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SUBMISSION OF COMMENTS ON THE REGULATIONS RELATING TO THE SURVEILLANCE AND THE CONTROL OF NOTIFIABLE MEDICAL CONDITIONS: AMENDMENT

I refer to the invitation for comments on the draft Regulations relating to the Surveillance and the Control of Notifiable Medical Conditions ("the Regulations"), as published in Government Gazette 46048 dated 15 March 2022, and would like to submit the following comments on behalf of the City of Cape Town ("the City"):

1 GENERAL COMMENTS

A National State of Disaster was declared by the President of the Republic of South Africa ("the President") on 15 March 2020 in terms of the Disaster Management Act 57 of 2002. It was initially instituted to enable government to have an integrated and coordinated disaster management mechanism to reduce the outbreak of SARS-CoV-2 ("the virus"), including to buy time for government to adequately prepare the country's health response to the pandemic. However, despite the formal lifting of the State of Disaster, the City's concern is that the Regulations will effectively normalise and embed this very abnormal state of affairs through transferring emergency powers to the National Health Act 61 of 2003. Notwithstanding this concern, the Regulations are also flawed in the following ways:

- The Regulations are not aligned with the latest scientific findings, evidence-based mitigation measures and recommendations from health officials;
- The Regulations do not prioritise the economic- and livelihoods crisis currently being experienced by millions of citizens;

- The Regulations are purported to be drafted for *all notifiable diseases*, but only makes sense for this particular pandemic; and
- The Regulations do not take into account the valuable, key lessons that were learned from the country's response to the pandemic, especially around isolation and quarantine facilities.

These points will be elaborated upon in the subsequent paragraphs.

1.1 The need for the declaration of the National State of Disaster, the subsequent extensions thereof and the various directives and levels of control that have been applied by the National Government pursuant to the spread of the virus and the resultant pandemic in South Africa over the past approximately two years, including, but not limited to:

- The impositions of curfews;
- Social Distancing Rules and mask mandates;
- The bans on general trade under lockdown level 1;
- The closing of schools, universities and other places of learning;
- The restrictions on the sale of alcohol;
- The ban and restrictions on social gatherings;
- The restrictions on events, restaurants and religious activities; and
- Have resulted in unprecedented levels of power being exercised by the President and the National Minister of Co-Operative Governance from time to time.

1.2 The basis for this, as has been set out by the President and various members of the National Cabinet ("the Cabinet") in both the media and the many affidavits filed on this matter to date, is that it has been required in order to protect people's lives by ensuring that our public health facilities never become overwhelmed by admissions caused by severe viral infections.

1.3 Simply put, the stated aim and objective of declaring and enforcing the Declaration of a National State of Disaster to date has been to prevent Covid infections from increasing beyond the capacity of the State to cope with same.

1.4 Various less severe ancillary actions have been taken up to now, too, in support of such aim, including the vaccination of our population via the administering of some 40 million doses of the vaccines that are now available to citizens.

1.5 Notwithstanding the failure of National Government to adequately prepare the country's health response to the virus as was envisaged at the start of the lockdown, as well as the lack of success in the vaccine drive to date, the Cabinet has remained

steadfast in its view that concerns over the catastrophic socio-economic effects occasioned by the continued declaration of the disaster in South Africa did not outweigh the primary aim of relieving pressure on healthcare facilities and saving lives as applied under the Disaster Management Act.

1.6 This notwithstanding, emerging out of our experience of the pandemic we have learnt that:

- The enforcement of the Disaster Management Regulations did very little to prevent significant infection rates in South Africa, with some estimates now standing at 80% of the population after the Omicron-variant-driven fourth wave;
- Despite the poor vaccination rate that has been achieved in South Africa to date, this widespread infection has increased population immunity to the extent that there is currently no rational reason to suspect that our Health Facilities will not be in a position to deal with Covid-19 moving forward;
- The effect of the curtailments under the lockdown have caused economic tragedy in South Africa, and the resuscitation of the South African economy, by all means possible, has become as much, if not more of a priority than the containment of infection from the virus. In order to achieve this, and return to a constitutional democracy, the extraordinary powers to constrain human endeavour, as conferred under the Disaster Management Act, now need to end.
- This sentiment while echoed in economics and in law, also finds justification in science and was echoed recently by some of South Africa's leading health experts:

  "The vast majority of South Africans now have immunity, meaning Covid-19 in 2022 is likely to have a similar death rate to seasonal influenza (10,000-11,000 deaths a year) in the pre-Covid-19 era, as opposed to the 290,000 Covid-19 related excess deaths over the past 22 months of the pandemic, and much lower than the projected 58,000 annual TB-related deaths," said health experts Francois Venter, Mare Mendelson, Jeremy Nel, Lucille Blumberg, Zameer Brey and Shabir A Madhi.

  They went on to state publically on 23 January 2022:

  "We see no reason for the continued use of this legislation, nor for the National Coronavirus Command Council. In terms of SARS-CoV-2 the government should be single-mindedly focused on the vaccine programme and protecting health facilities from the impact of large numbers of admissions."

1.7 These draft regulations are intended to be of universal application to all notifiable diseases, but are overly focused on specific Covid-19 containment measures, most of

which have been proven ineffective, and are no longer supported by scientific evidence and advice. They are also completely out of synch with the emerging endemic nature of the disease, which is now forecast to have a mortality rate similar to that of seasonal Influenza and far lower than Tuberculosis.[1] The aim of this process is not to simply repurpose the regulations promulgated in terms of the declaration of the disaster under a more permanent locus of power. Rather, the lessons learnt under the pandemic should be used to ensure future pandemics of any sort can and are dealt with by our health system outside of the need for declaring another national state of disaster. The City recommends that the Department develop evidence-based, disease-specific guidelines based on the scientific guidance of the MAC and other experts, as envisaged in regulation 3(2)(g) and regulation 14 of the Regulations to guide health authorities and practitioners in dealing Covid-19 as it evolves from an epidemic disease to an endemic one. It is not desirable – or necessary – to write Covid-specific measures into the Regulations themselves.

1.8 Sadly, what is being proposed by these draft Regulations appears to be an attempt to render the current extensive State of Disaster powers more permanent under more "ordinary laws". The result is a set of draft Regulations that:

- Has been drafted based on containment measures that are outdated and not supported by our leading health academics currently, and hence have no rational connection to the preservation of people's lives or public health care facilities.
- Is in part confusing, inconsistent and illogical in the face of the advancing science of Covid-19 and vaccine roll-out.
- Is irrationally wide in ambit or simply illogical in both application and impact that extend far beyond the Act itself.

1.9 Three of the more obvious examples of this are:

- Curfews are provided for in Regulation 16M alongside dealing with the sale, distribution and consumption of alcohol and putting South Africa or parts of the country under lockdown. While this appears to be with reference to a "sharing of advice" with other Cabinet members, this is an unprecedented shift of the Disaster Management Act's powers on both curfews and limitation of alcohol to some kind of regulation under the National Health Act, 2003 (Act 61 of 2003).

[1] New COVID data: South Africa has arrived at the recovery stage of the pandemic (theconversation.com); Population Immunity and Covid-19 Severity with Omicron Variant in South Africa (nejm.org)

- Gatherings remain limited at half-full stadiums or venues — but only with vaccination certificates, with no end in sight as to this curtailment of numbers at these venues and the consequent extensive economic damage such a regulation will continue to wreak in South Africa.[2]
- For travellers exiting South Africa, screening is continuously referenced notwithstanding that we now know that temperature screening is useless with respect to all those who are asymptomatic for Covid.[3] In addition, the current proposals are that, while vaccinated passengers do not have to perform a PCR test, they may still be infected, meaning that these potential transmitters will not be stopped at our borders. The current proposed rules for travellers entering South Africa have no basis in logic or science; and will significantly harm tourism with no concomitant health or safety gains in place.

1.10 Maintaining the restriction on indoor and outdoor events at up to 50% capacity will reduce the tourism spend at around 1200 events in the City's annual events calendar. In some instances, the restriction actually places the entire event in jeopardy. For instance, it must be noted that the provisionally booked Netball World Cup at the CTICC is likely to be cancelled in favour of other destinations should these capacity restraints remain in play.

1.11 This reduction in tourism spend will have knock-on effects for associated industries (many of which are still struggling to recover to 2019 levels) and overall negative implications for regional GDP (GDP-R) and job losses. The resultant loss in direct tourism spend for 5 major events, namely, the World Cup Sevens tournament, Formula E and three international concerts at the Cape Town Stadium, including Justin Bieber, was estimated. This revenue impact was run through the City's macroeconomic impact model to determine the economic impact of lost tourism revenue for these 5 events. The reduction in GDP-R as a result of reducing capacity at these events by 30% (Formula E) or 50% (events in the Stadium) was estimated between R162m and R265m, with job losses between 276 and 452 in 2022. This estimate only includes potential tourism spend losses and doesn't include City revenue loss through revenue-sharing models in place at the CT stadium – where the financial and operating model is under severe pressure.

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[2] Draft regulation16J: "During the Covid-19 pandemic the indoor and outdoor gatherings will be up to the 50% of the venue capacity may be occupied [sic] on the proviso that: (a) production a valid vaccine certificate [sic]; (b) they practice social distancing of at least 1m and (c) compulsory mask wearing for indoor gatherings, [...] Notwithstanding the provisions above, the attendance of a gathering without proof of vaccination shall be limited to 1,000 indoors and 2,000 outdoors [...]".

[3] Draft Regulation 16C.

1.12 The issue of capacity also impacts on the City's ability to provide safe spaces for vulnerable groups of people, such as those living on the street. The City's safe spaces are forced to operate at half capacity and, without such a limitation, the City would be able to double its capacity to provide shelter and other basic services to those in need. This is particularly urgent as part of our winter-readiness programme, but more broadly necessary to start to address the health and safety risks – to both the people living in public spaces and the broader public.

1.13 The need to properly apply and consider more localised responses to any increase of infections and admissions, by way of the assessment of infections AND admission rates per province and locality, appears to also have been completely ignored in the drafting of these regulations, notwithstanding that the adoption of this more flexible approach has been accepted and applied in practice in South Africa and is now the way forward for many other countries. Such a risk-based approach could be incorporated in a disease-specific guideline, as recommended in paragraph 1.7 above. Such a risk-based approach would also take into account appropriate measures dependent on the risk for specific populations versus the potential long-term impact of such measures on society (e.g. the potential benefit and limited effectiveness of young children wearing masks in schools is far outweighed by its negative impact on learning and mental wellbeing).

1.10 The result is an overwhelming sense that the proposed regulations have a more sinister aim, which is simply to retain the current extensive powers of control now wielded under the Disaster Management Act, in perpetuity, by regulation.

1.14 The City is therefore of the view that further consultation on and refinement on the Regulations is needed. If published as is, they will in all likelihood be challenged as irrational, illogical or simply *ultra vires*, which may result in further costly, time-consuming litigation by the State in this regard. The focus of South Africa's efforts in this third year of the Covid-19 pandemic should be on applying what we have learnt so far to repair our economy while at the same time, bolstering our public health resources to retain and increase the capacity to deal with any future pandemic.

1.15 To give more context to the above, some of the other more obvious irrational underpinnings contained in the draft regulations include:

- A continued reliance on or reference to the principle of quarantining/isolation and contact tracing within the South African context.

- The regulations contain numerous mentions of quarantining. However, the reason for this is unclear, as quarantine following a contact with a case of Covid-19 is no longer a requirement in South Africa.[4]
- The regulations propose criteria for self-isolation that will be impossible to implement for a majority of South Africans: i.e. stipulating that persons wishing to self-isolate or self-quarantine, must "have access to the internet and a phone that allows the daily reporting of symptoms" and must "have access to a private physician" is out of the reach of most, as is the requirement that the facility for self-isolation/quarantine "must be a separate well-ventilated bedroom with bathroom and toilet".
- The draft guidelines contain an entire section on establishing a national database for contact tracing, which is no longer being applied nor does it appear to be a viable option to contain, or predict the spread of Covid-19 in the future.

1.16 The City notes that National Government has lifted the National State of Disaster, with some transitionary mechanisms remaining in place for a further thirty days. However, promulgating the regulations as drafted would effectively make permanent the unique and extensive powers that are provided for in order to deal with a National Disaster effectively and on a short term basis, without any declared disaster being in place.

1.17 The City thus does not support the draft regulations in their current form.

1.18 Notwithstanding the general comments related to the effectively permanent powers of National Government in terms of the proposed Regulations as mentioned above, please find below specific comments on the contents of the Regulations.

2 SPECIFIC COMMENTS

	Section	Title	Relevant text	Comment
1.	15A(iii)	Refusal of medical examination, prophylaxis, treatment, isolation, quarantine and protocols in public areas and gatherings	"A person who— (a) has been confirmed as a clinical or a laboratory confirmed case as having contracted a notifiable medical condition listed in Annexure A, Table 1, 2 or 3; (b) is suspected of having	Clarity is being sought as to whether this section allows for mandatory isolation and/or quarantine, or enforces it. From the outbreak of the pandemic, we have also learnt that isolation and quarantine facilities did not work effectively, and were very costly to operate and maintain.

[4] Draft regulation 15A – 15H.

	Section	Title	Relevant text	Comment
			contracted a notifiable medical condition listed in Annexure A, Table 1, 2 or 3; or (c) has been in contact with a person who is a carrier of a notifiable medical condition listed in Annexure A, Table 1, 2 or 3, may not refuse to— [...] (iii) submit to mandatory prophylaxis, treatment, isolation or quarantine, in order to prevent transmission."	
2.	15E	Repeat testing	"Repeat testing is not required in order for a person to come out of isolation and to re-integrate into society."	This should be dependent on the condition of the individual concerned.
3.	15F(1)	Designation of quarantine facilities	"Where the designation of quarantine facilities is required, for the purpose of containing and preventing the spread of a notifiable medical condition, the Department, provincial departments of health, the Department of Public Works and Infrastructure and municipalities must collaboratively allocate and designate quarantine facilities which must be managed as may be agreed upon by the said departments and municipalities."	The section does not stipulate the exact roles and responsibilities of the various governmental departments or institutions as mentioned. We have learnt that this was a challenge at the start of the pandemic, and that clearly defined roles and responsibilities would aid in the overall response. Additionally, forcing people to make use of state facilities was proven to be an issue and that the cost of state facilities was prohibitively expensive.
4.	15F(2)	Designation of quarantine facilities	"(2) A quarantine facility contemplated in subregulation (1) must provide— (a) primary health care services, including test swabs and supporting medical services; (b) environmental health services; (c) emergency medical services; (d) forensic pathology services; and (e) personal protective	It is proposed that such provisions be fleshed out in more detail, as they are extremely onerous, limiting and may have extensive financial implications for the State. Not all such services would be required in certain circumstances.

	Section	Title	Relevant text	Comment
			equipment."	
5.	15G(1)	Criteria for self-quarantine and self-Isolation	"(1) A person wishing to self-isolate or self-quarantine must— (a) do so in a facility that complies with the criteria set out in subregulation (2); (b) have the support of friend and family who may facilitate the drop-off of food and medicine at the gate if such person is unable to make use of online shopping facilities and contactless deliveries; (c) have access to the internet and a phone that allows the daily reporting of symptoms; (d) access to a private physician whom he or she may contact should he or she be in need of medical advice or care; and (e) a contact number where he or she can be reached during the period of self- quarantine or self-isolation."	These stipulations are extremely onerous and limiting, and would result in the majority of the population accessing I&Q sites. Lessons from the initial Covid-response also showed that the State, does not have the budget or delivery capacity to execute mass quarantine facilities.
6.	15G(2)	Criteria for self-quarantine and self-Isolation	(2) A self-quarantine or self-isolation facility must comply with the following criteria: (a) The facility must be a separate well-ventilated bedroom with a bathroom and toilet, or a residence that is not shared with persons who are not subject to quarantine; (b) meals provided in the facility must be served in the room using disposable utensils or utensils that are kept separate and are washed properly, if shared with persons who are not subject to quarantine; and	These stipulations are extremely onerous and limiting. Additionally, temperature monitoring may not be a requirement for all diseases. The State may also not have the budget or delivery capacity to enforce these provisions.

	Section	Title	Relevant text	Comment
			(c) the facility must have a thermometer that will allow the person to measure his or her temperature daily.	
7.	15H(2)	Contact tracing	"The Department must develop and maintain a national database to enable the tracing of persons who are known or reasonably suspected to have come into contact with any person known or reasonably suspected to have contracted a notifiable medical condition listed in Annexure A, Table 1, 2 or 3."	It is not viable for the National Department of Health (NDOH) to maintain a database of cases and contacts as demonstrated in the first wave of the Covid-19 pandemic. Such a database could be established at a lower level but our experience is that contact tracing when there are a large number of contacts is futile.
8.	15H(6)	Contact tracing	"(a) Where any person is to be tested for a notifiable medical condition listed in Annexure A, Table 1, 2 or 3, the person taking the sample for purposes of testing must obtain as much of the following information as is available at the time of taking the sample: (i) The first name and surname, identity or passport number, residential address, and cellular phone numbers of the person tested; and (ii) a copy or photograph of the passport, driver's licence, identity card, identity book of the person tested, with the consent of such person or the consent of a person authorised to give such consent [...]"	The requirements pertaining to the provision of an ID number/copy of ID book etc. is not viable, especially considering how this will be done on mass and at facilities. Additionally, it fails to take into account those without IDs etc.
9.	15H(7)-(9)	Contact tracing	"(7) Where any laboratory has tested a sample for a notifiable medical condition listed in Annexure A, Table 1, 2 or 3, the laboratory must promptly transmit to the Director-General: Health, for inclusion in the Notifiable Medical Conditions Contact Tracing Database— (a) all details the laboratory has, including the first name and surname, identity or passport numbers, residential address and cellular phone numbers, regarding	It is an unrealistic expectation for the NDOH to maintain these databases and will be challenging for all establishments to submit the data requested.

	Section	Title	Relevant text	Comment
			the person tested; and (b) the notifiable medical condition test result concerned. (8) The National Institute for Communicable Diseases (NICD) must transmit to the Director-General: Health for inclusion in the Notifiable Medical Conditions Contact Tracing Database— (a) all details the NICD has, including the first name and surname, identity or passport numbers, residential address and cellular phone numbers of any person tested for a notifiable medical condition listed in Annexure A, Table 1, 2 or 3; (b) the results of a notifiable medical condition test concerned; and (c) any information the NICD has regarding likely contacts of the person tested. (9) Every accommodation establishment must transmit to the Director-General: Health, for inclusion in the Notifiable Medical Conditions Contact Tracing Database, the following information regarding every person who stayed at the accommodation establishment during the period of lockdown, with such person's consent: (a) the first name and surname, identity or passport number, residential address and cellular phone numbers of the person concerned; and (b) a copy or photograph of the	

	Section	Title	Relevant text	Comment
			passport, driver's licence, identity card or identity book of the person concerned.	
10.	15H(11)	Contact tracing	(11) Within six weeks after the national state of disaster has lapsed or has been terminated— (a) the information on the Notifiable Medical Conditions Contact Tracing Database shall be de- identified; (b) the de- identified information on the Notifiable Medical Conditions Contact Tracing Database shall be retained and used only for research, study and teaching purposes; (c) all information on the Notifiable Medical Conditions Contact Tracing Database which has not been de- identified shall be destroyed; and (d) the Director-General Health shall file a report with the notifiable medical conditions Designated Judge recording the steps taken in this regard."	It is unclear if local authorities or the Provincial DOH will be able to maintain a database of cases/contacts. If not, this is extremely troubling as data is required for local research/analysis (as they are currently used). Additionally, it is troubling that it is mentioned that data can be destroyed, when it could rather be maintained in secure folders for research purposes.
11.	16A	General measures to contain the spread of notifiable medical condition that can spread through droplets or aerosol	"(1) In order to contain the spread of notifiable medical conditions listed in Annexure A, Tables 1, 2, and 3, which notifiable medical conditions may be spread through droplets or aerosol, the containment measures stipulated in subregulations (2) to (8) must be adhered to. (2) A person must, when in a gathering in an indoor public place, wear a face mask or a homemade item that covers his or her nose and mouth. (3) No person may be allowed to use any form of public transport, or enter a public premises, if they do not wear a face mask or	It is submitted that these measures would be wholly dependent on the transmission dynamics of the pathogen in question and not all of these stipulations may be relevant e.g. hand sanitiser.

	Section	Title	Relevant text	Comment
			a homemade item that covers the nose and mouth when in an indoor public place. (4) An employer must provide employees, with a cloth or shield face mask to cover his or her nose and mouth. (5) Every business premises, including, but not limited to a supermarket, shop, grocery store, retail store, wholesale produce market or pharmacy must— (a) determine the area of floor space in square metres; (b) based on the information contemplated in paragraph (a), determine the number of customers and employees that may be inside the premises at any one time with adequate space available; (c) take steps to ensure that persons queuing inside or outside the premises are able to maintain a distance of at least one metre from each other; (d) provide hand sanitisers for use by the public and employees at the entrance to the premises; and (e) assign, in writing, an employee or any other suitable person as the compliance employee, who must ensure— (i) compliance with the measures provided for in paragraphs (a) to (d); and (ii) that all directions in respect of hygienic conditions and limitation	

	Section	Title	Relevant text	Comment
			of exposure to persons with notifiable medical conditions listed in Annexure A, Table 1, 2 and 3, are adhered to. (6) All employers must adopt measures to promote physical distancing of employees, which measures may include the following: (a) enabling employees to work from home where necessary or minimising the need for employees to be physically present at the workplace where necessary; (b) the provision for adequate work space; (c) restrictions on face-to-face meetings; (d) special measures for employees with known or disclosed health issues or comorbidities, or with any condition which may place such employees at a higher risk of complications or death if they are infected with a notifiable medical condition listed in Annexure A, Table 1, 2 or 3; (e) special measures for employees at a higher risk of complications or death if they are infected with notifiable medical condition listed in Annexure A, Table 1, 2 or 3. (7) The requirements as set out in subregulation (4) applies with the necessary changes to any other building that is not specified in subregulation (4)."	
12	16B(2)	Persons exiting the Republic	"(2) All persons exiting the Republic must have the full vaccination certificate. In the event that such person does not have the	Please see typo, "PRC" should read "PCR". Additionally, this section makes reference to vaccination and PCR testing which may not be

	Section	Title	Relevant text	Comment
			full vaccination certificate, a negative PRC test results of not more than 72 Hours. All persons exiting the Republic must ensure that they comply with the requirements of the country of their destination."	appropriate for all diseases.
13	16B(4)	Persons exiting the Republic	"(4) Persons found to have an elevated temperature or symptoms in line with the national departmental guidelines consistent with a notifiable medical condition listed in Annexure A, Table 1, 2 or 3 must be subjected to a medical examination which may include testing."	Reference to elevated temperature, rather screen positive to any symptom on a screening list should require further investigation.
14	16C(2)	Persons entering the Republic	"During the Covid-19 pandemic, all persons entering the Republic must have the full vaccination certificate. In the event that such person does not have the full vaccination certificate, a negative PRC test results of not more than 72 Hours must be produced at the point of entry."	Makes direct reference to Covid 19 pandemic – perhaps this was meant for 16B as well? In addition, how is the duration of the Covid-19 pandemic defined? Given the high level of population immunity from a combination of vaccination and prior infection, and the case made by health experts that the virus is expected to have a similar impact to the seasonal influenza virus going forward, there is a strong case to be made that the pandemic phase has already ended. Please see typo, "PRC" should read "PCR". It is submitted that "full vaccination certificate" should refer to an internationally recognised full Covid-19 vaccination certificate. This section further on also requires that a person who does not have a vaccination certificate, be required to test for all the NMCs – this does not make sense.
15	16C(6)	Persons entering the Republic	"(6) Where approval for self -quarantine has not been granted or it has been determined that the person has failed to adhere to the self-quarantine conditions, such a person may be placed at in a state identified quarantine facility."	Implies that the state will have to have quarantine facilities available indefinitely. Clarity is sought on this matter and where the funding for such quarantine facilities will be found.
16	16F(2)	Local air travel	"(2) All persons undertaking local air travel must be subjected to screening before departure".	The use of the word "must" is too onerous and cannot be enforced. Should rather read "may" and "when required", for example in an outbreak situation.
17	16F(3)	Local air travel	"(3) Persons found to have an elevated temperature or symptoms consistent with a notifiable medical condition listed in	As per comments on 16B(4).

	Section	Title	Relevant text	Comment
			Annexure A, Table 1, 2 or 3 must be subjected to a medical examination which may include testing and may not be allowed to board the aircraft."	
18	16H(1)	Control Measures for Public places	"(1) In order to contain the spread of notifiable medical conditions listed in Annexure A, Tables 1, 2, and 3, which notifiable medical conditions may be spread, the containment measures stipulated in subregulation (2) must be adhered to in public places."	This provision should rather stipulate that containment measures may apply only in certain conditions e.g. in an outbreak. These measures are not needed in the absence of an outbreak situation. Additionally, an outbreak should be defined using a risk-based approach that considers increasing cases AND increasing hospitalisations in a locality that, together, put health resources at risk of being overwhelmed.
19	16L(2)-(4)	Attendance of funerals	"(2) Attendance of a funeral during an epidemic or pandemic of a notifiable medical condition listed in Annexure 1, Table 1, 2 or 3 may be restricted to a number of persons as may be guided by the scientific evidence of the risk of transmission, with persons observing a distance guided by the scientific evidence of the risk of transmission. During the Covid-19 pandemic, the attendance of funerals is limited to 100 persons. (3) Night vigils and after-funeral gathering may be restricted as guided by the scientific evidence of the risk of transmission. During the Covid-19 pandemic, the above-mentioned activities are prohibited. (4) During a funeral, a person must wear a face mask and must adhere to all health protocols and social distancing measures guided by the scientific evidence of the risk of transmission".	It is submitted that the limit of 100 persons at a funeral, where other gatherings are unregulated, is unreasonable. Similar for night vigils. Masks may also not be required in all outbreak situations (e.g. outdoors) or for all notifiable conditions.

3 CONCLUSION

The City welcomes the opportunity to comment on the Regulations; however, the City does **not** support the draft Regulations in their current form. The City trusts that the comments as provided will be duly considered by the Department of Health and that these regulations will not be adopted in their current form.

Yours faithfully

GEORDIN HILL-LEWIS

EXECUTIVE MAYOR 14.4.22

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