixed and may not extend beyond any of the extremities of such column, pillar or post. Signs affixed flat onto non-rectangular supporting structures must be curved to fit the form of such structure.
- (6) Only one sign per column, pillar or post will be allowed.
- (7) Such signs suspended below the roof of a veranda, canopy or the floor of a balcony may not exceed 1,8 meters in length or 600mm in height.
- (8) Every such sign must be at right angles to the building line.
- (9) No signs suspended under a canopy may extend beyond the external edge of the canopy or veranda to which it is attached.
- (10) All suspended signs must have a clear height of at least 2,4 meters.
- (11) Such signs on the roof of a veranda, canopy or balcony, excluding the main roof of a building, must be composed of a single line of freestanding individual, cut- out silhouette letters without visible bracing or other visible means of support and may not be erected along more than two edges of such roof of a veranda or balcony.

(12) No such sign shall be allowed in a conservation area within a single residential zone unless a Heritage Impact Assessment was submitted which found that no negative impact would be made on the heritage resources.

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SCHEDULE 8: SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE HOARDINGS

Subject to approval in terms of this By-Law, the erection or display of signs on boundary walls and fences is permitted only for locality bound signs in urban areas of maximum, minimum or partial control and in addition:

(1) In urban areas of maximum and partial control, the Municipality may approve an application to affix a locality bound sign against a boundary wall only if the sign is indented into the wall or composed of individual, un-illuminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.

(2) In areas of minimum control, the Municipality may approve, subject to Visual Impact Assessment—

(a) an application to affix a locality bound sign flat onto a boundary wall only if it does not project more than 50mm from the face of such wall; and

(b) an application to affix a locality bound flat sign with a maximum size of 0.5m² onto the permanent fence of an erf.

(3) Third party and locality bound advertising on construction site hoardings and fences must comply with the following conditions:

(a) any one sign may not exceed a vertical dimension of 3 meters and total area of 18m² and in the case of construction site cladding, the graphic must comply with the requirements of the Advertising standards Association of South Africa.

(b) any such sign may not project more than 100mm in front of the hoarding or fence to which it is affixed;

(c) it may not be illuminated in areas of maximum and partial control; and

(d) advertising will not be allowed on construction site hoardings and fences within the cone of vision of motorists at signalised traffic intersections.

SCHEDULE 9: HEADLINE POSTERS

Subject to approval in terms of this By-Law, the erection or display of headline posters is permitted in all areas except natural and rural areas of maximum control. In addition:

- (1) Headline posters may not exceed 0.9m x 0.6m in area.
- (2) The commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster.
- (3) The posters may be attached to Municipal electrical light poles only where approved by the Municipality for the express purposes of these posters.
- (4) Posters may not be affixed to traffic signal poles, or other poles which carry road traffic signs, or poles erected for any other purpose except as provided for in item 5 below, or any other street furniture, walls, fences, trees, rocks or other natural features.
- (5) Headline posters may not be pasted on municipal electric light poles but are to be mounted on board and affixed securely with stout string or plastic ties unless a permanent frame has been approved for this purpose.
- (6) Only one headline poster per pole, regardless of which newspaper group it is, will be permitted, and must be at a uniform height of approximately 2 meters.
- (7) The number of posters as well as the designated areas for the display of headline posters as approved by the Municipality must be strictly adhered to.
- (8) All "special events" posters are to comply with the following:
 - (a) the name of the newspaper group, the "special event" and the date of the "special event" must appear on the posters in letters not less than 50mm in height;
 - (b) the special event posters may not be displayed more than 14 days before the date of the event and they must be removed within 48 hours after the date of the event shown on the poster.
- (9) Headline posters and fastenings are to be removed on a daily basis failing which the posters will be removed, at the newspaper group's expense, in accordance with the standard charges for removal of posters.
- (10) The Municipality may recover the costs of the removal of unauthorised posters, and the reinstatement of the surface from which such posters were removed, from the person responsible for the display of such posters or the newspaper group concerned.

(11) The Municipality may remove any poster displayed in contravention of the abovementioned conditions.

(12) Any poster not removed on a daily basis or a poster relating to a "special event by due date referred to in item 8(b) may be removed by the Municipality.

(13) The display of unauthorised posters is illegal, and the Municipality may also remove such posters.

(14) The Municipality may determine the costs involved for the removal of unauthorised posters.

(15) Application must be made on an annual basis by each newspaper group for permission to display such posters subject to an annual fee per newspaper group.

(16) A deposit per newspaper group who wishes to display posters must be paid annually against which a charge for the removal of any poster which contravenes the By-Law will be levied. In the event of the above deposit being exhausted, permission to display such poster may be withdrawn until a further deposit is submitted to the Municipality.

SCHEDULE 10: POSTERS, BANNERS, TEAR-DROP BANNERS, FLAGS AND BALLOONS

Subject to approval in terms of this By-Law, the erection or display of posters, banners, tear-drop banners and flags other than those referred to in Schedule 11, or balloons, is permitted in all areas, except areas of maximum control. Only to be displayed within or adjacent to property associated with advertisement. In addition:

(1) The display of posters, banners, tear-drop banners, flags and balloons is prohibited on any bridge or across any public road, and along any road designated by the Municipality, unless consent has been obtained from the Municipality.

(2) Posters, banners, tear-drop banners, flags and balloons may not be attached so as to interfere with or constitute a danger to passing pedestrians or vehicular traffic.

(3) No banner, or flag-type banner may be larger than 5m², and no flag may be larger than 2m²; provided further that no flagpole may exceed a relevant height restriction of the zoning of the premises, up to a maximum of 8m above natural ground level, measured directly below the pole;

(4) No poster, banner, tear-drop banner, flag, or balloon may be displayed within 30 meters of any road traffic sign or traffic signal. - special permission required for display within 30m

(5) Posters, banners, flags, or balloons may not be affixed to trees, traffic signal poles, electrical or service authority distribution boxes, or other poles which carry road traffic signs, rock, other natural features, street furniture or other Municipal property.

(6) Posters, banners, tear-drop banners, flags, or balloons may not be affixed in such a way that they unfairly prejudice other businesses or organisations or obscure any approved existing signs.

(7) Only one banner per premises will be permitted unless the Municipality's written permission is obtained for more than one.

- (8)
- (i) A maximum of five flagpoles bearing national flags may be erected on the premises of an accommodation facility on a single residential erf
 - (ii) Subject to the conditions laid down in paragraph 4, a maximum of two tear-drop banners or flags displaying the name, corporate symbol or nature of the business on the premises on which it is displayed, may be allowed.

(9) Posters, banners, tear-drop banners, flags and balloons not kept in a good condition may not be displayed and must be removed after notification by the Municipality.

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SCHEDULE 11: TEMPORARY POSTERS, TEAR-DROP BANNERS, BANNERS AND FLAGS ON PUBLIC ROADS AND PUBLIC PLACES

Subject to approval in terms of this By-Law, the erection or display of posters, banners, tear-drop banners and flags in public roads or public places, for the purpose of advertising specific events, is permitted in all areas of control except natural and rural areas of maximum control. In addition—

(1) Approval for third party advertising on posters, banners, tear-drop banners, flags and balloons may only be granted for a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or for a function or event relating to a Municipal, Provincial or Parliamentary election or referendum.

(2) The name of the host organisation, the date and venue must appear on the material in letters not less than 50mm in height.

(3) Posters, banners tear-drop banners and flags may only be erected to advertise the event and the name or emblem of a sponsor may not cover more than 20% of the surface of the material.

(4) The Municipality may levy a tariff to cover the cost for the removal of material which has been erected without the approval of the Municipality given under the hand of an authorized official.

(5) Posters, banners, tear-drop banners and flags may be displayed for a maximum period of fourteen days prior to the event and must be removed within 2 days from the date of the event or the last day thereof as applicable.

(6) Posters with a maximum measurement of 80 cm x 50 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damage caused to the poles. No securing material with a metal content is permitted.

(7) Posters, banners, tear-drop banners and flags, excluding election posters and flags, may only be erected in the roads, or places as indicated by the Municipality and may not be erected in residential areas or on bridges. No political banners will be allowed.

(8) Only one poster or flag per organisation may be erected on every second streetlight pole.

- (9) Posters and flags must be erected at a uniform height of approximately 2 meters.
- (10) No posters, banners, tear-drop banners or flags may be affixed to trees, traffic signs, traffic signals, central ridges, existing advertising signs or any municipal buildings or over hydrant identification signs.
- (11) No posters, banners, tear-drop banners and flags may be displayed within 30 meters of any road traffic sign or traffic signal.
- (12) All materials used to affix the posters must be removed together with the posters.
- (13) The Municipality may remove any indecent or torn posters, banners, tear-drop banners or flags, or any posters, banners or flags which create a traffic hazard in the opinion of the Municipality
- (14) The Municipality is exempted from claims that may be instituted against the Municipality as a result of the display of posters, banners, tear-drop banners and flags.
- (15) The display of posters, banners, tear-drop banners and flags purely for commercial advertising is not permitted, provided that any poster, banner or flag which relates to a sport, the arts, or a cultural event may be permitted, despite such posters, banners, tear-drop banners or flags containing commercial elements. The commercial element may not exceed 20% of the extent of the poster, banner, tear-drop banner or flag.
- (16) Organisations or persons who obtained approval to display posters or flags must pay a deposit as determined by the Municipality, which shall entitle that person to display the said poster or flag for a maximum period of 14 days, or such time as stipulated by the Municipality. No poster or flag may be displayed without such deposit having been paid.
- (17) The Municipality may remove or request the applicant to remove all posters, banners, tear-drop banners or flags should any of the above conditions not be complied with.
- (18) Posters, banners, tear-drop banners or flags that are not removed by the due date may be removed by the Municipality in which case the deposit paid in terms of item 15 will be forfeited to the Municipality.
- (19) Banners will be erected or removed by the Municipality at a rate as approved from time to time and the banner must comply with the specifications as laid down by the Municipality.

SCHEDULE 12: ESTATE AGENT SIGNS

Subject to approval in terms of this By-Law, the erection or display of estate agent signs is permitted in all areas except natural areas of maximum control. Only estate agents registered with the Estate Agents Board will be allowed to erect show houses signs. Proof of registration must accompany the application. In addition:

(1) Estate Agencies must apply annually for permission to display signs and approval may be subject to payment of an annual fee in accordance with the Municipality's by-law and policy on tariffs.

(2) A deposit may be required by the Municipality against which a charge for the removal of any sign which contravenes this By-law will be levied. In the event of the above deposit being exhausted, permission to display such signage may be withdrawn until a further deposit is paid to the Municipality.

(3) Any Estate Agent sign unlawfully erected, or in contravention of the provisions of this Schedule, will be subject to a charge by the Municipality; in the event of the said sign not being removed, photographic evidence of the unlawful sign may be obtained by the Municipality prior to levying the said charge.

(4) "For sale", "Sold" and "To let" signs shall be fixed flat to the surface of the boundary fence or wall of the property.

(5) "Sold" signs may be displayed, fixed flat to the surface of the boundary fence or wall of the property, for a maximum period of two weeks.

(6) No sign may be erected in such a way that any part of it is closer than 1.5m from a road verge.

(7) No sign may be erected on centre islands.

(8) No sign may obscure a road traffic sign.

(9) No signs may be erected on any tarred area of pavements.

(10) Estate agent signs may not exceed 0.3m² in total area.

(11) "Show House" signs may be displayed only from 12h00 on Fridays to 20h00 on Sundays.

(12) Show house signs may not be affixed to trees, traffic signals, street poles or other poles which carry road traffic signs, walls, fences, rocks, other natural features or landscaped areas, street furniture, or other Municipal property, unless such other display is authorised by the Municipality in writing.

(13) On each sign, the wording "On Show", "Show House", "Show Flat" or "Show Plot" with the Agency's name and directional arrow must be displayed as well as the date.

(14) Show house signs may be displayed on stakes making use of a design approved by the Municipality. Estate Agent signs may not be displayed on concrete, tarred or paved surfaces. It is not permissible for stakes to penetrate the ground deeper than 15cm.

(15) Not more than six estate agent directional signs will be permitted in total per show house, show plot or block of flats in which a show flat is on display. The definition of one sign will include the display of two signboards only when such boards are sandwiched back to back around an electric light pole.

(16) Show houses signs may not be displayed along Scenic Routes or on any bridge, public park or public open space.

(17) Directional signs may be displayed along main routes only, being the shortest route from a main road to the property.

(18) Only one directional sign per show house/flat/plot may be displayed along class 2 or 3 roads, excluding roads referred to in item 7 above.

SCHEDULE 13: LOOSE PORTABLE SIGNS

Subject to approval in terms of this By-Law, the erection or display of loose portable signs is permitted in areas of minimum and partial control as well as designated areas within urban areas of maximum control. In addition:

(1) Loose portable signs may not be placed in a road reserve or in public open spaces without the written permission of the Municipality.

(2) The Municipality may remove and impound loose portable signs placed without permission in a road reserve or on Municipal property. Owners can recover their signs on payment of the prescribed fee as determined the Municipality which will be used to defray the cost of removal, storage and transportation.

3) The following criteria will apply in respect of an application in terms of item 1:

(a) that it does not pose a hazard in terms of safety to the public;

(b) that it does not obstruct or cause inconvenience to the public either by its physical size or location;

(c) that it does not unfairly prejudice other traders;

(d) that the loose portable sign or proposed number thereof does not detract from the amenity of the local streetscape or local environment;

(e) that it is intended solely to advertise the name of the business, goods or services for sale from the advertiser's premises;

(f) that the maximum dimensions of the proposed loose portable sign must be 1.2m (height) x 0.6m (width).

(g) that it may be placed directly in front of the advertiser's premises, provided that the above criteria are met; and

(h) that a minimum clear footway width of 1,8 meters must remain clear and 2,5 meters in the central business district and sidewalks with high pedestrian volumes.

(4) The Municipality may demarcate areas within the road reserve or on municipal property where, during normal trading hours, applicants may then place the approved loose portable signs. The said signs must be removed outside normal trading hours and stored away from public view.

(5) The Municipality may levy tariffs for displaying the loose portable signs, which tariffs shall be payable in advance for a maximum period of six months.

(6) Applicants will be required to indemnify the Municipality against any claims from third parties that may arise, due to the placement of loose portable signs within the road reserve or on municipal property.

(7) Notwithstanding the above, the Municipality may cause the removal or impoundment of the sign or signs should the applicant contravene any of the above conditions.

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SCHEDULE 14: AERIAL SIGNS

Subject to approval in terms of this By-Law, the erection display of aerial signs is permitted only in urban areas of minimum control. In addition:

- (1) No aerial signs affixed to any building or structure may be flown at a height of more than 45 meters from the surface measured from ground level.
- (2) Aerial signs may not be flown above a public road.

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SCHEDULE 15: TRANSIT ADVERTISING

Subject to approval in terms of this By-Law, the erection or display of transit signs is permitted only in urban areas of minimum control.

In addition:

- (1) The parking of a transit sign which is visible from a public road or a public place for the purpose of third-party advertising is prohibited, except if it is displayed on a designated display site approved in terms of this By-Law as well as the Streets By-Law.
- (2) Transit signs parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from a street or public place.
- (3) The advertising panel or portion of the vehicle used for transit advertising may not exceed a cumulative total of 18m².
- (4) The Municipality may designate sites in areas of minimum control for transit advertising and may publish notices indicating such sites.
- (5) Notwithstanding any provisions of this By-Law, the Municipality may, without prior notice, remove any unauthorised transit signs from municipal property, and, in the case of unauthorised transit advertising on private property, the Municipality may serve a notice ordering the removal thereof in terms of this By-Law.
- (6) Transit signs must be properly fixed to the ground at the parking location.

SCHEDULE 16: SIGNS ON MUNICIPAL LAND OR BUILDINGS

(1) No sign may be displayed or erected on municipal land or buildings without the written permission of the Municipality.

(2) The following specific conditions and criteria will apply to the signs mentioned in items (a) to (c) below:

(a) Commercially sponsored signs other than those in section 13 (10).

Notwithstanding the area of control within which it is proposed to erect a commercially sponsored sign on Municipal land or buildings, and subject to compliance with all other provisions of this By-Law, the Municipality may consider a commercially sponsored sign for approval, subject to the following:

(i) Public or community needs or goals must be identified or adopted by the Municipality and if such needs can be addressed either entirely or in part by the granting of concessions to particular persons for the erection of commercially sponsored signs, the Municipality may call for public input on such public or community needs or goals and the related advertising opportunity.

(ii) In order to identify such public or community needs or goals, the Municipality and other interested authorities must consult prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.

(iii) The Municipality's Supply Chain Management Policy will apply.

(iv) that any proposal be evaluated on the following factors:

(aa) the adherence to the principles of this By-law;

(bb) the design contribution;

(cc) the best community benefit offered;

(dd) the creativity and public safety;

(ee) the permanence of the contribution to the community goals or needs; and

(ff) the recovery cost over the period of the erection of the sign as opposed to the largest advertising opportunity or financial gain.

(v) When contributions in kind are to be recovered by the Municipality, a conversion thereof to a monetary contribution to the Municipality's income base will be assessed.

(vi) the Municipality, as landowner, reserves the right not to proceed with any proposal prior to final approval thereof and the call for invitations for proposals in any respect shall not be regarded decision by the Municipality to proceed with the erection of a sign in respect of a specific site.

(vii) Once accepted, any sign to be erected in terms of this schedule must be the subject matter of a written agreement between the Municipality as landowner and the person responsible for the erection of the sign.

(b) Sponsored signs

Notwithstanding the area of control within which it is proposed to erect such a sign on Municipal owned land or buildings and subject to compliance with all other provisions of this By-Law, the Municipality may consider a sponsored sign for approval on condition that:

(i) written detail will be provided which clearly indicates the recognised community goals which will be promoted by the erection or display of the proposed sign;

(ii) signs with a political content will not be permitted;

(iii) no more than 5% of the total surface of the sign is used for third party advertising.

(iv) the maximum size of any such sign will be 6m x 3m; provided in the event of a V-shaped sign where the size may not exceed two panels of 6m x 3m each. Not allowed in areas of maximum control

(v) applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2.

(vi) no sign erected in terms of this clause be located within 5 meters of a property's boundary line.

(c) Non-profit body signs

Notwithstanding the area of control within which it is proposed to erect a sign, and subject to compliance with all other provisions of this By-Law, the Municipality may consider the erection of a sign by or for the benefit of a non-profit body subject to compliance to a VIA and with the requirements set out in Schedule 17.

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SCHEDULE 17: SIGNS ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT ORGANISATIONS

(1) Notwithstanding the area of control within which it is proposed to erect a sign by or for the benefit of a non-profit organisation, and subject to compliance with all other provisions of this By-Law, the Municipality may consider such a sign for approval subject to the following:

(a) written details from the host non-profit organisation regarding the nature and extent of the support to be received from the erection or display of the sign must be delivered to the Municipality together with the other information set out in Section 3 of this By-Law;

(b) the extent of involvement of previously disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal;

(c) any proposal will be evaluated on the following factors;

(i) the adherence to the principles or provisions of this By-Law;

(ii) the design contribution;

(iii) the best community benefit offered;

(iv) the creativity and public safety; and

(v) the permanence of the contribution to the community goals or needs as opposed to the largest advertising opportunity or financial gain.

(d) in the event of it being proposed that the said sign will be erected on municipal property:

(i) the Municipality must evaluate the proposal;

(ii) the Municipality as landowner reserves the right not to proceed with any proposal prior to final approval thereof; and

(iii) if accepted, a written agreement between the Municipality, the person responsible for the erection of the sign and the non-profit body must be entered into.

(e) In addition the following conditions will apply:

(i) signs with a political content will not be permitted;

(ii) the maximum size of any such sign is 6m x 3m; provided in the event of a V-shaped sign being proposed, its maximum size will not exceed two panels of 6m x 3m each;

(iii) applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2;

(iv) no sign erected in terms of this clause may be located within 5 meters of a property's boundary line;

(v) the name of the non-profit body must be displayed on the sign with a maximum 300mm lettering height;

(vi) all parties that may be affected by the erection or display of such sign must be given opportunity for their input;

(vii) the Municipality may require submission of impact assessment studies; and

(viii) no more than two individual signs of 6m x 3m each may be permitted, or alternatively one V-shaped sign with a maximum of two panels of 6m x 3m each on any one property. In addition, only one sign per street frontage will be permitted.

SCHEDULE 18: STANDARD FREE STANDING AND COMPOSITE SIGNS FOR THE CONSERVATION AREA

(1) Subject to approval and in accordance to this By-Law, the erection and display of standard free standing and composite signs will be the primary way of advertising in conservation areas and in areas of single residential zoning. In addition:

(a) Only one standard advertising structure, designed according to Municipal requirements, will be allowed on a property.

(b) A composite sign of maximum two advertising signs and size not exceeding an area of 1.8 m² per advertising structure showing only the name of the business and its main product will be allowed.

(c) In the case of a business centre, more than one advertising sign per advertising structure will be allowed in which case the centre's name and the names of the businesses in the centre may be displayed.

(2) The signs and advertising structures shall:

(a) Comply to the design standards and requirements of the Municipality.

(b) Not be displayed in the road reserve.

ANNEXURE B



Belangegroep Stellenbosch Interest Group

14 June 2021

Mr Deon Louw
deon.louw@stellenbosch.gov.za

Dear Mr Louw

STELLENBOSCH MUNICIPALITY SECOND DRAFT BY-LAW RELATING TO OUTDOOR ADVERTISING AND SIGNAGE

Please find the Stellenbosch Interest Group's (SIG's) comments on the Second Draft By-Law relating to Outdoor Advertising and Signage below.

The SIG wishes to place on record the importance for the Stellenbosch Municipality to; first, take note of the comments of Ms Claire Abrahamson relating to this By-law. Secondly, the comments of the Stellenbosch Municipality's recently appointed Senior Heritage Planner, Ms Katherine Robinson, must be obtained as she will be administering the Signage Policy. The significance of the afore-mentioned two heritage practitioners must precede and override any comments that are contributed by the SIG.

In particular, the following input from Ms Claire Abrahamson must be given immediate attention:

- *Rural landscapes are vulnerable to visual degradation through inappropriate signage, which can sometimes form an "urban intrusion" into the landscape.*
- *If a sign impacts or alters building fabric older than 60 years, application to HWC under Section 34 of the National Heritage Resources Act would be required, and comment on the proposed sign from the local heritage bodies would be appropriate.*
- *Applications for proposed new signs within conservation areas should engage with and receive the comment of any registered conservation bodies within those areas.*
- *The Municipality has a conservation team that is in the process of finalising a CMP for the whole area. It would be prudent to workshop this section of the by-law with them, to ensure that adequate control of signage in historic environments is provided.*

The SIG's concern relates in particular to the need for specific reference in the By-law to rural areas. The By-law indicates what is not permitted but gives no guidelines as to what signage should look like in this area of maximum control.

The SIG's further wishes to comment as follows:

Definitions

“**sign**” means any object, product, replica, advertising structure, mural, device or board which is used to publicly display a sign, or which is in itself a sign and includes a poster, billboard and an advertisement which is included in the architectural design of a building or structure and which is visible from any public place;

Comment: Signs must exclude murals. Murals must be dealt with in a separate By Law. In recent decades, public murals have become a common phenomenon in urban landscapes around the world. The Stellenbosch Municipality needs to establish a Public Mural Art Policy and Regulations that employ murals as an acceptable element while maintaining a balance which reflects and influences social, political, historical, cultural, and aesthetic values in Stellenbosch. In this regard Cape Town's Mural Policy would be a possible example to adapt for the unique character of Stellenbosch and the Winelands.

Comment: Rural areas are listed as areas of maximum control. The schedules only refer to what is not permitted under the schedules 9: headline posters 11: Temporary posters, tear-drop banners, banners and flags on public roads and public places.

SCHEDULE 1: AREAS OF CONTROL P35

The table refers

Please note that the SIG considers that the text highlighted in yellow below should be added to the draft document and that the text that has been struck through should be deleted.

Urban Area – Partial Control

Mixed use commercial and residential areas, unless within a conservation area.

Commercial ribbon development and activity corridors, unless within a conservation area.

Commercial and business districts and adjacent streets and rail reserves, unless within a conservation area.

Entertainment district or complexes with commercial zones, unless within a conservation area.

Educational institutions, Sports fields and stadiums, unless within a conservation area.

~~Undetermined zones~~ Limited use zones (including railway reserves, transport use zones).

Specific areas or sites designated as partial control by way of a map as contained in the zoning scheme regulations prepared by the Municipality. (Comment: There are no partial control sites marked on a map in the zoning scheme)

Urban Area – Minimum Control

Designated areas within ~~undetermined zones~~ limited use zones unless within a conservation area.

Specific areas or sites designated as minimum control by way of a map as contained in the zoning scheme ? (Comment: There are no partial control sites marked on a map in the zoning scheme)

SCHEDULE 4:

~~(8) is not allowed on the sides of buildings around the areas of maximum and partial control.~~ Comment: The text should be omitted because it contradicts the introductory paragraph of Schedule 4: the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control.

Add the following:

(9) No signs may be attached to walls or fences of residential buildings.

SCHEDULE 5: SKY SIGNS

Sky signs are not suitable for Stellenbosch or the Winelands.

~~(2) Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will only be permitted if they are locality bound, un-illuminated and consist of individual cut-out letters or logos.~~ Comment: This at least must be removed. Such signs should not appear on the roof of a cultural, historic or architecturally significant building.

SCHEDULE 6: ROOF SIGNS

(1b) When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 4 0,5 metre in height and its total area may not exceed 25% of the roof area to which it is affixed. Comment: 1 metre is too big, consider 0.5metre and a limitation should be set for the total area if the roof is large.

2) It shall be permissible to affix a roof sign along the lower edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3.6m² in total area; with a maximum height of 4-metre 0,5metre.

SCHEDULE 7: SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS, PILLARS AND POSTS

The numbering should be reviewed. Two sections (1) appear under Schedule 7.

(1) No signs may be attached to Historical Buildings

~~(1)~~ (2) No such signs will be allowed on or over architectural features of buildings.

(2) No such signs will be allowed on or over architectural features of buildings.

Comment: Please note that columns, pillars, verandas, and balconies etc are all architectural features.

(7) Every such sign must be at right angles to the building line.

Comment: Unclear to which building line is referred.

SCHEDULE 13: LOOSE PORTABLE SIGNS

(d) that the loose portable sign, only one per business, ~~or proposed number thereof~~ does not detract from the amenity of the local streetscape or local environment;

(h) that a minimum clear footway width of 1,8 meters must remain clear and 2,5 meters in the urban conservation area ~~central business district~~ and sidewalks with high pedestrian volumes.

SCHEDULE 14: AERIAL SIGNS

(2) Aerial signs may not be flown above a public road. ~~time~~ ('time' should be deleted)

SCHEDULE 15: TRANSIT ADVERTISING

(4) The Municipality may designate sites in areas of ~~ad~~-minimum control for transit advertising and may publish notices indicating such sites.

The SIG wishes to thank the Municipality for the good working relationship that has been established with the committee in drafting this By-law and suggests that the task be completed by working with the Heritage practitioners that are deeply committed to improving the visual and environmental condition of our unique Municipality's historic and rural character.

Kind regards,

Patricia Botha

ANNEXURE C

POSTER BY-LAW OFFENCES

AMD FINES

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
3(1)	Display any advertisement or erect or use any sign for advertising purposes without the Municipality's approval	R2 500	
4(1)	No sign may be erected until such time as the application fees have been paid in full	R2 000	
4(2)(f)	(f) that no sign or advertisement may be designed or displayed that— (i) will constitute a danger to any person or property; (ii) will display any material or graphic which does not comply with the requirements of the Advertising Standards Authority of South Africa. (iii) will be detrimental to the environment or amenity of the neighbourhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic or locality. (iv) will obscure any other signs approved in terms of this By-Law or its predecessor; and (v) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.	R2 000	
6(1)	(1) All signs and advertising structures which are not properly erected and constructed of the requisite strength or inadequately secured or does not comply with the requirements pertaining thereto of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977).	R2 000	
6(2)	Sign not repaired within seven after receipt of notice in writing for being vandalised, torn, damaged or falling into state of disrepair	R2 000	

9(2)	Signs may not be erected in an area where they are an unacceptable distraction for drivers, which acceptability may be determined in terms of the guidelines laid down in the S.A. Road Traffic Signs Manual.	R2 000	
14	No person may destroy, harm, damage or disfigure or deface the front or frontage of any street, road traffic sign, wall, fence, land, rock, tree or other natural feature, or the front or frontage or roof of any building or structure in any manner whatsoever during construction or through the display or use of a sign or the writing or painting of any sign, symbol, letters or numerals. Furthermore, no person may disfigure any sign legally displayed in terms of this By-Law.	R2 500	
15	No person may, in the course of erecting or removing any sign, or banner, cause damage to any tree, electric standard or service or other Municipal installation or property and street furniture.	R2 500	
17(2)	(2) A person commits an offence if he or she— (a) threatens, resists, hinders, obstructs or otherwise interferes with, or who uses foul or abusive language towards or at an employee or contractor of the Municipality in the exercise of any powers or performance of any duty or function in terms of this By-law; or (b) impersonates an employee or contractor of the Municipality.	R2 500	

ANNEXURE D

POWERS/DUTIES CONFERRED ON OFFICIALS AND/OR STRUCTURES					
LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY/ DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/LIMITATIONS/ INSTRUCTION TO ASSIST
BY-LAWS					
BY-LAW RELATING TO TO OUTDOOR ADVERTISING AND SIGNAGE					
OAS(3)	To approve an application for the display a new sign or to alter or to add to an existing approved sign or submit a signage plan	Municipal Manager	Director: Planning & Economic Development for all off street positioned signs, advertising, posters (Signs and poster outside of any street or road reserve) Director: Infrastructure Services for all on-street positioned signs, advertising, posters (signs and posters for all signs and posters within street and road reserves)		
OAS(4)	Determination of all and any fees associated with Outdoor Advertising and Signage	Council			
OAS(7)	The approval of any electricity connections and fees to be paid for signs needing an Electricity Supply	Municipal Manager	Director: Infrastructure Services		

OAS(8)	Approval of illuminance conditions and positioning wrt unwanted visual irritation to motorists of an illuminated signs=	Municipal Manager	Director: Infrastructure Services		
OAS(9)	Approval of sign position and design wrt to Traffic Safety	Municipal Manager	Director: Infrastructure Services		In consultation with both external and internal role- players as per by-law
OAS(12)	Any appeals lodged in terms of Signs and Posters conditions of approval	Municipal Manager			

ANNEXURE E

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 ☎ 021 873 1154 • sales@lategens.co.za • www.lategens.co.za

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MUNISIPALE KENNISGEWING: 44/2021

OPENBARE PUBLIEKE DEELNAME PROSES VIR NUWE PAAIE MEESTERPLAN

Kennis geskied hiermee dat Stellenbosch Munisipaliteit 'n nuwe Paaie Meesterplan ter tafel lê vir openbare inspeksie en kommentaar by die onderskeie biblioteke in die Stellenbosch munisipale area asook op www.stellenbosch.gov.za vanaf **14 MEI 2021 – 14 JUNIE 2021**.

Alle kommentaar moet verwys word na die Direkteur: Infrastruktuurdienste.

Kontak persoon: Deon Louw
Tel: 021 808 8213
E-pos: engineering.services@stellenbosch.gov.za
Onderwerpslyn: ROADS MASTERPLAN

Geraldine Mettler
 MUNISIPALE BESTUURDER

Posbus 17
 STELLENBOSCH, 7599

MUNICIPAL NOTICE: 44/2020

CALLING ON PUBLIC FOR COMMENTS ON NEW ROADS MASTERPLAN

Notice is hereby given that Stellenbosch Municipality has tabled a new Roads Masterplan, available for public comment at the libraries in the Stellenbosch municipal area and on www.stellenbosch.gov.za from **14 MAY 2021 – 14 JUNE 2021**.

All comments must be submitted to the Director: Infrastructure Services

Contact person: Deon Louw
Tel: 021 808 8213
Email: engineering.services@stellenbosch.gov.za
Subject matter: ROADS MASTERPLAN

Geraldine Mettler
 MUNICIPAL MANAGER

PO Box 17
 STELLENBOSCH, 7599



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MUNISIPALE KENNISGEWING: 45/2021

OPENBARE PUBLIEKE DEELNAME PROSES VIR NUWE PLAKKAAT VERORDENING

Kennis geskied hiermee dat Stellenbosch Munisipaliteit 'n nuwe Plakkaat Verordening ter tafel lê vir openbare inspeksie en kommentaar by die onderskeie biblioteke in die Stellenbosch munisipale area asook op www.stellenbosch.gov.za vanaf **14 MEI 2021 – 14 JUNIE 2021**.

Alle kommentaar moet verwys word na die Direkteur: Infrastruktuurdienste

Kontakpersoon: Deon Louw
Tel: 021 808 8213
E-pos: engineering.services@stellenbosch.gov.za
Onderwerpslyn: POSTER BY-LAW

Geraldine Mettler
 MUNISIPALE BESTUURDER

Posbus 17
 STELLENBOSCH, 7599

MUNICIPAL NOTICE: 45/2021

CALLING ON PUBLIC FOR COMMENTS ON NEW POSTER BY-LAW

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All comments must be submitted to the Director: Infrastructure Services

Contact person: Deon Louw
Tel: 021 808 8213
Email: engineering.services@stellenbosch.gov.za
Subject matter: POSTER BY-LAW

Geraldine Mettler
 MUNICIPAL MANAGER

PO Box 17
 STELLENBOSCH, 7599

XIVWEP008-ENG00071

7.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J JOON)
-----	--

NONE

7.8	PLANNING :(PC: CLLR C VAN WYK (MS)
-----	------------------------------------

NONE

7.9	LOCAL ECONOMIC DEVELOPMENT AND TOURISM:(PC: CLLR R DE TOIT (MS)
-----	---

NONE

7.10	RURAL MANAGEMENT: (PC: CLLR J WILLIAMS)
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NONE

7.11	MUNICIPAL MANAGER
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7.11.1	SIGNED PERFORMANCE AGREEMENT 2022/23 OF THE DIRECTOR: INFRASTRUCTURE SERVICES
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Collaborator No: 733855
 IDP KPA Ref No: Good Governance and Compliance
 Meeting Date: 16 August 2022

1. SUBJECT: SIGNED PERFORMANCE AGREEMENT 2022/23 OF THE DIRECTOR: INFRASTRUCTURE SERVICES

2. PURPOSE

To submit to Council, for notification, the following:

- (a) The signed Performance Agreement 2022/23 of the Director: Infrastructure Services.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Regulation 4(4)(a) of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006, requires that a separate performance agreement be signed within ninety (90) calendar days after the assumption of duty and annually within one month after the commencement of the new financial year.

The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) further requires that the signed performance agreements be promptly submitted to the Council.

The Director: Infrastructure Services was appointed by Council and assumed office on Monday, 01 August 2022.

5. RECOMMENDATION

that the signed Performance Agreement 2022/23 of the Director: Infrastructure be noted.

6. DISCUSSION

6.1.1 Background

Regulation 4(4)(a) of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006, requires that a separate performance agreement be signed within ninety (90) calendar days after the assumption of duty and annually within one month after the commencement of the new financial year.

The performance agreement 2022/23 of the Director: Infrastructure Services was concluded on 03 August 2022. Therefore, the municipality complied with Regulation

(4)(4)(a) of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006.

6.2. Financial Implications

There are no financial implications beyond that which has been provided for in the 2022/23 MTREF Budget.

6.3. Legal Implications

According to Section 57(2) of the MSA, the performance agreement/s must be concluded annually: "(a) ...within one month after the beginning of each financial year of the municipality."

In terms of Section 53(3)(b) of the MFMA the Executive Mayor must ensure that the performance agreements are "...submitted to the council and the MEC for local government in the province."

The MFMA also requires the municipality, in terms of Section 53(3)(b), to make public the signed performance agreements.

According to Regulation 23 of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 805 of 2006, the purpose of the agreement is to:

- "(1) comply with the provisions of Section 57(1)(b),(4A), (4B), (46) and (5) of the Act as well as the employment contract entered into between the parties;
- (2) specify objectives and targets defined and agreed with the employee and to communicate to the employee the employer's expectations of the employee's performance and accountabilities in alignment with the Integrated Development Plan, Service Delivery and Budget Implementation Plan (SDBIP) and the Budget of the municipality;
- (3) specify accountabilities as set out in a performance plan, which forms an annexure to the performance agreement;
- (4) monitor and measure performance against set targeted outputs;
- (5) use the performance agreement as the basis for assessing whether the employee has met the performance expectations applicable to his or her job;
- (6) in the event of outstanding performance, to appropriately reward the employee;
and
- (7) give effect to the employer's commitment to a performance-orientated relationship with its employee in attaining equitable and improved service delivery."

Regulation 4(4)(a) of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006, requires that a separate performance agreement be signed within ninety (90) calendar days after the assumption of duty and annually within one month after the commencement of the new financial year.

6.4. Staff Implications

This report has no staff implications for the municipality.

6.5. Risk Implication

None

6.6. Comments from Senior Management**6.6.1. Comments from the Municipal Manager**

Supported

6.6.2. Chief Financial Officer

Supported

6.6.3. Director: Infrastructure Services

Supported

ANNEXURES

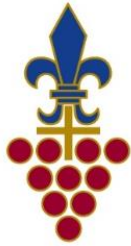
Performance Agreement 2022/23 for:

- Mr Preshane Chandaka – Director : Infrastructure Services (**ANNEXURE 1**)

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	mm@stellenbosch.gov.za
REPORT DATE	03 August 2022

ANNEXURE 1



STELLENBOSCH

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Performance Agreement

2022 – 2023

Director:
Infrastructure Services



PERFORMANCE AGREEMENT

MADE AND ENTERED INTO BY AND BETWEEN
STELLENBOSCH MUNICIPALITY HEREBY REPRESENTED BY:

THE MUNICIPAL MANAGER
Ms Geraldine Mettler
(herein and after referred as Employer)

AND

DIRECTOR: INFRASTRUCTURE SERVICES
Mr Preshane Chandaka
(herein and after referred as Employee)

FOR THE FINANCIAL YEAR:

01 JULY 2022 – 30 JUNE 2023



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1. INTRODUCTION

- 1.1 The Employer, duly represented by **Ms Geraldine Mettler**, in her capacity as the Municipal Manager has entered into a contract of employment with the Employee, **Mr Shane Chandaka**, in terms of section 57(1)(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) ("the Systems Act"). The Employer and the Employee are hereinafter referred to as "the Parties";
- 1.2 Section 57(1)(b) of the Systems Act, read with the Contract of Employment concluded between the parties, requires the Parties to conclude an annual performance agreement;
- 1.3 The Parties wish to ensure that they are clear about the goals to be achieved, and secure the commitment of the Employee to a set of outcomes that will promote local government policy goals;
- 1.4 The Parties wish to ensure that there is compliance with Sections 57(4B) and 57(5) of the Systems Act;
- 1.5 In this Agreement, the followings terms will have the meaning ascribed thereto:
 - 1.5.1 "this Agreement" – means the performance agreement between the Employer and the employee and the Annexures thereto;
 - 1.5.2 "the **Municipal Manager**" – means the Municipal Manager of the Municipality appointed in terms of Section 54(A) of the Systems Act;
 - 1.5.3 "the Employee" means the **Director: Infrastructure Services** appointed in terms of Section 56 of the Systems Act;
 - 1.5.4 "the Employer" means **Stellenbosch Municipality**; and
 - 1.5.5 "the Parties" means the Employer and Employee.

2. PURPOSE OF THIS AGREEMENT

- 2.1 To comply with the provisions of Section 57(1)(b), (4B) and (5) of the Systems Act as well as the Contract of Employment entered into between the Parties;
- 2.2 To specify objectives and targets established for the Employee and to communicate to the Employee the Employer's expectations of the Employee's performance targets and accountabilities;
- 2.3 To specify accountabilities as set out in the Performance Plan (Annexure A);
- 2.4 To monitor and measure performance against set targeted outputs and outcomes;
- 2.5 To establish a transparent and accountable working relationship;



- 2.6 To appropriately reward the employee in accordance with section 11 of this agreement; and
- 2.7 To give effect to the Employer's commitment to a performance-orientated relationship with the Employee in attaining improved service delivery.

3. COMMENCEMENT AND DURATION

- 3.1 This Agreement will commence on **01 August 2022** and will remain in force until **30 June 2023** where-after a new Performance Agreement shall be concluded between the parties for the next financial year or any portion thereof for the 2022/23 financial year;
- 3.2 The Parties will conclude a new Performance Agreement that replaces this Agreement at least once a year by not later than 31st of July of the succeeding financial year;
- 3.3 This Agreement will terminate on the termination of the Employee's contract of employment for any reason; and
- 3.4 The content of this Agreement may be revised at any time during the abovementioned period to determine the current applicability of the matters previously agreed upon.

4. PERFORMANCE OBJECTIVES

- 4.1 The Performance Plan (Annexure A) sets out –
 - 4.1.1 The performance objectives and targets that must be met by the Employee;
 - 4.1.2 The time frames within which those performance objectives and targets must be met; and
 - 4.1.3 The core competency requirements (Annexure B – definitions) as the management skills regarded as critical to the position held by the Employee.
- 4.2 The performance objectives and targets reflected in Annexure A are set by the Employer in consultation with the Employee and based on the Integrated Development Plan, Service Delivery and Budget Implementation Plan (SDBIP) and the Budget of the Employer, and shall include:
 - 4.2.1 Key objectives that describe the main tasks that need to be done;
 - 4.2.2 Key performance indicators (KPIs) that provide the details of the evidence that must be provided to show that a key objective has been achieved;
 - 4.2.3 Target dates that describe the timeframe in which the targets must be achieved; and



- 4.2.4 Weightings showing the relative importance of the key objectives to each other.
- 4.3 The Personal Development Plan (Annexure C) sets out the Employee's personal development requirements in line with the objectives and targets of the Employer; and
- 4.4 The Employee's performance will, in addition, be measured in terms of contributions to the goals and strategies set out in the Employer's Integrated Development Plan.

5. PERFORMANCE MANAGEMENT SYSTEM

- 5.1 The Employee agrees to participate in the performance management system that the Employer adopted for the employees of the Employer;
- 5.2 The Employee accepts that the purpose of the performance management system will be to provide a comprehensive system with specific performance standards to assist the employees and service providers to perform to the standards required;
- 5.3 The Employer will consult the Employee about the specific performance standards and targets that will be included in the performance management system applicable to the Employee;
- 5.4 The Employee undertakes to actively focus on the promotion and implementation of the Strategic Focus Areas (SFAs) (including special projects relevant to the employee's responsibilities) within the local government framework;
- 5.5 The criteria upon which the performance of the Employee shall be assessed shall consist of two components, SFAs and Competency Framework requirements as per the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, both of which shall be contained in the Performance Agreement;
- 5.6 The Employee's assessment will be based on his performance in terms of the outputs / outcomes (KPIs) identified as per the attached Performance Plan (Annexure A), which are linked to the SFAs applicable to the Employee, and will constitute 80% of the overall assessment result as per the weightings agreed to between the Employer and Employee.

Table 1: Strategic Focus Areas

Strategic Focus Areas
SFA 1 - Valley of Possibility
SFA 2 - Green and Sustainable Valley
SFA 3 - Safe Valley
SFA 4 - Dignified Living
SFA 5 - Good Governance and Compliance



- 5.7 The competency requirements for senior managers as per Regulation 9 of Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers will make up the other 20% of the Employee's assessment score. The competencies will be assessed every six (6) months (January and July).

Table 2: Leading and Core Competencies

Leading and Core Competencies		
1.	Strategic direction and leadership	<ul style="list-style-type: none"> • Impact and influence • Institutional performance management • Strategic planning and management • Organisational awareness
2.	People management	<ul style="list-style-type: none"> • Human capital planning and development • Diversity management • Employee relations management • Negotiation and dispute management
3.	Programme and project management	<ul style="list-style-type: none"> • Programme and project planning and implementation • Service delivery management • Programme and project monitoring and evaluation
4.	Financial management	<ul style="list-style-type: none"> • Budget planning and execution • Financial strategy and delivery • Financial reporting and delivery
5.	Change leadership	<ul style="list-style-type: none"> • Change vision and strategy • Process design and improvement • Change impact monitoring and evaluation
6.	Governance leadership	<ul style="list-style-type: none"> • Policy formulation • Risk and compliance management • Cooperative governance
7.	Moral competence	<ul style="list-style-type: none"> • Core Competency
8.	Planning and organising	<ul style="list-style-type: none"> • Core Competency
9.	Analysis and innovation	<ul style="list-style-type: none"> • Core Competency
10.	Knowledge and information management	<ul style="list-style-type: none"> • Core Competency
11.	Communication	<ul style="list-style-type: none"> • Core Competency
12.	Results and quality focus	<ul style="list-style-type: none"> • Core Competency

6. PERFORMANCE ASSESSMENT

- 6.1 The Performance Plan (Annexure A) to this Agreement sets out –
- 6.1.1 The standards and procedures for evaluating the Employee's performance; and
- 6.1.2 The intervals for the evaluation of the Employee's performance.
- 6.2 Despite the establishment of agreed intervals for evaluation, the Employer may in addition review the Employee's performance at any stage while the contract of employment remains in force;



- 6.3 Personal growth and development needs identified during any performance review discussion must be documented in a Personal Development Plan as well as the actions agreed to and implementation must take place within set time frames;
- 6.4 The Employee's performance will be measured in terms of contributions to the goals and strategies set out in the Employer's Integrated Development Plan (IDP) as described in 6.6 – 6.12 below;
- 6.5 The Employee will submit quarterly performance reports (SDBIP) and a comprehensive annual performance report at least one week prior to the performance assessment meetings to the Evaluation Panel Chairperson for distribution to the panel members for preparation purposes;
- 6.6 Assessment of the achievement of results as outlined in the performance plan:
 - 6.6.1 Each KPI or group of KPIs shall be assessed according to the extent to which the specified standards or performance targets have been met and with due regard to ad-hoc tasks that had to be performed under the KPI;
 - 6.6.2 A rating on the five-point scale shall be provided for each KPI or group of KPIs which will then be multiplied by the weighting to calculate the final score;
 - 6.6.3 The Employee will submit his self-evaluation to the Employer prior to the formal assessment;
 - 6.6.4 In the instance where the employee could not perform due to reasons outside the control of the employer and employee, the KPI will not be considered during the evaluation. The employee should provide sufficient evidence in such instances; and
 - 6.6.5 An overall score will be calculated based on the total of the scores calculated above.
- 6.7 Assessment of the Competencies:
 - 6.7.1 Each Competency shall be assessed in terms of the description provided in (Annexure B);
 - 6.7.2 A rating shall be provided for each Competency which will then be multiplied by the weighting to calculate the final score; and
 - 6.7.3 An overall score will be calculated based on the total of the scores calculated above.
- 6.8 Overall rating
 - 6.8.1 An overall rating is calculated by adding the overall scores as calculated in 6.6.5 and 6.7.3 above; and



6.8.2 Such overall rating represents the outcome of the performance appraisal.

6.9 The assessment of the performance of the Employee will be based on the following rating scales for SFAs and Competencies respectively:

6.9.1 Rating scale for SFAs - as mentioned in paragraph 5.6:

Table 3: Performance rating scale

Level	Terminology	Description
5	Outstanding performance	Performance far exceeds the standard expected of an employee at this level. The appraisal indicates that the Employee has achieved above fully effective results against all performance criteria and indicators as specified in the PA and Performance plan and maintained this in all areas of responsibility throughout the year.
4	Performance significantly above expectations	Performance is significantly higher than the standard expected in the job. The appraisal indicates that the Employee has achieved above fully effective results against more than half of the performance criteria and indicators and fully achieved all others throughout the year.
3	Fully effective	Performance fully meets the standards expected in all areas of the job. The appraisal indicates that the Employee has fully achieved effective results against all significant performance criteria and indicators as specified in the PA and Performance Plan.
2	Not fully effective	Performance is below the standard required for the job in key areas. Performance meets some of the standards expected for the job. The review / assessment indicates that the employee has achieved below fully effective results against more than half the key performance criteria and indicators as specified in the PA and Performance Plan.
1	Unacceptable performance	Performance does not meet the standard expected for the job. The review / assessment indicates that the employee has achieved below fully effective results against almost all the performance criteria and indicators as specified in the PA and Performance Plan. The employee has failed to demonstrate the commitment or ability to bring performance up to the level expected in the job despite management efforts to encourage improvement.

6.9.2 Rating scale for Competencies -as mentioned in paragraph 5.7:

Table 4: Rating scale for Competencies

Level	Achievement Levels	Description
5	Superior	Has a comprehensive understanding of local government operations, critical in shaping strategic direction and change, develops, and applies comprehensive concepts and methods
4	Advanced	Develops and applies complex concepts, methods and understanding. Effectively directs and leads a group and executes in-depth analyses



Level	Achievement Levels	Description
3	Competent	Develops and applies more progressive concepts, methods and understanding. Plans and guides the work of others and executes progressive analyses
2	Basic	Applies basic concepts, methods, and understanding of local government operations, but requires supervision and development intervention
1	Sub Standard	Applies little to no basic concepts, methods, and understanding of local government operations.

6.10 For purposes of evaluating the performance of the Employee for the year-end reviews, an evaluation panel constituted of the following persons will be established–

6.10.1 Municipal Manager;

6.10.2 Municipal Manager from another municipality;

6.10.3 Chairperson of the Performance Audit Committee or in his/her absence thereof, the Chairperson of the Audit Committee; and

6.10.4 The Member of the Mayoral Committee (Portfolio Chairperson).

6.11 The Municipal Manager will evaluate the performance of the Employee as at the end of the 1st, and 3rd quarters; and

6.12 The Municipal Manager will give performance feedback to the Employee within five (5) working days after each quarterly and annual assessment meeting.

7. SCHEDULE FOR PERFORMANCE REVIEWS

7.1 The performance of the Employee in relation to his performance agreement shall be reviewed on the following dates.

Table 5: Schedule for performance reviews

Quarter	Review Period	Review to be completed by
1	July - September	October / November 2022 (Informal)
2	October – December	January / February 2023 (Formal)
3	January – March	April / May 2023 (Informal)
4	April - June	After the receipt of the AG's Management Report

7.2 The Employer shall keep a record of the mid-year and year-end assessment meetings;

7.3 Performance feedback shall be based on the Employer's assessment of the Employee's performance;

7.4 The Employer will be entitled to review and make reasonable changes to the provisions of Annexure A from time to time for operational reasons. The Employee will be fully consulted before any such change is made; and

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Municipal Manager:
Ms Geraldine Mettler



7.5 The Employer may amend the provisions of Annexure A whenever the performance management system is adopted, implemented, and/or amended as the case may be. In that case, the Employee will be fully consulted before any such change is made.

8. DEVELOPMENTAL REQUIREMENTS

8.1 The Personal Development Plan (PDP) for addressing developmental gaps is attached as Annexure C. Such a Plan may be implemented and/or amended as the case may be after each assessment. In that case, the Employee will be fully consulted before any such change or plan is made.

9. OBLIGATIONS OF THE EMPLOYER

9.1 The Employer shall-

9.1.1 Create an enabling environment to facilitate effective performance by the employee;

9.1.2 Provide access to skills development and capacity-building opportunities;

9.1.3 Work collaboratively with the Employee to solve problems and generate solutions to common problems that may impact the performance of the Employee;

9.1.4 On the request of the Employee delegate such powers reasonably required by the Employee to enable him to meet the performance objectives and targets established in terms of this Agreement; and

9.1.5 Make available to the Employee such resources as the Employee may reasonably require from time to time assisting him to meet the performance objectives and targets established in terms of this Agreement.

10. CONSULTATION

10.1 The Employer agrees to consult the Employee timeously where the exercising of its powers will have amongst others-

10.1.1 A direct effect on the performance of any of the Employee's functions;

10.1.2 Commit the Employee to implement or to give effect to a decision made by the Employer; and

10.1.3 A substantial financial effect on the Employer.

10.2 The Employer agrees to inform the Employee of the outcome of any decisions taken pursuant to the exercise of powers contemplated in clause 12.1 as soon as is practicable to enable the Employee to take any necessary action with delay.



11. REWARD

- 11.1 The evaluation of the Employee's performance will form the basis for rewarding outstanding performance or correcting unacceptable performance;
- 11.2 The payment of the performance bonus is determined by the performance score obtained during the 4th quarter and as informed by the quarterly performance assessments;
- 11.3 A performance bonus of between 5% to 14% of the all-inclusive annual remuneration package may be paid to the Employee in recognition of outstanding performance to be constituted as follows:

Table 6: Performance bonus calculations

Performance Rating		Bonus Calculation
0% - 64%	Poor Performance	0% of the total package
65% - 69%	Average Performance	5% of the total package
70% - 74%	Fair Performance	9% of the total package
75% - 79%	Good Performance	11% of the total package
80% - 100%	Excellent Performance	14% of the total package

- 11.4 In the event of the Employee terminating his services during the validity period of this Agreement, the Employee's performance will be evaluated for the portion during which he was employed and he will be entitled to a pro-rata performance bonus based on his evaluated performance for the period of actual service; and
- 11.5 The Employer will submit the total score of the annual assessment and of the Employee, to the full Council for purposes of recommending the bonus allocation.

12. MANAGEMENT OF EVALUATION OUTCOMES

- 12.1 Where the Employer is, any time during the Employee's employment, not satisfied with the Employee's performance with respect to any matter dealt with in this Agreement, the Employer will give notice to the Employee to attend a meeting;
- 12.2 The Employee will have the opportunity at the meeting to satisfy the Employer of the measures being taken to ensure that his performance becomes satisfactory and any programme, including any dates, for implementing these measures;
- 12.3 Where there is a dispute or difference as to the performance of the Employee under this Agreement, the Parties will confer with a view to resolving the dispute or difference; and
- 12.4 In the case of unacceptable performance, the Employer shall –
- 12.4.1 Provide systematic remedial or developmental support to assist the Employee to improve his performance; and



- 12.4.2 After appropriate performance counselling and having provided the necessary guidance and / or support as well as reasonable time for improvement in performance, the Employer may consider steps to terminate the contract of employment of the Employee on grounds of unfitness or incapacity to carry out his or her duties.

13. DISPUTE RESOLUTION

- 13.1 In the event that the Employee is dissatisfied with any decision or action of the Employer in terms of this Agreement, or where a dispute or difference arises as to the extent to which the Employee has achieved the performance objectives and targets established in terms of this Agreement, the Employee may within 3 (three) business days, meet with the Employer with a view to resolving the issue. The Employer will record the outcome of the meeting in writing;
- 13.2 If the Parties cannot resolve the issues within 10 (ten) business days, an independent arbitrator, acceptable to both parties, shall be appointed to resolve the matter within 30 (thirty) business days; and
- 13.3 In the event that the mediation process contemplated above fails, the relevant clause of the Contract of Employment together with the relevant laws and regulations shall apply.

14. GENERAL

- 14.1 The contents of this agreement and the outcome of any review conducted in terms of Annexure A may be made available to the public by the Employer; and
- 14.2 Nothing in this agreement diminishes the obligations, duties, or accountabilities of the Employee in terms of his contract of employment, or the effects of existing or new regulations, circulars, policies, directives, or other instruments.



Thus, done and signed at _____ on the _____ day of _____.

DIRECTOR: INFRASTRUCTURE SERVICES

AS WITNESSES:

1. _____

2. _____

Thus, done and signed at _____ on the _____ day of _____.

MUNICIPAL MANAGER

AS WITNESSES:

1. _____

2. _____



MEMBER OF MAYORAL COMMITTEE
(Portfolio: Infrastructure Services)
Cllr Z Dalling



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Annexure A Performance Plan

DIRECTOR: INFRASTRUCTURE SERVICES

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Mr Preshane Chandaka

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Municipal Manager:
Ms Geraldine Mettler



The Performance Plan sets out:

- a) Key Performance Areas that the employee should focus on, performance objectives, key performance indicators and targets that must be met within a specific timeframe; and
- b) The Competencies required from employees prescribed in the Regulations on the appointment and conditions of employment of senior managers, R21 of 2014.

KEY PERFORMANCE INDICATORS

The key performance areas, the performance objectives, key performance indicators and targets that must be met within the agreed timeframe are described below. The assessment of these performance indicators will account for 80% (**eighty per cent**) of the total employee assessment score.

Part 1: Implementation of Service Delivery and Budget Implementation Plan (80%)

DIRECTOR: INFRASTRUCTURE SERVICES													
IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
TBC	SFA 5: Good governance and Compliance	Effective Management and Functional Supervision of the Department: Water and Wastewater Services	Percentage of indicators of the Department: Water and Wastewater Services achieved, measured quarterly	Outcome	50,76%	80% per annum	80%	SM	80%	80%	80%	80%	4
TBC	SFA 5: Good governance and Compliance	Effective Management and Functional Supervision of the Department: Infrastructure Planning, Development and Implementation	Percentage of indicators of the Department: Infrastructure Planning, Development and Implementation achieved, measured quarterly	Outcome	77,23%	80% per annum	80%	SM	80%	80%	80%	80%	4

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IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
TBC	SFA 5: Good governance and Compliance	Effective Management and Functional Supervision of the Department: Roads, Transport and Storm Water (RTS)	Percentage of indicators of the Department: Roads, Transport and Storm Water (RTS) achieved, measured quarterly	Outcome	73,30%	80% per annum	80%	SM	80%	80%	80%	80%	4
TBC	SFA 5: Good governance and Compliance	Effective Management and Functional Supervision of the Department: Electrical Services	Percentage of indicators of the Department: Electrical Services achieved, measured quarterly	Outcome	54,30%	80% per annum	80%	SM	80%	80%	80%	80%	4
TBC	SFA 5: Good governance and Compliance	Effective Management and Functional Supervision of the Department: Waste Services	Percentage of indicators of the Department: Waste Services achieved, measured quarterly	Outcome	76,72%	80% per annum	80%	SM	80%	80%	80%	80%	4
TBC	SFA 5: Good governance and Compliance	Effective Management and Functional Supervision of the Section: Support Services	Percentage of indicators of the Section: Support Services achieved, measured quarterly	Outcome	New KPI	80% per annum	80%	SM	80%	80%	80%	80%	2
KPI016	SFA 2 - Green and Sustainable Valley	Reduce organic waste	Percentage of organic waste reduced by 30 June	Outcome	48%	20% per annum	20%	SM	N/A	N/A	N/A	20%	1
KPI020	SFA 2 - Green and Sustainable Valley	Conduct an External Audit of the Stellenbosch Municipal Waste Disposal Facilities	Number of external audits of the Stellenbosch Municipal Waste Disposal Facilities conducted by 30 June	Output	1	1 per annum	1	SM	N/A	N/A	N/A	1	1
KPI021	SFA 2 - Green and Sustainable Valley	Implementation of identified waste minimisation projects	Number of identified waste minimisation projects implemented by 30 June	Output	2	2 per annum	2	SM	N/A	N/A	1 (1)	1 (2)	1

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IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
KPI022	SFA 2 - Green and Sustainable Valley	Wastewater quality measured into the Department of Water and Sanitation's License Conditions for physical and micro parameters	Percentage of wastewater quality compliance as per the analysis certificate, measured quarterly	Outcome	51%	70% per annum	70%	SM	70%	70%	70%	70%	1
KPI027	SFA 4 - Dignified Living	Installation of new standpipes	Number of new standpipes installed by 30 June	Output	New KPI	50 per annum	50	SM	N/A	20 (20)	N/A	50 (50)	1
KPI028	SFA 4 - Dignified Living	Provision of waterborne toilet facilities in informal settlements as identified by the Department: Integrated Human Settlements	Number of waterborne toilet facilities provided in Informal settlements as identified by the Department: Integrated Human Settlements by 30 June	Output	0	50 per annum	50	SM	N/A	20 (20)	N/A	50 (50)	1
KPI029	SFA 4 - Dignified Living	Limit unaccounted electricity to less than 9% annually {(Number of Electricity Units Purchased and / or Generated - Number of Electricity Units Sold (incl. Free basic electricity)) / Number of Electricity Units Purchased and/or Generated} x 100}	Percentage of average electricity losses measured by 30 June	Outcome	8,86%	<9% per annum	<9%	SM	N/A	N/A	N/A	<9%	1
KPI030	SFA 4 - Dignified Living	Water quality measured quarterly into the SANS 241 physical and micro parameters	Percentage of water quality level as per the analysis certificate, measured quarterly	Outcome	94,60%	90% per annum	90%	SM	90%	90%	90%	90%	1
KPI031	SFA 4 - Dignified Living	Limit unaccounted water to less than 25%	Percentage of average water losses, measured by 30 June	Outcome	15,75%	<25% per annum	<25%	SM	<25%	<25%	<25%	<25%	1

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IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
KPI055	SFA 5: Good governance and Compliance	Submission of the revised Wastewater Master Plan to the Municipal Manager	Number of revised Wastewater Master Plans submitted to the Municipal Manager by 30 June	Outcome	New KPI	1 per annum	1	SM	N/A	N/A	N/A	1	1
KPI060	SFA 5: Good governance and Compliance	Submission of the revised Roads Master Plan to the Municipal Manager	Number of revised Roads Master Plans submitted to the Municipal Manager by 30 June	Outcome	New KPI	1 per annum	1	SM	N/A	N/A	N/A	1	1
TBC	SFA 5: Good governance and Compliance	Implementation of the Mayoral Outcomes in the Integrated Development Plan (IDP) for the 2022/23 financial year	Percentage of Mayoral Outcomes in the IDP for the 2022/23 financial year implemented by 30 June	Outcome	New KPI	80% per annum	80%	SM	80%	80%	80%	80%	2
TBC	SFA 5: Good governance and Compliance	Implementation of the Portfolio: Infrastructure Services Outcomes in the Integrated Development Plan (IDP) for the 2022/23 financial year	Percentage of Portfolio: Infrastructure Services Outcomes in the IDP for the 2022/23 financial year implemented by 30 June	Outcome	New KPI	80% per annum	80%	SM	80%	80%	80%	80%	1
TBC	SFA 5: Good governance and Compliance	Implementation of the Municipal Manager's Outcomes in the Integrated Development Plan (IDP) for the 2022/23 financial year	Percentage of Municipal Manager's Outcomes in the IDP for the 2022/23 financial year implemented by 30 June	Outcome	New KPI	80% per annum	80%	SM	80%	80%	80%	80%	1
TBC	SFA 5: Good governance and Compliance	Spend the Directorate: Infrastructure Services approved Capital Budget	Percentage of approved Capital Budget of the Directorate: Infrastructure Services actually spent by 30 June	Input	63%	90% per annum	90%	SM	10%	30%	60%	90%	20

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IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
TBC	SFA 5: Good governance and Compliance	Submission of the final bid specifications for all capital projects to the Bid Specification Committee (BSC) (2023/24)	Percentage of final bid specifications for all capital projects submitted to the BSC by 30 June (50% by 31 March 2023 and 100% by 30 June 2023 for the 2023/24 financial year)	Output	47%	100% per annum	100%	SM	N/A	N/A	50%	100%	3
TBC	SFA 5: Good governance and Compliance	Submission of detailed procurement needs for all operational projects to the Supply Chain Management (SCM) Department	Number of quarterly detailed procurement needs submitted to SCM Department within 10 days before the start of the quarter	Output	4	4 per annum	4	SM	1 (1)	1 (2)	1 (3)	1 (4)	1
TBC	SFA 5: Good governance and Compliance	Performance agreements signed with all identified personnel	Number of performance agreements signed by 31 August	Output	6	6 per annum	6	SM	6	N/A	N/A	N/A	1
TBC	SFA 5: Good governance and Compliance	Conduct formal performance evaluations with all identified personnel	Number of formal performance evaluations conducted with all identified personnel by 28 February	Output	10	12 per annum	12	SM	N/A	N/A	12	N/A	1
TBC	SFA 5: Good governance and Compliance	Develop an Annual Departmental Risk Register	Number of Annual Departmental Risk Registers developed by 31 July	Output	1	1 per annum	1	SM	1	N/A	N/A	N/A	1
TBC	SFA 5: Good governance and Compliance	Evaluation of the Departmental Risk Register	Number of Departmental Risk Registers evaluated by 31 May	Output	2	2 per annum	2	SM	N/A	1 (1)	N/A	1 (1)	1
TBC	SFA 5: Good governance and Compliance	Implementation of Council resolutions	Percentage of Council resolutions implemented measured quarterly	Output	70%	70% per annum	70%	SM	70%	70%	70%	70%	1

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IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
TBC	SFA 5: Good governance and Compliance	Raise / Collect Operating Budget revenue of the Department: Infrastructure Services as per approved budget	Percentage of the Department: Infrastructure Services revenue raised / collected by 30 June	Outcome	92%	96% per annum	96%	SM	25%	50%	75%	96%	1
TBC	SFA 2 - Green and Sustainable Valley	Implementation of the Non-Motorised Transport (NMT) Plan	Percentage of actions implemented for the 2022/23 financial year as per the NMT Plan by 30 June	Outcome	90%	90% per annum	90%	SM	5%	30%	60%	90%	2
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Green Energy Strategy to the Municipal Manager	Number of Green Energy Strategies submitted to the Municipal Manager by 31 March	Output	1	1 per annum	1	SM	N/A	N/A	1	N/A	1
TBC	SFA 2 - Green and Sustainable Valley	Implementation of the Integrated Waste Management Plan	Percentage of actions implemented for the 2022/23 financial year as per the Integrated Waste Management Plan by 30 June	Outcome	30%	90% per annum	90%	SM	5%	30%	60%	90%	1
TBC	SFA 5: Good governance and Compliance	Resolve formal complaints received	Percentage of formal complaints resolved within 10 working days after receipt	Outcome	0	90% per annum	90%	SM	90%	90%	90%	90%	1
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Park and Ride Master Plan to the MayCo	Number of Park and Ride Master Plans submitted to the MayCo by 31 March	Output	0	1 per annum	1	SM	N/A	N/A	1	N/A	1
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Waste to Energy Strategy to the Municipal Manager	Number of Waste to Energy Strategies submitted to the Municipal Manager by 31 December	Output	New KPI	1 per annum	1	SM	N/A	1	N/A	N/A	1

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IDP/ Ref No.	Strategic Focus Area (SFA)	Indicator (Activity / Project / Programme / Key Initiative)	Unit of Measurement	Indicator type	Baseline (Actual 2020/21)	5 Year Target	2022/23	Funding Source	Service Delivery and Budget Implementation Plan (SDBIP 2022/23)				Weight
									Q1	Q2	Q3	Q4	
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Waste Diversion Strategy to the MayCo	Number of Waste Diversion Strategies submitted to the MayCo by 31 March	Output	0	1 per annum	1	SM	N/A	N/A	1	N/A	1
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Revised Non-motorised Plan (NMT) to the MayCo	Number of Revised NMTs submitted to the MayCo by 31 December	Output	0	1 per annum	1	SM	N/A	1	N/A	N/A	1
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Revised Comprehensive Integrated Transport Plan (CITP) to the MayCo	Number of a revised CITPs submitted to the MayCo by 31 December	Output	0	1 per annum	1	SM	N/A	1	N/A	N/A	1
TBC	SFA 2 - Green and Sustainable Valley	Submission of an Asset Management Framework to the Municipal Manager	Number of Asset Management Frameworks submitted to the Municipal Manager by 31 December	Output	New KPI	1 per annum	1	SM	N/A	1	N/A	N/A	1
TBC	SFA 2 - Green and Sustainable Valley	Submission of a Master Energy Plan to the Municipal Manager	Number of Master Energy Plans submitted to the Municipal Manager by 31 December	Output	0	1 per annum	1	SM	N/A	1	N/A	N/A	1
TBC	Good governance and Compliance	Implementation of the Directorate's actions as per the AGSA Audit Action Plan	Percentage of the Directorate's actions as per the AGSA Audit Action Plan implemented by 30 June	Outcome	0%	100% per annum	100%	SM	N/A	N/A	50%	100%	1
												Total	80

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Part 2: Competency Requirements (20%)

Ref	Leading and Core Competencies	(January) 1 st Assessment	(July) Final Assessment	Weights	Comments
2.1	Strategic direction and leadership			1.66%	
2.2	People management			1.66%	
2.3	Programme and project management			1.66%	
2.4	Financial management			1.66%	
2.5	Change leadership			1.67%	
2.6	Governance leadership			1.67%	
2.7	Moral competence			1.67%	
2.8	Planning and organising			1.67%	
2.9	Analysis and innovation			1.67%	
2.10	Knowledge and information management			1.67%	
2.11	Communication			1.67%	
2.12	Results and quality focus			1.67%	
Total				20%	

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Annexure B

Competency Framework

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Director: Infrastructure Services
Mr Preshane Chandaka

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Municipal Manager:
Ms Geraldine Mettler



CLUSTER :	LEADING COMPETENCIES			
COMPETENCY NAME :	Strategic Direction and Leadership			
COMPETENCY DEFINITION :	Provide and direct a vision for the institution, and inspire and deploy others to deliver on the strategic institutional mandate.			
ACHIEVEMENT LEVELS				
BASIC	COMPETENT	ADVANCED	SUPERIOR	
<ul style="list-style-type: none"> Understand Institutional and departmental strategic objectives, but lacks the ability to inspire others to achieve set mandate. 	<ul style="list-style-type: none"> Give direction to a team in realising the institution's strategic mandate and set objectives. 	<ul style="list-style-type: none"> Evaluate all activities to determine value and alignment to strategic intent. 	<ul style="list-style-type: none"> Structure and position the institution to local government priorities. 	
<ul style="list-style-type: none"> Describe how specific tasks link to institutional strategies but has limited influence in directing a strategy. 	<ul style="list-style-type: none"> Has a positive impact and influence on the morale, engagement and participation of team members. 	<ul style="list-style-type: none"> Display in-depth knowledge and understanding of strategic planning. 	<ul style="list-style-type: none"> Actively use in-depth knowledge and understanding to develop and implement a comprehensive institutional framework. 	
<ul style="list-style-type: none"> Has a basic understanding of institutional performance management, but lacks the ability to integrate systems into a collective whole. 	<ul style="list-style-type: none"> Develop action plans to execute and guide strategy. 	<ul style="list-style-type: none"> Align strategy and goals across all functional areas. 	<ul style="list-style-type: none"> Hold self-accountable for strategy execution and results. 	
<ul style="list-style-type: none"> Demonstrate basic understanding of key decision making. 	<ul style="list-style-type: none"> Assist in defining performance measures to monitor the progress and effectiveness of the institution. 	<ul style="list-style-type: none"> Actively define performance measures to monitor the progress and effectiveness of the institution. 	<ul style="list-style-type: none"> Provide impact and influence through building and maintaining strategic relationships. 	
	<ul style="list-style-type: none"> Displays an awareness of institutional structures and political factors. 	<ul style="list-style-type: none"> Consistently challenge strategic plans to ensure relevance. 	<ul style="list-style-type: none"> Create an environment that facilitates loyalty and innovation. Display a superior level of self-discipline and integrity in actions. 	
	<ul style="list-style-type: none"> Effectively communicate barriers to execution to relevant parties. 	<ul style="list-style-type: none"> Understand institutional structures and political factors, and the consequences of actions. 	<ul style="list-style-type: none"> Integrate various systems into a collective whole to optimise institutional performance management. 	
	<ul style="list-style-type: none"> Provide guidance to all stakeholders in the achievement of the strategic mandate. 	<ul style="list-style-type: none"> Empower others to follow the strategic direction and deal with complex situations. 	<ul style="list-style-type: none"> Uses understanding of competing interests to maneuver successfully to a win/win outcome. 	
	<ul style="list-style-type: none"> Understand the aim and objectives of the institution and relate it to own work. 	<ul style="list-style-type: none"> Guide the institution through complex and ambiguous concern. Use understanding of power relationships and dynamic tensions among key players to frame communications and develop strategies, positions and alliances. 		

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Director: Infrastructure Services
Mr Preshane Chandaka

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Municipal Manager:
Ms Geraldine Mettler



CLUSTER :	LEADING COMPETENCIES		
COMPETENCY NAME :	People Management		
COMPETENCY DEFINITION :	Effectively manage, inspire and encourage people, respect diversity, optimise talent and build and nurture relationships in order to achieve institutional objectives.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Participate in team goalsetting and problem solving. 	<ul style="list-style-type: none"> Seek opportunities to increase team contribution and responsibility. 	<ul style="list-style-type: none"> Identify ineffective team and work processes and recommend remedial interventions. 	<ul style="list-style-type: none"> Develop and incorporate best practice people management processes, approaches and tools across the institution.
<ul style="list-style-type: none"> Interact and collaborate with people of diverse backgrounds. 	<ul style="list-style-type: none"> Respect and support the diverse nature of others and be aware of the benefits of a diverse approach. 	<ul style="list-style-type: none"> Recognise and reward effective and desired behavior. 	<ul style="list-style-type: none"> Foster a culture of discipline, responsibility and accountability.
<ul style="list-style-type: none"> Aware of guidelines for employee development, but requires support in implementing development initiatives. 	<ul style="list-style-type: none"> Effectively delegate tasks and empower others to increase contribution and execute functions optimally. 	<ul style="list-style-type: none"> Provide mentoring and guidance to others in order to increase personal effectiveness. 	<ul style="list-style-type: none"> Understand the impact of diversity in performance and actively incorporate a diversity strategy in the institution.
	<ul style="list-style-type: none"> Apply relevant employee legislation fairly and consistently. 	<ul style="list-style-type: none"> Identify development and learning needs within the team. 	<ul style="list-style-type: none"> Develop comprehensive integrated strategies and approaches to human capital development and management.
	<ul style="list-style-type: none"> Effectively identify capacity requirements to fulfill the strategic mandate. 	<ul style="list-style-type: none"> Inspire a culture of performance excellence by giving positive and constructive feedback to the team. Achieve agreement or consensus in adversarial environments. Lead and unite diverse teams across divisions to achieve institutional objectives. 	<ul style="list-style-type: none"> Actively identify trends and predict capacity requirements to facilitate unified transition and performance management.

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Director: Infrastructure Services
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CLUSTER :	LEADING COMPETENCIES		
COMPETENCY NAME :	Programme and Project Management		
COMPETENCY DEFINITION :	Able to understand program and project management methodology; plan, manage, monitor and evaluate specific activities in order to deliver on set objectives.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Initiate projects after approval from higher authorities. 	<ul style="list-style-type: none"> Establish broad stakeholder involvement and communicate the project status and key milestones. 	<ul style="list-style-type: none"> Manage multiple programs and balance priorities and conflicts according to institutional goals. 	<ul style="list-style-type: none"> Understand and conceptualise the long-term implications of desired project outcomes.
<ul style="list-style-type: none"> Understand procedures of program and project management methodology, implications and stakeholder involvement. 	<ul style="list-style-type: none"> Define the roles and responsibilities of the project team and create clarity around expectations. 	<ul style="list-style-type: none"> Apply effective risk management strategies through impact assessment and resource requirements. 	<ul style="list-style-type: none"> Direct a comprehensive strategic macro and micro analysis and scope projects accordingly to realise institutional objectives.
<ul style="list-style-type: none"> Understand the rationale of projects in relation to the institution's strategic objectives. 	<ul style="list-style-type: none"> Find a balance between project deadline and the quality of deliverables. 	<ul style="list-style-type: none"> Modify project scope and budget when required without compromising the quality and objectives of the project. 	<ul style="list-style-type: none"> Influence people in positions of authority to implement outcomes of projects
<ul style="list-style-type: none"> Document and communicate factors and risk associated with own work. 	<ul style="list-style-type: none"> Identify appropriate project resources to facilitate the effective completion of the deliverables. 	<ul style="list-style-type: none"> Involve top-level authorities and relevant stakeholders in seeking project buy-in. 	<ul style="list-style-type: none"> Lead and direct translation of policy into workable action plans
<ul style="list-style-type: none"> Use results and approaches of successful project implementation as guide. 	<ul style="list-style-type: none"> Comply with statutory requirements and apply policies in a consistent manner. Monitor progress and use of resources and make needed adjustments to timelines, steps and resource allocation. 	<ul style="list-style-type: none"> Identify and apply contemporary project management methodology Influence and motivate project team to deliver exceptional results. Monitor policy implementation and apply procedures to manage risks. 	<ul style="list-style-type: none"> Ensures that programs are monitored to track progress and optimal resource utilisation, and that adjustments are made as needed.

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Director: Infrastructure Services
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CLUSTER :	LEADING COMPETENCIES		
COMPETENCY NAME :	Change Leadership		
COMPETENCY DEFINITION :	Able to direct and initiate institutional transformation on all levels in order to successfully drive and implement new initiatives and deliver professional and quality services to the community.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Display an awareness of change interventions and the benefits of transformation initiatives. 	<ul style="list-style-type: none"> Perform an analysis of the change impact on the social, political and economic environment. 	<ul style="list-style-type: none"> Actively monitor change impact and results and convey progress to relevant stakeholders. 	<ul style="list-style-type: none"> Sponsor change agents and create a network of change leaders who support the interventions.
<ul style="list-style-type: none"> Able to identify basic needs for change. 	<ul style="list-style-type: none"> Maintain calm and focus during change. 	<ul style="list-style-type: none"> Secure buy-in and sponsorship for change initiatives. 	<ul style="list-style-type: none"> Actively adapt current structures and processes to incorporate the change interventions.
<ul style="list-style-type: none"> Identify gaps between the current and desired state. 	<ul style="list-style-type: none"> Able to assist team members during change and keep them focused on the deliverables. 	<ul style="list-style-type: none"> Continuously evaluate change strategy and design and introduce new approaches to enhance the institution's effectiveness. 	<ul style="list-style-type: none"> Mentor and guide team members on the effects of change, resistance factors and how to integrate change.
<ul style="list-style-type: none"> Identify potential risk and challenges to transformation, including resistance to change factors. 	<ul style="list-style-type: none"> Volunteer to lead change efforts outside of own work team. 	<ul style="list-style-type: none"> Build and nurture relationships with various stakeholders to establish strategic alliance in facilitating change. 	<ul style="list-style-type: none"> Motivate and inspire others around change initiatives.
<ul style="list-style-type: none"> Participate in change programs and piloting change interventions. 	<ul style="list-style-type: none"> Able to gain buy-in and approval for change from relevant stakeholders. 	<ul style="list-style-type: none"> Take the lead in impactful change programs. 	
<ul style="list-style-type: none"> Understand the impact of change interventions on the institution within the broader scope of local government. 	<ul style="list-style-type: none"> Identify change readiness levels and assist in resolving resistance to change factors. 	<ul style="list-style-type: none"> Benchmark change interventions against best change practices. 	
	<ul style="list-style-type: none"> Design change interventions that are aligned with the institution's strategic objectives and goals. 	<ul style="list-style-type: none"> Understand the impact and psychology of change and put remedial interventions in place to facilitate effective transformation. Take calculated risk and seek new ideas from best practice scenarios and identify the potential for implementation. 	

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CLUSTER :	LEADING COMPETENCIES		
COMPETENCY NAME :	Financial Management		
COMPETENCY DEFINITION :	Able to compile, plan and manage budgets, control cash flow, institute financial risk management and administer procurement processes in accordance with recognised financial practices. Further to ensure that all financial transactions are managed in an ethical manner		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Understand basic financial concepts and methods as they relate to institutional processes and activities 	<ul style="list-style-type: none"> Exhibit knowledge of general financial concepts, planning, budgeting and forecasting and how they interrelate 	<ul style="list-style-type: none"> Take active ownership of planning, budgeting and forecasting processes and provides credible answers to queries within own responsibility. 	<ul style="list-style-type: none"> Develop planning tools to assist in evaluating and monitoring future expenditure trends.
<ul style="list-style-type: none"> Display awareness into the various sources of financial data, reporting mechanisms, financial governance, processes and systems 	<ul style="list-style-type: none"> Assess, identify and manage financial risks. 	<ul style="list-style-type: none"> Prepare budgets that are aligned to the strategic objectives of the institution. 	<ul style="list-style-type: none"> Set budget frameworks for the institution.
<ul style="list-style-type: none"> Understand the importance of financial accountability 	<ul style="list-style-type: none"> Assume a cost-saving approach to financial management. 	<ul style="list-style-type: none"> Address complex budgeting and financial management concerns. 	<ul style="list-style-type: none"> Set strategic direction for the institution on expenditure and other financial processes.
<ul style="list-style-type: none"> Understand the importance of asset control. 	<ul style="list-style-type: none"> Prepare financial reports based on specified formats. 	<ul style="list-style-type: none"> Put systems and processes in place to enhance the quality and integrity of financial management practices. 	<ul style="list-style-type: none"> Build and nurture partnerships to improve financial management and achieve financial savings.
	<ul style="list-style-type: none"> Consider and understand the financial implications of decisions and suggestions. 	<ul style="list-style-type: none"> Advise on policies and procedures regarding asset control. 	<ul style="list-style-type: none"> Actively identify and implement new methods to improve asset control.
	<ul style="list-style-type: none"> Ensure that delegation and instructions as required by National Treasury guidelines are reviewed and updated. Identify and implement proper monitoring and evaluation practices to ensure appropriate spending against budget. 	<ul style="list-style-type: none"> Promote National Treasury's regulatory framework for Financial Management. 	<ul style="list-style-type: none"> Display professionalism in dealing with financial data and processes.

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CLUSTER :	LEADING COMPETENCIES		
COMPETENCY NAME :	Governance Leadership		
COMPETENCY DEFINITION:	Able to promote, direct and apply professionalism in managing risk and compliance requirements and apply a thorough understanding of governance practices and obligations. Further, able to direct the conceptualisation of relevant policies and enhance cooperative governance relationships.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Display a basic awareness of risk, compliance and governance factors but require guidance and development in implementing such requirements. 	<ul style="list-style-type: none"> Display a thorough understanding of governance and risk and compliance factors and implement plans to address these. 	<ul style="list-style-type: none"> Able to link risk initiatives into key institutional objectives and drivers. 	<ul style="list-style-type: none"> Demonstrate a high level of commitment in complying with governance requirements.
<ul style="list-style-type: none"> Understand the structure of cooperative government but requires guidance on fostering workable relationships between stakeholders. 	<ul style="list-style-type: none"> Demonstrate understanding of the techniques and processes for optimising risk taking decisions within the institution. 	<ul style="list-style-type: none"> Identify, analyse and measure risk, create valid risk forecasts and map risk profiles. 	<ul style="list-style-type: none"> Implement governance and compliance strategy to ensure achievement of institutional objectives within the legislative framework.
<ul style="list-style-type: none"> Provide input into policy formulation. 	<ul style="list-style-type: none"> Actively drive policy formulation within the institution to ensure the achievement of objectives. 	<ul style="list-style-type: none"> Apply risk control methodology and approaches to prevent and reduce risk that impede on the achievement of institutional objectives. 	<ul style="list-style-type: none"> Able to advise local government on risk management, best practice interventions and compliance management.
		<ul style="list-style-type: none"> Demonstrate a thorough understanding of risk retention plans. 	<ul style="list-style-type: none"> Able to forge positive relationships on cooperative governance level to enhance the effectiveness of local government.t
		<ul style="list-style-type: none"> Identify and implement comprehensive risk management systems and processes. 	<ul style="list-style-type: none"> Able to shape, direct and drive the formulation of policies on a macro level.
		<ul style="list-style-type: none"> Implement and monitor the formulation of policies, identify and analyse constraints and challenges with implementation and provide recommendations for improvement. 	

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CLUSTER :	CORE COMPETENCIES			
COMPETENCY NAME :	Moral Competence			
COMPETENCY DEFINITION :	Able to identify moral triggers, apply reasoning that promotes honesty and integrity and consistently display behavior that reflects moral competence			
ACHIEVEMENT LEVELS				
BASIC	COMPETENT	ADVANCED	SUPERIOR	
<ul style="list-style-type: none"> Realise the impact of acting with integrity, but requires guidance and development in implementing principles. 	<ul style="list-style-type: none"> Conduct self in alignment with the values of local government and the institution. 	<ul style="list-style-type: none"> Identify, develop and apply measures of self-correction. 	<ul style="list-style-type: none"> Create an environment conducive of moral practices. 	
<ul style="list-style-type: none"> Follow basic rules and regulations of the institution. 	<ul style="list-style-type: none"> Able to openly admit own mistakes and weaknesses and seek assistance from others when unable to deliver. 	<ul style="list-style-type: none"> Able to gain trust and respect through aligning actions with commitments. 	<ul style="list-style-type: none"> Actively develop and implement measures to combat fraud and corruption. 	
<ul style="list-style-type: none"> Able to identify basic moral situations, but requires guidance and development in understanding and reasoning with moral intent. 	<ul style="list-style-type: none"> Actively report fraudulent activity and corruption with local government. 	<ul style="list-style-type: none"> Make proposals and recommendations that are transparent and gain the approval of relevant stakeholders. 	<ul style="list-style-type: none"> Set integrity standards and shared accountability measures across the institution to support the objectives of local government. 	
	<ul style="list-style-type: none"> Understand and honor the confidential nature of matters without seeking personal gain. 	<ul style="list-style-type: none"> Present values, beliefs and ideas that are congruent with the institution's rules and regulations. 		
	<ul style="list-style-type: none"> Able to deal with situations of conflict of interest promptly and in the best interest of local government. 	<ul style="list-style-type: none"> Takes an active stance against corruption and dishonesty when noted. 		<ul style="list-style-type: none"> Take responsibility for own actions and decisions, even if the consequences are unfavorable.
		<ul style="list-style-type: none"> Actively promote the value of the institution to internal and external stakeholders. 		

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Director: Infrastructure Services
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CLUSTER :	CORE COMPETENCIES		
COMPETENCY NAME :	Planning and Organising		
COMPETENCY DEFINITION :	Able to plan, prioritise and organise information and resources effectively to ensure the quality of service delivery and build efficient contingency plans to manage risk.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> • Able to follow basic plans and organise tasks around set objectives. 	<ul style="list-style-type: none"> • Actively and appropriately organise information and resources required for a task. 	<ul style="list-style-type: none"> • Able to define institutional objectives, develop comprehensive plans, integrate and coordinate activities and assign appropriate resources for successful implementation. 	<ul style="list-style-type: none"> • Focus on broad strategies and initiatives when developing plans and actions.
<ul style="list-style-type: none"> • Understand the process of planning and organising but requires guidance and development in providing detailed and comprehensive plans. 	<ul style="list-style-type: none"> • Recognise the urgency and importance of tasks. 	<ul style="list-style-type: none"> • Identify in advance required stages and actions to complete tasks. 	<ul style="list-style-type: none"> • Able to protect and forecast short, medium and long term requirements of the institution and local government.
<ul style="list-style-type: none"> • Able to follow existing plans and ensure that objectives are met. 	<ul style="list-style-type: none"> • Balance short and long-term plans and goals and incorporate into the team's performance objectives. 	<ul style="list-style-type: none"> • Schedule realistic timelines, objectives and milestones for tasks and projects. 	<ul style="list-style-type: none"> • Translate policy into relevant projects to facilitate the achievement of institutional objectives.
<ul style="list-style-type: none"> • Focus on short-term objectives in developing plans and actions 	<ul style="list-style-type: none"> • Schedule tasks to ensure they are performed within budget and with efficient use of time and resources. 	<ul style="list-style-type: none"> • Produce clear, detailed and comprehensive plans to achieve institutional objectives. 	
<ul style="list-style-type: none"> • Arrange information and resources required for a task, but require further structure and organisation. 	<ul style="list-style-type: none"> • Measures progress and monitor performance results. 	<ul style="list-style-type: none"> • Identify possible risk factors and design and implement appropriate contingency plans. • Adapt plans in light of changing circumstances. • Prioritise tasks and projects according to their relevant urgency and importance. 	

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CLUSTER :	CORE COMPETENCIES		
COMPETENCY NAME :	Analysis and Innovation		
COMPETENCY DEFINITION :	Able to critically analyse information, challenges and trends to establish and implement fact-based solutions that are innovative to improve institutional processes in order to achieve key strategic objectives		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Understand the basic operation of analysis, but lack detail and thoroughness. 	<ul style="list-style-type: none"> Demonstrate logical problem solving techniques and approaches and provide rationale for recommendations. 	<ul style="list-style-type: none"> Coaches team members on analytical and innovative approaches and techniques. 	<ul style="list-style-type: none"> Demonstrate complex analytical and problem solving approaches and techniques.
<ul style="list-style-type: none"> Able to balance independent analysis with requesting assistance from others. 	<ul style="list-style-type: none"> Demonstrate objectivity, insight and thoroughness when analysing problems. 	<ul style="list-style-type: none"> Engage with appropriate individuals in analysing and resolving complex problems. 	<ul style="list-style-type: none"> Create an environment conducive to analytical and fact-based problem solving.
<ul style="list-style-type: none"> Recommend new ways to perform tasks within own function. 	<ul style="list-style-type: none"> Able to break down complex problems into manageable parts and identify solutions. 	<ul style="list-style-type: none"> Identify solutions on various areas in the institution. 	<ul style="list-style-type: none"> Analyse, recommend solutions and monitor trends in key challenges to prevent and manage occurrence.
<ul style="list-style-type: none"> Propose simple remedial interventions that marginally challenges the status quo. 	<ul style="list-style-type: none"> Consult internal and external stakeholders on opportunities to improve processes and service delivery. 	<ul style="list-style-type: none"> Formulate and implement new ideas throughout the institution. 	<ul style="list-style-type: none"> Create an environment that fosters innovative thinking and follows a learning organisation approach.
<ul style="list-style-type: none"> Listen to the ideas and perspectives of others and explore opportunities to enhance such innovative thinking. 	<ul style="list-style-type: none"> Clearly communicate the benefits of new opportunities and innovative solutions and stakeholders. 	<ul style="list-style-type: none"> Able to gain approval and buy-in for proposed interventions from relevant stakeholders. 	<ul style="list-style-type: none"> Be a thought leader on innovative customer service delivery and process optimisation.
	<ul style="list-style-type: none"> Continuously identify opportunities to enhance internal processes. 	<ul style="list-style-type: none"> Identify trends and best practices in process and service delivery and propose institutional application. 	<ul style="list-style-type: none"> Play an active role in sharing best practice solutions and engage in national and international local government seminars and conferences.
	<ul style="list-style-type: none"> Identify and analyse opportunities conducive to innovative approaches and propose remedial intervention. 	<ul style="list-style-type: none"> Continuously engage in research to identify client needs. 	

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CLUSTER :	CORE COMPETENCIES		
COMPETENCY NAME :	Knowledge and Information Management		
COMPETENCY DEFINITION :	Able to promote the generation and sharing of knowledge and information through various processes and media, in order to enhance the collective knowledge base of local government		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Collect, categorise and track relevant information required for specific tasks and projects. 	<ul style="list-style-type: none"> Use appropriate information systems and technology to manage institutional knowledge and information sharing. 	<ul style="list-style-type: none"> Effectively predict future information and knowledge management requirements and systems. 	<ul style="list-style-type: none"> Create and support a vision and culture where team members are empowered to seek, gain and share knowledge and information.
<ul style="list-style-type: none"> Analyse and interpret information to draw conclusions. 	<ul style="list-style-type: none"> Evaluate data from various sources and use information effectively to influence decisions and provide solutions. 	<ul style="list-style-type: none"> Develop standards and processes to meet future knowledge management needs. 	<ul style="list-style-type: none"> Establish partnerships across local government to facilitate knowledge management.
<ul style="list-style-type: none"> Seek new sources of information to increase the knowledge base. 	<ul style="list-style-type: none"> Actively create mechanisms and structures for sharing information. 	<ul style="list-style-type: none"> Share and promote best-practice knowledge management across various institutions. 	<ul style="list-style-type: none"> Demonstrate a mature approach.
<ul style="list-style-type: none"> Regularly share information and knowledge with internal stakeholders and team members. 	<ul style="list-style-type: none"> Use external and internal resources to research and provide relevant and cutting-edge knowledge to enhance institutional effectiveness and efficiency. 	<ul style="list-style-type: none"> Establish accurate measures and monitoring systems for knowledge and information management. Create a culture conducive of learning and knowledge sharing. Hold regular knowledge and information sharing sessions to elicit new ideas and share best practice approaches. 	<ul style="list-style-type: none"> Recognise and exploit knowledge points in interactions with internal and external stakeholders.

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CLUSTER :	CORE COMPETENCIES		
COMPETENCY NAME :	Communication		
COMPETENCY DEFINITION :	Able to share information, knowledge and ideas in a clear, focused and concise manner appropriate for the audience in order to effectively convey, persuade and influence stakeholders to achieve the desired outcome.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> • Demonstrate an understanding for communication levers and tools appropriate for the audience, but requires guidance in utilising such tools. 	<ul style="list-style-type: none"> • Express ideas to individuals and groups in formal and informal settings in a manner that is interesting and motivating. 	<ul style="list-style-type: none"> • Effectively communicate high-risk and sensitive matters to relevant stakeholders. 	<ul style="list-style-type: none"> • Regarded as a specialist in negotiations and representing the institution.
<ul style="list-style-type: none"> • Express ideas in a clear and focused manner, but does not always take the audience into consideration. 	<ul style="list-style-type: none"> • Able to understand, tolerate and appreciate diverse perspectives, attitudes and beliefs. 	<ul style="list-style-type: none"> • Develop a well-defined communication strategy. 	<ul style="list-style-type: none"> • Able to inspire and motivate others through positive communication that is impactful and relevant.
<ul style="list-style-type: none"> • Disseminate and convey information and knowledge adequately. 	<ul style="list-style-type: none"> • Adapt communication content and style to suit the audience and facilitate optimal information transfer. 	<ul style="list-style-type: none"> • Balance political perspectives with institutional needs when communicating viewpoints on complex issues. 	<ul style="list-style-type: none"> • Creates an environment conducive to transparent and productive communication and critical appreciate conversations.
	<ul style="list-style-type: none"> • Deliver content in a manner that gains support, commitment and agreement from relevant stakeholders. 	<ul style="list-style-type: none"> • Able to effectively direct negotiations around complex. 	
	<ul style="list-style-type: none"> • Compile clear, focused, concise and well-structured written documents. 	<ul style="list-style-type: none"> • Market and promote the institution to external stakeholders and seek to enhance a positive image of the institution. • Able to communicate with the media with high levels of moral competence and discipline. 	

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CLUSTER :	CORE COMPETENCIES		
COMPETENCY NAME :	Results and Quality Focus		
COMPETENCY DEFINITION :	Able to maintain high quality standards, focus on achieving results and objectives while consistently striving to exceed expectations and encourage others to meet quality standards. Further, to actively monitor and measure results and quality against identified objectives.		
ACHIEVEMENT LEVELS			
BASIC	COMPETENT	ADVANCED	SUPERIOR
<ul style="list-style-type: none"> Understand quality of work but requires guidance in attending to important matters. 	<ul style="list-style-type: none"> Focus on high-priority actions and does not become distracted by lower-priority activities. 	<ul style="list-style-type: none"> Consistently verify own standards and outcomes to ensure quality output. 	<ul style="list-style-type: none"> Coach and guide others to exceed quality standards and results.
<ul style="list-style-type: none"> Show a basic commitment to achieving the correct results. 	<ul style="list-style-type: none"> Display firm commitment and pride in achieving the correct results. 	<ul style="list-style-type: none"> Focus on the end result and avoids being distracted 	<ul style="list-style-type: none"> Develop challenging, client-focused goals and sets high standards for personal performance.
<ul style="list-style-type: none"> Produce the minimum level of results required in the role. 	<ul style="list-style-type: none"> Set quality standards and design processes and tasks around achieving set standards. 	<ul style="list-style-type: none"> Demonstrate a determined and committed approach to achieving results and quality standards. 	<ul style="list-style-type: none"> Commit to exceed the results and quality standards, monitor own performance and implement remedial interventions when required.
<ul style="list-style-type: none"> Produce outcomes that is of a good standard. 	<ul style="list-style-type: none"> Produce output of high quality. 	<ul style="list-style-type: none"> Follow task and projects through to completion. 	<ul style="list-style-type: none"> Work with team to set ambitious and challenging team goals, communicating long- and short term expectations.
<ul style="list-style-type: none"> Focus on the quantity of output but requires development in incorporating the quality of work. 	<ul style="list-style-type: none"> Able to balance the quantity and quality of results in order to achieve objectives. 	<ul style="list-style-type: none"> Set challenging goals and objectives to self and team and display commitment to achieving expectations. 	<ul style="list-style-type: none"> Take appropriate risks to accomplish goals.
<ul style="list-style-type: none"> Produce quality work in general circumstances, but fails to meet expectation when under pressure. 	<ul style="list-style-type: none"> Monitors progress, quality of work and use of resources; provide status updates and make adjustments as needed. 	<ul style="list-style-type: none"> Maintain a focus on quality outputs when placed under pressure. Establishing institutional systems for managing and assigning work, defining responsibilities, tracking, monitoring and measuring success, evaluating and valuing the work of the institution. 	<ul style="list-style-type: none"> Overcome setbacks and adjust action plans to realise goals. Focus people on critical activities that yield a high impact.

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Director: Infrastructure Services
Mr Preshane Chandaka

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Municipal Manager:
Ms Geraldine Mettler



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Annexure C

Personal Development Plan

DIRECTOR: INFRASTRUCTURE SERVICES

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Director: Infrastructure Services
Mr Preshane Chandaka

.....
Municipal Manager:
Ms Geraldine Mettler



Skills Performance Gap	Outcomes Expected	Suggested training and / or development activity	Suggested mode of delivery	Suggested Time Frames	Work opportunity created to practice skill / development area	Support Person
1.						
2.						
3.						

Signed and accepted by the Employee

Date: _____

Signed by the Municipal Manager on behalf of the Municipality

Date: _____

8.	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

9.	URGENT MATTERS
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10.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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