



SYSTEM OF DELEGATIONS

CITY OF CAPE TOWN

[APPROVED BY COUNCIL ON 30 AUGUST 2006

ITEM No C 86/08/06]

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DEFINITIONS

Unless the context otherwise indicates:

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

“Delegation” in relation to a duty, includes an instruction to perform the duty, and **“delegate”** has a corresponding meaning.

“Designation” means those of the Executive Mayor’s powers and functions that he/she must exercise and perform together with the other members of the Mayoral Committee as envisaged in section 60(3) of the Structures Act.

“MFMA” means the Local Government: Municipal Finance Management Act. No. 56 of 2003

“Political Office Bearer means the Speaker, the Executive Mayor, Executive Deputy Mayor.

“Political Structure” means the Council or any committee of Council.

“Structures Act” means the Local Government: Municipal Structures Act No. 117 of 1998.

“Systems Act” means the Local Government: Municipal Systems Act No. 32 of 2000.

“Recess” means the period determined by Council resolution.

INTRODUCTION

Content

Part 1 deals with delegations to Political Office Bearers

Part 2 deals with delegations to Political Structures of Council

Part 3 deals with Statutory Powers, Duties and Rights

Part 4 deals with Powers that may not be Delegated by Law

Part 5 deals with delegations to Officials

Part 6 deals with delegations to Committees of Officials

This System of Delegation which was adopted by Council on 31 August 2006 has been compiled in accordance with the requirements of section 59 of the Systems Act and such system is aimed at maximizing administrative and operational efficiency and provides for adequate checks and balances by delegating appropriate powers, functions and duties to:

- the Executive Mayor and by designating certain of these powers, functions and duties in terms of the Structures Act
- the Executive Deputy Mayor
- the Speaker
- the Chief Whip
- the Party Whips
- the section 79 Committees
- the Subcouncils
- the Staff

The Executive Mayor, staff members and Subcouncils are authorised to sub-delegate any of their delegated powers, duties and functions.

The following are the checks and balances imposed by Council and the law upon this System of Delegation:

Any sub-delegation of a power, duty or function authorised in terms of this system of delegations must be in writing, and may be given subject to limitations, conditions and directions by the person who grants the sub-delegation.

It is not permissible in terms of the law for a person who has been given a “sub-delegation” to sub-delegate such power, duty or function.

The conferring of a delegation does not divest Council from exercising the responsibility concerning the exercise of the power or the performance of the duty.

The conferring of a sub-delegation does not divest a political structure, a political office bearer or an official, of the responsibility concerning the exercise of the power or the performance of the duty.

A political structure, a political office bearer or an official to whom a power has been delegated may decline to exercise such power and refer it for decision to the Council, political structure, political office bearer or official which/who delegated such power.

A political structure, political office bearer, councillor or official of a municipality to whom a delegating authority has delegated a power, duty or function must report quarterly to the delegating authority, on decisions taken in terms of that delegated, power, duty or function.

In exercising any power, duty or function in terms of this System of Delegation a political structure, political office bearer or official must comply with the provision of the Promotion to the Administrative Justice Act 3 of 2000 and the regulations promulgated in terms thereof.

In exercising any power, duty or function in terms of this System of Delegation a political structure, political office bearer or official must comply with the provisions of Council's policies, Bylaws and any law relating to the matter under consideration.

In addition, sections 59(3) and 62 of the Systems Act provide mechanisms in terms of which decisions taken under delegated power may be reviewed or appealed against.

NOTE:

Footnotes are also part of the delegations and should not just be considered as a guide to the interpretation thereof.

Should there be a duplication of a power, duty or function the power, duty or function conferred on the higher authority will take preference.

- PART 1 -

DELEGATION OF POWERS TO POLITICAL OFFICE BEARERS

- Executive Mayor
- Executive Deputy Mayor
- Speaker
- Chief Whip
- Party Whips

EXECUTIVE MAYOR

Acting in terms of section 59 of the Systems Act, Council hereby delegates the powers reflected in this document to the Executive Mayor including the power to sub-delegate any of his or her delegated powers to a member of the Mayoral Committee;

*Acting in terms of section 60(3) of the Structures Act, Council hereby designates the powers and functions **“framed by a border”** in this document which must then be exercised and performed by the Executive Mayor together with the members of the Mayoral Committee. Notwithstanding this, the final decision is that of the Executive Mayor after duly considering the recommendations of the Mayoral Committee. The criteria for identifying whether such powers are designated or not, are as follows:*

- 1. Urgency of the matter;*
- 2. Checks and balances already incorporated in the System of Delegation;
and*
- 3. The nature of the power makes designation impossible.*

A power or duty so designated is not delegable; as was decided by the Constitutional Court in Democratic Alliance and another v Masondo and another 2003(2) BCLR 128 (CC).

1. CIVIC AND CEREMONIAL DUTIES

- 1.1** To receive and interview representatives and delegations from international and national agencies, public interest groups etc.

- 1.2 To represent the Council at meetings and functions other than those outside bodies to which Councillors have been nominated.
- 1.3 To make media statements on all matters on behalf of the City.¹
- 1.4 To perform the following ceremonial duties:
 - 1.4.1 Opening projects, civic functions and events, and new buildings;
 - 1.4.2 Hosting and welcoming dignitaries;

2. CORPORATE ENTITIES, UTILITIES, AGENCIES

2.1 To appoint , nominate, remove or recall City representatives to the board of any corporate entity, utility or agency in terms of an agreement or other legal instrument governing such appointment or nomination.

2.2 To nominate, remove or recall Councillors to serve on outside bodies, after considering recommendations from the Chief Whip.

2.3 To appoint, remove or recall a director of a municipal entity, appointed or nominated by the City, in accordance with sections 93 E and G of the Systems Act.

3. LEGAL

3.1 To decide to institute legal proceedings against other organs of state in order to enforce the municipality's rights, where all reasonable steps in terms of the principles of co-operative government have failed.

¹ The Executive Mayor has sub-delegated to all Mayoral Committee members the power to make media statements in respect of their relevant portfolios.

- 3.2 To institute and defend any court action in the High Court or Court of equal stature, with the exception of claims relating to recovery of debt owed to the Council, in respect of matters referred to in paragraph 3.6. In respect of any other matter this delegation is to be exercised, after considering a recommendation from the City Manager.
- 3.3 To institute and defend arbitration proceedings in matters where it otherwise would have been dealt with in the High Court or a court of equal or higher stature, in respect of matters referred to in paragraph 3.6. In respect of any other matter this delegation is to be exercised, after considering a recommendation from the City Manager.
- 3.4 To institute appeal proceedings in the High Court of Appeal or the Constitutional Court, where judgment has been given against the Municipality, in respect of matters referred to in paragraph 3.6. In respect of any other matter this delegation is to be exercised, after considering a recommendation from the City Manager.
- 3.5 To settle any action instituted in any competent court or forum recognized by law (referred to in 3.3 above) should it be deemed in the interest of Council, in respect of matters referred to in paragraph 3.6. In respect of any other matter this delegation is to be exercised, after considering a recommendation from the City Manager provided that this power does not relate to the recovery of debt and Magistrate Court matters.²
- 3.6 To obtain legal opinion including Senior Counsel on any matter including the following:

3.6.1 The political office bearers and political structures of Council

² This excludes the recovery of debt and Magistrate's Court matters which are the responsibility of the City Manager

- 3.6.2 The City Manager
 - 3.6.3 Managers directly accountable to the City Manager
 - 3.6.4 Any matter affecting the constitutional powers of the municipality.
- 3.7 To formulate comments on proposed national and provincial legislation, regulations, policy frameworks, etc. based on recommendations from the relevant portfolio committee, except in those instances where time constraints make this impossible, in which case the Executive Mayor may act of his or her own accord.
- 3.8 To provide legal representation, in terms of section 109A of the Systems Act, for a Councillor, the City Manager or manager directly accountable to the City Manager after consulting the whips of the various parties where-
- 3.8.1 legal proceedings have been instituted against the Councillor or official as a result of any act or omission by the Councillor or official in the exercise of his or her powers or the performance of his or her duties; or
 - 3.8.2 The Councillor or official has been summoned to attend any inquest or inquiry arising from the exercise of his or her powers or the performance of his or her duties

4. HUMAN RESOURCES

- 4.1 To determine a short list of candidates for appointment as City Manager, to interview such candidates and to make recommendations to Council on a preferred candidate.

4.2 To consider and approve the suspension of the City Manager for any alleged breach of a term(s) of his/her conditions of service and/or the “*Code of Conduct for Municipal Staff Members*”, and thereafter to refer the matter to the Speaker in terms of the said *Code* and to report the suspension to Council at its first ensuing meeting.

4.3 To determine, after consultation with the City Manager, a short list of candidates for appointment of those managers that are directly accountable to the City Manager; to interview such candidates and to make recommendations to Council on the preferred candidates.

4.4 To determine which rights and obligations of Council in respect of the privileges, rights and duties of the City Manager and those managers directly accountable to the City Manager, are to be exercised in terms of their respective service contracts.

4.5 To authorise, after consultation with the City Manager, members of staff to attend congresses, workshops, meetings of institutes etc outside the borders of the RSA.

4.6 To authorise the City Manager to attend congresses, workshops, meetings of institutes etc inside the borders of the RSA.

4.7 To report to Council on the evaluation of the performance of the City Manager in terms of his/her performance agreement and to recommend the payment of a performance bonus or the consequences of substandard performance, as required in terms of section 57 of the Systems Act.

4.8 To grant the City Manager leave and sick leave.

4.9 To appoint an Acting City Manager for periods up to 30 working days and that this arrangement not exceed a period of 6 consecutive calendar months.

4.10 To appoint, after consultation with the City Manager, acting managers directly accountable to the City Manager, for periods in excess of 30 working days and that this arrangement not exceed a period of 6 consecutive calendar months.

5. FINANCE AND AUDIT

5.1 To consider audit reports and to make recommendations to Council.

5.2 To authorise audit investigations subject to relevant legislation.

5.3 To determine from time to time the maximum amount that the City Manager may authorise in respect of the transfer of operational expenditure (within a single budget vote) in consultation with the relevant MayCo member.

5.4 To authorise the transfer of operational (within a single budget vote) expenditure over and above the maximum amount determined above from time to time.

5.5 To incur expenditure necessary for the performance of the functions in the office of the Executive Mayor within budget.

5.6 To make investments on behalf of the municipality within a policy framework determined by the Minister of Finance, and the investment of surplus funds in terms of Council policy.

- 5.7 To write off bad debt in excess of R5 million but not exceeding R10 million on recommendation from the Chief Finance Officer provided that the debt to be written off may not be split into parts or items of a lesser value merely to avoid complying with the R5 million limit.
- 5.8 To decide the circumstances in which money may be withdrawn by the Accounting Officer from a separate bank account of the Municipality established for relief, charitable, trusts or other funds in terms of section 12(4) of the MFMA.
- 5.9 To establish relief, charitable, trusts or other funds in the Municipality's name as provided for in terms of section 12(4) of the MFMA.

6. IMMOVABLE MUNICIPAL PROPERTY

- | | |
|-----|---|
| 6.1 | To authorise the purchase of immovable property for municipal purposes above an amount of R200 000. |
|-----|---|
- 6.2 To lease immovable property from private or public bodies or any person where the value of the lease exceeds R200 000.
- 6.3 To cancel, amend, sign and exercise all rights and duties in terms of the lease entered into in terms of the preceding paragraph.

7. INTEGRATED DEVELOPMENT PLANNING (IDP)

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|-----|---|
| 7.1 | To consult affected organs of state and to advise Council on the method of aligning the municipality's planning, development plans and strategies with such affected organs of state. |
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- 7.2 To approve a process that will guide the Council in the planning, drafting adoption and reviewing of an integrated development plan, as required in terms of section 28 of the Systems Act.
- 7.3 To determine a programme that reflects time scales for the various steps of the process as required in terms of section 29 of the Systems Act.
- 7.4 To annually report to Council on the review of the integrated development plan in accordance with an evaluation of the municipality's performance measurement, as required in terms of section 34 of the Systems Act.

8. PERFORMANCE MANAGEMENT

- 8.1 To adopt a strategy for the promotion of a culture of performance management among the municipality's political office bearers, political structures and Councillors and the administration, as required in terms of section 38 of the Systems Act.³
- 8.2 To adopt a mechanism for monitoring and review of the municipality's performance management system, as required in terms of section 40 of the Systems Act.⁴
- 8.3 To consult the community on the development, implementation and review of the municipality's performance management system, as required in terms of section 42 of the Systems Act.⁵

³ The Executive Mayor has sub-delegated the power to "develop a strategy" to the Mayoral Committee member Corporate Services and Human Resources.

⁴ The Executive Mayor has sub-delegated the power to develop a "mechanism for monitoring and review of the municipality's performance management system" to the Mayoral Committee member Corporate Services and Human Resources.

⁵ The Executive Mayor has sub-delegated this power to all Mayoral Committee members in respect of their respective portfolios, and the Mayoral Committee member Corporate Services and Human Resources has also been delegated to coordinate this process and report to the Executive Mayor.

8.4	To present to Council an annual report for approval, as required in terms of section 46 of the Systems Act as well as section 121 of the Finance Management Act.
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9. GENERAL

- 9.1 To consult with the national and provincial spheres of government, the local and other district municipalities and organised local government with respect to the powers and functions of municipalities including the division, assignment, delegation and the exercise of such powers and functions on an agency basis.
- 9.2 To authorise Councillors to attend or undertake congresses, workshops, meetings and study tours which are relevant to Council, within or outside the RSA.
- 9.3 To exercise any power of the Council and its political structures, in consultation with the City Manager, when Council is in recess where the failure to exercise such power as a matter of urgency would have a substantial detrimental impact on the municipality and/or its services, provided that this delegation excludes the exercise of all powers reserved for Council in terms of the law.
- 9.4 To establish and determine the terms of reference of sub-committees of the Mayoral Committee, and other ad-hoc task-teams, working groups and committees of investigation and to appoint members and chairpersons thereof.⁶

⁶ The Executive Mayor sub-delegated the power in respect of establishing "ad hoc task-teams" and "working groups" only, to all Mayoral Committee members in respect of their relevant portfolios and to Subcouncils.

9.5 To recover unauthorised, irregular or fruitless or wasteful expenditure from political office bearers, the City Manager and managers directly accountable to the City Manager and any former councillor(s) or former City Managers and former managers directly accountable to the City Manager or former City Manager.

9.6 To oversee the management of a capital development fund, consolidated capital development and loan fund and/or consolidated loan fund.
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9.7 To appoint an acting Executive Mayor and an acting Executive Deputy Mayor in the absence of both the Executive Mayor and Executive Deputy Mayor.

9.8 To authorise forensic investigations into irregularities (excluding where Councillors are involved) where the City Manager and managers directly accountable to him/her may be implicated.

9.9 To perform the functions and exercise the delegations of the Speaker in terms of the Code of Conduct for Councillors where the Speaker is allegedly in breach of the said Code.

9.10 To authorise an assessment in terms of section 78(1) of the Systems Act when the municipality has to decide on a mechanism for the provision of services.

9.11 To make grants-in-aid which are within Council's powers and functions, to deserving cases, subject to Council policy.
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- 9.12 To appoint members of the Civilian Oversight Committee, in terms of the South African Police Services Act No 68 of 1995 section 64J, and other statutory committees where this authority has not been reserved for Council.

10. POLICY

- 10.1 To recommend to Council on policy reserved for Council and not reserved for the City Manager.

- 10.2 To determine which policies other than those policies reserved for Council and the City Manager will be processed into by-laws.

- 10.3 To determine policy direction, for the City Manager as the head of the administration in terms of section 55 of the Systems Act.⁷

- 10.4 To determine a policy framework in terms of section 66 of the Systems Act, in respect of the staff establishment, job description, remuneration and other conditions of service and evaluation of the staff establishment of the municipality.⁸

⁷ The Executive Mayor has subdelegated the power to develop policy direction to the Corporate Services and Human Resources Portfolio Committee.

⁸ The Executive Mayor has subdelegated the power to develop a policy framework to the Corporate Services and Human Resources Portfolio Committee.

EXECUTIVE DEPUTY MAYOR

11. The Executive Deputy Mayor exercises the powers and performs the duties of the Executive Mayor if the Executive Mayor is absent or not available or if the office of the Executive Mayor is vacant.
12. To incur expenditure necessary for the performance of the functions in the office of Executive Deputy Mayor within budget.

SPEAKER

Acting in terms of section 59 of the Systems Act, Council hereby delegates the powers reflected in this document to the Speaker including the power to sub delegate any of his/her delegated powers.

It is the Speaker's responsibility to coordinate all processes flowing from the implementation of the Subcouncils' delegations. All comments, reports and recommendations by Subcouncils are therefore to be forwarded to the Office of the Speaker.

13. LEGAL

- 13.1 To obtain a legal opinion including opinion from Senior Counsel on any matter related to:
 - 13.1.1 Disciplinary investigation in terms of the Codes of Conduct relating to Councillors and municipal staff members

- 13.1.2 Rules of meetings of political structure and meeting procedure
- 13.1.3 Planning and General Appeals Committee

14. POLICY

- 14.1 To give direction, in terms of Council policy, and oversee the use of the Council Chamber.

15. SUBCOUNCILS

- 15.1 To determine the Headquarters of SubCouncils after consultation with the SubCouncil chairpersons.
- 15.2 To approve the use of office space by SubCouncil chairpersons and staff.
- 15.3 To direct when and where SubCouncils meet, after consultation with SubCouncil chairpersons, in terms of section 68 of the Structures Act.
- 15.4 To investigate and make recommendations to Council on the delegation of duties and powers to SubCouncils.

16. WARD PARTICIPATORY MECHANISMS

- 16.1 To determine administrative arrangements to enable Ward Participatory Mechanisms to perform their functions and exercise their powers effectively.
- 16.2 To oversee the establishment and coordination of the Ward Participatory Mechanisms.

17. POLITICAL OVERSIGHT

- 17.1 To monitor and report on the performance of SubCouncils and Ward Participatory Mechanisms.
- 17.2 To make recommendations to Council in terms of section 78 of the Structures Act in respect of the dissolution of Ward Participatory Mechanisms which fail to fulfill their objectives.
- 17.3 To monitor and report to Council on the functioning of the Section 79 committees and Subcouncils.

18. FINANCE

- 18.1 To incur expenditure necessary for the performance of the functions in the office of the Speaker within budget.

19. GENERAL

- 19.1 To provide space for the public in the Council Chamber and places where the Council and its committees meet within the financial and administrative capacity of the municipality.
- 19.2 To take reasonable steps to regulate public access to and public conduct at meetings of Council and its committees.
- 19.3 Subject to relevant legislation, to permit a councillor or an official to disclose any privileged or confidential information of the council or committee to any unauthorised person, in terms of item 10 of the Code of Conduct for Councillors. For the purpose of this item “privileged or confidential information” includes any information –

- 19.3.1 determined by the municipal council or a committee to be privileged or confidential;
 - 19.3.2 discussed in closed session by the council or committee;
 - 19.3.3 disclosure of which would violate a person's right to privacy; or
 - 19.3.4 declared to be privileged, confidential or secret in terms of law.
- 19.4 To be responsible for and have the authority to enforce the Procedural Code for the Declaration of Financial Interests by councillors as adopted by Council in terms of the Code of Conduct.
- 19.5 To ensure that when an annual report is considered by Council the meeting is open to the public and any organs of state and that
- 19.5.1 sufficient time is provided for the discussion of any written submissions received from a local community or organ of state;
 - 19.5.2 provision is made for any member of a community or organ of state to address Council;
 - 19.5.3 the Auditor General or his/her representatives are invited and permitted to address Council

THE CHIEF WHIP

Acting in terms of section 59 of the Systems Act, Council hereby delegates the powers reflected in this document to the Chief Whip including the power to sub-delegate any of his/her delegated powers.

20. POLICY

- 20.1 To approve, in consultation with the Speaker, the use of office and meeting space by Councillors and political parties.

21. FINANCE

- 21.1 To incur expenditure necessary for the performance of the functions in the office of the Chief Whip within budget.

22. GENERAL

- 22.1 To grant leave of absence to Councillors from meetings of Council and its committees and Subcouncil meetings.
- 22.2 To determine the development needs of councillors after consultation with the party whips.
- 22.3 To determine a programme of training for the development needs of councillors.
- 22.4 To approve the facilitation and coordination of Councillor development and capacity building , including the negotiation with donors.
- 22.5 To compile a speakers list for meetings of Council, after consultation with other whips, in which times for speakers are allocated; to determine the order in which such speakers may be permitted to address the Council on any item which is to be debated; and submits the list of scheduled speakers to the Speaker, the Executive Mayor and all party whips.

- 22.6 To prepare and recommend to Council, in consultation with the Speaker, the annual calendar of meetings of Council and its committees including recommendations in regard to Council recesses.
- 22.7 To approve, in consultation with the relevant chairperson, any change of meeting time and/or date of meeting and ensures that the calendar of meetings is appropriately amended.
- 22.8 To recommend to the Executive Mayor which Councillors should serve on outside bodies.
- 22.9 To ensure that whips monitor whether councillors report back to constituencies as required in the preamble to the Code of Conduct and to quarterly report to council on compliance therewith.

PARTY WHIPS

- 23. To monitor whether councillors of the relevant political party report back to constituencies as required in the preamble to the Code of Conduct, at least quarterly, on Council matters.

- PART 2 -

DELEGATIONS TO POLITICAL STRUCTURES OF COUNCIL

- *Committees established in terms of section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998):*

Amenities & Sport Portfolio Committee

Corporate Services & Human Resources Portfolio Committee

Economic, Social Development & Tourism Portfolio Committee

Finance Portfolio Committee

Health Portfolio Committee

Homeless Agency Committee

Housing Portfolio Committee

Planning & Environment Portfolio Committee

Trading Services & Infrastructure Portfolio Committee

Transport, Roads & Stormwater Portfolio Committee

Safety & Security Services Portfolio Committee

Standing Committee on Public Accounts (SCOPA)

Rules Committee

Spatial Planning, Environment & Land Use Management Committee

- *Committee established in terms of Schedule 1 “Code of Conduct for Councillors” of the Local Government: Municipal Systems Act 32 of 2000:*

Disciplinary Committee

- *Committee established in terms of Section 62 of the Local Government: Municipal Systems Act 32 of 2000:*

Planning and General Appeals Committee

- *Subcouncils established in terms of section 61 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998):*

Subcouncils

- *Committees established in terms of section 72 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998):*

Ward Committees

SECTION 79 “PORTFOLIO” COMMITTEES

The terms of reference and delegations set out below are in respect of the following Section 79 Portfolio Committees:

Amenities and Sport

Corporate Services and Human Resources

Economic, Social Development and Tourism

Finance

Health

Housing

Planning and Environment

Safety and Security Services
Trading Services and Infrastructure
Transport, Roads and Stormwater

TERMS OF REFERENCE SECTION 79 “PORTFOLIO” COMMITTEES

1. AMENITIES AND SPORT PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **Community facilities** which includes:

Recreation & Amenities

Library Services

Arts & Culture

Early childhood development

Retirement centers

Community Shelters

- **City Parks** which includes:

Play parks, Cemeteries and Crematoria

2. CORPORATE SERVICES AND HUMAN RESOURCES PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

Corporate Services:

- **Information Systems and Technology** which includes:

WAN

PC Coordination

Architecture and Software

ERP including Support Centre

Infrastructure

Distributed Computing

E-Governance

Business Applications

Telecommunications

- **Information Systems and Technology** which includes:

WAN

PC Coordination

Architecture and Software - Infrastructure

ERP Support Centre

Distributed Computing

E-Governance

Admin. Finance and Programme Office

Architecture and Governance

Business Applications

- **Corporate Systems and Services** which includes:

Facility management and maintenance

Fleet and Mechanical Services

Radio and Trunking Services

Printing Services, Records Management and Archiving

Corporate Advertising

Language Services

Street collections

- **Legal and Administration**

Human Resources:

- **Human Capital Development** which includes:

Recruitment and Selection

Skills development

Human Resources development

- **Remuneration & Benefits** which includes:

Personnel administration

Job evaluation

Remuneration

Benefits

Conditions of services

Policy development and monitoring

- **Employee Relations** which includes:

Labour relations

Occupational health and safety

Employee wellness

- **Collective Bargaining**

- **Performance Management**

- **Employment Equity**

- **Technical Information**

- **IDP**

3. ECONOMIC, SOCIAL DEVELOPMENT AND TOURISM PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **Economic & Social Development**

- **Tourism Development**

- **Property Management** which includes:

Disposals & Acquisitions

Property Information

Property Services

- **Innovation, Information & Knowledge Management**

(Note: this includes Strategic Information)

- **Major Events**

- **Municipal Entities**

(Those that fall within the functional area of the portfolio committee)

4. FINANCE PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **Budgets** which includes:

Operating and Capital Budget

Budgetary control and accounting

- **Revenue** which includes:

Debt Management

- **Treasury and Accounting** which includes:

Insurance

- **Valuations** which includes:

General and Interim Valuations

- **Supply Chain Management** which includes:

Procurement and Stock Management

Stock Levels

Expenditure

- **Municipal Entities**

5. HEALTH PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **City Health** which includes:

District Health Services, Specialised Health Services and Environmental Health

6. HOUSING PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **New Settlements** which includes:

The provision of new housing opportunities to address the housing backlog

Projects Co-ordination

People's Housing Projects & Empowerment

Informal Settlement Upgrades

- **Land Restitution** which includes:

Facilitating the resolution of land claims to include provision of housing to claimants

Land Integration and Development Support

- **Housing Finance** which includes:

Housing Budgets & Accounting

Housing Project Finance

Housing Debt Management

- **Rental Stock (Existing Settlements)** which includes:

Social Housing Management Programmes and Rental Stock Maintenance

- **The Housing Planning function** which is the project planning and programming

- **Housing Policy, Research Planning & Monitoring** which includes:

Housing Policy and Research

Housing Planning and Monitoring

- **Land Planning** which relates to the process to be followed once land has been identified for housing.

- **Municipal Entities**

(Those which fall within the functional area of the portfolio committee)

7. PLANNING AND ENVIRONMENT PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **The Planning function** which includes:

- City wide Planning & design services
- Town Planning
- Land Use Management
- Building development management
- Development projects
- Land information
- Planning legislation and enforcement

- **Spatial Data Management** which includes:

- Geographic information systems

- **The Environment Planning function** which includes:

- Environmental planning
- Environmental planning policy
- Environmental impact assessment
- Coastal planning
- Outdoor advertising and signage (environmental controls)
- Heritage resource management
- Nature reserve planning

- **The Housing Planning function**

- (Note: relates to the overarching Structure Plan/Spatial Development Framework)

- **Nature Conservation**

8. TRADING SERVICES AND INFRASTRUCTURE PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **The Electricity and Energy function** which includes:

Network operations

Generation

Distribution and sales

Customer services

Street lighting

(Note: Operations are provided by REDs while the City exercises an authority role)

- **The Water and Sanitation function** which includes:

Bulk water

Wastewater treatment

Water and wastewater reticulation

Water and sanitation technical services

- **The Solid Waste Management function** which includes:

Refuse removal and disposal

Illegal dumping and street sweeping

- **Municipal Entities**

(Those which fall within the functional area of the portfolio committee)

9. TRANSPORT, ROADS AND STORMWATER PORTFOLIO COMMITTEE

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **Transport Planning** which includes:

Project identification

Transportation planning

Traffic assessments

Integrated transport plans

- **Systems monitoring and information management**

- **Demand and access management**

- **Infrastructure Budgeting**

- **Infrastructure construction** which includes:

Project and asset management

- **Public transport service design** which includes:

Contracts

Regulations

- **Public transport and management**

- **Road traffic infrastructure management**
- **Road traffic signalization and management**
- **Transportation fund management**
- **Regulatory and direction signage**
- **Catchment, Stormwater and River management**

10. SAFETY AND SECURITY SERVICES

The terms of reference of this Committee is policy formulation and implementation monitoring within the following functional areas:

- **The Emergency Services Function** which includes:

Disaster Management

Fire Services

107 Public Emergency Communication centre

- **The Cape Town Metropolitan Police Service** which includes:

Traffic Policing

Traffic Licensing

CCTV

The policing of Municipal By-Laws and Regulations

Security Services

VIP Security

Land Invasions

Prevention of Crime

- **Municipal Courts**
- **Civilian Oversight Committee in terms of South African Police Services Act No. 68 of 1995 section 64J**
- **Regulation of Gatherings Act No. 205 of 1993**

GENERIC DELEGATIONS TO SECTION 79 “PORTFOLIO” COMMITTEES

The following delegations are in respect of all the portfolio committees listed in Section 2 of this document and relate to the functional area of each:

1. To develop policy and recommend same to the Executive Mayor.
2. To develop draft by-laws and recommend same to the Executive Mayor.
3. To develop draft business plans and recommends to the Executive Mayor.
4. To comment and make recommendations to the Executive Mayor in regard to the draft IDP and budget.
5. To make recommendations in regard to the setting or revision of tariffs, levies, taxes and duties to the Executive Mayor.
6. To ensure public participation in the development of policy, legislation, IDP's and budget.
7. To monitor the implementation of Council's IDP, budget, business plans, strategic objectives, policies and programmes and report herein to the Executive Mayor.

8. To assess the performance of service delivery generally within the functional area of their respective committee (outcomes monitoring) and report to the Executive Mayor.
9. To determine the best way, including partnerships and other approaches, to deliver on Council's strategies, programmes and services to the maximum benefit of the City and to recommend the same to the Executive Mayor.
10. To identify the needs of the Municipality as far as it relates to the functional area of the committee and to recommend the same to the Executive Mayor.
11. To review and evaluate those needs referred to in paragraph 10 above in order of priority and recommend the same to the Executive Mayor.
12. To ensure that regard is given to stakeholder views and report on the input/outcome of stakeholder consultation/participation processes to the Executive Mayor.
13. To recommend appropriate comments on National and Provincial draft legislation, regulations, policy frameworks etc. that affects the committee to the Executive Mayor.
14. To summons any councillor and/or officials to appear before the Committee to assist the Committee in the performance of its functions.

SPECIFIC DELEGATIONS TO SECTION 79 “PORTFOLIO” COMMITTEES

15. CORPORATE SERVICES AND HUMAN RESOURCES PORTFOLIO COMMITTEE

15.1 To develop policy direction, for the City Manager as the head of the administration in terms of section 55 of the Systems Act and report back herein to the Executive Mayor.⁹

15.2 To develop a policy framework in terms of section 66 of the Systems Act, in respect of the staff establishment, job description, remuneration and other conditions of service and evaluation of the staff establishment of the municipality and report back herein to the Executive Mayor.¹⁰

16. PLANNING AND ENVIRONMENT PORTFOLIO COMMITTEE

16.1 LAND USE PLANNING ORDINANCE NO. 15 OF 1985

16.2 To apply to the Premier for the amendment or withdrawal of a structure plan.

⁹ The Executive Mayor has sub-delegated the power to develop policy direction to the Corporate Services and Human Resources Portfolio Committee.

¹⁰ The Executive Mayor has sub-delegated the power to develop a policy framework to the Corporate Services and Human Resources Portfolio Committee.

- 16.3 To approve for submission to the Premier (for his approval) a structure plan in terms of section 4(1).
- 16.4 To review a structure plan in terms of section 4(8) at least once every 10 years.
- 16.5 To approve a structure plan in terms of section 4(10).

SECTION 79 RULES COMMITTEE

The terms of reference of this Committee relates to rules of procedure of Council and its Committees.

17. RULES OF ORDER

- 17.1 To develop Rules of Order and amendments thereto, and recommend the same to Council.

18. ATTENDANCE AT MEETINGS

- 18.1 To summons any councillor and/or officials to appear before the committee to assist the committee in the performance of its functions.

SCHEDULE 1 DISCIPLINARY COMMITTEE

The terms of reference of this Committee relates to breaches of the Code of Conduct for Councillors.

19. DISCIPLINARY INVESTIGATIONS

- 19.1 To conduct disciplinary enquiries into Councillor transgressions in respect of matters referred to the Committee by the Speaker and make a finding in respect thereof.

20. GENERAL

- 20.1 To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- 20.2 To appoint a legal advisor to assist the Committee including the obtaining of internal or external legal opinions.
- 20.3 To summons any councillor and officials/or other affected parties to appear before the Committee to give evidence.
- 20.4 To investigate and make a finding on any alleged breach of the Code of Conduct for Councillors.
- 20.5 To make appropriate recommendations to Council including a suitable sanction in terms of item 14.2 of the Code of Conduct for Councillors.

20.6 To make written representations to the MEC for local government pertaining to an appeal to the MEC by a councillor who has been warned, reprimanded or fined in terms of paragraph item 14(2)(a), (b) or (d) of the Code of Conduct for Councillors.

SECTION 79 SPATIAL PLANNING, ENVIRONMENT AND LAND USE MANAGEMENT COMMITTEE (S.P.E.L.U.M.)

The terms of reference of this Committee relate to Spatial Planning, Town Planning, environmental and other related matters.

S.P.E.L.U.M. is empowered to exercise a delegated power, function or duty regarding Town Planning matters when the Director: Town Planning or his/her sub-delegatee or a Subcouncil elects not to exercise such power, function or duty.¹¹

Please note that the use of the word “grant” in the delegations set out below also means to “refuse” and to “revoke” means to “vary or amend”.

The following limitations, conditions and directions apply where S.P.E.L.U.M., Subcouncils and officials have concurrent delegated powers regarding town planning matters:

- a. All matters affecting more than one Subcouncil (i.e. extends beyond the Subcouncil's boundary) is decided by S.P.E.L.U.M. where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- b. Where an application requires an EIA, HIA or TIA, S.P.E.L.U.M. is the delegated authority.*

¹¹ Subcouncils have many similar powers to those of S.P.E.L.U.M., however these are distinguished by the qualification “not extending beyond Subcouncil's boundaries”.

- c. *All matters relating to a Subcouncil's (i.e. that do not extend beyond the Subcouncil's boundary) area of jurisdiction is decided by the Subcouncil where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- d. *Applications to amend, vary or revoke any condition imposed in terms of section 42 of LUPO is delegated to S.P.E.L.U.M. where it affects more than one Subcouncil, and to each individual Subcouncil where it affects that Subcouncil only.*
- e. *In exercising any power, duty or function in terms of this System of Delegation a political structure, political office bearer or official must comply with the provisions of Council's policies, Bylaws and any law relating to the matter under consideration.*

21. LAND USE PLANNING ORDINANCE NO. 15 OF 1985

Use rights

- 21.1 To determine whether the most restrictive zoning permitting of the utilisation of the land concerned shall be either in conjunction with a departure or not when land is deemed to be zoned, in terms of section 14(3).
- 21.2 To substitute a zoning scheme or part thereof with one in terms of which land is not necessarily zoned in accordance with the utilisation thereof, in terms of section 14(4).

- 21.3 To determine the zoning of land, that extends beyond any Subcouncil's boundaries, in accordance with the utilisation thereof where a use right has lapsed because of failure to exercise such right for an uninterrupted period of two years and where objections have been received, in terms of section 14(5).
- 21.4 To grant a use right by way of rezoning in terms of section 16 or 18 where the lawful use right of land cannot be determined in relation to land that extends beyond any Subcouncil's boundaries, in terms of section 14(7).

Departures

- 21.5 To approve applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned in relation to land that extends beyond any Subcouncil's boundaries and where objections to the application have been received, in terms of section 15(1).
- 21.6 To approve applications to utilise land on a temporary basis for a purpose for which no provision has been made in the said regulations in respect of a particular zone in relation to land that extends beyond any Subcouncil's boundaries and where objections have been received, in terms of section 15(1).
- 21.7 To approve an application by the owner to extend the period within which the use right must be exercised in relation to land that extends beyond any Subcouncil's boundaries and where objections have been received, in terms of section 15(5).

Rezoning (application of owner of land)

- 21.8 To grant or refuse an application by an owner of land for the rezoning thereof in relation to land that extends beyond any Subcouncil's boundaries where objections have been received, in terms of section 16(1).
- 21.9 To grant an extension of the validity period of two years in which the use right must be utilised, in terms of section 16(2).
- 21.10 To determine the utilisation of land for purposes of zoning in relation to land that extends beyond any Subcouncil's boundaries, where a zoning has lapsed and where objections have been received in terms of section 16(2).

Compensation

- 21.11 To consider the amount of compensation to be paid to an owner whose land sustains a fall in value -
 - 21.11.1 consequent on the rezoning thereof or a part thereof, contrary to his wishes, or
 - 21.11.2 consequent on the rejection, except on the ground of the provisions of any other law, of a plan for a building which is in accordance with the use right of the land concerned,in terms of section 19(2).
- 21.12 To conclude an agreement regarding the payment of compensation, in terms of section 19(2).
- 21.13 To approve settlement by an appeal committee if an agreement regarding the payment of compensation is not concluded within 90 days, in terms of section 19(4).

Subdivisions

21.14 To grant or refuse an application for the subdivision of land in relation to land that extends beyond any Subcouncil's boundaries where objections have been received, in terms of section 25(1).

Home owners' association

21.15 To impose conditions in relation to the compulsory establishment by the applicant for subdivision of a home owners' association in relation to land that extends beyond any Subcouncil's boundaries, when granting of an application for subdivision, in terms of section 29(1).

Amendment or cancellation of plan of subdivision

21.16 To amend or partially cancel the plan of a subdivision, including a general plan, or cancel the plan of a subdivision, including a diagram or general plan in relation to land that extends beyond any Subcouncil's boundaries, after application for the subdivision of land has been granted and after

21.16.1 considering objections received in consequence of an advertisement of the proposed amendment or cancellation of a plan of subdivision, and

21.16.2 consulting the owner of the land concerned and the Surveyor-General in relation to land units not yet registered by virtue of the granting of that application,

in terms of section 30(1).

Conditions

21.17 To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).

21.18 In relation to a condition imposed, after consideration of objections received in consequence of an advertisement and after consultation with the owner of the land concerned, to -

21.18.1 waive or amend any condition, and

21.18.2 impose additional conditions

in terms of section 42(3).

22 SPECIAL CONSENT, CONSENT OR CONDITIONAL USE IN TERMS OF THE ZONING SCHEME REGULATIONS.

22.1 To grant, with or without conditions, or refuse an application for the Special consent of Council, consent of Council or a condition use referred to in the Zoning Scheme Regulations in operation in Council's area of jurisdiction in relation to land which extends beyond any Subcouncil's boundaries, where objections have been received.

23 APPLICATIONS MADE IN TERMS OF THE LESS FORMAL TOWNSHIPS ESTABLISHMENT ACT NO 125 OF 1991

23.1 To request the Premier to designate by notice in the Official Gazette land as land for less formal settlement in terms of section 3, to formulate conditions for such designation and to request the Premier to declare that a provision of law referred to in section 3(5) to be applicable to designated land described in the notice in relation to land that extends beyond the Subcouncil boundaries and in cases where objections have been received to such designation.

23.2 To apply to the Premier to grant permission for the establishment of a Township in terms of section 10, in cases where land extends beyond the Subcouncil boundaries.

23.3 To recommend the granting or refusal of an application for the establishment of a township in terms of Section 11 to the Premier, to formulate conditions for the establishment of the township and to recommend the exclusion of laws and suspension of servitudes and restrictive conditions referred to in section 12 in cases where land extends beyond Subcouncil boundaries and in cases where objections have been received.

24. REGULATIONS PROMULGATED IN TERMS OF THE BLACK COMMUNITIES DEVELOPMENT ACT NO 4 OF 1984.

24.1 To make recommendations to the Provincial sphere of government relating to the granting or refusing, with or without conditions, of applications for rezoning, subdivision, departures, consent of Council or amendment to town planning conditions in cases where land extends beyond Subcouncil boundaries and in cases where objections have been received.

25. REZONINGS WHERE NO DELEGATION TO COUNCIL

25.1 To make recommendations to the Provincial sphere of government to grant with or without conditions or refuse an application by an owner of land for the rezoning thereof in cases where Council does not have the delegated power in terms of the General Structure Plan to authorise Councils to grant or refuse rezoning applications.

26. REMOVAL OF RESTRICTIONS ACT NO. 84 OF 1967

Alteration, suspension or removal of restrictions or obligations in respect of land by the Premier

- 26.1 To lodge an application with the Premier to alter, suspend or remove any restriction or obligation on City land that extends beyond any Subcouncil's boundaries, in terms of section 2(1).

27. OUTDOOR ADVERTISING AND SIGNAGE BY-LAW, No. 10518

Road Traffic Safety

- 27.1 To prepare a list or map of designated areas in which the abovementioned spacing requirements shall not be applicable, in terms of section 42.

28. POLICY

- 28.1 To initiate and comment on policies and amendments thereto for local area spatial planning and environmental, heritage and land use management, which are used to guide decision-making in respect of these matters and to refer the same to the Planning and Environment Portfolio Committee.
- 28.2 To make recommendations to National or Provincial spheres of government within the Committees terms of reference.

SECTION 62 PLANNING AND GENERAL APPEALS COMMITTEE

The terms of reference of this Committee relate to Planning and General appeals in terms of Section 62 of the Municipal Systems Act, which are lodged against a decision(s) taken by a political structure(s), political office bearer(s) and councillor(s), in terms of a power(s) or duty(ies) delegated or by a delegating authority to the aforementioned parties. The powers of this Committee are therefore conferred in terms of the statutory provision.

29. PLANNING APPEALS

- 29.1 To comment to the Provincial Administration: Western Cape on appeals lodged in terms of section 44 of the Land Use Planning Ordinance no. 15 of 1985 as well as the regulations promulgated in terms thereof, in cases where there is no delegated authority to any other political structure or to an official of Council; and where any other political structure or an official does not wish to exercise delegated powers conferred.
- 29.2 To comment on appeals lodged in terms of section 9 of the National Building Regulations and Building Standards Act no. 103 of 1977 as read with the regulations thereto and authorizing officials to appear at the Review Board Hearing of the appeal in cases, where there is no delegated authority to any other political structure or to an official of Council; and where any other political structure or an official does not wish to exercise delegated powers conferred.
- 29.3 To report back to the S.P.E.L.U.M. on any decisions affecting S.P.E.L.U.M.

SECTION 79 STANDING COMMITTEE OF PUBLIC ACCOUNTS (SCOPA)

The terms of reference of this committee is to oversee the expenditure of public funds to ensure that public funds and assets are being managed properly and that value for money is being rendered by public sector institutions in their spending of public funds; to provide assurance to key stakeholders on the political accountability of Council; to assist Council in fulfilling its Constitutional obligations and to scrutinize and oversee executive action.

- 30. To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- 31. To request a member of public to attend any meeting of the Committee to assist the Committee with the performance of its functions and duties.
- 32. To determine its own operational procedures and Rules of Order in terms of a framework approved by Council.
 - 32.1 To investigate any matter within its terms of reference.
 - 32.2 To seek any information from, and have access to, any councillor and or/employee, and to direct all councillors and employees to co-operate with any request made by the committee.

- 32.3 To have unrestricted access through the Office of the City Manager/Internal Audit to information relating to all personnel, books of account, records, assets and liabilities of the Council and to any other sources of relevant information that may be required from the Council for the purpose of its duties and responsibilities.
- 32.4 To instruct councillors and municipal staff to be present at any meeting for interview and input regarding items on the agenda.
- 32.5 To have direct access to internal and external auditors and to investigate any matter falling within the terms of reference of the committee.
- 32.6 To have access to –
 - 32.6.1 all accounts and financial statements of the municipality;
 - 32.6.2 all reports of the Auditor-General;
 - 32.6.3 information in respect of any disciplinary actions taken in terms of the Municipal Finance Management Act (MFMA);
 - 32.6.4 information in respect of transgressions in terms of the MFMA.
- 33. To consider any Audit Committee recommendations referred to SCOPA in respect of finance and to render an opinion on the acceptable recommendations.
- 34. To report to the Executive Mayor for recommendation to Council on the activities of the Committee.

35. To review the City's Draft Annual Report, including the Auditor-General's report on the financial statements and responses thereto with a view to ensuring satisfactory responses.
36. To consider and comment to the Executive Mayor on the following reports
 - 36.1 the reports of the Auditor-General on the accounts for the preceding financial year;
 - 36.2 specific reports of the Auditor-General; and queries, comments and responses in respect thereof
37. To recommend in respect of the reports listed in paragraphs 36.1 and 36.2 above, regarding appropriate further action.
38. To recommend on any proposals for improving efficiency, effectiveness and economy in the financial sphere of the municipality.
39. To liaise and work the Audit Committee, an independent body that reports to MAYCO and Council, to ensure maximum accountability.
40. To monitor and ensure that the Accounting Officer keeps proper accounting records.
41. To promote transparency and public accountability.
42. To evaluate, direct and supervise investigations into any matters within the scope of its duties and responsibilities including projects as requested by the Executive Mayor and Council.
43. To investigate the alleged misappropriation of public monies by Councillors and officials and reports the findings to the Executive Mayor, Council and the Speaker.

44. To issue a report, for inclusion in the City's Annual Report, regarding the standards of the City in terms of handling public funds.
45. To liaise with the Speaker and other role-players to ensure compliance with all relevant legislation.
46. To obtain legal, technical and any other specialised assistance required to exercise their functions and duties within budget provided.

SECTION 61 SUBCOUNCILS

It is the Speaker's responsibility to coordinate all processes flowing from the implementation of these delegations. All comments, reports and recommendations by Subcouncils are therefore to be forwarded to the Office of the Speaker.

Please note that the use of the word "grant" in the delegations set out below also means to "refuse" and to "revoke" means to "vary or amend".

The terms of reference of Subcouncils are:

- *to make recommendations to Council on any matter affecting its area of jurisdiction; and*
- *to exercise any power, duty or function delegated by Council*
- *to exercise any power, duty or function conferred upon it in terms of the Subcouncil Bylaw*

S.P.E.L.U.M. is empowered to exercise a delegated power, function or duty regarding Town Planning matters when a Subcouncil elects not to exercise such power, function or duty.¹²

The following powers, duties and functions are delegated to each Subcouncil to exercise and perform within its area of jurisdiction and will be implemented by means of an “integrated” and “phased in” approach which is to be determined and driven by the Ad Hoc Subcouncil Chairpersons Committee¹³ established by Council for this purpose:

47. GENERAL

- 47.1 To assess the performance of service delivery generally within their area of jurisdiction (outcomes monitoring).
- 47.2 To identify the needs of the Municipality as far as it relates to the functional area of the Subcouncil.
- 47.3 To review and evaluate those needs referred to in paragraph 47.2 above in order of priority.
- 47.4 To recommend appropriate comments on National and Provincial draft legislation, regulations, policy frameworks etc. that affects the Subcouncil.
- 47.5 To require any councillor(s) and/or official(s) to appear before the Subcouncil to assist the Subcouncil in the performance of its functions.
- 47.6 To request reports from the relevant line functionaries on activities planned to be executed within the Subcouncil area.

¹² S.P.E.L.U.M. has many similar powers to those of Subcouncils contained in LUPO and the Removal of Restrictions Act, however these are distinguished by the qualification “does not extend beyond Subcouncil's boundaries”.

¹³ See Council resolution C86/08/06 dated 30 August 2006

- 47.7 To make recommendations with regard to the determination of Service Delivery Areas and operational matters relating thereto.

48. IDP, BUDGET AND BUSINESS PLANNING

- 48.1 To develop Subcouncil draft business plans and make recommendations thereon.
- 48.2 To make recommendations in regard to the setting or revision of tariffs, levies, taxes and duties.
- 48.3 To monitor the implementation of Council's budget, business plans, strategic objectives, policies and programmes.
- 48.4 To comment and make recommendations in regard to the draft IDP and budget.
- 48.5 To monitor the implementation of Council's IDP, budget, business plans strategic objectives, policies and programmes.
- 48.6 To make representation to the relevant line departments for the inclusion of the capital and operating budgetary requirements.

49. STREET NAMING

- 49.1 To name streets after consultation with the public and developers where applicable.

50. BUSINESS LICENSING

- 50.1 To grant licenses for health facilities or entertainment as provided for in terms of item 2 of schedule 1 to the Businesses Act 1991, and to exercise all powers conferred on the Municipality in terms of section 2(4) to 2(10) of the aforesaid Act.
- 50.2 To comment on and make recommendations regarding the demarcation and amendments thereto, of prohibited and restricted trading areas proclaimed in terms of the Businesses Act 1991.

51. LIQUOR LICENSES

- 51.1 To comment on applications for liquor licenses.
- 51.2 To comment on applications for extension of trading hours on premises where liquor licenses have been granted.
- 51.3 To make recommendations to the Liquor Board for the cancellation of any liquor licence or imposition of more restrictive conditions.

52. PUBLIC PARTICIPATION

- 52.1 To undertake public participation in the development of policy, legislation, the IDP and budget.
- 52.2 To facilitate the liaison between the civic organisations, ratepayers associations and similar fora within the Subcouncil area to ensure service delivery and enhance and uplift the community's environment.

- 52.3 To comment on by-laws and policies of Council within the timeframes advertised and submit comments and objections to the Speaker.
- 52.4 To facilitate the celebration of important local, national and international celebrations and events e.g. Youth Day, Human Rights Day etc.
- 52.5 To undertake public participation on any matter initiated by the Subcouncil.

53. POLICIES, BYLAWS AND REGULATIONS

- 53.1 Monitoring the implementation of any Council policy, bylaw or regulation affecting the Subcouncil's area of jurisdiction including:

- 53.1.1 the policy regarding Biodiversity
- 53.1.2 the policy regarding Energy Saving
- 53.1.3 the bylaw relating to Filming

and to report thereon to the Speaker.

54. PUBLIC FACILITIES (I.E. AMENITIES, SPORT FACILITIES, PARKS AND RECREATION, BEACHES AND AMUSEMENT FACILITIES, PUBLIC JETTIES, PIERS AND HARBOURS)

- 54.1 To oversee the maintenance of all public facilities within the Subcouncil area and instructing the responsible director to report on how any shortcomings and irregularities will be remedied.
- 54.2 To oversee the management of all public facilities within the Subcouncil area and instructing the responsible director to report on how any shortcomings and irregularities will be remedied.
- 54.3 To grant permission for the use of public open spaces, public squares and

similar places for any events such as “Art in the Park”, flea markets, sporting events, community festivals etc.

PLANNING MATTERS

The following limitations, conditions and directions apply where S.P.E.L.U.M., Subcouncils and officials have concurrent delegated powers regarding town planning matters:

- a. *All matters affecting more than one Subcouncil (i.e. extends beyond the Subcouncil's boundary) is decided by S.P.E.L.U.M. where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- b. *Where an application requires an EIA, HIA or TIA, S.P.E.L.U.M. is the delegated authority.*
- c. *All matters relating to a Subcouncil's (i.e. that do not extend beyond the Subcouncil's boundary) area of jurisdiction is decided by the Subcouncil where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- d. *Applications to amend, vary or revoke any condition imposed in terms of section 42 of LUPO is delegated to S.P.E.L.U.M. where it affects more than one Subcouncil, and to each individual Subcouncil where it affects that Subcouncil only.*
- e. *In exercising any power, duty or function in terms of this System of Delegation a political structure, political office bearer or official must*

comply with the provisions of Council's policies, Bylaws and any law relating to the matter under consideration.

55 LAND USE PLANNING ORDINANCE NO. 15 OF 1985

Use rights

- 55.1 To recommend when land is deemed to be zoned whether the most restrictive zoning permitting of the utilisation of the land concerned shall be either in conjunction with a departure or not, in terms of section 14(3).
- 55.2 To recommend the substitution for a zoning scheme or part thereof with one in terms of which land is not necessarily zoned in accordance with the utilisation thereof, in terms of section 14(4).
- 55.3 To determine the zoning of land, that does not extend beyond the Subcouncil boundaries, in accordance with the utilisation thereof where a use right has lapsed because of failure to exercise such right for an uninterrupted period of two years and where objections have been received, in terms of section 14(5).
- 55.4 To recommend the determination of the zoning of land, that extends beyond any Subcouncil's boundaries, in accordance with the utilisation thereof where a use right has lapsed because of failure to exercise such right for an uninterrupted period of two years, in terms of section 14(5).
- 55.5 To grant a use right by way of rezoning in terms of section 16 or 18 in relation to land that does not extend beyond the Subcouncil boundaries, where the lawful use right of land cannot be determined, in terms of section 14(7).
- 55.6 To recommend the granting of a use right by way of rezoning in terms of section 16 or 18, in relation to land that extends beyond any Subcouncil's boundaries, where the lawful use right of land cannot be determined, in terms of section 14(7).

Departures

- 55.7 To approve applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned in relation to land that does not extend beyond the Subcouncil boundaries where objections to such applications have been received, in terms of section 15(1).
- 55.8 To recommend the approval of applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned in relation to land that extends beyond any Subcouncil's boundaries, in terms of section 15(1).
- 55.9 To approve applications to utilise land on a temporary basis for a purpose for which no provision has been made in the said regulations in respect of a particular zone in relation to land that does not extend beyond the Subcouncil boundaries and where objections have been received, in terms of section 15(1).
- 55.10 To recommend the approval of applications to utilise land on a temporary basis for a purpose for which no provision has been made in the said regulations in respect of a particular zone in relation to land that extends beyond any Subcouncil's boundaries and where objections have been received, in terms of section 15(1).
- 55.11 To approve an application by the owner to extend the period within which the use right must be exercised in relation to land that does not extend beyond the Subcouncil boundaries, in terms of section 15(5).
- 55.12 To recommend the approval of an application by the owner to extend the period within which the use right must be exercised in relation to land that extends beyond any Subcouncil's boundaries, in terms of section 15(5).

Rezoning (application of owner of land)

55.13 To grant or refuse an application by an owner of land for the rezoning thereof in relation to land that does not extend beyond the Subcouncil boundaries where objections have been received, in terms of section 16(1).

55.14 To recommend the granting or refusal of an application by an owner of land for the rezoning thereof in relation to land that extends beyond any Subcouncil's boundaries, in terms of section 16(1).

55.15 To grant an extension of the period of two years in which the use right must be utilised in relation to land that does not extend beyond the Subcouncil boundaries, in terms of section 16(2).

55.16 To recommend an extension of the validity period of two years in which the use right must be utilised in relation to land that extends beyond any Subcouncil's boundaries, in terms of section 16(2).

55.17 To determine the utilisation of land for purposes of zoning in relation to land that does not extend beyond the Subcouncil boundaries where a zoning has lapsed, in terms of section 16(2).

55.18 To recommend the determination of the utilisation of land for purposes of zoning in relation to land that extends beyond any Subcouncil's boundaries where a zoning has lapsed, in terms of section 16(2).

Subdivision of Land

55.19 To authorise an owner of land to deal with his land with a view to the separate registration of land units, of undivided portions in terms of section 23.

Subdivisions

- 55.20 To grant or refuse an application for the subdivision of land in relation to land that does not extend beyond the Subcouncil boundaries where objections have been received, in terms of section 25(1).
- 55.21 To recommend the granting or refusal of an application for the subdivision of land in relation to land that extends beyond any Subcouncil's boundaries, in terms of section 25(1).

Home owners' association

- 55.22 To impose conditions in relation to the compulsory establishment by the applicant for subdivision of a home owners' association when granting of an application for subdivision in relation to land that does not extend beyond the Subcouncil boundaries in terms of section 29(1).
- 55.23 To recommend the imposition of conditions in relation to the compulsory establishment by the applicant for subdivision of a home owners' association when granting of an application for subdivision, in relation to land that extends beyond any Subcouncil's boundaries in terms of section 29(1).

Amendment or cancellation of plan of subdivision

- 55.24 To amend or partially cancel the plan of a subdivision, including a general plan, or cancel the plan of a subdivision, including a diagram or general plan, after application for the subdivision of land has been granted in relation to land that does not extend beyond the Subcouncil boundaries, and after
- 55.24.1 considering objections received in consequence of an advertisement of the proposed amendment or cancellation of a plan of subdivision, and

55.24.2 consulting the owner of the land concerned and the Surveyor-General in relation to land units not yet registered by virtue of the granting of that application,

in terms of section 30(1).

55.25 To recommend the amendment or partial cancellation of the plan of a subdivision, including a general plan, or cancellation of the plan of a subdivision, including a diagram or general plan, after application for the subdivision of land has been granted in relation to land that extends beyond any Subcouncil's boundaries, and after

55.25.1 considering objections received in consequence of an advertisement of the proposed amendment or cancellation of a plan of subdivision, and

55.25.2 consulting the owner of the land concerned and the Surveyor-General in relation to land units not yet registered by virtue of the granting of that application,

in terms of section 30(1).

Compliance with provisions of zoning scheme and of conditions of subdivision

55.26 To oversee enforcement of compliance with the provisions of LUPO, the provisions incorporated in a zoning scheme in terms of this Ordinance, and the conditions imposed in terms of LUPO or the Townships Ordinance, 1934.

Conditions

55.27 To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).

55.28 After consideration of objections received in consequence of an advertisement and after consultation with the owner of the land concerned to -

55.28.1 waive or amend any condition, and

55.28.2 impose additional conditions

in terms of section 42(3)

56. SPECIAL CONSENT, CONSENT OR CONDITIONAL USE IN TERMS OF THE ZONING SCHEME REGULATIONS.

56.1 To grant, with or without conditions, or refuse an application for the Special consent of Council, consent of Council or a conditional use referred to in the Zoning Scheme Regulations in operation in Council's area of jurisdiction in relation to land that does not extend beyond a Subcouncil boundary and in cases where objections have been received.

56.2 To recommend the granting, with or without conditions, or refusal of an application for the Special consent of Council, consent of Council or a conditional use referred to in the Zoning Scheme Regulations in operation in Council's area of jurisdiction in relation to land that extends beyond any Subcouncil's boundaries, where objections have been received.

57. APPLICATIONS MADE IN TERMS OF THE LESS FORMAL TOWNSHIPS ESTABLISHMENT ACT NO 125 OF 1991

57.1 To request the Premier to designate by notice in the Official Gazette land as land for less formal settlement in terms of section 3, to formulate conditions for such designation and to request the Premier to declare that a provision of law referred to in section 3(5) to be applicable to designated land described in the notice in relation to land that does not extend beyond

the Subcouncil boundaries and in cases where objections have been received to such designation.

57.2 To apply to the Premier to grant permission for the establishment of a Township in terms of section 10, in cases where land does not extend beyond the Subcouncil boundaries.

57.3 To approve the submission of an application for the establishment of a township in terms of Section 11 to the Premier, to formulate conditions for the establishment of the township and to recommend the exclusion of laws and suspension of servitudes and restrictive conditions referred to in section 12 in cases where land does not extend beyond Subcouncil boundaries and in cases where objections have been received.

58. REGULATIONS PROMULGATED IN TERMS OF THE BLACK COMMUNITIES DEVELOPMENT ACT NO 4 OF 1984.

58.1 To make recommendations to the Provincial sphere of government relating to the granting or refusing, with or without conditions, of applications for rezoning, subdivision, departures, consent of Council or amendment to town planning conditions in cases where land does not extend beyond Subcouncil boundaries and in cases where objections have been received.

58.2 To make recommendations to S.P.E.L.U.M relating to the granting or refusing, with or without conditions, of applications for rezoning, subdivision, departures, consent of Council or amendment to town planning conditions in cases where land extends beyond Subcouncil boundaries and in cases where objections have been received

59. OUTDOOR ADVERTISING AND SIGNAGE BY-LAW, NO. 10518

59.1 To oversee the regulation of posters, placards, signs, bill-boards etc in terms of the outdoor advertising bylaw.

59.2 To comment on and/or make recommendations regarding the modification and /or amendment of areas of control, as per the definition of areas of control.¹⁴

Factors Relating to Specific Signs, Areas of Control and Commercial Sponsored Signs

59.3 To grant an exemption from the terms of the By-Law in respect of sign types or areas of control set out in schedules 10, 11 and 12 having regard to:

- 59.3.1 the area of control where it is proposed to display the sign/s;
- 59.3.2 nature of the event;
- 59.3.3 duration of the erection/display of the sign;
- 59.3.4 size of the proposed sign;
- 59.3.5 any traffic and/or safety and/or environmental or heritage impact assessment
- 59.3.6 the outcome of any public participation process, in terms of section 11.

¹⁴ "Areas of control" means those areas set out in Schedule 1 of the By-Law; and which may be modified and/or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the Municipality from time to time.

60. REMOVAL OF RESTRICTIONS ACT NO. 84 OF 1967

Alteration, suspension or removal of restrictions or obligations in respect of land by the Premier

60.1 To authorise the lodging of an application with the Premier to alter, suspend or remove any restriction or obligation on City land that does not extend beyond the Subcouncil boundaries, in terms of section 2(1).

60.2 To recommend the lodging of an application with the Premier to alter, suspend or remove any restriction or obligation on City land that extends beyond any Subcouncil's boundaries, in terms of section 2(1).

60.3 To comment on and make recommendation to the Premier regarding a proposed alteration, suspension or removal of a restriction or obligation in respect of any land, in terms of section 2(4).

Alteration, suspension or removal of restrictions or obligations at the request of the Minister

60.4 To comment on and make recommendation to the Premier regarding a proposed alteration, suspension or removal of a restriction or obligation in respect of any land, initiated by the Minister, in terms of section 5.

61. AIR POLLUTION (BYLAW HEREUNDER REFERS TO THE AIR POLLUTION CONTROL BYLAW 2003)

61.1 To direct any person to take all reasonable measures in terms of section 3 of the bylaw, namely:

- 61.1.1 to prevent any potential significant air pollution from occurring;
and
 - 61.1.2 to mitigate and, as far as reasonably possible, to remedy any
significant air pollution that has occurred.
- 61.2 To oversee the taking of reasonable measures to remedy non-compliance
with a directive and the recovery of all reasonable costs incurred in terms
of section 3 of the bylaw.
- 61.3 Subject to section 26, may in writing exempt certain premises, classes of
premises or premises used for specified purposes from the operation of
measures adopted by the Council under this section.
- 61.4 To authorise, amend or revoke the authorisation for the installation,
alteration, extension or replacement of any fuel-burning equipment on any
premises, or, to order the removal thereof in the event of a contravention
in terms of sections 7 and 8 of the bylaw.
- 61.5 To grant an owner or occupier of a premises, or the operator of fuel-
burning equipment, temporary exemption from one or all the provisions of
part 4 of the bylaw, in terms of section 12 thereof.
- 61.6 To grant an owner or occupier of a premises, or the operator of fuel-
burning equipment, temporary exemption from one or all the provisions of
part 5 of the bylaw, in terms of section 13 thereof.
- 61.7 To grant authorisation for the open burning of any material on any land or
premises in terms of section 14 of the bylaw.

61.8 To take whatever steps considered necessary in order to remedy the harm caused by the nuisance and to prevent a recurrence of it, and, to recover the reasonable costs so incurred from the person responsible for causing the nuisance in terms of section 21 of the bylaw.

61.9 To grant exemptions from one or all the provisions of parts III, IV and V in terms of section 26 of the bylaw.

62. TRANSPORT AND ROADS

62.1 To recommend on the provision of traffic calming measures.

62.2 To consider the temporary closure of any road where objections have been received to such closure.

62.3 To approve special events in or on local roads.

63. LETTING OF PROPERTY

63.1 To approve the letting or use of immovable Council land in terms of the By-Law/Policy approved by the Council where the value of the lease does not exceed R200 000,00 annually.

64. AD-HOC TASK-TEAMS AND WORKING GROUPS

64.1 To establish and determine the terms of reference of ad-hoc task-teams, and working groups and to appoint members and chairpersons thereof.

SECTION 72 WARD PARTICIPATORY MECHANISMS (WHEN ESTABLISHED)

The terms of reference and delegations to be determined when established.

- PART 3 -

STATUTORY POWERS, DUTIES AND RIGHTS

- Executive Mayor
- Speaker
- Planning and General Appeals Committee
- Disciplinary Committee
- SubCouncils
- Ward Participatory Mechanisms

EXECUTIVE MAYOR

The Executive Mayor has extensive statutory powers and duties. The most important sources thereof are the Local Government: Municipal Structures Act, No 117 of 1998, the Local Government: Municipal Systems Act, No 32 of 2000 and the Local Government: Municipal Finance Management Act, No 56 of 2003.

*Acting in terms of section 60(3) of the Systems Act, Council hereby designates the powers and functions **"framed by a border"** in this document which must then be exercised and performed by the Executive Mayor together with the members of the Mayoral Committee. The criteria for identifying whether such powers are designated or not, are as follows:*

- 1. Urgency of the matter;*
- 2. Checks and balances already incorporated in the System of Delegation; and*
- 3. The nature of the power makes designation impossible.*

A power or duty so designated is not delegable; as was decided by the Constitutional Court in Democratic Alliance and another v Masondo and another 2003(2) BCLR 128 (CC)

A. THE STRUCTURES ACT

Functions and powers of executive mayors [Section 56]

- (1) Receives reports from committees and forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers.

(2)(a) Identifies the needs of the municipality.¹⁵

(2)(b) Reviews and evaluates those needs in order of priority.

(2)(c) Recommends to the municipal council strategies, programmes and services to address priority needs through the IDP, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans.

(2)(d) Recommends or determines the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

(3)(a) Identifies and develops criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2) (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general.

(3)(b) Evaluates progress against the key performance indicators.¹⁶

(3)(c) Reviews the performance of the municipality in order to improve-

- (i) the economy, efficiency and effectiveness of the municipality;
- (ii) the efficiency of credit control and revenue and debt collection services; and
- (iii) the implementation of the municipality's by-laws.

¹⁵ The Executive Mayor has delegated the power to recommend Council's priority needs to Mayoral Committee members in respect of their relevant portfolios.

¹⁶ The Executive Mayor has delegated this power to the Mayoral Committee members in respect of their relevant portfolios subject to their reporting back to the Mayoral Committee.

(3)(d) Monitors the management of the municipality's administration in accordance with the directions of the council.¹⁷

(3)(e) Oversees the provision of services to communities in the municipality in a sustainable manner.¹⁸

(3)(f) Performs such duties and exercise such powers as the council may delegate to the executive mayor.

(3)(g) Annually reports on the involvement of communities and community organisations in the affairs of the municipality.¹⁹

(3)(h) Ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.²⁰

(4) Performs a ceremonial role as the municipal council may determine.

(5) Reports to the municipal council on all decisions taken by the executive mayor.

Mayoral committees[Section 60]

(1)(a) Appoints a mayoral committee from among the councillors to assist the executive mayor.

(1)(b) May delegate specific responsibilities to each member of the committee.

¹⁷ The Executive Mayor has delegated this power to the Mayoral committee members in respect of their relevant portfolios.

¹⁸ The Executive Mayor has delegated this power to the Mayoral committee members in respect of their relevant portfolios.

¹⁹ The Executive Mayor delegated this power to the Mayoral Committee members in respect of their relevant portfolios subject to their submitting reports to the Mayoral Committee.

²⁰ The Executive Mayor delegated this power to the Mayoral Committee members in respect of their relevant portfolios.

(1)(c) May delegate any of the executive mayor's powers to the respective members.

(1)(d) May dismiss a member of the mayoral committee.

Committees to assist executive mayor [Section 80]

(3)(a) Appoints a chairperson for each committee from the mayoral committee.

(3)(b) May delegate any powers and duties of the executive mayor to the committee.

(3)(c) Is not divested of the responsibility concerning the exercise of the power or the performance of the duty.

(3)(d) May vary or revoke any decision taken by a committee, subject to any vested rights.

B. THE SYSTEMS ACT

Management of drafting process for the integrated development plan [Section 30]

(a) Manages the drafting of the municipality's integrated development plan.

(b) Assigns responsibilities in this regard to the municipal manager.

(c) Submits the draft plan to the municipal council for adoption by the council.
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Development of performance management system [Section 39]

(a) Manages the development of the municipality's performance management system;

(b) Assigns responsibilities in this regard to the municipal manager, and

(c) Submits the proposed system to the municipal council for adoption.

Appeals [Section 62]

(4)(b) Is the appeal authority when an appeal is lodged against a decision taken by the municipal manager,

(5) Must commence with an appeal within six weeks and decide the appeal within a reasonable period.

C. THE MUNICIPAL FINANCE MANAGEMENT ACT

Annual budgets [Section 16(2)]

Must table the annual budget at a council meeting at least 90 days before the start of the budget year in order for council to approve for each financial year an annual budget before the start of that financial year.²¹

Budget preparation process [Section 21]

(1)(a) Must co-ordinate 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.

²¹ The Executive Mayor has delegated this power to Mayoral Committee member for Finance.

- (1)(b) 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 IDP 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 IDP and the budget-related policies; and
 - (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).
- (2) Must when preparing the annual budget, -
- (a) take into account the municipality's IDP;
 - (b) take all reasonable steps to ensure that the municipality revises the IDP in terms of section 34 of the Municipal Systems Act, taking into account realistic revenue and expenditure projections for future years;
 - (c) take into account the national budget, the relevant provincial budget, the national government's fiscal and macro-economic policy, the annual Division of Revenue Act and any agreements reached in the Budget Forum;
 - (d) consult-
 - (i) the relevant district municipality and all other local municipalities within the area of the district municipality;
 - (ii) ...
 - (iii) the relevant provincial treasury, and when requested, the National Treasury; and
 - (iv) any national or provincial organs of state, as may be prescribed; and

- (e) provide, on request, any information relating to the budget—
 - (i) to the National Treasury; and
 - (ii) subject to any limitations that may be prescribed, to—
 - (aa) the national departments responsible for water, sanitation, electricity and any other service as may be prescribed;
 - (bb) any other national and provincial organ of state, as may be prescribed; and
 - (cc) another municipality affected by the budget.

Consultations on tabled budgets [Section 23]

Must respond to the submissions of the local community, National and Provincial Treasury, national organs of state or municipalities which made submissions on the budget; after the annual budget was tabled in the municipal council and if necessary, revise the budget and table amendments for consideration by the council.

Failure to approve budget before start of budget year [Section 25(3)]

Must, if the council has by the first day of the budget year failed to approve an annual budget, including revenue-raising measures necessary to give effect to the budget, as contemplated by section 55-

- (a) immediately report the matter to the MEC for local government; and
- (b) may recommend to the MEC an appropriate provincial intervention in terms of section 139 of the Constitution.

Non-compliance with provisions of Chapter 4: Municipal Budgets [Section 27]

- (1) Must, upon becoming aware of any impending non-compliance by the municipality of any provisions of this Act or any other legislation pertaining to the tabling or approval of an annual budget or compulsory consultation processes, inform the MEC for finance, in writing, of such impending non-compliance.
- (2) If the impending non-compliance pertains to a time provision, except section 16 (1), the mayor may apply to the MEC for finance to extend any time limit or deadline contained in that provision, provided that no such extension may compromise compliance with section 16 (1).
- (3) Must, upon becoming aware of any actual non-compliance by the municipality of a provision of this Chapter, inform the council, the MEC for finance and the National Treasury, in writing, of—
 - (a) such non-compliance; and
 - (b) any remedial or corrective measures the municipality intends to implement to avoid a recurrence.

Municipal adjustments budgets [Section 28(4)]

May table an adjustments budget in the municipal council within any prescribed limitations as to timing or frequency.²²

²² The Executive Mayor has delegated this power to the Mayoral Committee member for Finance.

Unforeseen and unavoidable expenditure [Section 29]

- (1) May in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.
- (2) Must report any such expenditure to the council at its next meeting and must appropriate such expenditure in an adjustments budget.

Shifting of funds between multi-year appropriations [Section 31(d)]

To approve in writing an increase in expenditure that exceeds the amount of a year's appropriation for a capital programme, where funds for such programme have been appropriated for more than one financial year.²³

Short-term debt [Section 45(2)(a)]

Must sign a resolution of the council to incur short-term debt, and which signifies that council has approved the debt agreement.

Long-term debt [Section 46(2)(a)]

Must sign a resolution of the council to incur long-term debt, and which signifies that council has approved the debt agreement.

General responsibilities [Section 52]

- (a) Must provide general political guidance over the fiscal and financial affairs of the municipality.

²³ The Executive Mayor has delegated this power to the Mayoral Committee member for Finance.

(b) May in providing such general political guidance, monitor and, to the extent provided in the Act, oversee the exercise of responsibilities assigned in terms of the Act to the accounting officer and the chief financial officer, but may not interfere in the exercise of those responsibilities.

(c) Must take all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget.

(d) Must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality.

(e) Must exercise the other powers and perform the other duties assigned to the mayor in terms of this Act or delegated by the council to the mayor.

Budget processes and related matters [Section 53]

(1)(a) Must provide general political guidance over the budget process and the priorities that must guide the preparation of a budget.

(1)(b) Must co-ordinate the annual revision of the IDP and the preparation of the annual budget, and determine how the IDP is to be taken into account or revised for the purposes of the budget; and

(1)(c) Must take all reasonable steps to ensure—

- (i) that the municipality approves its annual budget before the start of the budget year;

- (ii) that the municipality's service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget; and
 - (iii) that the annual performance agreements as required in terms of section 57 (1) (b) of the Municipal Systems Act for the municipal manager and all senior managers-
 - (aa) comply with this Act in order to promote sound financial management;
 - (bb) are linked to the measurable performance objectives approved with the budget and to the service delivery and budget implementation plan; and
 - (cc) are concluded in accordance with section 57 (2) of the Municipal Systems Act.
- (2) Must promptly report to the municipal council and the MEC for finance any delay in the tabling of an annual budget, the approval of the service delivery and budget implementation plan or the signing of the annual performance agreements.
- (3)(a) Must ensure that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan.
- (3)(b) Must ensure that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the municipality's service delivery and budget implementation plan. Copies of such performance agreements must be submitted to the council and the MEC for local government in the province.

Budgetary control and early identification of financial problems [Section 54]

- (1) Must, on receipt of a statement or report submitted by the accounting officer in terms of section 71 or 72-
 - (a) consider the statement or report;
 - (b) check whether the municipality's approved budget is implemented in accordance with the service delivery and budget implementation plan;
 - (c) consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget;
 - (d) issue any appropriate instructions to the accounting officer to ensure-
 - i) that the budget is implemented in accordance with the service delivery and budget implementation plan; and
 - ii) that spending of funds and revenue collection proceed in accordance with the budget;
 - (e) identify any financial problems facing the municipality, including any emerging or impending financial problems; and
 - (f) in the case of a section 72 report, submit the report to the council by 31 January of each year.
- (2) Must, if the municipality faces any serious financial problems-
 - (a) promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include—
 - i) steps to reduce spending when revenue is anticipated to be less than projected in the municipality's approved budget;

- (ii) the tabling of an adjustments budget; or
 - (iii) steps in terms of Chapter 13; and
 - (b) alert the council and the MEC for local government in the province to those problems.
- (3) Must ensure that any revisions of the service delivery and budget implementation plan are made public promptly.

Report to provincial executive if conditions for provincial intervention exist
[Section 55]

If a municipality has not approved an annual budget by the first day of the budget year or if the municipality encounters a serious financial problem referred to in section 136, the mayor-

- (a) must immediately report the matter to the MEC for local government in the province; and
- (b) may recommend to the MEC an appropriate provincial intervention in terms of section 139 of the Constitution.

Exercise of rights and powers over municipal entities [Section 56]

- (1) Where the municipality has sole or shared control over a municipal entity, the mayor must guide the municipality in exercising its rights and powers over the municipal entity in a way-
- a) that would reasonably ensure that the municipal entity complies with this Act and at all times remains accountable to the municipality; and
 - b) that would not impede the entity from performing its operational responsibilities.

- (2) In guiding the municipality in the exercise of its rights and powers over a municipal entity in accordance with subsection (1), the mayor may monitor the operational functions of the entity, but may not interfere in the performance of those functions.

Delegations of mayoral powers and duties [Section 59]

- (1) The mayor may delegate any of the powers and duties assigned to the mayor in terms of this Act to another member of the municipality's mayoral committee in terms of section 60 of the Structures Act. Such a delegation must be in writing; is subject to any limitations or conditions that the executive mayor may impose; and does not divest the mayor of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.
- (3) May confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

Budgets of Municipal Entities [Section 87]

- (3) The mayor of the parent municipality must table the proposed budget of the municipal entity in the council when the annual budget of the municipality for the relevant year is tabled.
- (6) The board of directors of a municipal entity may, with the approval of the mayor, revise the budget of the municipal entity, but only for the following reasons:

- a) To adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
 - b) to authorise expenditure of any additional allocations to the municipal entity from its parent municipality;
 - c) to authorise, within a prescribed framework, any unforeseeable and unavoidable expenditure approved by the mayor of the parent municipality;
 - d) to authorise any other expenditure within a prescribed framework.
- (9) The mayor must table the budget or adjusted budget and any adjustments budget of a municipal entity as approved by its board of directors, at the next council meeting of the municipality.

Irregular or fruitless and wasteful expenditure of Municipal Entities [Section 102]

- (1) On discovery of any irregular expenditure or any fruitless and wasteful expenditure, the board of directors of a municipal entity must promptly report, in writing, to the mayor and municipal manager of the entity's parent municipality and the Auditor-General—
- (a) particulars of the expenditure; and
 - (b) any steps that have been taken—
 - (i) to recover the expenditure; and
 - (ii) to prevent a recurrence of the expenditure.

Submission and tabling of annual reports [Section 127]

- (2) Must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control.²⁴

²⁴ The Executive Mayor has delegated this power {i.r.o. para (b) only} to the Mayoral Committee member for Finance.

(3) Must, if for whatever reason, the annual report is not tabled, within seven months after the end of the financial year -

(a) promptly submit to the council a written explanation referred to in section 133 (1) (a) setting out the reasons for the delay, together with any components of the annual report listed in section 121 (3) or (4) that are ready; and

(b) submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.²⁵

Issues raised by Auditor-General in audit reports [Section 131(1)]

Must ensure that the municipality addresses any issues raised by the Auditor-General in an audit report.

Consequences of non-compliance with certain provisions [Section 133(1)(a)]

Must, if the accounting officer fails to submit financial statements to the Auditor-General, or if the mayor himself or herself fails to table the annual report, promptly table in the council a written explanation setting out the reasons for the failure.

²⁵ The Executive Mayor has delegated this power to the Mayoral Committee member for Finance.

**D. MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS GNR.868
OF 30 MAY 2005**

Role of council of municipality or board of directors of municipal entity [Reg. 6]

- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality or the board of directors of the municipal entity, as the case may be.

Ethical standards [Reg. 46]

- (3)(b) A supply chain management policy must determine that all declarations by the accounting officer (details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to him/her or to any close family member, partner or associate of him/her) must be made to the mayor of the municipality or the board of directors of the municipal entity who must ensure that such declarations are recorded in the register; and

**E. LOCAL GOVERNMENT: MUNICIPAL PLANNING AND
PERFORMANCE MANAGEMENT REGULATIONS, 2001 GNR.796 OF
24 AUGUST 2001**

Internal auditing of performance measurements [Reg 14]

- (3)(c) A performance audit committee may determine its own procedures after consultation with the executive mayor or the executive committee of the municipality concerned, as the case may be.

F. INTERGOVERNMENTAL RELATIONS FRAMEWORK ACT NO. 13 OF 2005

17. Composition of Premier's intergovernmental forum [Section 17]

- (1) A Premier's intergovernmental forum consists of—
- (a) the Premier of the province;
 - (b) the member of the Executive Council of the province who is responsible for local government in the province;
 - (c) any other members of the Executive Council designated by the Premier;
 - (d) the **mayors** of district and **metropolitan municipalities** in the province;
 - (e) the administrator of any of those municipalities if the municipality is subject to an intervention ...; and
 - (f) a municipal councillor designated by organised local government in the province.

G. WESTERN CAPE TOURISM ACT NO. 1 OF 2004

Definitions [Section 1]

In this Act, unless the context otherwise indicates—

“Executive Mayor” means the executive Mayor of the City as defined in the Structures Act, any successor-in-title, or any duly appointed nominee;

“Minister” means the provincial Minister of the Western Cape responsible for Tourism or his or her nominee, acting in all instances in consultation with the **Executive Mayor**, except for sections 4 (5) (a) and 4 (5) (e);

Appointment and composition of Board [Section 4]

- (5) The Board consists of no more than 15 members, namely—
- (a) one member nominated by the Minister acting alone;
 - (b) one member nominated by the executive **Mayor**;
 - (c) two members nominated by organised local government, one representing category B municipalities and one representing category C municipalities;
 - (d) no more than eight members nominated by the public in accordance with the process set out in subsection (3);
 - (e) one *ex officio* senior official nominated by the Minister;
 - (f) one *ex officio* senior official nominated by the executive **Mayor**; and
 - (g) the chief executive officer *ex officio*.

Meetings and decisions of Board [Section 7]

- (12) The Board must allow the Minister and the executive **Mayor** or their duly appointed nominees to attend any meeting of the Board and to participate in the proceedings at such meeting without having the right to vote.

Powers and functions of chief executive officer [Section 16]

In addition to the powers, functions and duties conferred upon the chief executive officer by the provisions of this Act or by the Board, the chief executive officer must-

- (f) submit to the Minister and the executive **Mayor** and any other officials nominated by the Province and the City, within 14 days of a Board meeting, a copy of the minutes thereof.

SPEAKER

A. THE STRUCTURES ACT

Meetings of municipal councils [Section 29]

- (1) The speaker of a municipal council decides when and where the council meets subject to section 18 (2), but if a majority of the councillors requests the speaker in writing to convene a council meeting, the speaker must convene a meeting at a time set out in the request.
- (3) Where the composition of a municipal council has been changed as a result of the provisions of item 2, 3 or 7 of Schedule 6B to the Constitution, the speaker of that council must, subject to item 6 (b) of Schedule 6B to the Constitution, convene council meetings for purposes of dealing, amongst others, with the consequences of such a change, the first of which meetings must—
 - (a) in the case of a metro council or a local council, take place within seven days after the expiry of a period referred to in item 4 (1) (a) (i) or (ii) of Schedule 6B to the Constitution; and
 - (b) in the case of a district council, take place within seven days after the completion of the appointments referred to in item 6 (b) (ii) of Schedule 6B to the Constitution.

Functions of speakers. [Section 37]

The speaker of a municipal council -

- (a) presides at meetings of the council;

- (b) performs the duties and exercises the powers delegated to the speaker in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- (c) must ensure that the council meets at least quarterly;
- (d) must maintain order during meetings;
- (e) must ensure compliance in the council and council committees with the Code of Conduct set out in Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
- (f) must ensure that council meetings are conducted in accordance with the rules and orders of the council.

B. THE SYSTEMS ACT

Duty of chairpersons of municipal councils. [Item13 Code of Conduct for Councillors]

- (1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must -
 - (a) authorise an investigation of the facts and circumstances of the alleged breach;
 - (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
 - (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.
- (3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.

- (4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.

Rewards, gifts and favours [Item 8 Code of Conduct for Municipal Staff Members]

- (2) A staff member must without delay report to a superior official or to the speaker of the council any offer which, if accepted by the staff member, would constitute a breach of sub item (1).

Reporting duty of staff members [Item 13 Code of Conduct for Municipal Staff Members]

Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

C. THE MUNICIPAL FINANCE MANAGEMENT ACT

Reporting of improper interference by councillors [Section 103]

The accounting officer of a municipal entity must promptly report to the speaker of the council of the entity's parent municipality any interference by a councillor outside that councillor's assigned duties, in -

- (a) the financial affairs of the municipal entity; or
- (b) the responsibilities of the board of directors of the municipal entity.

Consequences of non-compliance with certain provisions [Section 133]

- (1) If the accounting officer of a municipality or municipal entity fails to submit financial statements to the Auditor-General in accordance with section

126 (1) or (2), or if the mayor fails to table the annual report of the municipality or a municipal entity in the council in accordance with section 127 (2) -

- (b) the Auditor-General, in the case of any failure to submit financial statements for auditing, must promptly -
 - (i) inform the speaker of the council.....
- (c) the municipal council—
 - (i) must request the speaker or any other councillor to investigate the reasons for the failure and report to the council;

SUBCOUNCILS

A. STRUCTURES ACT

Functions and powers [Section 64]

- (1) A metropolitan subcouncil -
 - (a) has such duties and powers as the metro council may delegate to it in terms of section 32; and
 - (b) may make recommendations to the metro council on any matter affecting its area.
- (2) A metropolitan subcouncil may advise the metro council on what duties and powers should be delegated to it.

Chairpersons [Section 65]

A metropolitan subcouncil must elect one of its members to be the chairperson of that subcouncil.

Meetings [Section 68]

- (1) The chairperson of a metropolitan subcouncil, subject to any directions of the metro council, decides when and where the subcouncil meets, but if a majority of the members requests the chairperson in writing to convene a meeting of the subcouncil, the chairperson must convene a meeting at a time mentioned in the request.
- (2) The chairperson of a metropolitan subcouncil presides at meetings of that subcouncil, but if the chairperson is absent from a meeting and a quorum is present the members present must elect another member to preside at that meeting.

Procedures of metropolitan subcouncils [Section 69]

A metropolitan subcouncil, with a supporting vote of a majority of its members, may determine its own procedures, subject to any directions of the metro council.

Committees [Section 71]

A metropolitan subcouncil may appoint committees, including a management committee, from among its members to assist it in the performance of its duties and the exercise of its powers.

B. CAPE TOWN SUB-COUNCIL BY-LAW, 2003

Names [Section 4]

- (1) The name of each sub-council shall be the numeral allocated to it in Schedule 2.
- (2) A sub-council may recommend to council an amendment to the name allocated to such sub-council in terms of sub-section (1).

Election of Chairperson [Section 8]

- (1) Whenever it is necessary to elect a chairperson of a sub-council, a sub-council shall elect one of its members to be the chairperson.
- (2) If the chairperson is absent from a meeting and a quorum is present, the members present shall elect another member to preside at that meeting.
- (3) A sub-council may by resolution remove the chairperson from office. Prior notice of an intention to move a motion for the removal of the chairperson must be given.

Meetings [Section 9]

- (1) A sub-council shall hold an ordinary meeting at least once a month except when the council has resolved to go into recess. A sub-council may hold more than one ordinary meeting in a month which does not fall into a recess period.
- (2) A special meeting of a sub-council shall be held whenever:
 - (a) the chairperson so directs; or
 - (b) a majority of the members requests the chairperson in writing to convene a meeting.

Recommendations [Section 11]

A sub-council may make recommendations to the council on any matter affecting its area.

Delegations [Section 12]

- (1) A sub-council has such powers and duties as the council may delegate to it.
- (2) A sub-council may advise the council on what duties and powers should be delegated to it.

Financial Provision for Sub-Councils [Section 13]

- (1) The council shall annually in approving its operating budget make provision for—
 - (a) the operating costs of sub-councils, and
 - (b) the exercise of the powers and duties delegated to sub-councils, and the amounts so allocated shall be calculated with due regard to those areas where the greater need exists, including the lack of capacity, as reflected in the Integrated Development Plan.
- (2) A sub-council may within any policy or controls on expenditure, authorise expenditure on the matters referred to in subsection (1)(b).
- (3) The council shall annually in its capital budget allocate to each sub-council an amount to be spent on capital projects in such sub-council.

- (4) In calculating the amounts referred to in subsection (3), due regard shall be given to the need for providing, improving and upgrading infrastructure in areas of greater need.
- (5) Each sub-council shall annually submit to the council its prioritised list of the projects referred to in subsection (4) and the only basis on which the council may decline to release funds for a particular project shall be-
 - (a) the proposal does not comply with the law, or
 - (b) the project will not be completed within the year in which it is commenced.
- (6) Any project falling within the scope of subsection (5)(b) shall be considered with projects for the integrated development plan.

Sub-council to delegate [Section 17]

A sub-council may sub-delegate any power conferred or duty or function imposed on it in terms of this by-law, to a member of the municipal staff.

PLANNING AND GENERAL APPEALS COMMITTEE

A. SYSTEMS ACT

Appeals [Section 62]

- (3) 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.

- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

DISCIPLINARY COMMITTEE

A. SYSTEMS ACT [CODE OF CONDUCT FOR COUNCILLORS]

Sanctions for non-attendance of meetings [Item 4]

- (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:
- (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
 - (b) failing to remain in attendance at such a meeting.
- (2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.
- (3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

14. Breaches of Code [Item 14]

- (1) A municipal council may -
 - (a) investigate and make a finding on any alleged breach of a provision of this Code; or
 - (b) establish a special committee -
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the council.
- (2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may -
 - (a) issue a formal warning to the councillor;
 - (b) reprimand the councillor;
 - (c) request the MEC for local government in the province to suspend the councillor for a period;
 - (d) fine the councillor; and
 - (e) request the MEC to remove the councillor from office.

- PART 4 -

NON-DELEGABLE POWERS OF COUNCIL

The following powers (not an exhaustive list) are non-delegable –

1. FINANCIAL

- 1.1 Passing of by-laws;
 - section 160(2) of the Constitution
- 1.2 Approval of budgets;
 - section 160(2) of the Constitution
 - section of 24 of the MFMA
- 1.3 Imposition of rates and other taxes, levies and duties; and
 - section 160(2) of the Constitution
 - section 75A of the Systems Act
 - section 14 of the Municipal Property Rates Act
- 1.4 Raising of loans.
 - section 160(2) of the Constitution
 - section 45 of the MFMA
 - section 46 of the MFMA
- 1.5 Approval of an integrated development plan and any amendment to that plan
 - section 30 of the Structures Act

2. POLITICAL

2.1 Dissolution of council

- section 34 of the Structures Act

2.2 Election of speaker

- section 36 of the Structures Act

2.3 Removal of Speaker from office.

- section 40 of the Structures Act

2.4 Election of another councillor to act as speaker (per occasion)

- section 41 of the Structures Act.

2.5 Election of executive mayor and executive deputy mayor.

- section 55 of the Structures Act

2.6 Removal of executive mayor or deputy executive mayor from office.

- section 58 of the Structures Act

2.7 Establishment of metropolitan subcouncils

- section 62 of the Structures Act

2.8 Establishment of committees

- section 79 of the Structures Act
- section 80 of the Structures Act
- section 166 of the MFMA
- item 14(1)(b) of Schedule 1 of the Systems Act

- 2.9 Granting consent to a councillor to be a party to or beneficiary under a contract with the municipality
- Item 6 of Schedule 1 of the Systems Act
- 2.10 Determining the salary and allowances of councillors
- section 7 of the Remuneration of Public Office Bearers Act
- 2.11 Determining the fine for non-attendance of meetings
- Item 4(1) of Schedule 1 of the Systems Act

3. STAFF

- 3.1 Appointment of a Municipal Manager
- section 82 of the Structures Act
 - section 30 of the Structures Act
 - Mbana v Mnguma Municipality 2004 (1) BCLR 83 (Tk)
- 3.2 Appointment of a head of a department / manager directly accountable to the municipal manager
- section 30 of the Structures Act
 - section of 56 the Systems Act
- 3.3 Appointment of building control officer
- section 5(1) read with section 28 (4) of the National Building Regulations Act

4. LEGAL

- 4.1 Entering into of a service delivery agreement in terms of section 76 (b) of the Systems Act
 - section 59 of the Systems Act
- 4.2 Disposal of capital assets
 - section 14 of the MFMA

SOURCES

LAWS

A. THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

Internal procedures [Section 160(2)]

- (2) The following functions may not be delegated by a Municipal Council:
 - (a) the passing of by-laws;
 - (b) the approval of budgets;
 - (c) the imposition of rates and other taxes, levies and duties; and
 - (d) the raising of loans.

B. LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, NO.117 OF 1998

Quorums and decisions [Section 30]

- (5) Before a municipal council takes a decision on any of the following matters it must first require its executive committee or executive mayor, if it has

such a committee or mayor, to submit to it a report and recommendation on the matter:

- (a) any matter mentioned in section 160 (2) of the Constitution;
- (b) the approval of an integrated development plan for the municipality, and any amendment to that plan; and
- (c) the appointment and conditions of service of the municipal manager and a head of a department of the municipality.

Dissolution of municipal councils [Section 34]

- (1) A municipal council may dissolve itself at a meeting called specifically for this purpose, by adopting a resolution dissolving the council with a supporting vote of at least two thirds of the councillors.

Election of speakers [Section 36]

- (1) Each municipal council must have a chairperson who will be called the speaker.
- (2) At its first sitting after its election, or when necessary to fill a vacancy, a municipal council must elect its speaker from among the councillors.
- (4) The procedure set out in Schedule 3 applies to the election of a speaker.

Removal from office [Section 40]

A municipal council by resolution may remove its speaker from office. Prior notice of an intention to move a motion for the removal of the speaker must be given.

Acting speakers [Section 41]

If the speaker of a municipal council is absent or not available to perform the functions of speaker, or during a vacancy, the council must elect another councillor to act as speaker.

Election of executive mayors [Section 55]

- (1) If a municipal council chooses to have an executive mayor it must elect an executive mayor and, if the MEC for local government in the province so approves, also an executive deputy mayor, from among its members at a meeting
- (2) A vacancy in the office of executive mayor or executive deputy mayor must be filled when necessary.
- (3) The procedure set out in Schedule 3 applies to the election of an executive mayor and executive deputy mayor.

Removal from office [Section 58]

A municipal council, by resolution may remove its executive mayor or deputy executive mayor from office. Prior notice of an intention to move a motion for the removal of the executive mayor or deputy executive mayor must be given.

Establishment of metropolitan subcouncils [Section 62]

- (1) If a metropolitan municipality decides to establish metropolitan subcouncils, it must do so by passing, after a process of public consultation, a by-law

Establishment [Section 79(1)]

A municipal council may—

- (a) establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time.

Committees to assist executive committee or executive mayor [Section 80]

- (1) If a municipal council has an executive committee or executive mayor, it may appoint in terms of section 79, committees of councillors to assist the executive committee or executive mayor.

Appointment [Section 82]

- (1) A municipal council must appoint—
 - (a) a municipal manager who is the head of administration and also the accounting officer for the municipality, and
 - (b) when necessary, an acting municipal manager.
- (2) A person appointed as municipal manager must have the relevant skills and expertise to perform the duties associated with that post.

C. LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, NO. 32 OF 2000

Appointment of managers directly accountable to municipal managers [Section 56]

- (a) A municipal council, after consultation with the municipal manager, appoints a manager directly accountable to the municipal manager.

- (b) A person appointed as a manager in terms of paragraph (a), must have the relevant skills and expertise to perform the duties associated with the post in question, taking into account the protection or advancement of persons or categories of persons disadvantaged by unfair discrimination.

Delegations [Section 59]

- (1) A municipal council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system, may—
 - (a) delegate appropriate powers, excluding a power mentioned in section 160 (2) of the Constitution and the power to set tariffs, to decide to enter into a service delivery agreement in terms of section 76 (b) and to approve or amend the municipality's integrated development plan, to any of the municipality's other political structures, political office bearers, councillors, or staff members;

General power to Levy and recover fees, charges and tariffs. [Section 75A]

- (1) A municipality may -
 - (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
 - (b) recover collection charges and interest on any outstanding amount.
- (2) The fees, charges or tariffs referred to in subsection (1) are levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.

D. CODE OF CONDUCT FOR COUNCILLORS

Sanctions for non-attendance of meetings [Item 4(1)]

A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:

- (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
- (b) failing to remain in attendance at such a meeting.

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Personal gain [Item 6]

- (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.

- (2) Except with the prior consent of the municipal council, a councillor may not

-

- (a) be a party to or beneficiary under a contract for -
 - (i) the provision of goods or services to the municipality; or
 - (ii) the performance of any work otherwise than as a councillor for the municipality;
- (b) obtain a financial interest in any business of the municipality; or
- (c) for a fee or other consideration appear on behalf of any other person before the council or a committee.

- (3) If more than one quarter of the councillors object to consent being given to a councillor in terms of sub item (2), such consent may only be given to the councillor with the approval of the MEC for local government in the province.

Breaches of Code [item 14(1)(b)]

A municipal council may establish a special committee -

- (i) to investigate and make a finding on any alleged breach of this Code; and
- (ii) to make appropriate recommendations to the council.

E. LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO. 56 OF 2003

Disposal of capital assets [Section 14]

- (1) A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- (2) A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public -
 - (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
 - (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

Approval of annual budgets [Section 24]

- (1) The municipal council must at least 30 days before the start of the budget year consider approval of the annual budget.
- (2) An annual budget -
 - (a) must be approved before the start of the budget year;
 - (b) is approved by the adoption by the council of a resolution referred to in section 17 (3) (a) (i); and

Short-term debt [Section 45]

- (1) A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act
- (2) A municipality may incur short-term debt only if -
 - (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
 - (b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.
- (3) For the purpose of subsection (2) (a), a municipal council may -
 - (a) approve a short-term debt transaction individually; or
 - (b) approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that—
 - (i) the credit limit must be specified in the resolution of the council;
 - (ii) the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and
 - (iii) if the council approves a credit facility that is limited to emergency use, the accounting officer must notify the council in writing as soon as practical of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as options for repaying such debt.

Long-term debt [Section 46]

- (1) A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of this Act
- (2) A municipality may incur long-term debt only if—

- (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
 - (b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

- (3) A municipality may incur long-term debt only if the accounting officer of the municipality -
 - (a) has, in accordance with section 21A of the Municipal Systems Act—
 - (i) at least 21 days prior to the meeting of the council at which approval for the debt is to be considered, made public an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided; and
 - (ii) invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the proposed debt; and
 - (b) has submitted a copy of the information statement to the municipal council at least 21 days prior to the meeting of the council, together with particulars of—
 - (i) the essential repayment terms, including the anticipated debt repayment schedule; and
 - (ii) the anticipated total cost in connection with such debt over the repayment period.

Audit committees [Section 166]

- (1) Each municipality and each municipal entity must have an audit committee, subject to subsection (6).

- (5) The members of an audit committee must be appointed by the council of the municipality or, in the case of a municipal entity, by the council of the parent municipality. One of the members who is not in the employ of the municipality or municipal entity, must be appointed as the chairperson of the committee. No councillor may be a member of an audit committee.

F. LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, NO. 6 OF 2004

14. Promulgation of resolutions levying rates.

- (1) A rate is levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.
- (2) A resolution levying rates in a municipality must be promulgated by publishing the resolution in the Provincial Gazette.

G. REMUNERATION OF PUBLIC OFFICE BEARERS ACT, NO. 20 OF 1998

Upper limit of salaries and allowances of members of Municipal Councils

[Section 7]

- (1) The upper limit of salaries and allowances of the different members of Municipal Councils shall from time to time be determined by the Minister, after consultation with the member of the Executive Council responsible for local government in each province, by notice in the *Gazette*
- (3) The salary and allowances of a member of a Municipal Council is determined by that Municipal Council by resolution of a supporting vote of a majority of its members, in consultation with the member of the

Executive Council responsible for local government in the province concerned, having regard to—

- (a) the provisions of subsection (1);
- (b) the upper limit as set out in the said notice; and
- (c) the financial year of Municipal Councils.

JUDGEMENTS

1. **Mbana v Mnquma Municipality 2004 (1) BCLR 83 (Tk)**

In casu the executive mayor of defendant municipality had purported to conclude a contract with Plaintiff appointing Plaintiff as municipal manager of Defendant. The municipal council of Defendant had not made any decision in this regard, or assigned or delegated powers of appointment to the executive mayor. The latter had nevertheless gone ahead and appointed Plaintiff, thereby purporting to bind Defendant to an employment contract. The Court found that the executive mayor knowingly acted without authority and in so doing appropriated powers that such office never held in the first place. In concluding the contract with Plaintiff he acted *ultra vires* and the contract was thus invalid.

The Court held that section 82 of the Local Government: Municipal Structures Act gave the municipal council and no other person or committee the power to appoint a municipal manager. This was supported by section 30 of the same Act as well the provisions of section 160 of the Constitution and sections 57 and 59 of the Municipal Systems Act.

While section 160(1)(d) of the Constitution referred to a municipal council's employing personnel that are necessary for the effective performance of its functions, in so far as this related to the employment of a municipal manager section 160(1)(d) had to be read in conjunction with section 82 of the Local

Government: Municipal Structures Act. A municipal manager was a key component of the municipal structure and was not merely a member of a personnel appointed as contemplated by section 160(1)(d) of the Constitution or section 55(1)(e) of the Local Government: Municipal Systems Act 32 of 2000. There were certain prerequisites for the conclusion of a contract of employment with a party to be appointed as municipal manager.

- PART 5 -

DELEGATION OF POWERS TO OFFICIALS

- **City Manager**

- **Executive Directors:**
 - A: Generic Delegations

- **Directors**
 - A: Generic Delegations
 - B: Function Specific Delegations

- **Managers**
 - A: Generic Delegations

CITY MANAGER

A: STATUTORY POWERS, DUTIES AND FUNCTIONS OF THE CITY MANAGER

Acting in terms of section 59(4) of the Systems Act, Council hereby authorises the City Manager to delegate any of his/her statutory powers, functions and duties set out below to Executive Directors, Directors and Managers.

In delegating these powers Sections 61, 63 and 64 of the Systems Act will apply.

Section 61 reads:

“A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power to dispose of matters falling within the area of responsibility of that political structure, political office bearer, councillor or staff member may, or must if instructed to do so by the relevant delegating authority, refer a matter before the political structure, political office bearer, councillor or staff member to the relevant delegating authority for a decision”.

Section 63 reads:

“A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report.”

Section 64: reads:

“The withdrawal, amendment or lapsing of a delegation or subdelegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation.”

Any such delegation or sub-delegation:

- *must be in writing,*
- *may be subject to any limitations, conditions and directions the City Manager may impose*
- *may not be further sub-delegated by the sub-delegatee.*

Footnotes are also part of the delegations and should not just be considered as a guide to the interpretation thereof etc.

DERIVED POWERS IN TERMS OF SECTION 66 OF THE SYSTEMS ACT:

1. STAFF ESTABLISHMENT, JOB DESCRIPTIONS AND CONDITIONS OF SERVICE

- 1.1 To draft the total staff establishment, designate the functional areas in (e.g. departments, directorates, service areas etc.) job descriptions, remuneration packages and conditions of service for the staff establishment²⁶
- 1.2 To formulate a process to regularly evaluate the staff establishment, remuneration and conditions of service.
- 1.3 To determine guidelines for the job evaluation process.

²⁶ The authority to approve the staff establishment is a statutory power of the City Manager.

- 1.4 To determine guidelines to inform the identification of jobs to be designated as scarce skills or premium positions.
- 1.5 To settle disputes arising from Job Evaluations.

DERIVED POWERS IN TERMS OF SECTION 55 OF THE SYSTEMS ACT:

2. STAFF RECRUITMENT

- 2.1 To appoint recruitment agents for advertising, sourcing and assessment of candidates where considered necessary.
- 2.2 To authorise the advertising of vacancies for recruiting staff.
- 2.3 To approve the re-imbursement costs related to interviews of job applicants.
- 2.4 To determine competency profiles for posts.

3. APPOINTMENT OF STAFF

- 3.1 To appoint staff into permanent, temporary or casual positions that have been approved for filling
- 3.2 To appoint staff in an acting capacity.
- 3.3 To determine guidelines for the appointment of non-permanent staff and periodically monitor the usage and continued employment of such staff.

3.4 To enter into and sign employment contracts.

4. TRANSFER OF STAFF

4.1 To authorise the transfer of staff from one department to another.

5. DISPLACED STAFF

5.1 To authorise placement of staff as an alternative to termination after due process or terminate services if placement could not be authorised.

6. RESIGNATIONS AND RETIREMENT

6.1 To accept notice of resignation and retraction thereof in those cases where less than the prescribed notice period has been given.

6.2 To authorise retirement on the grounds of ill health.

6.3 To authorise the extension of retirement age.

7. LEAVE AND TIME OFF

7.1 To approve vacation and sick leave including additional sick leave where an employee has exhausted all sick leave.

7.2 To approve ad hoc requests including *ex gratia* categories for special leave which is not included in the conditions of service of employees.

- 7.3 To approve requests for additional time off beyond that provided for in the Organisational Rights Agreement.
- 7.4 To authorise the encashment of accumulated leave.
- 7.5 To refer a member of staff to a recognised medical practitioner for a prognosis and diagnosis in cases where there is a history of regular absenteeism due to ill health.

8. OVERTIME

- 8.1 To approve the payment of overtime and/or time off *in lieu* of overtime.
- 8.2 To determine the class of employee not entitled to overtime pay and, in exceptional cases, authorises any payment of overtime notwithstanding the class of employee entitled thereto.

9. STANDBY DUTIES

- 9.1 To approve the performance of standby duties and where applicable, the payment of a standby allowance.

10. TRAINING AND STUDY

- 10.1 To authorise the training of members of staff.
- 10.2 To authorise contracts for the outsourcing of training provision.

10.3 To authorise expenditure on the total corporate training budget.

10.4 To make application for refunds in respect of training from SETA.

11. RE-IMBURSEMENTS

11.1 To authorise re-imbursement for occasional use of an employee's own car on official business for staff.

12. PERFORMANCE EVALUATIONS

12.1 To approve performance evaluations.

12.2 To determine competency profiles for posts.

13. DISCIPLINARY ACTION

13.1 To authorise investigations into allegations of misconduct.

13.2 To authorise the institution of disciplinary procedures.

13.3 To appoint a chairperson of a disciplinary hearing.

13.4 To decide on an appropriate sanction.

13.5 To authorise the suspension of an employee pending the finalisation of disciplinary action.

14. DISPUTES, GRIEVANCES AND LABOUR ISSUES

- 14.1 To authorise investigations into disputes and grievances.
- 14.2 To settle disputes after following the prescribed processes, in concurrence with the Head: Labour Relations, involving cases of misconduct, incapacity, poor performance, ill health, injury, or an outcome of the grievance lodged by an employee.
- 14.3 To give a mandate in respect of hearings, arbitrations and mediation of the CCMA, and to agree on settlement conditions in respect of corporate wide issues.
- 14.4 To execute mandates from the Council in respect of Council wide labour issues.
- 14.5 To coordinate and manage Council's responses to strike action.

15. EMPLOYEE DEBT

- 15.1 To approve the terms and condition for the repayment of debt owed to Council.

16. ALLOWANCES AND SPECIAL PRIVILEGES GRANTED FOR THE PERFORMANCE OF DUTIES

- 16.1 To authorise the provision of official telephones, cell phones and PC modems at the residence of a staff member.

- 16.2 To approve the allocation of Council-owned houses to staff, required for the performance of his/her duties, to be resident at the specific location.
- 16.3 To approve applications for study allowances/bursaries for staff.
- 16.4 To approve participation in motor vehicle essential user schemes.
- 16.5 To adjust the running costs of the Essential User's Scheme in accordance with the AA tables on a quarterly basis and/or approves implementation of the tariffs provided by the Bargaining Council.
- 16.6 To authorise the performance of private work by staff.
- 16.7 To authorise special allowances in terms of conditions regulating such allowances.

17. LONG LEAVE BONUSES AND OTHER BENEFITS AND REWARDS

- 17.1 To approve long leave bonuses and other benefits and rewards in terms of applicable conditions of service.

18. CONTRACTS, AGREEMENTS, SECURITIES AND CHEQUES

- 18.1 To certify that funds to cover a Bank Guarantee in respect of a Housing Loan, are available in the staff member's pension fund.
- 18.2 To enter into and sign staff related contracts e.g. employment contracts, bursaries, studying overseas etc.

18.3 To authorise officials to sign cheques on behalf of the Council

19. UNIFORMS AND PROTECTIVE CLOTHING

19.1 To determine what uniforms and protective clothing should be issued to the various categories of staff.

20. EX GRATIA PAYMENTS

20.1 To authorise *ex gratia* payments to staff in respect of loss and damage to personal property when acting within the scope of his/her employment.

Council authorises the City Manager to delegate the following functions, powers and duties contained in the Land Use Planning Ordinance No. 15 Of 1985 to the Director: Town Planning

Please note that the use of the word “grant” in the delegations set out below also means to “refuse” and to “revoke” means to “vary or amend”.

The following limitations, conditions and directions apply where S.P.E.L.U.M., Subcouncils and officials have concurrent delegated powers regarding town planning matters:

- a. All matters affecting more than one Subcouncil (i.e. extends beyond the Subcouncil's boundary) is decided by S.P.E.L.U.M. where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- b. Where an application requires an EIA, HIA or TIA, S.P.E.L.U.M. is the delegated authority.*
- c. All matters relating to a Subcouncil's (i.e. that do not extend beyond the Subcouncil's boundary) area of jurisdiction is decided by the Subcouncil where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- d. Applications to amend, vary or revoke any condition imposed in terms of section 42 of LUPO is delegated to S.P.E.L.U.M. where it affects more than one Subcouncil, and to each individual Subcouncil where it affects that Subcouncil only.*

- e. *In exercising any power, duty or function in terms of this System of Delegation a political structure, political office bearer or official must comply with the provisions of Council's policies, Bylaws and any law relating to the matter under consideration.*
- f. *Objections include any comment received from any department of the council which does not support the application in its current form.*
- g. *Objections, whether considered to be valid or not, will preclude the Director from exercising his/her delegation.*

21. ADVERTISING

- 21.1 To determine in which newspaper or newspapers notices required in terms of LUPO are to be published, as required in terms of the definition of “publish in the press”.

22. STRUCTURE PLANS

- 22.1 To prepare and submit to the council for its approval a structure plan in terms of section 4(10).

23. DEPARTURES

- 23.1 To receive, process and approve applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned where no objections have been received, in terms of section 15(1).

- 23.2 To receive, process and approve applications to utilise land on a temporary basis for a purpose for which no provision has been made in the said regulations in respect of a particular zone, in terms of section 15(1).
- 23.3 To consider whether any person may be adversely affected by an application for departure and to advertise such application, in terms of section 15(2).
- 23.4 To, where objections against an application are received, submit them to the said owner for his comment, in terms of section 15 (2).
- 23.5 To obtain the relevant comment of any person who in his opinion has an interest in the application, in terms of section 15(2).
- 23.6 To submit an application and all relevant documents to council, in terms of section 15(2).
- 23.7 To notify the owner of the council's decision and where applicable furnish him with a copy of any conditions imposed by the council, in terms of section 15(2).

24. APPLICATIONS FOR REZONING

- 24.1 To determine the utilisation of land for purposes of zoning where a zoning has lapsed, in terms of section 16(2).
- 24.2 To receive, process and approve applications for rezoning of land where no objections have been received, in terms of section 17(1).
- 24.3 To advertise an application for rezoning of land, in terms of section 17(2).
- 24.4 To, where objections against an application for rezoning of land are received, submit them to the owner for his comment, in terms of section 17(2).

- 24.5 To obtain comment of any person who in his opinion has an interest in the application for rezoning of land, in terms of section 17(2).
- 24.6 To submit the application and all relevant documents council, in terms of section 17(2).
- 24.7 To notify the owner of the decision and where applicable furnish him with a copy of any conditions imposed by the council, in terms of section 17(2).

25. SUBDIVISIONS

- 25.1 To receive and approve applications for the granting of a subdivision by an owner of land where no objections have been received, in terms of section 24(1).
- 25.2 To advertise an application for the granting of a subdivision if in his opinion any person may be adversely affected thereby, in terms of section 24(2).
- 25.3 To, where objections against an application for the granting of a subdivision are received, submit them to the owner for comment, in terms of section 24(2).
- 25.4 To obtain the comment of any person who in his opinion has an interest in an application for the granting of a subdivision, in terms of section 24(2).
- 25.5 To submit an application and all relevant documents to council, in terms of section 24(2).
- 25.6 To notify the owner and the Surveyor-General concerned of council's decision and where applicable furnish them with a copy of any conditions imposed, in terms of section 24(2).

26. USE RIGHTS

- 26.1 To determine the zoning of land, in accordance with the utilisation thereof where a use right has lapsed because of failure to exercise such right for an uninterrupted period of two years and where no objections have been received, in terms of section 14(5).

B: POWERS, DUTIES AND FUNCTIONS DELEGATED BY COUNCIL TO THE CITY MANAGER

Acting in terms of section 59(1) of the Systems Act, Council hereby delegates to the City Manager the following powers, duties and functions including the power to sub-delegate any of these powers, duties and functions to Chief Operating Officers, Executive Directors, Directors and Managers.

In sub-delegating these powers Sections 61, 63 and 64 of the Systems Act will apply.

Section 61 reads:

“A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power to dispose of matters falling within the area of responsibility of that political structure, political office bearer, councillor or staff member may, or must if instructed to do so by the relevant delegating authority, refer a matter before the political structure, political office bearer, councillor or staff member to the relevant delegating authority for a decision”.

Section 63 reads:

“A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report.”

Section 64 reads:

“The withdrawal, amendment or lapsing of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation.”

Any such delegation or sub-delegation:

- *must be in writing,*
- *may be subject to any limitations, conditions and directions the City Manager may impose*
- *may not be further sub-delegated by the sub-delegatee.*

Footnotes are also part of the delegations and should not just be considered as a guide to the interpretation thereof etc.

27. GENERAL

27.1 To designate Deputy Information Officers in terms of Section 17 of the Promotion of Access to Information Act, Act of 2 of 2000.

27.2 To update and publishing of the section 14 manual in terms of the aforementioned Act.

27.3 To appoint a Chief Fire Officer who possesses the prescribed qualifications and experience to be in charge of the Municipality's fire service.

27.4 To grant authority for officials to attend conferences, congresses, seminars, workshops, symposiums, lectures, courses and meetings nationally.

- 27.5 To grant authority for officials to attend conferences, congresses, seminars, workshops, symposiums, lectures, courses and meetings within the province.
- 27.6 To determine corporate criteria to govern the authorisation and budgetary control of the attendance of staff at conferences, congresses, seminars, workshops, symposiums, lectures, courses and meetings. Monitors compliance with criteria by managers.
- 27.7 To appoint officials to represent Council on outside bodies.
- 27.8 To administer and award External Scholarships and Bursaries.
- 27.9 To conclude Lease Agreements, without inviting tenders, for periods not exceeding 12 months²⁷.

28. LEGAL

- 28.1 To decide on the instituting of legal action in the High Court of court of similar stature, for the recovering of debt owed to Council, provided that the institution of such proceedings is in accordance with an approved Debt Recovery Policy.
- 28.2 To institute or defend any action in a High Court in respect of the recovery of debt, if not the delegatee lower down cannot recover, in terms of the credit control and debt collection policy.

²⁷ Option to renew Lease Agreements excluded.

- 28.3 To settle any legal action in any competent court or forum recognised by law, in respect of the recovery of debt to Council should it be in the interest of Council.
- 28.4 To institute or defend any action in the Lower Court or a court of similar stature or any arbitration and mediation which would otherwise be heard in the Lower Court. This power includes the power to settle any such matter.

29. PROCUREMENT

- 29.1 To decide on any procurement of goods and services, subject to the Supply Chain Management Regulations and Council's Supply Chain Management and Procurement Policies, to a value up to R200 000. Where the acceptance of the most financially beneficial offer to Council is not accepted, the reasons therefore should be motivated and recorded in writing.

30. FINANCE

- 30.1 To authorise, subject to the provisions of the MFMA, the virement of funds of any operational amount to an amount determined by the Executive Mayor.²⁸
- 30.2 To authorise the virement of funds within the operational budget allocated to his/her office.
- 30.3 To determine the upper limit of virement within the operational budget of Executive Directors, Directors and Managers.

²⁸ See Executive Mayor's delegations Part1, paragraph 5.3 of the System of Delegation

- 30.4 To write off bad debts up to a value R5 million on recommendation from the Chief Financial Officer provided that the debt to be written off may not be split into parts or items of a lesser value merely to avoid complying with the amount of R5 million.
- 30.5 To write off assets up to a value of R5 million and subject to Section 14(2)(a)(b) of the MFMA.
- 30.6 To manage and certify the annual stocktaking of Council's assets.
- 30.7 To recover unauthorised, irregular or fruitless or wasteful expenditure from staff or former staff, other than those staff members directly accountable to the City Manager.

31. EMERGENCY AND IMMEDIATE DECISION-MAKING

- 31.1 To decide on and acts in cases requiring an immediate decision, in consultation with the Executive Mayor or Acting Executive Mayor or Speaker. If the Executive Mayor or Acting Executive Mayor or Speaker are not available, then only in exceptional cases the Municipal Manager may act on his/her own initiative.

The above delegation is subject to the following conditions:

- 31.1.1 Council should be able, legally, to cope with any
- emergency
 - circumstance

- 31.1.2 which may severely prejudice and have a detrimental impact on the Municipality, without detracting from the principle of accountability.
 - 31.1.3 Whenever this power is executed a report must be submitted to Council as soon as possible. This power cannot be delegated or sub-delegated.
- 31.2 To appoint Acting Managers directly accountable to the City Manager for a period not in excess of 30 working days. This power may not be delegated or sub-delegated.
- 31.3 To provide a member of staff, other than the City Manager or managers directly accountable to the City Manager, with legal representation, in terms of section 109A of the Systems Act where:
 - 31.3.1 legal proceedings have been instituted against the member of staff as a result of any act or omission by the official in the exercise of his or her powers or the performance of his or her duties; or
 - 31.3.2 the official has been summoned to attend any inquest or inquiry arising from the exercise of his or her powers or the performance of his or her duties.
- 31.4 To obtain legal opinion including Senior Counsel on any matter related to the administration of the City of Cape Town with the exception of the matters listed in the Executive Mayor's delegations namely Part 1 paragraph 3.6.1 to 3.6.3 of the System of Delegation.

- 31.5 To incur expenditure necessary for the performance of the functions in the office of City Manager within budget.

32. FORENSIC INVESTIGATIONS

- 32.1 To authorise forensic investigations in relation to any alleged fraud, corruption or other criminal activity, maladministration and/or negligence on the part of any City employee other than managers reporting directly to him/her, any City agent, contractor, supplier, service provider and/or the like of any municipal entity as defined in the Local Government : Municipal Systems Act which is owned-controlled and/or effectively managed by the City.
- 32.2 To pursue, facilitate and/or represent the City in respect of any appropriate disciplinary, criminal, civil and/or related proceedings flowing from any forensic investigation.
- 32.3 To authorise the payment of a reward not exceeding R10 000.00 to any person who furnishes information leading to the detection and successful criminal prosecution of any person who has committed any criminal act in or against the City and/or any municipal entity as defined in the Local Government : Municipal Systems Act and which is owned-controlled and/or effectively managed by the City.
- 32.4 In the performance of any of his/her functions, whether performed personally or via one or more Forensic Services employees or contractors:

- 32.4.1 To have access to all immovable property, premises, movable property, including motor vehicles, owned by, under the control of and/or managed by the City and/or any municipal entity as defined in the Local Government : Municipal Systems Act and which is owned-controlled and/or effectively managed by the City;
- 32.4.2 Subject to any relevant legislation, have access to, to copy and/or to seize any register, file, document, account, minute and/or other records, whether physical or electronic, of the City and/or any municipal entity as defined in the Local Government : Municipal Systems Act and which is owned-controlled and/or effectively managed by the City and/or any such register, file, document and/or record which may be maintained by any City or municipal entity employee, in relation to the performance of his/her official functions;
- 32.4.3 To have access and to be able to question any City or municipal entity employee, whether permanent or temporary, as to his/her official activities and, if necessary, summons any employee, agent, contractor, supplier and/or service provider in such regard; and
- 32.4.4 To issue appropriate executive instructions to any City or Municipal entity employee, agent, contractor, supplier and/or service provider in respect of any Legal Strategy/Forensic Services activity.

Council authorises the City Manager to delegate the following functions, powers and duties contained in the Credit Control By-law to the Director: Revenue²⁹:

33. DISPUTES

- 33.1 To appoint an authorised controlling official to administer all disputes, in terms of paragraph 7 of the Credit Control and Debt Collection Policy
- 33.2 To conclude disputes (where a debtor questions the correctness of any account rendered by the Municipality), in terms of paragraph 7 of the Credit Control and Debt Collection Policy.

34. PAYMENTS I.R.O. UNAUTHORISED RECONNECTION OF, OR TAMPERING

- 34.1 To permit adequate payment arrangements, instead of full payment of arrears plus any unauthorised consumption and any applicable tariffs, prior to reconnection in the event of unauthorised reconnection of, or tampering with, water or electricity supply, in terms of paragraph 11(2) of the Credit Control and Debt Collection Policy.

35. ARRANGEMENTS FOR THE SETTLEMENT OF ARREARS

- 35.1 To consider and approve arrangements for the settlement of arrears, in terms of paragraph 13 of the Credit Control and Debt Collection Policy.

36. RECOVERY OF COSTS

²⁹ See functional delegations of the Director: Revenue

36.1 To, in terms of paragraph 15(7) of the Credit Control and Debt Collection Policy recover the following costs in instances where such costs are incurred by or on behalf of the Municipality,

36.1.1 cost and administration fees where payments, made to the Municipality by negotiable instruments, are dishonoured by banks when presented for payment;

36.1.2 legal and administration costs, including attorney and client costs, and tracing fees incurred in the recovery of debts;

36.1.3 any collection commission.

37. COLLECTION OF RSC LEVIES

37.1 To recover outstanding regional services and a regional establishment levies, in terms of paragraph 21 of the Credit Control and Debt Collection Policy.

37.2 To authorise the use of a third party for the collection of the arrears debt in respect of outstanding regional services and a regional establishment levies, in terms of paragraph 21 of the Credit Control and Debt Collection Policy.

37.3 To request South African Revenue Services to make an assessment in respect of outstanding regional services and a regional establishment levies, in terms of paragraph 21 of the Credit Control and Debt Collection Policy.

38. INDIGENT RELIEF

- 38.1 To grant authority that water restrictors be inserted in properties qualifying for indigent relief so as to reduce consumption to affordable levels, in terms of paragraph 27(2) of the Credit Control and Debt Collection Policy.
- 38.2 To grant authority that prepaid electricity meters be installed in those properties qualifying for indigent relief so that the debtor cannot consume electricity beyond such debtor's means, in terms of paragraph 28(2) of the Credit Control and Debt Collection Policy.

Council authorises the City Manager to delegate the following functions, powers and duties contained in the Local Government: Municipal Property Rates Act, No. 6 of 2004 to the Chief Finance Officer (Paragraphs 38.1 to 39.2 inclusive):

39. RATES POLICY

39.1 To display the draft rates policy at municipal offices and libraries and on the official website; to advertise in the media a notice and invite comments and representations, in terms of section 4(2) of the Property Rates Act

40. LEVYING RATES

40.1 To display the resolution to levy rates at the municipality's head and satellite offices and libraries; and on the official website; to advertise in the media a notice stating that a resolution levying a rate on property has been passed by the council; and is available for public inspection, in terms of section 14(3) of the Property Rates Act,.

40.2 To annually table in council, in terms of section of 15 (3) the Property Rates Act, a –

40.2.1 list of all exemptions, rebates and reductions granted during the previous financial year; and

40.2.2 statement reflecting the income foregone during the previous financial year by way of such exemptions, rebates and reductions, exclusions and the phasing-in discount granted.

Council authorises the City Manager to delegate the following functions, powers and duties contained in the Local Government: Municipal Property Rates Act, No. 6 of 2004 to the Director: Valuations (Paragraphs 40.1 to 42.2 inclusive.)³⁰

41. VALUATIONS

- 41.1 To designate officials of the municipality or persons in private practice as assistant municipal valuers to assist the valuer of the municipality, in terms of section 35(1) of the Property Rates Act.
- 41.2 To permit the municipal valuer to designate persons in private practice as assistant municipal valuers to assist the municipal valuer with the performance of any of his/her functions if the municipal valuer is not an official, in terms of section 35(2) of the Property Rates Act.
- 41.3 To request a municipal valuer to withdraw the designation by the municipal valuer of a person as a data-collector, in terms of section 36(5) of the Property Rates Act.
- 41.4 To designate a special valuer to perform a valuation which a municipal valuer or assistant municipal valuer may not perform, i.e. in cases where that valuer, or any spouse, parent, child, partner or business associate of the valuer, has a personal or private business interest, in terms of section 43(5) of the Property Rates Act.
- 41.5 To, in terms of section 49(1) of the Property Rates Act, on receipt of the certified valuation roll from the valuer –

³⁰ See delegations of the Director: Valuations

- 41.5.1 publish a notice stating that the roll is open for public inspection and inviting objection;
 - 41.5.2 disseminate the substance of the notice to the local community; and
 - 41.5.3 serve, on every owner of property listed in the valuation roll a copy of the notice together with an extract of the valuation roll pertaining to that owner's property.
 - 41.5.4 publish the roll on the official website.
- 41.6 To receive objections against any matter reflected in, or omitted from, the roll, in terms of section 50(1) of the Property Rates Act.
- 41.7 To assist an objector to lodge an objection if that objector is unable to read or write, in terms of section 50(3) of the Property Rates Act.
- 41.8 To submit all objections to the municipal valuer for decision and disposal, in terms of section 50(5) of the Property Rates Act.
- 41.9 To, if a municipal valuer adjusts the valuation of a property by more than 10 per cent upwards or downwards, submit to the valuation appeal board the municipal valuer's decision, the reasons for the decision and all relevant documentation, for review, in terms of section 52(1) of the Property Rates Act.

42. APPEALS

- 42.1 To receive appeals to an appeal board against a decision of a municipal valuer. and to forward such appeals to the chairperson of the appeal board, in terms of section 54(1) of the Property Rates Act.

43. ADJUSTMENTS OR ADDITIONS TO VALUATION ROLLS.

43.1 To, if an adjustment in the valuation of a property affects the amount due for rates payable on that property –

43.1.1 calculate the amount actually paid since the effective date and the amount payable in terms of the adjustment since the effective date; and

43.1.2 recover from, or repay to, the person liable for the payment of the rate the difference plus interest at a prescribed rate,

in terms of section 55(2) of the Property Rates Act

43.2 To, where an addition has been made to a valuation roll, recover from the person liable for the payment of the rate the amount due for rates payable plus interest, in terms of section 55(3) of the Property Rates Act.

EXECUTIVE DIRECTORS

A: GENERIC DELEGATIONS

- 44. Determines the operational procedures and formulate policy in respect of all matters falling within the functional areas of the Executive Directorate concerned and within his/her delegated authority, where such authority is not delegated to any other level.

- 45. To enter into and signs contracts that have arisen out of the relevant approval processes falling within his/her functional area in consultation with Legal Services.

- 46. To exercise any delegation or sub-delegation that may be conferred on him/her by the City Manager.

DIRECTORS

A: GENERIC DELEGATIONS

- 47. Determines the operational procedures and formulate policy in respect of all matters falling within the functional areas of the Department concerned and within his/her delegated authority, where such authority is not delegated to any other level.

 - 48. To enter into and sign contracts that have arisen out of the relevant approval processes falling within his/her functional area in consultation with Legal Services.

 - 49 To exercise any delegation or sub-delegation that may be conferred on him/her by the City Manager or the Executive Director.
-

B: FUNCTION SPECIFIC DELEGATIONS

The following are specific powers, duties and functions delegated by Council to the relevant Directors:

CORPORATE SERVICES PORTFOLIO

DIRECTOR: HUMAN RESOURCES

- **Occupational Health And Safety Act, No. 85 Of 1993 (OHS Act)**

Section 16(2)

Assignment of duties by City Manager:

1. Principal Appointment
2. Workplace Appointment

Section 17(2)

Designation of health and safety representatives

Section 19

Designation of a chairperson of Health and Safety Committee

Section 19

Designation of members of Health and Safety Committee

- **General Administrative Regulations No. 929 Of 2003 (GAR)**

Section 8(2)

Designate an Incident Investigator

- **General Safety Regulations No. 1031 1986 [GSR]**

Section 3(4)

Appointment of First Aiders

Section 5(1)

Appointment of Confined Space Inspector

Section 8(1)(a)

Appointment of Stacking Inspector

Section 9

Appointment of Gas Welding and Cutting Equipment Inspector

- **Driven Machinery Regulations No. 295 Of 1998 (DMR)**

Section 17(2)

Appointment of Goods Hoist Inspector

Section 18(5)

Appointment of Lifting Equipment Inspector

Section 18(11)

Appointment of Machinery, Tackle and Forklift Operator

- **General Machinery Regulations No. 1521 Of 1998 (GMR)**

Section 2(1)

Appointment of Supervisor of Machinery

Section 2(7)

Appointment of Assistant Supervisor of Machinery

Section 4(3)

Appointment of Shiftsman (for Machinery)

- **Lift, Escalator And Passenger Conveyor No. 797 Of 1994 (Reg)**

Section 2(5)

Appointment of Lift Operator

Section 6(1)

Appointment of Maintenance Responsibility

- **Vessels Under Pressure Regulations No. 1591 Of 1996 (VUPR)**

Section 13

Responsible for regular testing and inspection and general maintenance of vessels under pressure.

- **Electrical Machinery Regulations No. 1593 Of 1988 (EMR)**

Section 8(7)

Responsible for the inspection and general maintenance of Flameproof Electrical Installations

- **Employment Equity Act 55 Of 1998 (Ee) And Change Management**

Section 21(2) (b)

Submit the annual report

Section 23

Prepare and submit annual employment equity plans

DIRECTOR: PERFORMANCE MANAGEMENT

- **Municipal Systems Act (MSA)**

Section 38 (a)

Conduct research into international best practice as prelude to developing and establishing an organisational Performance Management System (PMS).

Section 46(1)(2)

Prepare an annual report

DIRECTOR: LEGAL STRATEGY

Appoints attorneys and Counsel in respect of any litigation which has been duly authorised in terms of Council's System of Delegation.

In consultation with the Municipal Manager, deny payment or settle any claim or action prior to litigation.

Magistrate's Court Act, 32 of 1944

Appear in Court on behalf of the City in terms of Rule 52(1)(b) of the Magistrate's Court Rules promulgated in terms of the Magistrate's Court Act, 1944 (Act 32 of 1944).

Obtain a legal opinion from the attorneys/advocates, including senior counsel excluding those matters referred to in the Executive Mayor's powers as set out in Part 1 paragraphs 3.6.1 to 3.6.3 and those matters referred to in the Speaker's powers set out in Part 1 paragraphs 13.1.2 to 13.1.4 of the System of Delegation.

Instruct attorneys to enter notice of appearance on behalf of the Council in any matter instituted against the City and to sign all necessary documents for this purpose, and to authorise the briefing of advocates.

Instruct attorneys to collect any monies owed to the City prior to the institution of legal proceedings.

Appear before a notary to execute any document or to appoint any other person to appear before the notary on behalf of the City.

To authorise any person to attest to an affidavit on behalf of the City.

Appoint a person to serve legal documents, including but not limited to legal documents of the Municipal Court.

Conduct any necessary action in any matter instituted by or against the City, including the signature of the prescribed powers of attorney, affidavits and other documents in order to finalise the matter.

Defend urgent court applications where it is impossible due to time constraints to obtain the necessary authority and failure to do so will severely prejudice and have a detrimental impact on the Municipality, without detracting from the principle of accountability.

Whenever this power is executed a report must be submitted as soon as possible to the relevant delegating authority to obtain the necessary condonation.

FINANCE PORTFOLIO

DIRECTOR: REVENUE

- **Local Government Municipal Finance (MFMA)**

Section 64 (2)(g)

The de-accrual of interest

- **Municipal Systems Act (MSA)**

Section 96

Activate/De-activate arrangements

Schedule 2 10

Activation of salary/allowance deductions for staff

Section 96

Activate/De-activate recovery processes

- **Credit Control By-Law³¹**

Credit information

To verify all information furnished on an application form for services with data information institutions, credit information bureaux and financial institutions in determining the applicant's credit worthiness in terms of paragraph 3 of the Credit Control and Debt Collection Policy

To require that an applicant for a new service undergo a full credit check (the provision of, inter alia, acceptable means of identification and if applicable, binding lease agreement, title deed and other supporting documents) in an endeavour to trace all debt inclusive of municipal debt owed by the applicant, in terms of paragraph 6 of the Credit Control and Debt Collection Policy

Employer deductions

31. Council authorised the City Manager to delegate certain functions, powers and duties contained in the Credit Control By-law to the Director: Revenue – see City Manager's delegations

To pay a commission to an employer, when an agreement in is concluded to deduct municipal debt from the employee, in terms of paragraph 3 of the Credit Control and Debt Collection Policy

Councillor and staff arrears

To deduct any outstanding amount from a Councillor's remuneration or from a staff members' salary, in terms of paragraph 5 of the Credit Control and Debt Collection Policy

Application form

To approve an application form for new applications for the provision of a service.

Recovery of Debt

To authorise the use of third party debt collectors in terms of paragraph 12 of the Credit Control and Debt Collection Policy.

Property Management Leases

To attach the rental or any other payments due to debtors who are in arrears with their Municipal accounts, in terms of paragraph 12(10) of the Credit Control and Debt Collection Policy.

- **Local Government: Municipal Property Rates Act, No. 6 of 2004**

Resolutions levying rates

To publish the council resolution levying rates in the Provincial Gazette, in terms of section 14(2) of the Property Rates Act.

DIRECTOR: VALUATIONS³²

A PROPERTY VALUATION ORDINANCE, 1993

Section 3(7)

Authorisation of payment to Valuation Board members

Section 3(8)

Appoint Valuation Board Secretary

Section 6

Appoint valuers

Section 16(2)

Submit objections by the City in respect of provisional valuation roll

Section 16(3)

Submit objections by the City in respect of additional provisional valuation roll
Property Valuation Ordinance, 1993

Section 22

Submit an appeal against a decision of the Valuation Board

Section 31

Keep a register of all property within the city's jurisdiction

³² Council authorised the City Manager to delegate certain functions, powers and duties contained in the Local Government: Municipal Property Rates Act, No. 6 of 2004 to the Director: Valuations – see City Manager's delegations

B LOCAL GOVERNMENT: MUNICIPAL PROPERTY RATES ACT, NO. 6 OF 2004

Register of properties

To draw up, maintain and regularly update a register in respect of properties situated within the municipal area and to ensure that it is open for inspection by the public and to display it on the official website, in terms of section 23 of the Property Rates Act.

Municipal valuers and data-collectors

To designate (either one of its officials or a person in private practice) as its municipal valuer, in terms of section 33(1) of the Property Rates Act

To issue to the person so designated an identity card, in terms of section 33 (1) of the Property Rates Act.

To withdraw the designation of a person as its municipal valuer on the grounds of misconduct, incapacity or incompetence, non-compliance with a provision of the Property Rates Act, under-performance or breach of contract, in terms of section 33(4) of the Property Rates Act.

To issue to the person designated as an assistant municipal valuer³³ an identity card, in terms of section 35(4) of the Property Rates Act

To withdraw the designation of a person designated by the municipal manager as assistant municipal valuer on the grounds of misconduct, incapacity, incompetence, non-compliance with a provision of the Property Rates Act, under-performance or breach of any of the terms or conditions of the designation, in terms of section 35(5) of the Property Rates Act.

To issue to the person designated as a data-collector an identity card in the prescribed format containing a photograph of that person, in terms of section 36(4) of the Property Rates Act.

To withdraw the designation by the City Manager of a person as a data-collector, in terms of section 36(5) of the Property Rates Act.

Inspection of property

To issue to the person, authorised by the municipal valuer to enter any property that must be valued, an identity card in the prescribed format containing a photograph of that person, in terms of section 41(2) of the Property Rates Act.

³³ An assistant municipal valuer is designated by the City Manager in section 35(1)

Appeal board

To provide an appeal board with the necessary office accommodation and other administrative assistance, including staff, in terms of section 66(1) of the Property Rates Act.

HEALTH PORTFOLIO

DIRECTOR: CITY HEALTH

Businesses Act 71 of 1991 repealed or amended certain laws regarding the licensing and carrying on of businesses and shop hours and made certain new provision for the licensing and carrying on of certain businesses; and for matter connected therewith.

In terms of PN 67/2003 dated 28 February 2003 the City of Cape Town was designated as a licensing authority to undertake the licensing of businesses in it Municipal area of jurisdiction

A Act 71 Of 1991

Section 2

To grant licenses as provided for in terms of items 1 and 3 of schedule 1 to the Businesses Act 1991, and to exercise all powers conferred on the Municipality in terms of section 2(4) to 2(10) of the aforesaid Act.

B Regulation 786/1991

Section 8

Keep and maintain all records and documents as required by the businesses act in respect of every business conducted within the area of the City Of Cape Town, this includes to receive all applications for licenses, to process same and where applicable to refer to the applicable Subcouncil.

C National Health Act 61 of 2003

To provide a framework for a structured uniform Health System within the Republic, taking into account the obligations imposed by the Constitution and other laws on the National, Provincial and Local Governments with regard to health services; and to provide for matters connected therewith.

Section 18

Municipal Council must establish a procedure for the laying of complaints.
Director: City Health

Section 32

Municipal Council must ensure that appropriate Municipal Health Services are effectively and equitably provided.

Section 76

Municipality which provides a health service must establish and maintain a Health Information System as contemplated in Section 74

Section 80(1)(c)

The Mayor may appoint any person in the employ of the Council in question as a health officer for the municipality in question.

D Health Act 63 of 1977

To provide for measures for the promotion of the health of the inhabitants of the Republic; to that end to provide for the rendering of health services; to define the duties, powers and responsibilities of certain authorities which render health services in the Republic; to provide for the co-ordination of such health services; to repeal the Public Health Act, 1919; and to provide for incidental matters.

Section 20

Take all lawful, necessary and reasonably practicable measure as envisaged in Section 20 (1)(a) – (c).

Section 20(7)

May institute a prosecution for any contraventions of/or failure to comply with any provisions of this Act

Section 27(1)

Serve a written notice in respect of conditions requiring immediate remedying

Section 27(3)

Enter a dwelling/premises and take all steps necessary to remedy the condition and may recover the costs

Section 28

Submit notifications of any communicable disease to the Director General: Health

Section 48(2)

Remove and bury the body of a destitute person or of an unclaimed body or which no competent person undertakes to bury.

E Regulation 237 of 8 February 1985

Regulations relating to funeral Undertakers' premises promulgated in terms of the Health Act.

Section 2(1)(b)

Issue a written order where a nuisance is present.

Section 3(1)

May with the approval of the Director-General in writing exempt any person from compliance with all or any of the regulations where in his/her opinion, non compliance does not or will not create a nuisance.

Section 3(2)

May with the approval of the Director-General lay down and stipulate in the certificate of exemption the time period for which the exemption is valid

Section 5(3)

When considering issuing or transferring of a certificate of competence, request any further information deemed necessary.

Section 5(4)

Consider any application for the issue or transfer of a certificate subject to the completion of an inspection.

Section 6

Issue or transfer certificate of competence when premises comply with all relevant requirements.

Section 7

May endorse the transfer of a valid certificate of competence from current owner to the new owner.

Section 8

May issue a provisional certificate of competence up to 36 months in order for applicant to comply with this regulation.

Section 10

May suspend or revoke a certificate of competence or provisional certificate of competence.

F Regulation 1256 of 27 June 1986

Regulations relating to milking sheds and the transport of milk promulgated under the Health Act

Section 2(3)

May order in writing, the owner or possessor of a milking shed where a real or immediate health hazard is present, not to remove the milk for human consumption from the shed until the matter has been remedied.

Sections 3(3)-3(5)

Consider an application for a certificate of acceptability subject to certain requirements and conditions.

Section 4

May issue a provisional certificate of acceptability where the milk shed does not comply with all the provisions in this regulation and may revoke a provisional certificate and replace it with a certificate of acceptability upon compliance

Section 5(a)

Grant approval for the transfer of a certificate.

Section 5(b)

Inspect the milk shed and dairy stock.

Section 5(b)

Examine the staff in employed at the premises.

Section 6

May endorse an existing certificate of acceptability by replacing the holders name or cancel the existing certificate and issue a new certificate in the name of a new holder

Section 7

May suspend or withdraw the certificate of acceptability or a provisional certificate.

Section 14

May grant an exemption in writing to any person for compliance with some of these regulations which shall be valid for a predetermined period.

Section 15(3)

Respond within 14 days in cases where a notice of appeal has been lodged with the Minister where the applicant is of the opinion that an injustice has been done.

G Regulation 918 of 30 July 1999

Regulation governing general hygiene requirements for food premises and the transport of food promulgated under the Health Act.

Section 3(6)

Issue a certificate of acceptability if the inspector is satisfied that the premises complies with standards and requirements for food premises

Section 3(8)

Issue a new certificate of acceptability if the person in charge of the premises is replaced by another person.

Section 4(2)(c)

May place a restriction on the use of the food premises or the facility for the handling of food if in the opinion of the inspector it constitutes a health hazard.

Section 4(5)

Inform the person on whom the prohibition notice was served in writing of the outcome of the re-inspection.

Section 4(6)

Levy an inspection fee as determined by Council for the re-inspection.

Section 15

May exempt a person in charge of a food premises from any of the provisions of these regulations excluding a certificate of acceptability.

H Regulation 1411 of 23 Sept 1966

Regulations regarding the prevention of rodent infestation and the storage of grain, forage, etc in urban and rural areas of the Republic in South Africa

Section 5

Issue an order for the destruction of rodents and should the person fail to carry out the terms of the order, execute the work and recover the costs.

Section 6

Make orders for the prevention of rodent infestation and should the person fail to carry out the order, execute the work and recover the costs.

Section 7

May make orders for the collection, removal etc of refuse in such a manner as to safeguard against rodent infestation or harborage.

I Regulation 2438 of 30 Oct 1987

Regulations relating to communicable diseases and the notification of notifiable medical conditions

Section 2(1)

By written order and subject to conditions

- (a) Close any institution;
- (b) Regulate or restrict attendance thereto;
- (c) Regulate, restrict or prohibit the holding or attendance of any meeting there, and
- (d) Quarantine such premises.

Section 2(2)(a)

Notice referred to in 2(1) shall be signed by the Chief Administrative Officer and shall be served on a specific person.

Section 2(2)(b)

Where a notice has been served in terms of 2(1) the Chief Administrative Officer is obliged to make it known.

Section 5

Shall inform the Director-General after an order has been issued in terms of Section 2.

Section 8(3)

Take steps to ensure proper compliance with this regulation or to prevent contravention of this regulation.

Section 3(1)

Statutory Power.

Section 3(3)

Submit a report to the City Manager.

Section 6(1)

Statutory Power.

Section 6(2)

Report to the City Manager.

Section 8(4)

Powers vested in terms of Section 53 of the Act allows for a person who is not complying with the provisions of an order or has left an area without authorization, to be detained and handed over for medical observation.

Section 11

Issue a written notice.

Section 14(1)

May instruct a person to undergo medical examination.

Section 14(3)

Statutory Power.

Section 14(5)

Submit a comprehensive report after issuing an order as stipulated in 14(3)

Section 15(a)

Statutory Power

Section 15(b)

Supervise the disinfection.

Section 16(1)

Issue a written compulsory evacuation order.

Section 16(3)

Take all measures to ensure proper implementation of this regulation or to prevent any contravention thereof.

Section 18

Subject an infested person to compulsory removal, cleansing and disinfection if ordered to do so.

Section 19(3)

Forward weekly reports to the Director General.

J Foodstuffs, Cosmetics and Disinfectants Act (Act 54 of 1972)

To control the sale, manufacture and importation of foodstuffs, cosmetics and disinfectants and to provide for incidental matters.

Section 23

The Minister has by notices in Gazettes authorized the various Administrations to administer the provisions of this Act in its areas of jurisdiction, through its duly authorized officers.

K Regulation 975 of 29 September 2000

Notice relating to smoking of tobacco products in Public Places and promulgated in terms of the Tobacco Products Control Act 1993 as amended.

L Child Care Act 74 of 1983

Regulation 2612 dated 12 Dec 1986

Regulation promulgated in terms of the Child Care Act 74 of 1983

Section 30(2)(b)

Issue a health suitability report.

M Environment Conservation Act 73 of 1998

Regulations 627 of 20 Nov 1998

Noise Control Regulations promulgated in terms of the Environment Conservation Act 73 Of 1998

Section 2(a)

May at any reasonable time enter a premise without prior notice to conduct any appropriate examination, enquiry or inspection and to take any steps it may deem necessary. - ALSO SEE PLANNING AND ENVIRONMENT AND CITY POLICE

Section 2(c)

Instruct in writing the person who causes a disturbing noise or a noise nuisance to discontinue the disturbance or the nuisance. - ALSO SEE CITY POLICE

Section 2(d)

May request a submission of a noise impact assessment prior to the erection of new buildings or where changes are to be made to buildings or land. ALSO SEE PLANNING AND ENVIRONMENT.

Section 2(e)

Order in writing the discontinuance of music where a noise nuisance or a disturbing noise is generated. – ALSO SEE CITY POLICE

Section 2(i)

May impose appropriate conditions when granting permission or exemptions

Section 2(k)

May place measuring instruments at any place it may deem necessary.

Section 7(3)

Grant in writing an exemption and stipulate conditions and period for which the exemption is granted.

N National Building Regulations and Standards Act 103 of 1977

SABS 0400 of 1990 Part O ventilation

To administer the application of ventilation to spaces which will enable such spaces to be used without detriment to health or safety or causing any nuisance and to ensure that such ventilation systems adhere to minimum requirements.

Regulation 346 of 1953: BY-LAW

Regulation 1954 promulgated in terms of the provisions of Ordinance 19 of 1951

This regulation places a restriction on persons not to use loudspeakers in such a way that it causes a noise nuisance. In order to ensure compliance a written notice may be served on the relevant person.

P Atmospheric Pollution Prevention Act 45 of 1965

Section 15(1)

Decide whether an appliance or fuel complies with the requirements of the Act

Section 15(2)

Consider an application for installation of a fuel burning appliance

Section 16

Consider an application after due consideration of the siting and construction of chimney and control equipment.

Section 17

Serve notice on a person who is responsible for a nuisance and take legal action in consultation with Legal Services.

Section 19

Serve a notice and take legal action in consultation with Legal Services where Section 18 has been contravened.

Section 23

Authority to enter premises

Section 24

Call for information from fuel supplier and occupier of premises from which smoke is emitted.

Section 37

Perform smoke test on diesel vehicles stopped by the relevant authority and serve the owner with a notice and take legal action in the case of non-compliance with notice - ALSO SEE CITY POLICE

STRATEGY AND PLANNING PORTFOLIO

DIRECTOR: TOWN PLANNING

ENVIRONMENTAL DEVELOPMENT MANAGEMENT

A National Environmental Management Act 107 Of 1998 (NEMA)

Chapter 4: Fair Decision making & Conflict Management

Section 17

Consider the desirability of referring a matter for conciliation and refer such matter for conciliation

Section 17(2)

Call for or appoint a facilitator in the manner required to conciliate in a disagreement.

Section 20

Advise the Executive Member regarding liaising with Minister in evaluation of a matter relating to the protection of the environment by dissemination of information.

Chapter 5: Integrated Environmental Management

Section 24(1)

Prior to authorizing or giving permission for any activity, which may significantly affect the environment, to consider, investigate and assess the potential impact on the environment, socio-economic conditions and cultural heritage.

Section 24(2)

Take into account information and maps compiled by Minister/MEC that specify attributes of the environment in specific geographical areas, including the sensitivity, extent, interrelationship and significance of such attributes.

Section 24(3)

The investigation, assessment and communication of potential impacts of activities (24(1)) above must occur as per procedure in 24(7).

Chapter 7: Compliance, Enforcement & Protection

Section 28(1)

Take reasonable measures to prevent pollution or degradation or environmental damage for occurring, continuing or recurring, or to minimize and rectify if such activities have been authorized by law. This includes but is not limited to evaluation of permits for work in the CPPNE area.

Section 28(4)

Draw the attention of the Provincial head of Department to cases where significant pollution or degradation of the environment has taken place or may take place.

Section 30(6), (7)

Regarding an emergency incident, to direct a responsible person to undertake specific measures within a specific time frame to fulfill his or her obligations in terms of subsection (4) and (5).

Section 30(8)

If no action is forthcoming from such directive under 30(6), or if there is an uncertainty regarding the responsible person or if there is an urgency to the case, to take necessary measures to solve the problem.

Section 30(9)

Claim reimbursement in the case of 30(8) from the person responsible

Section 30(10)

Prepare and make available to the public and other parties as set out under this section, comprehensive reports on the incident.

Section 32

Take steps to enforce breach or threatened breach of environmental laws.

Section 33

Implement steps to prosecute in respect of any breach or threatened breach of any duty, in any municipal bylaw, or any regulation, licence, permission or authorization issued in terms of such legislation, where that duty is concerned with the protection of the environment and the breach of that duty is an offence.

Section 34(1)

Make request to court if a person has been convicted of an offence in terms of Schedule 3, so that the court must inquire as to the cost of the loss or damage or cost incurred or likely to be incurred by rehabilitation or prevention of damage to the environment.

Section 34(4)

Make application to court for an order that a person convicted of an offence in Schedule 3 pay the costs incurred by the public prosecutor and the City in the investigation and prosecution of the offence.

Chapter 8: Environmental Management Cooperation Agreements (EMCA)

Section 35(1)

Enter into an EMCA with any other party in order to promote compliance with principles of “the Act”.

Section 39

Enter into agreements with Director-General (DG) so that the latter may fulfill his or her responsibilities.

Section 42(1) & (3)

May sub-delegate the delegation from the DG on permission of DG.

Section 43

Appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under “the Act”.

Section 45(2)

Recommend to Council the substitution of City's regulations or bylaws for regulations issued by Minister in terms of Management Cooperation Agreements.

Section 46(2)

Request DG to assist the City with preparation of bylaws on matters affecting the environment.

B NEMA: ENVIRONMENTAL CONSERVATION ACT 73 OF 1989 & REGULATIONS (ECA)

Part V: Control of Activities which may have detrimental effect on the Environment

Section 22(1)

Apply for designation by Minister to be an authority that may authorize activities in terms of Section 21(1).

Section 22(3)

Should competency be agreed to in terms of 22(1), to refuse or grant an application of an activity identified in Section 21(1) with conditions.

Section 22(4)

Should competency be agreed to in terms of 22(1), to withdraw authorization if condition not complied with after 30 days notice period.

Section 23(2)

Apply for designation by competent authority to be an authority that may authorize development or activities (with conditions) prohibited within a Limited Development Area (LDA).

Section 23(3)

Request report from applicant applying for activity within a LDA.

Section 23(4)

Make representations to competent authority regarding declaration of a LDA.

Part VI: Regulations

Section 28 (a) to (i)

Perform functions assigned to the municipality in a Regulation, and serve Notices to rectify or cease any action contravening the Act.

Part VIII: General Provisions

Section 31(A)(1) - Read with 28 and 32 of NEMA

Serve Notices and Issue directions to any person performing an activity or failing to perform an activity whereby the environment is or may be seriously damaged, endangered or detrimentally affected; or take necessary steps as a local authority (LA) to eliminate, reduce or prevent the damage, danger or detrimental effect.

Section 31(A)(2) - Read with 28 and 32 of NEMA

Direct the responsible person at his or her own cost, to rehabilitate any damage caused to the environment as a result of the activity or failure to perform an activity whereby the environment is or may be seriously damaged, endangered or detrimentally affected, to the satisfaction of the LA.

Section 31(A)(3)

Take necessary steps within LA itself to eliminate, reduce or prevent the damage, danger or detrimental effect.

Section 31(A)(4)

Recover expenditure incurred in undertaking 31(a)(3) from the person concerned.

Section 32

Advertise for comments if LA intends making any regulation, direction, declaration, identification, or determination of policy in terms of the Act.

C NEMA: BIODIVERSITY ACT NO. 10 OF 2004

Section 43 (1)

Submitting biodiversity management plans to the Minister for approval, for (a) an ecosystem, (b) an indigenous species, (c) a migratory species.

Section 43 (2)

Carry out assigned responsibilities for implementing a biodiversity management plan.

Section 44

Enter into a biodiversity management agreement.

Section 46

Request amendments to a biodiversity management plan, and to consult about implementation.

Section 48

Incorporate provisions of the national biodiversity framework into the IDP, and demonstrate implementation.

Section 49

Monitor and report if required by Minister.

Section 50

Conduct research on biodiversity conservation.

Section 54

Take into account the need for protection of listed ecosystems in the IDP.

Section 57, 65, 71, 81

Assist in identifying when permits required.

Section 69

Duty of care relating to alien species.

Section 69, 73, 74

Competent authority to issue directive, implement and recover costs.

Section 75

Coordinate control of invasive species.

Section 76

Prepare invasive species control plans.

Section 77

Preparing invasive species status reports

Section 82

Protect the interests of stakeholders, and deal with benefit-sharing agreements.

Section 84

Deal with material transfer agreements.

Section 88, 91, 92, 93

Issue or cancel permits where designated as an issuing authority.

Undertake all assigned powers, duties and functions in terms of Regulations.

D NEMA: PROTECTED AREAS ACT NO.57 OF 2003 & REGULATIONS

Section 38

Manage protected environments (if assigned by Minister)

Section 39(3)

Participate in preparation of management plans.

Section 39(4)

Ensure the municipality's IDP/(MSDF's) applicable aspects are incorporated into a management plan.

Section 40(1)(iv)

Ensure that the management authority is adhering to municipal by-laws.

Section 41(3)(a)

Assess integrated development plan framework's economic opportunities as part of management plan.

Section 42(1)(a)

Co-management of protected areas and delegation of powers by the Management Authority to the city with regard to issues listed in 42(2)(a-l)

Section 42(3)(a)

Ensure the management plan addresses the city's/municipality's cultural heritage resources in the protected area.

Section 86

To undertake/implement any actions contemplated by the Minister in the Regulations for the proper administration of special nature reserves, national parks and world heritage sites.

E Conservation Of Agricultural Resources Act 43 1983 – Regulations (CARA Regs)

Part II

Assist in the combating of declared weeds and invader plants

F National Heritage Resources Act 25 Of 1999 (NHRA)

Section 8(6)

Apply for assessment of municipality's competence to perform functions under the Act.

Section 8, 25, 26(1)

Perform any general responsibility, duty or function assigned, deemed or delegated to a competent Local Authority.

Section 4 to 10

Management of Heritage Resources (policy, identify resources, assess and grade, perform local responsibilities, database).

Section 26

Formulate agreement with provincial heritage authority on competence and perform delegated duties and powers.

Section 27

Follow procedure for formal protection of heritage sites, comment on declarations proposed by SAHRA or Province, regulations pertaining to heritage sites, make agreements with site owners.

Section 28

Make recommendations regarding provision in By-laws or zoning scheme for managing Protected Areas.

Section 29

Provisionally protect places considered conservation-worthy or threatened, public notices.

Section 30

Assist in compiling Cape Town's part of the Provincial Heritage Register, and follow application assessment requirements. Mark listed places.

Section 31

Recommend on the designation of Heritage Areas to protect places of environmental or cultural interest, including at the time of revision of a zoning scheme or spatial plan. Provide for protection in By-law or zoning scheme, and require/consider approval or refusal of consent for alteration or development in the area. Perform powers in Heritage Areas.

Section 34

Subject to competency being granted, deal with structures older than 60 years and apply for exemptions of areas or categories.

Section 38

Notify developers of requirement for Heritage Impact Assessment, (HIA) follow consideration procedures for HIA's, comment on HIA's, authorize HIA when evaluation of impact can be dealt with in application under any other law.

Section 39

Inform of destruction of listed heritage place.

Section 42

Negotiate heritage agreements.

Section 43

Recommend on the provision of incentives in By-law or planning scheme.

Section 44

Promote presentation and use of heritage resources.

Section 45

Serve notices for compulsory repair and maintenance of heritage resource.

Section 48

Deal with manner in which application is to be made for any permit or other requirement and make stipulations and conditions.

Section 49

Make appeals against decisions.

Section 50

Perform all functions of appointed Heritage Inspector.

Section 51

Lay charges, make submissions for offences.

Section 55

Assist and cooperate with heritage bodies.

Section 58

Provide for the protection of conservation areas under previous National Monuments Act, or perform other transitional powers.

Municipal Systems Act (MSA)

Section 62

Comment on appeals.

G Zoning Schemes/Land Use Planning Ordinance 15 Of 1985 (ZS/LUPO)

LUPO

Sections 15(2)(c)& 17(2)(c)& 24(2)(c)

Make comment on an application where the use, activity or departure may have a detrimental impact on any environmental or heritage resources, and/or to call for an impact assessment to be conducted by an independent environmental assessment practitioner, for consideration by the municipality of the desirability thereof or mitigatory conditions to be imposed under S.42. ZS (Ch XII Special Areas or equivalent provision in the relevant zoning scheme (read with section 39 and 40 of land use planning ordinance))

Sections 93, 94, 98, 106, 108, 112, 113, 114

Issuing, signing and serving of notices to enforce compliance on Environmental Control and Heritage Control matters. Protection and management of Environmental and Heritage resources.

ZS (or equivalent provision in the relevant zoning scheme)

Section 108

Consent for work in Urban Conservation Areas & tree permits.

LUPO

Section 42

Identification and inclusion of Environmental and Heritage resources in zoning scheme, imposition conditions, performing power or duty in terms of a condition.

H Land Use Planning Ordinance Regulations P/N 333/1986 (LUPO Regs)

Section 4

Request additional information or documentation in any application, which may include an independent impact assessment, and which may be necessary to consider the potential detrimental impact of a proposal on an environmental or heritage resources.

I Outdoor Advertising & Signage By-Law No. 10518

Areas of Control

To recommend amendments and modifications to areas of control.

To call for documentary proof, (which may include the production of bank statements) of the non profit status or community benefit objective of a 'Non-profit body', as per the definition³⁴.

Applications

To approve the change in graphics on an existing approved sign structure, in terms of section 2.4.

To require from the person submitting a signage plan for a sign to be attached to or displayed on the wall or façade of a building, an additional drawing or a coloured print or an artist's photographic or computer generated impression, in terms of section 2.5.

To require additional drawings, calculations and other information from the person submitting a signage plan, in terms of section 2.7.

To require an applicant to submit an Environmental Impact Assessment, Heritage Impact Assessment and/or a Traffic Impact Assessment, in terms of section 3.

To require a public participation process prior to considering the approval, in terms of section 4.

To notify the applicant of any additional requirements within 21 working days of the date of submission of the original application and payment of the application fee, in terms of section 6.

³⁴ "Areas of control" means those areas set out in Schedule 1 of the By-Law; and which may be modified and/or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the Municipality from time to time.

To require written notification, by the applicant or person who erects an approved sign that such sign has been erected, in terms of section 8.

Charges and General Factors in Considering Approval and/or Amendments/ Conditions to Approval

To determine the area of control pertaining to an application where –

- a sign falls into more than one possible area of control or
- a proposed sign site (position), located in one area of control, may impact on an adjacent area of control,

in terms of section 10.1.

Factors Relating to Specific Signs, Areas of Control and Commercial Sponsored Signs

To grant an exemption from the terms of the By-Law in respect of sign types or areas of control set out in schedules 10, 11 and 12 having regard to:

- (i) the area of control where it is proposed to display the sign/s;
- (ii) nature of the event;
- (iii) duration of the erection/display of the sign;
- (iv) size of the proposed sign;
- (v) any traffic and/or safety and/or environmental or heritage impact assessment
- (vi) the outcome of any public participation process,

in terms of section 11.

Illumination

To waive the size condition for internal illumination and/or electronic signs, upon receipt of an Environmental and Heritage Impact Assessment showing no detrimental impact will be caused by the proposed display, or to any larger size, in an area designated by the Municipality as a district in which illuminated or electronic signs are to be encouraged, in terms of section 27.1.

To require a traffic impact assessment or subsequent traffic monitoring of any internally illuminated or electronic sign, in terms of section 27.3.

Road Traffic Safety

To decrease the minimum distances between signs in an area of minimum control, or in other areas of control on submission of a TIA motivating such a reduction, in terms of section 42.

Approval

To grant or refuse any application and impose conditions relating to-

- the erection and/or use of the sign;
- indemnifying the municipality against any consequences flowing from the erection, display or mere presence of a sign,
- in terms of section 44.

To withdraw an approval or amend any condition or impose a further condition in respect of an approval if a sign or advertising structure –

- is in a state of disrepair,
- stands empty for more than 90 consecutive days,
- no longer complies with any provision of the By-Law, or
- is substantially altered in structure or graphic content,

in terms of section 45.

To extend the period of 12 months (or such other time as may be specified) within which a sign must be erected, in terms of section 46.

To extend the approval period of 5 years in respect of third party advertising, in terms of section 47.

To grant approval that a supporting structure that has been intentionally demolished before the expiry of the approval period may be erected or re-erected, in terms of section 48.

Development Boards

To order the removal of any development board 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,
in terms of section 55.

Offences

To issue a written notice requiring discontinuance of a continuing offence, in terms of section 69.

Unlawful signs

To dispose of unlawful signs removed by the Municipality, in terms of section 73.

Enforcement and Removal of Signs

To, in respect of any sign displayed in contravention of this By-Law, serve a notice on the owner or lessee of such sign, or the land owner on whose land such sign is erected or displayed, or person whose product or services are advertised, in terms of section.

To, in terms of section 76, recommend the obtaining of relief from an appropriate court to remove or alter a sign or do such work as may necessary, where a notice in terms of section 75 is not heeded.

To, remove or alter an unlawful sign erected or displayed on Municipal property, or to do such work as may necessary, where a notice in terms of section 75 is not needed.

To compensate any person for any unreasonable loss or damage occasioned by or in respect of the removal or alteration of a sign by the municipality, in terms of section 77.

To recover any costs incurred by the Municipality in removing signs, or in doing alterations or other works required in terms of a notice, in terms of section 78.

To, without prior notice and without a Court Order, carry out or arrange for the removal of a sign that is, or is reasonably considered to be a danger to life or property, by a duly authorised employee of the Municipality and to recover any costs so incurred, in terms of section 79. OFFICIAL

J Table Mountain National Park Heads of Agreement (TMNP HoA)

Section 13

Determine requirements for the Operational Environmental Management System in consultative process

Section 14

Ensure that all proposed infrastructural development including buildings and roads are subjected to integrated environmental management processes and sound environmental management practices

Section 15

Grant or refuse written consent for any building or ancillary infrastructure or facility

Section 17

Grant or refuse consent for levying of charges for access by members of the public where access was allowed by the local authority at no charge.

All of the above delegations are subject to the required competency, delegation, authority or designation or equivalent from the relevant sphere of government in terms of the legislation

SPATIAL PLANNING AND LAND USE MANAGEMENT³⁵

Please note that the use of the word “grant” in the delegations set out below also means to “refuse” and “revoke” means to “vary or amend”.

The following limitations, conditions and directions apply where S.P.E.L.U.M., Subcouncils and officials have concurrent delegated powers regarding town planning matters:

- a. *All matters affecting more than one Subcouncil (i.e. extends beyond the Subcouncil's boundary) is decided by S.P.E.L.U.M. where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- b. *Where an application requires an EIA, HIA or TIA, S.P.E.L.U.M. is the delegated authority.*

³⁵ See the City Manager's statutory powers, functions and duties.

- c. *All matters relating to a Subcouncil's (i.e. that do not extend beyond the Subcouncil's boundary) area of jurisdiction is decided by the Subcouncil where objections have been received; where no objections have been received the Director: Town Planning has the power to decide **subject to** the conditions set out here below.*
- d. *Applications to amend, vary or revoke any condition imposed in terms of section 42 of LUPO is delegated to S.P.E.L.U.M. where it affects more than one Subcouncil, and to each individual Subcouncil where it affects that Subcouncil only.*
- e. *In exercising any power, duty or function in terms of this System of Delegation a political structure, political office bearer or official must comply with the provisions of Council's policies, Bylaws and any law relating to the matter under consideration.*
- f. *Objections include any comment received from any department of the council which does not support the application in its current form.*
- g. *Objections, whether considered to be valid or not, will preclude the Director from exercising his/her delegation.*

A Removal Of Restrictions Act No. 84 Of 1967

Form and method of application

To transmit an application for the alteration, suspension or removal of a restriction or obligation to the Director-General together with comments and recommendation thereon, in terms of section 3.

B Sectional Titles Act No. 95 Of 1986 (as amended)

Section 4(5)

Issue a certificate for condonation.

C The Land Survey Act No. 8 Of 1997

Section 37 (2)

Amend or cancel the following as determined by SPELUM:

- i subdivision diagrams
- ii general plans
- iii road widening diagrams
- iv public open space
- v road closures
- vi servitudes

D The Less Formal Township Establishment Act, No. 113 Of 1991 (LFTEA)

Chapter 1 & 2

Process applications and make recommendations to PGWC to designate land for less formal settlement and to formulate conditions.

E The Regulations On The Black Communities Development Act, No. 4 Of 1984 (BCDA & Regulations)

Process applications and make recommendations to PGWC regarding consent, rezoning and subdivision in terms of the regulations under the BCDA.

F The Legal Succession To South African Transport Services Act, No. 9 Of 1989, As Amended (SATS Act)

Section 13

Determine uses which comply with the definitions for Transportation Uses, perform powers and duties in terms of Agreements (e.g. the V&A Waterfront Heads of Agreement and Zoning Agreement etc.) under the SATS Act, determine deemed consents for non-Transport uses which pre-existed the Amendment Act, determine change of use which must be dealt with under LUPO.

G Zoning Scheme

Approval or refusal of conditional uses / consent uses permitted in terms of the Zoning Scheme with Council's special consent.

Authorise officials to enter privately owned property.
Comment on liquor licence applications to the Liquor Board.

Approval / refusal of a site development plan and amendments thereto where a rezoning, departure, special consent or a subdivision has been approved subject to the submission of such a site development plan.

Decide on the extent and nature of public participation subject to the provisions of the Systems Act if applicable.

H Land Use Planning Ordinance No. 15 Of 1985

Structure plans.

To prepare a structure plan, in terms of section 4(1).

To comply with any requirements re the manner in which the structure plan is to be made known, inspection and representations by residents and other interested parties in the preparation of the structure plan, provided that the proposed structure plan must be advertised in the media for public comment/objections, in terms of section 4(4).

To ensure that a structure plan is made available for inspection and the lodging of objections or the making of representations, before the date on which it is submitted to the Premier for approval, in terms of section 4(5).

To determine the manner in which a structure plan is to be prepared, including conditions as to inspection and representations by residents and other interested parties, provided that the proposed structure plan must be advertised in the media for public comment/objections, in terms of section 4(10).

To within 60 days after approval of a structure plan, submit it to the designated provincial director for his information, in terms of section 4(10).

Zoning map.

To prepare a zoning map showing zones and land units, in terms of section 10.

Register.

To keep and maintain a register, in terms of section 12.

Use rights.

To amend a zoning map, in terms of section 14(4).

Departures

To amend the register and zoning map where a departure has lapsed wholly or partly, in terms of section 15(6).

Rezoning (application of owner of land)

To amend the zoning map concerned and, where applicable, a register, where an application for rezoning is granted or a rezoning has lapsed, in terms of section 16(3).

Zoning Map

To amend a zoning map and, where applicable, a register where a subdivision or part thereof is deemed to be a substitution scheme, in terms of section 22(3).

Subdivisions

To indicate the relevant zonings in relation to the subdivision concerned for the purpose of an application for the subdivision of land, in terms of section 25(2).

To extend the period of five years within which the owner of land must –

- furnish the registrar of deeds with such documents and information as he may require,
- comply with the requirements of the said registrar in connection with the cancellation of existing conditions of title,
- provide services in accordance with a condition imposed in respect of the subdivision, and
- obtain the registration of at least one land unit.

in terms of section 27(1).

Home owners' association

To approve the constitution of a home owners' association, after consultation with the City's legal department, in terms of section 29(2).

To, if a home owners' association fails to meet any obligation resting on it in terms of section 29 and the community is adversely affected by such failure, take all steps required to rectify that failure, and recover from the owners any expenditure incurred by it in relation to such steps, in terms of section 29(4).

Amendment or cancellation of plan of subdivision.

To advertise the proposed amendment or cancellation of a plan of subdivision, if it is deemed that the amendment or cancellation of a plan of subdivision adversely affects the interest that any person has in land, in terms of section 30(2).

Registration of and building upon land units.

To, before registration is effected by the registrar of deeds, issue written authority confirming that all conditions on which an application for subdivision was granted, has been complied with, in terms of section 31(1).

To grant authority that a building or structure may be erected on a land unit forming part of a subdivision before such subdivision has been confirmed, in terms of section 31(2).

Compliance with provisions of zoning scheme and of conditions of subdivision.

To, in terms of section 39 enforce compliance with the provisions of LUPO, the provisions incorporated in a zoning scheme in terms of this Ordinance, and the conditions imposed in terms of LUPO or the Townships Ordinance, 1934.

Rectification of contraventions.

To, if a building or any part thereof was erected in contravention of section 39(2)(a) serve an instruction on the owner to-

- rectify such contravention, or
- apply for the determination of a contravention levy, or
- apply for for a departure,

in terms of section 40(1).

To, if the owner fails to comply with the instruction, take all such steps as may be necessary to rectify such contravention, in terms of section 40(1).

To recover from the owner any amount spent to rectify contraventions, in terms of section 40(2).

Right of entry.

To authorise any official to at any reasonable time, after reasonable notice and causing as little inconvenience as possible enter upon any land in order to -

(a) do anything which the council is permitted or required to do in terms of LUPO, or

(b) make an inquiry, an investigation or a survey in connection with the exercise or performance the council's powers or duties in terms of LUPO,

in terms of section 41.

Conditions.

To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).

To, in relation to a condition imposed, after consideration of objections received in consequence of an advertisement and after consultation with the owner of the land concerned -

(a) waive or amend any condition, and

(b) impose additional conditions

in terms of section 42(3).

To, if the waiver or amendment of conditions or the imposition of additional conditions adversely affects the interest that any person has in land, advertise the proposed waiver or amendment of conditions or imposition of additional conditions, in terms of section 42(4).

Appeal to Administrator.

To consult with and submit comments to the Premier in regard to an appeal lodged, subject thereto that such consultation/comments must be based on the submissions considered by the decision making body, in terms of section 44(2) .

BUILDING CONTROL

A Regulations 627 of 20 Nov 1998

Noise Control Regulations promulgated in terms of the Environment Conservation Act 73 Of 1998

Section 2(a)

May at any reasonable time enter a premise without prior notice to conduct any appropriate examination, enquiry or inspection and to take any steps it may deem necessary. - ALSO SEE CITY HEALTH AND METRO POLICE

Section 2(d)

May request a submission of a noise impact assessment prior to the erection of new buildings or where changes are to be made to buildings or land. ALSO SEE CITY HEALTH AND METRO POLICE

B National Building Regulations : GNR.2378 of 12 October 1990

Application.

To, before granting provisional authorization for a temporary building, assess such building in relation to -

- (i) the intended use and life of the building;
- (ii) the area in which it is to be erected; and
- (iii) the availability of suitable materials from which it may be constructed.

Regulation A1(7)

To, where any building is intended to be used for experimental, demonstration, testing or assessment purposes, -

- (i) grant authority for the erection of such building and for the performance of any experiment, or for the demonstration, testing or assessment of such building; and
- (ii) grant authority for the erection of such building where testing or assessment of the completed building is the only way to ascertain whether such building complies with the requirements of these regulations.

Regulation A1(7)

Plans and Particulars

To require from any person intending to erect any building, plans and particulars of –

- (i) general structural arrangements;
- (ii) general arrangement of artificial ventilation;
- (iii) a fire protection plan;
- (iv) any required certificate; and
- (v) any other particulars

Regulation A2(1)

Preliminary Plans and Enquiries

To, upon request by a person who intends to erect a building -

- (a) examine any preliminary sketch plans of the building proposed to be erected and furnish comments on such plans or on any particular features thereof specified by such person; or
- (b) furnish an opinion as to whether any material or method or form of construction intended to be used in the erection of such building will comply with these regulations.

Regulation A3(1)

To furnish reasons for the inability to accede to the request by a person who intends to erect a building

Regulation A3(2)

Additional Documents and Information

To exercise the City's powers and duties regarding additional documents and information in respect of structural details and artificial ventilation as contemplated in Regulation A4.

Application Forms and Materials, Scales and Sizes of Plans.

To determine the number of additional paper copies of every plan, drawing or diagram that must accompany an application.

Regulation A5(3)

To in exceptional circumstances accept a different scale.

Regulation A5 (5)

Layout Drawing.

To exercise the City's powers and duties regarding requirements of layout drawings as contemplated in regulation A7.

Plumbing Installation Drawings and Particulars

To require the owner to submit -

- (a) drainage design calculations which shall clearly indicate the basis for such design;

- (b) an estimate of the composition and quantity of any industrial effluent proposed to be discharged into any sewer; and
- (c) where approval has been given in terms of the local authority's industrial effluent by-laws or regulations for the discharge into a sewer of industrial effluent from the site, plans and particulars of any drainage works and installations required by the local authority in terms of its conditions of approval for such discharge.

Regulation A8(4)

Fire Protection Plan

To require that an application in respect of the erection of any building, not being a dwelling house, be accompanied by a fire plan.

Regulation A9(1)

Boundary Beacons.

To require the owner, to at own cost, engage a professional land surveyor to identify boundary pegs or beacons and other relevant information where the location of any boundary of a site has not been accurately determined.

Regulation A11(1)

To, where an owner fails to engage a professional land surveyor, engage a professional land surveyor to establish and point out the location of such pegs or beacons, and recover such costs of such establishing and pointing out from such owner.

Regulation A11(2)

Street Levels.

To supply the levels at which a portion of a street is intended to be constructed or is likely to be reconstructed and, where unable to do so, to furnish reasons to that effect.

Regulation A12

Building Materials and Tests.

To test any material or component used or to be used in the erection of any building in order to determine whether such material or component complies with the requirements of these regulations

Regulation A13(2)

To, if any material or component used in the erection of a building does not comply with these regulations, serve a notice on the person erecting such building, stating the respects in which such material or component does not comply and prohibiting such person from making further use of such material or component for the purpose for which it was or is to be used in the erection of such building.

Regulation A13(3)

To, if any material or component is tested and has failed to comply with these regulations, recover the cost of such test from the owner of the building concerned.

Regulation A13(5)

To permit the use of any material or component, which is not permitted or prescribed by these regulations, for a particular purpose if such material or component is at least as suitable for that purpose as the material or component permitted or prescribed to be used by these regulations

Regulation A13(6)

Installations Maintenance and Operation.

To serve a notice on an owner or other person requiring compliance with A15 pertaining to the installation and maintenance and operation of installations.

Regulation A15(3)

To order the evacuation of a building where the state of such equipment or installation will cause conditions which may be detrimental to the safety or health of the occupiers or users of such building.

Regulation A15(4)

Responsibility for Designs

To waive the requirement that the owner of any building must appoint and retain any person who is a professional engineer or other approved competent person to undertake responsibility for designs and inspections.

Regulation A19(1)

To approve the form on which owner must report the appointment of a professional engineer or other approved competent person

Regulation A19(4)

Commencement of Erection or Demolition and Inspections

To prescribe the format of the notice in connection with the erection or demolition of any building

Regulation A22(1)

To inspect and approve trenches or excavations.

Regulation A22(3)

To inspect, test and approve a drainage installation

Regulation A22(3)

Temporary Buildings

To grant provisional authorization to an applicant to proceed with the erection of a temporary building in accordance with any conditions or directions specified in such authorization.

Regulation A23(1)

To require an applicant the erection of a temporary building to submit -

- (a) a statement of the period for which authorization is required;
- (b) a site plan;
- (c) layout drawings; and
- (d) any structural detail required to determine the structural safety of the proposed building.

Regulation A23(2)

To grant approval for one or more extensions of the period of authorisation of a temporary building and to require such information as may be necessary to consider an application for extension.

Regulation A23(4)

Standardization of Interpretation.

To examine plans, specifications or other documents which accompanied or which are intended to accompany an application, to perform any tests that is considered necessary and inspect the site on which a building is to be erected, and issue a report in connection therewith.

Regulation A24(1)

General Enforcement.

To order any person to forthwith stop the erection of a building or to comply with an approval.

Regulation A25(6)

To order an owner to rectify or demolish a building by a specified date.

Regulation A25(7)

To serve a notice on the owner of building that is being or has been erected in contravention of these regulations, specifying the steps to be taken in order to comply with the regulations.

Regulation A25(9)

To order the owner of building that is being or has been erected without the prior approval to obtain the approval by a specified date.

Regulation A25(10)

Demolition of any Building

To grant permission to demolish a building and to impose any condition or requirements for the safety, health and convenience of the public, and for the safety of any other building or installation, which may be affected by such demolition.

Regulation E1(1)(2)

To serve a notice on any person involved in the demolition of a building to make the site safe, and on failure to do so, carry out the necessary work and recover the cost thereof from such person.

Regulation E1(4)

Prohibition of Dangerous Methods

To prohibit the use of any method to be applied in the demolition of any building where such method will create or cause to create any danger to any person or other building or property, and to give reasons for such prohibition.

Regulation E3

Protection of the Public.

To require that the owner of a site, where danger or serious inconvenience to the public may ensue from the demolition or erection of a building, erect a fence, hoarding or barricade to prevent the public from entering such site and to protect them from the activities on such site.

Regulation F1(1)

To permit any person, undertaking any work of erection or demolition on a site, to encroach upon or over any street or public place abutting such site and to impose conditions with regard to the safety and convenience of persons using such street or public place.

Regulation F1(4)

To impose conditions to safeguard the interests of the general public, during the erection or demolition of any building.

Regulation F1(5)

Damage to City Property

To require the owner of a building to pay a deposit or give security to cover the costs of the repair of any damage to municipal property which may be caused by the demolition or erection of any building and to appropriate the amount of the deposit or security towards the costs of repairing damage

Regulation F2(1)

To, in the absence of a deposit or security, demand from the owner of a building to pay the cost of the repair of any damage to municipal property which may be caused by the demolition or erection of any building and upon failure to recover such cost from the owner in a court of competent jurisdiction.

Regulation F2(3)

Unstable Soil Conditions

To inform an applicant of any suspected unstable sub-soils or unstable slopes in the area in which a site, upon which a building is to be erected.

Regulation F3(1)

To require an owner to engage a professional engineer or other approved competent person to prepare measures for any differential movements or other effects which could be detrimental to a building.

Regulation F3(2)

Control of Dust and Noise

To consider whether any activity, in the course of any building, demolition or excavation work or any machine, machinery, engine, apparatus, tool or contrivance, unreasonably disturb or interfere with the amenity of the neighbourhood.

Regulation F6(1)

Cutting into, Laying Open and Demolishing Certain Work

To, where any work carried out in connection with the erection of any building is not in accordance with the provisions of these regulations or any approval or authority granted there under, order the owner of such building -

- (a) to supply satisfactory proof that such work is in accordance with such provision, approval or authority; or
- (b) to cause such work to be cut into, laid open or demolished; or
- (c) to cause a test of such work to be carried out.

Regulation F7(1)

To, where the actions of the owner is still not compliant, order the owner to take such steps as may be necessary to ensure that there is such compliance, or to order the owner to cause such work to be cut into, laid open or demolished.

Regulation F7(2)

To give authority to proceed with work, in connection with the erection of any building, upon being satisfied with the work cut into, laid open or demolished

Regulation F7(3)

Waste Material on Site

To order the owner of a site to remove rubble, rubbish, other debris or combustible waste material or to order such removal and recover the costs thereof from the owner.

Regulation F8(1)(2)

Cleaning of Site

To order the owner or person erecting or demolishing any building to remove any surplus material and matter arising from such erection or demolition from the site and from any other land or public street or public place affected by such material or matter during or after the completion of such erection or demolition,

Regulation F9(1)

Builder's Sheds

To require an owner or person carrying out or performing work in connection with the erection or the demolition of any building, to erect on the site of such work such temporary builder's sheds as may be necessary.

Regulation F10(2)

To, where a shed is not constructed, located or maintained in terms of this regulation, order the owner or person to move, reconstruct or repair or improve the condition of such shed, or if use thereof is being made other than that permitted, to cease such un-permitted use.

Regulation F10(4)

Sanitary Facilities

To approve that sanitary facilities for personnel employed on or in connection with the erection or demolition of any building not be provided on the site but at some other place.

Regulation F11(1)

To, where sanitary facilities for personnel employed on or in connection with the erection or demolition of any building have not been provided, order the cessation of such work until the required facilities have been provided, and, should such order not be complied with, to install such facilities and recover the costs of such installation from the owner of the site.

Regulation F11(1)

General Stability Requirement

To grant authority for any excavation, where the safety or stability of any property or service is likely to be impaired by such excavation, or where the depth, at any point, of such excavation is likely to be more than 3 m,

Regulation G1(3)

Approval of Artificial Ventilation Systems

To grant approval for the installation of any artificial ventilation system in any building

Regulation O3

Drainage of Buildings

To prescribe a location and level for the connection of a sewer for the drainage of a building.

Regulation P1(1)

To order the owner of any existing building to make a sewer connection within a prescribed period.

Regulation P1(2)

To, where the owner of a building fails to comply with an order to do so, lay, alter or extend any drain, alter or extend such drain and recover the costs thereof from the owner.

Regulation P1(4)

Design of Drainage Installations

To require a rational design, where the size or complexity of a drainage installation in any building so requires, to furnish reasons for such necessity and to require such owner to submit for approval plans and particulars of a complete drainage installation based on such design.

Regulation P2(2)

Objectionable Discharge

To order the owner of any site to, at own cost, execute any precautionary measures to prevent objectionable sewage discharge to enter any stormwater drain, stormwater sewer or watercourse, any river, stream or natural watercourse or any street or other site.

Regulation P3(3)

To permit the discharge of water from a swimming pool, fountain or reservoir onto any public street or public place, or onto any site other than onto the site upon which such swimming pool, fountain or reservoir is situated.

Regulation P3(4)

Unauthorized Drainage Work

To permit any person to interfere with any sewer or connecting sewer or to break into or interfere with any part of a drainage installation for the purpose of repair and maintenance.

Regulation P6(1)

Inspection and Testing of Drainage Installations

To inspect, test and pass any drainage installation as complying with these regulations.

Regulation P7(3)

Sewage Disposal

To permit other means of sewage disposal where waterborne sewage disposal is not available.

Regulation Q1

Pit latrine

To permit the construction of any pit latrine

Regulation Q2

Stormwater Disposal

To require a rational design where the conditions on any site so requires; to furnish reasons for such necessity and to require such owner to submit for approval plans and particulars of a complete stormwater control and disposal installation for such site and for any building erected thereon, based on such design.

Regulation R1(3)

Fire protection

To, where compliance with the relevant SABS code would not comply with the general fire protection requirements, order the owner of the building to submit for approval a rational design.

Regulation T1(2)

Refuse Storage Areas

To approve the access of a refuse storage area from any street, for the purpose of removing the refuse

Regulation U2

Fire Installations

To, subject to any conditions considered necessary, allow a fire installation to be connected to –

- (a) a source of supply other than a communication pipe; or

- (b) a source of non-potable water where such water is not to be used for domestic or any other purpose.

Regulation W1

Supply of Water

To permit that water may be taken from a supply system for use in any fire installation and to impose conditions

Regulation W2

Design of Fire Installations

To require the provision of isolating valves to control the flow of water to a fire installation, and to such points within the installation.

Regulation W3

C National Building Regulations and Building Standards Act No. 103 of 1977

Buildings erected by or on behalf of the State

To comment on plans, specifications and certificate in respect of any building to be erected by or on behalf of the State[section 2(4)]

Applications in respect of erection of buildings

To prescribe the application form for the erection of any building and to require such particulars as may be required for the carrying out of the objects and purposes of this Act. [section 4(2)(3)]

Approval in respect of erection of buildings.

To, after having considered a recommendation by a building control officer, grant approval or refuse to grant approval for the erection of any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.

To extend the period of 12 months (as from the date on which approval was granted) for which an approval for the erection of any building is valid. [section 7(4)]

To grant provisional authorisation to an applicant to commence or proceed with the erection of a building, before approval has been considered and to impose such conditions as may be deemed fit. [section 7(6)]

Prohibition and conditions.

To prohibit or to grant approval subject to conditions, the erection of a building or earthwork that -

- (i) will not be in the interest of good health or hygiene;
- (ii) will be unsightly or objectionable;
- (iii) will probably or in fact be a nuisance to the occupiers of adjoining or neighbouring properties;
- (iv) will probably or in fact derogate from the value of adjoining or neighbouring properties;
- (v) is being or is to be erected on a site which is subject to flooding does not drain properly or is filled up or covered with refuse or material impregnated with matter liable to decomposition [section 10(1)]

Time limits

To, where for a period exceeding 3 months the erection of a building is not proceeded with, order the owner of such building to resume and to complete the erection thereof within a specified period. [section 11(1)]

To, where the owner of a building fails to proceed with the erection of a building as ordered, extend the period specified in the notice if satisfied it that the owner's failure was due to circumstances beyond his control. [section 11(2)]

To, where the owner of a building fails to resume or to complete the erection of a building within the specified periods as ordered, order the owner to demolish such building and to remove the material, if of the opinion that such building is unsightly or dangerous to life or property or derogates from the value of adjoining or neighbouring properties. [section 11(3)]

To, where the owner of a building fails to comply with an order to demolish a building and to remove the material, demolish such building and remove the material and recover the costs thereof from such owner.[section 11(4)]

Demolition or alteration of certain buildings.

To order the owner of a building, land or earthwork, that is dilapidated or in a state of disrepair or is dangerous or is showing signs of becoming dangerous to life or property, to demolish, alter or secure such building in such manner that it will no longer be dilapidated or dangerous to life or property: [section 12(1)]

To, where the condition of any building or the land on which a building was or is being or is to be erected or any earthwork is such that it is dangerous or is showing signs of becoming dangerous to life or property,

- (a) order the owner of such building, land or earthwork to at own cost instruct an architect or registered person to investigate such condition and to report to the City on the nature and extent of the steps to be taken, in the opinion of such architect or registered person, in order to render such building, land or earthwork safe.
- (b) order that any activities be stopped or prohibit the performance of any activities which may increase the danger or hinder or obstruct the architect or registered person from properly carrying out the investigation
- (c) require the architect or registered person to submit evidence of his or her competence to carry out such duties
- (d) order the owner to instruct another architect or registered person to carry out the duties. [section 12(3)]

To, if deemed necessary for the safety of any person –

- (a) order the owner of any building to remove all persons occupying or working or being for any other purpose in such building therefrom, and to take care that no unauthorized person may enter such building;
- (b) order any person occupying or working or being for any other purpose in any building, to vacate such building.
- (c) grant permission that such building may again be occupied or used. [section 12(4)(5)]

Exemption from national building regulations and authorization for erection thereof.

To, where the building control refused to extend any period of 6 months allowed for a minor building work, consider such refusal and confirm such refusal or extend such period on such conditions as may be deemed fit. [section 13(3)]

Certificates of occupancy

To issue or to refuses to issue a certificate of occupancy on completion of the erection of a building. [section 14(1)]

To grant permission to use a building before the issue of the certificate of occupancy, for such period and on such conditions as may be deemed necessary, and to extend or alter such period and conditions. [section 14(1A)]

Deviation and exemption from national building regulations.

To permit a deviation or grant an exemption from any applicable national building regulation except a national building regulation regarding the strength and stability of buildings.[section 18(1)]

DIRECTOR: PROPERTY MANAGEMENT

A By-law : LA 12783 (Sections 4, 4(1), 4(5), 5)

Policy : Approved 31/7/02 (Paragraphs 2.10, 7.11, 2.8 ,2.1, 2.5, 2.4 , 4.11, 4.13)

Decide on all commercial activities up to the value of R200 000,00 in relation to the under-mentioned types of property transactions:

- a) Letting of immovable property
- b) Approve the rental of immovable property let
- c) Authorize the amount of compensation to be paid by council where applicable to lessees whose leases are terminated before the expiry of the lease
- d) Authorize the payment of compensation in respect of servitudes for municipal services
- e) Renew an agreement of lease with the existing lessee in respect of immovable property where the lease provides for a renewal.
- f) Approve applications for the removal of reversionary claims
- g) Enter and renew private siding agreements in regard to private sidings on land within the municipal area
- h) Enter into and renew railway siding agreements in respect of council land on existing terms and conditions
- i) Enter into lease agreements where council is the lessee/tenant and the land or buildings are required for approved council purposes
- j) Appoint valuers on such terms and conditions as it may deem fit, in the event of it being considered necessary and in the interest of the council to obtain independent valuations advice regarding the acquisition or disposal of council land or rights in such land
- k) Appoint auctioneers to conduct the sale of council land by public auction provided that the necessary authority has been obtained for the sale of such land
- l) Authorize projections and projection structures over council's land to frame and conclude relevant agreements and to impose the levying of a fee
- m) Authorize encroachments over council's land, frame and conclude relevant agreements and impose the levying of a fee/tariff
- n) Approve applications for servitudes over council's land, frame and conclude relevant agreements and determine compensation to be paid

- o) Approve applications for the cession, assignment or sub-letting of leases and if required, to impose additional conditions
- p) Determine whether or not to cancel leases where the terms and conditions thereof have been breached and to institute legal proceedings for the eviction of lessees consequent upon such cancellation and for the recovery of monies owing to council where such cancellation arose from the lessees default in making timeous payment of such monies
- q) To frame the conditions of lease and to execute all documents in connection with the letting of council's immovable property
- r) Authorize the closure and letting of streets, lanes and public open spaces to adjoining owners for gardening and parking purposes only. Provided that the rental shall be in accordance with the tariff.

B By-law : LA 12783 (Section 4(1))
Policy : Approved 31/7/02 (Paragraph 3.8)

Sign all contracts and formal documents including work done on council land, road reserves, addenda to agreements, deeds of sale and all other documents, incidental, but not limited to property transactions, powers of attorney and declarations required for transfer purposes.

Authorize payment of all transfer and survey costs where such costs are for council's account.

Institute legal or other proceedings for the cancellation of a deed of sale and for the recovery of monies owing to council where such cancellation arose from the purchaser's default of complying with the conditions of sale within a reasonable time of conclusion of the sale.

C By-law : LA 12783 (Section 3(2), 60(1)(a))
Local Government : Municipal Systems Act, No 32 of 2000

Consider and recommend to Council via Mayco on the expropriation of immovable property or rights in or to immovable property within or outside the municipal area as well as the amount of compensation.

D Local Government : Municipal Systems Act, No 32 of 2000

Section 75

Recommend to council the approve of fixed tariffs to be levied in respect of all applications to purchase or lease municipal immovable property, to recover costs such as administration, drafting of agreement, advertisements and encroachments

Authorize payment of interest on approved purchases of land or buildings whether the municipality wishes to take or has already taken occupation of property prior to the registration of transfer in its favour .

E Deeds Registry Act, No 47 of 1937

Section 31

- a) Take transfer of land gratuitously ceded to the council or where the council is compelled to take transfer and authorization of the costs involved. b) Refund of pro-rata share of the rates paid in respect of the land as from the date of transfer to or occupation by the council whichever be the earlier

**F By-law : LA 12783 (Section 4(2))
Policy : Approved 31/7/02 (Paragraph 2.5)**

Assessing the market value of council land for rental purposes and determining a rental if the rental does not exceed the commercial activity value per month or recommending a rental to the appropriate authority, as the case may be

G Local Government : Municipal Property Rates Act, No 6 of 2004

Section 3

(Not assented to by the State President)

Authorization of the refund of a pro-rata share of rates paid in respect of land or buildings as from the date of transfer thereof to or occupation by the council whichever be the earlier

H By-law : LA 12783

Section 3.1, 3.2

Initiating, at the request of a service department, the acquisition of land or a right in land for any approved municipal scheme where provision has been made therefore on the current estimates and reporting thereon to the relevant authority provided that he/she may finalize any such transaction where the purchase price or compensation payable does not exceed the commercial activity value

Section 7

Repudiation of claims to ownership of municipal land by acquisitive prescription where such action is warranted

I Policy : Approved 31/7/02

Paragraph 4.8

Giving possession of land or buildings prior to conclusion of the formal lease agreement provided that the relevant authorities have been obtained and the lessee has indemnified the council in respect of such prior occupation

Paragraph 3.5

Permit occupation of municipal land by purchaser prior to registration in accordance with the conditions of sale, provided that such purchaser –
Deposits with council the purchase price or pay an occupational rental
Comply with any other condition that may be relevant in the circumstances

Paragraph 5

Authorize the temporary use of municipal land, limited to a period of 14 days and subject to such conditions which may be deemed fit.
Authorize of account adjustments in regard to lease agreements.

DIRECTOR: ENVIRONMENTAL PLANNING

A Conservation Of Agricultural Resources Act 43 1983 – Regulations (CARA Regs)

(Part II Sections 6 (2)(g)(j)(l) & (m))

Utilize and protect vegetation
Prevent and control veld fires
Combating of declared weeds and invader plants
Restore and reclaim eroded land

B National Veld And Forest Act Of 1998

Ch 4:S12-16; Ch5: Ss17-19

Prepare and maintain fire breaks
Combat and manage the spread of veld fires

C National Heritage Resources Act 25 Of 1999 (NHRA)

(Section 54)

Recommend to Council on the formulation of By-laws for heritage resources.

D National Environmental Management Act 107 Of 1998 (Nema)

Section 46(1)

Make recommendations on the adoption as municipal bylaw, any model bylaw made by Minister aimed at establishing measures for management of environmental impacts of any development within the City's jurisdiction.

National Environmental Management Act 107 Of 1998 (Nema) (Section 47)

Submit comments on any regulations made in terms of "the Act".

NEMA :Environmental Conservation Act 73 Of 1989 & Regulations (ECA) Part III : Protection of Natural Environment

Section 16(1)

If City is landowner, comment on both the intent by competent authority to declare a protected natural environment (PNE) and the intent to withdraw a declared PNE.

Section 16(6)

Concur with competent authority to control and manage a PNE

Section 17(3)

Appointment by competent authority to become a member of the Management Advisory Committee (MAC) that is responsible for control and management of the PNE.

Section 17(4)

Where LA is controlling and managing a PNE to concur with competent authority regarding appointment of members of MAC.

Section 17(7)

Where LA is controlling and managing a PNE, to designate employees as necessary to fulfill administrative duties of MAC.

Section 18(2)

Make recommendations, if City is landowner, re: intention to declare a Special Nature Reserve (SNR).

Section 18(4)

Make recommendations to control a SNR; consult regarding compilation of a management plan for the SNR.

Section 18(5)

Make amendments to a management plan.

Section 18(7)

Apply for exemption to gain admittance and to undertake certain activities within or on a SNR.

Part VI : Regulations

Sections 24 , 24(A), 25, 26 & 27

Make comment on draft regulations regarding waste management and products that may have a substantial detrimental effect on the environment or human health, on littering, noise, vibration and shock, on environmental impact reports and on LDA's.

NEMA :Environmental Conservation Act 73 Of 1989 & Regulations (ECA)

Section 28(A)

Apply for exemption from the application of any provision of any regulation, notice or direction promulgated or issued under the Act.

Section 33

Delegate or assign any duty conferred or assigned to the LA through the Act to any officer or employee within the LA.

ECONOMIC AND SOCIAL DEVELOPMENT PORTFOLIO

DIRECTOR: ECONOMIC AND HUMAN DEVELOPMENT

Informal Trading By-Law published in Provincial Gazette of 13 December 1996, PN 522/1996, in respect of the area of the Cape Town Municipality

Section 3 (b)(i)

Permit an informal trader to stay overnight at the place of business

Section 3 (b)(ii)

Permit an informal trader to erect a structure

Section 3 (f)

Instruct an informal trader to remove any goods in terms of section 4 or 5

Section 4 (d)

Grant exemptions to traders for the removal of packaging, material, stock and equipment

Section 6

Issue written proof that a trader has leased or allocated such stand or area to him/her

Informal Trading By-Law published in Provincial Gazette of 23 April 1999, PN 136/1999, in respect of the area of the former City of Tygerberg

Section 3 (b)(i)

Permit an informal trader to stay overnight at the place of business

Section 3 (b)(ii)

Permit an informal trader to erect a structure

Section 3 (f)

Instruct an informal trader to remove any goods in terms of section 4 or 5

Section 4 (d)

Grant exemptions to traders for the removal of packaging, material, stock and equipment

Section 8

Design, make display signs marking or other devices indicating a restricted or prohibited area

Section 10 (b)

Receive an appeal against a decision of Council

Informal Trading By-Law published in Provincial Gazette of 27 August 1999, PN 282/1999, in respect of the area of the former Blaauwberg Municipality

Section 3 (b)(i)

Permit an informal trader to stay overnight at the place of business

Section 3 (b)(ii)

Permit an informal trader to erect a structure

Section 3 (f)

Instruct an informal trader to remove any goods in terms of section 4 or 5

Section 4 (d)

Grant exemptions to traders for the removal of packaging, material, stock and equipment

Section 8

Design, make display signs marking or other devices indicating a restricted or prohibited area

Informal Trading By-Law published in Provincial Gazette of 20 November 1998, PN 633/1998, in respect of the area of the former South Peninsula Municipality;

Section 3 (b)(ii)

Permit an informal trader to erect a structure

Section 3 (f)

Instruct an informal trader to remove any goods in terms of section 4 or 5

Section 4 (d)

Grant exemptions to traders for the removal of packaging, material, stock and equipment

Section 8

Design, make display signs marking or other devices indicating a restricted or prohibited area

Informal Trading By-Law published in Provincial Gazette of 10 March 2000, PN 76/2000, in respect of the area of the Helderberg Municipality;

Section 3 (b)(ii)

Permit an informal trader to erect a structure

Section 4 (a)

Grant exemptions to traders for the removal of packaging, material, stock and equipment

Section 10

Design, make display signs marking or other devices indicating a restricted or prohibited area

Informal Trading By-Law published in Provincial Gazette of 29 May 1998, PN 290/1998, in respect of the area of the Oostenberg Municipality

Section 3 (b)(ii)

Permit an informal trader to erect a structure

Section 4 (a)

Grant exemptions to traders for the removal of packaging, material, stock and equipment

Section 8

Show written approval in terms of the by-law

Section 10(2)

Receive an appeal against a decision of Council

Establishing and Managing City Improvement Districts

City Improvement District By-Law (CID By-Law) promulgated 26 March 2004
Provincial Notice 6118 (Section 6)

Approve alternative venue for public meeting

CID By-Law (Section 7 (3))

Receive objections

CID By-Law (Section 8 (3))

Decide to re-advertise CID Plan

CID By-Law (Section 11 (2))

- a) Approve of an amendment forthwith which does not materially affect the right or interest of any person and
- b) Require the above amendment to be published by applicant

CID By-Law (Section 11 (4) (b))

Cause the notice to be published

CID By-Law (Section 12 (3))

Monitor compliance to provisions of CID By-Law

CID By-Law (Section 12 (4))

Conclude financial agreement

CID By-Law (Section 17 (1))

Investigate the need for a new By-Law for residential areas

Local Government Transition Act, No 209 of 1993 (Section 10 G (7))

- a) Cause a notice of the resolution of the CID levy to be displayed
- b) Determine venues at which notice is to be displayed
- c) Send copy of the levy resolution to the relevant MEC and
- d) Cause the notice of CID levy to be published in the manner decided by Council e.g. Daily newspapers and/or Government Gazette

INTEGRATED HUMAN SETTLEMENT SERVICES PORTFOLIO

DIRECTOR: HUMAN SETTLEMENT SERVICES

Act 107 of 1997	=	Housing Act
Act 32 of 2000	=	Local government Municipal Systems Act
Act 19 of 1998	=	Prevention of Illegal Eviction from and Unlawful Occupation of Land Act

Act 107 of 1997 (Housing Code in terms of Section 4)

Subject to the policies and procedures laid down by the Council from time to time, enter into and administer

- 1.1 lease and/or sell Council dwellings and single residential property (and related properties) to persons on the Council's waiting lists (housing estates only)
- 1.2 lease and determine rentals of business units, stores, stables, etc. within housing estate areas and subject to all necessary prescribed approvals having been obtained and procedures complied with and in consultation with Director: Property Management

Act 107 of 1997 (Housing Code in terms of Section 4)

Approve the registration of second bonds, by financial institutions, over properties in Council's homeownership schemes where the Council holds the first bond over such property, subject to:

- 2.1 the inclusion in the second bond of the following non-prejudice clause: This bond shall in no way interfere, prejudice or affect the rights and preference of the City of Cape Town in its prior ranking mortgage bond which rights and preference shall remain in all aspects as if this bond had not been passed. The property may not be declared executable or sold in execution at the instance of the mortgagee/s nor may the mortgagee/s foreclose under this bond without his/their first having obtained the municipality's consent in writing thereto and the mortgagee/s shall not cede or assign this bond without the prior written consent of the municipality and
- 2.2 further condition that the full amount of the second bond shall be used solely for the purpose of effecting permanent improvements to the property in question

Act 107 of 1997 (Housing Code in terms of Section 4)

1. Repossess, repurchase and resale; and
2. exercise Council's right of pre-emption in regard to houses in the Council's selling schemes on the terms and conditions laid down by Council.

Unlawful Occupation Policy 27 June 2001 C12/06/01

Subject to the relevant policies listed below, evict from Council premises any occupier who:

4.1 occupied such premises without the Council's permission or remained in occupation of such premises when the authorised tenant was no longer in occupation

4.2 puts such premises to illegal use

Act 107 of 1997 (In terms of In terms of Housing Code Section 4)

Deal with voluntary cancellations of sales of housing scheme land and dwellings in accordance with the policy of Council

Debt Management Policy 27 Nov 2001 (eviction for other breaches i.t.o. lease agreement)

Subject to the relevant policy, evict tenants of housing scheme lettings or to deal with them in any applicable manner subject to the provisions of any applicable legislation for any breaches of the lease agreement, such delegation to also apply to non-residential

Act 107 of 1997 (In terms of Housing Code Section 4)

Assist in the collection of housing scheme monies due on behalf of the Council

Act 107 of 1997(In terms of Housing Code Section 4)

Consider and grant waivers of the deposit payable on the sale price on the sale of vacant single residential housing scheme erven

Act 107 of 1997(In terms of Housing Code Section 4 and 9)

Allocate housing scheme dwellings on a priority basis on the terms and conditions determined by Council

Act 107 of 1977 (In terms of Housing Code Section 4)

Give prior occupation and pass the risk in any land within housing estate areas prior to the registration of transfer, to a purchaser in terms of the relevant conditions of sale, subject to all necessary authorities having been obtained

Act 107 of 1977 (In terms of Housing Code Section 4)

Authorise of the payment of all transfer, survey and incidental costs, in respect of housing estate properties that are for the Council's account

Act 107 of 1977 (In terms of Housing Code Section 14)

Frame appropriate terms and conditions in respect of formal agreements to be entered into regarding the acquisition, lease, sale, exchange and granting of land in housing estates acquired with housing funds

Act 107 of 1977 (In terms of Housing Code Section 14)

Determine the upset price and conditions of sale of Council land acquired with housing funds to be disposed of by public auction or public

Act 107 of 1977 (In terms of Housing Code Section 14)

Give notice to tenants to vacate Council owned properties required for the development of housing schemes/projects or for undertaking any town planning improvement, services upgrading or other public work

Act 107 of 1977 (In terms of Housing Code Section 4 and 9)

Take such decisions as may be necessary from time to time on matters affecting housing schemes

22.1 amendments to plans and specifications of dwellings

22.2 amendments to the layout plans of housing schemes including the layout of services

22.3 relocation of dwellings on residential sites within housing schemes necessitated by adverse subsoil conditions or by other unforeseen circumstances

Act 107 of 1977 (In terms of Housing Code Section 4)

Consider and grant applications for extensions of the building completion clause in terms of the agreement of sale regarding the development of vacant residential erven on housing land

Act 107 of 1977 (In terms of Housing Code Section 4 and 9)

Allocate new housing opportunities in new settlement developments as determined by Council

Act 107 of 1977 (In terms of Housing Code Section 9)

Submit application to the Provincial Housing Development Board for new housing settlement development and / or relevant planning application after budgetary approval by Council

Act 32 of 2000 (Section 4)

Demolish illegal unoccupied structures on Council owned land

Council resolution, 28 February 2003, Item C 30/02/03

Provide temporary housing relief measures in emergencies (eg. building kits)

Act 107 of 1997 (Section 14)

Allocate and conclude sales of religious, welfare and miscellaneous sites, where the land was acquired or developed with housing funds in terms of the relevant legislation (in consultation with Director: Property Management)

Act 107 of 1997 (Section 4)

Council funded properties used for commercial purposes in Council's housing estates

22.1 entering into leases and determining rentals for the re-letting of offices, business premises, garages, stables, vacant plots, etc. at economic rentals calculated by the Directorate : Property Management

22.2 issue and service of notices arising from the non-payment of rental or any other service charges for business premises or any breach of contract

SAFETY AND SECURITY PORTFOLIO

DIRECTOR: EMERGENCY SERVICES

Fire Brigade Services Act 1987 (Section 12(1) and (2))

Conclude a written agreement for the rendering of fire services and assistance outside the metropolitan boundary.

CHIEF : METROPOLITAN POLICE DEPARTMENT

Internal Matters

Determine the issue, life span and the type of uniform items and protective clothing and to determine which officials qualify for such clothing, In terms of the applicable conditions of service.

Operational Matters

Liaise with the media relating to technical operational matters and information and to provide instructions and advise for public safety and protection in the event of specific emergencies and emergency incidents.

Parking, Parking Meter And Toll Parking

Section A.137 Of The Road Traffic Act 29 / 1989.

Grant exemption regarding stipulation Of Any Law Regarding The Parking Of A Motor Vehicle Inside The Jurisdiction Of An Area With Regard To:

- (A) A Doctor
- (B) A Registered Midwife
- (C) Any Disabled Person

In Accordance With A.137 Of The Road Traffic Act 29 / 1989.

Traffic Safety

Section A6 (1) And (3) Of The Standard Ordinance In Accordance With Streets, P.K. 562 / 1976

Instructions To The Owner Or Occupant Of Property To Remove / Trim A Tree Or Any Growth That May Cause An Inconvenience, Danger Or Discomfort To Any Person Using Such Road, Failing Which, It May Be Removed / Trimmed At The Expense Of The Owner / Occupant – In Accordance With A6 (1) And (3) Of The Standard Ordinance In Accordance With Streets, P.K. 562 / 1976.
With A.11 Of The Road Ordinance, 19 / 1976.

Instructions To The Owner Of Grounds To Reduce The Height Of Any Trees, Bushes, Murals, Walls Or Fences, That Is Deemed Necessary For The Safety Of Pedestrians Or Traffic, In Accordance With A.11 Of The Road Ordinance, 19 / 1976.

Traffic Signs, Markings And Indicators

Section A.83(11) Of Road Traffic Act 29/1989.

Official Notice To The Owner/Occupant Of Land On Which An Object Is Being Displayed Where A Road Traffic Sign Is Hidden Or The Effectiveness Of Such A Sign Is Obstructed, To Remove Such Object Or By Ignoring Such Notice For It To Be Removed In Accordance With A.83(11) Of Road Traffic Act 29/1989.

Races And Sport On Public Roads

Section A111(3) Of Road Traffic Act 29/1989

Where Approval Was Granted For The Organizing Of Sport Or A Race On Public Roads (Delegated To Director: Administration Par 15.1) Exemption For The Duration There-Of Granted To Any One Person.
In Accordance With A111(3) Of Road Traffic Act 29/1989

Closure Or Re – Route Of Roads

Section A19(1)(B) Of Road Ordinance 19/1976.

The Temporary Closure Of Any Public Road Or Pavement Or Any Part There-Of Or Any Part Of A Road Surface Of Which Is Being Used For Building, Demolishing Etc, Across Or Through Such Roads, Where Hazardous Situations Exist And Emergency Situations Of Special Precaution For The Accommodation Of Spectators In Accordance A19(1)(B) Of Road Ordinance 19/1976.

S A Criminal Act 51 of 1977 Reg. 13

Persons appointed as Peace Officers (Traffic Officers). To enforce offences in the area of jurisdiction of the Municipality that appointed them.

Road Traffic Act 29 of 1989 Sect. 3

Appointment of persons:

1. Inspector of Licenses
2. Examiner of Vehicles
3. Examiner of Drivers Licenses
4. Traffic Officers
5. Traffic Wardens
6. Reserve Traffic Officers/Traffic Wardens/Casual Constables

Road Transp. Act 74 of 1977 Reg. 17

Persons appointed as authorised Officers to exercise powers and duties in terms of the Road Transportation Act and the Land Transition Act 22 of 2000 (Sect. 126).

Road Traffic Act 29 of 1989 Sect. 11

Powers and duties of Traffic Officers when in uniform including the powers and duties of Examiners of vehicles and driving licenses.

South African Police Service Act 68 of 1995 as amended by South African Police Service Amendment Act 83 of 1998: To provide for the establishment, organisation, regulation and control of the South African Police Service; and to provide for matters in connection therewith as read with the Regulations for Municipal Police Services under Section 64P of the South African Police Services Act, 1995 (Act No.68 of 1995)

South African Police Service Amendment Act 83 of 1998

Section 64C (2)(d)

Authorise suspension of an employee pending finalisation of disciplinary action
Regulations for Municipal Police Services Government Gazette Mp. 20142

Section 8

Certificate of appointment:

Issuing and replacement of a certificate of appointment in prescribed format.

South African Police Service Amendment Act 83 of 1998 Regulations for Municipal Police Services Government Gazette Mp. 20142

Section 3

Co-operation with the ICD

Co-operation agreement between ICD, SAPS and Metropolitan Police Agencies:

South African Police Service Amendment Act 83 of 1998

Section 13 of the South African Police Service Act, 1995 (Act 68 of 1995)

Only the powers referred to in subsection (4)(7)(C)(8) and (11): Provided that the reference to the National – Provincial Commissioner in subsection 8, interpreted as a reference to the Executive Head of the municipal police service. (*Powers referred to in sect.8:in writing authorise a member under his/her command to set up a roadblock or roadblocks on any public road in a particular area or to set up a checkpoint or checkpoints at any public place in a particular area)

Firearms Control Act (Act No 60 of 2000)

Section 95(a)(vi)

Application for accreditation as official institution

Section 98 (2)

Head of Institution to delegate powers in respect of issuing of permits to possess and use firearms

Section 87

Defaced, lost or stolen licenses; permits and authorisations

Section 83

Storage and Transport and Ammunition

Section 87

Duties of holder of Permits

Section 97

Official institution is subject to conditions in respect of acquisition, use, safekeeping and disposal of firearms as prescribed and to such conditions as imposed by the registrar

Section 99

Keeping a Register in prescribed form

Section 101

Establish and maintain a workstation. Provide registrar with access to workstation on registers as per 99

Section 98

Ensure adherence to instructions issued by the Head of the institution relating to acquisition storage, transport possession, use and disposal of firearms and ammunition.

Report loss or theft to the registrar and to the nearest police station

Section 102

Ensure compliance to the declaration of a person as unfit to possess firearm

Section 103

Declaration by court: unfitness

Section 104

Search and seizure of all competency certificates, licenses, authorisations and permits issued to relevant person

Section 105

Inspection of premises

Section 120

Offences

**South African Police Service Amendment Act 83 of 1998 (Section 64F
(3)(a)(b))**

An agreement between the municipal council and other municipal council in terms of section 10C (7) of the Local Government Transition Act, 1993 (Act 209 of 1993) for the purposes of operational pursuit outside boundaries.

TRANSPORT, ROADS AND STORMWATER PORTFOLIO

DIRECTOR: TRANSPORT

Local Government Transition Act 209/1993

Schedule 2

Perform the core City function as defined in the Urban Transport Act (209/1993 read with Provincial Proclamation No 12/1997 of 30 June 1997)

Urban Transport Act 78 of 1977

Section 17(a) & (c)

Prepare a transport plan.

Section 17(b)

Implement any applicable approved transport plan

Section 17(d)

Prepare (and maintain) a complete map of the Metropolitan Transport Area and make it available to any interested person

Section 17(e)

Conduct investigations in relation to the various aspects of transport

Section 17(f)

Revise and bring up to date the approved transport plan

Section 17(g)

Remain continually informed as to the transport problems, needs, policies and planning of any other local authority, the Department of Transport, the Provincial Administration and the operators and users of public transport

Section 17(h)

Conduct any investigation in connection with any scheme for amalgamating the revenues and expenditure of and the services rendered by, different transport undertakings

Section 17(j)

Administer the Consolidated Metropolitan Transport Fund

Section 17(l)

Conduct a program to involve the public in planning of urban transport facilities

Regional Services Councils Act 109 of 1985

[Provincial Proc. 60/1993 of 5 March 1993]

Passenger transport services including bus commuter transport services and the responsibility for the planning of bus commuter transport services in accordance with an approved passenger transport plan, the negotiation and contracting with bus operators, monitoring the provision of bus commuter services and the formulation of regulations... *[Provincial Proclamation 60/1993 of 5 March 1993]*

National Land Transport Transition Act 22 of 2000

Section 19(2)(c)

Prepare a "Public Transport Plan", which shall eventually include: A Current Public Transport Record"; an "Operating Licenses Strategy" and a "Rationalisation Plan"

Section 26(4)

After recommendation by Council, submit the "Public Transport Plan" to the relevant MEC for approval

Section 26(5)

Update the "Public Transport Plan" annually by a date determined by the relevant MEC

Section 23(1)

Prepare a "Current Public Transport Record"

Section 23(5)

Submit the “Current Public Transport Record” to the relevant MEC

Section 23(6)

Update the “Current Public Transport Record” annually in respect of prescribed matters

Section 24(1)

Prepare an “Operating Licenses Strategy” in accordance with prescribed requirements

Section 24(4)(a)

After recommendation by Council, submit the “Operating Licenses Strategy” to the relevant MEC for approval

Section 24(5)

Update the “Operating Licenses Strategy” continuously and consolidate it annually

Section 25(1)

Prepare (under defined circumstances relating to subsidised public transport only) a “Rationalisation Plan” in accordance with prescribed requirements

Section 25(4)

After recommendation by Council, submit the “Rationalisation Plan” to the relevant MEC for approval

Section 25(6)

Update the “Rationalisation Plan” annually

Section 19(2)(d)

Prepare an “Integrated Transport Plan”

Section 27(1) & 27(4)

After recommendation by Council, submit the “Integrated Transport Plan” to the relevant MEC annually at a date determined by the MEC

Section 29(1)

Publish the approved “Public Transport Plan or Integrated Transport Plan”

National Road Traffic Act 93 Of 1996

Section 57(3)(a)

Display Road Traffic Signs (Traffic Lights [robots] included)

Section 57(3)(b)

Authorise a person to display Road Traffic Signs. (Traffic Lights included)

Section 57(3)(c)

Determine conditions for display and removal of Road Traffic Signs. (Traffic Lights included)

National Land Transport Transition Act 22 of 2000

Section 29(1)(a)

Receive (by virtue of being a “Planning Authority” as defined in Act 22/2000) applications from all persons, including the State, parastatal institutions, agencies and utilities, applications regarding any substantial change or intensification of land use on any property

Section 29(1)(b)

Receive (by virtue of being a “Planning Authority” as defined in Act 22/2000) “Traffic Impact Assessments” and “Public Transport Assessments) as prescribed by the MEC

Section 29(2)(c)

- (1) Determine the nature and quantum of the cost of any new or upgraded transport infrastructure or services as may be proposed in a traffic impact assessment or public transport assessment; and,
- (2) Determine who should or shall be responsible for bearing such cost.

Section 29(2)(d)

Receive notice of any action (30 days prior thereto) which may result in a substantial decrease in the quantity or availability of land transport infrastructure or services, from owner of the relevant land or the holder of the relevant operating licenses.

Section 29(3)

- (1) Submit (within 14 days) to the Planning Authority any application (which involves substantial changes to or intensification in land use or development), within fourteen days of receipt and prior to considering or making any ruling thereon.
- (2) Ensure that any application (which involves substantial changes to or intensification in land use or development) is accompanied by the required "Traffic Impact Assessment" and "Public Transport Assessment" as well as sufficient other information when forwarded to the Planning Authority.

Section 29(4)(a)

Approve or refuse (within 28 days) an application for a change or intensification in land use or development proposal submitted in terms of subsection 29(3).

Section 29(4)(b)

Submit its written decision and any objections with respect to such application, including directions or conditions for compliance with the transport plans, to such authority vested under law with responsibility for considering the application.

Section 29(6)

Appear before a "Development tribunal" established in terms of the Development Facilitation Act, 1995 in the event of an appeal against a decision of the "Planning Authority

Section 29(10)

Apply to the High Court for a demolition order under certain circumstances.

Road Traffic Act No. 29 Of 1989 – Repealed by: National Road Traffic Act No. 93 of 1996

Section 137

Erect Road Traffic Signs which concern the movement or control of traffic in accordance with A8 of the Parking Meter Ordinance P.N. 852/1969

Section 137

Indicate monthly parking permits at any parking area for the use of holders of such permits and the issuing thereof, in accordance with Section 7 of the Ordinance regarding Toll Parking P.N. 779/1985

Roads Ordinance: No. 19 Of 1976

Section 10

Covered by Section 57(3) Of the National Road Traffic Act No 93 of 1996

Erect and maintain distance indicators, indicator poles, directions, and warnings on public roads and secondary roads.

Road Traffic Act No. 29 Of 1989 – Repealed by: National Road Traffic Act No. 93 of 1996

Section 83(3)4

Display, remove or adjust road traffic signs on any public road within the municipal area

Section 57(11), 83(11)1

Direct the owner or occupier of any land on which any road traffic sign or other object resembling a road traffic sign is displayed, or on which any object is displayed which obscures or interferes with the effectiveness of any road traffic sign, to remove such sign or object....

Approve and erect temporary directional indications to meetings, congresses etc.

National Land Transport Transition Act 22 of 2000

Section 5(10)

Establishing Transport Authorities

Section 7(18)

Transport Planning

Section 19(1)c-g

Types of Transport Plans required

Section 19(2)c

Preparation of Public Transport Plans

Section 19(2)(d)

Preparation of an Integrated Transport Plan

Section 20

Planning authorities

Section 39

Operating licenses for public transport services

Section 51

Withdrawal of operating licence or permit

Section 79

Continuation and conversion of existing permits

Section 83

Disposing of applications with regard to operating licenses for non-contracted services

Municipal Systems Act 2000

Section 62

Comment on appeals

DIRECTOR: ROADS AND STORMWATER

Roads Ordinance (No. 19 of 1976)

Section 7 (2)

Construct and maintain every public road where the City is the road authority

Section 8 (1)

Undertaking and cost of work on public roads (by agreement with another road authority).

Section 10

Erect and maintain direction signposts, distance indicators. To resolve with CP

Section 11

Regulation of walls and hedges at road corners.

Section 12

Erection and maintenance of fences along public roads.

Section 13

Erection of gates across public roads.

Section 14

Removal of gates across public roads.

Section 15

Construction and closure of motor by-passes.

Section 16

Establish and maintain rest camps, rest places and stock camps.

Section 17

Regulate the erection of structures on or near public roads.

Section 18

Regulate access to and exit from certain public roads.

Section 19

Administer the temporary closing and diversion of public roads.

Section 20

Required to indicate the closing of public roads.

Section 28

Permit inspection of property for any purpose as required by this Ordinance.

Section 59

Permit right of entry / access to any land for road related purposes.

Advertising on Roads and Ribbon Development Act (No. 21 of 1940)

Section 8

Regulate the depositing or leaving of certain articles or materials near public roads [Note 3] outside the urban area.

Section 9

Regulate the erection of structures near building restriction roads outside the urban area.

Section 9A

Regulate the erection of structures or construction of other things near intersection of building restriction roads outside the urban area.

Section 10

Regulate the restriction of access to land through fences etc along certain public roads outside the urban area.

Section 11

Restriction on establishment of extension of townships near building restriction roads outside the urban area.

Municipal Ordinance (No. 20 of 1974)

Section 129(a)

Make and construct, reconstruct, alter and maintain public streets (and public places).

Section 138

Temporary closure and deviation of public streets (and public places).

Section 176

Right of entry/ access to any property for the purpose of inspection or doing anything authorized or required to be done by the Council in terms of the Ordinance.

Standard By-law relating to Streets (PN 562 of 1987)

Section 2

Regulate the construction or laying of footways or any other encroachment in a street.

Section 7

Regulate the depositing /dumping of building or waste materials, rubbish, other waste products in a street.

Section 10

Regulate the use of explosives on or near a street.

Section 12

Regulate the erection of fences on street boundaries.

Section 13

Regulate the placement of building materials in streets.

Section 17

Regulate the protection of street surfaces.

Section 18

Regulate the damaging of notice boards, traffic signs, street name signs on streets.

Section 20

Regulate any excavations in streets.

Section 30

Regulate the building of bridges and crossings over gutters (channels) and sidewalks (footways) in streets.

Section 34

Permit the recovery of costs in performing the street functions of this Standard By-Laws.

Municipal Systems Act 2000

Section 62

Comments on appeals

UTILITY SERVICES PORTFOLIO

DIRECTOR: SOLID WASTE

Authorise the implementation of non-standard refuse collection where conditions do not permit a standard service.

Authorise an application from a recognised waste minimisation group or club for a Minimised Basic refuse collection service.

Authorise the implementation of a community-based refuse collection service for communities that are socio-economically disadvantaged, subject to the provisions of Council's Procurement Policy.

Approval of waste management infrastructure and waste management systems that should be provided for new building developments that cannot be serviced by normal means

Solid Waste Tariffs (Section 1.2.8.1)

Authorise the issuing of bags at no cost for clean up campaigns.

Dumping & Littering By-Law (Section 2(4))

Issue notices w.r.t. dumping on private property.

Dumping & Littering By-Law (Section 2(5))

Arrange cleanup of private property and recover costs.

DWAF "Minimum Requirements Guidelines – 1998 Series - Environment Conservation Act (No. 73 of 1989) (Section S20(5)(6))

Administration, approval and issuing of "special waste" permits pertaining to the handling, transport, and disposal of all types of "special waste" which includes hazardous waste within the City's boundaries

DIRECTOR: WATER

National Water Act: Act 36 of 1998.

Environmental Conservation Act: Act 73 of 1989.

Sections 117-123 and Regulation no 1560 dated 25 July 1986

Ensure that the storage dams and bulk reservoirs for water supply to the region are operated in terms of the Dam Safety Regulations promulgated under the National Water Act.

Water Act: Act 36 of 1998 - Regulations

Regulation no 2834 dated 27 December 1985

Erection, enlargement and operation of water treatment plants.

Occupational Health and Safety Act, Act 85 of 1993 including Major Hazard Installation Regulations promulgated under it

Section 8(1) & 8(2)

Implement an Occupational Health and Safety programme at the work place

Water Services By-law – Provincial Gazette No 5994 dated 28 March 2003

Pg 352 Sections 2 to 6

Implementation and Enforcement of relevant conditions as set out in Procedure 4 of the Water Services By-law.

Wastewater and Industrial Effluent By-law Provincial Gazette Extraordinary No 5582 – Notice no 466 dated 15 September 2000

Sections 2 to 14

Monitoring infrastructure requirements. Industrial effluent discharges and monitoring industrial effluents for compliance as set out in the by-law.

The minimisation of water pollution arising from commercial and industrial activity

Water Act : Act 36 of 1998 – DWAF Operational guideline No U2.1

Section 27(1)

Comply with the requirements of the Department of Water Affairs and Forestry in respect of application for permits regarding wastewater treatment, by-product disposal and effluent re-use.

Water Act : Act 36 of 1998 - Regulations

Regulation no 2834 dated 27 December 1985

Erection, enlargement and operation of wastewater treatment plants.

SERVICE DELIVERY INTEGRATION

DIRECTOR: INNOVATION, INFORMATION AND KNOWLEDGE MANAGEMENT

Act 8 of 1997

Section 42(4)a)

The positioning, creation and maintenance of the Town Survey Mark Reference System which provides Land Surveyors with a detailed reference grid to enable the positional fixing of property or engineering services

CITY OMBUDSMAN

Executive Committee 7 May 2002 (EXCO29/05/02)

Investigate and handle both internal and public complaints.

Demand access to any book, record, file or other documents or record of the Council i.e.

Internal investigations – General Complaints Office Management
Public Complaints – Legislative Compliance and Investigations
Interview any employee for the purpose of giving evidence.

Exclude from any examination or meeting any person whose presence, in the circumstances, is not desirable.

Enter any premises owned, controlled or managed by the council or an entity for the purposes of any investigation and to examine any record or thing in the course of such a visit.

Recommend corrective actions

Conduct a preliminary investigation for the purpose of determining the merits of the complaint.

Provide an informal mediation and conciliation service to staff members.

Investigate complaints directed to the Speaker's Office in consultation with the Speaker and make recommendations to the Speaker.

MANAGERS

- 52. Determines the operational procedures and formulate policy in respect of all matters falling within the functional areas of the branch concerned and within his/her delegated authority, where such authority is not delegated to any other level.
- 53. To enter into and signs contracts that have arisen out of the relevant approval processes falling within his/her functional area in consultation with Legal Services.
- 54. To exercise any delegation or sub-delegation that may be conferred on him/her by the City Manager, Executive Director or Director.

- PART 6 –

DELEGATION OF POWERS TO COMMITTEES OF OFFICIALS

- Bid Adjudication Committee

BID ADJUDICATION COMMITTEE

The following has been delegated by Council to the committee:

1. To make a final award in respect of the procurement of goods and services where such award exceeds R200 000,00.
2. To lease Municipal property when the value of the lease exceeds R200 000,00.
3. To make recommendations to Council in terms of section 14 of the MFMA in respect of the permanent disposal of Council owned land.

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CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

THIS CITY WORKS FOR YOU

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OFFICE OF THE CITY MANAGER — MR A EBRAHIM

1 September 2006

All Executive Directors
All Directors
All Managers

Delegation of Powers Duties and Functions

In terms of the authority granted to me by Council, I hereby delegate and sub-delegate the powers, duties and functions conferred on me, respectively by statute and delegation, to all Executive Directors, Directors and Managers as set out below.

[Note: The numbers refer to the corresponding paragraphs relating to the City Manager in the System of Delegation, adopted by Council on 30 August 2006.]

<u>All Executive Directors</u>	<u>All Directors</u>	<u>All Managers</u>
3.1 and 3.2		
6.1		
7.1, 7.2, 7.4 and 7.5	7.4 and 7.5	7.4
8.1	8.1	
9.1	9.1	
10.1	10.1	
11.1	11.1	
12.1 and 12.2	12.2	
13.1	13.1	13.1
14.1	14.1	14.1
16.1, 16.2, 16.4 and 16.6	16.6	
29.1	29.1	

The following additional specific powers, duties and functions are delegated/sub-delegated to the relevant Executive Director and Director

Executive Director: Corporate Services

2.1 to 2.4, 3.3 and 3.4, 7.3, 8.2, 10.2 to 10.4, 14.4 and 14.5, 16.3, 16.5, 16.7, 17.1, 18.1 and 18.2, 19.1, 20.1
27.2, 27.6 and 27.8

THIS CITY WORKS FOR YOU ESI SIXEKO SISEBENZELA WENA HIERDIE STAD WERK VIR JOU

The Chief Financial Officer

15.1, 18.3, **28.1**, **30.6**, 33 to 43

The Director: Planning

21.1, 22.1, 23.1 to 23.7, **24.1**, 24.2 to 24.7, **25.1**, 25.2 to 25.6 and **26.1**

The Director: Property

27.9

The Director: Legal Strategy

32.2, **32.4** to **32.4.4**

Please note the following -

- A delegated power, duty and function may only be exercised within the incumbent's jurisdictional and functional area;
- Any of the delegated powers, duties and functions may be sub-delegated once and no further sub-delegation is permitted, with the exception of those items in **bold** which may not be sub-delegated;
- These delegations and sub-delegations must be read in the context of the entire System of Delegation and not in isolation;
- Each Manager, Director and Executive Director must on a quarterly basis report on decisions taken in terms of their delegated or sub-delegated power to the respective delegating authority;

I trust that these delegations will facilitate service delivery in the interests of the community we serve.

Please also note that all delegations and sub-delegations will be subject to ongoing review.

Many thanks



A Ebrahim
City Manager