



# ***SYSTEM OF DELEGATIONS***

## ***CITY OF CAPE TOWN***

ADOPTED BY COUNCIL ON 29 AUGUST 2007

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- 31 OCTOBER 2007
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## DEFINITIONS

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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.

**“Delegating authority”** shall have the meaning assigned thereto in the Systems Act.

**“Designation”** in relation to decisions by the Executive Mayor means decisions relating to 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.

*[Amended C08/12/08 by CI 3 December 2008]*

**“Manager directly accountable to the City Manager”** means managers appointed in terms of section 56 of the Municipal Systems Act 32 of 2000.

*[Inserted C08/12/08 by CI 3 December 2008]*

**“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 when all councillors shall be on official leave and such period shall commence at 17h00 and shall terminate at 08h00 on the dates determined.

**“Executive Director”** means official reporting level 1.

**“Director”** means official reporting level 2.

**“Manager/Head”** means official reporting level 3.

# INTRODUCTION

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## Content

Part 1 deals with Powers that may not be Delegated by Law

Part 2 deals with Statutory Powers, Duties and Rights

Part 3 deals with delegations to Political Office Bearers

Part 4 deals with delegations to Political Structures of Council

Part 5 deals with delegations to the City Manager

Part 6 Deals with delegations to the Officials

Part 7 deals with delegations to Committees of Officials

Part 8 deals with legal provisions prohibiting delegation

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This System of Delegation 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 section 80 Committees *[Inserted C08/12/08 by CI 3 December 2008]*
- Supply Chain Management Bid Adjudication Committee  
*[Inserted C08/12/08 by CI 3 December 2008]*
- the Subcouncils
- the Staff

The political office bearers, whips, political structures and staff members are authorised to sub-delegate any of their delegated powers, duties and functions unless this provision is specifically excluded in this system. Where a matter has been delegated to an individual Councillor, the matter cannot be delegated or sub-delegated to an official. A subcouncil's powers to delegate or sub-delegate any of its powers, duties and functions are limited to members of the municipal staff in terms of section 17 the Cape Town Subcouncil By-law 2003.

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 a staff member, of the responsibility concerning the exercise of the power or the performance of the duty.

A political structure, a political office bearer or a staff member 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, unless this system specifically provides otherwise.

A political structure, political office bearer or councillor of a municipality to whom the Council as the 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.

*[Amended C55/11/09 by CI 26 November 2009]*

NOTE that in respect of a staff member, the Executive Mayor is nominated to receive reports on behalf of Council in respect of a power or duty delegated by Council.

*[Inserted C55/11/09 by CI 26 November 2009]*

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 a staff member must comply with the provisions of Council's policies, By-laws and any law relating to the matter under consideration.

The exercising of any power, duty or function includes the right to do anything reasonably necessary for or incidental to the effective performance of such power, duty or function.

*[Inserted C74/10/07 by CI 31 October 2007]*

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.

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

**NOTE:**

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

A power or duty may not be conferred upon more than one person or political structure. In the case of irreconcilable provisions, higher political structure or executive authority shall prevail.

*[Amended C55/11/09 by CI 26 November 2009]*

## **- PART 1 -**

### **NON-DELEGABLE POWERS OF COUNCIL**

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

#### **1. Financial**

- (a) Passing of by-laws;
  - section 160(2) of the Constitution
- (b) Approval of budgets;
  - section 160(2) of the Constitution
- (c) Imposition of rates and other taxes, levies and duties; and
  - section 160(2) of the Constitution
- (d) Raising of loans.
  - section 160(2) of the Constitution
- (e) Approval of an integrated development plan and any amendment to that plan
  - section 30 of the Structures Act

#### **2. Political**

- (a) Dissolution of council
  - section 34 of the Structures Act

- (b) Election of speaker
  - section 36 of the Structures Act
- (c) Removal of Speaker from office.
  - section 40 of the Structures Act
- (d) Election of another councillor to act as speaker (per occasion)
  - section 41 of the Structures Act.
- (e) Election of executive mayor and executive deputy mayor.
  - section 55 of the Structures Act
- (f) Removal of executive mayor or deputy executive mayor from office.
  - section 58 of the Structures Act
- (g) Establishment of metropolitan subcouncils
  - section 62 of the Structures Act
- (h) 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
- (i) 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
- (j) Determining the salary and allowances of councillors
  - section 7 of the Remuneration of Public Office Bearers Act
- (k) Determining the fine for non-attendance of meetings

- Item 4(1) of Schedule 1 of the Systems Act

### 3. Staff

#### (a) 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)
- Mgoqi v City of Cape Town and another; in re: City of Cape Town vs Mgoqi and another (2006) JOL 17349 (C)

#### (b) 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

#### (c) Appointment of building control officer

- section 5(1) read with section 28 (4) of the National Building Regulations Act

### 4. Legal

#### (a) Entering into of a service delivery agreement in terms of section 76 (b) of the Systems Act

- section 59 of the Systems Act

#### (b) In terms of Section 59 of the Systems Act only Council can delegate its powers, duties and functions

- Mgoqi v City of Cape Town and another; in re: City of Cape Town vs Mgoqi and another (2006) JOL 17349 (C)

- (c) Disposal of capital assets
- section 14 of the MFMA
- (d) To authorise the City Manager to conduct a public participation process prior to the Council considering the transfer or disposal of a non-exempted capital asset of a value in excess of R50 million
- (reg 5 of the Asset Transfer Regulations, 2008)  
*[Inserted C08/12/08 by CI 3 December 2008]*
- (e) To authorise the City Manager to conduct a public participation process prior to Council considering the proposed granting of a right to use, control or manage a capital asset of a value in excess of R10 million and for a proposed period of longer than three years.
- (reg 34 of the Asset Transfer Regulations, 2008)  
*[Inserted C08/12/08 by CI 3 December 2008]*

## **- PART 2 -**

### **STATUTORY POWERS, DUTIES AND RIGHTS**

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

## EXECUTIVE MAYOR

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*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. Notwithstanding this, the final decision is that of the Executive Mayor after duly considering the recommendations of the Mayoral Committee. The criteria used for identifying whether such powers need to be designated or not, are as follows:* *[Amended C70/10/10 by CI 27 October 2010]*

- 1. The need to take urgent decisions*
- 2. The importance of the matter;*
- 3. Whether checks and balances have already been incorporated in the System of Delegation which makes designation unnecessary; and*
- 4. Whether the nature of the power makes designation impossible.*

*A power or duty so designated is not delegable; see "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.<sup>1</sup>

(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.<sup>2</sup>

(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.

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1 The Executive Mayor delegated this power to all Mayoral Committee members, within the functional area of their relevant portfolios only.

2 The Executive Mayor has delegated this power to all Mayoral Committee members, within the functional area of their relevant portfolios only.

(3)(d) Monitors the management of the municipality's administration in accordance with the directions of the council.<sup>3</sup>

(3)(e) Oversees the provision of services to communities in the municipality in a sustainable manner.<sup>4</sup>

(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.<sup>5</sup>

(3)(h) Ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.<sup>6</sup>

(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.

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3 The Executive Mayor delegated this power to all Mayoral Committee members in respect of their relevant portfolios only.

4 The Executive Mayor delegated this power to all Mayoral Committee members in respect of their relevant portfolios only.

5 The Executive Mayor delegated this power to all Mayoral Committee members in respect of their relevant portfolios only.

6 The Executive Mayor delegated this power to all Mayoral Committee members in respect of their relevant portfolios only.

(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.

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.<sup>7</sup>

##### 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.

(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

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<sup>7</sup> The Executive Mayor delegated this power to the Mayoral Committee member Finance

- (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.<sup>8</sup>

#### 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.<sup>9</sup>

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<sup>8</sup> The Executive Mayor delegated this power to the Mayoral Committee member Finance

<sup>9</sup> The Executive Mayor delegated this power to the Mayoral Committee member Finance

### 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. |
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(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]

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| <p>(1) Must, on receipt of a statement or report submitted by the accounting officer in terms of section 71 or 72-</p> <ul style="list-style-type: none"><li>(a) consider the statement or report;</li><li>(b) check whether the municipality's approved budget is implemented in accordance with the service delivery and budget implementation plan;</li><li>(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;</li><li>(d) issue any appropriate instructions to the accounting officer to ensure-<ul style="list-style-type: none"><li>i) that the budget is implemented in accordance with the service delivery and budget implementation plan; and</li><li>ii) that spending of funds and revenue collection proceed in accordance with the budget;</li></ul></li></ul> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- 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.<sup>10</sup>
- (3) Must, if for whatever reason, the annual report is not tabled, within seven months after the end of the financial year -<sup>11</sup>
  - (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<sup>12</sup>
  - (b) submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.<sup>13</sup>

#### 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,

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10 The Executive Mayor delegated this power to the Mayoral Committee member Finance

11 The Executive Mayor delegated this power to the Mayoral Committee member Finance

12 The Executive Mayor delegated this power to the Mayoral Committee member Finance

13 The Executive Mayor delegated this power to the Mayoral Committee member Finance

promptly table in the council a written explanation setting out the reasons for the failure.

- 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.

H. The Local Government: Municipal Performance Regulations For Municipal Managers And Managers Directly Accountable To Municipal Managers, 2006

(Gn 805 Of 1 August 2006)

The regulations confer various powers on the Executive Mayor in relation to the City manager; see the definition of employer -

"employer" means the municipality employing a person as a municipal manager or as a manager directly accountable to a municipal manager and as represented by the mayor, executive mayor or municipal manager as the case may be;

These powers relate *inter alia* to-

- A written employment contract for a municipal manager
- A written performance agreement for a municipal manager
- Conditions of service
- Performance bonus
- Precautionary suspension
- Performance management system

## SPEAKER

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### 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]

*[Inserted C55/11/09 by CI 26 November 2009]*

- (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 or Disciplinary Committee as the case may be after paragraphs (a) and (b) have been complied with.

*[Amended C55/11/09 by CI 26 November 2009]*

- (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.

Declaration of interests [Item 5A Code of Conduct for Municipal Staff Members]

- (1) A person appointed in terms of section 56 or a municipal manager must within 60 days after his or her appointment declare in writing to the chairperson of the municipal council the following interests held by that person or municipal manager:
- (a) shares and securities in any company;
  - (b) membership of any close corporation;
  - (c) interest in any trust;
  - (d) directorships;
  - (e) partnerships;
  - (f) other financial interests in any business undertaking;
  - (g) interest in property; and
  - (h) subsidies, grants and sponsorships by any organisation.

*[Inserted C08/12/08 by CI 3 December 2008]*

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;

### D. Promotion Of Access To Information Act, Act 2000

To determine internal appeals in terms of the Promotion of Access to Information Act 2 of 2000 as the designated relevant authority in terms thereof.

## SUBCOUNCILS

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### 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

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*This committee considers appeals against decisions taken in terms of a power or duty delegated or sub-delegated by a delegating authority to a political structure, political office bearer or councillor.*

*[Amended C08/12/08 by CI 3 December 2008]*

### 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

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### **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 3 -**

### **DELEGATION OF POWERS TO POLITICAL OFFICE BEARERS**

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

## EXECUTIVE MAYOR

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*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 used for identifying whether such powers need to be designated or not, are as follows:*

- 1. The need to take urgent decisions*
- 2. The importance of the matter;*
- 3. Whether checks and balances have already been incorporated in the System of Delegation which makes designation unnecessary; and*
- 4. Whether the nature of the power makes designation impossible.*

*A power or duty so designated is not delegable; see "Constitutional Court in Democratic Alliance and another v Masondo and another 2003(2) BCLR 128 (CC)".*

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

- 1. Civic And Ceremonial Duties*
  - (1) To receive and interview representatives and delegations from international and national agencies, public interest groups etc.*

- (2) To represent the Council at meetings and functions other than those outside bodies to which Councillors have been nominated.
- (3) To make media statements on all matters on behalf of the City.<sup>14</sup>
- (4) To perform the following ceremonial duties:
  - (a) Opening projects, civic functions and events, and new buildings;
  - (b) Hosting and welcoming dignitaries;
- (5) To present a medal, memento, address or other commemorative token to-
  - a) any person who holds or has held office as a councillor (excluding aldermanship);
  - b) any person who is or was an employee of the council, for long or outstanding service with the council;
  - d) public dignitaries, in commemoration of a public event of local or international importance, or
  - d) any person –
    - (i) for gaining distinction in a public examination
    - (ii) for performing an act of bravery within its municipal area, or
    - (iii) for a meritorious achievement within its municipal area.
- (6) To enter into co-operative agreements with other cities, pledges on international matters of public interest, provided that these do not create any financial obligations.

*[Inserted C71/05/08 by CI 28 May 2008]*

*[Inserted C71/05/08 by CI 28 May 2008]*

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<sup>14</sup> The Executive Mayor has sub-delegated to all Mayoral Committee members the power to make media statements in respect of their relevant portfolios.

## 2. Corporate Entities, Utilities, Agencies

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

(2) To nominate to, or remove or recall Councillors from outside bodies, after considering recommendations from the Chief Whip.

(3) To appoint to, 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.

(4) To designate a councillor or an official as municipal representative in terms of section 93D of the Systems Act and to instruct the municipal representative how to exercise the City's rights and responsibilities as a shareholder.  
*[Inserted C08/12/08 by CI 3 December 2008]*

## 3. Legal

(1) To institute or defend legal proceedings, in any court, against other organs of state, where all reasonable steps in terms of the principles of co-operative government have failed.

(2) To institute or defend any court action in the High Court or Court of equal stature, {excluding claims relating to recovery of debt owed to the Council}, in respect of matters referred to in paragraph (7)(a) to (d), in his or her sole discretion. In any other matter this delegation is to be exercised, after considering a recommendation from the City Manager.

- (3) To institute or defend arbitration proceedings in matters where it otherwise would have been dealt with in the High Court or a court of equal stature, in respect of matters referred to in paragraph (7)(a) to (d), in his or her sole discretion. In any other matter this delegation is to be exercised, after considering a recommendation from the City Manager.
- (4) To institute or defend appeal proceedings in the High Court or a court of equal stature, Supreme Court of Appeal or the Constitutional Court, , in respect of matters referred to in paragraph (7)(a) to (d), in his or her sole discretion. In any other matter this delegation is to be exercised, after considering a recommendation from the City Manager.

*[Amended C08/12/08 by CI 3 December 2008]*

- (5) To settle after considering a recommendation from the City Manager:
  - (a) any action instituted in any competent court excluding magistrates' court.
  - (b) arbitration referred to in (3) above
  - (c) any other arbitration where the value of the settlement exceeds R500 000
  - (d) any debt in a High Court in excess of R10 000 000.
- (6) To settle those matters referred to in paragraph (7)(a) to (d), in his or her sole discretion.
- (7) To obtain legal opinions including Senior Counsel's on any matter, including the following:
  - (a) The appointment, composition, powers and functions of political office bearers and political structures of Council;

*[Amended C43/06/09 by CI 25 June 2009]*

- (b) The appointment, discipline and conditions of service of the City Manager;  
*[Amended C43/06/09 by CI 25 June 2009]*
  - (c) The appointment, discipline and conditions of service of Managers directly accountable to the City Manager; and  
*[Amended C43/06/09 by CI 25 June 2009]*
  - (d) Any matter affecting the constitutional powers of the municipality.
- (8) 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.
- (9) 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 only where the matter relates to a councillor -
- (a) where legal proceedings have been instituted against the Councillor or staff member 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
  - (b) where a Councillor or staff member 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
- (10) To appoint lawyers, attorneys and Counsel to provide professional assistance including that of Senior Counsel on any matter.  
*[Amended C43/06/09 by CI 25 June 2009]*

#### 4. Human Resources

(1) To determine a short list of candidates for appointment as City Manager, to interview these candidates and to make recommendations to Council on a preferred candidate.

(2) To determine, after consultation with the City Manager, a short list of candidates for appointment as managers directly accountable to the City Manager; to interview these candidates and to make recommendations to Council on the preferred candidates.

(3) To exercise the rights and obligations of Council in terms of the employment contracts of the City Manager and managers directly accountable to the City Manager, excluding disciplinary matters.

*[Amended C55/11/09 by CI 26 November 2009]*

(4) 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.<sup>15</sup>

(5) To authorise the City Manager to attend congresses, workshops, meetings, court and related legal engagements outside the boundaries of the municipality and abroad.

*[Amended C43/06/09 by CI 25 June 2009]*

(6) To report to Council on the evaluation of the performance of the City Manager and managers directly accountable to him/her {in terms of Section 56} in terms of their performance agreements 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.

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<sup>15</sup> Mayoral Committee Member : Corporate Services and Human Resources, is delegated with full authority to perform this function in instances where neither the Executive Mayor nor the Executive Deputy Mayor is available to perform such function.

- (7) To grant the City Manager leave and sick leave.
- (8) To appoint an Acting City Manager or Acting City Managers for a period not exceeding 60 days in any calendar year whereafter any further appointments for any person to act as City Manager shall be approved by Council.

*[Amended C43/06/09 by CI 25 June 2009]*

- (9) To appoint, after consultation with the City Manager, acting managers directly accountable to the City Manager, for a period in excess of 30 days, provided that the total number of days for which any person may be so appointed per directorate by the City Manager and the Executive Mayor, shall not exceed 60 days in total in any calendar year, whereafter any further appointments for any person to act as acting managers directly accountable to the City Manager shall be approved by Council.

*[Amended C43/06/09 by CI 25 June 2009]*

10. To approve after consultation with the City Manager and the Chief Financial Officer matters affecting the Cape Municipal Pension Fund or any other employees pension fund, where the Actuary of the fund concerned has certified that the municipality will not be financially prejudiced, where the relevant pension fund requires Council approval.

*[Inserted C55/11/09 by CI 26 November 2009]*

## 5. Finance and Audit

- (1) To consider audit reports and to make recommendations to Council.

- (2) To authorize audit investigations.

- (3) To authorize forensic investigations into alleged irregularities where the City Manager and managers directly accountable to him/her may be implicated.
- (4) To determine from time to time the maximum amount that the City Manager may authorize in respect of the transfer of operational and capital expenditure (within a single budget vote).<sup>16</sup>

*[Amended C119/05/10 by CI 25 May 2010]*

- (5) To authorise the transfer of operational (within a single budget vote) expenditure over and above the maximum amount determined above from time to time.
- (6) To incur expenditure necessary for the performance of the functions in the office of the Executive Mayor within budget.
- (7) To write off individual bad debts exceeding R5 million on the recommendation of the Chief Financial Officer, provided that :
  - (a) an individual bad debt written off shall not exceed R10 million, and
  - (b) an individual bad debt shall not be split into parts or items of a lesser value merely to avoid complying with the restriction of R10 million.

*[Amended C43/06/09 by CI 25 June 2009]*

- (8) To decide in terms of section 12(4) of the MFMA 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.

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<sup>16</sup> Maximum amount to transfer be limited up to an amount of R2 million and that such transfer needs to be effected in consultation with the relevant Mayoral Committee member – it is not permissible to sub-delegate these powers. Note : The authorisation of the transfer of operational expenditure (within a single budget vote) in excess of R2 million and up to R5 million, has been delegated to the Mayoral Committee member for Finance. Any amount above R5 million is to be approved by the Executive Mayor.

- (9) To establish relief, charitable, trusts or other funds in the Municipality's name as provided for in terms of section 12(1) of the MFMA.
- (10) To receive any grant, donation or gift and to agree to the conditions in terms of which said are made and to authorise the signing of any related documentation.

*[Inserted C74/10/07 by CI 31 October 2007]  
[Amended C119/05/10 by CI 25 May 2010]*

## 6. Purchase And Lease And Expropriation Of Immovable Property

- (1) To authorise the purchase of immovable property or rights in or to immovable property for cash or any other consideration, after considering a report from the Director : Property Management or in the case of the acquisition of land for housing, the Director : Strategy, Support and Coordination. Provided that this delegation shall not detract from any powers which may be exercised in terms of relevant planning laws.

*[Amended C71/05/08 by CI 28 May 2008]  
[Amended C119/05/10 by CI 25 May 2010]*

- (2) To lease immovable property from private or public bodies or any person where the value of the lease exceeds R200 000 per annum.

- (3) To cancel, amend, sign and exercise all rights and duties in terms of a lease entered into in terms of the preceding paragraph.

- (4) To expropriate immovable property or rights in or to immovable property.

## 7. Integrated Development Planning (IDP)

- (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.

(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.

(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.

(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 Of Municipality

(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.<sup>17</sup>

(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.<sup>18</sup>

(3) To exercise all of the powers relating to Core Components as provided for in section 41 of the Systems Act.

(4) 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.<sup>19</sup>

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<sup>17</sup> The Executive Mayor sub-delegated this power to the Mayoral Committee member Corporate Services & Human Resources

<sup>18</sup> The Executive Mayor sub-delegated this power to the Mayoral Committee member Corporate Services & Human Resources

<sup>19</sup> 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 & Human Resources has also been delegated to co-ordinate this process and report to the Executive Mayor.

- (5) 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, within nine (9) months after the end of a financial year.  
{Note: to present means to prepare and submit}

9. Performance Management Of The City Manager And Managers Directly Accountable To Him Or Her

- (1) To constitute evaluation panels for the purpose of evaluation of the annual performance of the municipal manager and managers directly accountable to him or her in terms of regulation 27 of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to municipal managers, 2006 (GN 805 of 1 August 2006).

10. General

- (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 and to and determine strategies that will inform such consultations.

- (2) To determine appropriate actions to be taken arising from consultations referred to (1) above.

- (3) To authorise Councillors to attend or undertake congresses, workshops, meetings and study tours which are relevant to Council, within or outside the RSA.<sup>20</sup>

- (3)(a) To attend or undertake congresses, workshops, meetings and study tours which are relevant to Council, within or outside South Africa.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (4) To exercise during recess any power of the Council and/or its political structures, as well as designated powers, in consultation with the City Manager, or if the City Manager is not available in consultation with the Chief Financial Officer, provided that:

- a) the failure to exercise such power as a matter of urgency would have a substantial detrimental impact on the municipality and/or its services; and/or its people;
- b) the delegation excludes the exercise of all powers reserved for Council in terms of the law;
- c) this delegation excludes the recess powers delegated by Subcouncils; and
- d) where the public interest so demands, this power be exercised after consultation with as many members of the Mayoral Committee as reasonably possible.

*[Amended C71/05/08 by CI 28 May 2008]*

- (5) 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 established by the Executive Mayor and to appoint members and chairpersons thereof<sup>21</sup>

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20 Mayoral Committee Member : Corporate Services and Human Resources, is delegated with full authority to perform this function in instances where neither the Executive Mayor nor the Executive Deputy Mayor is available to perform such function

21 The Executive Mayor sub-delegated the power to all Mayoral Committee members, in respect of their relevant portfolios.

- (6) 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.
- (7) To designate a councillor to act as Executive Mayor in the absence or unavailability of both the Executive Mayor and Deputy Executive Mayor, provided that the Executive Mayor may designate such a councillor or councillors for future absence or unavailability.<sup>22</sup>
- (8) 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) 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.
- (10) *[Deleted C74/10/07 by CI 31 October 2007]*
- (11) To appoint members of the Civilian Oversight Committee, in terms of the South African Police Services Act No 68 of 1995 section 64J.
- (12) To appoint statutory committees where this authority has not been reserved for Council.

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<sup>22</sup> The Executive Deputy Mayor will exercise the powers and perform the duties of the Executive Mayor in all instances when the Executive Mayor is unavailable or outside the City of Cape Town. Should the Executive Deputy Mayor for any reason not be available to perform such powers, functions and duties as set out above, Cllr Belinda Walker is designated to perform these functions in terms of delegation 10(7).

- (13) To authorize the payment of a reward exceeding R20 000 but not more than R100 000 to any person who furnishes information leading to the successful criminal prosecution of any person who has committed any criminal act against the City, 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 any Councillor or official of the City.
- (14) To authorize the payment of a reward exceeding R20 000 but not more than R100 000 to any person who furnishes information leading to Council achieving substantial savings, recovering monies due to it and/or the implementation of measures which substantially improve the manner in which it conducts its operations.
- (15) To declare a local state of disaster in terms of section 55 of the Disaster Management Act, 2002 (Act 57 of 2002).
- (16) To facilitate the establishment and operation of neighbourhood watches.  
*[Inserted C08/12/08 by CI 3 December 2008]*
- (17) To co-operate in mutual trust and good faith with the national and provincial spheres of government as envisaged by section 41 of the Constitution.  
*[Inserted C43/06/09 by CI 25 June 2009]*
- (18) To authorize, after considering a recommendation from the City Manager, the payment of accommodation and travel expenses of expert or specialist contributors invited to participate in municipal workshops, meetings or similar organised by the City.  
*[Inserted C55/11/09 by CI 26 November 2009]*

## 11. Policy

- (1) To determine appropriate policies that should be developed, to take steps for the development thereof and to recommend such policies to Council.

(2) To determine appropriate by-laws that should be drafted, to take steps for the drafting thereof and to recommend such by-laws to Council.

(3) To determine policy direction for the City Manager as the head of the administration in terms of section 55 of the Systems Act.

(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.

## 12. Planning and Environment

(1) To appeal to the Minister to the Minister of Environmental Affairs in terms of S43(1) and (1A), to the Minister of Minerals in terms of S43(1B) and to the MEC in terms of S43(2) of the National Environmental Management Act 107 of 1998.

*[Inserted C119/05/10 by CI 25 May 2010]*

(2) To submit City comments on applications for environmental authorisation outside the urban edge when requested to do so by the Minister or MEC or Minister of Minerals and Energy in terms of Section 240(2) of NEMA, and to object to the contents of an application for prospecting, mining, exploration, production or related activities via the Regional Mining Development and Environmental Committee.

*[Inserted C119/05/10 by CI 25 May 2010]*

(3) To submit City comments to the Minister of Minerals and Energy in terms of Sections 10, 16, 22 and 27 of the MPRDA relating to the contents of an application outside the urban edge for prospecting, mining, exploration, production or related activities, or on environmental management programmes or environmental management plans in terms of sections 39

and 40 of the MPRDA and to represent the City's comments to the Regional Mining Development and Environmental Committee.

*[Inserted C119/05/10 by CI 25 May 2010]*

## EXECUTIVE DEPUTY MAYOR

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*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.*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Executive Deputy Mayor including the power to sub-delegate any of his or her delegated powers, functions and duties:*

### 12. Finance

- (1) To incur expenditure necessary for the performance of the functions in the office of Executive Deputy Mayor within budget.

## SPEAKER

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*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.*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Speaker including the power to sub delegate any of his or her delegated powers, functions and duties:*

### 13. Legal

- (1) To obtain a legal opinion, including opinion from Senior Counsel, on any matter related to his or her powers, duties and functions in respect of the following:
  - (a) Disciplinary investigation in terms of the Codes of Conduct relating to Councillors and municipal staff members
  - (b) Rules of meetings of political structure and meeting procedure
  - (c) Planning and General Appeals Committee
  - (d) Political office bearers and political structures of council.
- (2) To provide legal representation, in terms of section 109A of the Systems Act, for the Executive Mayor where-
  - (a) legal proceedings have been instituted against the Executive Mayor as a result of any act or omission by the Executive Mayor in the exercise of his or her powers or the performance of his or her duties; or

- (b) The Executive Mayor 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

14. Policy

- (1) To oversee the use of the Council Chamber in terms of Council policy.

15. SubCouncils

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

16. Ward Forums

- (1) To determine administrative arrangements to enable Ward Forums to perform their functions and exercise their powers effectively.
- (2) To oversee the establishment and coordination of the Ward Forums.

17. Political Oversight

- (1) To monitor and report on the performance of SubCouncils and Ward Forums.
- (2) To make recommendations to Council in respect of the dissolution of Ward Forums which fail to fulfill their objectives.
- (3) To monitor and report to Council on the functioning of the Section 79 committees and Subcouncils.

18. Finance

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

19. General

- (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.
- (2) To take reasonable steps to regulate public access to and public conduct at meetings of Council and its committees.
- (3) Subject to relevant legislation, to permit a councillor or an official to disclose any privileged or confidential information of the council or a 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 –
  - (a) determined by the municipal council or a committee to be privileged or confidential;

- (b) discussed in closed session by the council or committee;
  - (c) disclosure of which would violate a person's right to privacy; or
  - (d) declared to be privileged, confidential or secret in terms of law.
- (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.
- (5) To appoint an initiator to present a case against a councillor for contravention of the Code of Conduct for Councillors at a disciplinary hearing and to undertake any investigation in connection therewith.
- (6) 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
- (a) sufficient time is provided for the discussion of any written submissions received from a local community or organ of state;
  - (b) provision is made for any member of a community or organ of state to address Council;
  - (c) the Auditor General or his/her representatives are invited and permitted to address Council
- (7) To authorize forensic investigations into financial irregularities where councillors may be implicated, upon receipt of at least one written complaint to that effect.

*[Inserted C71/05/08 by CI 28 May 2008]*

- (8) To ensure that the municipal manager and managers directly accountable to the municipal manager declare their interests as required in terms of item 5A of the *Code of Conduct for Municipal Staff Members*

*[Inserted C08/12/08 by CI 3 December 2008]*

- (9) To disclose in terms of Council policy the financial interests referred to in item 5A(1) of the *Code of Conduct for Municipal Staff Members* that may be made public.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (10) To attend congresses, workshops and meetings which relate to the Speaker's statutory and delegated powers, within the Republic of South Africa and subject to an approved budget to incur expenditure in this regard, and to report to Council.

*[Inserted C55/11/09 by CI 26 November 2009]*

## THE CHIEF WHIP

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, duties and functions to the Chief Whip including the power to sub delegate any of his or her delegated powers, functions and duties:.*

### 20. Policy

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

### 21. Finance

- (1) *[Deleted C44/10/08 by CI 29 October 2008]*

### 22. General

- (1) To grant leave of absence to Councillors from meetings of Council and its committees and Subcouncil meetings in accordance with the applicable Rules of Order.
- (2) To determine the development needs of councillors after consultation with the party whips.
- (3) To determine a programme of training for the development needs of councillors.
- (4) To approve the facilitation and coordination of Councillor development and capacity building, including the negotiation with donors.

- (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 submit the list of scheduled speakers to the Speaker, the Executive Mayor and all party whips.
- (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.
- (7) To approve, in consultation with the relevant chairperson, any change of meeting time and/or date of meetings and ensures that the calendar of meetings is appropriately amended.
- (8) To recommend to the Executive Mayor which Councillors should serve on outside bodies.
- (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.
- (10) Political oversight over all matters pertaining to the administrative functioning of Portfolio Committees.  
*[Inserted C119/05/10 by CI 25 May 2010]*
- (11) To recommend to Council the appointment of councillors to serve on section 79 committees in consultation with party whips.  
*[Inserted C119/05/10 by CI 25 May 2010]*

## PARTY WHIPS

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, duties and functions to the Party Whips including the power to sub delegate any of their delegated powers, functions and duties:*

### 23. Accountability To Communities

- (1) 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 4 -**

### **DELEGATIONS TO POLITICAL STRUCTURES OF COUNCIL**

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

Community Services Committee

Corporate Services & Human Resources Portfolio Committee

Economic Development & Tourism Portfolio Committee

Finance Portfolio Committee

Health Portfolio Committee

Homeless Agency Committee

Housing Portfolio Committee

Planning & Environment Portfolio Committee (PEPCO)

Rules Committee

Safety & Security Services Portfolio Committee

Social Development Portfolio Committee

Spatial Planning, Environment & Land Use Management Committee  
(S.P.E.L.U.M)

Standing Committee on Public Accounts (SCOPA)

Transport, Roads & Stormwater Portfolio Committee

Utility Services Portfolio Committee

- *Committees established in terms of section 80 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998):*

Budget Committee

Energy Committee

*[Inserted C08/12/08 by CI 3 December 2008]*

- *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

- *Ward Forums established in terms of section 17 of the Local Government: Municipal Systems Act, 1998 (Act No. 32 of 2000:*

## SECTION 79 “PORTFOLIO” COMMITTEES

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

Community Services

Corporate Services and Human Resources

Economic, Social Development and Tourism

Finance

Health

Housing

Planning and Environment

Safety and Security Services

Utility Services

Transport, Roads and Stormwater

## COMMUNITY SERVICES PORTFOLIO COMMITTEE

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*[Amended C 65/08/08 by CI 27 August 2008]*

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

- **City Parks and Recreation** which includes:

Zoned Public Open Spaces

District and Community parks

Cemeteries, Funeral Parlors and Crematoria

Soft/Green landscape areas on roads

Street trees

Landscaped areas adjacent to rivers and inland water bodies

Sports venues

Sportsfields

Stadia

Beaches

Swimming Pools

Public toilets

Community Centres

Halls

Resorts

Recreation on water bodies

Pontoons, ferries, jetties and piers

Harbours, excluding the regulation of international and national shipping and matters relating thereto

*[Amended C08/12/08 by CI 3 December 2008]*

- **Library and Information Services**

*[Inserted C08/12/08 by CI 3 December 2008]*

- **Facilities for the accommodation, care and burial of animals**

*[Inserted C08/12/08 by CI 3 December 2008]*

- **Pounds**

*[Inserted C08/12/08 by CI 3 December 2008]*

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Community Services Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

*[Amended C 65/08/08 by CI 27 August 2008]*

24.       Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

25. Specific Delegations

None.

## 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:*

*[Amended C119/05/10 by CI 25 May 2010]*

- **Communication** which includes:
  - Media
  - Municipal Events
  - E-Communication
  - Marketing
  - Newsletters
  - Administration and Production
  
- **Customer Relationship Management**
  
- **Employment Equity** which includes:
  - Affirmative Action & Disability
  - Gender and Diversity Initiatives
  
- **Information Systems and Technology** which includes:
  - IT Architecture
  - ERP Systems
  - Business Applications
  - Infrastructure
  - Telecoms
  - Distributed Computing
  - Programs and Admin

- **Legal Services**

- Litigation
  - Statutory Compliance
  - Legislation and Legal Research
  - Municipal Court
  - Planning and Property Services
  - Supply Chain Support
  - Admin Support

- **IDP and Performance Management** which includes:

- Performance Management

- **Personnel Services** which includes:

- Employee Wellness
  - Education, Training and Development
  - Payroll and Personnel Administration
  - Operational Support

- **Specialised Technical Services** which includes:

- Fleet and Mechanical Workshops
  - Specialised Electronic and Radio Services
  - Facilities Management
  - Operational Support

- **Strategic Human Resources** which includes:

- Employee Life Cycle
  - Collective Bargaining
  - HR Strategy programmes
  - Quality Management
  - Communication and Change Management
  - Labour Relations

- **Strategic Support** which includes:
  - Records Management and Registry Services
  - Printing / Advertising / Street Collections
  - Support Services

*[Amended C119/05/10 by CI 25 May 2010]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Corporate Services and Human Resources Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

26. Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

## 27. Specific Delegations

- (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 make recommendations to the Executive Mayor in this regard.
- (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 make recommendations to the Executive Mayor in this regard.

# ECONOMIC DEVELOPMENT AND TOURISM PORTFOLIO COMMITTEE

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*[Amended C83/11/09 by CI 26 November 2009]*

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

- **Economic Development** which includes:

- Trade and investment promotion
- Small business support
- Economic information and research

*[Amended C43/06/09 by CI 25 June 2009]*

- **Local Tourism** which includes:

- Tourism Development
- Destination Marketing
- Visitor Services & Information

*[Amended C08/12/08 by CI 3 December 2008]*

- **Immovable Property Asset Management** which includes:

- Property Administration
- Property Development
- Facilities Management
- Acquisitions
- Disposals
- Property Intelligence
- Knowledge & Innovation

*[Amended C08/12/08 by CI 3 December 2008]*

- **Major Events and Films**

*[Amended C08/12/08 by CI 3 December 2008]*

- **Municipal Entities**

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

- **Markets**
- **Street Trading (Informal Trading Schemes)**

*[Inserted C08/12/08 by CI 3 December 2008]*

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Economic Development and Tourism Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

28.       Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

29. Specific Delegations

None.

# SOCIAL DEVELOPMENT PORTFOLIO COMMITTEE

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*[Portfolio established by CI 26 November 2009 - C83/11/09]*

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

- **Social Development** which includes:
  - Promotion of early childhood development
  - Child Care Facilities
  - Promotion of arts and culture programmes
  - Substance Abuse
  - Orphans
  - Street People
  - Social Crime Prevention (VPUU)
  - Religious Desk
  - Disability Desk
  - Gender Desk
  - Youth Desk

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Social Development Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

## 29A. Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

29B. Specific Delegations

None.

## FINANCE PORTFOLIO COMMITTEE

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*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**

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Finance Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

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30. Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

31. Specific Delegations

None.

## HEALTH PORTFOLIO COMMITTEE

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

- **Health matters ie:**

District Health Services

- Clinic Services

- **Municipal Health Services**

- water quality monitoring, food control, waste management, health surveillance of premises, surveillance and prevention of communicable diseases, vector control, environmental pollution control, disposal of the dead (pauper burials only), and chemical safety

- **Noise and Air Quality Management**

*[Inserted C71/05/08 by CI 28 May 2008]*

- **Licensing and control of undertakings that sell food to the public**

- **Municipal Abbatoirs**

*[Inserted C08/12/08 by CI 3 December 2008]*

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Health Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

### 32. Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

33. Specific Delegations

None.

## HOUSING PORTFOLIO COMMITTEE

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

- **New and Existing 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  
Emergency Housing Programmes  
Other National Housing Programmes

*[Amended C71/05/08 by CI 28 May 2008]*

- **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)

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Housing Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

34.       Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.

- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

35. Specific Delegations

None.

## PLANNING AND ENVIRONMENT PORTFOLIO COMMITTEE

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*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 & Urban design services

- Town Planning

- Land Use Management

- Building development management

- Development projects

- Land information

- Planning legislation and enforcement

*[Amended C74/10/07 by CI 31 October 2007]*

- **The Strategic Development & GIS function** which includes:

- Spatial data management (including cadastral data)

- GIS and Strategy Coordination

- Strategic Development Information and Knowledge Management

- Geomatics (maintenance of Town Survey Marks, global positioning surveys, photogrammetry)

*[Amended C74/10/07 by CI 31 October 2007]*

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

- Environmental resource management and planning

- Environmental planning policy

- Environmental and heritage impact assessment

- Coastal planning

- Outdoor advertising and signage (environmental control)

- Heritage resource management and urban conservation

- Nature Conservation and reserve planning

Biodiversity management  
Environmental monitoring  
Environmental Heritage and Outdoor Advertising Projects

- **The Housing Planning function**

(Note: relates to the overarching Structure Plan/Spatial Development Framework) To designate land for housing in structure plans.

- **Fencing and Fences**

*[Inserted C08/12/08 by CI 3 December 2008]*

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Planning and Environment Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

36.       Generic Delegations

- (1)       To develop policy relating to the functions described in the terms of reference of this committee (excluding the functions listed in 37(7)) and to recommend same to the Executive Mayor.

*[Amended C74/10/07 by CI 31 October 2007]*

- (2)       To develop draft by-laws and recommend same to the Executive Mayor.
- (3)       To develop draft business plans and recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

37. Specific Delegations

*In terms of Land Use Planning Ordinance No.. 15 of 1985 (LUPO)*

- (1) To apply to the Premier for the amendment or withdrawal of a structure plan.
- (2) To approve for submission to the Premier (for his approval) a structure plan in terms of section 4(1).
- (3) To recommend to the Provincial sphere of Government the approval of structure plans in terms of section 4(6).
- (4) To review a structure plan in terms of section 4(8) at least once every 10 years.
- (5) To approve with or without conditions, a structure plan in terms of section 4(10).
- (6) To recommend to the Provincial sphere of government the amendment or replacement of Scheme Regulations in terms of section 9(2).

*Policy*

- (7) To develop and approve policies relating to the following matters listed in the Terms of Reference of PEPCO: Urban Design, Land Use Management and Building Development Management, Planning legislation and enforcement.

*[Amended C74/10/07 by CI 31 October 2007]*

## *Environmental and Heritage Authorisations*

- (8) To apply for status as competent authority responsible for granting environmental authorisations in respect of listed activities in terms of section 24C of the National Environment Management Act 107 of 1998.
- (9) To consider and submit biodiversity management plans to the Minister for approval, for (a) an ecosystem, (b) an indigenous species, (c) a migratory species in terms of section 43(1) of the NEMA: Biodiversity Act No. 10 OF 2004.
- (10) To consider a report on the monitoring of the conservation status of biodiversity and report to the Minister (if required by the Minister) in terms of section 49 of the NEMA: Biodiversity Act No. 10 OF 2004.
- (11) Reports to the municipal council on all decisions taken by the Planning and Environment Committee.

*[Inserted C70/10/10 by CI 27 November 2010]*

## UTILITY SERVICES PORTFOLIO COMMITTEE

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*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:

Gas reticulation *[Inserted C08/12/08 by CI 3 December 2008]*

Electricity Distribution Services

Electrification

Public and Street Lighting

Renewable Energy/Green Electricity

*[Amended C71/05/08 by CI 28 May 2008]*

- **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)

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Utility Services Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

38.       Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

### 39. Specific Delegations

None.

# TRANSPORT, ROADS AND STORMWATER AND IRT PORTFOLIO COMMITTEE

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*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**
- **Municipal Airports**
- **Integrated Rapid Transport (IRT)**

*[Amended C119/05/10 by CI 25 May 2010]*

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Transport, Roads and Stormwater Committee including the power to sub delegate any of their delegated powers, functions and duties:*

40.       Generic Delegations

- (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 recommend 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 and to submit such recommendation to the Director: Legal Services.

- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

41. Specific Delegations

None.

## SAFETY AND SECURITY SERVICES PORTFOLIO COMMITTEE

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*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 Fighting Services

107 Public Emergency Communication centre

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

CCTV

VIP Security

Land Invasions

Prevention of Crime

*[Amended C 34/08/07 by CI 29 August 2007]*

- **Law Enforcement**

The policing of Municipal By-Laws and Regulations

Security Services

*[Inserted C 34/08/07 by CI 29 August 2007]*

- **Traffic and Parking**

Traffic management

*[Inserted C08/12/08 by CI 3 December 2008]*

Traffic Policing

Traffic Licensing

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

- **Facilitation of neighbourhood watches**

*[Inserted C08/12/08 by CI 3 December 2008]*

- **Regulation of Gatherings Act No. 205 of 1993**

- **Control of undertakings that sell liquor to the public**

*[Inserted C08/12/08 by CI 3 December 2008]*

- **Licensing of dogs**

*[Inserted C08/12/08 by CI 3 December 2008]*

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Safety and Security Services Committee including the power to sub delegate any of their delegated powers, functions and duties:*

42.       Generic Delegations

- (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 recommend 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 and guide the performance of service delivery generally within the functional area of their respective committee (outcomes monitoring) and report to the Executive Mayor if necessary.  
*[Amended C119/05/10 by CI 25 May 2010]*
- (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 and to submit such recommendation to the Director: Legal Services.
- (14) To require councillor(s) and/or official(s) to appear before the Committee to assist the Committee in the performance of its functions.

#### 43. Specific Delegations

- (1) To consider recommendations from the Civilian Oversight Committee and where appropriate to give effect to any such recommendation itself, if such matter falls within its delegated powers and/or make a recommendation thereon to the Executive Mayor.

*[Inserted C119/05/10 by CI 25 May 2010]*

## SECTION 79 RULES COMMITTEE

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

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Rules Committee including the power to sub delegate any of their delegated powers, functions and duties:*

44. Rules Of Order

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

45. Attendance at Meetings

- (1) To require any councillor(s) and/or official(s) to appear before the committee to assist the committee in the performance of its functions.

*[Amended C08/12/08 by CI 3 December 2008]*

## SECTION 79 HOMELESS AGENCY COMMITTEE

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*[Established C04/05/06 by CI 31 May 2006]*

*The terms of reference of this Committee relates will be the political oversight body that will ensure that both new and old issues dealing with street people (street children, adults and street youth) are adequately addressed and that previous and future programs undertaken by the City in this regard are properly implemented and stay on track.*

45A. Delegations

None

## **DISCIPLINARY COMMITTEE**

### **CODE OF CONDUCT FOR COUNCILLORS**

Municipal Systems Act, Act 32 of 2000 (Schedule 1)

*The terms of reference of this Committee are:*

- (a) to investigate and make a finding on any alleged breach of the Code and to make appropriate recommendations to Council.*
- (b) to investigate and make a finding on non-attendance of meetings and to impose a fine as determined by the standing rules and orders of Council.*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Disciplinary Committee :*

#### 46. General

- (1) To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- (2) To instruct any councillor(s) and request official(s)/or other affected parties to appear before the Committee to give evidence.
- (3) To appoint a legal advisor to assist the Committee including the obtaining of internal or external legal opinions.
- (4) 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.
- (5) In appropriate circumstances to impose a fine in respect of contraventions of item 4 of the Code.

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

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

*Acting in terms of section 59 of the Systems Act, and subject to the following conditions, Council hereby delegates the following powers, functions and duties to the S.P.E.L.U.M. Committee including the power to sub delegate any of their delegated powers, functions and duties.*

*[Inserted C119/05/10 by CI 25 May 2010]*

*When the Director : Planning and Building Development Management, Director : Spatial Planning or Director : Environmental Resource Management or a Subcouncil elect not to exercise any power, function or duty delegated to them by Council, S.P.E.L.U.M is authorised to exercise such delegated power, function or duty.*

SPELUM is empowered to exercise a power, function or duty conferred on Council in terms of the following laws and legal instruments :

*[Inserted C74/10/07 by CI 31 October 2007]*

- the Land Use Planning Ordinance no 15 of 1985( LUPO)
- the Scheme Regulations promulgated in terms of LUPO and the Black Communities Development Act, 1984,
- the National Building Regulations and Building Standards Act no 103 of 1977
- the Removal of Restrictions Act, 1967
- the National Environmental Management Act no 107 of 1998 and regulations promulgated in terms thereof
- the Environment Conservation Act
- the National Heritage Resources Act no 25 of 1999
- the Less Formal Townships Establishment Act, 1991

- the Provision of land and Assistance Act No 126 of 1993

*[Inserted C119/05/10 by CI 25 May 2010]*

- the Outdoor Advertising By Law, no 5801 dated 5 December 2001, and
- title deed restrictions dealing with property rights
- agreements arising out of the South African Transport Services Act no 9 of 1989

*[Inserted C74/10/07 by CI 31 October 2007]*

in cases where such power, function or duty has not been delegated to the City Manager, an Executive Director, a Director, a Subcouncil or to PEPCO. **Provided** that should SPELUM exercise this power, it shall report thereon to the next Council meeting and Council shall either confirm, vary or revoke such decision and no rights shall accrue until Council has so resolved.

*[Inserted C74/10/07 by CI 31 October 2007]*

*The following directions apply in determining when S.P.E.L.U.M., Subcouncils and officials have delegated powers regarding town planning and environmental matters*

*[Amended C74/10/07 by CI 31 October 2007]*

- 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: Planning and Building Development Management or Director: Environmental Resource Management has the power to decide subject to the conditions set out here below.*

*[Amended C74/10/07 by CI 31 October 2007]*

- Where an application is subject to an EIA, HIA or TIA , S.P.E.L.U.M. is the delegated authority.<sup>23</sup>*

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<sup>23</sup> EIA: A development application made in terms of LUPO which is subject to a scoping and environmental impact assessment as set out in Part 3 of R 385 of GN 28753 dated 21 April 2006 as read with R 387 as amended from time to time or an EIA required in terms of the regulations promulgated in terms of the Environmental Conservation Act and now repealed.

- b(1) In cases where an application forms part of a land use proposal which includes other applications in terms of the Ordinance or related planning legislation, and the power to grant or refuse these applications has been delegated to different decision makers within Council, and it is desirable that all applications be considered by one decision maker, SPELLUM has the power to grant or refuse or recommend on all applications, provided that the power to name streets shall remain with Subcouncil.

*[Inserted C119/05/10 by CI 25 May 2010]*

- 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: Planning and Building Development Management or Director: Environmental Resource Management has the power to decide subject to the conditions set out here below.*

*[Amended C74/10/07 by CI 31 October 2007]*

- d. *[Deleted C74/10/07 by CI 31 October 2007]*

- 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, By-laws and any law relating to the matter under consideration, provided that SPELUM may deviate from a section 4(10) structure plan and approved policies which are used to guide land use decision-making, but only in circumstances where S.P.E.L.U.M considers reasonable to do so taking into account inter*

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Note: All other development applications whether subject to an Environmental Authorisation required in Part 2 of R 385 of GN 28753 dated 21 April 2006 as read with R 386 or an EIA requested in terms of LUPO will be dealt with by Subcouncils if there are objections to a development application (not the EIA application) and the matter falls within Subcouncil boundaries and by officials where there are no objections to the development application.

HIA: refers to a Heritage Impact Assessment report required in terms of section 38 of the National Heritage Resources Act no 25 of 1999 and which may or may not form part of the EIA referred to above. It does not include a Heritage Statement.

TIA: refers to any impact assessment dealing with traffic for a development which is likely to or will generate more than 150 vehicles per hour. An impact assessment dealing with traffic for a development which is likely to or will generate less than 150 vehicles per hour will be dealt with by Subcouncils if there are objections to the development application and the matter is within Subcouncil boundaries and by officials where there are no objections to the development application. The trigger for determining whether a matter is dealt with by SPELUM or not is the number of vehicles per hour, not the name of the assessment.

*[Inserted C74/10/07 by CI 31 October 2007]*

*alia the size and locality of the subject property. Provided further the powers hereby granted shall only be exercised until PEPCO has approved a policy on the subject matter.*

*[Paragraph deleted C119/05/10 by CI 25 May 2010]*

#### 47. Planning Delegations

##### *Land Use Planning Ordinance No. 15 of 1985*

##### *Use rights*

- (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).
- (2) To substitute a zoning scheme or part thereof that extends beyond the Subcouncil boundaries with one in terms of which land is not necessarily zoned in accordance with the utilisation thereof, in terms of section 14(4) where objections have been received.
- (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).
- (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) where objections have been received.
- (5) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3) for land that extends beyond any subcouncil's boundary in terms of section 14(1).

##### *Departures*

- (6) 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).
- (7) 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).
- (8) 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)*

- (9) 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).
- (10) 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) where the land extends beyond the boundaries of the Sub-Council and where objections have been received.
- (11) 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*

- (12) To consider the amount of compensation to be paid to an owner whose land sustains a fall in value -
- (a) consequent on the rezoning thereof or a part thereof, contrary to his wishes, or
  - (b) 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).
- (13) To conclude an agreement regarding the payment of compensation, in terms of section 19(2).
- (14) 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*

- (15) 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).
- (16) To grant an extension in terms of section 27(1) of the validity period within which a subdivision of land must be confirmed in relation to land that extends beyond any Subcouncil's boundaries where objections have been received.

### *Home owners' association*

- (17) 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*

- (18) 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
- (a) considering objections received in consequence of an advertisement of the proposed amendment or cancellation of a plan of subdivision, and
  - (b) 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*

- (19) To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).
- (20) In relation to a condition imposed by SPELUM, whether objections are received or not, and after consideration of objections received, if any, in consequence of an advertisement and after consultation with the owner of the land concerned, to –

*[Amended C74/10/07 by CI 31 October 2007]*

- (a) waive or amend any condition, and
  - (b) impose additional conditions
- in terms of section 42(3).
- (20A) To approve or amend a Site Development plan where objections have been received, where a rezoning, subdivision, departure or consent/conditional use has been approved by SPELUM /Province subject to the submission and approval of a site development plan.

*[Inserted C119/05/10 by CI 25 May 2010]*

(20B) Notwithstanding the above, the Director of Planning and Building Development Management has the power to approve or amend a Site Development plan where there are no objections thereto, where a rezoning, subdivision or departure or consent/conditional use has been approved by SPELUM subject to the submission of a site development plan and provided that the other conditions of approval imposed in terms of section 42 remain unaltered. (When to advertise is set out in Council's policy on advertising to interested and affected parties).

(20C) In relation to a condition imposed in respect of an application for rezoning, subdivision, departure or consent/conditional use by Provincial Government on appeal in terms section 44 of LUPO, to waive, amend or impose additional conditions in terms of section 42(3) where land extends beyond any Subcouncil boundaries and where objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

*Special Consent, Consent Or Conditional Use In Terms Of The Zoning Scheme Regulations*

(21) 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 which extends beyond any Subcouncil's boundaries, where objections have been received.

(21A) To grant or refuse an application to permit a rooftop base station to extend more than 3m in height above the part of the building it is attached to in relation to land which extends beyond any Subcouncil boundaries, where objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

(22) To recommend to the Premier to amend, replace or delete a scheduled condition which is part of the scheme regulations in terms of section 9(2) where land extends beyond any Subcouncil's boundaries and where objections have been received.

(22A) To recommend to Province/the Premier to waive, amend or to impose additional conditions in terms of section 42 (3) where Council does not have the delegated authority to do so where land extends beyond any Subcouncil boundaries and where objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

*Applications Made In Terms Of The Less Formal Townships Establishment Act  
No 125 Of 1991*

(23) To request the Premier/Administrator:

*[Amended C119/05/10 by CI 25 May 2010]*

- (a) to make available State land that is controlled by him or land that has been acquired by him, for designation in terms of section 3.
- (b) to designate by notice in the Official Gazette land as land for less formal settlement in terms of section 3 and to formulate conditions for such designation.
- (c) in terms of section 3 to suspend the operation of any servitude registered against the title of the designated land or any other restrictive condition registered or otherwise operative in respect of the land;
- (d) to, at any time prior to the commencement of settlement in terms of section 8, to amend or withdraw a notice referred to in subsection (1).
- (e) to amend or suspend a condition imposed under subsection (1) which binds the local authority or person referred to in paragraph

(b) of that subsection either before or after settlement in terms of section 8 has commenced.

- (f) to approve or amend layout plans submitted in terms of a condition of designation of land for less formal settlement.
- (g) to declare that a provision of law referred to in section 3(5) to be applicable or to declare that another law referred to in section 3(5)(h) be declared as not being applicable to designated land.
- (h) to declare a provision of a law mentioned in s3(5) to be applicable to designated land described in the notice or to request him to amend or withdraw a notice under s 3(5)(h).

In relation to land that extends beyond Subcouncil, boundaries and objections have been received or in cases where a TIA, HIA or EIA is required and objections have been received.

*[Amended C119/05/10 by CI 25 May 2010]*

- (24) 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.
- (25) 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.

*Regulations Promulgated In Terms Of The Black Communities Development Act  
No 4 Of 1984.*

- (26) 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.
- (27) To grant or refuse, with or without conditions, a consent and departures in cases where the power is delegated to Council, where such land extends beyond Subcouncil boundaries and where objections have been received.

*Rezoning Where No Delegation To Council*

- (28) 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.

*Removal of Restrictions Act No. 84 of 1967*

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

- (29) 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).

- (30) To comment on and make recommendation to the Premier or his delegatee regarding a proposed alteration, suspension or removal of a restriction or obligation in respect of any land that extends beyond any Subcouncil's boundaries, in terms of section 3(2) in cases where objections have been received.

*[Amended C74/10/07 by CI 31 October 2007]*

*Environmental, Heritage And Outdoor Advertising  
Outdoor Advertising and Signage By-Law, No. 10518*

- (31) To approve a list or map of designated areas prohibited areas and Areas of Control.
- (32) To approve applications for outdoor advertising signs larger than 4,5m<sup>2</sup> where objections are received.

*Environmental and Heritage Authorisations*

- (33) *[Deleted C74/10/07 by CI 31 October 2007]*
- (34) To resolve on the assessment of the impact of development above Boyes Drive in terms of section 102 of the Cape Town Zoning Scheme.

*Policy*

- (35) 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.

- (36) To make recommendations to National or Provincial spheres of government within the Committees terms of reference.
- (37) To approve deviations from policy, in respect of matters as set out in the Terms of Reference of the committee until such time that the policy has been amended by PEPCO. When approving (or refusing) the deviation from policy, SPELUM may also grant or refuse the application which requires the deviation from policy.

*[Amended C119/05/10 by CI 25 May 2010]*

*The Legal Succession To South African Transport Services Act, No. 9 Of 1989, As Amended (SATS Act)*

- (38) To approve Precinct Plans, Site Development Plans, Development Framework Plans arising out of agreements entered into in terms of the SATS Act.

*[Amended C74/10/07 by CI 31 October 2007]*

- (38A) To approve the amendment of Precinct Plans, Site Development Plans, Development Framework Plans arising out of agreements entered into in terms of the SATS Act in cases where objections have been received.

*[Inserted C74/10/07 by CI 31 October 2007]*

*Planning Appeals*

- (39) To consult with and comment to the Premier/relevant Minister on appeals lodged in terms of section 44(1)(a)-(c) of the Land Use Planning Ordinance no. 15 of 1985 against a final decision of SPELUM after considering the comments of the Director: Land Use and Building Development Management in cases where the comment will not be in accordance with the original decision made. The term “final” means that there was no appeal to the Planning Appeals Committee.

*[Amended C74/10/07 by CI 31 October 2007]*

- (39A) To consult with and comment to the Premier/relevant Minister on appeals lodged in terms of section 44(1)(d) as read with the regulations. (Footnote: section 44(1)(d) deals with appeals on time and if no agreement is reached on the nature of information to be supplied and only SPELUM has the power to comment on these matters)

*[Inserted C74/10/07 by CI 31 October 2007]*

- (40) 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 after considering the comments of the Director: Land Use and Building Development Management.

*Consent*

- (41) To grant or refuse the written consent of Council where a title deed condition permits an owner to exceed the use or development parameters or other restrictions set in the title deed in relation to the property with the written consent of Council, in cases where SPELUM has the delegated power to deal with the related rezoning, subdivision, departure or consent use application.

*[Inserted C74/10/07 by CI 31 October 2007]*

## SECTION 62 PLANNING AND GENERAL APPEALS COMMITTEE

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*This committee considers appeals against decisions taken in terms of delegated or sub-delegated authority by political structures, political office bearers or councillors.*

*The Committee 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.*

### 48. Planning Appeals

- (1) To report back to the S.P.E.L.U.M. on any decisions affecting S.P.E.L.U.M.
- (2) To consult with and comment to the Premier/Minister on appeals lodged in terms of section 44 of the Land Use Planning Ordinance no 15 of 1985 against the decision of the planning appeals committee in cases where it is the final decision maker of Council in cases where the comment will not be in accordance with the original decision made.

*[Inserted C74/10/07 by CI 31 October 2007]*

## SECTION 79 STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA)

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The terms of reference of this committee are to review the Auditor General's Annual Report and also when instructed by Council or on its own initiative, to investigate and advise Council in respect of unauthorized, irregular or fruitless and wasteful expenditure in terms of section 32 (2) of the MFMA.

*[Amended C74/10/07 by CI 31 October 2007]*

### 49. Authorisation

This committee is authorized:

- (1) To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- (2) 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.
- (3) To determine its own operational procedures and Rules of Order in terms of a framework approved by Council.
  - (a) To investigate any matter within its terms of reference.
  - (b) 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.

- (c) 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.
- (d) To request councillor(s) and official(s) to be present at any meeting for interview and input regarding items on the agenda.
- (e) To have direct access to internal and external auditors and to investigate any matter falling within the terms of reference of the committee.
- (f) To have access to –
  - (i) all accounts and financial statements of the municipality;
  - (ii) all reports of the Auditor-General;
  - (iii) information in respect of any disciplinary actions taken in terms of the Municipal Finance Management Act (MFMA);
  - (iv) information in respect of transgressions in terms of the MFMA.
- (4) *[Deleted C74/10/07 by CI 31 October 2007]*
- (5) *[Deleted C74/10/07 by CI 31 October 2007]*
- (6) To ensure that the City's oversight report as envisaged in section 129 of the MFMA is prepared for adoption by Council.
- (7) To consider and comment to the Executive Mayor on the following reports
  - (a) the reports of the Auditor-General on the accounts for the preceding financial year;

- (b) specific reports of the Auditor-General; and queries, comments and responses in respect thereof
- (8) To recommend on any proposals for improving efficiency, effectiveness and economy in the financial sphere of the municipality.
- (9) To liaise with the Audit Committee and any other relevant roleplayers.
- (10) *[Deleted C74/10/07 by CI 31 October 2007]*
- (11) To promote transparency and public accountability within the terms of reference of the Committee.
- (12) 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 or Council.

*[Amended C74/10/07 by CI 31 October 2007]*

#### 50. Delegations

- (1) To obtain legal, technical and any other specialised assistance required to exercise their functions and duties within budget provided.
- (2) To investigate the alleged misappropriation of municipal funds by Councillors and/or officials and report thereon to the Executive Mayor, the Speaker or Council as the case may be.

*[Amended C74/10/07 by CI 31 October 2007]*

- (3) To investigate unauthorized, irregular or fruitless and wasteful expenditure in terms of section 32 (2) of the MFMA with a view to recommending to Council whether such expenditure is irrecoverable or not.

## SECTION 61 SUBCOUNCILS

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*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 By-law*

*NOTE: It is the Speaker's responsibility to coordinate all processes flowing from the implementation of these delegations.*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to Subcouncils including the power to sub delegate any of their delegated powers, functions and duties to members of the municipal staff only in terms of section 17 the Cape Town Subcouncil By-law 2003:*

### 51. General

- (1) To assess the performance of service delivery generally within their area of jurisdiction (outcomes monitoring).
- (2) To identify the needs of the Municipality as far as it relates to the functional area of the Subcouncil.
- (3) To review and evaluate those needs referred to in paragraph 51(2) above in order of priority.

- (4) To recommend appropriate comments on National and Provincial draft legislation, regulations, policy frameworks etc. that affects the Subcouncil and submits such comment to the Director: Legal Services.
- (5) To require
  - (a) councillors if so directed by the Speaker and/or;
  - (b) Executive Directors if so directed by the City Manager, and/or
  - (c) official(s) designated by the relevant Executive Director

to appear at a time designated by the Sub-council Chairperson, before the Subcouncil to assist the Subcouncil in the performance of its functions.

*[Amended C43/06/09 by CI 25 June 2009]*

- (6) To request reports from the relevant line functionaries on activities planned to be executed within the Subcouncil area.
- (7) To make recommendations with regard to the determination of Service Delivery Areas and operational matters relating thereto.

## 52. IDP, Budget and Business Planning

- (1) To develop Subcouncil draft business plans and make recommendations thereon.
- (2) To make recommendations in regard to the setting or revision of tariffs, levies, taxes and duties.
- (3) To monitor the implementation of Council's budget, business plans, strategic objectives, policies and programmes.

- (4) To comment and make recommendations in regard to the draft IDP and budget.
- (5) To monitor the implementation of Council's IDP, budget, business plans strategic objectives, policies and programmes.
- (6) To make representation to the relevant line departments for the inclusion of the capital and operating budgetary requirements.

53. Street naming

- (1) To name streets after consultation with the public and developers where applicable.

54. Business Licensing

- (1) To grant licences 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.
- (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.
- (3) To comment on applications in terms of the Western Cape Gambling and Racing Act 1996 (Act 4 of 1996)

*[Inserted C08/12/08 by CI 3 December 2008]*

55. Liquor Licences

- (1) To comment on applications for liquor licences.

- (2) To comment on applications for extension of trading hours on premises where liquor licences have been granted.
- (3) To make recommendations to the Liquor Board for the cancellation of any liquor licence or imposition of more restrictive conditions.
- (4) To report contraventions of the national Liquor Act or any other subsequent Act replacing such Act to the responsible Officer of the South African Police.

*[Inserted C08/12/08 by CI 3 December 2008]*

#### 56. Public Participation

- (1) To undertake public participation in the development of policy, legislation, the IDP and budget.
- (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.
- (3) To comment on by-laws and policies of Council within the timeframes advertised and submit comments and objections to the Speaker.
- (4) To facilitate the celebration of important local, national and international celebrations and events e.g. Youth Day, Human Rights Day etc.
- (5) To undertake public participation on any matter initiated by the Subcouncil.

#### 57. Policies, By-laws and Regulations

- (1) Monitoring the implementation of any Council policy, by-law or regulation affecting the Subcouncil's area of jurisdiction including:

- (a) the policy regarding Biodiversity
- (b) the policy regarding Energy Saving
- (c) the by-law relating to Filming

and to report thereon to the Speaker.

58. Public Facilities (i.e. Amenities, Sport Facilities, Parks and Recreation, Beaches and Amusement Facilities, Public Jetties, Piers and Harbours)

- (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.
- (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.
- (3) To grant permission for the use of public open spaces, public squares and similar places within the subcouncil's area of jurisdiction, for any events such as "Art in the Park", flea markets, sporting events, community festivals etc.

59. Planning And Environmental Matters

*The following directions apply in determining when S.P.E.L.U.M., Subcouncils and officials have delegated powers regarding town planning and environmental matters:*

*[Amended C74/10/07 by CI 31 October 2007]*

*When the Director : Planning and Building Development Management, Director : Spatial Planning or Director : Environmental Resource Management or a Subcouncil elect not to exercise any power, function or duty delegated to them by Council, S.P.E.L.U.M is authorised to exercise such delegated power, function or duty.*

*[Inserted C74/10/07 by CI 31 October 2007]*

SPELUM is empowered to exercise a power, function or duty conferred on Council in terms of the following laws and legal instruments :

- the Land Use Planning Ordinance no 15 of 1985( LUPO)
- the Scheme Regulations promulgated in terms of LUPO and the Black Communities Development Act, 1984,
- the National Building Regulations and Building Standards Act no 103 of 1977
- the Removal of Restrictions Act, 1967
- the National Environmental Management Act no 107 of 1998 and regulations promulgated in terms thereof
- the Environment Conservation Act
- the National Heritage Resources Act no 25 of 1999
- the Outdoor Advertising By Law, no 5801 dated 5 December 2001, and
- title deed restrictions dealing with property rights
- agreements arising out of the South African Transport Services Act no 9 of 1989

in cases where such power, function or duty has not been delegated to the City Manager, an Executive Director, a Director, a Subcouncil or to PEPCO. **Provided** that should SPELUM exercise this power, it shall report thereon to the next Council meeting and Council shall either confirm, vary or revoke such decision and no rights shall accrue until Council has so resolved.

*[Inserted C74/10/07 by CI 31 October 2007]*

- 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: Land Use and Building Development Management or Director: Environmental Resource Management has the power to decide subject to the conditions set out here below.*

*[Amended C74/10/07 by CI 31 October 2007]*

b. *Where an application is subject to an EIA, HIA or TIA , S.P.E.L.U.M. is the delegated authority.* <sup>24</sup>

b(1) In cases where an application forms part of a land use proposal which includes other applications in terms of the Ordinance or related planning legislation, and the power to grant or refuse these applications has been delegated to different decision makers within Council, and it is desirable that all applications be considered by one decision maker, SPELLUM has the power to grant or refuse or recommend on all applications, provided that the power to name streets shall remain with Subcouncil.

*[Inserted C119/05/10 by CI 25 May 2010]*

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: Land Use and Building Development Management or Director: Environmental Resource Management has the power to decide subject to the conditions set out here below.*

*[Amended C74/10/07 by CI 31 October 2007]*

d. *[Deleted C74/10/07 by CI 31 October 2007]*

e. *In exercising any power, duty or function in terms of this System of*

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<sup>24</sup> EIA: A development application made in terms of LUPO which is subject to a scoping and environmental impact assessment as set out in Part 3 of R 385 of GN 28753 dated 21 April 2006 as read with R 387 as amended from time to time or an EIA required in terms of the regulations promulgated in terms of the Environmental Conservation Act and now repealed.

Note: All other development applications whether subject to an Environmental Authorisation required in Part 2 of R 385 of GN 28753 dated 21 April 2006 as read with R 386 or an EIA requested in terms of LUPO will be dealt with by Subcouncils if there are objections to a development application (not the EIA application) and by officials where there are no objections to the development application.

HIA: refers to a Heritage Impact Assessment report required in terms of section 38 of the National Heritage Resources Act no 25 of 1999 and which may or may not form part of the EIA referred to above. This does not include a Heritage statement

TIA: refers to any impact assessment dealing with traffic for a development which is likely or will generate more than 150 vehicles per hour. An impact assessment dealing with traffic for a development which is likely to or will generate less than 150 vehicles per hour will be dealt with by Subcouncils if there are objections to the development application and the matter is within Subcouncil boundaries and by officials where there are no objections to the development application. The trigger for determining whether a matter is dealt with by SPELLUM or not is the number of vehicles per hour, not the name of the assessment.

*[Inserted C74/10/07 by CI 31 October 2007]*

*Delegation a political structure, political office bearer or official must comply with the provisions of Council's policies, By-laws and any law relating to the matter under consideration, provided that SPELUM may deviate from a section 4(10) structure plan and approved policies which are used to guide land use decision-making, but only in circumstances where S.P.E.L.U.M considers reasonable to do so taking into account inter alia the size and locality of the subject property. Provided further the powers hereby granted shall only be exercised until PEPCO has approved a policy on the subject matter.*

***In terms of Land Use Planning Ordinance No. 15 of 1985***

***Use rights***

- (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).
- (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).
- (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).
- (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).
- (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).

- (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).
- (7) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3) for land that does not extend beyond the subcouncil boundary and where objections have been received, in terms of section 14(1).
- (8) To recommend the determination of the utilisation of land referred to in section 8 for the purposes of section 14(3) for land that extends beyond any subcouncils boundary in terms of section 14(1).

#### *Departures*

- (9) 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).
- (10) 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).
- (11) 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).

- (12) 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).
- (13) 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).
- (14) 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)*

- (15) 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).
- (16) 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).
- (17) 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).
- (18) 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).
- (19) 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).

- (20) 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).

#### *Subdivisions*

- (21) 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).
- (22) 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*

- (23) 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).
- (24) 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*

- (25) 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

- (a) considering objections received in consequence of an advertisement of the proposed amendment or cancellation of a plan of subdivision, and
- (b) 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).

- (26) 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

- (a) considering objections received in consequence of an advertisement of the proposed amendment or cancellation of a plan of subdivision, and
- (b) 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*

- (27) 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*

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

(29) In relation to a condition imposed by Subcouncil, whether objections are received or not, after consideration of objections received, if any, in consequence of an advertisement and after consultation with the owner of the land concerned, to –

*[Amended C74/10/07 by CI 31 October 2007]*

(a) waive or amend any condition, and

(b) impose additional conditions

in terms of section 42(3)

(29A) To approve or amend a Site Development plan where objections have been received, where a rezoning, subdivision, departure or consent/conditional use has been approved by Subcouncil or a staff member subject to the submission and approval of a site development plan.

*[Inserted C119/05/10 by CI 25 May 2010]*

(29B) Notwithstanding the above, the Director of Planning and Building Development Management has the power to approve or amend a Site Development plan where there are no objections thereto, where a rezoning, subdivision or departure or consent /conditional use has been approved by Subcouncil subject to the submission of a site development plan and provided that the other conditions of approval imposed in terms of section 42 remain unaltered.

*[Inserted C74/10/07 by CI 31 October 2007]*

(29C) In relation to a condition imposed by an official,  
(a) to waive or impose additional conditions in terms of section 42 (3);  
(b) to consider the amendment of a condition in terms of section 42 (3) where objections have been received.

*[Inserted C74/10/07 by CI 31 October 2007]*

In relation to a condition imposed in respect of an application for rezoning, subdivision, departure or consent/conditional use by the Provincial Government on appeal in terms section 44 of LUPO, to waive, amend or impose additional conditions in terms of section 42(3) where land does not extend beyond any Subcouncil boundaries and where objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

*Special Consent, Consent Or Conditional Use In Terms Of The Zoning Scheme Regulations*

- (30) 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.
- (31) 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 does not extend beyond any Subcouncil's boundaries, where objections have been received.

*[Amended C119/05/10 by CI 25 May 2010]*

- (31A) To grant or refuse an application to permit a rooftop base station to extend more than 3m in height above the part of the building it is attached to in relation to land which does not extend beyond any Subcouncil boundaries, where objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (32) To recommend to the Premier to amend, replace or delete a scheduled condition which is part of the scheme regulations in terms of section 9(2)

where land does not extend beyond any Subcouncil's boundaries and where objections have been received.

*[Amended C74/10/07 by CI 31 October 2007]*

- (32A) To recommend to Province/the Premier to waive, amend or to impose additional conditions in terms of section 42 (3) where Council does not have the delegated authority to do so where land does not extend beyond any Subcouncil boundaries and where objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

*Applications Made In Terms Of The Less Formal Townships Establishment Act  
No 125 Of 1991*

- (33) To request the Premier/Administrator:

*[Amended C119/05/10 by CI 25 May 2010]*

- (a) to make available State land that is controlled by him or land that has been acquired by him, for designation in terms of section 3.
- (b) to designate by notice in the Official Gazette land as land for less formal settlement in terms of section 3 and to formulate conditions for such designation.
- (c) in terms of section 3 to suspend the operation of any servitude registered against the title of the designated land or any other restrictive condition registered or otherwise operative in respect of the land;
- (d) to, at any time prior to the commencement of settlement in terms of section 8, to amend or withdraw a notice referred to in subsection (1).
- (e) to amend or suspend a condition imposed under subsection (1) which binds the local authority or person referred to in paragraph

(b) of that subsection either before or after settlement in terms of section 8 has commenced.

- (f) to approve or amend layout plans submitted in terms of a condition of designation of land for less formal settlement.
- (g) to declare that a provision of law referred to in section 3(5) to be applicable or to declare that another law referred to in section 3(5)(h) be declared as not being applicable to designated land.
- (h) to declare a provision of a law mentioned in s3(5) to be applicable to designated land described in the notice or to request him to amend or withdraw a notice under s 3(5)(h).

In relation to land that does not extend beyond the Subcouncil boundaries and objections have been received or in cases where a TIA, HIA or EIA is required and objections have been received.

*[Amended C119/05/10 by CI 25 May 2010]*

- (34) 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.
- (35) 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.

*Regulations Promulgated In Terms Of The Black Communities  
Development Act No 4 Of 1984.*

(36) 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.

(37) 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

*Consent in terms of title deed restrictions*

(38) To grant or refuse the written consent of Council where a title deed condition permits an owner to exceed the use or development parameters or other restrictions set in the title deed condition in relation to the property with the written consent of Council, in cases where a Subcouncil has the delegated power to deal with the related rezoning, subdivision, departure or consent use application.

*[Inserted C74/10/07 by CI 31 October 2007]*

(39) To consult with and comment to the Premier/relevant Minister on appeals lodged in terms of section 44(1)(a)-(c) of the Land Use Planning Ordinance no 15 of 1985 against the decision of the Sub council in cases where it was the final decision maker of Council in respect of the application and where the comment will not be in accordance with the original decision made.

*[Inserted C74/10/07 by CI 31 October 2007]*

- (40) To comment, if it so wishes, on development applications made in terms of Planning legislation in cases where it is clear at advertising stage that an EIA, TIA or HIA is required and the decision maker in the matter will be SPELUM.

*[Inserted C119/05/10 by CI 25 May 2010]*

60. Environmental, Heritage and Outdoor Advertising Matters

***In terms of Outdoor Advertising and Signage By-Law, No. 10518***

- (1) To oversee the regulation of posters, placards, signs, bill-boards etc in terms of the outdoor advertising by-law.
- (2) To comment on and/or make recommendations regarding designated areas, prohibited areas and the modification and /or amendment of Areas of Control, as per the definition of areas of control.<sup>25</sup>
- (3) To make recommendations to SPELUM on applications for outdoor advertising signs larger than 4,5m<sup>2</sup> where objections are received.

***Environmental and Heritage Authorisations***

- (4) To decide on environmental applications and heritage applications and impact assessments where objections are received.

*[Amended C74/10/07 by CI 31 October 2007]*

61. Removal of Restrictions

*The following directions apply in determining when S.P.E.L.U.M., Subcouncils and officials have delegated powers regarding town planning matters:*

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<sup>25</sup> "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.

***In terms of Removal of Restrictions Act No. 84 of 1967***

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

- (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).
- (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).
- (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).
- (3A) To comment on and make recommendations to the Premier or his delegate regarding a proposed alteration, suspension or removal or a restriction or obligation in respect of land which falls within Subcouncil boundaries, in terms of section 3(2).

*[Inserted C74/10/07 by CI 31 October 2007]*

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

- (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.

(5) to (13) *[Deleted C70/10/10 by CI 27 October 2010]*

62. Transport and Roads

- (1) To decide within its area of jurisdiction where traffic calming measures are to be applied within the relevant legislation and policy.

*[Amended C70/10/10 by CI 27 October 2010]*

- (2) To consider the temporary closure of any road where objections have been received to such closure.

- (3) To approve special events in or on local roads.

63. Letting of Property

- (1) *[Deleted C44/10/08 by CI 29 October 2008]*

- (2) To recommend to Council the granting of rights to use, manage or control City immovable assets such as land, property and buildings where the value of the asset is more than R10m and the duration of the right exceeds 3 years and the immovable asset concerned is situated within the area of the jurisdiction of the Subcouncil.

*[Inserted C119/05/10 by CI 25 May 2010]*

64. Ad-hoc Task-teams and Working Groups

- (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 FORUMS (WHEN ESTABLISHED)**

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

65.       Generic Delegations

None.

66.       Specific Delegations

None.

## SECTION 80 BUDGET COMMITTEE

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*[Established C79/08/08 by CI 27 August 2008]*

*The terms of reference is to assist the Executive Mayor with, inter alia, the following :*

- Providing guidance during formulation of budget principles informing the Medium Term Revenue and Expenditure Framework (MTREF) model and sustainable long term financial plan;*
- Considering draft budget proposals for budgetary inclusion;*
- Reviewing, via budget hearings, directorate budget inputs in the context of an evolving IDP during the review period;*
- Assessing Portfolio Committees' inputs via budget hearings;*
- Assessing corporate and sector-based MTREF model scenarios;*
- Assessing and reviewing the structure of the Total Municipal Account (TMA), e.g. grants, rates and tariff structures for the range of Council ratepayers and service consumers;*
- Assessing the impact of budget proposals on the TMA;*
- Reviewing tariff and rating policies;*
- Facilitating and guiding the TMA modeling process within the framework of the IDP/Budget and the MTREF;*
- Facilitating and guiding the review of the relevant budget-related policies in compliance to relevant legislation;*
- Advising on internal and external communications strategies covering all abovementioned matters; and*
- Providing the Executive Mayor with regular progress reports.*

### 66A. Delegations

The Executive Mayor is responsible for delegating appropriate powers, functions and duties, should it be deemed necessary.

## SECTION 80 ENERGY COMMITTEE

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*[Established C100/03/08 by CI 27 March 2008]*

*The terms of reference of the committee is to assist and report to the Executive Mayor on the following functional areas (without limitation) :*

- *Energy Security for the City of Cape Town*
- *Energy efficiency and demand management*
- *Renewable and non-renewable energy resources*
- *Reduction in carbon emissions and pollution*
- *Building resilience to climate change impacts*

*And to drive the effective integration and delivery on all energy matters in the City.*

*[Amended MC 64/11/08 MayCo 25 November 2008]*

*Council had authorized the Section 80 Energy Committee to co-opt advisory members who are not members of Council within the limits determined by Council.*

### 66B. Delegations

The Executive Mayor is responsible for delegating appropriate powers, functions and duties, should it be deemed necessary.

#### NOTE :

The following Section 79 Portfolio Committees will continue to play a role in respect of policy formulation and implementation monitoring in respect of energy issues within their respective functional areas:

Planning and Environment  
Utility Services  
Housing  
Transport, Roads and Stormwater

## **- PART 5 -**

### **DELEGATION OF POWERS TO CITY MANAGER**

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#### **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 and sub-delegate any of his/her statutory powers, functions and duties to staff members*

*[Amended C71/05/08 by CI 28 May 2008]*

*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:*

67. Staff Establishment, Job Descriptions and Conditions of Service

(1) Subject to a policy framework:

- (a) to draft the total staff establishment (the approval thereof remains with the City Manager and is not be delegated).
- (b) to provide a job description for each post on the staff establishment.
- (c) to draft the remuneration package structure and conditions of service for each post (the approval thereof remains with the City Manager and is not be delegated).

- (2) To create posts in accordance with the staff establishment approved by the City Manager..<sup>26</sup>
- (3) To create co-operative student posts and to appoint the said students.
- (4) To formulate a process to regularly evaluate the staff establishment, remuneration and conditions of service.
- (5) To determine guidelines for the job evaluation process.
- (6) To determine guidelines to inform the identification of jobs to be designated as scarce skills or premium positions.
- (7) To settle disputes arising from Job Evaluations.

*Derived Powers In Terms Of Section 55 Of The Systems Act:*

68. Staff Recruitment

- (1) To appoint recruitment agents for advertising, sourcing and assessment of candidates where considered necessary.
- (2) To authorise the advertising and filling of vacancies for staff.
- (3) To approve the costs related to interviews of job applicants.  
*[Amended C119/05/10 by CI 25 May 2010]*
- (4) To determine competency profiles for posts.

69. Appointment of Staff

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

- (1) To appoint staff into permanent, temporary or casual positions that have been approved for filling and to determine on which notch such person shall be placed within the applicable remuneration band for that position.
- (2) To appoint staff in an acting capacity.
- (3) To determine guidelines for the appointment of non-permanent staff and periodically monitor the usage and continued employment of such staff.
- (4) To enter into and sign employment contracts.

70. Transfer of Staff

- (1) To authorise the transfer of staff from one department to another.

71. Displaced Staff

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

72. Resignations and Retirement

- (1) To accept notice of resignation and retraction thereof including those cases where less than the prescribed notice period has been given.
- (2) To authorise retirement on the grounds of ill health.
- (3) To authorise the extension of retirement age subject to the relevant pension fund rules.

*[Amended C08/12/08 by CI 3 December 2008]*

- (4) To enter into a contract of employment with a retired staff member (post retirement contract).

73. Leave and Time Off

- (1) To approve leave including the following:
  - (a) vacation;
  - (b) maternity;
  - (c) paternity;
  - (d) family responsibility;
  - (e) sick leave including additional sick leave where an employee has exhausted all sick leave.
  - (f) special leave for official business
  - (g) study leave
  - (h) unpaid leave
- (2) To approve ad hoc requests including *ex gratia* categories for special leave which is not included in the conditions of service of employees.
- (3) To approve requests for additional time off beyond that provided for in the Organisational Rights Agreement.
- (4) [Deleted C119/05/10 by CI 25 May 2010]
- (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.

74. Overtime

- (1) To approve the payment of overtime and/or time off *in lieu* of overtime.

- (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.

75. Standby Duties

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

76. Training and Study

- (1) To authorise the training of members of staff.
- (2) To authorise contracts for the outsourcing of training provision.
- (3) To authorise expenditure on the total directorate training budget.
- (4) To make application for refunds in respect of training from SETA.

77. Re-imbursements

- (1) To authorise re-imbursement for occasional use of an employee's own car on official business.

78. Performance Evaluations

- (1) To approve performance evaluations.
- (2) To submit the employment contract and performance agreement of the City Manager and managers directly accountable to the City Manager to the MEC and the National Minister in terms of Regulation 4 the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to municipal managers, 2006 (GN 805 of 1 August 2006).

79. Disciplinary Action

- (1) To authorise investigations into allegations of misconduct.
- (2) To authorise the institution of disciplinary procedures.
- (3) To appoint a chairperson of a disciplinary hearing and to authorize such person to make an appropriate finding and to impose a sanction.
- (4) To authorise the suspension of an employee pending the finalisation of disciplinary action.

80. Disputes, Grievances and Labour Issues

- (1) To authorise investigations into disputes and grievances.
- (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.
- (3) To give a mandate after consulting the Director: Legal Services in respect of hearings, arbitrations and mediation of the CCMA, and to agree on settlement conditions in respect of corporate wide issues.  
*[Amended C08/12/08 by CI 3 December 2008]*
- (4) To execute mandates from the Council in respect of Council wide labour issues.
- (5) To coordinate and manage Council's responses to strike action.

81. Employee Debt

- (1) To approve the terms and conditions for the repayment of debt owed to Council.

82. Allowances and Special Privileges Granted for the Performance of Duties

- (1) To authorise the provision of official telephones, cell phones, and internet connectivity at the residence of a staff member.
- (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.
- (3) To approve applications for Internal bursaries for staff.
- (4) To approve participation in motor vehicle essential user schemes.
- (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.
- (6) To authorise special allowances in terms of conditions regulating such allowances.

83. Long Service Bonuses and Other Benefits and Rewards

- (1) To approve long service bonuses and other benefits and rewards in terms of applicable conditions of service.

84. Contracts, Agreements, Securities and Cheques

- (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.

- (2) To enter into and sign staff related contracts e.g., bursaries, studying overseas etc.
- (3) To authorise officials to sign cheques and withdraw money on behalf of the Council

85. Uniforms and Protective Clothing

- (1) To determine what uniforms and protective clothing should be issued to the various categories of staff.

86. Ex Gratia Payments

- (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.

87. Considering Appeals

- (1) To consider appeals in terms of section 62 of the Systems Act in respect of decisions taken by staff members in terms of any power or duty delegated or sub-delegated by a delegating authority.

88. Performance Management

***Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006  
Notice No: 805 of 1 August 2006***

The regulations confer various powers on the City Manager in relation to the managers reporting directly to him or her; see the definition of employer -

"employer" means the municipality employing a person as a municipal manager or as a manager directly accountable to a municipal manager and as represented by the mayor, executive mayor or municipal manager as the case may be;

These powers relate *inter alia* to-

- A written employment contract for a manager reporting directly to the City Manager
- A written performance agreement for a manager reporting directly to the City Manager
- Conditions of service
- Performance bonus
- Precautionary suspension
- Performance management system

These delegations may not be delegated or sub-delegated.

***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: Planning and Building Development Management, the Director: Spatial Planning and/or the Director: Environmental Resource Management as the case may be:***

89. Advertising

- (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”.
- (2) To determine public participation requirements under a Zoning Scheme.
- (3) To take steps to obtain comment from interested and affected parties in respect of environmental or heritage matters in terms of the Cape Town Zoning Schemes or equivalent provision in the relevant zoning scheme.

90. Structure Plans

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

91. Departures

- (1) To receive and process applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned, in terms of section 15(1).

- (2) To receive and process 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).
- (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).
- (4) To, where objections against an application are received, submit them to the said owner for his comment, in terms of section 15 (2).
- (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).
- (6) To submit an application and all relevant documents to council, in terms of section 15(2).
- (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).

## 92. Applications for Rezoning

- (1) Moved to Part B delegation 117A  
*[Deleted C08/12/08 by CI 3 December 2008]*
- (2) To receive and process applications for rezoning of land, in terms of section 17(1).
- (3) To advertise an application for rezoning of land, in terms of section 17(2).

- (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).
- (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).
- (6) To submit the application and all relevant documents to Council, in terms of section 17(2).
- (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).

93. Subdivisions

- (1) To receive and process applications for the granting of a subdivision by an owner of land, in terms of section 24(1).
- (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).
- (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).
- (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).
- (5) To submit an application and all relevant documents to council, in terms of section 24(2).
- (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).

94. Advertising in terms of Section 42 of LUPO

- (1) To advertise in terms of section 42(4) of LUPO.

95. Land Use Planning Ordinance Regulations 1988, Sections 3 And 4

- (1) To 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 environmental or heritage resources.

96. Credit Control and Debt Collection

- (1) Unless otherwise provided, to give effect to all the powers, duties and functions provided for in the Credit Control and Debt Collection by-law and policy either himself or herself to effect the necessary sub-delegations; and

*[Amended C55/11/09 by CI 26 November 2009]*

- (2) Where the Credit Control and Debt Collection by-law and policy confer powers, duties and functions directly on the City Manager he or she is authorised to delegate same.

*[Amended C55/11/09 by CI 26 November 2009]*

97. [Deleted C55/11/09 by CI 26 November 2009]

98. [Deleted C55/11/09 by CI 26 November 2009]

99. [Deleted C55/11/09 by CI 26 November 2009]

100. [Deleted C55/11/09 by CI 26 November 2009]

101. Collection of RSC Levies

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

- (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.

102. Indigent Relief

- (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.
- (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 FINANCIAL OFFICER (Paragraphs 38.1 to 39.2 inclusive):***

103. Rates Policy

- (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

104. Levying Rates

- (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,.
- (2) To annually table in council, in terms of section of 15 (3) the Property Rates Act, a –
  - (a) list of all exemptions, rebates and reductions granted during the previous financial year; and
  - (b) 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**

105. Valuations

- (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.
- (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.
- (3) 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.
- (4) To, in terms of section 49(1) of the Property Rates Act, on receipt of the certified valuation roll from the valuer –
  - (a) publish a notice stating that the roll is open for public inspection and inviting objection;
  - (b) disseminate the substance of the notice to the local community; and
  - (c) 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.

- (5) To receive objections against any matter reflected in, or omitted from, the roll, in terms of section 50(1) of the Property Rates Act.
- (6) 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.
- (7) To submit all objections to the municipal valuer for decision and disposal, in terms of section 50(5) of the Property Rates Act.
- (8) 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.

106. Appeals

- (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.

107. Adjustments or Additions to Valuation Rolls

- (1) To, if an adjustment in the valuation of a property affects the amount due for rates payable on that property –
  - (a) calculate the amount actually paid since the effective date and the amount payable in terms of the adjustment since the effective date; and
  - (b) 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

- (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.

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

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*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 staff members including the following members of staff :*

*Executive Directors*

*Executive Director : Corporate Services*

*Chief Financial Officer*

*Chief Audit Executive*

*Directors*

*Director : Planning & Building Development Management*

*Director : Property Management*

*Director : Legal Services*

*Director : Revenue*

*Director : Valuations*

*Director : Housing Finance & Leases*

*Director : Executive Support*

*Director : Governance and Interface*

*Manager : Forensic Services*

*Cost Centre Managers*

*City Ombudsman*

*Heads and Managers*

*Buyers and Commodity Team Leads*

*[Amended C71/05/08 by CI 28 May 2008]*

*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.*

108. General

- (1) To designate Deputy Information Officers in terms of Section 17 of the Promotion of Access to Information Act, Act of 2 of 2000.
- (2) To update and publish the section 14 manual in terms of the aforementioned Act.
- (3) To appoint a Chief Fire Officer who possesses the prescribed qualifications and experience to be in charge of the Municipality's fire service.
- (4) To appoint a person as Head of the Municipal Disaster Management Centre who possesses the prescribed qualifications and experience to be in charge of the Municipality's Disaster Management Centre.
- (5) To grant authority for officials to attend conferences, congresses, seminars, workshops, symposiums, lectures, courses, court and related legal engagements, and meetings outside of the municipal boundaries of Cape Town but within the Republic of South Africa.  
*[Amended C08/12/08 by CI 3 December 2008]*
- (6) *[Deleted C08/12/08 by CI 3 December 2008]*
- (7) 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.
- (8) To appoint officials to represent Council on outside bodies.

- (9) To administer and award External Scholarships and Bursaries.

*[Amended C119/05/10 by CI 25 May 2010]*

- (10) To authorise the performance of private work by staff.

- (11) To develop and adopt in terms of section 67 of the Systems Act appropriate systems and procedures to ensure fair, efficient, effective and transparent personnel administration. This power may not be sub-delegated.

*[Inserted C43/06/09 by CI 25 June 2009]*

- (12) To co-operate in mutual trust and good faith with the municipal managers of other municipalities, and officials of other spheres of government, on matters of common interest.

*[Inserted C43/06/09 by CI 25 June 2009]*

- (13) Determines the operational policies and procedures in respect of all matters falling within the functional areas of the Directorate concerned.

*[Inserted C70/10/10 by CI 27 October 2010]*

- (14) To enter into and sign contracts and other documents.

*[Inserted C70/10/10 by CI 27 October 2010]*

- (15) Within his or her functional area and in consultation with Legal Services, to enter into and sign co-operative agreements that fall within the municipal boundaries which have no financial obligations for the city.

*[Inserted C70/10/10 by CI 27 October 2010]*

## 109. Legal

- (1) *[Deleted C74/10/07 by CI 31 October 2007]*

- (2) 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 provided that this amount does not exceed R10 000 000.

- (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:
- (a) 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
  - (b) 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.
- (4) To obtain legal opinion including that of Senior Counsel on any matter, excluding those matters reserved for the Executive Mayor by delegation 3(7).
- [Amended C43/06/09 by CI 25 June 2009]*
- (4A) To appoint lawyers, attorneys and Counsel to provide professional assistance including that of Senior Counsel on any municipal matter, excluding those matters reserved for the Executive Mayor by delegation 3(7).
- [Inserted C43/06/09 by CI 25 June 2009]*
- (5) To appoint Law Enforcement Officers in terms of Part 5(a) of GN R209 of 19 February 2002, Declaration of Peace Officers.
- [Inserted C71/05/08 by CI 28 May 2008]*
- (6) To authorise peace officers in the City's employ, in terms of section 15(2)(a) of the Magistrates Court Act, 1944, to serve court process and all other documents in respect of criminal prosecutions.
- [Inserted C71/05/08 by CI 28 May 2008]*

- (7) To lay criminal charges or authorise any official to lay criminal charges with the South African Police Services in respect of any criminal act perpetrated against; *[Amended C70/10/10 by CI 27 October2010]*

- (a) the municipality, or
- (b) its employees, and councillors

provided that such act impacts on the interests of the municipality and in addition in the case of councillors, the Speaker is first consulted.

*[Inserted C43/06/09 by CI 25 June 2009]*

- (8) To lay criminal charges or authorise any official to lay criminal charges with the South African Police Services in respect of any criminal act perpetrated by a councillor, employee, agent, contractor, supplier or service provider where such act impacts on the interests of the municipality, provided that in the case of councillors, the Speaker is first consulted.

*[Inserted C43/06/09 by CI 25 June 2009]*

*[Amended C70/10/10 by CI 27 October2010]*

- (9) To agree or to authorise an official to agree, on behalf of the City, to plea bargain agreements provided that in the case involving councillor/s, the Speaker is first consulted.

*[Inserted C70/10/10 by CI 27 October2010]*

#### 110. Procurement and Leasing

- (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.

- (2) To lease immovable property from private and public bodies or any person where the value of the lease does not exceed R200 000 per annum.
- (3) After considering a recommendation by the Supply Chain Management Bid Adjudication Committee {in terms of regulation 29(1) of the Supply Chain Management Regulations and clause 214 of the Council's Supply Chain Management Policy} to take such steps as he/she deems appropriate under the circumstances to proceed with the relevant procurement. *[Amended C43/06/09 by CI 25 June 2009]*
- (4) To authorize the public participation process for the granting of rights to use, control or manage capital assets for the following categories listed :
- (i) capital assets less than R10 mil, longer than 3 years  
( $<R10\text{ m}$  and  $>3\text{ yrs}$ )
  - (ii) capital assets more than R10 mil, less than 3 years  
( $>R10\text{m}$  and  $<3\text{ yrs}$ )
  - (iii) capital assets less than R10 mil, less than 3 years  
( $<R10\text{m}$  and  $<3\text{ yrs}$ ) *[Inserted C44/10/08 by CI 29 October 2008]*
- (5) To approve the granting of rights to use, manage or control city capital assets of a value less than R10 m and for a period of less than 3 years, provided that in respect of immovable assets such as land, property and buildings, this delegation may only be exercised after considering the recommendation of the Subcouncil in whose area of jurisdiction the capital asset is situated.
- [Inserted C44/10/08 by CI 29 October 2008]*  
*[Amended C119/05/10 by CI 25 May 2010]*
- (6) To authorize the initiation of property transactions in order to give effect to and to ensure compliance with the provisions of the Municipal Asset Transfer Regulations. *[Inserted C44/10/08 by CI 29 October 2008]*

## 111. To appoint Cost Centre Managers

- (1) In terms of Section 119 of the MFMA to provide resources or opportunities for the training of officials involved in the implementation of Council's Supply Chain Management Policy so as to meet the prescribed competency levels.

### 12. Finance and Procurement *[Amended C70/10/10 by CI 27 October 2010]*

- (1) To authorise, after consultation with the relevant Mayoral Committee member, and subject to the provisions of the MFMA, the virement of funds within any operational or capital vote to an amount determined by the Executive Mayor.<sup>27</sup>

*[Amended C74/10/07 by CI 31 October 2007]  
[Amended C39/08/09 by CI 26 August 2009]  
[Amended C119/05/10 by CI 25 May 2010]*

- (2) *[Deleted C74/10/07 by CI 31 October 2007]*

- (3) To determine the upper limit of virementation within operational and capital votes of Executive Directors, Directors and Managers.

*[Amended C74/10/07 by CI 31 October 2007]  
[Amended C119/05/10 by CI 25 May 2010]*

- (4) To write off individual bad debts exceeding R1 million on the recommendation of the Chief Financial Officer, provided that :

\* (a) an individual bad debt written off shall not exceed R5 million, and

(b) an individual bad debt shall not be split into parts or items of a lesser value merely to avoid complying with the restriction of R5 million

\*NOTE: See section 22(1) of the Credit Control and Debt Collection Policy adopted by Council on 27 May 2009.

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<sup>27</sup> See Executive Mayor's delegations Part3, paragraph 5.4 of the System of Delegation

- (5) To write off assets up to a value of R5 million subject to section 14(2)(a) and (b) of the MFMA.
- (6) To dispose of movable capital assets below a value of R5 million subject to Section 14(2)(a) and (b) of the MFMA, provided that, in respect of capital assets above a value of R200 000, the City Manager shall first consider a recommendation from the Supply Chain Management Bid Adjudication Committee.

*[Amended C74/10/07 by CI 31 October 2007]*

- (7) To manage and certify the annual stocktaking of Council's assets.
- (8) 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.
- (9) To incur expenditure necessary for the performance of the functions in the office of City Manager within budget.
- (10) 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.

*[Inserted C44/10/08 by CI 29 October 2008]*

## Procurement

- (11) When the interest of the City so demands, to terminate, after consultation with the Director : Legal Services, any contract to which the City is a party.

*[Inserted C70/10/10 by CI 27 October 2010]*

## 113. Emergency Decision-making

- (1) To decide on and acts in cases requiring an immediate decision, in consultation with the Executive Mayor or Deputy Executive Mayor or Speaker. If the Executive Mayor or Deputy Executive Mayor or Speaker are not available, then only in exceptional cases the Municipal Manager may act on his/her own initiative.
  - (a) This delegation may only be exercised in an emergency or in exceptional circumstances which may severely prejudice and have a detrimental impact on the Municipality and/or its residents, without detracting from the principle of accountability.
  - (b) This power cannot be delegated or sub-delegated and whenever it is exercised, a report must be submitted to Council as soon as possible.

#### 114. Appointment of Acting Executive Directors

- (1) To appoint Acting Managers directly accountable to the City Manager for a period not exceeding 30 days, whereafter any further appointments in respect of any person per directorate to act shall be approved by the Executive Mayor subject to the limitations imposed by delegation 4(9). This power may not be delegated or sub-delegated.

*[Amended C43/06/09 by CI 25 June 2009]*

#### 115. Forensic Investigations

- (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 employee (this does not include managers directly accountable to the City Manager); any agent, contractor, supplier or service provider to the City Of Cape Town.

*[Amended C08/12/08 by CI 3 December 2008]*

- (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 in section 115(1) above.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (3) In the performance of any of his/her functions, whether performed personally or via one or more Forensic Services employees or contractors:

- (a) 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.

*[Amended C08/12/08 by CI 3 December 2008]*

- (b) 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 such register, file, document and/or record which may be maintained by any employee, in relation to the performance of his/her official functions;

*[Amended C08/12/08 by CI 3 December 2008]*

- (c) To have access and to be able to question any 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

*[Amended C08/12/08 by CI 3 December 2008]*

- (d) To issue appropriate executive instructions to any City employee, agent, contractor, supplier and/or service provider in respect of any Forensic Services activity.

*[Amended C08/12/08 by CI 3 December 2008]*

## 116. Rewards

- (1) To authorise the payment of a reward not exceeding R20 000.00 to any person who furnishes information leading to the successful criminal prosecution of any person who has committed any criminal act in or against the City, 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 any Councillor or official of the City.
- (2) To authorize the payment of a reward not exceeding R20 000 to any person who furnishes information leading to Council achieving substantial savings, recovering monies due to it and/or the implementation of measures which substantially improve the manner in which it conducts its operations.

#### 117. Property Rates

- (1) 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.
- (2) To withdraw the designation of a person as a data-collector, in terms of section 36(5) of the Property Rates Act.
- (3) To, in terms of section 49(2) of the Property Rates Act, on receipt of the certified valuation roll from the valuer, publish the roll on the official website.
- (4) To approve applications for a rates rebate in terms of Council's Rates Policy.

#### 117A Applications for Rezoning

- (1) To determine the utilisation of land for purposes of zoning where a zoning has lapsed, in terms of section 16(2).

*[Inserted C08/12/08 by CI 3 December 2008]*

### **117B Integrated Development Planning (IDP)**

*[Section 117B inserted C119/05/10 by CI 25 May 2010]*

- (1) To participate in national and provincial development programmes as required in section 153 (b) of the Constitution and Section 24(2) of the Municipal Systems Act.
- (2) To initiate together with appropriate internal structures the establishment of appropriate mechanisms, processes and procedures established in terms of Chapter 4, to allow for the local community to be consulted on its development needs and priorities, the local community to participate in the drafting of the integrated development plan; and organs of state, and other role players to be identified and consulted on the drafting of the integrated development plan in terms of Section 29 and Regulation 15 of the Municipal Systems Act.

### **117C Performance Management**

*[Section 117C inserted C119/05/10 by CI 25 May 2010]*

*In terms of Municipal Systems Act*

- (1) To conduct ongoing research into, and to make recommendations in respect of and submit progress reports on international best practice regarding systems and legislation for purposes of developing, establishing and improving an organisational performance management system (OPMS) in terms of Section 38(1).

- (2) To develop OPMS (Balanced Scorecard) and related framework in terms of legislative requirements and SALGA resolution, as adopted by Council on 26 March 2003 in terms of Sections 39, 41 (1) (a) and (b) – 44 (MSA) and Regulation 7, 8-10, 12 and 15 (Regs).
- (3) To ensure implementation of the OPMS for the City of Cape Town and its municipal entities in terms of Sections 38 (a) and 81 (1).
- (4) To establish and facilitate the use of mechanisms to enable Council to (a) monitor, measure, review, improve and report on the City's OPMS and development priorities, objectives and key performance indicators as identified in IDP and (b) ensure that the City administers its affairs, and those of its municipal entities, in an economical, effective, efficient and accountable manner, in terms of Sections 38, 40, 41 (1) (c), 42 and 81 (1) (MSA) and Regulation 7, 11, 13 (1), (2), (3), (4) and 15 (Regs).
- (5) To ensure the establishment of a conducive, positive and receptive environment for the implementation, operation and maintenance of the City's OPMS in terms of Section 38(b).
- (6) To ensure that quarterly corporate performance progress reports in respect of the City's Service Delivery and Budget Implementation Plan, and in respect of the City's municipal entities, are prepared and submitted to Portfolio Committees, Mayco and Audit Committee in terms of Section 41 and 81(1).
- (7) To facilitate the development and implementation of performance agreements for the City Manager and Executive Directors, in terms of Section 57 (MSA) (as amended by Section 8 of Act 44 of 2003) and Section 53 (MFMA).

- (8) To co-ordinate the compilation of the City's annual report, in terms of Section 46 (MSA) (as amended by Section 6 of Act 44 of 2003) and Section 121, 127-132 (MFMA)
- (9) To co-ordinate the compilation of the City's mid-year service delivery performance assessment report (part of the mid-year budget and performance assessment report), in terms of Section 72.
- (10) To ensure that the service delivery performance portion is combined with the financial / adjustment budget portion of the report compiled by the Budgets Department before submission to the Mayor, National Treasury and Provincial Treasury as required by the MFMA.

#### **117D National Land Transport Act No 5 of 2009**

*[Section 117D inserted C119/05/10 by CI 25 May 2010]*

##### *In terms of **the National Land Transport Act No 5 of 2009***

*(Note : The National Land Transport Transition Act 22 of 2000 was repealed with effect from 8 December 2009 and replaced by the abovementioned Act)*

- (1) To develop a land transport policy and strategy for approval by Council, in terms of Section 11.
- (2) To draft appropriate by-laws and agreements as may be required in terms of the act, in terms of Section 11.
- (3) To ensure co-ordination between departments and agencies in the municipality with responsibilities that impact on transport and land use planning issues, and bringing together the relevant officials, in terms of Section 11.

- (4) To prepare transport plans for the City, ensuring the implementation thereof and monitoring its performance in achieving its goals and objectives, in terms of Section 11.
- (5) To ensure financial planning with particular reference to transport planning, infrastructure, operations, services, maintenance, monitoring and administration, with due focus on rehabilitation and maintenance of infrastructure, in terms of Section 11.
- (6) To manage the movement of persons and goods on land within the City by co-ordinating such movement, in terms of Section 11.
- (7) To encourage and promote the optimal use of the available travel modes so as to enhance the effectiveness of the transport system and reduce travelling time and costs, in terms of Section 11.
- (8) To develop, implement and monitor a strategy to prevent, minimise or reduce any adverse impacts of the land transport system on the environment in its area, in terms of Section 11.
- (9) To develop, operate and maintain a land transport information system for the City, in terms of Section 11.
- (10) To encourage, promote and facilitate public consultation and participation in the planning, regulation and implementation of public transport, and applying the requirements of the Systems Act in that regard, in terms of Section 11.
- (11) To market and promote public transport and promote publicity associated with the public transport system, in terms of Section 11.
- (12) To provide information to users or potential users of public transport, in terms of Section 11.

- (13) To promote safety and security in public transport, in terms of Section 11.
- (14) To ensure there is provision for the needs of special categories of passengers in planning and providing public transport infrastructure, facilities and services to meet their needs, in so far as possible by the system provided for mainstream public transport, in terms of Section 11.
- (15) To liaise on a continuous basis with the SAPS, Road Traffic Management Corporation, the relevant provincial enforcement authorities or agencies, Metro Police with a view to ensuring co-ordinated transport law enforcement within its area, in terms of Section 11.
- (16) To apply traffic management techniques aimed at improving road traffic movement, in terms of Section 11.
- (17) To undertake functions relating to municipal roads, as well as measures to limit damage to the road system, in terms of Section 11.
- (18) To plan, implement and manage the modally integrated public transport networks and travel corridors for transport within the City and liaise in that regard with neighbouring municipalities, in terms of Section 11.
- (19) To, in relation to the planning functions include service level planning for passenger rail on a corridor network basis in consultation with the South African Rail Commuter Corporation, in terms of Section 11.
- (20) To introduce, establish or assist in or encourage and facilitate the establishment of integrated ticketing systems, the managing thereof including through-ticketing and determining measures for the regulation and control of revenue-sharing among operators involved in those systems, in terms of Section 11.

- (21) To, subject to standards set by the Minister, set standards for interoperability between fare collection and ticketing systems in its area, in terms of Section 11.
- (22) To formulate and apply travel demand management measures for the City, in terms of Section 11.
- (23) To, in the case of gross cost contracts for subsidized services, determine fare structures and fare levels and periodically adjust fares after publishing the proposed adjustment for public comment, in terms of Section 11.
- (24) To determine concessionary fares for special categories of passengers, in terms of Section 11.
- (25) In terms of Section 11, to exercise control over service delivery through-
  - (i) the setting of operational and technical standards and monitoring compliance therewith; and
  - (ii) the monitoring of contracts and concessions;
- (26) To conclude subsidised service contracts, commercial service contracts, and negotiated contracts with operators for services within their areas, in terms of Section 11.
- (27) To develop and manage intelligent transport systems for the City, in terms of Section 11.
- (28) To prepare integrated transport plans for approval by Council, in terms of Section 14.

- (29) To supply directions to the entities responsible for the granting, renewal, amendment or transfer of operating licences in terms of their integrated transport plans, in terms of Section 14.
- (30) To establish an intermodal planning committee, in terms of Section 15.
- (31) To establish a land transport advisory board, in terms of Section 16.
- (32) To establish a division within the City's administration to perform any assigned operating licence function, in terms of Section 17.
- (33) To arrange the City's administration so that the function of managing and funding transport matters, and land use planning, as well as the other related functions are integrated, in terms of Section 17.
- (34) To receive and decide on applications relating to operating licences for services in the City, in terms of Section 18.
- (35) To give notice that the City will no longer receive applications for operating licenses for new services, in terms of Section 18.
- (36) To establish a call centre where passengers and other interested persons may lodge complaints or inquiries, in terms of Section 18.
- (37) To establish an inter-municipality forum, in terms of Section 19.
- (38) To administer the Municipal Land Transport Fund, in terms of Section 27.
- (39) To invest money in the Municipal Land Transport Fund that is not immediately required, in terms of Section 27.
- (40) To keep proper accounts of all money accruing to or paid out of the Municipal Land Transport Fund, in terms of Section 27.

- (41) To enter into an agreement with any other planning authority or the provincial department to assist it in performing its functions, in terms of Section 33.
- (42) To publish a notice in a newspaper informing the relevant stakeholders that the integrated transport plan has been completed and is available for public inspection, in terms of Section 33.
- (43) To prepare and submit to the MEC, integrated transport plans, in terms of Section 36.
- (44) To submit the integrated transport plan to the Minister for approval of the commuter rail component of the integrated transport plan, in terms of Section 36.
- (45) To make the integrated transport plan available to the National Public Transport Regulator and relevant Provincial Regulatory Entity and make recommendations to them relevant to applications for new operating licences, in terms of Section 36.
- (46) To develop a freight transport strategy, with due regard to national and provincial policy, in terms of Section 37.
- (47) To collaborate with the MEC and registering authorities contemplated in the National Road Traffic Act, to promote effective regulation of freight operations, in terms of Section 37.
- (48) To publish, in the *Gazette*, *Provincial Gazette* or newspaper particulars of an integrated transport plan, which must include particulars of routes for dangerous goods, in terms of Section 38.

- (49) To approve or refuse an application for a change or intensification in land use or development proposal and submit the written decision and any objections with respect to such application, including directions or conditions for compliance with the integrated transport plan, to such authority vested with responsibility for considering the application, in terms of Section 38.
- (50) In terms of Section 38, where a building or structure has been erected without approval or is in conflict with a condition imposed, apply to the High Court for an order -
- (a) compelling the owner of the property to demolish or remove the building or structure at the owner's cost; or
  - (b) authorising the City to do so and claim the costs incurred from the owner; or
  - (c) alternative relief as the court may deem just.
- (51) In terms of Section 39 to, when there is a surplus of legally operated services by operators on a particular route as a result of which an existing non-contracted public transport service is no longer required,
- (a) offer the operator an alternative service; or
  - (b) allow the operator to continue providing the service and impose a moratorium on the issuing of new operating licences on that route
- (52) To take steps to integrate services as well as appropriate uncontracted services, into the larger public transport system in terms of relevant integrated transport plans, in terms of Section 40.
- (53) To enter into negotiated contracts with operators, in terms of Section 41.

- (54) To take appropriate steps on a timeous basis to ensure that the services are put out to tender, in terms of Section 42.
- (55) To enter into a subsidised service contract with an operator, in terms of Section 42.
- (56) To enter into a commercial service contract with an operator, in terms of Section 43.
- (57) To appoint employees as inspectors, in terms of Section 86.
- (58) To identify and recommend to Council any suitable place to be designated as a depot, in terms of Section 87.
- (59) To appoint an authorised person as the head of a depot, in terms of Section 87.

## - PART 6 -

### DELEGATION OF POWERS TO OFFICIALS

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- **Executive Directors:**

- A: Generic Delegations

- B: Function Specific Delegations

- **Directors**

- A: Generic Delegations

- B: Function Specific Delegations

- **Managers and Heads**

- A: Generic Delegations

*NOTE: The following powers, duties and functions are delegated to the delegatee to exercise and perform within his/her functional area, provided that in appropriate circumstances and in consultation with another director, powers may be delegated to staff members across functional areas or geographical boundaries.*

## EXECUTIVE DIRECTORS

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to all Executive Directors including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **A           GENERIC DELEGATIONS**

Determines the operational policies and procedures in respect of all matters falling within the functional areas of the Executive Directorate concerned.

Within his or her functional area and in consultation with Legal Services, to enter into and sign contracts and other documents, where he or she has the necessary authority, or where the necessary approvals and/or authorities have been obtained.

Within his or her functional area and in consultation with Legal Services, to enter into and sign co-operative agreements that fall within the municipal boundaries which have no financial obligations for the city.

*[Inserted C43/06/09 by CI 25 June 2009]*

Unless otherwise provided to exercise any power, duty or function delegated by Council to a staff member that reports directly to the Executive Director where the staff member declines or is unable to exercise the power, duty or function.

To oversee the exercise of delegated powers, duties and functions delegated by Council to staff members which report directly to him or her and to report to the City Manager on failure or any improper exercise of delegation.

## **B            FUNCTION SPECIFIC DELEGATIONS**

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

## COMMUNITY SERVICES

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### EXECUTIVE DIRECTOR : COMMUNITY SERVICES

*[Amended C 65/08/08 by CI 27 August 2008]*

#### 118. Function Specific Delegations

None.

## CORPORATE SERVICES

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### EXECUTIVE DIRECTOR : CORPORATE SERVICES

#### 119. Function Specific Delegations

*By-law relating to streets, public places and the prevention of noise nuisances*

- (1) To authorize the collection of money in public places including any conditions in respect thereof.

*[Inserted C119/05/10 by CI 25 May 2010]*

# ECONOMIC, SOCIAL DEVELOPMENT AND TOURISM

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## EXECUTIVE DIRECTOR: ECONOMIC, SOCIAL DEVELOPMENT AND TOURISM

*[Amended C08/12/08 by CI 3 December 2008]*

### **120. Function Specific Delegations**

None.

## FINANCE

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### CHIEF FINANCIAL OFFICER

Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Chief Financial Officer including the power to sub delegate any of his or her delegated powers, functions and duties:

#### 121. Function Specific Delegations

- (1) *[Deleted C44/10/08 by CI 29 October 2008]*
- (2) To take all steps that may be necessary to give effect to an award of the Bid Adjudication Committee.
- (3) To write off individual bad debts provided that :
  - \*(a) an individual bad debt written off shall not exceed R1 million, and
  - (b) an individual bad debt shall not be split into parts or items of a lesser value merely to avoid complying with the restriction of R1 million

\*NOTE: See section 22(1) of the Credit Control and Debt Collection Policy adopted by Council on 27 May 2009.

*[Inserted C43/06/09 by CI 25 June 2009]*

# HEALTH SERVICES

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## EXECUTIVE DIRECTOR: CITY HEALTH

Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Executive Director: City Health including the power to sub delegate any of his or her delegated powers, functions and duties:

### 122. Function Specific Delegations

#### ***Business Licences***

*In terms of Businesses Act 71 of 1991*

*PN 67/2003 dated 28 February 2003*

- (1) To receive all applications for licences, to process same and where applicable in terms of regulation 8 and to refer to the applicable Subcouncil; and
- (2) To grant licenses as provided for in terms of items 1 and 3 of schedule 1 to the Businesses Act 1991 (excluding health facilities or entertainment as provided for in terms of item 2 of schedule 1), and to exercise all powers conferred on the Municipality in terms of section 2(4) to 2(10).
- (3) To keep and maintain all records and documents.

#### ***Health Services***

*In terms of National Health Act 61 of 2003*

- (4) To establish a procedure for the laying of complaints in terms of Section 18

- (5) To ensure that appropriate Municipal Health Services are effectively and equitably provided in terms of Section 32
- (6) To establish and maintain a Health Information System as contemplated in Section 74, in terms of Section 76

***In terms of Health Act 63 of 1977***

- (7) To take all lawful, necessary and reasonably practicable measure as envisaged in Section 20 (1)(a) – (c).
- (8) To institute a prosecution for any contraventions of/or failure to comply with any provisions of this Act in terms of Section 20(7)
- (9) To serve a written notice in respect of conditions requiring immediate remedying in terms of Section 27(1)
- (10) To enter a dwelling/premises and take all steps necessary to remedy the condition and to recover the costs in terms of Section 27(3)
- (11) To submit notifications of any communicable disease to the Director General: Health in terms Section 28
- (12) To remove and bury the body of a destitute person or of an unclaimed body or which no competent person undertakes to bury in terms of Section 48(2)

***In terms of Regulation 237 of 8 February 1985***  
***Regulations relating to funeral Undertakers'***  
***premises promulgated in terms of the Health Act.***

- (13) To issue a written order where a nuisance is present ,in terms of Section 2(1)(b)
- (14) To, with the approval of the Director-General, exempt any person in writing from compliance with all or any of the regulations where in his/her opinion, non compliance does not or will not create a nuisance, in terms of Section 3(1)
- (15) To, 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 in terms of Section 3(2)
- (16) To request any further information deemed necessary when considering issuing or transferring of a certificate of competence, in terms of Section 5(3)
- (17) To consider any application for the issue or transfer of a certificate subject to the completion of an inspection, in terms of Section 5(4)
- (18) To issue or transfer a certificate of competence when premises comply with all relevant requirements, in terms of Section 6
- (19) To endorse the transfer of a valid certificate of competence from current owner to the new owner, in terms of Section 7
- (20) To issue a provisional certificate of competence up to 36 months in order for applicant to comply with this regulation, in terms of Section 8

- (21) To suspend or revoke a certificate of competence or provisional certificate of competence, in terms of Section 10

***In terms of Regulation 1256 of 27 June 1986***

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

- (22) To 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, in terms of Section 2(3)
- (23) To consider an application for a certificate of acceptability subject to certain requirements and conditions, in terms of Sections 3(3)-3(5)
- (24) To 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, in terms of Section 4
- (25) To grant approval for the transfer of a certificate in terms of Section 5(a)
- (26) To inspect the milk shed and dairy stock in terms of Section 5(b)
- (27) To examine the staff in employed at the premises in terms of Section 5(b)
- (28) To 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 in terms of Section 6

- (29) To suspend or withdraw the certificate of acceptability or a provisional certificate in terms of Section 7
- (30) To grant an exemption in writing to any person for compliance with some of these regulations which shall be valid for a predetermined period in terms of Section 14
- (31) To 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 in terms of Section 15(3)

***In terms of Regulation 918 of 30 July 1999***

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

- (32) To issue a certificate of acceptability if the inspector is satisfied that the premises complies with standards and requirements for food premises in terms of Section 3(6)
- (33) To issue a new certificate of acceptability if the person in charge of the premises is replaced by another person in terms of Section 3(8)
- (34) To 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 in terms of Section 4(2)(c)
- (35) To inform the person on whom the prohibition notice was served in writing of the outcome of the re-inspection in terms of Section 4(5)

- (36) To levy an inspection fee as determined by Council for the re-inspection in terms of Section 4(6)
- (37) To exempt a person in charge of a food premises from any of the provisions of these regulations excluding a certificate of acceptability in terms of Section 15

***In terms of 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*

- (38) To 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 in terms of Section 5
- (39) To 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, in terms of Section 6
- (40) To make orders for the collection, removal etc of refuse in such a manner as to safeguard against rodent infestation or harborage in terms of Section 7

***In terms of Regulation 2438 of 30 Oct 1987***

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

- (41) To 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.

*In terms of Section 2(1)*

- (42) To sign and serve notice referred to in 2(1) on a specific person in terms of Section 2(2)(a)
- (43) To make known where a notice has been served in terms of 2(1) in terms of Section 2(2)(b)
- (44) To inform the Director-General after an order has been issued in terms of Section 2, in accordance with Section 5
- (45) To take steps to ensure proper compliance with this regulation or to prevent contravention of this regulation, in terms of Section 8(3)
- (46) To exercise the statutory power provided for in the regulation in terms of Section 3(1)
- (47) To submit a report to the City Manager in terms of Section 3(3)
- (48) To exercise the statutory power provided for in the regulation in terms of Section 6(1)
- (49) To report to the City Manager in terms of Section 6(2)
- (50) To detain and hand over for medical observation in terms of Powers vested in terms of Section 53 of the Act , any person who is not complying with the provisions of an order or has left an area without authorization, in terms of Section 8(4)
- (51) To issue a written notice Section 11
- (52) May instruct a person to undergo medical examination in terms of Section 14(1)
- (53) To exercise the statutory power provided for in the regulation in terms of Section 14(3)

- (54) To submit a comprehensive report after issuing an order as stipulated in 14(3) in terms of Section 14(5)
- (55) To exercise the statutory power provided for in the regulation in terms of Section 15(a)
- (56) To supervise the disinfection in terms of Section 15(b)
- (57) To issue a written compulsory evacuation order in terms of Section 16(1)
- (58) To take all measures to ensure proper implementation of this regulation or to prevent any contravention thereof in terms of Section 16(3)
- (59) To subject an infested person to compulsory removal, cleansing and disinfection if ordered to do so in terms of Section 18
- (60) To forward weekly reports to the Director General in terms of Section 19(3)

***In terms of 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.*

- (61) To enforce the Act and the Regulations within the area of jurisdiction of the City of Cape Town.

***In terms of 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.*

- (62) To enforce the Tobacco Products Control Act, 1993 and the regulations relating to Smoking of Tobacco Products in Public Places GNR of 20 September 2000 to the extent that local authorities are empowered to do so.

***In terms of Child Care Act 74 of 1983***

*GNR 2612 dated 12 Dec 1986*

*Promulgated in terms of the Child Care Act 74 of 1983*

- (63) To issue a health suitability report in terms of Section 30(2)(b)

***In terms of 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*

- (64) To enter a premise without prior notice to conduct any appropriate examination, enquiry or inspection and to take any steps it may deem necessary at any reasonable time, in terms of Section 2(a)
- (65) To instruct in writing the person who causes a disturbing noise or a noise nuisance to discontinue the disturbance or the nuisance in terms of Section 2(c)
- (66) To 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 in terms of Section 2(d)
- (67) To order in writing the discontinuance of music where a noise nuisance or a disturbing noise is generated in terms of Section 2(e)
- (68) To impose appropriate conditions when granting permission or exemptions in terms of Section 2(i)
- (69) To place measuring instruments at any place it may deem necessary in terms of Section 2(k)

- (70) To grant in writing an exemption and stipulate conditions and period for which the exemption is granted in terms of Section 7(3)

***In terms of National Building Regulations and Standards Act 103 of 1977***

***SABS 0400 of 1990 Part O ventilation***

- (71) 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 1954 promulgated in terms of the provisions of Ordinance 19 of 1951  
(Provincial Notice 346 dated 24 April 1953)***

- (72) To serve written notice on any person who uses a loudspeaker to cause a noise nuisance in the area of jurisdiction in which this by-law applies.

***In terms of Atmospheric Pollution Prevention Act 45 of 1965***

- (73) To decide whether an appliance or fuel complies with the requirements of the Act in terms of Section 15(1)
- (74) To consider an application for installation of a fuel burning appliance in terms of Section 15(2)
- (75) To consider an application after due consideration of the siting and construction of chimney and control equipment in terms of Section 16.

- (76) To serve notice on a person who is responsible for a nuisance in terms of Section 17
- (77) To serve a notice and take legal action in consultation with Legal Services where Section 18 has been contravened, in terms of Section 19
- (78) To enter premises in terms of Section 23
- (79) To call for information from fuel supplier and occupier of premises from which smoke is emitted in terms of Section 24
- (80) To 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 in terms of Section 37

***In terms of Environmental Health By-law***  
*Published in Provincial Gazette Extraordinary 6041*  
*dated 30 June 2003*

- (81) To form an opinion that an erf is overgrown to such an extent with bush, weeds, grass or other vegetation (except cultivated trees, shrubs and grass) that it may be used as a shelter by vagrants, wild animals or vermin or may threaten public health or the safety of any member of the community in terms of Section 2(1)
- (82) To approve a sanitary convenience for the disposing/keeping of night soil on any premises in terms of Section 2(3).
- (83) To serve notice on the person responsible for accumulating or storing objectionable material, articles or matter on any erf, or the owner of such objectionable material or matter, or the owner of the erf on which such accumulation or storing is taking place or the owner of an erf that is

- overgrown with bush, weeds, grass or vegetation in contravention of sections 1 and 2(1) of the By-law to abate such health nuisance/s in terms of Section 3(1)
- (84) To enter on premises and clear such premises from any trees, bushes, weeds, grass, stones and rubble or objectionable material with any assistants and advisors as it may require at the expense of recipient of a notice serves in terms of section 3(1), in the event of such recipient failing to comply with the requirements of such notice and to recover the cost of such work in any court of competent jurisdiction from the person in default in terms of Section 3(2)
- (85) To serve notice in regard to the prevention or eradication of mosquitoes, flies, fleas, bugs, cockroaches or other vermin or pests on any premises or vacant land within the area of jurisdiction of the City of Cape Town and to take precautions to prevent conditions favouring the multiplication and prevalence of such vermin or pests in terms of Section 7.
- (86) To grant written permission or to refuse permission to persons to occupy or permit to be occupied for human habitation a caravan, tent or other similar structure of any description on unserviced land in terms of Section 9
- (87) To grant or refuse permission to persons to keep animals or poultry on any premises or property, and to determine the number of animals and/or poultry to be kept in terms of Section 11.
- (88) To require from any person applying for a permit to keep animals or poultry in terms of section 12(2) to submit with such application a detailed site plan indicating all existing or proposed structures and fences on the property for which the permit is required in terms of Section 13(1)

- (89) To require detailed plans and specifications of structures wherein it is proposed to keep animals and poultry in order to evaluate whether or not to grant a permit applied for in terms of section 12(2) in terms of Section 13(2)
- (90) To determine and impose conditions for the keeping of animals and poultry in terms of Section 13(3)
- (91) To decide whether structures in which animals or poultry are kept are suitably and satisfactorily screened from the street in terms of Section 13(7)
- (92) To waive any or all of the requirements of section 13 and impose other conditions if appropriate after consideration of conditions particular to a property and on condition that no objection is received from adjoining neighbours in terms of Section 13(9)
- (93) To approve the manner in which carcasses are to be disposed of in terms of Section 14(4)
- (94) To determine whether a fly and rodent proof manure store and feed store of adequate size, constructed of permanent material, is required on premises where animals are kept in terms of Section 15
- (95) To determine whether separate isolation facilities provided for sick dogs and cats are satisfactory in terms of Section 16(6)

- (96) To form an opinion whether the keeping of animals on any property in terms of which a permit has been issued under this By-law is causing a health nuisance, danger to health or endanger the safety of the public, or that more animals are kept than authorized in the permit and to serve notice on the holder of the permit or the person in charge to remove or cause to be removed such nuisance or danger or excess number of animals and to specify the period in which this must be done in terms of Section 18(1)
- (97) To cancel a permit to keep animals on a property, or to amend such permit in the event of the holder of such permit failing to comply with the requirements of a notice served in terms of section 18(1) in terms of Section 18(2)
- (98) To request from the holder of a permit to return the permit issued to him/her for amendment or cancellation in terms of Section 19
- (99) To grant or refuse permission not to comply with the requirements of section 23(2) of the By-law and to impose such conditions as may be necessary in terms of Section 23(4)
- (100) To prescribe the format in which generators are to keep an up-to-date record of medical waste removed from their premises in terms of Section 23(6)(a)
- (101) To grant or refuse permission not to comply with the requirements of section 24(2) of the By-law and to impose such conditions as may be necessary in terms of Section 24(4)
- (102) To prescribe the format in which transporters are to maintain a record of each collection and delivery of medical waste in terms of Section 24(6)

- (103) To prescribe the format in which persons that dispose of medical waste must maintain a record of each delivery of medical waste to the disposal site in terms of Section 25(3)
- (104) To register generators of medical waste and to prescribe the format of the notification generators need to submit in terms of Section 26(1)
- (105) To register transporters of medical waste and to prescribe the format of the notification transporters need to submit in terms of Section 26(2)
- (106) To form an opinion whether the paving and drainage of a yard provided at an accommodation establishment is satisfactory in terms of Section 28(1)(h)
- (107) To form an opinion whether an accommodation establishment is being maintained in a clean and sanitary condition at all times in terms of Section 28(3)(a)
- (108) To form an opinion whether the furniture, utensils, linen and equipment at an accommodation establishment are kept in a sound condition and clean state at all times in terms of Section 28 (3)(b)
- (109) To form an opinion whether the food that is served to boarders and other persons on the premises is wholesome in terms of Section 28(3)(c)
- (110) To form an opinion whether the proprietor of an accommodation establishment is knowingly causing or permitting any person suffering from a communicable disease to be employed in or on the premises in terms of Section 28(3)(d)
- (111) To exempt any person and/or class of persons from any or all of the requirements of the By-law and to impose other requirements that may be deemed appropriate in terms of Section 41

### *Offensive Trade Regulations*

(112) To enforce the provisions of exercise all powers that might be conferred on Council in terms of :

- (a) Old City of Cape Town: Offensive Trade Regulations for the City of Cape Town promulgated under Government Notice No 402 dated 28 February 1930 and amended in terms of Government Notice No 614 dated 21 April 1944.
- (b) Old Cape Province other than the old City of Cape Town: Offensive Trade Regulations for all urban and rural local authorities in the Cape Province other than the City of Cape Town promulgated under Government Notice No 1606 dated 09 November 1934.

## HOUSING

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### EXECUTIVE DIRECTOR: HOUSING

#### **123. Function Specific Delegations**

None.

## EXECUTIVE DIRECTOR: STRATEGY AND PLANNING

### 124. Function Specific Delegations

*[Section 124 Inserted C119/05/10 by CI 25 May 2010]*

#### **General**

- (1) To formulate policies and strategies relating to planning and environmental matters for the approval of the relevant political structure and give effect thereto once such policies and strategies are approved.

*[Inserted C119/05/10 by CI 25 May 2010]*

#### ***National Environmental Management Act 107 of 1998 as amended (NEMA)***

- (2) *In terms of section 24 (4) of the National Environmental Management Act 107 of 1998 as amended (NEMA):*

To establish systems and procedures which promote and ensure that the City adheres to the requirements of S24 of NEMA in respect of environmental assessments, public consultation and information gathering, environmental management programmes, specialist reports, and coordination between organs of state, and that the findings and recommendations flowing from an investigation and the principles of environmental management set out in Section 2 of NEMA, are taken into account in any decision in relation to any proposed policy, programme, process, plan or project and to report on any issues of non-compliance to the City Manager.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (3) *In terms of section 24K of the National Environmental Management Act 107 of 1998 as amended (NEMA):*

In consultation with relevant service units, to consult with the Minister of Environmental Affairs or MEC with regard to the administration of legislation relating to any aspect of an activity that also requires

environmental authorisation in terms of NEMA in order to recommend to PEPCO and the Executive Mayor that the City enter into a written agreement with the Minister or MEC for the purposes of coordinating the respective requirements of such legislation and avoiding duplication.

*[Inserted C119/05/10 by CI 25 May 2010]*

(4) *In terms of section 24L (1) and (2) of NEMA:*

To issue either a separate or integrated authorisation where the carrying out of a listed or specified activity is also regulated in terms of another law or specific environmental management Act which is the competence of the City Of Cape Town local authority.

*[Inserted C119/05/10 by CI 25 May 2010]*

(5) *In terms of section 24O of NEMA:*

To submit City comments on applications for environmental authorisation within the urban edge when requested to do so by the Minister or MEC or Minister of Minerals and Energy in terms of Section 24O(2) of NEMA, and to object to the contents of an application for prospecting, mining, exploration, production or related activities via the Regional Mining Development and Environmental Committee, provided such comments and objections are in line with the approved policies of the City.

*[Inserted C119/05/10 by CI 25 May 2010]*

(6) *In terms of Section 31 C of NEMA:*

To enter into an agreement with the relevant MEC with regard to the designation of staff members as environmental management inspectors in accordance with section 31G of NEMA.

*[Inserted C119/05/10 by CI 25 May 2010]*

(7) *In terms of Section 42 of NEMA:*

To recommend to Council that the City enter into agreements with the Minister (in terms of S42(1)(d)) or Director General (in terms of S42(3)) with regard to the delegation of powers or duties vested in him/her in terms of NEMA or a specific environmental management Act.

*[Inserted C119/05/10 by CI 25 May 2010]*

***Minerals And Petroleum Resources Development Act (MPRDA) 28 of 2002***

- (8) To submit City comments to the Minister of Minerals and Energy in terms of Sections 10, 16, 22 and 27 Of the MPRDA relating to the contents of an application within the urban edge for prospecting, mining, exploration, production or related activities, or on environmental management programmes or environmental management plans in terms of sections 39 and 40 of the MPRDA and to represent the City's comments to the Regional Mining Development and Environmental Committee, provided such comments and objections are in line with the approved policies of the City.

*[Inserted C119/05/10 by CI 25 May 2010]*

***National Environmental Management: Integrated Coastal  
Management Act 24 Of 2008***

- (9) To initiate the provisions of the National Environmental Management: Integrated Coastal Management Act 24 of 2008 subject to Council's approval of any implementation strategy.

*[Inserted C119/05/10 by CI 25 May 2010]*

## **SAFETY AND SECURITY**

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### **EXECUTIVE DIRECTOR: SAFETY AND SECURITY**

#### **125. Function Specific Delegations**

None.

## UTILITY SERVICES

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### EXECUTIVE DIRECTOR: UTILITY SERVICES

#### **126. Function Specific Delegations**

None.

## TRANSPORT, ROADS AND MAJOR PROJECTS

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### EXECUTIVE DIRECTOR: TRANSPORT, ROADS AND MAJOR PROJECTS

*[Amended C119/05/10 by CI 25 May 2010]*

#### **127. Function Specific Delegations**

None.

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**128.** *[Deleted C119/05/10 by CI 25 May 2010]*

## DIRECTORS

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to all Directors including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **A           GENERIC DELEGATIONS**

Determines the operational policies and procedures in respect of all matters falling within his/her the functional area.

*[Amended C08/12/08 by CI 3 December 2008]  
[Amended C119/05/10 by CI 25 May 2010]*

Unless otherwise provided to exercise any power, duty or function delegated by Council to a staff member that reports directly to the Director where the staff member declines or is unable to exercise the power, duty or function.

To oversee the exercise of delegated powers, duties and functions delegated by Council to staff members which report directly to him or her and to report to the Executive Director concerned on failure or any improper exercise of delegation.

## **B            FUNCTION SPECIFIC DELEGATIONS**

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

## CORPORATE SERVICES

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### DIRECTOR: PERSONNEL SERVICES

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Human Resources including the power to sub delegate any of his or her delegated powers, functions and duties:*

*[Amended C 34/08/07 by CI 29 August 2007]*

#### 129. Function Specific Delegations

##### ***Occupational Health and Safety***

In this part -

**“OHS Act”** means the Occupational Health and Safety Act, No. 85 of 1993;<sup>28</sup>

**“GA Regulations”** means the General Administrative Regulations, No. 929 of 2003;

**“General Safety Regulations”** mean the General Safety Regulations, No. 1031 of 1986;

**“Driven Machinery Regulations”** mean the Driven Machinery Regulations

**“General Machinery Regulations”** means the General Machinery Regulations, No. 1521 of 1998;

**LEAPC Regulations”** mean the Lift, Escalator and Passenger Conveyor Regulations, No. 797 of 1994;

**“VUP Regulations”** mean the Vessels Under Pressure Regulations No. 1591 of 1996

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<sup>28</sup> Note: Section 16 requires every chief executive officer to as far as is reasonably practicable ensure that the duties of his employer as contemplated in this Act, are properly discharged. A chief executive officer may assign any duty contemplated in the said subsection, to any person under his control, which person shall act subject to the control and directions of the chief executive officer.

- (1) To take all necessary steps to provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees as required by section 8 of the OHS Act
- (2) To take all necessary steps to conduct the undertaking of the Municipality in such a manner as to ensure, as far as is reasonably practicable, that persons other than employees who may be directly affected by such activities are not thereby exposed to hazards to their health or safety, as required by section 9 of the OHS Act .
- (3) To, in respect of any *listed work* perform the duties in respect of the identification, evaluation, remedial steps, prevention or minimisation of exposure to hazards and risks, to carry out occupational hygiene programmes and biological monitoring, to subject such employees to medical surveillance, and to keep the health and safety representatives informed of the actions taken, in terms of section 12 of the OHS Act.
- (4) To ensure that every employee is informed of the hazards to his health and safety in the workplace and the precautionary measures which should be taken and observed with respect to those hazards in terms of section 13 of the OHS Act
- (5) To inform the health and safety representatives of any imminent inspections, investigations or formal inquiries in terms of section 13 of the OHS Act
- (6) To inform a health and safety representative of the occurrence of an incident in the workplace or section of the workplace for which such representative has been designated in terms of section 13 of the OHS Act.

- (7) To designate health and safety representatives for a workplace, or for different sections thereof, to consult with employees regarding the arrangements and procedures for the nomination or election, period of office and designation and to perform such functions so as to settle disputes by arbitration, in terms of section 13 of the OHS Act.
- (8) To provide such facilities, assistance and training as a health and safety representative may reasonably require and as have been agreed upon for the carrying out of his functions, in terms of section 18 of the OHS Act.
- (9) To establish health and safety committees and to consult with a committee with a view to initiating, developing, promoting, maintaining and reviewing measures to ensure the health and safety of employees at work, in terms of section 19 of the OHS Act.
- (10) To determine the number of members of a health and safety committee
- (11) To take the prescribed steps to ensure that a health and safety committee complies with the provisions of and performs the duties assigned to it in the act, in terms of section 20 of the OHS Act.
- (12) To ensure that a copy of the Act and the relevant regulations are readily available at the work place, as required by reg. 4 of the GA Regulations.
- (13) To ensure that that suitable meeting place is made available for health and safety committees and that their records, are kept, as required by reg. 5 of the GA Regulations.
- (14) To meet and consult with the registered trade unions of the workplace in order to conclude an agreement concerning the –
  - (a) nomination or election of health and safety representatives;

- (b) terms of office of health and safety representatives and the circumstances and the prescribed manner in which they may be removed as health and safety representatives;
- (c) manner in which vacancies are to be filled;
- (d) manner in which health and safety representatives must perform their functions; and
- (e) facilities, training and assistance that must be provided to a health and safety representative.

and to refer a dispute for conciliation or arbitration to the CCMA or Bargaining Council, as required by reg. 6 of the GA Regulations.

- (15) To designate health and safety representatives as required by reg. 7 of the GA Regulations.
- (16) To report incidents and occupational diseases
- (17) To keep a record of all incidents including other incident which resulted in a person having had to receive medical treatment other than first aid and to ensure that every incident which must be recorded is investigated and that all other duties are performed as required by reg. 9 of the GA Regulations.
- (18) To furnish the inspector with such returns as may be required for the purposes of the administration of the Act, as required by reg. 11 of the GA Regulations.
- (19) To take such steps as may be necessary to make a condition or situation, that may arise from the activities of the municipality, safe; to reduce the risk as much as is practicable; to provide, maintain and safeguard safety equipment and facilities; to instruct employees in the proper use,

maintenance and limitations of the safety equipment and facilities, as required by reg. 1 of the General Safety Regulations.

- (20) To ensure that first aid and emergency equipment are provided at the workplace and that procedures that are necessary for the treatment of injuries that may result from a workplace are introduced as required by reg. 3 of the General Safety Regulations.
- (21) To ensure that procedures are in place when work is undertaken in a confined space or in an elevated position or any place where a danger exists of a person being engulfed by solid or particulate material; and that the necessary apparatus, equipment and first aid are available and that the safety procedures are adhered to as required by reg. 5, 6 and 7 of the General Safety Regulations.
- (22) To ensure compliance with the safety precautions relating to stacking of articles as required by reg. 8 of the General Safety Regulations.
- (23) To ensure compliance with the safety precautions relating to welding, flame cutting, soldering and similar operations as required by reg. 9 of the General Safety Regulations.
- (24) To ensure that ladders are constructed of sound material, comply with the specifications and are suitable for the purpose for which they are used and that the safety measures are in place as required by reg. 10 of the General Safety Regulations.
- (25) To ensure that ramps are constructed with accepted technical standards and comply with the specifications and are suitable for the purpose for which they are used and that the safety measures are in place as required by reg. 13B of the General Safety Regulations.

- (26) To ensure that the duties and powers of the municipality as employer are exercised and performed as required by the Driven Machinery Regulations
- (27) To ensure that the duties and powers of the municipality as employer are exercised and performed as required by the General Machinery Regulations.
- (28) To ensure that every lift, escalator or passenger conveyor is inspected and tested in accordance with the SABS 1545-10 or the SABS 1543-specification, as the case may be, before such lift, escalator or passenger conveyor is put in use for the first time or after modifications have been affected and at intervals not exceeding 36 months thereafter, by a registered person as required by reg 5 of the LEAPC Regulations
- (29) To designate a competent person or firm employing a competent person to examine and maintain a lift, escalator or passenger conveyor at least once a month or at such longer intervals as may be prescribed by the manufacturer of such lift, escalator or passenger conveyor, to ensure compliance with the safety requirements and to maintain records as required by reg 6 and 7 of the LEAPC Regulations
- (30) To ensure that vessels under pressure meets the design, construction and manufacture requirements of reg 2 of the VUP Regulations.
- (31) To ensure that all boilers are registered, and to comply with the requirements in regard to boilers no longer in use, where the right of control over the use of the boiler is transferred or when of a boiler is moved to another premises, as required by reg 5 of the VUP Regulations.
- (32) To ensure that all vessels under pressure are provided with all the appurtenances as required by the health and safety standard used in the design, construction and manufacture thereof and that all safety requirements are met as required by reg 6 of the VUP Regulations.

- (33) To ensure compliance with the requirements relating to access to and exit from vessels under pressure and door interlocks as required by reg 8 and 9 of the VUP Regulations.
- (34) To ensure compliance with the safety requirements relating to portable gas containers, hand-held fire extinguishers and gas fuel use, equipment and systems as required by reg 10, 11 and 12 of the VUP Regulations.
- (35) To ensure that boilers or pressure vessel, appurtenances and automatic controls and indicators, are subjected to inspection and a hydraulic pressure tests; that they are maintained in a safe working condition; that modification and repairs are undertaken; and that records are kept of all inspections, tests, modifications and repairs as required by reg 13, 14, 15 and 16 of the VUP Regulations.
- (36) To provide and maintain in good condition insulated stands, trestles, mats or such other protective equipment as may be necessary to prevent accidents, as required by regulation 2 of the EM Regulations.
- (37) To ensure that precautions are taken whenever work is to be carried out on any electrical machinery which has been disconnected from all sources of electrical energy but which is liable to acquire or to retain an electrical charge, as required by regulation 2 of the EM Regulations.
- (38) To ensure compliance with the duties of and to exercise the powers of the *supplier* regarding earthing, supports for power lines, clearances of electric conductors and other wires of power lines, line insulators and fittings, line conductor, including joints, overhead service connections, power line crossings of roads, railway or a communication lines and the installation of any distribution scheme or extension to a scheme, in terms of reg. 13, 14, 15, 17, 18, 19, 20 and 22 of the EM Regulations.

## DIRECTOR: LEGAL SERVICES

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Legal Services including the power to sub delegate any of his or her delegated powers, functions and duties:*

### 130. Function Specific Delegations

#### *Litigation*

- (1) To advise the City Manager and Executive Mayor whether to

institute,  
defend,  
review,  
appeal  
settle

[Amended C55/11/09 by CI 26 November 2009]

matters in the High Court, Labour Court, Equality Court, Supreme Court of Appeal and the Constitutional Court except those matters reserved for the Executive Mayor; this includes arbitrations.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (2) To resolve not to defend any High Court or court of equal stature action where there are no cost or adverse implications for the City, provided that a report is submitted immediately to the City Manager and the Executive Mayor for information.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (3) To institute, oppose or abide any interlocutory application.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (4) To defend urgent High Court or other court of equal stature of applications where it is impossible due to time constraints to obtain the necessary authority and failure to do so will severely prejudice and/or have a detrimental impact on the City. Whenever this power is exercised, a report must be submitted forthwith to the Executive Mayor, to obtain the necessary ratification.

*[Amended C08/12/08 by CI 3 December 2008]*

- (4A) To institute, in consultation with the City Manager, urgent High Court or other court of equal stature applications where it is impossible due to time constraints to obtain the necessary authority and failure to do so will severely prejudice and/or have a detrimental impact on the City. Whenever this power is exercised, a report must be submitted forthwith to the Executive Mayor, to obtain the necessary ratification.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (5) To instruct attorneys to enter notice of appearance on behalf of the Council in any matter instituted against the City in the High Court or a court of equal stature where time is of the essence, and to sign all of the necessary documents for this purpose, pending the submission of a report to the City Manager and Executive Mayor advising as to how the matter should be proceeded with.

*[Amended C08/12/08 by CI 3 December 2008]*

- (6) *[Deleted C08/12/08 by CI 3 December 2008]*

- (7) To appoint attorneys and Counsel in respect of any litigation which has been duly authorised in terms of Council's System of Delegation.

- (8) To conduct any necessary action in any matter instituted by or against the City, including the signature of the powers of attorney, affidavits and other documents in order to finalise the matter provided the necessary authority exists.

*[Amended C08/12/08 by CI 3 December 2008]*

- (9) To institute, defend or abide by the decision of the Court, in any matter before 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.

*[Inserted C74/10/07 by CI 31 October 2007]  
[Amended C08/12/08 by CI 3 December 2008]*

#### *Labour*

- (10) To institute and defend matters in the CCMA and the Bargaining Council.

*[Inserted C74/10/07 by CI 31 October 2007]*

- (11) To appoint persons to represent Council in the CCMA and the Bargaining Council.

*[Inserted C74/10/07 by CI 31 October 2007]*

#### *General*

- (12) To deny payment or to settle any claim or action prior to litigation, in consultation with the City Manager.

- (13) To obtain legal opinions, including senior counsel, excluding those matters reserved for the Executive Mayor by delegation 3(7).

*[Amended C43/06/09 by CI 25 June 2009]*

- (14) To instruct attorneys to collect any monies owed to the City prior to the institution of legal proceedings.

- (15) To appear before a notary to execute any document or to appoint any other person to appear before the notary on behalf of the City, including the power to sign any documents relating thereto.

- (16) To attest and authorise any other person to attest to an affidavit on behalf of the City or in respect of any other matter where the City bears knowledge.

*[Amended C43/06/09 by CI 25 June 2009]*

- (17) To appoint a person to serve legal documents, including court process and all other documents in respect of criminal prosecutions in terms of section 15(2)(a) and (b) of the Magistrates Court Act, 1944.

*[Amended C71/05/08 by CI 28 May 2008]*

- (18) To appoint lawyers, attorneys and Counsel to provide professional assistance including that of Senior Counsel on any matter, excluding those matters reserved for the Executive Mayor by delegation 3(7).

*[Amended C43/06/09 by CI 25 June 2009]*

- (19) To settle any arbitration that is not before any court up to an amount of not more than R500 000.

- (20) To appoint any person to represent the City in the Small Claims Court.

- (21) To appear in Court on behalf of the City, or authorize a member of his or her staff to do so, 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).

- (22) To draft proposed by-laws and amendments to by-laws after departments have obtained the approval of the relevant portfolio committee, prior to necessary authority being obtained from the Speaker's office to proceed with the legislative process.

*[Inserted C55/11/09 by CI 26 November 2009]*

- (23) To appoint a mediator in terms of Section 7 of the Prevention of Illegal Eviction from Unlawful Occupation of Land Act 19 of 1998.

*[Inserted C70/10/10 by CI 27 October 2010]*

## 131. Function Specific Delegations

*[Entire section moved – see Section 154 C 34/08/07 by CI 29 August 2007]*

## FINANCE

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### DIRECTOR: REVENUE

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Revenue including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### 132. Function Specific Delegations

##### ***Credit information***

##### ***In terms of Credit Control By-Law<sup>29</sup>***

- (1) 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
- (2) 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***

- (3) To pay a commission to an employer, when an agreement is concluded to deduct municipal debt from the employee, in terms of paragraph 4 of the Credit Control and Debt Collection Policy

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<sup>29</sup> 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

### ***Councillor and staff arrears***

- (4) 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 as read with item 10 of the Code of Conduct for Municipal staff members

### ***Application form***

- (5) To approve an application form for new applications for the provision of a service.

### ***Recovery of Debt***

- (6) 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***

- (7) 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.

***Resolutions levying rates***

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

***Deposits***

- (9) To collect and refund any deposits held for property leases, other than housing debtors.

*[Inserted C 34/08/07 by CI 29 August 2007]*

***Interest***

- (10) To charge and recover interest in respect of any arrear debt in terms of section 6 of the Credit Control and Debt Collection By Law.

*[Inserted C 34/08/07 by CI 29 August 2007]*

## DIRECTOR: VALUATIONS<sup>30</sup>

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Valuations including the power to sub delegate any of his or her delegated powers, functions and duties:*

### 133. Function Specific Delegations

*In terms of Local Government: Municipal Property Rates Act, No. 6 Of 2004*

#### ***Register of properties***

- (1) 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***

- (2) 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
- (3) To issue to the person so designated an identity card, in terms of section 33 (1) of the Property Rates Act.
- (4) 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.

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30 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

- (5) To issue to the person designated as an assistant municipal valuer<sup>31</sup> an identity card, in terms of section 35(4) of the Property Rates Act
- (6) 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.
- (7) 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.
- (8) 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***

- (9) 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.

### ***Public Notice of Valuation Rolls***

- (10) To publish the notice and valuation roll on the Council's official website in terms of section 49 of the Property Rates Act.

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<sup>31</sup> An assistant municipal valuer is designated by the City Manager i.t.o. section 35(1)

### ***Appeal board***

- (11) 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.

### ***Lodging of Objection by Council***

- (12) To lodge an objection with the City Manager concerning any matter reflected in or omitted from the roll.

### ***Amendment of Valuation Rolls***

- (13) To amend the valuation roll to reflect changes to the particulars on the roll in terms of section 79 of the Property Rates Act.

[Inserted C55/11/09 by CI 26 November 2009]

## DIRECTOR: HOUSING FINANCE AND LEASES

*[Section inserted C 34/08/07 by CI 29 August 2007]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Housing Finance and Leases including the power to sub delegate any of his or her delegated powers, functions and duties:*

### 133A. Function Specific Delegations

- (1) To collect, adjust and refund any deposits held for property leases debtors.
- (2) To charge and recover interest on respect of housing and property lease debts, in terms of the provisions of section 6 of the Credit Control and Debt Collection By Law.
- (3) To implement all actions associated with the Housing Indigent Grant of Council.
- (4) To authorize applications to the Provincial Government Western Cape, National Housing Department, Department of Land Affairs for housing subsidy and related State funding associated with the development of new settlements.
- (5) To confirm acceptance of applications which have been approved of in terms of (4) and to conclude the necessary contracts in this regard.
- (6) To enter into an agreement, with the councillor or staff member who has consented that outstanding amounts due to the Municipality in respect of housing and property lease debts may be deducted from his or her salary, in terms of section 8 of the Credit Control and Debt Collection By law and to inform the Speaker in regard to councillors.

## **DIRECTOR: TREASURY**

*[Section inserted C 34/08/07 by CI 29 August 2007]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Treasury including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **133B. Function Specific Delegations**

- (1) To manage the General Insurance Fund and its day-to-day operations, including the fixing of premium rates, acceptance, settlement and repudiation of claims and matters incidental thereto.

## HEALTH SERVICES

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### DIRECTOR: CITY HEALTH

#### **134. Function Specific Delegations**

None

## STRATEGY AND PLANNING

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*The following directions apply in determining when S.P.E.L.U.M., Subcouncils and officials have delegated powers regarding town planning and environmental matters:*

*[Amended C74/10/07 by CI 31 October 2007]*

*When the Director : Planning and Building Development Management, Director : Spatial Planning or Director : Environmental Resource Management or a Subcouncil elect not to exercise any power, function or duty delegated to them by Council, S.P.E.L.U.M is authorised to exercise such delegated power, function or duty.*

*[Inserted C74/10/07 by CI 31 October 2007]*

SPELUM is empowered to exercise a power, function or duty conferred on Council in terms of the following laws and legal instruments :

*[Inserted C74/10/07 by CI 31 October 2007]*

- the Land Use Planning Ordinance no 15 of 1985( LUPO)
- the Scheme Regulations promulgated in terms of LUPO and the Black Communities Development Act, 1984,
- the National Building Regulations and Building Standards Act no 103 of 1977
- the Removal of Restrictions Act, 1967
- the National Environmental Management Act no 107 of 1998 and regulations promulgated in terms thereof
- the Environment Conservation Act
- the National Heritage Resources Act no 25 of 1999
- the Outdoor Advertising By Law, no 5801 dated 5 December 2001, and
- title deed restrictions dealing with property rights
- agreements arising out of the South African Transport Services Act no 9 of 1989

in cases where such power, function or duty has not been delegated to the City Manager, an Executive Director, a Director, a Subcouncil or to PEPCO. **Provided** that should SPELUM exercise this power, it shall report thereon to the next Council meeting and Council shall either confirm, vary or revoke such decision and no rights shall accrue until Council has so resolved.

*[Inserted C74/10/07 by CI 31 October 2007]*

- 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: Land Use and Building Development Management Director : Environmental Resource Management has the power to decide subject to the conditions set out here below.*

*[Amended C74/10/07 by CI 31 October 2007]*

- b. *Where an application is subject to an EIA, HIA or TIA , S.P.E.L.U.M. is the delegated authority.<sup>32</sup>*

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32 EIA: A development application made in terms of LUPO which is subject to a scoping and environmental impact assessment as set out in Part 3 of R 385 of GN 28753 dated 21 April 2006 as read with R 387 as amended from time to time or an EIA required in terms of the regulations promulgated in terms of the Environmental Conservation Act and now repealed.

Note: All other development applications whether subject to an Environmental Authorisation required in Part 2 of R 385 of GN 28753 dated 21 April 2006 as read with R 386 or an EIA requested in terms of LUPO will be dealt with by Subcouncils if there are objections to a development application (not the EIA application) and the matter falls within Subcouncil boundaries and by officials where there are no objections to the development application.

HIA: refers to a Heritage Impact Assessment report required in terms of section 38 of the National Heritage Resources Act no 25 of 1999 and which may or may not form part of the EIA referred to above. It does not include a Heritage Statement.

TIA: "refers to any impact assessment dealing with traffic for a development which is likely to or will generate more than 150 vehicles per hour." An impact assessment dealing with traffic for a development which is likely to or will generate less than 150 vehicles per hour will be dealt with by Subcouncils if there are objections to the development application and the matter is within Subcouncil boundaries and by officials where there are no objections to the development application." The trigger for determining whether a matter is dealt with by SPELUM or not is the number of vehicles per hour, not the name of the assessment.

*[Inserted C74/10/07 by CI 31 October 2007]*

- 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: Land Use and Building Development Management , or Director: Environmental Resource Management has the power to decide subject to the conditions set out here below.*

*[Amended C74/10/07 by CI 31 October 2007]*

- d. *[Deleted C74/10/07 by CI 31 October 2007]*
- 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, By-laws and any law relating to the matter under consideration, provided that SPELUM may deviate from a section 4(10) structure plan and approved policies which are used to guide land use decision-making, but only in circumstances where S.P.E.L.U.M considers reasonable to do so taking into account inter alia the size and locality of the subject property. Provided further the powers hereby granted shall only be exercised until PEPCO has approved a policy on the subject matter.*
- 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*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Planning and Building Development Management including the power to sub delegate any of his or her delegated powers, functions and duties:*

## **DIRECTOR: PLANNING AND BUILDING DEVELOPMENT MANAGEMENT**

### **135. Function Specific Delegations**

*In terms of Land Use Planning Ordinance No. 15 of 1985*

#### ***Use Rights***

- (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).
- (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 where no objections have been received, in terms of section 14(4).
- (3) 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).
- (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 where no objections have been received, in terms of section 14(7).
- (5) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3) where no objections have been received in terms of section 14(1).

## ***Departures***

- (6) 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 where no objections to the application have been received, in terms of section 15(1).
- (7) 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 where no objections have been received, in terms of section 15(1).
- (8) To approve an application by the owner to extend the period within which the use right must be exercised in relation to land where no objections have been received, in terms of section 15(5).

## ***Rezoning***

- (9) To grant or refuse an application by an owner of land for the rezoning thereof in relation to land where no objections have been received, in terms of section 16(1).
- (10) To grant an extension of the validity period of two years in which the use right must be utilised where no objections have been received, in terms of section 16(2).
- (11) To determine the utilisation of land for purposes of zoning in relation to land where a zoning has lapsed and where no objections have been received in terms of section 16(2).

### ***Subdivisions***

- (12) To grant or refuse an application for the subdivision of land in relation to land where no objections have been received, in terms of section 25(1).

### ***Home Owners` Association***

- (13) To impose conditions in relation to the compulsory establishment by the applicant for subdivision of a home owners' association in relation to land where no objections have been received, when granting of an application for subdivision, in terms of section 29(1).

### ***Amendment or Cancellation of Plan of Subdivision***

- (14) 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 where no objections have been received, after application for the subdivision of land has been granted and after
- determine that no objections have been received, and
  - 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***

- (15) To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1)
- (15A) In relation to a condition imposed by officials, and in cases where no objections received and after consultation with the owner of the land concerned, to -

(a) amend any condition, and

in terms of section 42(3)

*[Inserted C74/10/07 by CI 31 October 2007]*

(15B) To approve or amend a Site Development plan where there are no objections thereto, where a rezoning, subdivision, departure or consent/conditional use has been approved by a competent authority subject to the submission and approval of a site development plan and provided the other conditions of approval imposed in terms of section 42 remain the same and notwithstanding the political structure/staff member who approved the application.

*[Inserted C74/10/07 by CI 31 October 2007]  
[Amended C119/05/10 by CI 25 May 2010]*

(16) 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 the imposition of additional conditions in terms of section 42.(4)

(17) *[Deleted C74/10/07 by CI 31 October 2007]*

(17A) In relation to a condition imposed in respect of an application for rezoning, subdivision, departure or consent/conditional use on by Provincial Government on appeal in terms section 44 of LUPO, to waive, amend or impose additional conditions in terms of section 42(3) where no objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

*Special Consent, Consent Or Conditional Use In Terms Of The Zoning Scheme Regulations*

(18) 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 where no objections have been received.

- (18A) To recommend to Province/the Premier to waive, amend or to impose additional conditions in terms of section 42 (3) where Council does not have the delegated authority to do so and where no objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (18B) To grant or refuse an application to permit a rooftop base station to extend more than 3m in height above the part of the building it is attached where no objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (19) To recommend to the Premier to delete a scheduled condition/s contained in the scheme regulations in terms of section 9(2) where no objections have been received and only where it is accompanied by a development application to which no objections have been received.

*Applications Made In Terms Of The Less Formal Townships Establishment Act  
No 125 Of 1991*

- (20) Process applications and make recommendations to PGWC to designate land for less formal settlement and to formulate conditions.

- (21) To request the Premier/Administrator:

*[Section 21 Amended C119/05/10 by CI 25 May 2010]*

- (a) to make available State land that is controlled by him or land that has been acquired by him, for designation in terms of section 3.
- (b) to designate by notice in the Official Gazette land as land for less formal settlement in terms of section 3 and to formulate conditions

for such designation.

- (c) in terms of section 3 to suspend the operation of any servitude registered against the title of the designated land or any other restrictive condition registered or otherwise operative in respect of the land;
- (d) to, at any time prior to the commencement of settlement in terms of section 8, to amend or withdraw a notice referred to in subsection (1).
- (e) to amend or suspend a condition imposed under subsection (1) which binds the local authority or person referred to in paragraph (b) of that subsection either before or after settlement in terms of section 8 has commenced.
- (f) to approve or amend layout plans submitted in terms of a condition of designation of land for less formal settlement.
- (g) to declare that a provision of law referred to in section 3(5) to be applicable or to declare that another law referred to in section 3(5)(h) be declared as not being applicable to designated land.
- (h) to declare a provision of a law mentioned in s3(5) to be applicable to designated land described in the notice or to request him to amend or withdraw a notice under s 3(5)(h).

In relation to land that does extends beyond the Subcouncil boundaries where no objections have been received or in cases where a TIA, HIA or EIA is required and objections have been received.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (22) To apply to the Premier to grant permission for the establishment of a Township in terms of section 10, in cases where no objections have been received.
- (23) 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 no objections have been received.

*Regulations Promulgated In Terms Of The Black Communities Development Act  
No 4 Of 1984.*

- (24) To process applications and make recommendations to PGWC regarding consent, rezoning and subdivision in terms of the regulations under the BCDA.
- (25) 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 no objections have been received.
- (26) To grant or refuse, with or without conditions, a consent in those areas where the power is delegated to Council and where no objections have been received.

***In terms of Removal of Restrictions Act No 84 of 1967***

(27) 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).

(28) To comment on and make recommendation to the Director General regarding a proposed alteration, suspension or removal of a restriction or obligation, in terms of section 3(2) after consultation with the Ward Councillor and if he or she is not available, after consultation with the Subcouncil Manager.

*[Amended C74/10/07 by CI 31 October 2007]*

(28A) To request the Director General in terms of section 3(8) to grant a further period to allow the municipality to comment on and make recommendations.

*[Inserted C74/10/07 by CI 31 October 2007]*

(29) 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.

(30) To process the advertising of an application in accordance with the instructions of the Director-General in terms of section 3(6) or 5(b)(ii).

***In terms of The Legal Succession To South African Transport Services Act, No. 9 Of 1989, As Amended (SATS Act)***

(31) To approve Precinct Plans, Site Development Plans and amendments thereto arising out of agreements entered into in terms of the SATS Act where no objections have been received

***In terms of Sectional Titles Act No. 95 Of 1986 (as amended)***

(32) To issue, in terms of Section 4(5) a certificate for condonation of non-compliance in regard to the matters set out below, provided that no

certificate shall be issued for condonation of non-compliance with a national building regulation regarding the strength and stability of any building unless a deviation has been permitted or an exemption has been granted in terms of section 18(2) of the National Building Regulations and Building Standards Act, 1977:

- (a) in regard to any matter other than the proposed use, the building to which the scheme relates does not comply with any operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any at the date of approval of the building plans;
- (b) in regard to matters other than buildings, there is non-compliance with any applicable condition of any operative town planning scheme, statutory plan or conditions subject to which a development was approved in terms of any law;
- (c) the building to which the scheme relates, has not been erected in accordance with any applicable building regulations or building by-laws in operation at the date of erection.

***In terms of Land Survey Act 8 of 1997***

**Section 37 (2)**

- (33) To amend, in terms of Section 37(2) or cancel the following as determined by the relevant authority:
- (a) subdivision diagrams
  - (b) general plans
  - (c) road widening diagrams
  - (d) public open space
  - (e) road closures
  - (f) servitudes

***In terms of The Legal Succession to South African Transport Services Act, No. 9  
Of 1989, As Amended (SATS Act)***

**In terms of Section 13 :**

- (34) To determine uses which comply with the definitions of “ancillary uses” as provided for in Transportation Use Zones
- (35) To 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, subject thereto that major expansions will require Council’s consent and significant departures will require a rezoning to an appropriate use zone.
- (35A) To approve the amendment of Precinct Plans, Site Development Plans, Development Framework plans arising out of agreements entered into in terms of the SATS Act in cases where no objections have been received.  
*[Inserted C74/10/07 by CI 31 October 2007]*
- (36) To determine deemed consents for non-Transport uses which pre-existed the Amendment Act,
- (37) To determine change of use which must be dealt with under LUPO.

***Zoning Scheme***

- (38) To approve or amend site development plan required in terms of an applicable zoning scheme.  
*[Amended C74/10/07 by CI 31 October 2007]*
- (39) To issue extracts from the zoning scheme or zoning certificates in writing.  
*[Amended C74/10/07 by CI 31 October 2007]*

***Zoning map***

- (40) To prepare and approve a zoning map showing zones and land units, in terms of section 10. (In respect of GIS-based zoning maps)

***Register***

- (41) To keep and maintain a register, in terms of section 12.

***Use rights.***

- (42) To amend a zoning map, in terms of section 14(4).

***Departures***

- (43) 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)***

- (44) 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***

- (45) 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***

- (46) To authorise an exemption of a subdivision from the provisions of Chapter III of LUPO as provided for in terms of section 23.

- (47) 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.
- (48) 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).
- (49) 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 established in terms of section 29 of LUPO*

- (50) To approve the constitution of a home owners' association established in terms of section 29(2), or to grant written approval to amend clauses in the Constitution which relate to the provisions of section 29(2) after consultation with the Director: Legal Services.

*[Amended C08/12/08 by CI 3 December 2008]*

- (51) 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.***

- (52) 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.***

- (53) 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).
- (54) 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.***

- (55) 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***

- (56) 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 a departure,

in terms of section 40(1).

(57) 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).

(57A) To determine contravention levies up to a capitalised sum determined by the Provincial sphere of government, in terms of section 40(1)(d)(ii) and section 40(3) of LUPO.

*[Inserted C119/05/10 by CI 25 May 2010]*

(58) To recover from the owner any amount spent to rectify contraventions, in terms of section 40(2).

(58)(1) To determine contravention levies in accordance with a policy if any, up to a capitalised sum determined by the Provincial sphere of government, in terms of Section 40(1)(d)(ii) and Section 40(3) of LUPO in cases where agreement is reached with the owner.

*[Amended C08/12/08 by CI 3 December 2008]*

### ***Right of entry***

(59) 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.

## ***Appeal to Premier***

- (60) To consult with and comment to the Premier/ relevant Minister on appeals lodged in terms of section 44(1)(a)-(c) of the Land Use Planning Ordinance no 15 of 1985 subject thereto that such consultation/comments must be in accordance with the decision taken by the final decision making body of Council. In cases where the comment /consultation is not in accordance with the original decision, the body who took the final decision shall consult with and comment to the Premier/ relevant Minister 33.

*[Amended C74/10/07 by CI 31 October 2007]*

- (a) To provide the Premier/relevant Minister with standard conditions in terms of Section 42 of LUPO in cases where Province has requested such conditions, notwithstanding the fact that the application was refused by the decision making body of Council and the comments/consultation will still recommend refusal of the application.

*[Inserted C08/12/08 by CI 3 December 2008]*

### ***In terms of Roads Ordinance no 19 of 1976 Section 17***

- (61) In cases where Council is the Road Authority, to grant permission and approve plans for any structure, the whole or portion of which falls within-
- (a) the statutory road width, or
  - (b) five metres from the boundary of the statutory road width of any public road
- and to refer the matter to the Administrator ( Provincial Roads authority) for his permission and approval.

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33 Appeals in terms of section 44(1)(d) ie appeals on time and on a failure to reach agreement on the information required to assess an application must be dealt with by SPELUM. *[Inserted C /10/07 by CI 31 October 2007]*

- (62) In cases where Council is not the Road Authority, to comment on the granting of permission for any structure, the whole or portion of which falls within-
- (a) the statutory road width, or
  - (b) five metres from the boundary of the statutory road width of any public road.
- (63) To sign non compensation agreements on behalf of Council where such agreements arise out of a condition of approval in terms of section 17 of the Roads Ordinance.
- (64) To grant written consent to transfer a property in cases where a non compensation agreement requires a prospective owner to enter into a similar non compensation agreement with Council prior to transfer of a property.

*Consent In Terms Of Title Deed Restrictions*

- (65) To grant or refuse the written consent of Council where a title deed condition permits an owner to exceed the use or development parameters or other restrictions set in the title deed condition in relation to the property with the written consent of Council, in cases where the Director has the delegated power to deal with the related rezoning, subdivision, departure or consent use application or in cases where no related rezoning, subdivision, departure or consent use application is required before the owner can utilise such right or in cases where the application is accompanied only by a building plan submission and complies with the zoning scheme parameters..

*[Inserted C74/10/07 by CI 31 October 2007]*

- (65)(1) To grant or refuse consent to amend or cancel a notarial tie required in terms of conditions imposed in terms of Section 42 of LUPO.

*[Inserted C08/12/08 by CI 3 December 2008]*

## **136. Building Control**

*In terms of National Building Regulations and Building Standards Act No. 103 of 1977*

### ***Buildings erected by or on behalf of the State***

- (1) To comment on plans, specifications and certificate in respect of any building to be erected by or on behalf of the State in terms of section 2(4)

### ***Applications in respect of erection of buildings***

- (2) 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 in terms of section 4(2)(3).

### ***Qualifications of Building Control Officer***

- (3) To apply to the Minister for approval in writing for a person who does not have the prescribed qualifications to be appointed as BCO by Council in terms of section 5 (2).

### ***Approval in respect of erection of buildings.***

- (4) To, after having considered a recommendation by a building control officer, grant approval or refuse to grant approval in terms of Section 7 for the erection of any building in respect of which plans and specifications have been drawn and submitted in terms of this Act.
- (5) 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 in terms of section 7(4)

- (6) 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 in terms of section 7(6)

***Prohibition and conditions.***

- (7) To prohibit or to grant approval subject to conditions, the erection of a building or earthwork that -
- (a) will not be in the interest of good health or hygiene;
  - (b) will be unsightly or objectionable;
  - (c) will probably or in fact be a nuisance to the occupiers of adjoining or neighbouring properties;
  - (d) will probably or in fact derogate from the value of adjoining or neighbouring properties;
  - (e) 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 in terms of section 10(1).

***Time limits***

- (8) 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 in terms of section 11(1)
- (9) 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 in terms of section 11(2)

- (10) 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 in terms of section 11(3)
- (11) 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***

- (12) 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 in terms of section 12(1).
- (13) 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 in terms of section 12(3).
- (14) 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,
- in terms of section 12(4)(5).

***Exemption from national building regulations and authorization for erection thereof.***

- (15) To consider, where the building control officer has refused to extend any period of 6 months allowed for a minor building work, on written application from an aggrieved person, such refusal and confirm such refusal or extend such period on such conditions as may be deemed fit in terms of section 13(3).

*[Amended C74/10/07 by CI 31 October 2007]*

***Certificates of occupancy***

- (16) To issue or to refuse to issue a certificate of occupancy on completion of the erection of a building in terms of section 14(1).
- (17) 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 in terms of section 14(1A).

- (17A) To authorize a person to enter any building or land at any reasonable time to carry out inspections for the purposes referred to in section 15.

*[Inserted C74/10/07 by CI 31 October 2007]*

***Deviation and exemption from national building regulations.***

- (18) 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 in terms of section 18(1).

***In terms of National Building Regulations : GNR.2378 of 12 October 1990***

- (19) To, before granting provisional authorization for a temporary building, assess such building in relation to -

- (a) the intended use and life of the building;
- (b) the area in which it is to be erected; and
- (c) the availability of suitable materials from which it may be constructed.

in terms of regulation A1(7)(a)

- (20) To, where any building is intended to be used for experimental, demonstration, testing or assessment purposes, -

- (a) 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

- (b) 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.

in terms of regulation A1(7)(a)

### **Plans and Particulars**

- (21) To require from any person intending to erect any building, plans and particulars of –

- (a) general structural arrangements;
- (b) general arrangement of artificial ventilation;
- (c) a fire protection plan;
- (d) any required certificate; and
- (e) any other particulars

in terms of regulation regulation A2(1)

### ***Preliminary Plans and Enquiries***

- (22) 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.

in terms of regulation A3(1)

- (23) To furnish reasons for the inability to accede to the request by a person who intends to erect a building in terms of regulation A3(2)

#### ***Additional Documents and Information***

- (24) To exercise the City's powers and duties regarding additional documents and information in respect of structural details and artificial ventilation as contemplated in terms of regulation A4.

#### ***Application Forms and Materials, Scales and Sizes of Plans***

- (25) To determine the number of additional paper copies of every plan, drawing or diagram that must accompany an application in terms of regulation A5(3)
- (26) To in exceptional circumstances accept a different scale in terms of regulation A5 (5)

#### ***Layout Drawing***

- (27) To exercise the City's powers and duties regarding requirements of layout drawings as contemplated in regulation A7.

#### ***Plumbing Installation Drawings and Particulars***

- (28) 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.

in terms of regulation A8(4)

### ***Fire Protection Plan***

- (29) To require that an application in respect of the erection of any building, not being a dwelling house, be accompanied by a fire plan in terms of regulation A9(1)

### ***Boundary Beacons***

- (30) 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 in terms of regulation A11(1).
- (31) 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 in terms of regulation A11(2)

### ***Building Materials and Tests***

- (32) 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 in terms of Regulation A13(2)
- (33) 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 in terms of Regulation A 13(3).
- (34) 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 in terms of Regulation A13(5).
- (35) 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 in terms of Regulation A13(6).

### ***Installations Maintenance and Operation***

- (36) To serve a notice on an owner or other person requiring compliance with A15 pertaining to the installation and maintenance and operation of installations in terms of Regulation A15(3).

- (37) To, by notice in writing to the owner, 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 in terms of Regulation A15(4)
- (38) To apply to the relevant body (successor to the Human Sciences Research Council) to evaluate whether qualifications comply with the building disciplines listed in this regulation in terms of Regulation A 16

### ***Responsibility for Designs***

- (39) 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 in terms of Regulation A19(1).
- (40) To approve the form on which owner must report the appointment of a professional engineer or other approved competent person in terms of Regulation A19(4)

### ***Commencement of Erection or Demolition and Inspections***

- (41) To prescribe the format of the notice in connection with the erection or demolition of any building in terms of Regulation A22(1)
- (42) To inspect and approve trenches or excavations in terms of Regulation A22(3)
- (43) To inspect, test and approve a drainage installation in terms of Regulation A22(3)

### ***Temporary Buildings***

- (44) 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 in terms of Regulation A23(1).
- (45) 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.
- in terms of regulation A23(2)
- (46) 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 in terms of Regulation A23(4)

***Standardization of Interpretation.***

- (47) 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 in terms of Regulation A24(1)

***General Enforcement.***

- (48) To serve a notice calling upon a person who contravenes a provision of regulation A25(1) to forthwith cease such contravention in terms of Regulation A25(2)
- (49) To serve a notice on any person contemplated in Section 4(4) of the Act or subregulation (4) or (5), ordering such person forthwith to stop the erection

- of a building concerned or to comply with such approval in terms of Regulation A25(6).
- (50) To serve a notice on the owner of any building contemplated in subregulation (4) or (5) ordering such owner to rectify or demolish the building in question by a date specified in the notice in terms of Regulation A25(7).
  - (51) To serve a notice on the owner of a building where such building is being or has been erected and a contravention of these regulations, other than those referred to in subregulation (4) or (5) has been committed, specifying a date by which such owner shall have complied with the regulations, citing the regulations contravened and specifying the steps to be taken in order to comply with the regulations in terms of Regulation A25(9).
  - (52) To serve a notice on the owner of a building that is being or has been erected without the prior approval contemplated in Section 4(1) of the Act to obtain the approval in writing as required by the Act by the date specified in the notice in terms of Regulation A25(10).

### ***Demolition of any Building***

- (53) 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 in terms of Regulation E1(1)(2).
- (54) 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 in terms of Regulation E1(4).

### ***Prohibition of Dangerous Methods***

- (55) 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 in terms of Regulation E3

### ***Protection of the Public.***

- (56) 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 in terms of Regulation F1(1).

- (57) 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 in terms of Regulation F1(4) provided that when there is a substantial encroachment proposed, the Chairperson of the relevant Sub-council be first consulted, or, in his/her absence the relevant Sub-council Manager.

*[Amended C08/12/08 by CI 3 December 2008]*

- (58) To impose conditions to safeguard the interests of the general public, during the erection or demolition of any building in terms of Regulation F1(5).

### ***Damage to City Property***

- (59) 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 in terms of Regulation F2(1)
- (60) 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 in terms of Regulation F2(3).

### ***Unstable Soil Conditions***

- (61) 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 in terms of Regulation F3(1)
- (62) 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 in terms of Regulation F3(2).

### ***Control of Dust and Noise***

- (63) 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 in terms of Regulation F6(1).

### ***Cutting into, Laying Open and Demolishing Certain Work***

(64) 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.

in terms Regulation F7(1).

(65) 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 in terms of Regulation F7(2).

(66) 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 in terms of Regulation F7(3)

### ***Waste Material on Site***

(67) 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 in terms of Regulation F8(1)(2)

### ***Cleaning of Site***

(68) 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, in terms of Regulation F9(1)

### ***Builder's Sheds***

- (69) 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 in terms of Regulation F10(2)
- (70) 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 in terms of Regulation F10(4).

### ***Sanitary Facilities***

- (71) 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 in terms of Regulation F11(1)
- (72) 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 in terms of Regulation F11(1)

### ***General Stability Requirement***

- (73) 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, in terms of Regulation G1(3)

### ***Approval of Artificial Ventilation Systems***

- (74) To grant approval for the installation of any artificial ventilation system in any building in terms of Regulation O3

### ***Drainage of Buildings***

- (75) To prescribe a location and level for the connection of a sewer for the drainage of a building in terms of Regulation P1(1)
- (76) To order the owner of any existing building to make a sewer connection within a prescribed period in terms of Regulation P1(2)
- (77) 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 in terms of Regulation P1(4)

### ***Design of Drainage Installations***

- (78) 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 in terms of Regulation P2(2)

### ***Objectionable Discharge***

- (79) 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 in terms of Regulation P3(3)

- (80) 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 in terms of Regulation P3(4)

### ***Unauthorized Drainage Work***

- (81) 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 in terms of Regulation P6(1)

### ***Inspection and Testing of Drainage Installations***

- (82) To inspect, test and pass any drainage installation as complying with these regulations in terms of Regulation P7(3)

### ***Sewage Disposal***

- (83) To permit other means of sewage disposal where waterborne sewage disposal is not available in terms of Regulation Q1

### ***Pit latrine***

- (84) To permit the construction of any pit latrine in terms of Regulation Q2

### ***Stormwater Disposal***

- (85) 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 in terms of Regulation R1(3)

### ***Fire protection***

- (86) 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 in terms of Regulation T1(2).

### ***Refuse Storage Areas***

- (87) To approve the access of a refuse storage area from any street, for the purpose of removing the refuse in terms of Regulation U2

### ***Fire Installations***

- (88) 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.

in terms of regulation W1

### ***Supply of Water***

- (89) To permit that water may be taken from a supply system for use in any fire installation and to impose conditions in terms of regulation W2

### ***Design of Fire Installations***

- (90) To require the provision of isolating valves to control the flow of water to a fire installation, and to such points within the installation in terms of regulation W3

*In terms of Building By-law promulgated in Provincial Notice 4672/1990 on 23 November 1990 (previous City of Cape Town area)*

### ***Use and Occupation of Land and Buildings***

- (91) To serve notice on any person for contravening or non-compliance with the provisions relating to use and occupation of land and buildings in terms of Section 2 (3).

### ***Unightly, unhealthy, unsanitary, objectionable and similar buildings***

- (92) To serve a written notice on the owner of any building, structure or earthwork which in their opinion—
- (a) is or is showing signs of becoming unhealthy, unsanitary, unsightly or objectionable, or
  - (b) is calculated to depreciate properties in the locality or to cause annoyance to inhabitants of the neighbourhood.
- in terms of Section 4 (1)
- (93) To require a person to alter, repair, clean, renovate, or repaint such building, structure, or earthwork within a time specified in such notice in terms of Section 4 (1).
- (94) To exercise their option to alter, repair, clean, renovate, or repaint any building, structure, or earthwork at the expense of the owner thereof if such owner fails to comply with a notice served on him in terms of subsection (1) in terms of Section 4 (2).

### ***Boundary Walls and Fences***

- (95) To serve notice on any person who erects a fence in contravention of this section to remove such fence in terms of Section 6 (5)

***Fencing of Property***

- (96) To serve notice in writing on the owner of any vacant land in the vicinity of any public street requiring such owner to enclose or fence such vacant land to their satisfaction by a date specified in such notice in terms of Section 7(1)
- (97) To, in the case of a contravention of or failure to comply with any requirement of such notice, order or permission, in addition give effect to the requirements thereof at the cost of the person on whom it was served or to whom it was issued or granted in terms of Section 8(8)
- (98) To, in the interest of safety require or justify any deviation from the requirements laid down in the Schedule to this section in connection with a particular hole or pool, by notice in writing served on the owner of the property on which such hole or pool is situated, order or permit such deviation and in connection therewith to impose such conditions and lay down such standards and requirements as deemed necessary in terms of Section 8(9)

***In terms of Standard By-Law Relating To Antenna Systems For The Reception Of Television And Sound Broadcast Transmissions***

- (99) To require from any person intending to erect any antenna, plans and particulars in terms of Section 2(2)(b)
- (100) To exercise the City's powers and duties regarding additional documents and information in respect of any application for the erection of an antenna in terms of Section 2(2)(d)

(101) To refuse approval for the erection or installation of the antenna system in any case in which the delegatee is of the opinion that-

- (a) such antenna system is not of acceptable aesthetic appearance;
- (b) such antenna system is not structurally safe and stable or does not, as regards its structural safety and stability, comply with any provision of the Code or the Specification, as the case may be, or of any other law;
- (c) the building or structure on which such antenna system is to be erected or installed is not of sufficient strength and stability or does not, as regards its strength and stability, comply with any provision of the Code or the Specification, as the case may be, or of any other law, or
- (d) access to such antenna system by unauthorised persons will not be adequately prevented.

in terms of Section 2 (3)

(102) To, grant approval for the erection or installation of the antenna system, either unconditionally or subject to such conditions as may be deemed fit in respect of-

- (a) the aesthetic appearance of such antenna system;
- (b) the structural safety and stability of such antenna system;
- (c) the strength and stability of the building or structure on which such antenna system is to be erected or installed, and
- (d) the means to be adopted to prevent access to such antenna system by unauthorised persons;

in terms of Section 2(4), provided that no condition shall be imposed which would result in or be likely to result in interference.

- (103) To exercise the City's right to grant deviations in terms of Section 3
- (104) To authorise any employee or any person acting on behalf of the City, in writing, at all reasonable times to enter upon any premises on which-
- (a) any antenna system has been or is to be erected or installed or is being used,  
or
  - (b) there are reasonable grounds for believing that an antenna system has been erected or installed or is being used, and may there carry out any inspection or test which the delegatee deems necessary or expedient in order to determine whether the provisions of this by-law and any conditions imposed in terms of section 2 (4) have been or are being complied with.
- in terms of Section 6(1).
- (105) To by written notice order the owner of the premises concerned to comply with such provision or to remove the antenna system concerned within a period specified in such notice if the delegatee is of opinion that any provision of this by-law or any condition imposed in terms of section 2 (4) has not been or is not being complied with in terms of Section 6(2).
- (106) To remove the antenna system concerned or have such antenna system removed and to recover the expenses so incurred from such owner if any owner of premises fails to comply with any notice contemplated by subsection (2) within the period specified in such notice or within such further period as he may allow, in terms of Section 6(3).

(107) To recover from the owner of the premises concerned any expenses incurred by the City or by any person contemplated by subsection (1) in connection with any inspection or test there contemplated in any case in which the delegatee is of opinion that such inspection or test has disclosed any contravention on such premises of any provision of this by-law or any condition imposed in terms of section 2 (4) in terms of Section 6(4).

(108) To exercise the City's right if it is deemed desirable so to do, with the approval of the Administrator waive compliance with or relax any of the provisions of section 3 or 5 in terms of Section 8.

### **By-Law relating to streets, public places and the Prevention of Nuisances**

(109) To allot any number to any premises accessed from any public road and direct the owner of such premises to display the number allotted to such premises, and in exceptional circumstances, prescribe the position where it is to be displayed, in terms of section 20(1) of the By Law.

*[Inserted C08/12/08 by CI 3 December 2008]*

(110) To, if the owner fails to comply with any directive in terms of a notice contemplated in terms of section 20(1), cause such directive to be executed, in terms of section 20(2) of the By Law.

*[Inserted C08/12/08 by CI 3 December 2008]*

(111) To give a statement and sign such statement stating that the owner has failed to comply with a directive in terms of a notice contemplated in subsection (1) and specifying the costs incurred, if any, in executing such directive, in terms of section 20(3) of the By law.

*[Inserted C119/05/10 by CI 25 May 2010]*

(112) To allocate a number to a portion of premises, other than a building, or to vacant land which borders on a public road, if required in terms of section 20(4) of the By law.

*[Inserted C119/05/10 by CI 25 May 2010]*

## DIRECTOR: SPATIAL PLANNING

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Spatial Planning including the power to sub delegate any of his or her delegated powers, functions and duties:*

### 137. Function Specific Delegations

*In terms of Land Use Planning Ordinance No. 15 Of 1985*

#### **Structure plans**

- (1) To prepare a structure plan, in terms of section 4(1).
- (2) 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).
- (3) 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).
- (4) 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).
- (5) 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).

- (6) To identify and designate vacant Council, State and privately-owned land suitable for residential development and to ensure the reflection of such designation in relevant Spatial Development Frameworks.

## DIRECTOR: ENVIRONMENTAL RESOURCE MANAGEMENT

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Environmental Resource Management including the power to sub delegate any of his or her delegated powers, functions and duties:*

*\* Where any of the delegations set out below are subject to the required competency, delegation, authority or designation or equivalent from the relevant sphere of government in terms of the legislation, such delegation is temporarily pended until said competency/delegation is received.*

### 138. Function Specific Delegations

***In terms of Conservation Of Agricultural Resources Act 43 1983  
– Regulations (Cara Regs)***

(1) To:

- (a) Utilise and protect vegetation,
- (b) Prevent and control veld fires,
- (b) Combat declared weeds and invader plants and to
- (c) Restore and reclaim eroded land,

either on City land or to ensure that the above is done by instruction to the owners of private property in terms of (Part II Section 6(2)(g)(i)(l) & (m))

***In terms of National Veld And Forest Act Of 1998  
Ch 4:S12 –16; Ch 5:Ss17-19***

(2) To prepare and maintain fire breaks.

(3) To combat and manage the spread of veld fires within the delegatee's area of responsibility.

***In terms of National Environment Management Act 107 Of 1998 (Nema) &  
Nema Regulations No 385, 386 & 387 Of 2006  
Chapter 4: Fair Decision making & Conflict Management***

- (4) To consider the desirability of referring a matter for conciliation and refer such matter for conciliation in terms of Section 17
- (5) To call for or appoint a facilitator in the manner required to conciliate in a disagreement in terms of Section 17(2)
- (6) To advise the Mayoral Committee Member regarding liaising with Minister in evaluation of a matter relating to the protection of the environment by dissemination of information in terms of Section 20

***Chapter 5: Integrated Environmental Management***

- (7) To consider, investigate and assess the potential impact on the environment of listed activities when granting the relevant environmental authorisation.\*
- (8) To comment on proposed listed activities, proposed areas or proposed norms and standards in terms of S24(10) and 24A and S24B and NEMA.  
*[Amended C119/05/10 by CI 25 May 2010]*
- (9) To comment on proposed listed activities and report to PEPCO in terms of Section 24A
- (10) To make recommendation to PEPCO regarding applications for status as competent authority responsible for granting environmental authorisations in respect of listed activities in terms of Section 24C

- (11) To apply to competent authority for rectification of unauthorised activities and conduct the EIA in terms of Section 24G

*Chapter 7: Compliance, Enforcement & Protection*

- (12) To ensure that City activities take reasonable measures to prevent pollution or degradation of the environment from occurring (S28 of NEMA) and, where it does occur, to instruct the relevant service unit to take appropriate remedial action as contemplated in S28(3) of NEMA, to compile a register and report to the Mayoral Committee, to inform the City Manager such that he can report to the Minister or MEC as appropriate on any City activities that may cause pollution or environmental degradation, and to identify the measures needed to minimise and rectify such pollution or degradation of the environment.

*[Amended C119/05/10 by CI 25 May 2010]*

- (13) *[Deleted C119/05/10 by CI 25 May 2010]*

- (14) To, regarding an emergency incident, direct a responsible person to undertake specific measures within a specific time frame to fulfil his or her obligations in terms of S30 subsections (3), (4) and (5) of NEMA, in circumstances where the City is the relevant authority in terms of S30(6) and to confirm such instructions in writing in terms of S30(7) of NEMA.

*[Amended C119/05/10 by CI 25 May 2010]*

- (15) To take the measures necessary to achieve the objectives of subsection 8 (i)-(iii), should the responsible person fail to comply or inadequately comply with the directive issued under subsection 6 or if there is an uncertainty regarding the responsible person or if there is an immediate risk of serious danger to the public or potentially serious detriment to the environment, in terms of Section 30(8)

- (16) To claim reimbursement in the case of 30(8) from the person responsible in terms of Section 30(9)
- (17) To prepare and make available to the public and other parties as set out under this section, comprehensive reports on the incident in cases where the City is the relevant authority, in terms of Section 30(10)
- (18) To request access to information and to disclose information as specified in terms of Section 31
- (19) Take steps to enforce breach or threatened breach of environmental laws in terms of Section 32
- (20) To implement steps to prosecute in respect of any breach or threatened breach of any duty, in any municipal by-law, or any regulation, licence, permission or authorisation 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, in terms of Section 33
- (21) To make a 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, in terms of Section 34(1)
- (22) To 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, in terms of Section 34(4)

#### *Chapter 8: Environmental Management Cooperation Agreements (EMCA)*

- (23) To enter into an EMCA with any other party in order to promote compliance with principles of “the Act” in terms of Section 35(1)

- (24) To enter into agreements with Director-General (DG) so that the latter may fulfil his or her responsibilities in terms of Section 39
- (25) To appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under “the Act”, in terms of Section 43
- (26) To recommend to Council the substitution of City’s regulations or by-laws for regulations issued by Minister, in terms of Section 45(2)
- (27) To make recommendations on the adoption as municipal by-law, any model by-law made by Minister aimed at establishing measures for management of environmental impacts of any development within the City’s jurisdiction, in terms of Section 46(1)
- (28) To request the DG to assist the City with preparation of by-laws on matters affecting the environment in terms of Section 46(2)

***In terms of NEMA Regulations : No 385 \****

*All delegated authority will be limited to the administration of the relevant functions in terms of NEMA and excludes executive authority unless specifically authorised by the relevant National or Provincial competent authority.*

*[Amended C119/05/10 by CI 25 May 2010]*

- (29) To perform all duties, powers and responsibilities of a competent authority in respect of applications, assistance, consultation, information and decisions, including but not limited to, entering into an agreement in terms of section 6 of Chapter 2
- (30) To receive applications, check submission requirements and content of applications and of draft EMPs, co-ordinate applications, deal with EAPs,

- apply criteria, consult between authorities and other organs of state, receive written notifications, give advice regarding commencement of EIAs after Scoping Reports and issue authorisations in terms of Chapter 3
- (31) To submit comments, objections and representations in a basic assessment, scoping or other EIA process, and on an advertisement report or submission in terms of Chapter 3
  - (32) To exercise authority in all matters pertaining to an environmental authorisation in terms of Chapter 4
  - (33) To consider or comment on exemption applications in terms of Chapter 5
  - (34) To receive notices of commencement of public participation processes, manage I&APs comments on written submissions and receives comments with reports from EAPs in terms of Chapter 6

***Comment on submissions in terms of section 58.***

- (35) To lodge notices of intention to appeal a decision or authorisation in terms of Section 62 and submit appeals in terms of Section 63 in accordance with Chapter 7
- (36) To submit responding statements on appeals in terms of Chapter 7
- (37) To initiate, prepare and participate Environmental Management Frameworks and submit for adoption in terms of Chapter 8
- (38) To prepare guidelines which are consistent with National or Provincial guidelines in terms of Chapter 8
- (39) To perform all duties and powers regarding failure to comply with a condition of authorisation or exemption in terms of Chapter 8

- (40) To give assistance to people with special needs in terms of Chapter 8

***In terms of NEMA Regulations : No 386 and 387 \****

- (41) To deal with authorisation of activities which may not commence without environmental authorisation, in all cases where applications are not opposed by the delegate and no objections are received.

***In terms of NEMA: Environmental Conservation Act 73 OF 1989 (ECA)***

***ECA Part VI: Regulations***

- (42) To perform functions assigned to the municipality in a Regulation, and serve Notices to rectify or cease any action contravening the Act in terms of Section 28(a) to (i)
- (43) To apply for exemption from the application of any provision of any regulation, notice or direction promulgated or issued under the Act in terms of Section 28(A)

***ECA Part VIII: General Provisions***

- (44) To 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, in terms of Section 31(A)(1) – Read with 28 and 32 of NEMA
- (45) To 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, in terms of Section 31(A)(2) – Read with 28 and 32 of NEMA

- (46) To take necessary steps within LA itself to eliminate, reduce or prevent the damage, danger or detrimental effect in terms of Section 31(A)(3)
- (47) To recover expenditure incurred in undertaking 31(a)(3) from the person concerned in terms of Section 31(A)(4)
- (48) To advertise for comments if LA intends making any regulation, direction, declaration, identification, or determination of policy in terms of the Act, in terms of Section 32

***In terms of NEMA: Biodiversity Act No. 10 OF 2004 \****

- (49) To prepare biodiversity management plans for PEPCO for recommendation to the Minister for approval, for (a) an ecosystem, (b) an indigenous species, (c) a migratory species in terms of Section 43(1)
- (50) To carry out assigned responsibilities for implementing a biodiversity management plan in terms of Section 43(2)
- (51) To enter into a biodiversity management agreement in terms of Section 44
- (52) To request amendments to a biodiversity management plan, and to consult about implementation in terms of Section 46
- (53) To incorporate provisions of the national biodiversity framework into the IDP, and demonstrate implementation, in terms of Section 48
- (54) To monitor the conservation status affecting biodiversity (if required by the Minister) and to report to PEPCO in terms of Section 49

- (55) To conduct research on biodiversity conservation in terms of Section 50
- (56) To take into account the need for protection of listed ecosystems in the IDP, in terms of Section 54
- (57) To assist in identifying when permits are required, in terms of Section 57, 65, 71, 81
- (58) To ensure that the duty of care relating to alien species is enforced, in terms of Section 69
- (59) To issue directive, implement and recover costs in terms of Section 69, 73, 74
- (60) To coordinate control of invasive species, in terms of Section 75
- (61) To prepare invasive species control plans in terms of Section 76
- (62) To prepare invasive species status reports in terms of Section 77
- (63) To protect the interests of stakeholders, and deal with benefit-sharing agreements in terms of Section 82
- (64) To deal with material transfer agreements in terms of Section 84
- (65) To issue or cancel permits where designated as an issuing authority in terms of Section 88, 91, 92, 93

***In terms of NEMA: Protected Areas Act No. 57 Of 2003 & Regulations***

- (66) To manage protected environments (if assigned by Minister), in terms of Section 38 \*
- (67) To participate in preparation of management plans in terms of Section 39(3)
- (68) To ensure the municipality's IDP/(District Plans) applicable aspects are incorporated into a management plan, in terms of Section 39(4)
- (69) To ensure that the management authority is adhering to municipal by-laws, in terms of Section 40(1)(iv)
- (70) To assess integrated development plan framework's economic opportunities as part of management plan, in terms of Section 41(3)(a)
- (71) To co-manage protected areas including exercise of powers, duties and regulation of human activities that affect the environment (including in a P.N.E.) in terms of an agreement with the City with regard to issues listed in 42(2)(a-l), or in terms of an agreement with a Management Advisory Committee, in terms of Section 42(1)(a)
- (72) To ensure the management plan addresses the City's/municipality/s cultural heritage resources in the protected area, in terms of Section 42(3)(a)
- (73) 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, in terms of Section 86.

***In terms of National Heritage Resources Act 25 Of 1999 (NHRA) \****

*All authorisations and decisions will be limited to cases where applications are not opposed by the delegatee and no objections are received in respect of the following:*

- (74) To apply for assessment of municipality's competence to perform functions under the Act, in terms of Section 8(6)
- (75) To perform any general responsibility, duty or function assigned, deemed or delegated to a competent Local Authority, in terms of Section 8, 25, 26(1)
- (76) To manage Heritage Resources (policy, identify resources, assess and grade, perform local responsibilities, database), in terms of Section 4 to 10
- (77) To 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, in terms of Section 27
- (78) To make recommendations regarding provision in by-laws or zoning scheme for managing Protected Areas, in terms of Section 28
- (79) To provisionally protect places considered conservation-worthy or threatened by public notices, in terms of Section 29
- (80) To compile a heritage inventory. Assist in compiling Cape Town's part of the Provincial Heritage Register, and follow application assessment requirements. Mark listed places, in terms of Section 30.

- (81) To 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 in terms of Section 31
- (82) To deal with structures older than 60 years and apply for exemptions of areas or categories, subject to competency being granted, in terms of Section 34
- (83) To notify developers of requirement for Heritage Impact Assessment, (HIA) follow consideration procedures for HIA's, comment on HIA's, authorise HIA in cases where evaluation of impact can be dealt with in an application made in terms of LUPO, Zoning Scheme Regulations or other relevant laws in terms of Section 38
- (84) To inform of destruction of listed heritage place, in terms of Section 39
- (85) To negotiate heritage agreements in terms of Section 42
- (86) To recommend on the provision of incentives in By-law or planning scheme, in terms of Section 43
- (87) To promote presentation and use of heritage resources, in terms of Section 44
- (88) To serve notices for compulsory repair and maintenance of heritage resources in terms of Section 45
- (89) To deal with the manner in which application is to be made for any permit or other requirement and make stipulations and conditions in terms of Section 48

- (90) To make appeals against decisions in terms of Section 49
- (91) To perform all functions of appointed Heritage Inspector, in terms of Section 50
- (92) To lay charges, make submissions for offences in terms of Section 51
- (93) To recommend to Council on the formulation of By-laws for heritage resources in terms of Section 54
- (94) To assist and cooperate with heritage bodies, in terms of Section 55
- (95) To provide for the protection of conservation areas under previous National Monuments Act, or perform other transitional powers, in terms of Section 58

***In terms of Zoning Schemes/Land Use Planning Ordinance 15 Of 1985***

***(ZS/LUPO)***

***LUPO***

- (96) To 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, in terms of Sections 15(2)(c) & 17(2)(c) & 24(2)(c)
- (97) To, in terms of Section 39, enforce compliance with environmental and heritage conditions imposed in terms of LUPO or to enforce the environmental or heritage provisions incorporated into a zoning scheme in terms of the Ordinance, including taking steps to rectify and recover costs

and to enter a property for investigation of environmental and heritage matters, in terms of Section 39(1)&(2), 40(1)&(2) and 41

- (98) To identify and include Environmental and Heritage resources in zoning scheme, imposition of conditions, performing power or duty in terms of a condition, in terms of Section 42

**ZS** (*the Cape Town ZS or equivalent provision in the relevant zoning scheme*).

- (99) To take steps to obtain comment from an independent environmental assessment practitioner (I & AP) in respect of Environmental Heritage matters, in terms of Section 10

- (100) To co-ordinate ZS decisions on applications for outdoor signage other than the permitted 0,2m<sup>2</sup> in compliance with Council's Outdoor Advertising By-law No 10518, and in terms of Section 22

- (101) To assess deviations from the Scenic Drives special area regarding fences, trees and planting, and external envelope's impact on views from the drive, in terms of Section 93

**ZS** (*Ch XII Special Areas or equivalent provision in the relevant zoning scheme (read with section 39 and 40 or land use planning ordinance)*).

- (102) To conduct environmental and heritage assessments and recommending mitigating measures, in terms of Sections 93, 94, 98, 106, 108, 112, 113, 114

- (103) To assess the impact of development above Boyes Drive and report thereon to SPELUM, in terms of Section 102

- (104) To consent for buildings, structures, alterations and demolition work in Urban Conservation Areas, heritage assessments and tree consents and permits where applications are not opposed by the delegate and no objections are received, in terms of Section 108 – (also Section 26 Pinelands TMS ZS 1995; Simon’s Town etc).

*Part VIII Section 2 (Div. Council TP Regs revised 1973)*

- (105) Nature conservation, environmental, signage or heritage conservation decisions and responsibilities under the various ZSs, where applications are not opposed by the delegate and no objections are received.

***In terms of Land Use Planning Ordinance Regulations P/N 333/1986 (LUPO Regulations)***

- (106) To 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 environmental or heritage resources, in terms of Section 4

***In terms of Outdoor Advertising & Signage By-Law No. 10518***

*To deal with all duties, powers and functions of the municipality in terms of this By-law, including;*

- (107) Making decisions in terms of the published policy.

***Sections 1 to 8 - Applications***

- (108) To consider the content and completeness of applications including;

- (109) 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 definition 34.
- (110) To approve the change in graphics on an existing approved sign structure, in terms of section 2.4.
- (111) 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.
- (112) To require additional drawings, calculations and other information from the person submitting a signage plan, in terms of section 2.7.
- (113) To require an applicant to submit an Environmental Impact Assessment, Heritage Impact Assessment and/or a Traffic Impact Assessment, in terms of section 3.
- (114) To require a public participation process prior to considering the approval, in terms of section 4.
- (115) 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.
- (116) 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.

## **Sections 9 to 10**

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

- (117) To calculate the applicable fees, tariffs and charges
- (118) To take general factors into account in considering applications.
- (119) To determine the sign type (advertising opportunity) and the area of control pertaining to an application where –
  - (a) a sign falls into more than one possible area of control or
  - (b) 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.

## **Section 11**

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

- (120) To apply minimum specific standards and criteria to Scheduled sign types and localities, in addition to general factors.
- (121) 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:
  - (a) the area of control where it is proposed to display the sign/s;
  - (b) nature of the event;
  - (c) duration of the erection/display of the sign;
  - (d) size of the proposed sign;
  - (e) any traffic and/or safety and/or environmental or heritage impact assessment;
  - (f) the outcome of any public participation process.

### ***Sections 12 to 43 – Conditions***

- (122) To ensure that standard conditions for approval and legal requirements are complied with, including;

#### **Illumination**

- (123) 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.
- (124) 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***

- (125) 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 after consultation with the City's Traffic Engineer, in terms of section 42.

### ***Sections 44 to 49 - Approval***

- (126) To grant or refuse any application and impose conditions relating to –
- (a) the erection and/or use of the sign;
  - (b) indemnifying the municipality against any consequences flowing from the erection, display or mere presence of a sign;

- (127) To withdraw an approval or amend any condition or impose a further condition in respect of an approval if a sign or advertising structure –
- (a) is in a state of disrepair;
  - (b) stands empty for more than 90 consecutive days;
  - (c) no longer complies with any provision of the By-law; or
  - (d) is substantially altered in structure or graphic content,

in terms of section 45.

- (128) To make recommendations to SPELUM after obtaining the comments of a subcouncil, on applications for outdoor advertising signs larger than 4,5 m<sup>2</sup> where objections are received.

- (129) 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.

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

- (131) 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.

- (132) To make decisions and provide the outcome in writing within the timeframe.

### ***Sections 50 to 54 – Appeals***

- (133) To comment on appeals to the appeal authority

### ***Sections 55 to 64 – Up-front approvals***

(134) To determine compliance with conditions for certain sign types (Section H) in terms of which approval is not required, and to order the removal or rectification of contravening signs, including to order the removal of a development board if –

- (a) the building operations have been substantially completed or discontinued; or
- (b) an Occupancy Certificate has been issued by the Municipality; or
- (c) 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.

### ***Sections 65 to 67***

(135) To enforce clauses prohibiting disfigurement of places and property, and to enter and inspect properties in order to administer and enforce the By-law.

### ***Sections 68 to 74 - Offences***

(136) To issue a written notice for contraventions or requiring discontinuance of a continuing offence.

### ***Unlawful signs***

(137) To dispose of unlawful signs removed by the Municipality, in terms of section 73.

## **Sections 75 to 85**

### ***Enforcement and Removal of Signs***

- (138) 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.
- (139) 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 be necessary, where a notice in terms of section 75 is not heeded.
- (140) To, remove or alter an unlawful sign erected or displayed on Municipal property, or to do such work as may be necessary, where a notice in terms of section 75 is not heeded.
- (141) 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.
- (142) 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.
- (143) 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.

## ***Schedules 1 to 17***

- (144) To make amendments and modifications to areas of control.
- (145) To evaluate, measure, have regard to and apply the specific factors and criteria for sign types in Schedules 2 to 17, enforce the applicable rules for display or removal, apply tariffs and charges, assess opportunities, designations and areas of control, follow stipulated procedures, consider motivations for waivers only where permissible, and assess the impact of a proposed sign on *inter alia* the visual, natural and cultural resources, in considering permits, permissions, approvals, contraventions or refusals.

### ***Table Mountain National Park Heads Of Agreement (TMNP HoA)***

- (146) To determine requirements for the Operational Environmental Management System in consultative process in terms of Section 13
- (147) To ensure that all proposed infrastructural development including buildings and roads are subjected to integrated environmental management processes and sound environmental management practices in terms of Section 14

### ***In terms of Nature And Environmental Conservation Ordinance 19 Of 1974***

- (148) To deal with all duties, powers and functions conferred on the City in terms of the Nature and Environmental Conservation Ordinance of 1974.

***In terms of Victoria And Alfred Waterfront Heads Of Agreement (V&AW HOA)***

- (149) To apply the principles, policies and approval conditions pertaining to environmental and heritage matters in respect of all levels of the Package of Plans in the V&AW HoA area.

***In terms of Designation Of Conservation Area: Clifton, Glen Beach And Bakoven Bungalow Area, By-Law NO 1286 OF 1998 GG 19337\****

- (150) To exercise powers and duties conferred in terms of this By-law and to ensure that the Conservation Area rules and objectives are complied with.

## **DIRECTOR : STRATEGIC DEVELOPMENT INFORMATION AND GIS**

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Strategic Development Information and GIS the power to sub delegate any of his or her delegated powers, functions and duties:*

### **139. Function Specific Delegations**

*In terms of Spatial Data Infrastructure Act, No. 54 of 2003*

#### ***Spatial Information Standards and Prescriptions***

- (1) To adhere to the standards and prescriptions for spatial information referred to in Section 11 of the Act in terms of Section 11(3)

#### ***Capture and publishing of Spatial Information metadata***

- (2) To capture and maintain metadata for spatial information in accordance with the Act in terms of Section 12(1)
- (3) To ensure that metadata for spatial information is available to users by making metadata available to the Department of Land Affairs in the prescribed manner for inclusion in the electronic metadata catalogue in terms of Section 12(2)

#### ***Supply of and accountability for spatial information***

- (4) To be accountable for the integrity of unmodified spatial information in terms of Section 14(2)

- (5) To provide (a) the information in a prescribed manner and (b) the relevant metadata together with the spatial information when supplying information, in terms of Section 14(3)

#### ***Maintenance of Spatial Information Base Data Sets***

- (6) To ensure regular updating of base data sets in accordance with the provisions of the Act in terms of Section 16 (2)

#### ***Reporting on Spatial Information Data Quality***

- (7) To report on data quality by responding in the prescribed time and manner, to the user after receiving the report on that deficiency in terms of Section 17 (3)

#### ***Security of Spatial Information***

- (8) To take reasonable steps to effect adequate and appropriate security against the loss of spatial information unauthorized or unlawful access to and modification or disclosure of that spatial information in terms of Section 18(a)
- (9) To ensure the protection of the copyright of the State and other interested parties in spatial information in terms of Section 18(b)

#### ***In terms of Land Survey Act 8 of 1997***

#### ***Town Survey Mark Reference System***

- (10) To position, create and maintain a Town Survey Mark Reference System.

## **140. Function Specific Delegations**

## ECONOMIC AND SOCIAL DEVELOPMENT

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### DIRECTOR: ECONOMIC AND HUMAN DEVELOPMENT

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Economic and Social Development Portfolio including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **141. Function Specific Delegations**

*In terms of 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*

- (1) To permit an informal trader to stay overnight at the place of business  
Section 3 (b)(i)
- (2) To permit an informal trader to erect a structure Section 3 (b)(ii)
- (3) To instruct an informal trader to remove any goods in terms of section 4 or 5 Section 3 (f)
- (4) To grant exemptions to traders for the removal of packaging, material, stock and equipment Section 4 (d)
- (5) To issue written proof that a trader has leased or allocated such stand or area to him/her Section 6

***In terms of 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***

- (6) To permit an informal trader to stay overnight at the place of business  
Section 3 (b)(i)
- (7) To permit an informal trader to erect a structure Section 3 (b)(ii)
- (8) To instruct an informal trader to remove any goods in terms of section 4 or 5 Section 3 (f)
- (9) To grant exemptions to traders for the removal of packaging, material, stock and equipment Section 4 (d)
- (10) To design, make display signs marking or other devices indicating a restricted or prohibited area Section 8
- (11) To receive an appeal against a decision of Council Section 10 (b)

***In terms of 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***

- (12) To permit an informal trader to stay overnight at the place of business  
Section 3 (b)(i)
- (13) To permit an informal trader to erect a structure Section 3 (b)(ii)
- (14) To instruct an informal trader to remove any goods in terms of section 4 or 5 Section 3 (f)

- (15) To grant exemptions to traders for the removal of packaging, material, stock and equipment Section 4 (d)
- (16) To design, make display signs marking or other devices indicating a restricted or prohibited area Section 8

***In terms of 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;***

- (17) To permit an informal trader to erect a structure Section 3 (b)(ii)
- (18) To instruct an informal trader to remove any goods in terms of section 4 or 5 Section 3 (f)
- (19) To grant exemptions to traders for the removal of packaging, material, stock and equipment Section 4 (d)
- (20) To design, make display signs marking or other devices indicating a restricted or prohibited area Section 8

***In terms of Informal Trading By-Law published in Provincial Gazette of 10 March 2000, PN 76/2000, in respect of the area of the Helderberg Municipality;***

- (21) To permit an informal trader to erect a structure Section 3 (b)(ii)
- (22) To grant exemptions to traders for the removal of packaging, material, stock and equipment Section 4 (a)
- (23) To design, make display signs marking or other devices indicating a restricted or prohibited area Section 10

***In terms of Informal Trading By-Law published in Provincial Gazette of 29 May 1998, PN 290/1998, in respect of the area of the Oostenberg Municipality***

- (24) To permit an informal trader to erect a structure Section 3 (b)(ii)
- (25) To grant exemptions to traders for the removal of packaging, material, stock and equipment Section 4 (a)
- (26) To show written approval in terms of the by-law Section 8
- (27) To receive an appeal against a decision of Council Section 10(2)
- (28 to 49) *[Deleted C119/05/10 by CI 25 May 2010]*

## DIRECTOR: PROPERTY MANAGEMENT

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Property Management including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **142. Function Specific Delegations:**

#### ***Property Matters***

- (1) To recommend, administer and manage the acquisition, enhancement, alienation, leasing and utilisation of council-owned immovable property and rights in property in terms of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property promulgated in Provincial Gazette 5988 dated 28 February 2003 and the policy relating thereto published by Provincial Gazette No 6340 dated 3 February 2006.
- (2) To exercise all the rights and obligations of the City as lessor or Principal in respect of agreements of lease, servitudes and other legal instruments related to the incumbent's area of jurisdiction..
- (3) *[Deleted C43/06/09 by CI 25 June 2009]*
- (4) To advise council on property transactions provided that in respect of the granting of rights to use , manage or control City immovable assets such as land, property and buildings where the value of the asset is more than R10m and the duration of the right exceeds 3 years such advice must include a recommendation from the Subcouncil in whose area of jurisdiction the asset is situated.

*[Amended C119/05/10 by CI 25 May 2010]*

- (5) To initiate after being authorized by the City Manager in terms of delegation 110(6) all property transactions  
*[Amended C43/06/09 by CI 25 June 2009]*
- (6) To reserve property for municipal purposes
- (7) *[Deleted C43/06/09 by CI 25 June 2009]*
- (8) To determine whether or not to cancel leases where the terms and conditions thereof have been breached and to, in consultation with the Director : Legal Services, 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
- (9) To frame the conditions of lease and to execute all documents and rights in connection with the letting of council's immovable property
- (10) To recommend to Council or the City Manager as the case may be the consideration due for the granting of rights to use, control or manage capital assets.  
*[Amended C43/06/09 by CI 25 June 2009]*
- (11) To authorise the amount of compensation to be paid by council where applicable to lessees whose leases are terminated before the expiry of the lease
- (12) To authorise the payment of compensation in respect of servitudes for municipal services
- (13) To renew an agreement of lease with the existing lessee in respect of immovable property where the lease provides for a renewal
- (14) To approve application for the removal of reversionary claims

- (15) To appoint valuers on such terms and conditions as he/she 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
- (16) To authorise projections and projection structures over council's land to frame and conclude relevant agreements and to impose the levying of a fee
- (17) To authorise encroachments over council's land, frame and conclude relevant agreements and impose the levying of a fee/tariff
- (18) *[Deleted C43/06/09 by CI 25 June 2009]*
- (19) *[Deleted C43/06/09 by CI 25 June 2009]*
- (20) To give 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.
- (21) To permit occupation of municipal land by a purchaser prior to registration in accordance with the conditions of sale, provided that such purchaser – deposits with council the purchase price or pays an occupational rental and complies with any other condition that may be relevant in the circumstances.

- (22) To, in consultation with the Director : Legal Services, institute legal or other proceedings for the cancellation of a deed of sale or lease agreement and for the recovery of monies owing to council where such cancellation arose from the purchaser's or lessee's default in complying with the conditions of sale or lease within a reasonable time of conclusion of the sale or lease.

***In terms of Local Government : Municipal Systems Act, No 32 of 2000***

- (23) To recommend to council the approval 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 agreements, advertisements and encroachments
- (24) To authorise payment of interest on approved purchases of land or buildings whether the municipality wishes to take or has already taken occupation of the property prior to the registration of transfer in its favour.

***In terms of Deeds Registry Act, No 47 of 1937***

- (25) To consider and approve the transfer of land gratuitously ceded to the council or where the council is compelled to take transfer and authorisation of the costs involved in terms of Section 31
- (26) To authorize the refunding of the 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 in terms of Section 31
- (27) To assess the market value of council land for rental purposes and determine 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.

***In terms of Local Government : Municipal Property Rates Act, No 6 of 2004***

- (28) To authorise 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.
- (29) To initiate, at the request of a service department, the acquisition of land or a right in land for any approved municipal scheme or project where provision has been made on an approved budget and reporting thereon to the relevant authority.
- (30) To repudiate claims to ownership of municipal land by acquisitive prescription.

### **DIRECTOR: STRATEGY, SUPPORT & COORDINATION**

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Strategy, Support and Coordination including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **143. Function Specific Delegations**

##### ***Existing Settlements***

- (1) To authorise the lease and/or sale of Council dwellings, financed ex National Housing Funds and Council funding, and single residential property (and related properties) to persons on the Council's waiting lists (housing estates only);

*[Amended C119/05/10 by CI 25 May 2010]*

- (2) To authorise the selling of saleable Council dwellings, financed ex National Housing Funds and Council funding, to existing tenants of said dwellings or where applicable to their heir/s in title and in accordance with council policies;

*[Amended C119/05/10 by CI 25 May 2010]*

- (3) To authorise the lease and determine rentals of business units, stores, stables, and other non-residential units, 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 and Director: Housing Finance and Leases;

*[Amended C 34/08/07 by CI 29 August 2007]*

(4) To 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.

(5) To authorise the issuing of power of attorney to conveyancers, institutions or consultants to sign deeds of sale and transfer documentation on behalf of the City in respect of properties managed by the Housing Directorate;

*[Amended C 34/08/07 by CI 29 August 2007]*

(a) Including non-prejudice clauses in a second bond agreement to protect the interests of the City of Cape Town namely: "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 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;

(b) A further condition, namely that the full amount of the second bond shall be used solely for the purpose of effecting permanent improvements to the property in question.

(6) To authorise the repossession, repurchasing and resale of council property, financed ex National Housing Funds and Council funds;

*[Amended C119/05/10 by CI 25 May 2010]*

(7) To 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.

- (8) To initiate the eviction process from Council premises, managed by the Housing Directorate, in respect of any occupier who:

*[Amended C 34/08/07 by CI 29 August 2007]*

- (a) Forcefully gained entry to council property, managed by the Housing Directorate, and remains in occupation;

*[Amended C 34/08/07 by CI 29 August 2007]*

- (b) Occupied such premises without the Council's permission or remained in occupation of such premises when the authorised tenant was no longer in occupation

- (c) put such premises to illegal use

provided that prior to the institution of legal proceedings, permission is granted by the relevant delegated authority.

*[Inserted C 34/08/07 by CI 29 August 2007]*

- (9) To authorize the voluntary cancellation of sales of housing scheme land and dwellings in accordance with Council policy;

- (10) To initiate legal action for the eviction of tenants in Council's letting units and or 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 properties

*[Amended C 34/08/07 by CI 29 August 2007]*

- (11) To implement debt relief processes in respect of council dwellings managed by the Housing Directorate, in accordance with the Credit Control and Debt Collection By Law.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (12) To consider and grant waivers of the deposit payable on the sale price of vacant single residential housing scheme units or land in consultation with the Director: Housing Finance and Leases;

*[Amended C 34/08/07 by CI 29 August 2007]*

- (13) To allocate housing scheme dwellings on a priority basis on the terms and conditions determined by Council;

*[Amended C 34/08/07 by CI 29 August 2007]*

- (14) To grant prior occupation and pass the risk in any land or dwelling managed by the Housing Directorate 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;

*[Amended C 34/08/07 by CI 29 August 2007]*

- (15) To authorise the payment of all transfer, survey and incidental costs, in respect of housing estate properties that are for the Council's account.

- (16) *[Moved to Section 143 (48) C 34/08/07 by CI 29 August 2007]*

- (17) *[Moved to Section 143 (49) C 34/08/07 by CI 29 August 2007]*

- (18) To serve notices on 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.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (19) To take such decisions as may be necessary from time to time on matters affecting housing schemes.

- (20) To apply for amendments to plans and specifications of rental dwellings in consultation with New Housing and Town Planning

*[Amended C 34/08/07 by CI 29 August 2007]*

- (21) *[Deleted C 34/08/07 by CI 29 August 2007]*
- (22) To authorize and approve the relocation of dwellings on residential sites within housing schemes necessitated by adverse subsoil conditions or by other unforeseen circumstances
- (23) *[Moved to no 38 under New Settlement Development].*
- (24) To allocate rental housing opportunities in new settlement developments as determined by Council  
*[Amended C 34/08/07 by CI 29 August 2007]*
- (25) *[Changed and moved to no 39 under New Settlement Development.]*
- (26) To authorise to demolition of unoccupied informal structures on Council housing schemes

***Council funded properties used for commercial purposes in Council's housing estates:***

- (27) To enter into Special Lease Agreements and determining rentals for the re-letting of offices, business premises, garages, stables, vacant plots, and other non-residential units, at economic rentals calculated by the Directorate: Property Management in consultation with Housing Finance and Leases.  
*[Amended C 34/08/07 by CI 29 August 2007]*
- (28) To issue and serve notices arising from the non-payment of rental for business premises or any breach of contract.  
*[Amended C 34/08/07 by CI 29 August 2007]*

***Informal Settlements Management And Upgrading***

- (29) To provide temporary housing relief measures in emergencies/disasters (e.g. Fire and flood kits).

- (30) To authorize the demolitions of all illegal unoccupied structures in Informal Settlements including vacant City, Province and State land as well as Temporary Relocation Areas and Housing properties;

*[Amended C 34/08/07 by CI 29 August 2007]*

*[Amended C119/05/10 by CI 25 May 2010]*

- (31) To request the Director: Legal Services to arrange for Court orders (eviction orders and interdicts).

*[Amended C 34/08/07 by CI 29 August 2007]*

- (32) To authorise and arrange for the relocation of families from informal settlements within City boundaries.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (33) To negotiate / liaise with Provincial and State organs regarding land, relocation and related legal matters.

- (34) To co-ordinate the prioritization of the provision of essential services in Informal Settlements.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (35) To negotiate with illegal land invaders, land owners and other stake holders.

- (36) To negotiate with Province and other State organs regarding matters pertaining to land invasions, provision of services, relocations, legal action to be taken, alternative land etc.

- (37) To approve and sign off Informal Settlement beneficiary substitutions after verification;

- (38) To approve and sign of extensions to informal dwellings in informal settlements.

- (39) To co-ordinate prioritization of Informal Settlements for approval by Housing Portfolio Committee and Mayco.
- (40) To enter into Service Level Agreement with other service providers such as Metro Police, Sanitation and Water, Electricity, etc.
- (41) To approve service level agreements related to informal settlement management.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (42) To manage all activities in Informal Settlements including informal Temporary Relocation Areas (TRA's).

### ***New Settlement Development***

- (43) To identify the National Housing programme(s) and to apply for funding to PGWC for a new housing development.

*[Amended C 34/08/07 by CI 29 August 2007]*

*[Amended C119/05/10 by CI 25 May 2010]*

- (44) To recommend to the Executive Director : Housing to allocate housing units/sites in an approved housing project.

*[Amended C 34/08/07 by CI 29 August 2007]*

*[Amended C119/05/10 by CI 25 May 2010]*

- (45) To submit and endorse a layout plan affecting a proposed housing development.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (46) To submit and endorse an EIA application that affects a proposed housing development.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (47) To sign deeds of sale and transfer documentation for the individual beneficiaries in new settlement developments.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (48) To issue a power of attorney to conveyancers, institutions or consultants to sign deeds of sale and transfer documentation on behalf of the City.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (49) To appoint a project steering committee for a new project in terms of the approved policy.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (50) To sign the letters of appointment of consultants or contractors after approval has been obtained from Supply Chain Management.

*[Amended C 34/08/07 by CI 29 August 2007]*

- (50A) To 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 (Land Sales and New Housing)

*[Inserted C 34/08/07 by CI 29 August 2007]*

- (50B) To submit Housing development applications to the Provincial Housing Department after budgetary approval by Council.

*[Inserted C 34/08/07 by CI 29 August 2007]*

### ***Housing Land And Forward Planning***

- (51) To investigate and report on Council, State and privately-owned land identified and potentially suitable or required for the acquisition of future housing development.

- (52) To enter into negotiations with land owners and/or their appointed representatives regarding the acquisition and leasing of land for Housing purposes.

- (53) To enter into and conclude agreements on issues related to Land Restitution within the limits of budgetary provisions applicable policy.
- (54) To enter into and conclude agreements on issues related to Social Housing within the limits of budgetary provision and applicable policy.
- (55) To enter into and conclude agreements on issues related to GAP Housing with developers and housing partners within the limits of budgetary provision and applicable policy.
- (56) To execute all documents in connection with the alienation or acquisition of land or property in connection with approved GAP and Social Housing Projects.
- (56A) To 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.

*[Inserted C 34/08/07 by CI 29 August 2007]*

- (56B) To determine the upset price and conditions of sale of Council land acquired with housing funds to be disposed of by public auction or public sale;

*[Inserted C 34/08/07 by CI 29 August 2007]*

### ***Strategy, Support And Coordination***

- (57) To determine and develop Housing Policy and Research agenda.
- (58) To execute Communication and Stakeholder engagement in respect of City Housing initiatives.

*[Amended C119/05/10 by CI 25 May 2010]*

- (59) To facilitate the review, updating and development of Integrated Human Settlements Strategy.
- (60) To co-ordinate and align Human Settlements Strategy with those of other Departments as well as other spheres of government.
- (61) To liaise and establish networks locally, provincially, nationally as well as internationally with Human Settlement stakeholders.
- (62) To Monitor and reports to the Housing Portfolio Committee and other relevant Portfolios the implementation of human settlements strategy.

## SAFETY AND SECURITY

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### DIRECTOR: EMERGENCY SERVICES

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Emergency Services including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **144. Function Specific Delegations**

##### ***Disaster Management***

- (1) To initiate the process of ensuring a written agreement for the rendering of a Disaster Management Service and assistance outside the metropolitan boundary.

##### ***Fire and Rescue Services***

- (2) To decide on the most appropriate systems for the control, management, planning, coordination and regulation of fire fighting services which serve the area of the district municipality as a whole.
- (3) To decide on the most appropriate deployment of the fire and emergency services of the municipality and to determine priorities in this regard.
- (4) To grant extension of time for the payment of costs for the salvage, removal or safe storage of objects which are endangered, in terms of Section 9(3) of the Fire Services Act.
- (5) To give notice by means of a newspaper advertisement that goods placed in safe storage, must be claimed within a specified time, in terms of Section 9(6) of the Fire Services Act.

- (6) To grant authority that goods placed in safe storage may be sold, in terms of Section 9(6) of the Fire Services Act.
- (7) To grant authority for the utilisation of the fire service outside the area of jurisdiction of the municipality, as provided for in Section 12 of the Fire Services Act.
- (8) To take all necessary steps on behalf of and at the cost of an owner who failed to comply with the directions in regard to the utilisation and storage of hazardous substances and safety precautions, in terms of Section 18 of the Fire Services Act.
- (9) To grant authority for the utilisation of the fire service outside the area of jurisdiction of the municipality, as provided for in Section 12 of the Fire Services Act.
- (10) To take all necessary steps on behalf of and at the cost of an owner who failed to comply with the directions in regard to the utilisation and storage of hazardous substances and safety precautions, in terms of Section 18 of the Fire Services Act.

***In terms of Fire Brigade Services Act 1987 (Section 12(1) and (2))***

- (11) To initiate the process of ensuring a written agreement for the rendering of Fire and Rescue Services and assistance outside the metropolitan boundary.
- (12) To appoint a person(s) as a member(s) of the Fire Brigade Reserve Force.

## CHIEF : TRAFFIC SERVICES

*[Amended C119/05/10 by CI 25 May 2010]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Chief: Metropolitan Police Department including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **145. Function Specific Delegations**

#### ***Internal Matters***

- (1) To determine the issue, life span and the type of uniform items and protective clothing and which officials qualify for such clothing in terms of the applicable conditions of service.

#### ***Operational Matters***

- (2) To liaise with the media relating to technical operational matters and information and to provide instructions and advice on public safety and protection in the event of specific emergencies and emergency incidents.

#### ***Parking, Parking Meter and Toll Parking***

***In terms of Regulation 305 Sub Regulation (1) – (6) R/W Section 80 Act 93 of 1996***

- (3) To grant exemption regarding any stipulation of law on 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

## ***Traffic Safety***

- (4) To instruct 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 terms of section 11 of the Road Ordinance 19 / 1976.
- (5) To instruct 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 s.11 of the Road Ordinance 19 / 1976.

## ***Traffic signs, markings and indicators***

***In terms of Section 57 of Act 93 of 1996.***

- (6) To serve 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.

## ***Races and sport on public roads***

***In terms of Regulation 317/2000 act 93 Of 1996***

- (7) To grant exemption from complying with road traffic signs on a public road where approval was granted for the organizing of sport or a race on a public road(s)

### ***Closure or re – route of roads***

***In terms of Section 11 (g) of Road Traffic Act No 29 of 1989***

- (8) To regulate and control traffic upon any public road.

***In terms of Road Traffic Act 29 of 1989 section 3***

### ***Appointment of persons***

- (9) To appoint the following staff members:
- (a) Inspector of licenses
  - (b) Examiner of vehicles
  - (c) Examiner of drivers licenses
  - (d) Traffic officers
  - (e) Traffic wardens
  - (f) Reserve traffic officers/traffic wardens/casual constables

## **CHIEF: METROPOLITAN POLICE**

*[Section Inserted C119/05/10 by CI 25 May 2010]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Chief: Metropolitan Police Department including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **145 A. Function Specific Delegations**

#### ***Internal Matters***

- (1) To determine the issue, life span and the type of uniform items and protective clothing and which officials qualify for such clothing in terms of the applicable conditions of service.

*[Inserted C119/05/10 by CI 25 May 2010]*

## ***Operational Matters***

- (2) To liaise with the media relating to technical operational matters and information and to provide instructions and advice on public safety and protection in the event of specific emergencies and emergency incidents.

*[Inserted C119/05/10 by CI 25 May 2010]*

***In terms of South African Police Service Act 68 of 1995  
as amended by the South African Police Service Amendment Act 83 of 1998***

- (10) To enter into a co-operation agreement with the Independent Complaints Directorate, the SAPS and the Metropolitan Police Department in terms of Section 3

Only the powers referred to in subsection (4)(7)(c )(8) and (11): provided that the reference to the national and provincial commissioner in subsection 8, is interpreted as a reference to the executive head (Metropolitan Police Chief) of the municipal police service i.e. in writing authorises 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) in terms of Section 13

## ***Regulations for Municipal Police Services***

***In terms of Government Gazette 11 June 1999***

- (11) To issue and replace a certificate of appointment to members of the municipal police service in the prescribed format in terms of Regulation 8.

***In terms of Firearms Control Act (Act 60 of 2000)***

- (12) To apply for an accreditation of the Metropolitan Police Department as an official institution as defined in the Act in terms of Section 95(a)(vi)
- (13) To issue a permit to an employee to possess and use a firearm under its control in terms of Section 98 (2)
- (14) To authorize the application to the Registrar for a copy of any license, permit or authorization which has been defaced, lost or stolen in terms of Section 29
- (15) To authorize the storage and transport of firearms and ammunition in the prescribed manner in terms of Section 83
- (16) To authorize the acquisition, use, safe keeping and disposal of firearms, subject to the conditions imposed by the Registrar in terms of Section 97
- (17) To keep a register in the prescribed form with the particulars of every firearm under its control, the particulars of every employee who is allowed to be in possession of a firearm, the conditions specified in every permit issued, particulars regarding the disposal, transfer, loss, theft or destruction of firearms, and particulars regarding the report of the loss or theft to the South African Police Service in terms of Section 99
- (18) To establish and maintain a workstation and provide the Registrar with access to the workstation and registers (referred to in Sec 99) in terms of Section 101
- (19) To authorize an employee to have the firearm in his or her possession after his or her working hours, carry the firearm on his or her person outside the premises of his or her workplace, or store the firearm at his or her residence provided the Registrar determines in writing that the Official Institution as contemplated in Sec 95(a)(v) may do so in terms of Section 98

- (20) To report the loss or theft of any firearm immediately to the Registrar and to the nearest police station.
- (21) To dispose of or destroy a firearm in the prescribed manner.

# TRANSPORT, ROADS AND MAJOR PROJECTS

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*[Amended C119/05/10 by CI 25 May 2010]*

## DIRECTOR: TRANSPORT

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Transport including the power to sub delegate any of his or her delegated powers, functions and duties:*

### 146. Function Specific Delegations

*Urban Transport Act 78 Of 1977*

- (1) To prepare a transport plan in terms of Section 17(a) & (c).
- (2) To implement any applicable approved transport plan in terms of Section 17(b)
- (3) To prepare (and maintain) a complete map of the Metropolitan Transport Area and make it available to any interested person in terms of Section 17(d).
- (4) To conduct investigations in relation to the various aspects of transport in terms of Section 17(e).
- (5) Revise and bring up to date the approved transport plan in terms of Section 17(f)
- (6) To 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 in terms of Section 17(g)

- (7) To conduct any investigation in connection with any scheme for amalgamating the revenues and expenditure of and the services rendered by, different transport undertakings in terms of Section 17(h).
- (8) To administer the Consolidated Metropolitan Transport Fund in terms of Section 17(j).
- (9) To conduct a program to involve the public in planning of urban transport facilities in terms of Section 17(l)

***REPEALED WITH EFFECT 8 DECEMBER 2009 AND REPLACED BY  
NATIONAL LAND TRANSPORT ACT NO. 5 OF 2009***

***In terms of National Land Transport Transition Act 22 of 2000***

(10-34) *[Deleted C119/05/10 by CI 25 May 2010]*

(34A) *[Deleted C08/12/08 by CI 3 December 2008]*

***In terms of National Road Traffic Act 93 Of 1996***

- (35) To authorize the display of traffic lights in terms of Section 57

***In terms of Road Traffic Act 29/1989***

- (36) To authorize races and sport on Public Roads in terms of Section 11(3).

***In terms of Land Use Planning Ordinance and its Regulations***

- (37) To make comment on where an application requires a Traffic Impact Assessment

***In terms of Outdoor Advertising & Signage By-Law No. 10518***

## ***Road Traffic Safety***

- (38) Make comment on an application to decrease the minimum distances between signs in an area of minimum control, or in other areas of control on submission of a Traffic Impact Assessment (TIA) motivating such a reduction, in terms of section 42.

## **DIRECTOR: ROADS AND STORMWATER**

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Roads and Stormwater including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **147. Function Specific Delegations**

#### *Road Authority*

- (1) To undertake and approve the planning, design, construction, reconstruction and maintenance of all streets and roads, including associated infrastructure.
- (2) To manage, regulate and administer all matters affecting or impacting on the street/road and associated infrastructure, including the verge area, within and in the immediate vicinity of the statutory / established street/road reserve.

#### ***In terms of Roads Ordinance (No. 19 of 1976)***

- (3) To construct and maintain every public (proclaimed) road where the City is the road authority in so far as funds permit in terms of Section 7 (2)
- (4) To, by agreement with and on behalf of another road authority, undertake and contribute to the cost of work in connection with the construction and maintenance of a public (proclaimed) road which such other road authority is the road authority in terms of .Section 8 (1)

- (5) To erect and maintain all direction and warning signposts, distance indicators on public (proclaimed) roads in terms of Section 10
- (6) To regulate and manage, in the interest of the safety of pedestrian or vehicular traffic, the height and/or position of walls, fences, trees, hedges, vegetation at the intersection of any public (proclaimed) road in terms of Section 11
- (7) To erect and maintain fences along public (proclaimed) roads in accordance with policy in terms of Section 12
- (8) To regulate and manage the erection of gates across any public (proclaimed) road in terms of Section 13
- (9) To remove gates across public (proclaimed) roads in terms of Section 14
- (10) To construct, divert or close a motor by-pass alongside a gate on any public (proclaimed) road in terms of Section 15
- (11) To establish and maintain rest camps and rest places for the use by the traveled public and stock camps for use in the connection with the removal of stock in terms of Section 16
- (12) To regulate and manage the erection of any structure on or near a public (proclaimed) road in terms of Section 17
- (12A) To sign non compensation agreements on behalf of Council where such agreements arise out of a condition of approval in terms of section 17 of the Roads Ordinance.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (12B) To grant written consent to transfer a property in cases where a non compensation agreement requires a prospective owner to enter into a similar non compensation agreement with Council prior to transfer of a property.

*[Inserted C119/05/10 by CI 25 May 2010]*

- (13) To regulate and manage access to and exit from public (proclaimed) roads in terms of Section 18
- (14) To authorise, administer and manage the temporary closing or temporary restriction or regulating the use of public (proclaimed) road for any purpose deemed necessary or desirable, and to temporarily divert vehicular and pedestrian traffic from a public (proclaimed) road which has been temporarily closed or restricted in terms of Section 19 (b), (c)
- (15) To erect and maintain appropriate signs indicating the temporary closing or diversion of public (proclaimed) roads in terms of Section 20
- (16) To authorise the inspection of property for any purpose as required by this Ordinance in terms of Section 28
- (17) To authorise the right of entry / access to any land for road related purposes in terms of Section 59

***In terms of Advertising on Roads and Ribbon Development Act (No. 21 of 1940)***

- (18) To regulate and manage the depositing or leaving of certain articles or materials near public (proclaimed) roads outside the urban area in terms of Section 8
- (19) To regulate and manage the erection of structures near building restriction roads outside the urban area in terms of Section 9

- (20) To regulate and manage the erection of structures or construction of other things near intersection of building restriction roads outside the urban area in terms of Section 9A
- (21) To regulate and manage the restriction of access to land through fences etc along certain public (proclaimed) roads outside the urban area in terms of Section 10
- (22) To comment on the restriction on establishment or extension of townships near building restriction roads outside the urban area in terms of Section 11.

***In terms of Municipal Ordinance (No. 20 of 1974)***

- (23) To make and construct, reconstruct, alter and maintain public streets in terms of Section 129(a).
- (24) To authorise, administer and manage the temporary closing or temporary restriction or regulating the use of public street for any purpose deemed necessary or desirable, and to temporarily divert vehicular and pedestrian traffic from a public (proclaimed) road which has been temporarily closed or restricted in terms of Section 138
- (25) To authorise the 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 in terms of Section 176

***In terms of By-Law Relating to Streets, Public Places and the Prevention of Nuisances***

- (26) To manage and monitor any action that results in the placement of objects in a public road which causes an obstruction in terms of Section 5

- (27) To authorise, regulate and manage the encroachment of any tree or other growth that is a source of annoyance, danger or inconvenience to persons using a public road in terms of Section 6(1)
- (28) To comment on whenever an application is made to plant a tree or shrub in a public road in terms of Section 7 (1)
- (29) To authorise, regulate and manage the depositing /dumping of building or waste materials, rubbish, other waste products in a public road, and the transporting of building materials on a public road in such a manner as to damage the road in terms of Section 8
- (30) To authorise, regulate and manage any excavations in a public road in terms of Section 9.
- (31) To authorise, regulate and manage the building of bridges and crossings over gutters (channels) and sidewalks (footways) in a public road in terms of Section 16
- (32) To comment on the control of amusement shows and devices in a public street in terms of Section 17

***In terms of By-law relating to Stormwater Management (PN 31420/2005)***

- (33) To approve or deny applications to permit to enter or place anything other than stormwater into the stormwater system and impose any conditions in terms of Section 3
- (34) To approve or deny applications to undertake any action likely to damage, endanger or destroy parts of the stormwater system or the operation thereof and impose any conditions in terms of Section 4(a)

- (35) To approve or deny applications to discharge or place any substance other than stormwater which may find its way into the stormwater system and impose any conditions in terms of Section 4(b)
- (36) To approve or deny applications to discharge, permit to enter or place anything which may damage, interfere with the operation, contaminate or pollute the stormwater system and impose any conditions in terms of Section 4(c)
- (37) To approve or deny applications to construct or erect any structure or thing in such a position so as to interfere with or endanger the stormwater system or the operation thereof and impose any conditions in terms of Section 4(d)
- (38) To approve or deny applications to make openings in stormwater pipes, canals or culverts and impose any conditions in terms of Section 4(e)
- (39) To approve or deny applications to drain, abstract or divert water directly from the stormwater system and impose any conditions in terms of Section 4(f)
- (40) To approve or deny applications to fill, excavate, shape, landscape, open up or remove ground near any part of the stormwater system and impose any conditions in terms of Section 4(g)
- (41) To approve or deny applications to obstruct or reduce the capacity of the stormwater system and impose any conditions in terms of Section 5(a)
- (42) To approve or deny applications to change the design or the use of or modify the stormwater system in such a manner that flood levels may be increased or the potential for flood may be created and impose any relevant conditions in terms of Section 5(b)

- (43) To approve or deny applications for activities which may cause an increase in flood levels or create the potential of a flood risk and impose any relevant conditions in terms of Section 5(c).
- (44) To determine the measures to be taken to minimise the effects of pollution and to require a property owner or person responsible to institute such measures in terms of Section 7
- (45) To determine whether activities on private property may impair the effective functioning of the stormwater system located on such land and require the relevant property owner(s) to cease such activities and make good whatever had been damaged, impaired etc. in terms of Section 8(1)(a)
- (46) To determine whether a private stormwater system is functioning effectively and require property owners to reconstruct or refurbish such system if deemed necessary in terms of Section 8(1)(b)
- (47) To determine the necessity for the construction, expansion, alteration, maintenance and/or the laying of drains, pipes, or other structures related to the stormwater system in or under any immovable property in terms of Section 9(1)(a)
- (48) To determine whether stormwater from any municipal service works may discharge into a natural watercourse in terms of Section 9(1)(b)
- (49) To determine whether any other activity is necessary or desirable to give effect to any matter contemplated in 9(1)(a) in terms of Section 9(1)(c)
- (50) To determine the measures to be taken to remedy the effects of any contravention of the provisions of the by-law and give instructions for such measures to be undertaken in terms of Section 10(1)(a)(b)(c)(d)

- (51) To give instructions for the removal of anything that may obstruct, endanger or destroy a stormwater system in terms of Section 10(1)(e)
- (52) To determine whether any point of discharge is in contravention of the by-law and seal off or block up such points of discharge in terms of Section 10(1)(f)
- (53) To determine whether the conditions of any permission granted under this by-law are being complied with and cancel such permission if such conditions are not being complied with in terms of Section 10(1)(g)
- (54) To direct an owner of property to allow the owner of a higher lying property to drain concentrated stormwater over the lower lying property in terms of Section 10(1)(h)
- (55) To determine whether it is necessary that stormwater be retained on any property and direct the owner of such property to implement such retention in terms of Section 10(1)(i)
- (56) To direct an owner of property, at his/her own cost, to lay a stormwater drain pipe or gutter in a suitable manner over any property in terms of Section 10(1)(i)
- (57) To determine the necessity for the discharge of stormwater into any watercourse Section 10(1)(j)
- (58) To determine the requirements necessary to prevent the occurrence of a contravention of the by-law and issue written instructions in this regard in terms of Section 10(2)
- (59) To determine the costs incurred as a result of action taken in terms of subsection 10(1) of the by-law and give instructions for the recovery thereof in terms of Section 10(3)

***In terms of National Road Traffic Act (No 93 of 1996)***

- (60) To display or cause to be displayed (erect and maintain) road traffic signs (other than traffic signals) in the prescribed manner in terms of Section 57 (3).
- (61) To authorise any other person to display (erect) a road traffic sign, and determine the conditions for such display and removal of such sign in terms of Section 57 (3)

***In terms of National Land Transport Transition Act (No 22 of 2000)***

- (62) To receive applications from all persons, including the State, Parastatal Institutions, Agencies and Utilities, regarding any substantial change or intensification of land use on any property in terms of Section 29 (2)(a)
- (63) To 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, determine who should or shall be responsible for bearing such cost in terms of Section 29 (2)(c)
- (64) To approve or refuse an application (within 28 days) for a change or intensification in land use or development proposal submitted in terms of sub-section 29(3) in terms of Section 29(4)(a)
- (65) To submit written decision and any objections with respect to such application, including directions or conditions for compliance with the transport plan, to such authority vested under law with responsibility for considering the application in terms of Section 29 (4)(b)

- (66) To 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” in terms of Section 29 (6)

*In terms of National Building Regulations : GNR 2368 of 12<sup>th</sup> October 1990  
Regulation A 11(2)*

**Street Levels**

- (67) 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.

## UTILITY SERVICES

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### DIRECTOR: SOLID WASTE

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Solid Waste including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **148. Function Specific Delegations**

##### ***In terms of Integrated Waste Management Policy***

- (1) To authorise the implementation of a non-standard refuse collection service, where conditions do not permit a standard refuse collection service.
- (2) To authorise an application from a recognised waste minimisation group or club for a Minimised Basic refuse collection service.
- (3) To 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.
- (4) To approve waste management infrastructure and waste management systems that should be provided for new developments.

##### ***In terms of Solid Waste Tariffs (Tariff Policy Section 1.2.8.1)***

- (5) To authorise the issuing of bags at no cost for clean up campaigns.

***In terms of Dumping & Littering By-Law***

- (6) To issue notices with regards to dumping on private property in terms of Section 2(4).
- (7) To arrange for the cleanup of private property and recover costs, where private property owners fail to adhere to written notice for the removal of illegal dumping and or littering in terms of Section 2(5).

***DWAF “Minimum Requirements Guidelines***

***– 1998 Series –***

***In terms of Environment Conservation Act (No. 73 of 1989) (Section S20(5)(6))***

- (8) To administrate, approve and issue “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 AND SANITATION**

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Water and Sanitation including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **149. Function Specific Delegations**

***In terms of National Water Act: Act 36 of 1998.***

- (1) To ensure that the storage dams and bulk reservoirs for water supply to the region are operated in terms of the Dam Safety Regulations, Sections 117 -123 and Regulation no 1560 dated 25 July 1986, promulgated under the National Water Act.
- (2) To control emergency incidents, in terms of Section 20.
- (3) To use water, including by abstraction, storage, discharge to a water resource, in terms of Sections 21 – 55.
- (4) To provide information on water resources, in terms of Sections 141 – 142.

***In terms of National Water Act: Act 36 of 1998 – Regulations***

- (5) To erect, enlarge and operate water and wastewater treatment plants, in terms of Regulation no 2834 dated 27 December 1985.

***In terms of National Water Act : Act 36 of 1998***

***DWAF Operational guideline No U2.1***

- (6) To 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, in terms of Section 27(1).

***In terms of Water Services Act: Act 108 of 1997.***

- (7) To provide water and sanitation services, in terms of Sections 1 - 27.

***In terms of National Environmental Management Act: Act 107 of 1998.***

- (8) To promote and fulfill the environmental rights of everyone by care and remediation of environmental damage, in terms of Sections 28.(1) and 30.

***In terms of Occupational Health and Safety Act, Act 85 of 1993 including Major Hazard Installation Regulations promulgated under it***

- (9) To implement an Occupational Health and Safety programme at the work place, in terms of Section 8(1) & 8(2).

***In terms of Water By-law – Provincial Gazette No 6378 dated 1 September 2006***

- (10) To implement and enforce relevant conditions as set out in the By-law and to monitor infrastructure requirements, cost recovery, compliance and restriction of supply, in terms of Sections 6, 7, 11(3), 12 & 30.

***In terms of Wastewater and Industrial Effluent By-law - Provincial Gazette No  
6378 dated 1 September 2006***

- (11) To monitor industrial effluent discharges and industrial effluent quality for compliance as set out in the by-law and the minimisation of water pollution arising from commercial and industrial activity, in terms of Sections 1 to 9.

## DIRECTOR: ELECTRICITY SERVICES

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Electricity Services including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **150. Function Specific Delegations**

*In terms of Cape Town Electricity Supply By-law,  
Provincial Gazette No 6114 dated 12 March 2004*

- (1) To consider applications for an electricity supply for a period of less than one year and to impose conditions, in terms of section 8(2) of the Cape Town Electricity Supply By-law.
- (2) To give notice to the owner or occupier of property, to provide access to such property to a person and for a permitted purpose, in terms of section 12(3) of the Cape Town Electricity Supply By-law.
- (3) To determine the amount of the deposit in respect of each electricity installation, and to increase such deposit if the deposit held is deemed to be inadequate, in terms of section 17 of the Cape Town Electricity Supply By-law.
- (4) To authorise a person to sell or supply electricity, supplied to his/her premises under an agreement with the Municipality, to any other person or persons for use on any other premises and only allow the resale of electricity if measured by a sub-meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the Municipality, in terms of section 20(1) of the Cape Town Electricity Supply By-law

- (5) To consent to and impose conditions for the operations as listed in sections 27(1)(a) to (e) of the Cape Town Electricity Supply By-law.
- (6) To require the consumer to take special actions to either supply and install the necessary protection or pay the costs involved for the installation by the Municipality in order to prevent the tampering with service connection or supply mains, in terms of section 28 of the Cape Town Electricity Supply By-law.
- (7) To authorise the connection of any electrical installation or part thereof to the supply mains or to a service connection, in terms of section 29 of the Cape Town Electricity Supply By-law.
- (8) To authorise a person to reconnect to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Municipality, in terms of section 30 of the Cape Town Electricity Supply By-law
- (9) To allow/disallow electrical installations requiring a temporary supply of electricity to the supply mains, in terms of section 33 of the Cape Town Electricity Supply By-law.
- (10) To, without notice, interrupt and discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation in order to reduce the load on the electricity supply system, in terms of section 34(1) of the Cape Town Electricity Supply By-law.
- (11) To issue an instruction to consumers or the owners, as the case may be, when installing an electrically operated water storage heater to provide such necessary accommodation and wiring as directed to facilitate the later installation of the apparatus and equipment, in terms of section 34(3) of the Cape Town Electricity Supply By-law.

- (12) To waive the cost, or part thereof, of a supply of electricity given at either high, medium or low voltage, and the supply and installation of the switchgear, cables and equipment forming part of the service connection, in terms of section 35(1) of the Cape Town Electricity Supply By-law.
- (13) To ensure the provision and installation of a low voltage main switch and/or any other equipment by consumers, as considered necessary in the case of a low voltage supply of electricity, in terms of section 35(5) of the Cape Town Electricity Supply By-law.
- (14) To require the owner to provide and maintain accommodation which constitutes a substation consisting of a separate room(s) for housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant, in terms of section 36 of the Cape Town Electricity Supply By-law.
- (15) To approve or reject an application for standby and emergency supply, in terms of section 38 of the Cape Town Electricity Supply By-law.
- (16) To issue circulars detailing the requirements of the Municipality regarding matters not specifically covered in the Regulations or the by-law but which are necessary for the safe, efficient operation and management of the supply of electricity, in terms of section 40 of the Cape Town Electricity Supply By-law.
- (17) To issue certificates of the amount due arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee, in terms of section 45 of the Cape Town Electricity Supply By-law.

- (18) To determine the work to be carried out and the cost to the consumer for a service connection to the consumer's premises, in terms of section 46(3) of the Cape Town Electricity Supply By-law.
- (19) To determine if a service connection shall be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required in terms of section 46(4) of the Cape Town Electricity Supply By-law.
- (20) To determine the extent to which the consumer shall provide, fix and/or maintain on his premises such ducts, wireways, trenches, fastenings and clearance to overhead supply mains for the installation of the service connection, in terms of section 46(5) of the Cape Town Electricity Supply By-law.
- (21) To waive the requirement of the size of the conductor used for the service connection, in terms of section 46(6) of the Cape Town Electricity Supply By-law.
- (22) To waive the requirement that there shall be only one service connection to each registered erf, in terms of section 46(7) of the Cape Town Electricity Supply By-law.
- (23) To require the consumer to provide and maintain accommodation for a meter board and conductors for the metering equipment, service apparatus and protective devices at the cost of the consumer or the owner, in terms of section 47.

- (24) To determine whether the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, and to require that it be removed to a new position at the cost of the consumer, in terms of section 47(2) of the Cape Town Electricity Supply By-law.
- (25) To waive the requirement that, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, in terms of section 49(1) of the Cape Town Electricity Supply By-law.
- (26) To waive the requirement that, where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, in terms of section 49(2) of the Cape Town Electricity Supply By-law.
- (27) To approve the connection to the electrical installation of a current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA in terms of section 49(3) of the Cape Town Electricity Supply By-law.
- (28) To approve the connection of motors to the electrical supply system which exceed the rating of motors as set out section 51(3) of the Cape Town Electricity Supply By-law.
- (29) To instruct that the power factor of any load is maintained within the limits 0,85 lagging and 0,9 leading, in terms of section 52(1).
- (30) To approve any alterations, repairs or additions or electrical connections of any description made on the supply side of the point of metering, in terms of section 54 (5)

- (31) To consider any reasons provided by the consumer in terms of subsection (9)(a) and to adjust the account appropriately, in terms of section 55(9)(c).
- (32) To considered the representation made by the consumer and to adjust a consumer's account, in terms of section 55(9)(d).
- (33) To accept notification or application of the completion of any part of an electrical installation, in terms of section 58(1).

*[Section Deleted C119/05/10 by CI 25 May 2010]*

## OFFICE OF THE CITY MANAGER

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### CITY OMBUDSMAN

*The City recognizes the impartiality/neutrality of the Office of the City Ombudsman. The City is empowered to give recognition to the operational parameters of that office by virtue of section 8(2) of the Local Government Municipal Systems Act, 2000 as well as section 59(1) of such Act which is aimed at maximizing “administrative and operational efficiency and providing for adequate checks and balances”, and in so doing the City gives effect to the objects of local government as embodied in section 152 of the Constitution.*

*[Inserted C08/12/08 by CI 3 December 2008]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the City Ombudsman including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **151. Function Specific Delegations:**

*Executive Committee 7 May 2002 (EXCO29/05/02)*

- (1) To conduct a preliminary investigation for the purpose of determining the merits of any complaint and establishing whether such complaint falls within or outside the City Ombudsman's jurisdiction and re-directing or referring the complaint to the correct or relevant institution or department and notifying the complainant accordingly.

*[Amended C08/12/08 by CI 3 December 2008]*

- (2) To investigate and/or facilitate the resolution of public complaints, pertaining to alleged maladministration, injustice, poor service by or gross negligence of any City employee, in an independent, impartial, unbiased, non-prejudicial and apolitical manner, after the complainant has tried

unsuccessfully to have the matter resolved. This delegation would exclude any other matter such as labour relation matters and must not detract from any internal appeal that might exist.

*[Amended C08/12/08 by CI 3 December 2008]*

- (3) To demand reasonable access to any book, record, file or other documents or record of the Council for the purposes of such investigations.

*[Amended C08/12/08 by CI 3 December 2008]*

- (4) Subject to paragraph (3) above, to enter any premises owned, controlled or managed by the council and to examine any record or thing in the course of such a visit for the purposes of any investigation he/she is authorized to undertake.

*[Amended C08/12/08 by CI 3 December 2008]*

- (5) To require an official to appear at the Ombudsman offices for the purpose of providing information in relation to any investigation.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (6) To exclude from any meeting any person whose presence, in the circumstances, is not desirable.

*[Amended C08/12/08 by CI 3 December 2008]*

- (7) To institute, should the parties consent thereto, informal mediation or other facilitative processes which are aimed at addressing the complainant's complain.

*[Amended C08/12/08 by CI 3 December 2008]*

- (8) To recommend corrective action to the relevant Executive Director, should the Ombudsman deem it necessary, after having completed an investigation or mediation of other facilitative process.

*[Amended C08/12/08 by CI 3 December 2008]*

- (9) To refer any matter to the City Manager, where an Executive Director has failed within a reasonable time, to consider the Ombudsman's recommendation.

*[Amended C08/12/08 by CI 3 December 2008]*

## INTERNAL AUDIT AND RISK MANAGEMENT

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### CHIEF AUDIT EXECUTIVE

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Chief Audit Executive including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **152. Generic Delegations:**

*[Inserted C08/12/08 by CI 3 December 2008]*

Determines the operational policies and procedures in respect of all matters falling within the functional areas of the Chief Audit Executive concerned.

Within his or her functional area and in consultation with Legal Services, to enter into and sign contracts and other documents, where he or she has the necessary authority, or where the necessary approvals and/or authorities have been obtained.

Unless otherwise provided to exercise any power, duty or function delegated by Council to a staff member that reports directly to the Chief Audit Executive where the staff member declines or is unable to exercise the power, duty or function.

To oversee the exercise of delegated powers, duties and functions delegated by Council to staff members which report directly to him or her and to report to the City Manager on failure or any improper exercise of delegation.

## **152A. Function Specific Delegations:**

- (1) To have timely and unrestricted access to all the City's records, personnel and physical property relevant to the performance of internal audit's functions, whether performed personally via one or more Internal Audit Employees or contractors.

*[Amended C08/12/08 by CI 3 December 2008]*

- (2) To issue audit reports without intervention from any party.

*[Inserted C08/12/08 by CI 3 December 2008]*

- (3) To recommend to the City Manager that any unauthorised audits be terminated by the City Manager.

*[Inserted C08/12/08 by CI 3 December 2008]*

## MANAGERS AND HEADS

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to all Managers and Heads including the power to sub delegate any of his or her delegated powers, functions and duties:*

### **A           GENERIC DELEGATIONS**

Determines the operational policies and procedures in respect of all matters falling within his or her functional area.

*[Deleted C08/12/08 by CI 3 December 2008]*

Unless otherwise provided, to exercise any power, duty or function delegated by Council to a staff member that reports directly to the Manager where the staff member declines or is unable to exercise the power, duty or function.

To oversee the exercise of delegated powers, duties and functions delegated by Council to staff members which report directly to him or her and to report to the Executive Director/Director on failure or any improper exercise of delegation.

## **B            FUNCTION SPECIFIC DELEGATIONS**

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

## COMMUNITY SERVICES

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*[Amended C 65/08/08 by CI 27 August 2008]*

## MANAGERS AND HEADS

### **153. Function Specific Delegations**

None.

## CORPORATE SERVICES

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### MANAGERS AND HEADS

#### MANAGER: EMPLOYMENT EQUITY

*[Section Inserted C 34/08/07 by CI 29 August 2007]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Director: Employment Equity including the power to sub delegate any of his or her delegated powers, functions and duties:*

154. Function Specific Delegations

#### ***Employment Equity***

In this section -

**“EE Act”** means the Employment Equity Act, Act No 55 of 1998

- (1) To perform the duties of designated employer, in order to achieve employment equity and implement affirmative action measures, i.e. to –
  - (a) consult with its employees as required;
  - (b) conduct an analysis as required;
  - (c) prepare an employment equity plan as required; and
  - (d) report to the Director-General on progress made in implementing its employment equity plan, as required.

in terms of section 13 of the EE Act

- (2) To assign senior managers to take responsibility for monitoring and implementing an employment equity plan in terms of section 24 of the EE Act
- (3) To, in workplaces and in prominent places, place -
  - (a) the most recent report;
  - (b) any compliance order, arbitration award or order of the Labour Court; and
  - (c) any other relevant document.

in terms of section 25 of the EE Act
- (4) To establish and maintain records in respect of the municipal workforce, the employment equity plan and any other prescribed records in terms of section 26 of the EE Act
- (5) To prepare and submit a statement to the Employment Conditions Commission on the remuneration and benefits received in each occupational category and level of the municipal workforce in terms of section 27 of the EE Act.

## MANAGERS AND HEADS

### **155. Function Specific Delegations**

None.

## **FINANCE**

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### **MANAGERS AND HEADS**

#### **156. Function Specific Delegations**

None.

## HEALTH SERVICES

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### MANAGERS AND HEADS

#### **157. Function Specific Delegations**

None.

## HOUSING

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### MANAGERS AND HEADS

#### **158. Function Specific Delegations**

None.

## MANAGERS AND HEADS

### 159. Function Specific Delegations

None.

## **SAFETY AND SECURITY**

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### **MANAGERS AND HEADS**

#### **160. Function Specific Delegations**

None.

## UTILITY SERVICES

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### MANAGERS AND HEADS

#### **161. Function Specific Delegations**

None.

## **TRANSPORT, ROADS AND MAJOR PROJECTS**

*[Amended C119/05/10 by CI 25 May 2010]*

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### **MANAGERS AND HEADS**

#### **162. Function Specific Delegations**

None.

**163.** *[Section Deleted C119/05/10 by CI 25 May 2010]*

## BUILDING CONTROL OFFICER

*Acting in terms of section 59 of the Systems Act, as read with section 6(4) of the National Building Regulations and Building Standards Act no 103 of 1977 (the Act) Council hereby authorizes the Building Control Officer to delegate to an official under his or her control any power, duty or function granted or entrusted to building control officers in terms of the Act. The power to make recommendations in terms of section 6(1)(a) may only be delegated as follows:*

*[Amended C74/10/07 by CI 31 October 2007]*

- (1) to an official holding the position of Principal Professional Officer (and until such time as the Principal Professional Officers are appointed, to officials who were, as at 1 October 2007, exercising the functions of Building Control Officer in terms of section 6 (1)(a) of the Act) the power to make recommendations on all plans where the architectural floor area is less than 10 000m<sup>2</sup>;

*[Inserted C74/10/07 by CI 31 October 2007]*

- (2) to an official holding the position of Principal Plans Examiner (and until such time as officials are placed in these positions, to officials who were, as at 1 October 2007, carrying out the duties of Principal Plans Examiners as detailed in the job description of such post) the power to make recommendations on all domestic plans where the architectural floor area is less than 500m<sup>2</sup>.

*[Inserted C74/10/07 by CI 31 October 2007]*

### 164. Function Specific Delegations

None

## **- PART 7 –**

### **DELEGATION OF POWERS TO COMMITTEES OF OFFICIALS**

#### **SUPPLY CHAIN MANAGEMENT BID ADJUDICATION COMMITTEE**

- Supply Chain Management Bid Adjudication Committee

*[Amended C74/10/07 by CI 31 October 2007]*

## 165. Supply Chain Management Bid Adjudication Committee

*[Amended C74/10/07 by CI 31 October 2007]*

*Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Bid Adjudication Committee, these may not be delegated or sub-delegated:*

- (1) To make a final award or to refuse to make a final award in respect of the procurement of goods and services where such award exceeds R200 000,00.

*[Amended C43/06/09 by CI 25 June 2009]*

- (2) *[Deleted C44/10/08 by CI 29 October 2008]*

- (3) To make recommendations to Council in respect of the transfer of ownership or disposal of land or movable capital assets to assist the Council in taking a final decision in terms of section 14(2) of the MFMA, provided that in the case of movable capital assets the value exceeds R5 million.

*[Amended C43/06/09 by CI 25 June 2009]*

- (4) To recommend to the City Manager the disposal of movable capital assets of a value above R200 000,00 but below R5 million.

*[Amended C74/10/07 by CI 31 October 2007]*

- (5) To cancel any bid process after consideration of a written report from the Bid Evaluation Committee concerned, provided that such report has been signed by the relevant Executive Director and the report justifies such action.

*[Inserted C43/06/09 by CI 25 June 2009]*

- (6) To recommend to Council the approval and granting of rights to use, manage or control capital assets of a value in excess of R10 m and for a period longer than 3 years.

*[Inserted C43/06/09 by CI 25 June 2009]*

## **- PART 8 –**

### **LEGAL PROVISIONS PROHIBITING DELEGATION**

#### **LAWS**

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##### **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.

#### **H. ASSET TRANSFER REGULATIONS, 2008**

*[Section Inserted C08/12/08 by CI 3 December 2008]*

Transfer or disposal of a non-exempted capital asset.[Reg 5]

- (1) A municipality may transfer or dispose of a non-exempted capital asset only after –
- (a) the accounting officer has in terms of regulation 6 conducted a public participation process to facilitate the determinations a municipal council must make in terms of section 14(2)(a) and (b) of the Act; and
  - (b) the municipal council-
    - (i) has made the determinations required by section 14(2)(a) and (b); and
    - (ii) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

- (2) Subregulation (1)(a) must be complied with only if the capital asset proposed to be transferred or disposed of is a high value capital asset. If the combined value of any capital assets a municipality intends to transfer or dispose of in any financial year exceeds five per cent of the total value of its assets, as determined from its latest available audited annual financial statements, subregulation (1)(a) must be complied with in relation to all the capital assets proposed to be transferred or disposed of during that year.
- (3)(a) Only the municipal council may authorise the public participation process referred to in subregulation (1)(a).

#### Granting of rights to use, control or manage municipal capital assets [Reg 34]

- (1) A municipality may grant a right to use, control or manage a capital asset only after –
- (a) the accounting officer has in terms of regulation 35 conducted a public participation process regarding the proposed granting of the right; and
  - (b) the municipal council has approved in principle that the right may be granted.
- (2) Subregulation (1)(a) must be complied with only if –
- (a) the capital asset in respect of which the proposed right is to be granted has a value in excess of R10 million; and
  - (b) a long term right is proposed to be granted in respect of the capital asset.
- (3)(a) Only the municipal council may authorise the public participation process referred to in subregulation (1)(a).

## 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.