



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

# ***SYSTEM OF DELEGATIONS***

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

**(VERSION 12)**

## **SCHEDULE OF AMENDMENTS TO SYSTEM OF DELEGATIONS**

THE ORIGINAL SYSTEM OF DELEGATIONS WAS ADOPTED BY COUNCIL ON 29 JANUARY 2014 SEE ITEM C47/01/14

### **SUBSEQUENT AMENDMENTS:**

|                   |                                       |
|-------------------|---------------------------------------|
| 26 MARCH 2014     | C25/03/14                             |
| 29 MAY 2014       | C39/05/14<br>C63/05/14<br>C64/05/14   |
| 25 JUNE 2014      | C48/06/14                             |
| 23 JULY 2014      | C20/07/14<br>C21/07/14A               |
| 20 AUGUST 2014    | C32/08/14 B                           |
| 25 SEPTEMBER 2014 | C36/09/14<br>C59/09/14                |
| 29 OCTOBER 2014   | C24/10/14<br>C49/10/14                |
| 28 JANUARY 2015   | C36/01/15                             |
| 25 MARCH 2015     | C37/03/15<br>C53/03/15                |
| 2 JUNE 2015       | C16/05/15<br>C22/05/15                |
| 29 JULY 2015      | C09/07/15<br>C19/07/15A<br>C19/07/15B |
| 19 August 2015    | C08/08/15                             |

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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 No. 32 of 2000.

**“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 No. 117 of 1998.

**“Manager directly accountable to the City Manager”** means managers appointed in terms of section 56 of the Municipal Systems Act No. 32 of 2000.

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

**“Political Office Bearer”** means the Speaker, the Executive Mayor and 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 and such period shall commence at 17h00 and shall terminate at 08h00 on the dates determined.

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

**“Grant/approve”** also means to “refuse”, “revoke”, “vary” and/or “amend”.

## INTRODUCTION

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This System of Delegations has been compiled in accordance with the requirements of section 59 of the Systems Act, and is aimed at maximizing administrative and operational efficiency and provides for adequate checks and balances and ensuring a transversal approach 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 Portfolio Chairpersons
- the Sub-council Chairpersons
- the section 79 Committees
- Supply Chain Management Bid Adjudication Committee
- Immovable Property Adjudication Committee
- Sub-councils

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

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

An official to whom a power, duty or function has been delegated or sub-delegated in this System of Delegations shall not refuse to exercise such delegation and must motivate such refusal to the satisfaction of the delegator.

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 further sub-delegate such power, duty or function.

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

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

A political structure or a political office bearer to whom a power has been delegated may decline to exercise such power and must motivate such refusal to the satisfaction of the delegator, except for specific instances where Council directed in its delegations of power that in such circumstances the particular delegation be exercised by the Executive Mayor together with members of the Mayoral Committee.

Council 28 January 2015 C36/01/15

A political structure, political office bearer or Councillor 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.

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

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 No. 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 an official must comply with the provisions of Council's policies, By-laws and any law relating to the matter under consideration.

The exercise 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.

NOTE: Preambles and 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 be conferred upon more than one person or political structure. In the case of irreconcilable provisions, higher political structure or executive authority shall prevail.

Where in the opinion of the City Manager, an official exercises a delegation in a way that it is not in the best interests of the City, he/she may intervene and exercise the power in question and must report to the next meeting of Council.

Council hereby expressly delegates to the City Manager to the power to exercise all of the Executive Director's powers in their absence.

## DELEGATION OF POWERS TO POLITICAL OFFICE BEARERS

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- Executive Mayor
- Executive Deputy Mayor
- Speaker

## - PART 1 -

### EXECUTIVE MAYOR

#### DESIGNATED STATUTORY POWERS, DUTIES AND RIGHTS

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*The Executive Mayor has extensive statutory powers and duties. The most important sources thereof are the Structures Act, Systems Act, Municipal Finance Management Act (MFMA).*

*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. **(Note: Designated powers cannot be sub-delegated by the Executive Mayor.)** 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;*
- 4. Whether the nature of the power makes designation impossible; and*
- 5. Transversal approach to be incorporated when decisions are made.*

#### **A. The Structures Act**

##### Functions and powers of executive mayors [Section 56]

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

## **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.

Development of performance management system [Section 39]

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

## **C. The MFMA**

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.

## EXECUTIVE MAYOR

### DELEGATED POWERS

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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. **(Note: Designated powers cannot be sub-delegated by the Executive Mayor.)** 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;*
- 4. Whether the nature of the power makes designation impossible; and*
- 5. Transversal approach to be incorporated when decisions are made.*

#### **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.
- (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
  - e) 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.

## **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 consultation with 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.

### **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 and/or review proceedings, including arbitration rulings, in the High Court or a court of equal stature, Supreme Court of Appeal or the Constitutional Court, or any other forum, 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.
- (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;
  - (b) The appointment, discipline and conditions of service of the City Manager;
  - (c) The appointment, discipline and conditions of service of managers directly accountable to the City Manager; and
  - (d) Any matter affecting the constitutional powers of the municipality.
- (8) To approve and submit comments on proposed legislation, regulations, policy frameworks, guidelines etc. including comments required in terms of any legislation.
- (9) To provide legal representation, in terms of section 109A of the Systems Act, for the City Manager or manager(s) directly accountable to the City Manager, where:
  - (a) legal proceedings have been instituted against the official 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) an 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.
- (10) To appoint lawyers, attorneys and counsel to provide professional assistance including that of senior counsel on any matter.

- (11) To enter into implementation protocol agreements in accordance with section 35 of the Intergovernmental Framework Act No. 13 of 2005.
- (12) To authorise appeals in terms of any legislation where such legislation makes provision for appeals.
- (13) To monitor the statistics of the municipal courts.

Council 23 July 2014 C21/07/14A

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

- (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.
- (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 where after any further appointments for any person to act as City Manager shall be approved by Council.
- (9) To appoint, after consultation with the City Manager, acting managers directly accountable to the City Manager, for a period in excess of 60 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 90 days in total in any calendar year, where-after any further appointments for any person to act as acting managers directly accountable to the City Manager shall be approved by Council.
- Council 25 September 2014 C36/09/14
- (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.
- (11) To approve the total staff establishment for the municipality subject to the Policy Framework for the Organisational Structure and Design as approved by Council in 2009 (and as may be amended from time to time) and subject to being within the annual budget as approved by Council annually.

- (12) To provide mandates for bargaining in respect of all labour issues and to grant authority to conclude agreements between the City and the Trade Unions as well as to implement the provisions of collective agreements concluded in the SALGBC, including salary and wage collective negotiations.

Council 2 June 2015 C16/05/15

## **5. Finance and Audit**

- (1) To consider audit reports from the Audit Committee and the Auditor General and to make recommendations to Council.

- (2) To authorise audit investigations.
- (3) To determine from time to time the maximum amount that the City Manager may authorise in respect of the transfer of operational and capital expenditure (within a single budget vote).
- (4) To authorise the transfer of operational and capital expenditure (within a single budget vote) over and above the maximum amount determined above from time to time.
- (5) To incur expenditure necessary for the performance of the functions in the Office of the Executive Mayor within budget.
- (6) 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.

- (7) 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.
- (8) 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.
- (9) 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.
- (10) To approve the Annual Audit Plan and the Internal Audit Charter.

Council 29 May 2014 C63/05/14

## **6. Purchase, 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 relevant directorate/s.
- (2) To lease or rent immovable property from private or public bodies or any person where the value of the lease exceeds R200 000 per annum after considering a report from the relevant directorate.
- (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.
- (5) To approve the amount of compensation to be paid to an owner whose land sustains a fall in value -

- |                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>(a) consequent on the rezoning thereof or a part thereof, contrary to his wishes, or</li><li>(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) of LUPO.</li></ul> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## **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.

- (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.
- (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.
- (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 City 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 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 South Africa.
- (4) To attend or undertake congresses, workshops, meetings and study tours which are relevant to Council, within or outside South Africa.
- (5) To exercise during recess any power of the Council and/or its political structures, as well as designated powers, after consultation with the City Manager, 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; and
  - b) where the public interest so demands, this power be exercised after consultation with as many members of the Mayoral Committee as reasonably possible;
  - c) the delegation excludes the exercise of all powers reserved for Council in terms of the law and as reserved by Council for exercising of such powers by Council itself;
  - d) this delegation excludes the recess powers delegated by Sub-council.
- (6) To establish and determine the terms of reference of any sub-committees of the Mayor.
- (7) To recover unauthorised, irregular, 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.

- (8) 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.
- (9) To perform the functions and exercise the delegations of the Speaker in terms of the Code of Conduct for Councillors where the Speaker is allegedly in breach of the said Code.
- (10) To authorise an assessment in terms of section 78(1) of the Systems Act when the municipality has to decide on a mechanism for the provision of services.
- (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.
- (13) To authorise 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 Systems Act and which is owned-controlled and/or effectively managed by the City and any Councillor or official of the City.
- (14) To authorise 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 No. 57 of 2002.
- (16) To facilitate the establishment and operation of neighbourhood watches.
- (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 and to enter into cooperative agreements and implementation of protocols.

Council 2 June 2015 C16/05/15

- (18) To authorise, 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.

## **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 decide on any application: |
|-----------------------------------|

|     |                                                                                                                                                                                                                                                                                                                 |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <p>(a) where SPELUM does not agree with the recommendation of the Executive Director: EESP; or</p> <p>(b) recommends refusal of an application; or</p> <p>(c) any other application referred to the Executive Mayor by SPELUM for decision.</p> <p style="text-align: right;">Council 29 May 2014 C64/05/14</p> |
| (2) | <p>To recommend to Council those applications which are not consistent with the approved Cape Town spatial development framework.</p> <p style="text-align: right;">Council 2 June 2015 C16/05/15</p>                                                                                                           |
| (3) | <p>To recommend to Council on the amendment of the approved spatial development framework, where required, on a section 4(6) or 4(10) structure plan, after considering the comments of Executive Director: EESP.</p>                                                                                           |

- (4) To appeal to the Minister of Environmental Affairs in terms of section 43(1), and (1A), to the Minister of Minerals in terms of section 43(1B) and to the MEC in terms of section 43(2) of the National Environmental Management Act No. 107 of 1998.

Council 2 June 2015 C16/01/15

- (5) To submit City comments on applications for environmental authorization when requested to do so 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.
- (6) To submit City comments in terms of Sections 10, 16, 22 and 27 of the Minerals Petroleum Resource Development Act (MPRDA) relating to the contents of an application for prospecting, mining, exploration, production or related activities, or an environmental management programme or environmental management plans in terms of sections 39 and 40 of the MPRDA.

*In terms of the Municipal Systems Act, Act 32 of 2000*

- |     |                                                                                                                                             |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------|
| (7) | To recommend to Council that an amendment of the Cape Town Spatial Development Framework, be approved or refused in terms of section 34(b). |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------|

*Land use Planning Ordinance No. 15 of 1985*

Council 29 May 2014 C64/05/14

- (8) To approve the amendment or withdrawal of a 4(10) structure plan, in terms of section 4(7).

Council 2 June 2015 C16/05/15

- (9) To review a structure plan in terms of section 4(8) at least once every 10 years.

- (10) To approve with or without conditions, a structure plan in terms of section 4(10).

Council 2 June 2015 C16/05/15

- (11) To recommend to the relevant Minister the amendment or replacement of the zoning scheme regulations in terms of section 9(2).

Council 2 June 2015 C16/05/15

- (12) To recommend to the relevant Minister the adoption, replacement or amendment of overlay zones as provided for in section 14.1.6 of the Cape Town Zoning Scheme.

Council 2 June 2015 C16/05/15

- |      |                                                                                                                                                                                                                        |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (13) | To determine when land is deemed to be zoned, what 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). |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- |      |                                                                                                                                                                                    |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (14) | To substitute 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). |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- (15) 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, in terms of section 14(5).

#### *Use Rights*

- (16) 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 terms of section 14(7).
- (17) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3).

#### *Departures*

- (18) To approve or refuse applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned, including an alteration of the development rules or restrictions or provisions of any overlay zone, in terms of section 15(1).
- (19) To approve or refuse 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).
- (20) To approve an application by the owner to extend the period within which the use right must be exercised, in terms of section 15(5).

#### *Rezoning*

- (21) To grant or refuse an application by an owner of land or an application submitted on the initiative of Council in terms of section 18, in respect of land which it does not own, for the rezoning thereof, in terms of section 16(1).
- (22) To grant or refuse an application for rezoning made on the initiative of Council in respect of Council land in terms of section 16 as read with section 18.

- (23) To grant or refuse an extension of the validity period of two years in which the use right must be utilised, in terms of section 16(2).
- (24) To determine the utilisation of land for purposes of zoning, where a zoning has lapsed, in terms of section 16(2).
- (25) To approve the adoption, replacement , or amendment overlay zones that provide for development directives (as set out in Chapter 15) of the Cape Town Zoning Scheme.

*Compensation*

- (26) To approve 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).

- (27) To recommend the 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*

- (28) To grant or refuse an application for the subdivision of land, in terms of section 25(1).
- (29) To grant or refuse an application made on the initiative of Council for and in respect of Council land in terms of section 25.

- (30) To grant an extension in terms of section 27(1) of the validity period within which a subdivision of land must be confirmed.

*Home owners' association*

- (31) 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 terms of section 29(1).

*Amendment or cancellation of plan of subdivision*

- (32) 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 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*

- (33) To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).
- (34) In relation to a condition, imposed by a political structure or an official and after consideration of objections received, if any, in consequence of an advertisement and after consultation with the owner of the land concerned, to –

- (a) waive or amend any condition, and
- (b) impose additional conditions

in terms of section 42(3).

(35) To approve or amend a Site Development Plan where a rezoning, subdivision, departure or consent/conditional use application has been approved subject to the submission and approval of a site development plan.

(36) To make City owned land available for designation in terms of section 3.

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

(37) 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.

(38) 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 Sub-council's boundaries and where objections have been received.

(39) To recommend 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 Sub-council boundaries and where objections have been received.

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

(40) To make recommendations to the Provincial government to grant or refuse, with or without conditions, of applications for rezoning, subdivision, departures, consent of Council or amendment to town planning conditions.

*Applications made in Terms of  
The Less Formal Townships Establishment  
Act No 125 Of 1991*

(41) To request Provincial Government or the National Government as the case may be:

- (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 section 3(5) to be applicable to designated land described in the notice or to request him to amend or withdraw a notice under section 3(5)(h).

(42) To apply for permission for the establishment of a Township in terms of section 10.

(43) To recommend to the Premier or relevant Minister to grant or refuse an application for the establishment of a township in terms of Section 11, 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.

*Removal of Restrictions Act No. 84 of 1967*  
*Alteration, suspension or removal of restrictions or obligations in*  
*respect of land by the Premier*

(44) To lodge an application to alter, suspend or remove any restriction or obligation on City land, in terms of section 2(1).

(45) To comment or make a recommendation regarding a proposed alteration, suspension or removal of a restriction or obligation in respect of any land, in terms of section 3(2).

*Consent*

(46) To grant or refuse written consent where a title deed condition permits an owner to exceed the use or development parameters or other land use or building development or aesthetic restrictions set in the title deed in relation to the property.

*Zoning Scheme*

(47) To approve or refuse applications in terms of section 2.3.1 as submitted in terms of the Zoning Scheme.

- (48) To impose conditions when approving an application in terms of the Zoning Scheme.
- (49) To grant or refuse an extension of time within which to utilize land or to exercise an approval.
- (50) To impose further conditions or to waive or amend a condition after an approval has been granted and after consultation with the owner concerned.
- (51) To limit the approval of a consent use application to one or more uses included within the definition of the consent use concerned.
- (52) To identify heritage places as provided for in the new zoning scheme.
- (53) To approve or refuse one or all components of a package of plans.
- (54) To apply either the general provisions or specific provisions as set out in the overlay zones of the appendix document of the Cape Town Zoning Scheme.
- (55) To grant or refuse an application for an activity which cannot be carried out in an overlay zone unless the approval of Council has been granted.
- (56) To exempt a specific activity from the requirements of an Overlay zone where the overlay zone provides for such exemption.
- (57) To, when provided for in the new zoning scheme, exercise power to waive or exempt matters.
- (58) To exercise the power to approve as set out in the Zonings scheme regulations.

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

- |                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(59) To approve or refuse Precinct Plans, Site Development Plans, Development Framework Plans arising out of agreements entered into in terms of the SATS Act.</p> <p>(60) To approve or refuse the amendment of Precinct Plans, Site Development Plans, Development Framework Plans arising out of agreements entered into in terms of the SATS Act.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

- |                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(61) To approve a list or map of designated areas, prohibited areas and Areas of Control.</p> <p>(62) To grant or refuse any application made in terms of this By-law and impose conditions including those relating to –</p> <p style="padding-left: 20px;">(a) the erection and/or use of the sign;</p> | <p style="padding-left: 20px;">(b) and impose a requirement(s) indemnifying the municipality against any consequences flowing from the erection, display or mere presence of a sign; whether or not public objections have been received.</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- |                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>(63) To approve applications for outdoor advertising signs larger than 4.5 m<sup>2</sup> where public objections are received.</p> <p>(64) To receive reports from SPELUM where they have deviated from policy and/or structure plan, together with the reasons therefore.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- (65) To name streets in accordance with the Council policy on street naming and numbering, having regard to the criteria set out in Council's Naming policy, where the streets arise from a land use planning application and the Executive Mayor has the power to decide on the land use application.

*Environmental Authorisations*

- (66) To recommend for approval, draft biodiversity management plans in terms of section 43(1) of the NEMBA: Biodiversity Act No. 10 OF 2004.

*Municipal Planning By-law 2015*

- (67) Appoint officials to the evaluation panel for the purposes of section 115(6).

Council 25 March 2015 C37/03/15

*In terms of the City of Cape Town Municipal Planning By-Law, 2015 (the By-Law)*

Delegations (68) to (81) below – inserted by resolution of Council 2 June 2015 C22/05/15

- (68) To recommend to Council the adoption of a process, which includes a public participation process, for drafting the municipal spatial development framework which complies with the Municipal Systems Act and any other applicable law, in terms of section 4(1).

- (69) To recommend to Council the adoption of the municipal spatial development framework, in terms of section 6.

- 12(70) To, recommend to Council, if the City intends to adopt a district spatial development framework or a local spatial development framework,-  
(a) a specified geographic area; and

- (b) the drafting of a district spatial development framework or a local spatial development framework as the case may be,  
in terms of section 13(1).

- (71) To recommend to Council the adoption of a draft district spatial development framework, draft local spatial development framework or amendment thereof, in terms of section 14.

- (72) To recommend to Council the adoption of a new overlay zoning or amendment or removal of an existing overlay zoning, in terms of section 24(3).

(73) To recommend to Council, in respect of each overlay zoning, except a subdivisional area overlay zoning, the approval of the publication in the Provincial Gazette-

(a) the specified area or land units which have the overlay zoning;

(b) a reference to a map available on the City's website that depicts which specified area or land units have the overlay zoning; or

(c) a statement that no specified area or land unit has the overlay zoning,  
in terms of section 24(4).

(74) To recommend to Council the designation of a specified area or land unit to have an overlay zoning, or to no longer have an overlay zoning, in terms of section 24(5).

(75) To request authorisation from the Provincial Minister in terms of section 60(2) of the Land Use Planning Act to deviate from the provisions of that Act, in terms of section 68(6).

(76) To, after considering any timeous comments, declare land to be an emergency housing site and suspend the zoning applicable to the land for a period of up to 90 days to allow the land to be used for emergency housing, in terms of section 68(7).

(77) To extend the declaration of land to be an emergency housing site for a further period of up to 90 days, in terms of section 68(9).

(78) To declare an application for the establishment of housing to be an urgent housing application, in terms of section 69(1).

(79) To exempt an applicant from a procedural requirement or shorten a time period provided for in the By-Law, provided that the procedure must still comply with the provisions of applicable legislation dealing with advertising, in terms of section 69(3).

(80) To obtain authorisation from the Provincial Minister in terms of section 60(1) of the Land Use Planning Act to deviate from the provisions of that Act in the processing of an urgent housing application, in terms of section 69(4), if necessary when an exemption is granted in terms of section 69(3).

(81) To, subject to section 60 of the Land Use Planning Act, exempt in writing an application from compliance with the provisions of the By-Law to reduce the financial burden of -

- (a) the provision of housing with the assistance of a state subsidy; or
  - (b) the incremental upgrading of an existing settlement,
- in terms of section 140.

### **13. Events**

(1) To approve events within available budget subject to the following conditions:

- (a) the SCM processes being adhered to where applicable;
- (b) the Executive Mayor may not consider supporting events that have already occurred and for which ratification is sought (where financial prudence dictates that alternative administrative processes be applied under such circumstances);
- (c) the Executive Mayor may not consider any major event unless such event is supported by a detailed events plan and further that such event appears on the Events Department annual business plan;
- (d) the approval for the support of an event/s must not negate or substitute the statutory procurement requirements contained in law and the administration is therefore obliged to submit applications for support of an event/s in good time to the Executive Mayor to ensure that procurement procedures are adhered to;

- (e) the procurement process required after approval for the staging of an event may not be initiated without the prior written approval of the Executive Mayor; and
- (f) the relevant Sub-council(s) being informed once an event has been approved.

Council 2 June 2015 C16/05/15

## **- PART 2 -**

### EXECUTIVE DEPUTY MAYOR

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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 Executive Deputy Mayor including the power to sub-delegate any of his or her delegated powers, functions and duties:*

#### **1. General**

None.

## **- PART 3 -**

### **SPEAKER**

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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 Speaker including the power to sub delegate any of his or her delegated powers, functions and duties:*

#### **1. 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;
  - (b) Rules of meetings of political structures and meeting procedures;
  - (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
- (3) To provide legal representation, in terms of section 109A of the Systems Act, for Councillors where:
  - (a) legal proceedings have been instituted against the Councillor as a

result of any act or omission by the Councillor in the exercise of his or her powers or the performance of his or her duties, or

- (b) a Councillor 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 appoint lawyers, attorneys and counsel to provide professional assistance including that of senior counsel on any matter pertaining to the statutory and delegated functions of the Office of the Speaker.

Council 2 June 2015 C16/05/15

## **2. Policy**

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

## **3. Sub-Councils**

- (1) To determine the location of Sub-council offices after consultation with the Sub-council chairpersons.
- (2) To approve the use of office space by Sub-council chairpersons and staff.
- (3) To direct when and where Sub-council meet, after consultation with Sub-council 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 Sub-council.

## **4. Ward Committees**

- (1) To oversee the establishment and coordination of the Ward Committees.
- (2) To ensure that Ward Committees are able to perform their functions and exercise their powers effectively.

## **5. Political Oversight**

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

## **6. Finance**

- (1) To incur expenditure necessary for the performance of the functions in the office of the Speaker within budget.
- (2) To appoint specialist and/or professional advisors to assist the Speaker with the discharging of his statutory duties or duties required by the Council in accordance with his delegations of power, subject to the availability of budget.

## **7. General**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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
- (5) To authorise forensic investigations into financial irregularities where Councillors may be implicated, upon receipt of at least one written complaint to that effect.
- (6) 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 where such act impacts on the interests of the municipality.
- (7) 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*

- (8) 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.
- (9) 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.

## DELEGATION OF POWERS TO FULL-TIME COUNCILLORS

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- Chief Whip
- Chairpersons of Portfolio Committee
- Chairpersons of Sub-councils

## **- PART 4 -**

### 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:*

#### **1. General**

- (1) To approve, in consultation with the Speaker, the use of office and meeting space by Councillors and political parties.
- (2) To grant leave of absence to Councillors from meetings of Council and its committees and Sub-council meetings in accordance with the applicable Rules of Order.
- (3) To determine the development needs of Councillors after consultation with the party whips.
- (4) To determine a programme of training for the development needs of Councillors.
- (5) To approve the facilitation and coordination of Councillor development and capacity building, including the negotiation with donors.
- (6) 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.

- (7) 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.
- (8) 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.
- (9) To recommend to the Executive Mayor which Councillors should serve on outside bodies.
- (10) Administrative oversight over all matters pertaining to the functioning of Portfolio Committees.
- (11) To recommend to Council the appointment of Councillors to serve on section 79 committees in consultation with party whips.

## **- PART 5 -**

### CHAIRPERSONS OF PORTFOLIO COMMITTEE

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

#### **1. General**

None.

## **- PART 6 -**

### CHAIRPERSONS OF SUB-COUNCILS

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

#### **1. General**

None.

TERMS OF REFERENCE  
AND  
DELEGATIONS  
TO POLITICAL STRUCTURES OF COUNCIL

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- *Committees established in terms of section 79 of the Structures Act 117 of 1998:*

Transport for Cape Town Portfolio

Utility Services Portfolio

Economic, Environmental and Spatial Planning Portfolio

Tourism, Events and Economic Development Portfolio

Finance Portfolio

Corporate Services and Compliance Portfolio

Energy and Climate Change

Human Settlements Portfolio

Health Portfolio

Social Development and Early Childhood Development Portfolio

Homeless Portfolio

Community Services Portfolio

Safety and Security Portfolio

- *Other committees established in terms of section 79 of the Structures Act 117 of 1998:*

Rules

Municipal Public Accounts (MPAC)

Spatial Planning, Environment and Land Use Management (SPELUM)

Energy and Climate Change

- *Committee established in terms of section 62 of the Systems Act 32 of 2000:*

Planning and General Appeals

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

Disciplinary

## **- PART 7 -**

### **SECTION 79 "PORTFOLIO" COMMITTEES**

#### **GENERAL DELEGATIONS**

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*The terms of reference of these Committee is policy development, in consultation with the Office of the Mayor, and implementation monitoring.*

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

- Community Services Portfolio
- Corporate Services and Compliance Portfolio
- Economic, Environmental and Spatial Planning Portfolio
- Social Development and Early Childhood Development Portfolio
- Finance Portfolio
- Health Portfolio
- Human Settlements Portfolio
- Utility Services Portfolio
- Transport for Cape Town Portfolio
- Safety and Security Portfolio
- Tourism, Events and Economic Development Portfolio
- Homeless Portfolio

*Acting in terms of section 59 of the Systems Act 32 of 2000, Council hereby delegates within the functional area of the Portfolio Committee, the following powers, functions and duties including the power to sub delegate:*

#### **1. General**

- (1) To develop policy initiated by the Mayor and recommend same to the Executive Mayor.
- (2) To develop and review draft by-laws and recommend same to the Executive Mayor.
- (3) To consider the draft business plans and SDBIPs and recommend to the Executive Mayor.
- (4) To make recommendations to the Executive Mayor in regard to the draft IDP including amendments to the IDP during the annual review thereof for consideration by Council.
- (5) To make recommendations in regard to the setting or revision of tariffs, levies, taxes and duties to the Executive Mayor.
- (6) To monitor the implementation of Council's IDP, budget, business plans, strategic objectives, policies and programmes in relation to their functional area, and report thereon to the Executive Mayor.
- (7) To assess the performance of service delivery generally within the functional area of their respective committee (outcomes monitoring), and report to the Executive Mayor.
- (8) To assist the Executive Mayor 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 within the committee's functional area and to recommend the same to the Executive Mayor.
- (9) To assist the Executive Mayor 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, in terms of section 56 (2)(a).

- (10) To review and evaluate the needs of the municipality in order of priority, in terms section 56 (2)(a) of the Structures and recommend the same to the Executive Mayor.
- (11) 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.
- (12) To require Councillor(s) and/or official(s) to submit report(s) to the Committee to assist the Committee in the performance of its functions within functional area.
- (13) To undertake inspections in regard to matters relating to the committee's oversight functions.

## - PART 8 -

### COMMUNITY SERVICES PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Local Sports Facilities
- Recreation
- City Parks
- Cemeteries (Funeral Parlours & Crematoria)
- Zoned Public Open Space Management
- Public open spaces
- Local Amenities
- Libraries (other than National Libraries and Amusement facilities)
- Beaches Nodal Points

Council 2 June 2015 C16/05/15

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*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee 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:*

#### **1. Specific Delegations**

- (1) To monitor the implementation of the provisions of the Cemeteries, Crematoria and Funeral Undertakers By-Law 2011.
- (2) To assist the Executive Mayor to initiate specific programmes and projects associated within the committee's functional area, and report thereon to the Executive Mayor.

## - PART 9 -

### CORPORATE SERVICES AND COMPLIANCE PORTFOLIO COMMITTEE

Council 29 July 2015 C19/07/15A

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*The committee exercises political oversight in respect of the following:*

- Customer Relations
- Employment Equity
- Human Resources
- Information Systems and Technology
- Occupational Health, Safety and Wellness
- Specialised Technical Services
- Development Information and GIS

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

#### **1. Specific Delegations**

- (1) To assist the City Manager to develop policy in terms of section 55 of the Systems Act and make recommendations to the Executive Mayor in this regard.

- (2) To assist the City Manager to develop a policy framework in terms of section 66 of the Systems Act and make recommendations to the Executive Mayor in this regard.

## - PART 10 -

### ENVIRONMENTAL AND SPATIAL PLANNING PORTFOLIO COMMITTEE (EESP)

Council 25 September 2014 C59/09/14

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*The committee exercises oversight in respect of the following:*

- Environmental Resource Management
- Planning and Building Development Management
- Development Facilitation (excludes human settlements)
- City Development Strategy and Integrated Development Planning
- Mayoral Urban Regeneration Programme (MURP) - 20 August 2014 C32/08/14B

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Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the City the following powers, functions and duties to the Environmental and Spatial Planning Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:

#### **1. Specific Delegations**

##### *Cape Town Zoning Scheme*

- (1) To recommend to the Executive Mayor, the adoption, replacement or amendment of Overlay Zones that provide for strategic incentives or specific management mechanisms as set out in Chapter 16 and 17 of the Zoning Scheme.

- (2) To identify heritage places as provided for in the Zoning Scheme and recommend same to the Executive Mayor.

*In terms of the Municipal Systems Act No. 32 of 2000*

- (3) To recommend to the Executive Mayor that an amendment of the Cape Town Spatial Development Framework, be approved or refused in terms of section 34(b).

*In terms of the Land Use Planning Ordinance no 15 of 1985 (LUPO)*

- (4) To recommend to the Executive Mayor to for the withdrawal of a structure plan.
- (5) To recommend to the Executive Mayor to approve for submission (for approval), a structure plan in terms of section 4(1).
- (6) To recommend to the Executive Mayor the approval of structure plans in terms of section 4(6).
- (7) To recommend to the Executive Mayor that an application to amend a structure plan approved in terms of section 4(6), be recommended for approval or refusal.
- (8) To recommend the review of a structure plan in terms of section 4(8) at least once every 10 years.
- (9) To recommend to the Executive Mayor, the approval, with or without conditions, of a structure plan <sup>1</sup> in terms of section 4(10).

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<sup>1</sup> A structure plan approved in terms of section 4(10) also includes spatial development frameworks and district plans approved in terms of section 4(10)

- (10) To recommend to the Executive Mayor that an amendment or withdrawal of a structure plan in terms of section 4(10), be approved in terms of section 4(7).
- (11) To recommend to the Executive Mayor, the amendment or replacement of Scheme Regulations in terms of section 9(2).

Delegations (12) to (18) inserted – Council 2 June 2015 C22/05/15

*In terms of the City of Cape Town Municipal Planning By-Law, 2015 (the By-Law)*

- (12) To recommend to the Executive Mayor the adoption of a process, which includes a public participation process, for drafting the municipal spatial development framework which complies with the Municipal Systems Act and any other applicable law, in terms of section 4(1).
- (13) To recommend to the Executive Mayor the adoption of the municipal spatial development framework, in terms of section 6.
- (14) To, recommend to the Executive Mayor, if the City intends to adopt a district spatial development framework or a local spatial development framework,-
  - (a) a specified geographic area ; and
  - (b) the drafting of a district spatial development framework or a local spatial development framework as the case may be, in terms of section 13(1).
- (15) To recommend to the Executive Mayor the adoption of a draft district spatial development framework, draft local spatial development framework or amendment thereof, in terms of section 14.
- (16) To recommend to the Executive Mayor the adoption of a new overlay zoning or amendment or removal of an existing overlay zoning, in terms of section 24(3).

- (17) To recommend to the Executive Mayor, in respect of each overlay zoning, except a subdivisional area overlay zoning, the approval of the publication in the Provincial Gazette-
- (a) the specified area or land units which have the overlay zoning;
  - (b) a reference to a map available on the City's website that depicts which specified area or land units have the overlay zoning; or
  - (c) a statement that no specified area or land unit has the overlay zoning,
- in terms of section 24(4).
- (18) To recommend to the Executive Mayor the designation of a specified area or land unit to have an overlay zoning, or to no longer have an overlay zoning, in terms of section 24(5).

## **- PART 11 -**

### **SOCIAL DEVELOPMENT AND EARLY CHILDHOOD DEVELOPMENT PORTFOLIO COMMITTEE**

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*The committee exercises oversight in respect of the following:*

- Local Amenities relevant to Social Development
- Social Development
- Early Childhood Development and Child Care facilities
- Youth Development
- Poverty Alleviation and reduction
- Vulnerable Groups
- Substance Abuse
- Expanded Public Works Programme (EPWP)
- Non-statutory welfare services

Council 2 June 2015 C22/05/15

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee 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:*

#### **1. Specific Delegations**

- (1) The Committee must monitor the implementation Protocol concluded by and between the Provincial Government of the Western Cape via its Department of Social Development and the City of Cape Town for the implementation of projects and initiatives in support of the Department's

social development programmes and report thereon to the Executive Mayor.

- (2) To assist the Executive Mayor to initiate specific programmes and projects associated within the committee's functional area, and report thereon to the Executive Mayor.
-

## - PART 12 -

### FINANCE PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Budget
- Expenditure
- Housing Finance & Leases
- Inter-service liaison
- Property Management
- Revenue
- Shareholder and Contract Management including
- Municipal Entities
- Supply Chain Management
- Treasury
- Valuations

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee 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:*

#### **1. Specific Delegations**

None.

## - PART 13 -

### HEALTH PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Municipal Health Services
- Primary Health Care
- Specialised Health Services

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee 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:*

#### **1. Specific Delegations**

None

## - PART 14 -

### HUMAN SETTLEMENTS PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Public Housing and Customer Services
- Strategy and Planning
- Human Settlements Urbanisation
- Human Settlements Development and Delivery
- Development Services

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

#### **1. Specific Delegations**

None.

## - PART 15 -

### UTILITY SERVICES PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Electricity
- Water and Sanitation
- Solid Waste Management

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee 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:*

#### **1. Specific Delegations**

None

## **- PART 16 -**

### TRANSPORT FOR CAPE TOWN PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Contract Operations
- Financial Management
- Infrastructure
- Maintenance
- Network Management
- Regulations
- Transport for Cape Town Performance and Co-ordination
- Planning
- Stormwater

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee the following powers, functions and duties to the Transport for Cape Town Portfolio Committee including the power to sub delegate any of their delegated powers, functions and duties:*

#### **1. 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.

## - PART 17 -

### SAFETY AND SECURITY SERVICES PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following:*

- Fire and Rescue Services
- Municipal Disaster Risk Management
- 107 Public Emergency Communication Centre
- Metro Police
- Law Enforcement and Specialised Services
- Traffic Services

---oOo---

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee 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:*

#### **1. Specific Delegations**

- (1) To consider recommendations from the Civilian Oversight Committee and make a recommendation thereon to the Executive Mayor.
- (2) To monitor the statistics of the municipal courts.

## - PART 18 -

### TOURISM, EVENTS AND ECONOMIC DEVELOPMENT PORTFOLIO COMMITTEE

Council 25 September 2014 C59/09/14

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*The committee exercises oversight in respect of the following:*

- Tourism
- Major Events
- Film Office
- Marketing
- Arts and Culture
- World Design Capital 2014
- Strategic Assets:

*Cape Town Stadium*

*Cape Town International Convention Centre*

*Green Point Urban Park and Athletic Stadium* - 2 JUNE 2015 C16/05/15

*City Hall and Grand Parade*

*Good Hope Centre*

*Athlone Stadium*

- Economic Development - 20 August 2014 C32/08/14B

---oOo---

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

## 1. Specific Delegations

None

## **- PART 19 -**

### HOMELESS PORTFOLIO COMMITTEE

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*The committee exercises oversight in respect of the following functions:*

- Homeless Agency
- Street People

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

#### **1. Specific Delegations**

- (1) To assist the Executive Mayor to initiate specific programmes and projects associated with homeless and street people and report thereon to the Executive Mayor.

## **- PART 20 -**

### **RULES COMMITTEE**

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

#### **1. Rules Of Order**

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

#### **2. 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.

## **- PART 21 -**

### **DISCIPLINARY 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 Disciplinary Committee :*

#### **1. General**

- (1) To hear submissions, arguments and evidence and make a finding on any alleged breach of the Code and to make appropriate recommendations to Council in accordance with the provisions of the Code of Conduct for Councillors set out in schedule 1 of the Systems Act 32 of 2000.
- (2) To hear submissions, arguments and evidence and make a finding on non-attendance of meetings and to recommend the imposition of a fine.
- (3) To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- (4) To instruct any Councillor(s) and request official(s)/or other affected parties to appear before the Committee to give evidence.
- (5) To appoint a legal advisor to assist the Committee including the obtaining of internal or external legal opinions.
- (6) To make written representations to the MEC for local government pertaining to an appeal to the MEC by a Councillor who has been warned, reprimanded or fined in terms of paragraph item 14(2)(a), (b) or (d) of the Code of Conduct for Councillors.

## **- PART 22 -**

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

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*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.*

#### **1. Planning Delegations**

*SPELUM has the power to take decisions which are not compliant with structure plans or approved Council policy which is used to guide decision making; where an EIA or TIA or HIA is required in order to assess the application; where an application straddles Sub-council boundaries; all of the aforementioned being subject to SPELUM deciding to approve the application and being in agreement with the recommendation from the ED EESP. If SPELUM decides to refuse an application or is not in agreement with the recommendation from the ED: EESP, the Mayor together with the Mayoral Committee has the power to decide the application. When exercising its power, if, after applying its mind, SPELUM decides not to follow a structure plan or approved Council policy when considering an application, it must give reasons and this will be recorded as a deviation from the policy.*

Council 29 May 2014 C64/05/14

*SPELUM has the power to make recommendations to the Mayor on applications which are not consistent with the spatial development framework approved as part of the IDP.*

*Should SPELUM not wish to exercise a delegated power, the Mayor together with the Mayoral Committee has the power to decide on the application.*

**NOTE:**

*In these directions, a structure plan refers to a structure plan approved in terms of s4(6) and s4(10) of LUPO, Council approved processes, and includes any spatial development framework or district plan approved i.t.o. these sections. It is to be noted that this area of the law is under review.*

*In these directions a Council policy does not include policies and guidelines set by the ED or his officials.*

*EIA: A land use development application made in terms of LUPO which triggers a full scoping and environmental impact assessment as set out in the regulations promulgated in terms of the National Environmental Management Act (NEMA).*

*TIA: A land use development application made in terms of LUPO which triggers any impact assessment dealing with traffic for a development which is likely or will generate 150 vehicles and more 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 Sub-council if there are objections from the public to the development application and the matter is within Sub-council boundaries and by the ED where there are no objections from the public to the development application. The trigger for determining whether a matter will be dealt with by SPELUM is the number of vehicles per hour, not the name of the assessment.*

*HIA: A land use development application made in terms of LUPO which triggers a Heritage Impact Assessment report required in terms of section 38 of the National Heritage Resources Act, 25 of 1999 and which may or may not form part of the EIA referred to above. It does not include a Heritage Statement.*

*All other development applications whether subject to a basic assessment in terms of the Regulations promulgated in terms of NEMA or an EIA requested in terms of LUPO will be dealt with by Sub-council if there are objections from the public to a development application (not the EIA application) and by the ED where there are no objections from the public to the development application within boundaries.*

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

#### *Use rights*

- (1) To recommend to the Executive Mayor to amend, replace or delete a scheduled condition which is part of the Zoning Scheme regulations in terms of section 9(2).
- (2) To determine, when land is deemed to be zoned, what 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).
- (3) To substitute a zoning scheme or part thereof with one in terms of which land is not necessarily zoned in accordance with the utilisation thereof, in terms of section 14(4) where objections have been received.
- (4) To determine the zoning of land, that, 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).
- (5) 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 terms of section 14(7).
- (6) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3) as read with section 14(1).

#### *Departures*

- (7) To grant or refuse applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned, including an alteration of the development rules or restrictions or provisions of any overlay zone in terms of section 15(1).
- (8) To grant or refuse 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, in terms of section 15(1).
- (9) To grant or refuse an application by the owner to extend the period within which the use right must be exercised, in terms of section 15(5).

#### *Rezoning (application of owner of land)*

- (10) To grant or refuse an application by an owner of land or an application on the initiative of Council for the rezoning thereof, in terms of section 16(1) as read with section 18.
- (11) To recommend to the Executive Mayor to grant or refuse an application made on the initiative of Council for and in respect of Council land in terms of section 18 as read with section 16.
- (12) To grant or refuse an extension of the validity period of two years in which the use right must be utilised, in terms of section 16(2).
- (13) To determine the utilisation of land for purposes of zoning, where a zoning has lapsed in terms of section 16(2).
- (14) To approve or refuse the adoption, replacement or amendment of overlay zones that provide for development directives (as set out in Chapter 15) of the Cape Town Zoning scheme by following the rezoning procedures stipulated in planning law.

#### *Subdivisions*

- (15) To grant or refuse an application for the subdivision of land, in terms of section 25(1).

- (16) To recommend to the Executive Mayor to grant or refuse an application made on the initiative of Council for and in respect of Council land in terms of section 25.
- (17) To grant or refuse an extension in terms of section 27(1) of the validity period within which a subdivision of land must be confirmed.

*Home owners' association*

- (18) 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 terms of section 29(1).

*Amendment or cancellation of plan of subdivision*

- (19) 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 and after
  - (a) considering public objections received, if any, 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*

- (20) To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).
- (21) In relation to a condition imposed by SPELUM, after consideration of any public objections received, in consequence of an advertisement and after consultation with the owner of the land concerned, to—
  - (a) waive or amend any condition, and

- (b) impose additional conditions in terms of section 42(3).
- (22) To approve or amend a Site Development plan where public objections have been received, where a rezoning, subdivision, departure or consent/conditional use has been approved by SPELUM subject to the submission and approval of a site development plan.
- (23) Notwithstanding the above, the Executive Director EESP has the power to approve or amend a Site Development plan where there are no public 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.
- (24) 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).

*Special Consent,  
Consent or Conditional Use  
In Terms of The Zoning Scheme Regulations*

- (25) 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.

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

- (26) To make recommendations to the Executive Mayor to recommend to the Provincial government to grant or refuse, with or without conditions, of applications for rezoning, subdivision, departures, consent of Council or amendment to town planning conditions.

- (27) To grant or refuse, with or without conditions, a consent and departures in cases where the power is delegated to Council.

*Removal of Restrictions Act No. 84 of 1967  
Alteration, suspension or removal of restrictions  
or obligations in respect of land by the Premier*

- (28) To recommend to the Executive Mayor to lodge an application to alter, suspend or remove any restriction or obligation on City land, in terms of section 2(1).
- (29) To recommend to the Executive Mayor to comment on and make recommendation regarding a proposed alteration, suspension or removal of a restriction or obligation in respect of any land, in terms of section 3(2).

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

- (30) 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 EESP. When approving (or refusing) the deviation from policy, SPELUM may also grant or refuse the application which requires the deviation from policy. Should SPELUM elect not to follow an approved Council policy, such deviation together with reasons therefore, shall be reported to Executive Mayor together with the Mayoral Committee.
- (31) To approve a list or map of designated areas prohibited areas and Areas of Control.
- (32) To grant or refuse any application made in terms of this By-law and impose conditions including those 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; whether or not public objections have been received.
- (33) To approve applications for outdoor advertising signs larger than 4,5m<sup>2</sup> where public objections are received.

#### *Environmental and Heritage Authorisations*

- (34) In respect of land above Boyes Drive and subject to an overlay zone, to determine that Council is satisfied that the building to be erected or the subdivision of the land unit is desirable, that a satisfactory road system in accordance with Council's standards for the provision of services is possible, that the cost of providing and maintaining essential services will not be excessive in terms of the Boyes Drive Local Area Overlay Zone.

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

- (35) To approve Precinct Plans, Site Development Plans, Development Framework Plans arising out of agreements entered into in terms of the SATS Act.
- (36) 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.

#### *Planning Appeals*

- (37) Deleted Council 2 June 2015 C16/05/15

### *Consent*

- (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 in relation to the property with the written consent of Council.

### *Zoning Scheme*

- (39) To approve or refuse applications in terms of section 2.3.1 as submitted in terms of the Zoning Scheme.
- (40) To impose conditions when approving an application in terms of the Zoning Scheme.
- (41) To grant or refuse an extension of time within which to utilize land or to exercise an approval.
- (42) To impose further conditions or to waive or amend a condition after an approval has been granted and after consultation with the owner concerned.
- (43) To limit the approval of a consent use application to one or more uses included within the definition of the consent use concerned.
- (44) To grant or refuse one or all components of a package of plans.
- (45) To grant or refuse an application for an activity which cannot be carried out in an overlay zone unless the approval of Council has been granted.
- (46) To exempt a specific activity from the requirements of an overlay zone where the overlay zone provides for such exemption.
- (47) To name streets in accordance with the policy on street naming and numbering, having regard to the criteria set out in the Naming policy,

where the streets arise from a land use planning application and SPELUM has the power to decide on the land use application.

## **- PART 23 -**

### **PLANNING AND GENERAL APPEALS COMMITTEE (PLANAP)**

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*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.*

#### **1. Specific Delegations**

None.

## **- PART 24 -**

### **MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**

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*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 Committee:*

#### **1. Specific Delegations**

- (1) Review the financial statements and audit reports of the City and its municipal entities, and consider developments since previous statements and reports, and evaluate the extent to which recommendations have been implemented.
- (2) Consider and evaluate the City's Annual Report, and the Annual Report of any municipal entity under the City's sole or shared control, and as an oversight committee to make recommendations to the Council when it adopts the oversight report on the annual report in terms of section 129 of the Municipal Finance Management Act.
- (3) Review and follow up past recommendations on the Annual Report.
- (4) Develop an annual work programme, including a monitoring mechanism (subject to the Council's approval), linked to the Council's planning cycle, and concluding with the Committee's recommendations on the oversight report.
- (5) Promote good governance, transparency and accountability regarding the use of municipal resources.
- (6) When instructed by Council, investigate and advise Council in respect of unauthorised, irregular or fruitless and wasteful expenditure in terms of section 32(2) of the MFMA.

- (7) Report to Council quarterly on its activities, and when deemed necessary on any matter within the terms of reference of the committee.
- (8) To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- (9) 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.
- (10) To determine its own operational procedures in terms of the Rules of Order.
- (11) To investigate any matter within its delegated authority.
- (12) To obtain 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 within its delegated authority.
- (13) To have access through the Office of the City Manager 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 exercising its delegated authority.
- (14) To request Councillor(s) and official(s), including the accounting officer, as well as the chairperson of a municipal entity's board of directors, to attend any meeting for interview and input regarding items on the agenda.
- (15) To consider the reports of the Auditor-General and make recommendations thereon in terms of the Supply Chain Management guidelines to Council.

## - PART 25 -

### SUB-COUNCILS

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*Acting in terms of section 59 of the Systems Act Council hereby delegates the following powers, functions and duties to Sub-council 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 Sub-council By-law 2003:*

#### **1. General**

- (1) To assess the performance of service delivery generally within their area of jurisdiction (outcomes monitoring).
- (2) To recommend to the Executive Mayor the needs of the Municipality as far as it relates to the functional area of the Sub-council, in terms of section 56 (2)(a) of the Structures Act.  

Council 2 June 2015 C16/05/15
- (3) To review and evaluate the needs of the municipality in order of priority, in terms section 56 (2)(a) of the Structures Act and recommend the same to the Executive Mayor.
- (4) To recommend appropriate comments on National and Provincial draft legislation, regulations, policy frameworks etc. that affects the Sub-council and submits such comment to the Executive Mayor.
- (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 Sub-council to assist the Sub-council in the performance of its functions.

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

Council 2 June 2015 C16/05/15

## **2. IDP, Budget and Business Planning**

- (1) To develop Sub-council service delivery business implementation plans.
- (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, service delivery business implementation plans, strategic objectives, policies and programmes within the sub-council jurisdictional area.

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- (4) To comment and make recommendations in regard to the draft IDP and budget.
- (5) To make representation to the relevant line departments for the inclusion of the capital and operating budgetary requirements.

### **3. Street naming**

- (1) To name streets in accordance with the policy on Naming and Numbering.

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### **4. 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)

### **5. Liquor Licences**

- (1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, 2008, as amended.
- (2) Approve, refuse or vary applications for extension of trading days and hours on premises where liquor licences have been granted in terms of section 2 of the By-law: Control of Undertakings that Sell Liquor to the public 2013.

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- (3) To exercise the powers conferred on the City in terms of Section 6(3) of the By-law: Control of Undertakings that Sell Liquor to the public, 2013.

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- (4) To lodge a complaint with the Western Cape Liquor Authority regarding the conduct of a licenced business or the renewal of a liquor licence.
- (5) To report contraventions of the Western Cape Liquor Act, 2008, as amended and the By-law: Control of Undertakings that Sell Liquor to the public, 2013 to the designated Liquor Officer of the South African Police Services (SAPS) and the Western Cape Liquor Authority.
- (6) To give notice of the application to neighbouring residents or such persons who may be affected by, or have an interest in, the granting or refusal of the application in terms of section 37(5) of the Western Cape Liquor Act, 2008, as amended, and in accordance with the policy laid down by Council.

## **6. Public Participation**

- (1) To provide logistical support in respect of all public participation processes, within the area of jurisdiction of the Sub-council.
- (2) To establish and maintain a database of organizations within the area of the Sub-council and facilitate the liaison between the civic organisations, ratepayers associations and similar fora within the Sub-council.

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- (3) To comment on by-laws and policies of Council within the timeframes advertised.
- (4) To facilitate the celebration of important local, national and international celebrations and events e.g. Youth Day, Human Rights Day etc.
- (5) Deleted.

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## **7. Policies, By-laws and Regulations**

- (1) Monitoring the implementation of Council's policies and by-laws in the Sub-council's area of jurisdiction.

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

- (1) To oversee the maintenance and management of all public facilities within the Sub-council area and request the responsible director to report on remedial action to be taken.

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- (2) To grant permission for the use of public open spaces, public squares and similar places within the Sub-council's area of jurisdiction.

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- (3) To designate, in terms of Section 13 of the City of Cape Town: Animal Bylaw, 2010, public places or portion of public places with appropriate signage as free-running; off-limits or public places where a dog must be on a leash, including the power to vary such designation according to the time of day or the season during which it will apply.

- (4) To designate, in terms of Section 9(7) of the City of Cape Town: Graffiti Bylaw, 2010, certain Council-owned spaces to be used for murals, or any inscription, word, figure, letter, sign, symbol, sketch, picture, drawing, or design after consultation with the relevant communities.

## **9. Planning and Environmental Matters**

*Sub-councils decide on applications which relate to land within the Sub-council boundary, provided that they are compliant with:*

- *structure plans*

- *the spatial development framework approved as part of the IDP;*
- *Council policy.*

*and*

- *where no EIA, TIA or HIA is required.*

**NOTE:**

*In these directions, a structure plan refers to a structure plan approved in terms of s4(6) and s4(10) of LUPO, Council approved processes, and includes any spatial development framework or district plan approved i.t.o. these sections. It is to be noted that this area of the law is under review.*

*In these directions a Council policy does not include policies and guidelines set by the ED or his officials.*

*Should a Sub-council not wish to exercise a delegated power, MAYCO has the power to decide on the application.*

*EIA: A land use development application made in terms of LUPO which triggers a full scoping and environmental impact assessment as set out in the regulations promulgated in terms of the National Environmental Management Act (NEMA).*

*TIA: A land use development application made in terms of LUPO which triggers any impact assessment dealing with traffic for a development which is likely or will generate 150 vehicles and more 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 Sub-council if there are objections from the public to the development application and the matter is within Sub-council boundaries and by the ED where there are no objections from the public to the development application. The trigger for determining whether a matter will be*

*dealt with by SPELUM is the number of vehicles per hour, not the name of the assessment.*

*HIA: A land use development application made in terms of LUPO which triggers a Heritage Impact Assessment report required in terms of section 38 of the National Heritage Resources Act, 25 of 1999 and which may or may not form part of the EIA referred to above. It does not include a Heritage Statement.*

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*All other development applications whether subject to a basic assessment in terms of the Regulations promulgated in terms of NEMA or an EIA requested in terms of LUPO will be dealt with by Sub-council if there are objections from the public to a development application (not the EIA application) and by the ED where there are no objections from the public to the development application within boundaries.*

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

##### *Use rights*

- (1) To determine the zoning of land in accordance with the utilisation thereof where a use right has lapsed because of failure to exercise such right for an uninterrupted period of two years, in terms of section 14(5).
- (2) 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 terms of section 14(7).
- (3) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3), in terms of section 14(1).

##### *Departures*

- (4) To grant or refuse applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations

concerned, including an alteration of the development rules or restrictions or provisions of any overlay zone, in terms of section 15(1).

- (5) To grant or refuse 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).
- (6) To grant or refuse an application by the owner to extend the period within which the use right must be exercised, in terms of section 15(5).

#### *Rezoning (application of owner of land)*

- (7) To grant or refuse an application by an owner of land or an application on the initiative of Council in terms of section 18 for the rezoning thereof in relation to land, in terms of section 16(1).
- (8) To recommend to the Executive Mayor to grant or refuse an application made on the initiative of Council for and in respect of Council land in terms of section 18 as read with section 16. (Include in Mayor's delegations as a designated power)
- (9) To grant or refuse an extension of the period of two years in which the use right must be utilised in relation to, in terms of section 16(2).
- (10) To determine the utilisation of land for purposes of zoning in relation to where a zoning has lapsed, in terms of section 16(2).
- (11) To approve or refuse, the adoption, replacement, or amendment of overlay zones that provide for development directives as set out in Chapter 15 of the Cape Town Zoning Scheme.

#### *Subdivisions*

- (12) To grant or refuse an application for the subdivision of land where objections have been received, in terms of section 25(1).

- (13) To recommend to the Executive Mayor to grant or refuse an application made in respect of Council land in terms of section 25. (Include in Mayor's delegations as a designated power)

*Home owners' association*

- (14) 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 terms of section 29(1).

*Amendment or cancellation of plan of subdivision*

- (15) 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, and after:
- (a) considering public 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*

- (16) 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*

- (17) To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1).
- (18) In relation to a condition imposed by Sub-council, whether objections are received or not, after consideration of public objections received, if any, in consequence of an advertisement and after consultation with the owner of the land concerned, to –
  - (a) waive or amend any condition, and
  - (b) impose additional conditionsin terms of section 42(3)
- (19) To approve or amend a Site Development plan where public objections have been received, where a rezoning, subdivision, departure or consent/conditional use has been approved by Sub-council or a staff member subject to the submission and approval of a site development plan.
- (20) In relation to a condition imposed by an official,
  - (a) to waive or impose additional conditions;
  - (b) to consider the amendment of a conditionin terms of section 42 (3) where public objections have been received.
- (21) 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).

*Special Consent, Consent or Conditional Use  
In terms of the Zoning Scheme Regulations*

- (22) 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.
- (23) To recommend to the Executive Mayor to grant or refuse an application made for Special consent, consent or conditional use, on the initiative of Council for and in respect of Council land in terms of the zoning scheme regulations.

*In terms of the Cape Town Zoning Scheme  
which came into force on 1 March 2013*

- (24) To approve or refuse applications in terms of section 2.3.1 as submitted in terms of the Zoning Scheme.
- (25) To impose conditions when approving an application in terms of the Zoning Scheme.
- (26) To grant or refuse an extension of time within which to utilize land or to exercise an approval.
- (27) To impose further conditions or to waive or amend a condition after an approval has been granted and after consultation with the owner concerned.
- (28) To limit the approval of a consent use application to one or more uses included within the definition of the consent use concerned.
- (29) To refuse an application made in terms of the zoning scheme if an applicant fails to submit further information within the time frames determined.
- (30) To approve or refuse an application for rezoning to an Subdivisional Area Overlay Zone in terms of planning law.

- (31) To approve the name and numbering of an Overlay Zone.
- (32) To prepare an overlay zone and to recommend the adoption, replacement or amendment of same to the decision maker.
- (33) To prepare a Contextual framework in respect of a particular development/site as a component of a package of plans.
- (34) To designate an area to be an overlay zone.
- (35) To apply development incentives or density measures.
- (36) To, when provided for in the zoning scheme regulations, exercise power to waive or exempt matters.
- (37) To exercise the power to approve as set out in the Zoning scheme regulations.
- (38) To lay down restrictive requirements in the circumstances described in the zoning scheme regulations.
- (39) To approve agreements provided for in the new Zoning Scheme and to enter into same.
- (39A) To identify heritage places within the Sub-council's area of jurisdiction as provided for in the Zoning Scheme and recommend same to the Executive Mayor.

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*Consent in terms of title deed restrictions*

- (40) 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.
- (41) To consult with and comment to the Premier/relevant Minister on appeals lodged in terms of section 44(2) 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 make of Council in respect of the application and where the comment will not be in accordance with the original decision made.

- (42) To reconsider and decide on an application in cases where the Premier/ relevant Minister has set aside the decision of the City and referred the matter back for a new decision in terms of section 44, in cases where the final decision of the City was taken by Sub-council. (ie there was no section 62 appeal).

*In terms of the City of Cape Town Municipal Planning By-Law, 2015*

- (43) To recommend to the Executive Mayor the adoption of a draft district spatial development framework, draft local spatial development framework or amendment thereof, within a sub-council boundary, in terms of section 14.

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- (44) To recommend to the Executive Mayor the designation of a specified area or land unit, within a sub-council boundary, to have an overlay zoning, or to no longer have an overlay zoning, in terms of section 24(5).

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## **10. 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.

## **11. Transport for Cape Town**

- (1) To decide within its area of jurisdiction where traffic calming measures are to be applied within the relevant legislation and policy after considering a report from Transport for Cape Town

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- (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.

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## **12. Letting of Property**

- (1) To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings.

Substituted by resolution of Council 23 July 2014 C20/07/14

## **13. 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.

## **14. Service Delivery Teams**

- (1) To establish rapid response service delivery teams amongst other, for purposes of serving in the area based service delivery model, by liaising with the relevant line directorates, to attend to localized elementary service delivery complaints by residents that may include the following:
- o Residential electricity faults
  - o Sewerage blockages
  - o Residential water leaks
  - o Replacement of road signs
  - o Removal of animal carcasses

- o Faulty street lights
  - o Illegal dumping and ad hoc refuse removal
  - o Potholes
- (2) Sub-council managers to manage rapid response service delivery teams in 14(1) above.

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## **- PART 26 -**

### **WARD COMMITTEES**

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*Note: functions and powers of Ward Committees are contained in section 74 of the Structures Act and Rules for Operation of Ward Committees.*

#### **1. General**

None

## **- PART 27 -**

### **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 unless the context indicate otherwise.*

**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 unless the context indicate otherwise.*

**1. Staff Establishment, Job Descriptions and Conditions of Service**

- (1) To approve or delegate the approval of reporting lines of positions below that of Director, within the functional allocation as approved by Council.
- (2) To determine guidelines to inform the identification of jobs to be designated as scarce skills or premium positions.
- (3) Deleted.

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**2. 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.
- (4) Deleted.

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### **3. Appointment of Staff**

- (1) To appoint staff, excluding staff referred to in Section 56 of the Systems Act, into permanent, temporary or casual positions that have been approved for filling.

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- (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.

### **4. Transfer of Staff**

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

### **5. 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.

### **6. Resignations, Retractions and Retirement**

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

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

## **7. 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 provided that such official business is directly related to the function of the official and the business of the city;
  - (g) study leave and extended study leave, including leave in respect of municipal minimum competency training;
  - (h) unpaid leave which includes authority to utilize the budgeted funding in respect of the post concerned;
  - (i) compassionate leave.
  - (j) special leave for study purposes.
- (2) To approve the encashment of leave.
- (3) To approve ad hoc requests including ex gratia categories for special leave which is not included in the conditions of service of employees.
- (4) To approve requests for additional time off beyond that provided for in the Organisational Rights Agreement.
- (5) To refer a member of staff to a recognised medical practitioner and/or specialist in the required field, for a diagnosis and prognosis due to operational needs at Council's cost.

## **8. 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.

## **9. Standby Duties**

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

## **10. Training and Study**

- (1) To authorise the training of members of staff within or outside the borders of South Africa.
- (2) To make application for refunds in respect of training from SETA.

## **11. Re-imbursements**

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

## **12. Performance Evaluations**

- (1) To approve performance evaluations.
- (2) To undertake the probation assessment of employees including employees appointed in terms of section 56 of the Systems Act and report thereon to Council.

## **13. Disciplinary Action**

- (1) To authorise investigations into allegations of misconduct, other than forensic investigations.
- (2) To authorise the institution of disciplinary procedures subject to Part 27 delegation 28(2) of the System of Delegations.
- (3) To appoint a chairperson of a disciplinary hearing and to authorise 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.
- (5) To monitor the application of disciplinary procedures within directorates, which authority may not be sub-delegated lower than Executive Director level.

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## **14. Disputes, Grievances and Labour Issues**

- (1) To authorise investigations into disputes and grievances.
- (2) To settle labour relations disputes after following the prescribed processes, involving cases such as, but not limited to misconduct, incapacity, poor performance, ill health, injury, or an outcome of the grievance lodged by an employee.
- (3) To give a mandate in respect of hearings, arbitrations and mediation of the CCMA, and to agree on settlement conditions in respect of corporate wide issues.
- (4) To execute mandates from the Council in respect of Council wide labour issues.

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- (5) To coordinate and manage Council's responses to strike action.

## **15. Employee Debt**

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

## **16. 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.

## **17. 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.

## **18. 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.

## **19. Uniforms and Protective Clothing**

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

## **20. 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.

## **21. General**

- (1) 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.
- (1A) To grant authority for Executive Directors to attend conferences, congresses, seminars, symposiums, and lectures within the municipal boundaries of Cape Town municipality.

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- (2) To approve 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.
  - (3) To administer and award External Scholarships and Bursaries.
  - (4) To consider an application of any staff member to engage in any business, trade or profession other than the work of the municipal Council and to approve, or reject such application.
  - (5) 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.
  - (6) To enter into and sign contracts and other documents, with or without financial consequences, which contracts are necessary for the functioning of the municipality.
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- (7) To enter into and sign implementation protocols with other spheres of government and organs of state.
  - (8) To ensure that Declaration of Interest(s) for officials are received and recorded.
  - (9) To implement salary and wage and collective agreement within available budget.
  - (10) .....
- [Delegation 21(10) withdrawn from the City Manager by Council on 29 May 2014 item C63/05/14 and conferred on the Executive Mayor – see Part 1 delegation 5(10)]
- (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.

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- (12) To receive any grant, donation or gift to a value not exceeding R1 000 000,00 and to agree to the conditions in terms of which said grant, donation or gift was made and to authorise the signing of any related documentation.

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## **22. Appointments**

- (1) To make appointments as Responsible Officer and Deputy Responsible Officer in terms of Section 2(4)(a) of the Regulation of Gatherings Act, No 205 of 1993.
- (2) To appoint a Chief Fire Officer who possesses the prescribed qualifications and experience to be in charge of the Municipality's fire service.
- (3) To designate a Records Manager and Deputy Records Managers in terms of the National Archives and Records Services Act of South Africa.
- (4) To appoint officials to represent Council on outside bodies.
- (5) To designate employees as contemplated in Regulations 9(a) and (b) of the Western Cape Noise Control Regulations, 2013, PN 200 dated 20 June 2013.

Council 25 June 2014 C48/06/14

## **23. Legal**

- (1) 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.

- (2) 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 legal proceedings in the exercise of his or her powers or the performance of his or her duties.
- (3) To obtain legal opinion including that of Senior Counsel on any matter, excluding those matters reserved for the Executive Mayor by delegation 3(7).
- (4) 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).
- (5) To appoint Law Enforcement Officers in terms of Part 5(a) of GN R209 of 19 February 2002, Declaration of Peace Officers.
- (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.
- (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;
- (a) the municipality, or
  - (b) its employees

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

- (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 consulted.
- (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 consulted, in terms of the Criminal Procedure Act.

## **24. 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 and rent immovable property to and from private and public bodies or any person where the value of the lease or rental does not exceed R200 000 per annum provided that such lease or rental is in the best interest of the City.
- (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.

- (4) To authorise 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, not longer than 3 years  
(<R10 m and >3 yrs)
  - (ii) capital assets more than R10 mil, less than 3 years  
(>R10m and <3 yrs)
  - (iii) capital assets less than R10 mil, less than 3 years  
(<R10m and <3 yrs)

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- (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 Sub-council in whose area of jurisdiction the capital asset is situated.
- (6) To authorise the initiation of property transactions in order to give effect to and to ensure compliance with the provisions of the Municipal Asset Transfer Regulations.
- (7) To approve in principle the rights to use, control or manage the capital asset in terms of Regulation 34(1)(b) of the MATR, excluding capital assets of a value in excess of R10 million and for a period longer than 3 years.

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- (8) To approve the granting of the rights to use, control or manage capital assets less than R10 million, not longer than 3 years (<R10 million and <3 years);

Provided that in respect of immovable assets such as land, property and buildings, this delegation may only be exercised after considering the

comment from the sub-council in whose area of jurisdiction the capital is situated;

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- (9) To approve the granting of the rights to use, control or manage capital assets less than R10 million, longer than 3 years (<R10 million and > 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and < 3 years) for the following categories:
- a) Social Care leases: Leases to Social Care organisations (NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
  - b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually;

Provided that in respect of immovable assets such as land, property and buildings, this delegation may only be exercised after considering the comment from the sub council in whose area of jurisdiction the capital is situated.

Council 23 July 2014 C20/07/14

- (10) To authorise the public participation process for the disposal of capital assets excluding high value capital assets (exceeding R50 million).

Council 23 July 2014 C20/07/14

- (11) To cancel the awarding of tenders relating to non-responsive tenders and tender cancellations (where the successful bidder fails to perform) in terms of the City's disposal management system.

Council 23 July 2014 C20/07/14

- (12) To approve the cession, assignment and sub-letting of leases provided that the existing lease agreement makes provision for the cession, assignment and sub-letting and that the same terms and conditions of the existing lease agreement will apply.

## **25. Finance and Procurement**

- (1) To authorize subject to the Virement Policy, 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.
  - (2) To determine the upper limit of virementation within operational and capital votes of Executive Directors, Directors and Managers.
  - (3) 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.
- (4) To write off assets up to a value of R5 million subject to section 14(2)(a) and (b) of the MFMA.
  - (5) 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 Immoveable Property Adjudication Committee.
  - (6) To manage and certify the annual stocktaking of Council's assets.

- (7) To recover unauthorised, irregular or fruitless or wasteful expenditure from staff or former staff, other than those staff members directly accountable to the City Manager.
- (8) To incur expenditure necessary for the performance of the functions in the office of City Manager within budget.
- (9) 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.

### *Procurement*

- (10) When the interest of the City so demands, to terminate, after consultation with the Executive Director: Corporate Services and Compliance, any contract to which the City is a party.

Mayco 21 July 2015 MIC07/07/15

## **26. 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.

## 27. Appointment of Acting Executive Directors

- (1) To appoint Acting Managers directly accountable to the City Manager, provided that the total number of days which any person may be so appointed per directorate by the City Manager shall not exceed 60 days in total in any calendar year. **This power may not be delegated or sub-delegated.**

Council 25 September 2014 C36/09/14

## 28. Forensic and Ethics Investigations

Council 2 June 2015 C16/05/15

- (1) To authorise forensic and ethics investigations in relation to any alleged fraud, corruption or other criminal activity, maladministration and/or negligence on the part of any employee, any municipal entity, agent, contractor, supplier or service provider to the City Of Cape Town.

Council 2 June 2015 C16/05/15

- (2) To pursue, institute, facilitate and/or represent the City in respect of any appropriate disciplinary, criminal, civil and/or related proceedings flowing from any forensic or ethics investigation in section 28 above.

Council 2 June 2015 C16/05/15

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

Council 2 June 2015 C16/05/15

- (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;
- (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;

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

Council 2 June 2015 C16/05/15

## **29. 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 authorise the payment of a reward not exceeding R20 000.00 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.

## **30. (1) – (6) Deleted**

Council 2 June 2015 C16/05/15

## **31. NEMA**

- (1) To designate staff members as environmental management inspectors in consultation with the ED: EESP, in accordance with relevant section of NEMA.

## **32. Applications for Approval of Building Plans**

- (1) To authorise a deviation or grant an exemption in respect of any national building regulation as contemplated in Section 18(1) of the National Building Regulations and Building Standards Act, No 103 of 1977, subject to Section 23 of the said Act.

## **33. Rates**

- (1) To approve applications for a rates rebate in terms of Council's Rates Policy.

## **34. Planning**

Delegations (1) to (5) inserted – Council 2 June 2015 C22/05/15

- (1) To set off from the applicant's development charge liability, the fair and reasonable costs to the applicant of installing the following when required by the City to do so –
  - (a) the portion of a link engineering service in excess of the capacity of service required for the land development; and
  - (b) a bulk engineering service,in terms of section 65(4).
- (2) To approve in writing the design of a bulk engineering service or a link engineering service to be installed by the applicant, in terms of section 65(7).

- (3) To enter into an engineering services agreement with an applicant where the applicant is required to install a bulk engineering service or a link engineering service, in terms of section 65(8).
- (4) To grant an exemption from the installation of engineering services in accordance with a policy approved by the Municipal Council or in accordance with applicable legislation, in terms of section 65(11).
- (5) To grant an exemption or rebate from the payment of development charges in accordance with a policy approved by the Municipal Council or in accordance with applicable legislation, in terms of section 66(2).

## - PART 28 -

### DELEGATIONS APPLICABLE TO ALL 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 the all Executive Directors including the power to sub delegate:*

- (1) Determines the operational policies and procedures in respect of all matters falling within the functional areas of the Executive Directorate concerned.
- (2) Within his or her functional area and in consultation with Legal Services, to enter into and sign contracts and other documents, with or without financial consequences, where he or she has the necessary authority, or where the necessary approvals and/or authorities have been obtained.
- (3) To oversee the exercise of delegated powers, duties and functions delegated by Council and to report to the City Manager on failure or any improper exercise of delegation.
- (4) To grant authority for officials to attend conferences, congresses, seminars, symposiums, lectures, within the municipal boundaries of Cape Town municipality.

Council 2 June 2015 C16/05/15
- (5) To authorise the institution of disciplinary procedures subject to Part 27 delegation 28(2) of the System of Delegations.

Council 2 June 2015 C16/05/15
- (6) To appoint a chairperson of a disciplinary hearing and to authorise such person to make an appropriate finding and to impose a sanction. **This authority may not be further sub-delegated.**

- (7) To authorise the suspension of an employee pending the finalisation of disciplinary action.

Council 2 June 2015 C16/05/15

- (8) To monitor the application of disciplinary procedures within directorates.  
**This authority may not be further sub-delegated.**

Council 2 June 2015 C16/05/15

- (9) To approve the amendment of a contract or agreement procured through the supply chain management policy of the municipality, but only after Section 116(3) of the Municipal Finance Management Act requirements have been met. **Not to be further sub-delegated.**

Council 29 July 2015 C19/07/15B

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## FUNCTIONAL DELEGATIONS DELEGATED TO EXECUTIVE DIRECTORS

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- Executive Director: Corporate Services and Compliance

Mayco 21 July 2015 MIC07/07/15

- Executive Director: Community Services
- Executive Director: Tourism, Events and Economic Development
- Executive Director: Social Development and Early Childhood Development
- Chief Financial Officer
- Executive Director: Municipal Health
- Executive Director: Human Settlements
- Executive Director: Energy, Environmental and Spatial Planning
- Executive Director: Safety and Security
- Executive Director: Utility Services
- Commissioner: Transport for Cape Town

## - PART 29 -

### EXECUTIVE DIRECTOR: CORPORATE SERVICES AND COMPLIANCE

Mayco 21 July 2015 MIC07/07/15

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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 Executive Director: Corporate Services and Compliance, including the power to sub delegate:*

- Customer Relations
- Employment Equity
- Human Resources
- Information Systems and Technology
- Occupational Health, Safety and Wellness
- Specialised Technical Services
- Development Information and GIS
- Executive Support
- Forensics, Ethics and Integrity
- Integrated Development Plan and Organisational Performance Management
- Internal Audit
- Legal Services
- Ombudsman
- Integrated Risk Management
- Sub-councils and Councillor Support

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.
- (2) To undertake a preliminary enquiry/assessment into any matter that may give rise to a formal investigation with a view to establishing whether a forensic investigation is warranted, prior to recommending to the City Manager.

## **2. Human Resources**

- (1) 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 the Regulations promulgated in terms of the MSA and Section 53 (MFMA) and the Regulations promulgated in terms of the MSA.
- (2) To exercise the powers in section 57A of the Systems Act 32 of 2000.
- (3) To determine competency profiles for posts

## **3. Development Information and Gis**

### *In terms of Spatial Data Infrastructure Act 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 unauthorised 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).

*Town Survey Mark Reference System*

- (10) To position, create and maintain a Town Survey Mark Reference System.

#### **4. Legal Services**

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

institute,  
defend,  
review,  
appeal,  
settle

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.

- (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.
- (3) To institute, oppose or abide any interlocutory application.
- (4) To defend urgent High Court or courts 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.

- (5) To institute, in consultation with the City Manager, urgent High Court or courts 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.
- (6) 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.
- (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.
- (9) To institute, defend or abide by the decision of the Court, in any matter before the Lower Court or court of equal 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.
- (10) To institute and defend matters in the CCMA and the Bargaining Council.
- (11) To appoint persons to represent Council in the CCMA and the Bargaining Council.
- (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).
- (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.
- (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, 32 of 1944.
- (18) To appoint 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).
- (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 authorise 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, 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.

- (23) To appoint mediators and arbitrators.

## **5. Ombudsman**

- (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.
- (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.
- (3) To request reasonable access to any book, record, file or other documents and physical property of the Council for the purposes of such investigations.
- (4) Subject to paragraph (3) above, to enter any premises owned, controlled or managed by the Council and to examine any book, record, file or other documents and physical property in the course of such a visit for the purposes of any investigation he/she is authorised to undertake.
- (5) To require an official to appear at the Ombudsman offices for the purpose of providing information in relation to any investigation.

- (6) To exclude from any meeting any person whose presence, in the circumstances, is not desirable.
- (7) To institute, should the parties consent thereto, informal mediation or other facilitative processes which are aimed at addressing the complainant's complain.
- (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.
- (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.

## **6. Internal audit**

- (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 or via one or more Internal Audit employees or contractors.

## **7. Integrated Development Planning (IDP)**

- (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.

## **8. Organisational Performance Management**

### *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 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)
- (8) 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.
- (9) 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.

## **9. PUBLIC PARTICIPATION**

- (1) To authorise the commencement of public participation processes and to determine the level of public participation required in terms of Section 16 of the Systems Act, in consultation with the Executive Mayor.

Council 2 June 2015 C16/05/15

## **- PART 30 -**

### **EXECUTIVE DIRECTOR : COMMUNITY SERVICES**

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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 Executive Director: Community Services, including the power to sub delegate:*

- Local Sports Facilities
- Recreation
- City Parks
- Cemeteries (Funeral Parlours & Crematoria)
- Zoned Public Open Space Management
- Public open spaces
- Local Amenities - Council 2 June 2015 C16/05/15
- Libraries (other than National Libraries and Amusement facilities)
- Beaches Nodal Points

Council 2 June 2015 C16/05/15

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.
- (2) To implement the provision of the Cemeteries, Crematoria and Funeral Undertakers By-Law 2011.

## - PART 31 -

### EXECUTIVE DIRECTOR: TOURISM, EVENTS AND ECONOMIC DEVELOPMENT

Council 20 August 2014 C32/08/14B

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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 Executive Director: Tourism, Events and Economic Development including the power to sub delegate:*

- Tourism
- Major Events
- Film Office
- Marketing
- Arts and Culture
- World Design Capital 2014
- Strategic Assets namely:

*Cape Town Stadium  
Cape Town International Convention Centre  
Green Point Urban Park and Athletic Stadium  
City Hall and Grand Parade  
Good Hope Centre  
Athlone Stadium*

- Economic Development

Council 2 June 2015 C16/05/15

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.

- (2) To grant or refuse permission in terms of section 9 of the Graffiti By-law of 2010, for mural/public art as designated by subcouncils.
- (3) To negotiate and conclude all agreements and business contracts related to the holding of individual events in the Cape Town Stadium and the Greenpoint Urban Park, subject to the provisions of delegation 13(1), as set out in the Executive Mayor's delegations, and section 67 of the MFMA which relates to the grants in aid policy.
- (4) To grant or refuse permission for temporary public art as designated by the Arts and Culture Policy and the Public Art Management Framework.
- Council 2 June 2015 C16/05/15
- (5) To request or instruct the removal of temporary public art due to non-compliance or as may be required from time to time.
- Council 2 June 2015 C16/05/15
- (6) To negotiate and conclude all agreements and business contracts related to the holding of individual events in the Cape Town Stadium and the Green Point Urban Park as set out in the stadium rental model as contained in the approved annual rental and related fees.
- Council 2 June 2015 C16/05/15
- (7) To negotiate and conclude all agreements and business contracts related to the holding of individual events in the Cape Town Stadium and the Green Point Urban Park subject to the provisions of delegation 13(1), as set out in the Executive Mayor's delegations, and subject to statutory provisions pertaining to Supply Chain Management processes and or Grants Policy provisions.
- Council 2 June 2015 C16/05/15
- (8) To negotiate and conclude all agreements and business contracts related to the holding of individual events at Athlone Stadium, Good Hope Centre, Grand Parade and City Hall including facilities within the department subject to the provisions of delegation (13)1, as set out in the Executive

Mayor's delegations, and subject to statutory provisions pertaining to Supply Chain Management processes and or Grants Policy provisions.

Council 2 June 2015 C16/05/15

- (9) To negotiate and conclude all agreements related to city services and event services related to the holding of individual events within assets (whether city owned or private) subject to the provisions of delegation (13)(1) as set out in the Executive Mayor's delegations, and subject to statutory provisions pertaining to Supply Chain Management processes and or Grants Policy provisions.

Council 2 June 2015 C16/05/15

*The following delegations must be exercised subject to the recommendations/decisions exercised by the Executive Mayor in terms of the Executive Mayor's delegations set out in Part 1 delegation 13 Events.*

Council 2 June 2015 C16/05/15

## **2. Events, Arts and Culture Institutions**

Council 2 June 2015 C16/05/15

- (1) To negotiate and conclude all agreements and business contracts related to subject to supply chain management processes, section 67 of the MFMA and the Grants policy.
- (2) To negotiate contracts with global sport, artistic, music or other global icons/organisations/clubs/ associations/bodies with their South African or International agents subject to Council's due processes.
- (3) To negotiate vending and commercial opportunities with key products, services, food, beverages and merchandising opportunities as may presented from time to time, based on an agreed flat rate fee to be determined, or such percentage of sales turnover as may be agreed, subject to Council's due processes.

- (4) To negotiate strategic event and other opportunities with members of the event and marketing community opportunities as may be presented from time to time, based on an agreed allocation of funding to be determined, or such value in kind (VIK) as may be agreed, subject to Council's due processes.

Council 2 June 2015 C16/05/15

- (5) To negotiate and conclude short term agreements for a maximum period not exceeding 12 months based on an agreed rental determined by property management services in relation to the strategic assets and facilities of the directorate.

Council 2 June 2015 C16/05/15

## **- PART 32 -**

### **EXECUTIVE DIRECTOR: SOCIAL DEVELOPMENT AND EARLY CHILDHOOD DEVELOPMENT**

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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 Executive Director: Social and Early Childhood Development including the power to sub delegate:*

- Social Development
- Local Amenities relevant to Social Development
- Social Development
- Early Childhood Development and Child Care facilities
- Youth Development
- Poverty Alleviation and reduction
- Vulnerable Groups
- Substance Abuse
- Expanded Public Works Programme (EPWP)
- Non-statutory welfare services

Council 2 June 2015 C16/05/15

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.

- (2) to (8) Deleted.

Council 2 June 2015 C16/05/15

- (9) To implement the Protocol Agreement entered into between the City and Western Cape Provincial Administration.

Council 2 June 2015 C16/05/15

(10) To authorise street collections.

Council 2 June 2015 C16/05/15

2 (1) Deleted.

Council 2 June 2015 C16/05/15

## **- PART 33 -**

### CHIEF FINANCIAL OFFICER

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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 Chief Financial Officer including the power to sub delegate:*

- Treasury
- Revenue
- Expenditure
- Supply Chain Management
- Valuations
- Budget
- Shareholder & Contract Management including municipal entities
- Inter-service Liaison
- Property Management
- Housing Finance & Leases

Council 25 March 2015 C53/03/15

#### **1. General**

- (1) To develop and implement the City's SDBIPs in the above functional areas and to ensure that it is aligned to the City's IDP.
- (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
- (4) To agree to a premium and annual rate adjustment in respect of any relevant Group Life Scheme for members of staff.
- (5) To confirm acceptance of all funds associated with the Urban Settlement Development Grant, Human Settlement Development Grant and other related Human Settlement Funds.
- (6) Deleted.

Council 2 June 2015 C16/05/15

*\*NOTE: See the relevant sections of the Credit Control and Debt Collection Policy adopted by Council on 27 May 2009.*

## **2. Revenue**

- (1) Deleted.

Council 2 June 2015 C16/05/15

### *In terms of the Systems Act*

- (1A) To sign and issue Section 118 clearance certificates.

Council 2 June 2015 C16/05/15

### *In terms of Local Government: Municipal Property Rates Act, No. 6 of 2004*

- (2) Deleted.

Council 2 June 2015 C16/05/15

- (2A) To sign and issue Low Cost Housing [S118(4)] clearance certificates.

Council 2 June 2015 C16/05/15

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

- (4) To collect and refund any deposits held for property transactions, other than housing debtors and property leases.

Council 2 June 2015 C16/05/15

- (5) Deleted.

Council 2 June 2015 C16/05/15

### **3. Valuations**

*In terms of Local Government:  
Municipal Property Rates Act, No. 6 Of 2004  
(Property Rates Act)*

#### *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.

- (5) To issue to the person designated as an assistant municipal valuer<sup>2</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 described in section 41 of the Property Rates Act 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(2) of the Property Rates Act. (Section 49(1) of the Property Rates Act is dealt with in the City Managers delegations and it is not clear why 49(1) and (2) do not appear in the same delegation)

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<sup>2</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.

## **4. Treasury**

- (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 in terms of an approved policy.

## **5. Property Management**

### *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 Immoveable 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.

Council 2 June 2015 C16/05/15

- (3) 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 is more than 3 years such advice must include a comment from the Sub-council in whose area of jurisdiction the asset is situated.

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- (4) To initiate after being authorised by the City Manager in terms of delegation 24(6) all property transactions.

- (5) To reserve property for municipal purposes.

- (6) 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.

- (7) To frame the conditions of lease and sales to execute all documents and rights in connection with the letting and selling of Council's immovable property, including Powers of Attorney.

Council 2 June 2015 C16/05/15

- (8) 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.
- (9) 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.
- (10) To authorise the payment of compensation in respect of acquisition of servitudes for municipal services, land and rights where the necessary authority has been given.

Council 2 June 2015 C16/05/15

- (11) To renew an agreement of lease with the existing lessee in respect of immovable property where the lease provides for a renewal.

Council 2 June 2015 C16/05/15

- (12) To approve application for the removal of reversionary claims.

- (13) 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.

- (14) To authorise projections and projection structures over Council's land to frame and conclude relevant agreements and to impose the levying of a fee.

- (15) To authorise encroachments over Council's land, frame and conclude relevant agreements and impose the levying of a fee/tariff.

- (15A) To approve the granting of rights to use, control or manage capital assets limited to a short term use of less than 30 days.

Council 2 June 2015 C16/05/15

- (16) 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.
- (17) 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.
- (18) 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.
- (18A) Acceptance of a tender value up to 30% less than the valuation determined by the City's Market Valuation Section after consultation with the Director: Property Management.
- Council 23 July 2014 C20/07/2014
- (18B) Recommend the tender value as per paragraph (18A) to the decision-making authority.
- Council 23 July 2014 C20/07/2014
- (18C) Report to Council (for noting) the value as per paragraph (18A) if approved by the Immovable Property Adjudication Committee, constituted as per the prescripts of Regulation 29(2) of the Supply Chain Management Regulations.
- Council 23 July 2014 C20/07/2014

- (19) 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.
- (20) 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*

- (21) 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.
- (22) To authorise 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.
- (23) 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*

- (24) 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.
- (25) 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.

- (26) To repudiate claims to ownership of municipal land by acquisitive prescription.

## **6. Housing Finance and Leases**

- (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 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.

## **- PART 34 -**

### **EXECUTIVE DIRECTOR: CITY HEALTH**

Council 2 June 2015 C16/05/15

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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 Executive Director: Health Services including the power to sub delegate:*

- Municipal Health Services
- Primary Health Care Services
- Specialised Health Services

Council 2 June 2015 C16/05/15

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.

#### **2. 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 Sub-council.
- (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.

### **3. Health Services**

*In terms of National Health Act 61 of 2003*

- (1) To establish a procedure for the laying of complaints in terms of section 18.
- (2) To ensure that appropriate Municipal Health Services are effectively and equitably provided in terms of section 32.
- (3) To establish and maintain a Health Information System as contemplated in Section 74, in terms of section 76.

*In terms of Regulation 363 of 22 May 2013  
Promulgated under the Health Act, No 61 of 2003  
Regulations relating to  
the management of human remains.*

- (4) To supervise the exhumation or removal of human remains, in terms of section 27(1)(d).

Council 2 June 2015 C16/05/15

- (5) To monitor the exhumation process to ensure that no health nuisance or hazard is caused, in terms of section 27(1)(f).
- (6) To issue a certificate of competence when the premises comply with all the requirements of section 3(1)(a).
- (7) To issue a written order where a nuisance is present, in terms of section 3(1)(b).

- (8) 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 2(2)(a).
- (9) 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 2(2)(b).
- (10) To request any further information deemed necessary when considering issuing or transferring of a certificate of competence, in terms of section 4(3).
- (11) To consider any application for the issue or transfer of a certificate subject to the completion of an inspection, in terms of section 4(4).
- (12) To issue or transfer a certificate of competence when premises comply with all relevant requirements, in terms of section 5.
- (13) To endorse the transfer of a valid certificate of competence from current owner to the new owner, in terms of section 6.
- (14) To issue a provisional certificate of competence up to 6 months in order for applicant to comply with this regulation, in terms of section 7(1).
- (15) To suspend or revoke a certificate of competence or provisional certificate of competence, in terms of section 9.

*In terms of Regulation 961 of 23 November 2012  
Promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, No 54 of  
1972*

*Regulations relating to hygiene requirements for milking sheds, the transport of  
milk and related matters*

- (16) 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).
- (17) To consider an application for a certificate of acceptability subject to certain requirements and conditions, in terms of sections 3(3)-3(5).
- (18) To issue a certificate of acceptability, subject to conditions in terms of section 4.
- (19) To inspect the milk shed in terms of section 4(1)(a).
- (20) To inspect or examine the staff that are employed at the premises and the dairy stock in terms of section 4(1)(b).
- Council 2 June 2015 C16/05/15
- (21) To issue a new certificate of acceptability in the name of a new holder, where the holder of a milking shed is replaced by another person, in terms of section 4(3).
- Council 2 June 2015 C16/05/15
- (22) To suspend or withdraw the certificate of acceptability in terms of section 5.
- (23) To grant an exemption in writing to any person from compliance with some of these regulations which shall be valid for a predetermined period in terms of section 12.

*In terms of Regulation 962 of 23 November 2012*

*Regulation governing general hygiene requirements for food premises and the transport of food promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, No 54 of 1972.*

- (24) 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).
- (25) 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).
- (26) 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).
- (27) 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).
- (28) To levy an inspection fee as determined by Council for the re-inspection in terms of section 4(6).
- (29) 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 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.*

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

Council 2 June 2015 C16/05/15

*In terms of Environment Conservation Act 73 of 1989  
Noise Control Regulations promulgated in terms of the Environment  
Conservation Act 73 Of 1989*

(32) to (38) Deleted.

Council 2 June 2015 C16/05/15

*Noise Control Regulations replaced  
by Provincial Notice 200, June 2003*

(38A) To administer the provisions of the Provincial Notice and all matters incidental thereto.

Council 2 June 2015 C16/05/15

*In terms of National Building Regulations and Standards Act 103 of 1977  
SABS 0400 of 1990 Part O ventilation*

(39) 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.

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

(40) 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).

(41) To approve a sanitary convenience for the disposing/keeping of night soil on any premises in terms of section 2(3).

(42) 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).

(43) 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 served 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).

(44) 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.

(45) 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.

(46) to (58) Deleted.

Council 2 June 2015 C16/05/15

(59) 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).

Council 2 June 2015 C16/05/15

(60) 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).

- (61) 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).

Council 2 June 2015 C16/05/15

- (62) 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).

Council 2 June 2015 C16/05/15

- (63) To register generators of medical waste and to prescribe the format of the notification generators need to submit in terms of section 26(1).

Council 2 June 2015 C16/05/15

- (64) To register transporters of medical waste and to prescribe the format of the notification transporters need to submit in terms of section 26(2).

Council 2 June 2015 C16/05/15

- (65) 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).

Council 2 June 2015 C16/05/15

- (66) 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).

Council 2 June 2015 C16/05/15

- (67) 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).

Council 2 June 2015 C16/05/15

- (68) 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).

Council 2 June 2015 C16/05/15

- (69) 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).

Council 2 June 2015 C16/05/15

- (70) 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.

Council 2 June 2015 C16/05/15

*In terms of the City of Cape Town  
Animal Bylaw promulgated on the 5 August 2011  
Chapter 5, sections 22 through 29*

- (71) To administer the by-law and all matters incidental thereto.

Council 2 June 2015 C16/05/15

*In terms of the City of Cape Town Air Quality Management Bylaw, 2010  
In terms of the Air Quality Management By-law, 2010*

Council 2 June 2015 C16/05/15

- (72) To issue directives to any person to take all reasonable measures including best practicable environmental option, in terms of section 4 (1) – (5) of the Bylaw, namely:

- a) To prevent significant air pollution from occurring; and
- b) To mitigate and, as far as reasonably possible, remedy any significant air pollution that has occurred.

Council 2 June 2015 C16/05/15

- (73) To resolve upon matters and grant or refuse authorisations relating to the installation of fuel-burning equipment, in terms of section 13 (1) and (3).

Council 2 June 2015 C16/05/15

- (74) To revoke authorisations; issue orders by way of notices; and institute cost recovery measures relating to installation and operation of fuel-burning equipment, in terms of section 13 (1)(3); 14 (2) (a),(b) & (3).

- (75) To resolve upon matters and to grant or refuse temporary exemptions, in terms of section 18(1); (2) (a), (b), (c), (d) and (e); (3); read with section 44.

Council 2 June 2015 C16/05/15

- (76) To resolve upon matters and to grant or refuse authorisations relating to the application to permit open burning, in terms of section 20 (1); (2); (3) (a) - (j); (4), (c).

Council 2 June 2015 C16/05/15

- (77) To resolve upon matters and grant or refuse or authorisations relating to emissions caused by tyre burning and the burning of rubber and other material, in terms of section 21 (1) (a),(b),(c); (2).

Council 2 June 2015 C16/05/15

- (78) To resolve upon matters and grant or refuse authorisations or exemptions relating to the application for a permit to spray pesticides, in terms of section 30(3)(a) and (5).

Council 2 June 2015 C16/05/15

- (79) To resolve upon matters and to grant or refuse or withdraw exemptions, in terms of section 44 (1) – (6).

Council 2 June 2015 C16/05/15

## **- PART 35 -**

### **EXECUTIVE DIRECTOR: HUMAN SETTLEMENTS**

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*Acting in terms of section 59 of the Systems Act 32 of 2000, Council hereby delegates the following powers, functions and duties to and the Executive Director: Human Settlements including the power to sub delegate:*

- Public Housing and Customer Services
- Strategy and Planning
- Human Settlements Urbanisation
- Human Settlements Development and Delivery
- Development Services

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.
- (1A) To confirm acceptance of all funds associated with the Urban Settlement Development Grant, Human Settlement Development Grant and other related Human Settlement Funds, as approved by the Grant Projects Review Committee.
- (2) To sign all documents on behalf of the City of Cape Town that gives effect to all projects funded from the Urban Settlement Development Grant and Human Settlement Development Grant.

Council 2 June 2015 C16/05/15

- (3) To implement all actions associated with the Urban Settlement Development Grant, Human Settlement Development Grant and other related Human Settlement Funds.
- (4) To report to the Provincial and National Departments of Human Settlements on the prescribed bases regarding the Urban Settlement Development Grant and Human Settlement Development Grant.
- (5) To enter into Memoranda of Agreements on approved projects in terms of the Urban Settlement Development Grant and Human Settlement Development Grant.
- (6) To approve individual subsidy applications from beneficiaries relating to approved projects.
- (7) To enter into Memoranda of Agreements relating to approved bulk infrastructure and community facility projects in terms of the Urban Settlement Development Grant and Human Settlement Development Grant.
- (8) To submit all non-financial reporting to the respective departments on the Neighbourhood Development Partnership Grant, the Expanded Public Works Program and the Urban Settlement Development Grant and Human Settlement Development Grant.
- (9) To implement all actions associated with the Human Settlement Development Grant, Urban Settlement Development Grant and other related Human Settlement Funds.
- (10) 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).

- (11) 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.
- (12) 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.
- (13) 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.
- (14) To authorise the repossession, repurchasing and resale of Council property, financed ex National Housing Funds and Council funds.
- (15) 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.
- (16) To authorise the voluntary cancellation of sales of housing scheme land and dwellings in accordance with Council policy.
- (17) 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.
- (18) 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.

- (19) To allocate housing scheme dwellings on a priority basis on the terms and conditions determined by Council.
- (20) To authorise and approve the relocation of dwellings on residential sites within housing schemes necessitated by adverse subsoil conditions or by other unforeseen circumstances.
- (21) To allocate rental housing opportunities in new settlement developments as determined by Council.
- (22) To authorise the demolition of unoccupied informal structures on Council housing schemes.

*Council funded properties used for  
commercial purposes in Council's housing estates*

- (23) 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.

*Informal Settlements Management and Upgrading*

- (24) To provide temporary housing relief measures in emergencies/disasters (e.g. Fire and flood kits).
- (25) To authorise the demolitions of all illegal unoccupied structures in Informal Settlements.
- (26) To authorise and arrange for the relocation of families from informal settlements within City boundaries.

## - PART 36 -

### EXECUTIVE DIRECTOR: ENERGY, ENVIRONMENTAL AND SPATIAL PLANNING (ED: EESP)

Council 20 August 2014 C32/08/14B

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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 Executive Director: Energy, Environmental and Spatial Planning including the power to sub delegate:*

- Environmental Resource Management
- Planning and Building Development Management
- Mayoral Urban Regeneration Programmes (MURP)
- Spatial Planning and Urban Design

Council 20 August 2014 C32/08/14B

Council 2 June 2015 C16/05/15

*The Executive Director: Energy, Environmental and Spatial Planning (EESP) has the power to decide on applications that are consistent with structure plans<sup>1</sup>, the spatial development framework approved as part of the IDP; applications that are consistent with approved Council policy<sup>3</sup> which is used to guide decision making*

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*1. In these directions, a structure plan refers to a structure plan approved in terms of s4(6) and s4(10) of LUPO, Council approved processes, and includes any spatial development framework or district plan approved i.t.o. these sections. It is to be noted that this area of the law is under review.*

*3: this does not include policies and guidelines set by the ED or his officials*

*EIA: A land use development application made in terms of LUPO which triggers a full scoping and environmental impact assessment as set out in the regulations promulgated in terms of the National Environmental Management Act (NEMA).*

*Note: All other development applications whether subject to a basic assessment in terms of the Regulations promulgated in terms of NEMA or an EIA requested in terms of LUPO will be dealt with by Sub-council if there are objections from the public to a development application (not the EIA application) and by the ED where there are no objections from the public to the development application within boundaries*

on these applications where no EIA, TIA or HIA is required<sup>3</sup> and where there are no public objections to the application. If no policy exists, then the Executive Director (EESP) has the power to decide on any applications where there are no public objections.

Council 2 June 2015 C16/05/15

## **1A General**

- (1) To implement all actions associated with the Neighbourhood Development Partnership Grant.

Council 2 June 2015 C16/05/15

## **1. Land Use Management**

Council 2 June 2015 C16/05/15

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.

- (2) Deleted – delegation (125).

Council 2 June 2015 C16/05/15

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

- (3) To prepare a structure plan, in terms of section 4(1).

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<sup>3</sup> EIA: A land use development application made in terms of LUPO which triggers a full scoping and environmental impact assessment as set out in the regulations promulgated in terms of the National Environmental Management Act (NEMA).

<sup>3</sup> TIA: A land use development application made in terms of LUPO which triggers any impact assessment dealing with traffic for a development which is likely or will generate 150 vehicles and more 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 Sub-council if there are objections from the public to the development application and the matter is within Sub-council boundaries and by the ED where there are no objections from the public to the development application. The trigger for determining whether a matter will be dealt with by SPELUM is the number of vehicles per hour, not the name of the assessment.

<sup>3</sup> HIA: A land use development application made in terms of LUPO which triggers a Heritage Impact Assessment report required in terms of section 38 of the National Heritage Resources Act, 25 of 1999 and which may or may not form part of the EIA referred to above. It does not include a Heritage statement.

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- (4) To comply with any requirements regarding 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).
- (5) 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 for approval, in terms of section 4(5).
- (6) 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).
- (7) 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.
- (8) To assess an application to amend a structure plan or to deal with an amendment or withdrawal of a structure plan, in terms of section 4(7).

#### *Amendment of the Zoning Scheme*

- (9) To recommend to the Executive Mayor to recommend the amendment, replacement or deletion of a scheduled condition/s contained in the scheme regulations in terms of section 9(2).

#### *Use Rights*

- (10) To determine what 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).
- (11) To substitute 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).

- (12) 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, in terms of section 14(5).
- (13) 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 terms of section 14(7).
- (14) To determine the utilisation of land referred to in section 8 for the purposes of section 14(3), as read with section 14(1).

#### *Departures*

- (15) To approve grant or refuse applications for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations concerned, including an alteration of the development rules or restrictions or provisions of any overlay zone, in terms of section 15(1).
- (16) To grant or refuse 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).
- (17) To grant or refuse an application by the owner to extend the period within which the use right must be exercised, in terms of section 15(5).

#### *Rezoning*

- (18) To grant or refuse an application by an owner of land or on application on the initiative of the Council in terms of section 18, for the rezoning thereof, in terms of section 16(1).
- (19) To prepare or cause to be prepared and submit an application in respect of which the City is not the registered or vested owner of land when the rezoning is required on the initiative of the City in terms of section 18.
- (20) To recommend to the Executive Mayor to grant or refuse an application made on the initiative of Council in respect of Council owned land in terms of section 18 as read with section 16(1).

- (21) To grant or refuse an extension of the validity period of two years in which the use right must be utilised, in terms of section 16(2).
- (22) To determine the utilisation of land for purposes of zoning in relation to land where a zoning has lapsed, in terms of section 16(2).
- (23) To approve the adoption, replacement or amendment of overlay zones that provide for development directives as set out in Chapter 15 of the Cape Town Zoning.

### *Subdivisions*

- (24) To authorise an exemption of a subdivision from the provisions of Chapter III of LUPO as provided for in terms of section 23.
- (25) 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.
- (26) 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).
- (27) 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).
- (28) 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).

- (29) To grant or refuse an extension in terms of section 27(1) of the validity period within which a subdivision of land must be confirmed.
- (30) To recommend to the Executive Mayor to grant or refuse an application made on the initiative of Council for and in respect of Council land in terms of section 25. (Include in Mayor's delegations as a designated power)

*Home Owners Association*

- (31) To impose conditions in relation to the compulsory establishment by the applicant for subdivision of a home owner's association, when granting of an application for subdivision, in terms of section 29(1).
- (32) 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 Legal Services.
- (33) 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*

- (34) 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 and after:
- (a) considering any objections received if the application of the proposed amendment or cancellation of a plan of subdivision was advertised, 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).

- (35) 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).

### *Conditions*

- (36) To impose conditions when granting an authorisation, exemption or application under LUPO, in terms of section 42(1)
- (37) In relation to a condition imposed by officials, and in cases where no objections have been received and after consultation with the owner of land concerned, to –.

- (a) waive or amend any condition, and
- (b) impose additional conditions

in terms of section 42(3)

- (38) To approve or amend a Site Development Plan or any other plan, method, statement, specification, document or approval required as a condition where a planning application has been approved subject to the submission and approval of a site development plan or any other such plan, method statement, specification, document or approval, notwithstanding the political structure/official who approved the application.

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- (39) In relation to a condition imposed by Provincial Government on appeal in terms section 44 of LUPO, to waive, amend or impose additional conditions in terms of section 42(3).

### *Zoning map and Register*

- (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)
- (41) To keep and maintain a register, in terms of section 12.
- (42) To amend a zoning map, in terms of section 14(4).
- (43) To amend the register and zoning map where a departure has lapsed wholly or partly, in terms of section 15(6).
- (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).
- (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).
- (46) To issue extracts of the zoning scheme or zoning scheme certificates in writing.

Registration of and building upon land units.

- (47) 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).
- (48) 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 approval.*

- (49) 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*

- (50) 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).
- (51) 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).
- (52) To determine contravention levies, in terms of Section 40(1)(d)(ii) and Section 40(3) of LUPO.
- (53) To recover from the owner any amount spent to rectify contraventions, in terms of section 40(2).

### *Right of entry*

- (54) 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 of the council's powers or duties in terms of LUPO,
- in terms of section 41.

### *Appeal in terms of section 44*

*Zoning Scheme*

- (59) To approve or amend site development plan required in terms of an applicable zoning scheme.

*Special Consent, Consent or Conditional Use In Terms of The Zoning Scheme Regulations*

- (60) To grant, with or without conditions, or refuse an application for the consent of Council, or a conditional use referred to in the Zoning Scheme Regulations in operation in Council's area of jurisdiction.

*In terms of the Cape Town Zoning Scheme  
which came into force on 1 March 2013*

- (61) To approve or refuse applications in terms of section 2.3.1 as submitted in terms of the new Zoning Scheme.
- (62) To impose conditions when approving an application in terms of the new Zoning Scheme.
- (63) To grant or refuse an extension of time within which to utilize land or to exercise an approval.
- (64) To impose further conditions or to waive or amend a condition after an approval has been granted and after consultation with the owner concerned.
- (65) To limit the approval of a consent use application to one or more uses included within the definition of the consent use concerned.
- (66) To notify or consult with owners where required to do so in terms of the new Zoning Scheme.

- (67) To serve notices calling for compliance with instructions set out in such notice and/or cessation of the use of premises in question for such land use activity.
- (68) To issue a notice calling for compliance with additional conditions or for the ceasing of specific activities by a specific date, where an additional use right is being or may be conducted in a manner that is (a) detrimental to the general purpose of the zoning scheme; (b) detrimental to the purpose of the zone; or (c) causing a nuisance.
- (69) To call for a cessation of the land use or activity, or impose conditions in order to minimize any potential nuisance to surrounding neighbours or the general public.
- (70) To perform all administrative functions set out in the new zoning scheme including the signature or all documentation, and to execute records or and update information required.
- (71) To determine that an application submitted in terms of the new zoning scheme is complete.
- (72) To refuse an application made in terms of the zoning scheme if an applicant fails to submit further information within the time frames determined.
- (73) To prepare a Contextual framework in respect of a particular development/site as a component of a package of plans.
- (74) To require a package of plans to be submitted for approval in terms of section 18(11).
- (75) To approve or refuse one or all components of a package of plans.
- (76) To prepare an overlay zone for the purposes of 14.1.5 and 14.1.6.
- (77) To designate an area to be subject to an overlay zone.

- (78) To designate by approval in terms of this zoning scheme any heritage place it considers in terms of its heritage strategy to be conservation worthy as a Heritage Protection Overlay zone.
- (79) To apply either the general provisions or specific provisions as set out in the overlay zones of the appendix document of the Cape Town Zoning Scheme.
- (80) To grant or refuse an application for an activity which cannot be carried out in an overlay zone unless the approval of Council has been granted.
- (81) To exempt a specific activity from the requirements of an Overlay zone where the overlay zone provides for such exemption.
- (82) In respect of land above Boyes Drive and subject to an overlay zone, to determine that Council is satisfied that the building to be erected or the subdivision of the land unit is desirable, that a satisfactory road system in accordance with Council's standards for the provision of services is possible, that the cost of providing and maintaining essential services will not be excessive in terms of the Boyes Drive Local Area Overlay Zone.
- (83) To, where provided for in the new zoning scheme, exercise the power to formulate requirements, formulate opinions and/or to make determinations.
- (84) To, when provided for in the new zoning scheme, exercise power to waive or exempt matters.
- (85) To exercise the power to approve as set out in the new Zonings scheme regulations.
- (86) To lay down restrictive requirements in the circumstances described in the new Zoning scheme.
- (87) To approve agreements provided for in the new Zoning Scheme and to enter into same provided that in cases relating to land owned by the City, after consultation with Property Management .

*Consent In Terms Of Title Deed Restrictions*

- (88) 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 land use planning or building development or aesthetic restrictions set in the title deed condition in relation to the property with the written consent of Council.
- (89) 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.

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

- (90) To identify City owned land that can be made available for designation in terms of section 3, after consultation with the Property Management Department.
- (91) To grant or refuse, with or without conditions, a consent in those areas where the power is delegated to Council.

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

- (92) 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).
- (93) 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.
- (94) 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.

- (95) 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 Sectional Titles Act No. 95 Of 1986 (as amended)*

- (96) 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*

- (97) 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)*

- (98) To approve Precinct Plans, Site Development Plans, Development Framework plans and amendments thereto arising out of agreements entered into in terms of the SATS Act, In terms of Section 13:
- (99) To determine uses which comply with the definitions of “ancillary uses” as provided for in Transportation Use Zones.
- (100) 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.
- (101) To determine deemed consents for non-Transport uses which pre-existed the Amendment Act,
- (102) To determine change of use which must be dealt with under LUPO.

*In terms of Roads Ordinance no 19 of 1976 Section 17*

- (103) 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.

*Naming of streets arising out of the approval of a land use application*

- (108) To name streets which arise out of the approval of a Land use application in accordance with the policy on Street Naming and Numbering, having regard to the criteria set out in Council's Naming policy, where the ED: EESP has the power to decide on the land use application.

*In terms of the City of Cape Town Municipal Planning By-Law,  
2015 (the By-Law)*

Delegations (109) to (164) inserted – Council 2 June 2015 C22/05/15

- (109) To advertise an application made by an owner to have the zoning map corrected-
- (a) to another owner if the application materially affects the other owner; and
  - (b) for public comment if the application materially affects the public, in terms of section 30(3).
- (110) To advertise an application or intention to make a determination contemplated in section 37(8) -
- (a) to the owner concerned if the owner is not the applicant;
  - (b) to another owner if the application materially affects the other owner; and
  - (c) for public comment if the application materially affects the public, in terms of section 37(9).
- (111) To, in the case of a rezoning other than a rezoning to subdivisional area, consent use or departure -
- (a) request the owner in writing prior to the lapsing period or extended lapsing period to submit proof that land is being used in accordance with the approval, in terms of section 47(4)(a).

- (112) To certify that a constitution of an owners' association complies with section 62(1)(a) of the By-Law.
- (113) To certify an amendment of the owners' association constitution, in terms of section 64(4).
- (114) To take appropriate action to rectify the failure of an owners' association to meet an obligation in section 61(5)(d) or section 62(1)(a)(ii) of the By-Law, where the City believes that the community is adversely affected by the failure, in terms of section 63(1).
- (115) To, if an owners' association ceases to function effectively or carry out its obligations, give the association a binding instruction to –
- (a) hold a meeting and to reconstitute itself; or
  - (b) dissolve itself, subject to the amendment of the conditions of approval relating to an obligation to establish an owner's association and the removal of relevant provisions in the title deed, in terms of section 63(4).
- (116) To require an applicant to consult with an authorised official prior to submitting an application in terms of the By-Law, in terms of section 70(1).
- (117) To refuse to accept an application, in terms of section 73(1).
- (118) To refuse to accept an application if an application is not accompanied by an application for any other approval required in terms of the By-Law, in terms of section 73(2).
- (119) To cause notice to be given of the City's intention to consider an application, in terms of section 79(1).
- (120) To require the use of or use any one or a combination of the methods of notice contemplated in terms of section, in terms of section 79(2).

- (121) To require an applicant to display a site notice, in terms of section 79(3).
- (122) To require that fresh notice of an application be given if a period of more than 24 months has elapsed since the first notice of the application and the application has not been decided, in terms of section 94(1).
- (123) To determine the manner of giving notice as contemplated in section 94(1).
- (124) To require notice of an application to be republished or served again and recirculated to departments at any stage during the processing of an application if new information comes to the City's attention which is material to the consideration of the application and which adversely affects any person, in terms of section 94(3).
- (125) To, without the applicant's agreement, extend the timeframe for making a decision on an application, in terms of section in terms of section 102(2) and to notify the applicant of the period of extension and the reasons for the extension.
- (126) To, if a decision is challenged in an application for administrative review before a competent court, consider an application for the suspension of the operation of that decision pending the final determination of the review, in terms of section 105(4).
- (127) To correct an error in the wording of a decision made by the City, as long as the correction does not change the decision or result in an alteration, suspension or deletion of a condition of the approval in terms of section 106(1).
- (128) To condone an error in the procedure in matters not categorised for decision making by the Municipal Planning Tribunal or an Authorised

Official provided that such condonation does not have a material adverse impact on or unreasonably prejudice any party.

- (129) To, after receipt of an appeal, request the Provincial Minister to comment in writing within 60 days on the appeal and request such comment if the appeal concerns an application referred to in section 45(1)(a) to (f) of the Land Use Planning Act.
- (130) To, on prior written request and written motivation by an applicant, determine that -
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of the By-Law, provided the public notice procedure meets the requirements of this By-Law; or
  - (b) an application made in terms of the By-Law may be published in accordance with the requirements of notice for a related application made in terms of another law, and which is regulated by a written agreement between the City and the organ of state responsible for administering the other law,in terms of section 113(1).
- (131) To enter into a written agreement with other organs of state to avoid duplication in the submission of information or the execution of a process for cases where a proposed development requires an application to the City and other organs of state, in terms of section 113(3).
- (132) To invite applications or nominations for persons to be appointed to the Municipal Planning Tribunal in a format determined by the City and by placing a notice in the media in accordance with the requirements of section 21 of the Municipal Systems Act and SPLUMA, in terms of section 115(3).

- (133) To, if no suitable applications or nominations are received as a result of the advertising process, invite and call for nominations for a second time, in terms of section 115(8).
- (134) To investigate a complaint within the time and in accordance with the procedure set out in guidelines adopted by the Department, in terms of section 125(2).
- (135) To inform a complainant of the outcome of the investigation within 30 days of the investigation being completed and the steps to be taken in the event that the City is of the opinion that the By-Law is being contravened, in terms of section 125(3).
- (136) To serve a notice on an owner or other person if there are reasonable grounds for believing that the owner or other person is in contravention of the By-Law, in terms of section 126(1).
- (137) To, if the City is of the opinion that an owner or other person is not complying with an approval for a temporary departure or an approval granted for a limited period of time, serve a notice on the owner or other person –
- (a) setting out the information contemplated in sections 126(2)(a)-126(2)(c); and
  - (b) inviting the owner or other person within a specified time to make written representations on the notice and to give reasons why the approval should not be withdrawn,
- in terms of section 127(1).
- (138) To, after considering any representations and reasons submitted, and if the City is satisfied that this By-Law is being contravened, decide to withdraw an approval contemplated in section 127(1).
- (139) To, once the withdrawal of an approval is effective, notify the owner or other person of the withdrawal and instruct the owner or other person to

- cease the activity in question and to take any other steps which the City considers necessary to comply with the By-Law immediately or within a time determined by the City in terms of section 127(2).
- (140) To, if the City is of the opinion that an owner or other person is in contravention of the By-Law, serve a notice, in terms of section 128(1).
- (141) To, after considering any representations and reasons submitted by the owner or other person, issue a directive if the opinion was formed that the By-Law is being contravened, in terms of section 128(2).
- (142) To authorise an official or any other person to act in terms of section 135 for the purposes of investigating any matter in connection with the By-Law, in terms of section 135.
- (143) To approve the naming of a street, in terms of section 136(1), in line with Council policy and in relation to a street created as a result of the approval of an application in terms of the By-Law or planning law.
- (144) To allocate a street number for each land unit located in the street, in terms of section 136(1).
- (145) To, on the City's own initiative, alter or amend a street name, in terms of section 136(7).
- (146) To name any unnamed street that arose from the approval of an application approved in terms of the By-Law or planning law, in terms of section 136(8).
- (147) To, subject to section 60 of the Land Use Planning Act, exempt in writing an application from compliance with the provisions of the By-Law to reduce the administrative burden of -
- (a) the provision of housing with the assistance of a state subsidy; or
  - (b) the incremental upgrading of an existing settlement,

in terms of section 140.

- (148) To perform all administrative functions set out in the By-Law, including the signature of all documentation, the execution of recordals, the updating of the zoning map and the zoning register, providing copies of documentation and payment of the prescribed fees and other information required, and giving notice of a decision, as required in terms of the By-Law.
- (149) To publish documentation on the City's website or by Provincial Gazette or notice, when required to do so, in terms of the By-Law.

*In terms of schedule 3 of the By-Law  
(Development Management Scheme)*

- (150) To limit the approval of a consent use application to one or more uses included within the definition of the consent use concerned.
- (151) To notify or consult with owners where required to do so in terms of the development management scheme.
- (152) To serve notices calling for compliance with instructions set out in such notice and/or cessation of the use of premises in question for such land use activity.
- (153) To call for a cessation of the land use or activity, or impose conditions in order to minimize any potential nuisance to surrounding neighbours or the general public.
- (154) To perform all administrative functions set out in the new zoning scheme including the signature of all documentation, and to execute recordals and update information required.
- (155) To prepare a contextual framework in respect of a particular development/site as a component of a package of plans.

- (156) To require a package of plans be submitted for approval in terms of item 136.
- (157) To approve or refuse one or all components of a package of plans.
- (158) To designate by approval in terms of the development management scheme any heritage place it considers in terms of its heritage strategy to be conservation worthy as a Heritage Protection Overlay zoning.
- (159) To apply either the general provisions or the specific provisions as set out in the overlay zonings.
- (160) In respect of land above Boyes Drive and subject to the overlay zone, determine that Council is satisfied that the building to be erected or the subdivision of the land unit is desirable, that a satisfactory road system in accordance with Council's standards for the provision of services is possible and that the cost of providing and maintaining essential services will not be excessive in terms of the Boyes Drive Local Area Overlay Zoning.
- (161) To, where provided for in the development management scheme, exercise the power to formulate requirements, formulate opinions and/or to make determinations.
- (162) To, when provided for in the development management scheme, exercise power to –
- a) waive a requirement; or
  - b) exempt matters.
- (163) To lay down restrictive requirements in the circumstances described in the development management scheme.

- (164) To approve agreements provided for in the development management scheme and to enter into same provided that in cases relating to land owned by the City, after consultation with Property Management.

## **2. 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 unauthorised 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).

*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).

- (18) To authorise a person to enter any building or land at any reasonable time to carry out inspections for the purposes referred to in section 15.

*Deviation and exemption from national building regulations.*

- (19) 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*

- (20) The application and enforcement of the National Building Regulations GNR 2378 of 12 October 1990 (as amended).

*In terms of Standard By-Law Relating To Antenna Systems For The Reception Of Television And Sound Broadcast Transmissions*

- (21) To require from any person intending to erect any antenna, plans and particulars in terms of Section 2(2)(b)
- (22) 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)
- (23) 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)

- (24) 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.

- (25) To exercise the City's right to grant deviations in terms of Section 3
- (26) 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).

- (27) 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).
- (28) 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).
- (29) 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).

- (30) 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*

- (31) 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.
- (32) 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.
- (33) 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.
- (34) 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.

*National Building Regulations and  
Building Standards Act no. 103 of 1977*

Council 2 June 2015 C16/05/15

- (35) To comment on Appeals lodged in term of section 9 of the National Building Regulations and Building Standards Act no. 103 of 1977 as read with the regulations thereto and authorising officials to appear at the Review Board Hearing of the appeal.

Council 2 June 2015 C16/05/15

### **3. Environmental Resource Management**

*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.

*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)  
as read with the & Nema Regulations***

*Chapter 5: Integrated Environmental Management*

(4) To apply to competent authority for rectification of unauthorised listed activities which were commenced without authorisation on Council land if requested to do so and to compile a report for the purposes in terms of section 24G (1)(a) if directed to do so by the competent authority.

*Chapter 7: Compliance, Enforcement & Protection*

- (5) 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, 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.
- (6) 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.
- (7) To take the measures considered necessary to give effect to 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).
- (8) To initiate the process for claiming reimbursement in the case of 30(8) from the person responsible in terms of section 30(9).
- (9) 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).
- (10) To take steps to institute a prosecution in respect of any breach or threatened breach of any duty, in the circumstances set out in section 33, 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

*Chapter 8: Environmental Management*  
*Cooperation Agreements (EMCA)*

- (11) 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)
- (12) To enter into agreements with Director-General (DG) so that the latter may fulfil his or her responsibilities in terms of section 39.
- (13) To recommend to the Executive Mayor 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 in terms of Section 42 . (Develop a delegation for the Executive Mayor)
- (14) To lodge an appeal:
  - (a) against a decision taken by any person acting under a power delegated by the Minister under NEMA or a specific environmental management Act, in terms of section 43.
  - (b) against any decision in respect of an environmental management programme or environmental authorisation in terms of section 43(1A).
  - (c) against a process related decision taken by a person to whom a function has been delegated in terms of section 42B, in terms of section 43 (1B).
  - (d) against a decision taken by any person acting under delegated authority or a specific environmental management Act, in terms of section 43(2).
  - (e) and in accordance with the requirements of Chapter 7 of Regulation R 543 dated 18 June 2010 or as amended or replaced from time to time.

- (f) to submit responding statements on an appeal lodged as provided for in Chapter 7 of Regulation R 543 dated 18 June 2010 or as amended or replaced from time to time.

*In terms of NEMA Regulations for Environmental Authorisations*

- (15) To make 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.
- (16) To comment on exemption applications from any provision of the Act in terms of Chapter 5
- (17) To receive notices of commencement of public participation processes, and to participate in the process - in terms of Chapter 6.
- (18) 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.
- (19) To submit responding statements on appeals in terms of Chapter 7.
- (20) To initiate, prepare and participate Environmental Management Frameworks.

*In terms of NEMA: Environmental Conservation Act 73 OF 1989 (ECA)*

*ECA Part VI: Regulations*

- (21) To perform functions or powers assigned to the municipality in respect of nature areas in a Regulation.

- (22) 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*

- (23) 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 the City to eliminate, reduce or prevent the damage, danger or detrimental effect, in terms of section 31(A)(1).
- (24) 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 City, in terms of section 31(A)(2).
- (25) To take necessary steps within the City itself to eliminate, reduce or prevent the damage, danger or detrimental effect in terms of section 31(A)(3).
- (26) To recover expenditure incurred in undertaking 31(a)(3) from the person concerned in terms of section 31(A)(4).

*Declaration of Lourens River Protected Natural Environment and the issuing of directions promulgated in terms of the Environment Conservation Act, 1989 and directions issued. PN 161/1997, promulgated in Gazette no 5135 on 9 May 1997.*

- (27) To grant or refuse the written approval required in terms of these directions with or without conditions, in respect of land situated within the Lourens River Protected Natural Environment.

*Directions in terms of Environment Conservation Act, 1989: PN 845 of 1991 as promulgated in Official Gazette 4727 dated 13 December 1991*

- (28) To grant or refuse written approval required in terms of these directions subject to the conditions set out in the approval in respect of land situated within the Protected Natural Environment.

***In terms of NEMA: Biodiversity Act No. 10 OF 2004 \****

- (29) To prepare a draft biodiversity management plans for EESP 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) and submit through to EESP to the Executive Mayor.
- (30) To carry out assigned responsibilities for implementing a biodiversity management plan in terms of section 43(2).
- (31) To enter into a biodiversity management agreement regarding the implementation of a biodiversity management plan or any aspect of it in terms of section 44.
- (32) To request the Minister to amend a biodiversity management plan, in terms of section 46(2) and to consult about implementation in terms of section 46.
- (33) To consult with the Minister, in cases where the City's activities are affected by the implementation of the plan, in terms of section 46 (3) and to consult about implementation in terms of section 46
- (34) To monitor the conservation status affecting biodiversity (if required by the Minister) and to submit a report to the Executive Mayor for onward transmission to the Minister in terms of section 49.

- (35) To prepare invasive species control plans in terms of section 76.
- (36) To prepare invasive species status reports in terms of section 77 in cases where the City is a Management Authority of a protected area.

***In terms of NEMA: Protected Areas Act No. 57 Of 2003 & Regulations***

- (37) To manage a nature reserve or protected environments (if assigned by the MEC or Minister as the case may be), in terms of section 38.
- (38) To participate in preparation of management plans in terms of section 39(3).
- (39) To submit a management plan for the protected area to the Minister or MEC for approval.
- (40) To ensure that applicable aspects of the municipality's IDP are incorporated into a management plan, in terms of section 39(4).
- (41) To ensure that the management authority is adhering to municipal by-laws, in terms of section 40(1)(iv).
- (42) To co-manage protected areas including exercise of powers, duties and regulation of human activities that affect the environment 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).
- (43) To implement the obligations imposed on the City in terms of any agreement entered into with the City, in terms of section 42.

- (44) 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).
- (45) 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 or regulations for nature reserves promulgated in terms of section 86.

*Regulations promulgated in terms of section 86(1) of the Protected Areas Act. (R. 99 dated 8 February 2012)*

- (46) To carry out the powers, functions, duties and responsibilities conferred on Management Authorities in cases where the City is the management authority for a nature reserve.
- (47) To manage nature reserves in terms of regulation 4(1) in cases where the City is a management authority.
- (48) To establish one or more advisory committees in respect of a nature reserve, in terms of regulation 10, in cases where the City is a management authority for a nature reserve.
- (49) To invite community organisations, non-governmental organisations, residents of and neighbouring communities to the nature reserve to nominate persons, who could be taken into consideration when members of advisory committees are appointed, in terms of subregulation (a).
- (50) To set the minimum requirements and other criteria which must be taken into consideration when deciding which persons to appoint as members of the advisory committee, in terms of subregulation 10 (b).

- (51) To determine a method which will enable the invitation contemplated in subregulation 10 (a) to reach the greatest number of residents of and, neighbouring communities to the nature reserve, in terms of sub regulation 10 (c).
- (52) To, after considering any nominations submitted in terms of regulation 10, appoint members to the advisory committee, in terms of regulation 12.
- (53) To nominate at least one employee of the City of Cape Town, to be an ex officio member of the advisory committee, in terms of regulation 12 as read with regulation 10.
- (54) To define the specific mandate of any advisory committee in writing in specific terms and in accordance with the requirements of the regulations., in terms of regulation 13.
- (55) To determine the period of appointment of a member of an advisory committee that may not exceed three years, in terms of regulation 14.

*In terms of National Heritage Resources Act 25 Of 1999 (NHRA) \**

*\*The City of Cape Town ERMD was deemed competent by Heritage Western Cape on 28 February 2013 to perform local authority functions in terms of the National Heritage Resources Act*

- (56) To apply for assessment of municipality's competence to perform functions under the Act, in terms of section 8(6)(c).
- (57) 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) the National Heritage Resources Act.

- (58) To manage Heritage Resources (policy, identify resources, assess and grade, perform local responsibilities, database), in terms of section 4 to 10.
- (59) To identify and manage Grade III heritage resources and heritage resources which are deemed to fall within the competence of the local authority, in terms of the Act, in terms of section 8(4).
- (60) To follow procedure for formal protection of heritage resources and make agreements with site owners, in terms of section 27.
- (61) To provisionally protect places considered conservation-worthy the conservation of which the City considers to be threatened, in terms of section 29(2).
- (62) To compile an inventory of heritage resources which fall within the City's area of jurisdiction and to submit such inventory to the provincial heritage resources authority, in terms of section 30(5).
- (63) To provide comment or a list to the provincial heritage authority on which aspects of the inventory should be listed in the heritage register and assist in compiling Cape Town's part of the Provincial Heritage Register,
- (64) To provide for protective provisions in the By-law or zoning scheme, and to grant or refuse special consent for any alteration to or development affecting a place listed in the heritage register.
- (65) To notify the Provincial heritage resources authority when a place within its area of jurisdiction which is listed on the heritage register, is destroyed, in terms of section 30(10).
- (66) To mark any place falling within the City's jurisdiction listed in a heritage register with a badge indicating its status, in terms of section 30 (13).

- (67) Provide for protection in By-law or zoning scheme, and require or to grant or refuse approval or refusal of consent for any alteration or development affecting a heritage in the area, in terms of section 31.
- (68) To require the owner to stop instantly any alteration or development being undertaken in a heritage area without the consent of the City and restore the site to its previous condition within a specified period, in terms of section 31(7)(c)
- (69) To commence proceedings to carry out restoration work and recover the cost from the owner if the owner fails to comply with the requirements of the City, in terms of section 31(7)(c)
- (70) To notify developers of requirement for Notifications of Intent to Develop (NID) Heritage Impact Assessment, (HIA); follow consideration procedures for NID's 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, or in cases where the power has been delegated to the City to deal with applications in terms of section 38.
- (71) To inform SAHRA of destruction of listed heritage place, in terms of section 39(3).
- (72) To enter into negotiations with the provincial Heritage Authority for the execution of a heritage agreements in terms of section 42(1).
- (73) To promote the presentation and use of heritage resources which form part of the national estate and for which the City is responsible, in terms of section 44.
- (74) To lodge an appeals against a decisions taken in terms of section 49.

- (75) To lay charges, to make submissions on whether an order should be made in terms of section 51(9) and the period such order should remain in place.
- (76) To assist and cooperate with heritage bodies, in terms of section 55.
- (77) 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 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;*

*Sections 1 to 8 - Applications*

- (78) To consider the content and completeness of applications.
- (79) 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'.
- (80) To approve the change in graphics on an existing approved sign structure, in terms of section 2.4.
- (81) 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.
- (82) To require additional drawings, calculations and other information from the person submitting a signage plan, in terms of section 2.7.

- (83) To require an applicant to submit an Environmental Impact Assessment, Heritage Impact Assessment and/or a Traffic Impact Assessment, in terms of section 3.
- (84) To require a public participation process prior to considering the approval, in terms of section 4.
- (85) 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.
- (86) 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*

- (87) To calculate the applicable fees, tariffs and charges
- (88) 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*

- (89) To apply minimum specific standards and criteria to Scheduled sign types and localities, in addition to general factors.
- (90) To grant or refuse 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.

### *Illumination*

- (91) 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.
- (92) 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*

- (93) 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*

(94) To grant or refuse any application made in terms of this By-law and impose conditions including those 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;

whether or not public objections have been received.

(95) 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.

(96) To make recommendations, on applications for outdoor advertising signs larger than 4,5 m<sup>2</sup> where public objections have been received.

(97) 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.

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

(99) 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.

(100) To make decisions and provide the outcome in writing within the timeframe.

*Sections 50 to 54 – Appeals*

(101) To comment on appeals to the appeal authority

*Sections 55 to 64 – Up-front approvals*

(102) To determine compliance with conditions for certain sign types (Section H) in terms of which approval is not required.;

(103) 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*

(104) To authorise officials to enter into and upon any premises at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this By-law.

*Sections 68 to 74 - Offences*

(105) To issue a written notice for contraventions or requiring discontinuance of a continuing offence.

### *Unlawful signs*

- (106) To dispose of unlawful signs removed by the Municipality, where such signs are not reclaimed within two months of date of removal, in terms of section 73.

### *Sections 75 to 85*

#### *Enforcement and Removal of Signs*

- (107) To, in cases where notice is required 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.
- (108) To withdraw or vary the notice by agreement with the person so served or by the service of a further notice.
- (109) 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.
- (110) To, remove or alter an unlawful sign erected, or to do such work as may be specified in the notice, after obtaining relief from an appropriate court, where the Municipality's demands as set out in the notice are not carried out within the time period specified therein, in terms of section 75.
- (111) To remove or alter an unlawful sign erected or displayed on Municipal property, or to do such work as may be specified in the notice, without a court order, where a notice in terms of section 75 is not heeded.
- (112) To remove a sign displayed in Municipal property in contravention of the By law in cases where no prior notice is required.

(113) 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.

(114) 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 carrying out or arranging for the removal of the sign from the owner or lessee of the sign, in terms of section 79.

#### *Schedules 1 to 17*

(115) To make amendments and modifications to areas of control and to approve a list or map of designated areas, prohibited areas and Areas of Control.

#### *Schedules 2-17*

(116) To waive, or refuse to waive parameters set out in Schedules 4 and 5 where the power to waive is provided for.

(117) To determine that the specified standards are criteria set out in the schedules for a specified signs, have been met.

(118) To grant or refuse written permission for more than one banner for a period not exceeding 10 days unless a longer period is specified in the approval, in terms of Schedule 10 (10).

(119) To, assess, designations and areas of control, 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)*

- (120) To determine requirements for the Operational Environmental Management System in consultative process in terms of section 13.
- (121) 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*

- (122) To deal with all duties, powers and functions conferred on the City in terms of the Nature and Environmental Conservation Ordinance of 1974.
- (123) To appoint persons as nature conservation rangers, subject to the law governing the appointment of employees of such local authority, for the purposes of carrying out the provisions of this ordinance within the area of jurisdiction of such local authority, in terms of section 23 (1).

*In terms of Designation of Conservation Area: Clifton, Glen Beach and Bakoven Bungalow Area, By-Law No 1286 OF 1998 GG 19337\**

- (124) To exercise powers and duties conferred in terms of section 58 (11) of the National Heritage Resources Act 25 of 1999.

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

- (125) To administer the provisions of the National Environmental Management: Integrated Coastal Management Act 24 of 2008 to the extent that it is applicable to the City and subject to Council's approval of any implementation strategy.

## **- PART 37 -**

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

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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 Executive Director: Safety and Security including the power to sub delegate:*

- Fire and Rescue Services
- Municipal Disaster Risk Management
- 107 Public Emergency Communication Centre
- Metro Police
- Law Enforcement and Specialised Services
- Traffic Services

#### **1. General**

- (1) Deleted.

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- (2) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.

*In terms of the Tobacco Products Control Act of 1993 as amended*

- (3) To enforce the Tobacco Products Control Act, 1993 and amendments including all regulations made under the Act with the exception of enforcing the penal provisions related to the following:
- Act 23 of 2007, Section 2 (1) a, 2 (2) as it relates to public conveyances, 2(3), 2(4) as it relates to public conveyances, and 2 (6).

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- (4) To make area specific statistics available to Sub- councils.

## **2. Payment of Rewards**

- (1) To authorise the payment of rewards for information on criminal activities in the Cape Metro Area being reported to the City's three policing departments.
- (2) To authorise the payment of a reward not exceeding R1 000 to any person for information provided;
- a) payment of the reward will be considered for information that leads to:
- i) an arrest, confiscation of stolen or illegal goods or the handing-in of illegal or stolen goods with the understanding that opening of a formal case docket and provision of the relevant CAS number will be a prerequisite for such payment;
  - ii) any other consequence, which, in the discretion of the Executive Director, will promote good governance in the City, enable the Council to achieve substantial savings, recover monies due to it or implement measures which substantially improve the manner in which it conducts its business.
- b) the exercise of such delegation be done in terms of a standard operating procedure to be approved by the City Manager and Chief Financial Officer to ensure accountability and good governance, including provisions for the protection of the identify of informers where appropriate.

## **3. Emergency Services**

### *Municipal 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 municipality.

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- (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) Deleted.

Council 2 June 2015 C16/05/15

*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.

#### **4. Traffic Services**

*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 the City with regard to:

Council 2 June 2015 C16/05/15

- (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

## **5. Metropolitan Police**

*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.
- (3) Deleted.

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*Regulations for Municipal Police Services*

*In terms of Government Gazette 11 June 1999*

- (4) 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)*

- (5) 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).
- (6) To issue a permit to an employee to possess and use a firearm under its control in terms of section 98 (2).
- (7) To authorise 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.
- (8) To authorise the storage and transport of firearms and ammunition in the prescribed manner in terms of section 83.
- (9) To authorise the acquisition, use, safe keeping and disposal of firearms, subject to the conditions imposed by the Registrar in terms of section 97.

- (10) 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.
- (11) 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.
- (12) To authorise 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.
- (13) To report the loss or theft of any firearm immediately to the Registrar and to the nearest police station.
- (14) To dispose of or destroy a firearm in the prescribed manner.

## **- PART 38 –**

### **EXECUTIVE DIRECTOR: UTILITY SERVICES**

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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 Executive Director: Utility Services including the power to sub delegate:*

- Electricity
- Water and Sanitation
- Solid Waste Management

Council 2 June 2015 C16/05/15

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.

#### **2. Solid Waste**

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 Management Tariffs (Tariff Policy)*

Council 2 June 2015 C16/05/15

- (5) To authorise the issuing of refuse bags at no cost for cleanup campaigns
- (6) To authorise the adjustment of specifically refuse accounts, on submission of plausible evidence by the account holder in terms of clause 14 of the Waste Management Tariff Policy. This delegation cannot be sub delegated in terms of the Policy.
- (7) To invoke departure from any section/clause of the Waste Management Tariff Policy where there are sound documented practical reasons that prevent the implementation thereof in terms of clause 21 of the Waste Management Tariff Policy.
- (8) To authorise the issuing of free unsifted compost on request with the proviso barring the recipient from selling or obtaining material gain as a result – in terms of clause 1.3.5.1.2.7 of the Solid Waste Management Tariff Book.
- (9A) To authorize refunds in respect of waste disposal coupons and special waste permits that have been lawfully obtained, but not tendered by the eligible holder of waste disposal purposes.

Council 2 June 2015 C16/05/15

*In terms of Integrated Waste Management By-Law, 2009 as amended 2010  
And Policy for the Accreditation of Service Providers  
of Waste Management Services in Cape Town, 2009*

Council 2 June 2015 C16/05/15

- (9) If an emergency occurs by an act of God, the City will deal with such *emergency in such manner as the circumstances and funding may allow* in terms of section 8 (5).

Council 2 June 2015 C16/05/15

- (10) Exempt one of the waste generators for the categories of waste referred to in section 10(10) (j) from submitting a waste management plan.

- (10A) Consider, in terms of section 10(6), of the *Policy for the Accreditation of Service Providers of Waste Management Services in Cape Town 2009*, integrated waste management plans, request additional information or a revised plan, reject, approve such a plan and specify conditions.

Council 2 June 2015 C16/05/15

- (11) Deleted.

Council 2 June 2015 C16/05/15

- (11A) To accredit entities or persons providing waste management services, a person who undertakes a recycling, re-use or recovery activity or who sorts waste, including scrap dealers, buy back centres and formalised recycling groups, which are compliant with national and provincial legislation and criteria determined by the Council in terms of section 13(1), 13(2) and 17(1).

Council 2 June 2015 C16/05/15

- (12) Keep an updated record of registered accredited service providers in terms of section 17 (6).

- (13) To draft and submit guidelines to Council for approval in terms of section 7(2), *Policy for the Accreditation of Service Providers of Waste Management Services in Cape Town 2009*, insofar as may be necessary in respect of categorisation of waste.

Council 2 June 2015 C16/05/15

- (14) To authorise the removal of hazardous waste and issue notices in terms of section 15(7).

Council 2 June 2015 C16/05/15

*In terms of the National Environmental Management:  
Waste Act, Act No 59 of 2008*

Council 2 June 2015 C16/05/15

- (15) To store, verify, analyse, evaluate and provide data and information in terms of section 61 of the Act.

Council 2 June 2015 C16/05/15

- (16) To designate a waste management control officer in terms of section 58 of the Act.

Council 2 June 2015 C16/05/15

### **3. Water and Sanitation**

*In terms of National Water Act: Act 36 of 1998.*

- (1) To prevent and remedy effects of pollution, in terms of section 19.
- (2) To control emergency incidents, in terms of section 20.
- (3) To ensure all water uses including abstraction, storage, discharge to a water resource and other are licensed/lawful/permissible under a general authorisation, in terms of section 21-22.
- (4) To declare existing lawful water uses and where required apply for verification, in terms of section 33-35.

- (5) To apply for a license to use water and pay for water use charges, in terms of section 40 & 59.
- (6) To provide information on water resources to the Minister as required, in terms of sections 141.
- (7) To exercise the powers in terms of sections 118 and 120.
- (8) To comply with General Authorisation in terms of section 39 and Government Notice 36820 dated 6 September 2013 as amended.

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*In terms of Water Services Act: Act 108 of 1997.*

- (9) To exercise powers in terms of sections 1 – 27.
- (10) Deleted.

Council 2 June 2015 C16/05/15

## **- PART 39 -**

### COMMISSIONER: TRANSPORT FOR CAPE TOWN

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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 Commissioner: Transport for Cape Town including the power to sub delegate:*

- Contract Operations
- Financial Management
- Infrastructure
- Asset Management and Maintenance
- Network Management
- Planning
- Regulations
- Transport for Cape Town Performance and Co-ordination

Council 2 June 2015 C16/05/15

#### **1. General**

- (1) To develop and implement the City's SDBIP in respect of the above functional areas and to ensure that it is aligned to the City's IDP.
- (2) To in consultation with the CFO, approve or refuse any applications from non-governmental organisations or registered neighbourhood watches to waive the payment of a site rental fee received from any such organization after recommendation by the relevant sub-council.

Council 29 May 2014 C39/05/14

#### **2. Transport**

### *Urban Transport Act 78 of 1977*

- (1) To prepare a transport plan in terms of Section 17(a) and (c).
- (2) To implement any applicable approved transport plan in terms of Section 17(b).
- (3) 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).
- (4) 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).
- (5) To administer the Consolidated Metropolitan Transport Fund in terms of Section 17(i).
- (6) To conduct a program to involve the public in planning of urban transport facilities in terms of Section 17(l).

### *Road Authority*

- (7) To undertake and approve the planning, design, construction, reconstruction and maintenance of all streets and roads, including associated infrastructure.
- (8) 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.

### *Public Transport and Infrastructure*

*and Systems Grants and other related Funds*

- (9) To sign all documents on behalf of the City of Cape Town that give effect to all projects approved by the Council to be funded from the Public Transport and Infrastructure and Systems Grant.
- (10) To implement all actions approved by the Council associated with the Public Transport Infrastructure Systems Grant and other related Transport for Cape Town funds.
- (11) To confirm acceptance of all funds associated with the Public Transport Infrastructure and Systems Grant and other related Transport for Cape Town funds.
- (12) To report to the Provincial and National Departments of Transport and National Treasury in the prescribed form regarding the Public Transport Infrastructure and Systems Grant and other related Transport for Cape Town funds.
- (13) To enter into Memorandum of Agreements on projects approved by the Council in terms of the Public Transport Infrastructure and Systems Grant.

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

- (14) To develop a land transport policy and strategy for approval by Council, in terms of section 11.
- (15) To draft appropriate by-laws and agreements as may be required in terms of the act, in terms of section 11.
- (16) 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.
- (17) 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.
  - (18) 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.
  - (19) To manage the movement of persons and goods on land within the City by co-ordinating such movement, in terms of section 11.
  - (20) 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.
  - (21) 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.
  - (22) To develop, operate and maintain a land transport information system for the City, in terms of section 11.
  - (23) 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.
  - (24) To market and promote public transport and promote publicity associated with the public transport system, in terms of section 11.

- (25) To provide information to users or potential users of public transport, in terms of section 11.
- (26) To promote safety and security in public transport, in terms of section 11.
- (27) 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.
- (28) 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.
- (29) To apply traffic management techniques aimed at improving road traffic movement, in terms of section 11.
- (30) To undertake functions relating to municipal roads, as well as measures to limit damage to the road system, in terms of section 11.
- (31) 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.
- (32) 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.
- (33) 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.

- (34) 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.
- (35) To formulate and apply travel demand management measures for the City, in terms of section 11.
- (36) 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.
- (37) To determine concessionary fares for special categories of passengers, in terms of section 11.
- (38) 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;
- (39) To conclude subsidised service contracts, commercial service contracts, and negotiated contracts with operators for services within their areas, in terms of section 11.
- (40) To develop and manage intelligent transport systems for the City, in terms of section 11.
- (41) To prepare integrated transport plans for approval by Council, in terms of section 14.

- (42) 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.
- (43) To establish an intermodal planning committee, in terms of section 15.
- (44) To establish a land transport advisory board, in terms of section 16.
- (45) To establish a division within the City's administration to perform any assigned operating licence function, in terms of section 17.
- (46) 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.
- (47) To receive and decide on applications relating to operating licences for services in the City, in terms of section 18.
- (48) To give notice that the City will no longer receive applications for operating licenses for new services, in terms of section 18.
- (49) To establish a call centre where passengers and other interested persons may lodge complaints or inquiries, in terms of section 18.
- (50) To establish an inter-municipality forum, in terms of section 19.
- (51) To administer the Municipal Land Transport Fund, in terms of section 27.
- (52) To invest money in the Municipal Land Transport Fund that is not immediately required, in terms of section 27.
- (53) To keep proper accounts of all money accruing to or paid out of the Municipal Land Transport Fund, in terms of section 27.

- (54) 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.
- (55) 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.
- (56) To prepare and submit to the MEC, integrated transport plans, in terms of section 36.
- (57) 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.
- (58) 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.
- (59) To develop a freight transport strategy, with due regard to national and provincial policy, in terms of section 37.
- (60) 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.
- (61) 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.
- (62) 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.
- (63) 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.
- (64) 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
- (65) 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.
- (66) To enter into negotiated contracts with operators, in terms of section 41.
- (67) To take appropriate steps on a timeous basis to ensure that the services are put out to tender, in terms of section 42.
- (68) To enter into a subsidised service contract with an operator, in terms of section 42.

- (69) To enter into a commercial service contract with an operator, in terms of section 43.
- (70) To appoint employees as inspectors, in terms of section 86.
- (71) To identify and recommend to Council any suitable place to be designated as a depot, in terms of section 87.
- (72) To appoint an authorised person as the head of a depot, in terms of section 87.

*Urban Transport Act 78 Of 1977*

- (73) 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).
- (74) To conduct investigations in relation to the various aspects of transport in terms of Section 17(e).
- (75) Revise and bring up to date the approved transport plan in terms of Section 17(f)

*In terms of National Road Traffic Act 93 Of 1996*

- (76) To authorise the display of traffic lights in terms of section 57

*In terms of Road Traffic Act 29/1989*

- (77) To authorise races and sport on Public Roads in terms of section 11(3).

*In terms of Land Use Planning Ordinance and its Regulations*

- (78) 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*

- (79) 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.

*In terms of Roads Ordinance (No. 19 of 1976)*

- (80) 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).
- (81) 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).
- (82) To erect and maintain all direction and warning signposts, distance indicators on public (proclaimed) roads in terms of section 10.
- (83) 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.
- (84) To erect and maintain fences along public (proclaimed) roads in accordance with policy in terms of section 12.
- (85) To regulate and manage the erection of gates across any public (proclaimed) road in terms of section 13.

- (86) To remove gates across public (proclaimed) roads in terms of section 14.
- (87) To construct, divert or close a motor by-pass alongside a gate on any public (proclaimed) road in terms of section 15.
- (88) 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.
- (89) To regulate and manage the erection of any structure on or near a public (proclaimed) road in terms of section 17.
- (90) 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.
- (91) 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.
- (92) To regulate and manage access to and exit from public (proclaimed) roads in terms of section 18.
- (93) 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).
- (94) To erect and maintain appropriate signs indicating the temporary closing or diversion of public (proclaimed) roads in terms of section 20.

- (95) To authorise the inspection of property for any purpose as required by this Ordinance in terms of section 28.
- (96) To authorise the right of entry/access to any land for road related purposes in terms of section 59.
- (96A) 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.

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- (96B) 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.

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- (96C) 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.

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*In terms of Advertising on Roads and  
Ribbon Development Act (No. 21 of 1940)*

- (97) 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.
- (98) To regulate and manage the erection of structures near building restriction roads outside the urban area in terms of section 9.

- (99) 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.
- (100) 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.
- (101) 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)*

- (102) To make and construct, reconstruct, alter and maintain public streets in terms of section 129(a).
- (103) 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.
- (104) To authorise the right of entry/access to any property for the purpose of inspection or doing anything authorised 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*

- (105) 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.

- (106) 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).
- (107) To comment on whenever an application is made to plant a tree or shrub in a public road in terms of section 7 (1).
- (108) 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.
- (109) To authorise, regulate and manage any excavations in a public road in terms of section 9.
- (110) 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.
- (111) To comment on the control of amusement shows and devices in a public street in terms of section 17.

*In terms of National Road Traffic Act (No 93 of 1996)*

- (112) 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).
- (113) 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)***

- (114) 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).
- (115) 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).
- (116) 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).
- (117) 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).
- (118) 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*

- (119) 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.

*In terms of By-law relating to*

*Stormwater Management (PN 31420/2005)*

- (120) 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.
- (121) 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).
- (122) 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).
- (123) 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).
- (124) 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).
- (125) To approve or deny applications to make openings in stormwater pipes, canals or culverts and impose any conditions in terms of section 4(e).
- (126) 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).
- (127) 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).

- (128) 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).
- (129) 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).
- (130) 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).
- (131) 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.
- (132) 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).
- (133) 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).
- (134) 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).
- (135) To determine whether stormwater from any municipal service works may discharge into a natural watercourse in terms of section 9(1)(b).

- (136) 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).
- (137) 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).
- (138) To give instructions for the removal of anything that may obstruct, endanger or destroy a stormwater system in terms of section 10(1)(e).
- (139) 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).
- (140) 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).
- (141) 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).
- (142) 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).
- (143) 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).
- (144) To determine the necessity for the discharge of stormwater into any watercourse section 10(1)(j).

(145) 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).

(146) 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).

(147) To decide within its area of jurisdiction where traffic calming measures are to be applied within in terms of the relevant legislation and policy and; after considering a report from the Transport for Cape Town

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

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

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(150) To approve or refuse any application for the placement of security huts on City-owned land, provided that all technical requirements have been met to the satisfaction of the Commissioner: Transport for Cape Town.

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(151) To recommend to the Commissioner: Transport for Cape Town, who in consultation with the CFO, approves or refuses any applications from non-governmental organisations or registered neighbourhood watches to waive the payment of a site rental fee received from any such organization.

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(152) To approve a wayleave in a road reserve.

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## **- PART 40 -**

### **BUILDING CONTROL OFFICER**

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*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 authorises 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:*

#### **1. Function Specific Delegations**

- (1) to an official holding the position of Senior Professional Officer or Section Head BDM the power to make recommendations on all plans where the architectural floor area is less than 10 000m<sup>2</sup>;

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- (2) to an official holding the position of Chief, Principle or Senior Plans Examiner the power to make recommendations on all plans where the architectural floor area is less than 2 500m<sup>2</sup>.

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## DELEGATION OF POWERS TO COMMITTEES OF OFFICIALS

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- Supply Chain Management Bid Adjudication Committee
- Immoveable Property Adjudication Committee

## **- PART 41 -**

### **SUPPLY CHAIN MANAGEMENT BID ADJUDICATION COMMITTEE**

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*Acting in terms of section 59 of the Systems Act 32 of 2000, Council hereby delegates the following powers, functions and duties to the Bid Adjudication Committee, these may not be delegated or sub-delegated:*

#### **1. Function Specific Delegations**

(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.

(2) To cancel any competitive bidding process and/or any item contained in such a tender after consideration of a written report from a Bid Evaluation Committee containing a recommendation to cancel, provided that such report has been signed by the relevant Executive Director and the report justifies such action.

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(3) To approve awards to other organs of state as contemplated in section 110 of the Municipal Finance Management Act.

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(4) To approve and award a tender or to approve and award any part of such a tender.

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## **- PART 42 -**

### IMMOVEABLE PROPERTY ADJUDICATION COMMITTEE

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*Acting in terms of section 59 of the Systems Act 32 of 2000, Council hereby delegates the following powers, functions and duties to the Immoveable Property Adjudication Committee, these may not be delegated or sub-delegated:*

#### **1. Function Specific Delegations**

- (1) To make recommendations to Council on the exercise of its powers in terms of Section 14 of the MFMA in so far as it relates to Immoveable Property.

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- (2) To make recommendations to Council on the exercise of its powers in terms of the Municipal Asset Transfer Regulations in so far as it relates to Immoveable Property.

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- (3) To make recommendations to the City Manager on the exercise of his/her powers in terms of the Municipal Asset Transfer Regulations in so far as it relates to Immoveable Property, excluding recommendations relating to rights granted in terms of Delegation 24(5), (8) and (11) of Part 27.

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- (4) To approve or not approve transfer of ownership or disposal or granting of rights of non-exempted immovable capital assets provided that:

- (a) Public participation process has been conducted (where necessary);
- (b) S14 MFMA determinations; and
- (c) Approval in principle in terms of the Municipal Asset Transfer Regulations or approval by the decision making authority at the time prior to the Municipal Asset Transfer Regulations has been completed,

and subject to final approval not being materially or significantly different from the consideration by Council.

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## **- PART 43 -**

### **ENERGY AND CLIMATE CHANGE COMMITTEE**

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*The committee exercises oversight in respect of the following functions:*

- Energy
- Climate Change

*Acting in terms of section 59 of the Systems Act, Council hereby delegates within the functional area of the committee the following powers, functions and duties to the Energy and Climate Change Committee including the power to sub delegate any of their delegated powers, functions and duties:*

#### **1. Specific Delegations**

- (1) To develop and review policy and recommend same to the Executive Mayor.
- (2) To develop and review by-laws and recommend same to the Executive Mayor.
- (3) To make recommendations to the Executive Mayor in regard to the draft IDP including amendments to the IDP during the annual review thereof for consideration by Council.
- (4) To monitor the implementation of Council's IDP, budget, business plans, strategic objectives, policies and programmes in relation to their functional area, and report thereon to the Executive Mayor.
- (5) To assess service delivery outcomes within their functional area and report to the Executive Mayor.
- (6) To assist the Executive Mayor in determining the best way, including partnerships and other approaches, to deliver on Council's strategies,

programmes and services to the maximum benefit of the City within the committee's functional area and to recommend the same to the Executive Mayor.

- (7) To assist the Executive Mayor in identifying 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, in terms of section 56 (2)(a) of the Municipal Structures Act 117 of 1998.
- (8) To review and evaluate the needs of the municipality in order of priority and recommend the same to the Executive Mayor, in terms of section 56 (2)(b) of the Municipal Structures Act 117 of 1998.
- (9) To recommend to the Executive Mayor appropriate comments on National and Provincial draft legislation, regulations and policy frameworks that affect the committee.
- (10) To require Councillor(s) and/ or official(s) to submit report(s) to the Committee to assist the Committee in the performance of its functions within its functional area.
- (11) To undertake inspections in regard to matters relating to the committee's oversight functions.
- (12) To monitor the regular updating of the City of Cape Town's energy and carbon emissions profile through Energy Futures studies.
- (13) To monitor and recommend to the Executive Mayor on the implementation and regular reviews of the Energy and Climate Change Action Plan, including ensuring that:
  - (a) projects associated with this plan are included in the draft business plans and SDBIPs of relevant line departments;
  - (b) the plan contributes to resource efficiency, reduces the City's carbon footprint and builds the City's resilience to climate change;

- (c) the plan maximises job creation and economic benefits to the City; and
  - (d) the plan is in line with national and provincial legal and regulatory requirements.
- (14) To advise and recommend to the Executive Mayor on the development of an economic case for resource efficiency in the City of Cape Town, including a sustainable financial model for the City which is not dependent on electricity and water sales.

Entire Part 43 inserted – Council 2 June 2015 C16/05/15