

Council's System of Delegations



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

SCHEDULE OF AMENDMENTS TO SYSTEM OF DELEGATONS

THE ORIGINAL SYSTEM OF DELEGATIONS WAS ADOPTED BY COUNCIL ON 11 AUGUST
2016 SEE ITEM C12/08/16

SUBSEQUENT AMENDMENTS:

26 OCTOBER 2016	C18/10/2016
7 DECEMBER 2016	C20A/12/16
31 MAY 2017	C12/05/17 CIC03/05/17 C13/05/17 (CAME INTO EFFECT AS FROM 7 JULY 2017)
19 JANUARY 2018	SPC04/01/18
31 MAY 2018	C37A/05/18 C22/05/18

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DEFINITIONS

Unless the context otherwise indicates:

“Comment” in relation to the development and review of policies and by-laws, means giving input to the proposed policy or by-law and recommending same to the Executive Mayor.

“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”.

“Consensus” means that in coming to that decision, no one felt that his/her position on the matter was misunderstood or that it was not given a proper hearing. Pressure and trade-offs are replaced with creative alternatives, and compromise with synthesis, pto. However, if a member is not happy with the decision being put forward such member must explicitly state that he/she disagrees.

INTRODUCTION

Principles underpinning the compilation and revision of the System of Delegations:

The System of Delegations forms an essential part of our governance framework in the City. It stipulates rights conferred by Council from a range of sources including legislation, by-laws, regulations, oversight requirements, and operational requirements.

However, it is not the place of the System to replicate all of these instruments. Indeed, this System is to be read in conjunction with other instruments crucial to governance including relevant legislation, regulations, by-laws and policies, standard operating procedures, and terms of reference for committees. Where legislation and regulations require clarification in assigning multiple roles, such clarification is provided for in the System of Delegations.

This System of Delegations has been revised and updated to give expression to the City's efforts to modernise and reform itself organisationally, promote even better service delivery with an area focus, and overcome the spatial legacy of apartheid. These efforts are encapsulated in the Organisational Development and Transformation Plan (ODTP).

At its core, this System of Delegations, when read in conjunction with management and operational procedures, gives life to transversal management and the creation of a more efficient, effective, and responsive organisation.

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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:

- o the Executive Mayor and by designating certain of these powers, functions and duties in terms of the Structures Act
- o the Executive Deputy Mayor
- o the Speaker
- o the Chief Whip
- o the Portfolio and Cluster Committee Chairpersons
- o the Sub-council Chairpersons
- o the section 79 Committees
- o Sub-councils
- o Special Events Committee
- o Naming and Nomination Committee
- o Rules Committee
- o Disciplinary Committee
- o Municipal Public Accounts Committee
- o General Appeals Committee
- o Interim Planning Committee
- o Ward Committees

and various officials in the administration. 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 unreasonably 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.

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, the 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 thereon.

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

DELEGATION OF POWERS TO POLITICAL OFFICE BEARERS

- Executive Mayor
- Executive Deputy Mayor
- Speaker

- PART 1 -

EXECUTIVE MAYOR DESIGNATED STATUTORY POWERS, DUTIES AND RIGHTS

The Executive Mayor has extensive statutory powers and duties. The most important sources thereof are the Structures Act, Systems Act, and the 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, and with the consensus of the Mayoral Committee (in terms of section 59(1) and 59(2)(c) of the Municipal Systems Act). **(Note: Designated powers cannot be sub-delegated by the Executive Mayor.)** If there is a lack of consensus, the requested authority must be escalated to the Council.*

Council 31 May 2018 C37A/05/18

A. The MFMA

Budget processes and related matters [Section 53]

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| <p>(1)(a) Must provide general political guidance over the budget process and the priorities that must guide the preparation of a budget.</p> <p>(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.</p> |
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EXECUTIVE MAYOR DELEGATED POWERS

*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, and with the consensus of the Mayoral Committee (in terms of section 59(1) and 59(2)(c) of the Municipal Systems Act). **(Note: Designated powers cannot be sub-delegated by the Executive Mayor.)** If there is a lack of consensus, the requested authority must be escalated to the Council.*

Council 31 May 2018 C37A/05/18

1. Civic and Ceremonial Duties

As Council resolution C37A/05/18 requires, at (c), that in the case of the ceremonial duties of the Executive Mayor per Section 49(1)(b) of the Municipal Structures Act, the Executive Mayor shall conduct ceremonial duties as listed by the current System of Delegations as 'Civic and Ceremonial Duties' after a consideration by the Mayoral Committee of all matters pertaining to Civic and Ceremonial duties and their appropriate allocation. Consideration by the Mayoral Committee shall be on the basis of consensus; if there is a lack of consensus, the matter should be referred to the Speaker for allocation of Civic and Ceremonial duties- in such cases, the Speaker must submit a consolidated report of such decisions to the next Council meeting for noting.

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| (1) To receive and interview representatives and delegations from international and national agencies, public interest groups etc. |
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- (2) To represent the Council at meetings and functions other than those outside bodies to which Councillors have been nominated.

Council 31 May 2018 C37A/05/18

- (3) To make media statements on all matters on behalf of the City.

Council 31 May 2018 C37A/05/18

- (4) To perform the following ceremonial duties:

- (a) Opening projects, civic functions and events, and new buildings;
- (b) Hosting and welcoming dignitaries.

Council 31 May 2018 C37A/05/18

- (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.

Council 31 May 2018 C37A/05/18

- (6) To enter into co-operative agreements, memoranda of understanding and protocol agreements with other cities, Foundations, international organisations and pledges on international matters of public interest, provided that these do not create any financial obligations.

Council 31 May 2018 C37A/05/18

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.

Council 19 January 2018 SPC04/01/18

- (2) To nominate to, or remove or recall Councillors from outside bodies.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

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.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (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 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.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (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.

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- (6) Deleted.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (8) To approve and submit comments on proposed legislation, regulations, policy frameworks, guidelines etc. including comments required in terms of any legislation.

Council 19 January 2018 SPC04/01/18

(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.

Council 19 January 2018 SPC04/01/18

(11) To enter into implementation protocol agreements in accordance with section 35 of the Intergovernmental Relations Framework Act No. 13 of 2005.

Council 19 January 2018 SPC04/01/18

(12) To authorise appeals in terms of any legislation where such legislation makes provision for appeals, except where otherwise indicated in this System of Delegation.

Council 19 January 2018 SPC04/01/18

(13) To monitor the statistics of the municipal courts.

Council 19 January 2018 SPC04/01/18

4. Human Resources

- (1) To exercise the powers, duties and functions in terms of Chapter 3 section 13 of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers as published in GN 21 in GG37245 dated 17 January 2014.

Council 19 January 2018 SPC04/01/18

- (2) 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.

Council 19 January 2018 SPC04/01/18

- (3) To approve the remuneration packages of the City Manager and managers directly accountable to the City Manager as per notices issued in terms of the Local Government: Municipal Performance Regulations on the Appointment and Conditions of Employment and Conditions of Employment of Senior Managers (GN 21 of 17 January 2014) for Municipal Managers and Managers directly accountable to Municipal Managers, GG 37245 of 17 January 2014 read with section 60 of the Systems Act.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

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

Council 19 January 2018 SPC04/01/18

- (6) To grant travel authority for non-officials attending to official City business abroad on behalf of the City.

Council 19 January 2018 SPC04/01/18

- (7) To report to Council on the evaluation of the performance of the City Manager and managers directly accountable to him/her in terms of their performance agreements.

Council 19 January 2018 SPC04/01/18

- (8) To recommend the payment of or to make recommendations to Council in regard to substandard performance after an evaluation of performance and approval of such evaluation by Council as per section 57 of the Systems Act.

Council 19 January 2018 SPC04/01/18

- (9) To grant the City Manager leave and sick leave.

Council 31 May 2018 C37A/05/18

- (10) 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.

Council 31 May 2018 C37A/05/18

- (11) To appoint in vacant positions, 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 31 May 2018 C37A/05/18

(12) 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.

Council 19 January 2018 SPC04/01/18

(13) To approve the total staff establishment for the municipality subject to Council approved policies.

(14) 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 19 January 2018 SPC04/01/18

(15) To appoint any Mayoral Committee Member to act as Executive Mayor, in the absence or unavailability of both the Executive Mayor and Executive Deputy Mayor.

NOTE: Council designated, in the absence or unavailability of both the Executive Mayor and Executive Deputy Mayor, all the members of the Mayoral Committee currently appointed as such, to act as Executive Mayor.

Council 31 May 2017 C12/05/17

5. Finance and Audit

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

Council 19 January 2018 SPC04/01/18

(2) To authorise audit investigations.

Council 19 January 2018 SPC04/01/18

(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.

Council 19 January 2018 SPC04/01/18

(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.

Council 31 May 2018 C37A/05/18

(5) 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.

Council 19 January 2018 SPC04/01/18

(6) 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.

Council 19 January 2018 SPC04/01/18

(7) 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.

Council 19 January 2018 SPC04/01/18

(8) 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 subject to funding being appropriated by Council in the annual budget.

Council 19 January 2018 SPC04/01/18

(9) To approve the Annual Audit Plan, the Audit Committee's terms of reference and the Internal Audit Charter.

(10) To recommend to Council the appointment or removal of members of the Audit Committee, subject to due process being followed in accordance with the Audit Committee's Terms of Reference.

Council 19 January 2018 SPC04/01/18

(11) To note reports tabled in terms of Section 116(2)(d) and 116(3) of the MFMA.

(12) To monitor reports tabled in terms of Regulation 36(2) of the Municipal Supply Chain Regulations for amounts of R200 000 and below.

Council 19 January 2018 SPC04/01/18

5A The Financial Misconduct Procedures and Criminal Proceedings Regulations, 2014.

(1) To appoint the disciplinary board in terms of Regulation 4(1).

Council 19 January 2018 SPC04/01/18

(2) To develop terms of reference for an investigation in terms of Regulation 6(1).

Council 19 January 2018 SPC04/01/18

- (3) To appoint an appropriate specialist expert or expert team in terms of Regulation 5(4)(c) if the seniority of the transgressor and the seriousness or sensitivity of the allegations warrants such a step.

Council 19 January 2018 SPC04/01/18

- (4) To receive reports of alleged financial misconduct against the accounting officer, a senior manager or the chief financial officer in terms of Regulation 3(1)(a).

Council 19 January 2018 SPC04/01/18

- (5) To receive tabled reports of alleged financial misconduct on behalf of council as required in terms of Regulation 3(2).
- (6) To refer any report received in terms of Regulation 3(1) to the disciplinary board for a preliminary investigation.
- (7) To receive reports of any concluded investigation in terms of Regulation 6(4).

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 expropriate immovable property or rights in or to immovable property.

7. Integrated Development Planning (IDP)

- (1) To consult affected organs of state and to advise Council on the method of aligning the municipality's planning, development plans and strategies with such affected organs of state.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

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.

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

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

Council 19 January 2018 SPC04/01/18

- (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.

Council 19 January 2018 SPC04/01/18

- (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 Municipal Finance Management Act, within nine (9) months after the end of a financial year.

Council 19 January 2018 SPC04/01/18

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).

Council 19 January 2018 SPC04/01/18

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.

Council 31 May 2018 C37A/05/18

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

Council 31 May 2018 C37A/05/18

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

Council 31 May 2018 C37A/05/18

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

Council 31 May 2018 C37A/05/18

(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, with the exception of:

- a) the exercise of all powers reserved for Council in terms of law and as reserved by Council for exercising of such powers by Council itself;
- b) the review and amendment/rescindment of any Council resolution.

Council 31 May 2018 C37A/05/18

(6) To establish and determine the terms of reference of any sub-committees of the Mayor.

Council 31 May 2018 C37A/05/18

(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 subject to recommendations from MPAC to Council and the approval of such recommendations by Council.

Council 31 May 2018 C37A/05/18

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

Council 31 May 2018 C37A/05/18

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

Council 19 January 2018 SPC04/01/18

- (10) To appoint members of the Civilian Oversight Committee, in terms of the South African Police Services Act No. 68 of 1995 section 64J.

Council 19 January 2018 SPC04/01/18

- (11) To appoint statutory committees where this authority has not been reserved for Council.

Council 19 January 2018 SPC04/01/18

- (12) 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.

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- (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 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.

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- (14) To declare a local state of disaster in terms of section 55 of the Disaster Management Act No. 57 of 2002.

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- (15) To facilitate the establishment and operation of neighbourhood watches.

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- (16) To co-operate in mutual trust and good faith with all spheres of government as envisaged by section 41 of the Constitution and to enter into cooperative agreements and implementation of protocols.

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- (17) 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.

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- (18) To declare a major incident, on the recommendation from the Head: Disaster Risk Management, which enables the Executive Director: Safety and Security to mobilise, organise and provide relief measures to deal with a major incident/s.

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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.

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

Council 19 January 2018 SPC04/01/18

- (3) 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.

Council 19 January 2018 SPC04/01/18

12. Planning and Environment

*Environmental, Heritage and Outdoor Advertising
Outdoor Advertising and Signage By-Law, No. 10518 2001*

- (1) To approve or amend a list or map of designated areas, prohibited areas and Areas of Control.
- (2) To grant or refuse any application for outdoor advertising signs made in terms of this By-law and impose conditions on an approval.

Local Government: Municipal Systems Act, No 32 of 2000

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

Cape Town Municipal Planning By-Law, 2015

- (4) To approve a process, inclusive of public participation, 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).

Council 19 January 2018 SPC04/01/18

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

- (6) To, if the City intends developing a district spatial development framework or a local spatial development framework, approve –

- (a) a specified geographic area; and

(b) the commencement of 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).

Council 19 January 2018 SPC04/01/18

(7) 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.

(8) 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).

(9) 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 of-

- (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).

(10) 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).

(11) To request authorisation from the Provincial Minister in terms of section 60(2) of the Western Cape Land Use Planning Act, No 3 of 2014 to deviate from the provisions of that Act, in terms of section 68(6).

(12) 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).

(13) 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).

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

(15) 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).

(16) To obtain authorisation from the Provincial Minister in terms of section 60(1) of the Western Cape Land Use Planning Act, No 3 of 2014 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).

(17) To, subject to section 60 of the Western Cape Land Use Planning Act, No 3 of 2014, 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.

- (18) To appoint officials to an evaluation panel for the purposes of section 115(6).

Council 19 January 2018 SPC04/01/18

13. Events

- (1) To refuse or approve events recommended by the Special Events Committee within available budget except for events that have already occurred and for which ratification is sought. 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.

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(2) To waive the rental of facilities where approved events are to be held.

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- PART 2 -

EXECUTIVE DEPUTY MAYOR

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

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 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, excluding litigation:
 - (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, excluding litigation, 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 approve 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.

2. Political Oversight

- (1) To have political oversight over committees of Council.
- (2) To oversee the use of the Council Chamber in terms of Council policy.

3. Finance

- (1) 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.

4. 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.
- (10) To determine where and when Council meets.
- (11) To approve all local and international travel requests made by the Executive Mayor when no consensus can be reached at Mayco, and thereafter refer a consolidated report of such decisions to the next meeting of Council for noting.

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5. Financial Misconduct Regulations

- (1) To investigate allegations of financial offence against Councillors in terms of Regulation 9(2).

- (2) To investigate allegations of financial offences referred in section 174(4) and (5) of the MFMA after receiving a report referred to in Regulation 11(1) from the designated officer.

- PART 4 -

CHIEF WHIP

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 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.
- (2) To monitor the attendance of councillors at meetings of Council and its committees.
- (3) To establish a Chief Whips Forum 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 to determine the items for debate and submit the list of scheduled speakers to the Speaker, the Executive Mayor and all party whips.
- (4) 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.

- (5) To approve, in consultation with the relevant chairperson of a committee, any change of a meeting time and dates of meetings and ensures that the calendar of meetings is appropriately amended, after consultation with the Speaker.
- (6) To recommend to Council the appointment of Councillors to serve on its committees in consultation with party whips.
- (7) To approve the use of office and meeting space by Councillors and political parties.

2. Councillor Training

- (1) To determine and oversee the development needs of Councillors based on their individual performance assessments and after consultation with the relevant party whip.
- (2) To determine and facilitate a programme of training for the development needs of Councillors.

- PART 5 -

CHAIRPERSONS OF PORTFOLIO AND CLUSTER COMMITTEE

1. General

None.

- PART 6 -

CHAIRPERSONS OF SUB-COUNCILS

1. General

None.

**TERMS OF REFERENCE
AND
DELEGATIONS
TO POLITICAL STRUCTURES OF COUNCIL**

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

Portfolio Committees

Corporate Services

Finance

Assets and Facilities

Safety and Social Services

Transport and Urban Development

Utilities and Energy Services

Cluster Committees

Sustainability and Resilience

Area Based Cluster 1, 2, 3, 4

Economy and Environment

Community Development

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

Rules

Municipal Public Accounts (MPAC)

Interim Planning Committee – see Appendix F

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

General Appeals Committee

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

Disciplinary

NOTE: The Terms of Reference for these Committees promote an understanding of what the committees aims to achieve (scope and deliverables), the area of responsibility (roles and responsibilities) and how they will be achieved (deliverables/outputs). Please refer to Table of Contents, Appendix D Terms of Reference for each.

- PART 7 -

SECTION 79 “PORTFOLIO” COMMITTEES

GENERAL DELEGATIONS

These Committees have an important oversight role especially in regard to the IDP, budgets, policies, rendering of services, strategic objectives and priorities and by-laws. Oversight entails the watchful, strategic and structured scrutiny of the actions of the executive and administration of the Municipal Council.

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

- Corporate Services
- Finance
- Assets and Facilities
- Safety and Social Services
- Transport and Urban Development
- Utilities and Energy Services

1. General

- (1) To consider and adopt the Chairperson’s annual oversight workplan.
- (2) To comment on draft by-laws and recommend same to the Executive Mayor.

- (3) To comment on draft policy and recommend the same to the Executive Mayor.
- (4) To consider the draft business plans and SDBIPs and recommend to the Executive Mayor.
- (5) 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.
- (6) To make recommendations in regard to the setting or revision of tariffs, levies, taxes and duties to the Executive Mayor.
- (7) 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.
- (8) To evaluate the impact and performance of service delivery generally within the functional area of their respective committee (outcomes monitoring), and report to the Executive Mayor.
- (9) 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.
- (10) 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

same to the Executive Mayor, in terms of section 56 (2)(a) of the Structures Act.

- (11) To review and evaluate the needs of the municipality in order of priority, in terms of section 56 (2)(a) of the Structures Act and recommend same to the Executive Mayor.
- (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 its functional area.
- (13) To conduct research, community and other consultations and undertake inspections in regard to matters relating to the committee's oversight functions.
- (14) To consult and invite reports from public bodies/persons and request them to address the committee in the analysis of issues affecting the functional area of the Committee.
- (15) To collaborate with the Public Participation unit in order to enhance the public participation process.

- PART 8 -

ASSETS AND FACILITIES PORTFOLIO COMMITTEE

The committee exercises oversight in respect of the following:

- Facilities management
- Property management
- Fleet management
- Home ownership transfer, Tenancy Management and Staff Housing
- Cape Town Stadium and Sea Point precincts

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1. Specific Delegations

None.

- PART 9 -

CORPORATE SERVICES PORTFOLIO COMMITTEE

The committee exercises political oversight in respect of the following:

- Human Resources
- Legal Services
- Information Systems and Technology
- Executive and Council support
- Information and Knowledge Management
- Organisational policy and planning
- Organisational performance management
- Communications
- Organisational effectiveness and innovation

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1. Specific Delegations

None.

- PART 10 -

SAFETY AND SOCIAL SERVICES PORTFOLIO COMMITTEE

The committee exercises oversight in respect of the following:

SAFETY AND SECURITY:

- Metropolitan Police Services
- Law Enforcement
- Traffic and Coordination
- Disaster Risk Management
- Public Emergency Communication Centre (107)
- Fire and Rescue Services
- Events

SOCIAL SERVICES:

- City Health
- Library and Information Services
- Recreation and Parks
- Social Development and Early Childhood Development
- Planning, Development and Project Management Office

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1. Safety

- (1) To consider recommendations from the Civilian Oversight Committee and make a recommendation thereon to the Executive Mayor.

2. Recreation and Parks

- (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

3. Social Development and Early Childhood Development

- (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 11 -

FINANCE PORTFOLIO COMMITTEE

The committee exercises oversight in respect of the following:

- Supply Chain Management
- Expenditure
- Budgets
- Valuations
- Revenue
- Treasury
- Grant Funding

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1. Specific Delegations

None.

- PART 12 -

UTILITIES AND ENERGY SERVICES PORTFOLIO COMMITTEE

The committee exercises oversight in respect of the following:

UTILITIES:

- Informal Settlements and Backyarders
- Water and Sanitation
- Solid Waste Management

ENERGY:

- Electricity Generation and Distribution
- Sustainable Energy Markets

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1. Specific Delegations

- (1) To monitor the regular updating of the City of Cape Town's energy and carbon emissions profile through Energy Futures studies.
- (2) 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.
- (3) 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.

- PART 13 -

TRANSPORT AND URBAN DEVELOPMENT PORTFOLIO COMMITTEE

The committee exercises oversight in respect of the following:

- Authority
- Contracting Authority
- Municipal Regulatory Entity
- TDA Business Management
- Investment Management
- Enforcement
- Liaison, Communication and Stakeholder Management
- Infrastructure Management
- Network Operations Management
- Urban Planning
- Human Settlements
- Urban Sustainability

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1. Specific Delegations

None.

- PART 14 -

SECTION 79 “CLUSTER” COMMITTEES

GENERAL DELEGATIONS

The committees exercise oversight where there are transversal implications especially in regard to the IDP, budgets, policies, rendering of services, strategic objectives and priorities and by-laws. Oversight entails the watchful, strategic and structured scrutiny of the actions of the executive and administration of the Municipal Council.

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

- Economy and Environment Cluster Committee
- Community Development Cluster Committee
- Sustainability and Resilience Cluster Committee
- Area Based Cluster Committees 1, 2, 3 and 4

1. General

- (1) 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 15 -

ECONOMY AND ENVIRONMENT CLUSTER COMMITTEE

The committee exercises oversight in respect of the following where there are transversal implications:

- The activities of transversal work groups which are formed in the administration and which align with the thematic area of the Committee.
- Enterprise and investment

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1. Specific Delegations

- (1) Consider and adopt the Chairperson's annual activity work plan.
- (2) Comment on draft by-laws and recommend same to the Executive Mayor.
- (3) Identify the economic needs of the Municipality related to City priorities, new developing services and existing services and recommend to the Executive Mayoral Committee Members the potential way forward.
- (4) Consult and invite reports from public bodies/persons and request them to address the committee in the analysis of economic issues affecting the City.
- (5) Comment on draft policy and recommend the same to the Executive Mayor.
- (6) To collaborate with the Public Participation unit in order to enhance the public participation process.

- PART 16 -

COMMUNITY DEVELOPMENT CLUSTER COMMITTEE

The committee exercises oversight in respect of the following where there are transversal implications:

- The activities of transversal work groups which are formed in the administration and which align with the thematic area of the Committee.

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1. Specific Functions

- (1) Consider and adopt the Chairperson's annual activity work plan.
- (2) Comment on draft by-laws and recommend same to the Executive Mayor.
- (3) Identify the social needs of the Municipality related to City priorities, new developing services and existing services and recommend to the Executive Mayoral Committee Members the potential way forward.
- (4) Consult and invite reports from public bodies/persons and request them to address the committee in the analysis of social issues affecting the City.
- (5) Comment on draft policy and recommend the same to the Executive Mayor.
- (6) To collaborate with the Public Participation unit in order to enhance the public participation process.

- PART 17 -

SUSTAINABILITY AND RESILIENCE CLUSTER COMMITTEE

The committee exercises oversight in respect of the following where there are transversal implications:

- City's Resilient Strategy
and the Committee exercises oversight over the
- Chief Resilience Officer

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1. Specific Delegations

- (1) Consider and adopt the Chairperson's annual activity work plan.
- (2) Comment on draft by-laws and recommend same to the Executive Mayor.
- (3) Identify the needs of the Municipality related to City priorities, new developing services and existing services and recommend to the Executive Mayoral Committee Members the potential way forward.
- (4) Consult and invite reports from public bodies/persons and request them to address the committee in the analysis of social issues affecting the City.
- (5) Comment on draft policy and recommend the same to the Executive Mayor.
- (6) To collaborate with the Public Participation unit in order to enhance the public participation process.

2. Deleted.

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- PART 18 -

AREA BASED CLUSTER COMMITTEES 1, 2, 3 and 4

The committee exercises oversight in respect of the following where there are transversal implications:

- Area Management and Sub Councils
- Customer Relations
- Public Management Office Programme Management
- Area Management
- Public Participation
- Informal Trading
- Local Tourism Development
- Mayoral Urban Renewal Programmes

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1. Specific Delegations

- (1) Consider and adopt the Chairperson's annual activity work plan.
- (2) Comment on draft by-laws and recommend same to the Executive Mayor.

- (3) Identify the area based needs of the Municipality related to City priorities, new developing services and existing services and recommend to the Executive Mayoral Committee Members the potential way forward.
- (4) Consult and invite reports from public bodies/persons and request them to address the committee in the analysis of Area based issues affecting the City.
- (5) Comment on draft policy and recommend the same to the Executive Mayor.
- (6) To collaborate with the Public Participation unit in order to enhance the public participation process.

- PART 19 -

RULES COMMITTEE

1. Rules of Order

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

- PART 20 -

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)

1. General

- (1) Consider and evaluate the annual report, and the annual report of any municipal entity under the City's sole or shared control, and to make recommendations to Council when it adopts the oversight report on the annual report in terms of section 129 of the Municipal Finance Management Act.
- (2) To investigate unauthorized, irregular or fruitless and wasteful expenditure in terms of section 32 and 102 of the MFMA, as instructed by Council, and as guided by the National Treasury Circular 68: Unauthorised, Irregular and Fruitless and Wasteful Expenditure and advise Council in respect of such unauthorised, irregular or fruitless and wasteful expenditure in terms of section 32(2) of the MFMA.

- PART 21 -

INTERIM PLANNING COMMITTEE

NOTE:

Please refer to the Table of Contents, Appendix F for the delegations of this committee. The delegations derived from LUPO will remain in effect until the last planning application has been finalised, where after the delegations will no longer be applicable and will be removed from the System of Delegations.

- PART 22 -

DISCIPLINARY COMMITTEE

1. General

- (1) To hear submissions, arguments and evidence and make a finding on any alleged breach of the Code of Conduct for Councillors and to make appropriate recommendations as set out in section 14(1)(b) of the Code of Conduct for Councillors set out in schedule 1 of the Systems Act 32 of 2000.
- (2) To co-opt advisory members who are not members of Council provided that such members may not vote on any matter.
- (3) The Chairperson to make any representation on behalf of the Committee, pertaining to an appeal by a Councillor to the MEC for local government in writing in terms of section 14(3)(c) of the Code of Conduct for Councillors.

- PART 23 -

GENERAL APPEALS COMMITTEE

1. Specific Delegations

- (1) To 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.

- PART 24 -

SUB-COUNCILS

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.
- (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 same to the Executive Mayor.
- (4) To require:
 - (a) Councillors if so directed by the Speaker;
 - (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.

- (5) To request reports from the Area Based Directors on activities planned to be executed within the Sub-council area.

2. IDP, Budget and Business Planning

- (1) To monitor the implementation of Council's budget, service delivery business implementation plans, strategic objectives, policies and programmes within the sub-council jurisdictional area.
- (2) To comment and make recommendations to the Executive Mayor in regard to the IDP and budget and thereafter annually in respect of the review of the approved IDP.
- (3) To make representation to the relevant line departments for the inclusion of the capital and operating budgetary requirements.

3. 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)

4. Liquor Licences

- (1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, 2008, (Act 4 of 2008).
- (2) Approve, refuse or amend applications for extension of trading days and hours on premises where liquor licences have been granted in terms of section 6(2) of the By-law: Control of Undertakings that Sell Liquor to the public, 2013.
- (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.

5. Public Participation

- (1) To comment on by-laws and policies of Council within the timeframes advertised.

6. Policies, By-laws and Regulations

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

7. 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 Area Director to report on remedial action to be taken.

- (2) To grant permission for the use of public open spaces, public squares and similar places within the Sub-council's area of jurisdiction.
- (3) To designate, in terms of Section 13 of the City of Cape Town: Animal By-law, 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 By-law, 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, ward fora and Sub-councils.

8. Outdoor Advertising

Outdoor Advertising and Signage By-Law, 2017

(Note: Delegations hereunder only become effective once this bylaw has been promulgated.)

- (1) To oversee the regulation of posters, placards, signs, bill-boards etc.

9. Transport

- (1) To decide within its area of jurisdiction where traffic calming measures are to be applied subject to the relevant legislation and policy after considering a report from the Transport and Urban Development Authority.
- (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, subject to relevant legislation and policy.

- (4) 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 and Urban Development Authority.

10. 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.
- (2) To recommend to the Chief Financial Officer, the approval or refusal of any applications from non-governmental organisations or registered neighbourhood watches to waive the payment of a site rental fee received from any such organization.

11. 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 the members and chairpersons thereof.

- PART 25 -

WARD COMMITTEES

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 26 -

SECTION 80 COMMITTEES: GENERAL DELEGATIONS

SECTION A: SPECIAL EVENTS COMMITTEE

1. General

None.

SECTION B: NAMING AND NOMINATION COMMITTEE

1. General

None.

SECTION C: WATER RESILIENCE ADVISORY COMMITTEE

1. General

None.

- PART 27 -

CITY MANAGER

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

Acting in terms of section 59(4) of the Systems Act, Council hereby authorises the City Manager to delegate and sub-delegate any of his/her statutory powers, functions and duties to staff members unless the context indicate otherwise.

NOTE: Please refer to Table of Contents, section () for the City Manager's Statutory Powers.

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

Acting in terms of section 59(1) of the Systems Act, Council hereby delegates to the City Manager the following powers, duties and functions including the power to sub-delegate any of these powers, duties and functions to staff members unless the context indicate otherwise.

1. Staff Reporting Lines and Designation of Scarce Positions

- (1) To approve or delegate the approval of reporting lines of positions below that of Executive Director.
- (2) To determine guidelines to inform the identification of jobs to be designated as scarce skills.

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.

3. 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 manage all things incidental to post-retirement employment arrangements.

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4. 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.

5. 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.

6. Standby Duties

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

7. Training and Study

- (1) To authorise the training of members of staff within or outside the borders of South Africa.

8. Re-imbursements

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

9. 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.

10. Disciplinary Action

- (1) To authorise investigations into allegations of misconduct.
- (2) To authorise the institution of disciplinary procedures.
- (3) To appoint a chairperson of a disciplinary hearing and to 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.

11. 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.
- (5) To coordinate and manage Council's responses to strike action.

12 Forensic and Ethics Investigations

- (1) 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.

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- (2) 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.
 - (a) 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.

- (3) 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 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.

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- (4) 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:

- (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.

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13. Employee Debt

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

14. 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 participation in motor vehicle essential user schemes.

15. 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.

16. 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 employment contracts.
- (3) To approve a notice of staff appointment.
- (4) To enter into and sign contracts and other documents, with or without financial consequences, which contracts are necessary for the functioning of the municipality.
- (5) When the interest of the City so demands, to terminate, any contract to which the City is a party.

- (6) To enter into and sign implementation protocols with other spheres of government and organs of state.
- (7) To enter into and sign staff related contracts e.g., bursaries, studying overseas etc.
- (8) To authorise officials to sign cheques and withdraw money on behalf of the Council.

17. Uniforms and Protective Clothing

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

18. 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.

19. General

- (1) To grant authority for officials to attend conferences, congresses, seminars, workshops, symposia, lectures, courses, court and related legal engagements, and meetings outside of the municipal boundaries of Cape Town but within the Republic of South Africa.
- (2) To grant travel authority for non-officials attending to official City business on behalf of the City outside of the municipal boundaries of Cape Town but within the Republic of South Africa.

- (3) To grant authority for Executive Directors to attend conferences, congresses, seminars, symposia, and lectures within the municipal boundaries of Cape Town municipality.
- (4) To permit Departments to enter competitions/ exhibitions to show case Council projects / work and to authorise associated costs in consultation with the Communications Department.
- (5) To approve corporate criteria to govern the authorisation and budgetary control of the attendance of staff at conferences, congresses, seminars, workshops, symposia, lectures, courses and meetings. Monitors compliance with criteria by managers.
- (6) To administer and award External Scholarships and Bursaries.
- (7) To approve applications for bursaries for internal staff.
- (8) 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.
- (9) 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.
- (10) To ensure that Declaration of Interest(s) for officials are received, considered and approved.
- (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.

- (12) To determine guidelines for the appointment of non-permanent staff and periodically monitor the usage and continued employment of such staff.
- (13) To authorise deviations from salary payment date, i.e. 27th of each month, in appropriate circumstances, including the determination of salary payment date in December of each year.
- (14) To authorise the commencement of public participation processes and to determine the level of public participation required only in terms of Section 116 (3) of the MFMA.

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20. Appointments in terms of legislation

- (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 in terms of the Fire Brigade Services Act 1987 (Act 99 of 1987) a Chief Fire Officer who possesses the prescribed qualifications and experience to be in charge of the Municipality's fire service.
- (3) To appoint officials to represent Council on outside bodies.
- (4) 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.

- (5) To appoint Law Enforcement Officers in terms of Part 5(a) of GN R209 of 19 February 2002, Declaration of Peace Officers.

21. 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 opinions including that of Senior Counsel on any matter, excluding those matters reserved for the Executive Mayor by delegation Part 1.B. 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 Part 1. B. 3(7).

- (5) 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.

- (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, 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.

22. Procurement and Leasing

Procurement

- (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) 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.

- (3) 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.
- (4) To consider and approve condonations upon the recommendation from the BAC in terms of paragraphs 266 and 310 of the City's Supply Chain Management Policy.

Leasing

- (5) 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, longer than 3 years
(<R10 m and >3 yrs)
 - (ii) capital assets more than R10 mil, not longer than 3 years
(>R10m and <3 yrs)
 - (iii) capital assets less than R10 mil, not longer than 3 years
(<R10m and <3 yrs)
- (6) To approve the granting of rights to use, manage or control capital assets of a value less than R10 m and for a period of not longer than 3 years, provided that this delegation may only be exercised after considering the comments of the Sub-council in whose area of jurisdiction the capital asset is situated.

- (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.
- (8) 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 this delegation may only be exercised after considering the comment from the sub-council in whose area of jurisdiction the capital is situated.

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

23. Finance

- (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.
- (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 recover unauthorised, irregular or fruitless or wasteful expenditure from staff or former staff, other than those staff members directly accountable to the City Manager.

- (7) To set-up and maintain a Register of Unauthorised, Irregular, Fruitless and Wasteful Expenditure.
- (8) 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 subject to funding being appropriated by Council in the annual budget.
- (9) To act as the “Delegated authority” in terms of the Council Policy on Contributions to the City of Cape Town.
- (10) To authorise the reallocation of Council approved credit limits for the short-term credit facility categories, limited to the total short-term credit amount approved in terms of section 45(2), in order to maximise the benefits to the City.

24. Emergency Decision-making

- (1) To decide on and act 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.

25. Appointment of Acting Managers accountable to the City Manager

- (1) To appoint, after consultation with the Executive Mayor, acting managers directly accountable to the City Manager.
- (2) To appoint in vacant positions acting managers directly accountable to the City Manager, provided that the total number of days for which any person may be so appointed per directorate shall not exceed 60 days in total in any calendar year. **This power may not be delegated or sub-delegated.**

26. 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.

27. Financial Misconduct Regulations

- (1) To receive as the “designated official” reports of allegations of financial offences against councillors or members of the board of directors of municipal entities.
- (2) To establish reporting procedures as required by the regulations.

28. Probity

Risk Management and Internal Audit

- (1) To have timely and unrestricted access to all the City’s records, personnel and physical property relevant to the performance of Risk Management and Internal Audit’s functions, whether performed personally or via one or more Internal Audit or Risk Management employees or contractors.

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- PART 28 -

DELEGATIONS APPLICABLE TO ALL EXECUTIVE DIRECTORS

GENERAL DELEGATIONS

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. GENERAL

- (1) Determines the operational systems and procedures in respect of all matters falling within the functional areas of the 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 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, symposia, lectures, within the boundaries of the Western Cape, this excludes travel by air.
- (5) To approve directorate specific events where budgeting provision has been made. This authority may not be sub-delegated lower than the level of director.

- (6) 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.
- (7) 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.

2. Appointment of Staff

- (1) To approve a notice of staff appointment.
- (2) To enter into and sign employment contracts.

3. Resignations and Retractions

- (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.

4. Training and Study

- (1) To authorise the training of members of staff within the jurisdiction of the City of Cape Town.
- (2) To approve applications for study allowances/bursaries for internal staff for first school qualification i.e. up to NQF6.

5. Performance Evaluations

- (1) To approve performance evaluations.

6. 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 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.

7. Overtime

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

8. Standby Duties

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

9. Re-imbursements

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

10. 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 participation in motor vehicle essential user schemes.

11. Private Work

- (1) 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.

12. Grants, Gifts and Donations

- (1) To receive any 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 subject to funding being appropriated by Council in the annual budget.
- (2) In respect of conditional grant funding allocations relating to the functions of the Executive Director's directorate to,
 - (a) sign documentation on behalf of the City to give effect to projects funded from such allocations;
 - (b) report to the relevant Provincial and National departments on the prescribed bases;
 - (c) enter into Memoranda of Agreement on approved projects in terms of such grant allocations, andapprove individual human settlement subsidy applications from beneficiaries relating to approved projects.

13. Disciplinary Procedures

- (1) To authorise the institution of disciplinary procedures.

- (2) 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.**
- (3) To authorise the suspension of an employee pending the finalisation of disciplinary action.
- (4) To monitor the application of disciplinary procedures within directorates. **This authority may not be further sub-delegated.**

14. Laying of Criminal Charges

- (1) 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.

- (2) 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.

- PART 29 -

EXECUTIVE DIRECTOR: CORPORATE SERVICES

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The Executive Director: Corporate Services is responsible for the following Strategic Governance functional areas:

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- Organisational policy and planning
- Organisational performance management
- Communications
- Enterprise and investment
- Organisational effectiveness and innovation
- Private Offices of the: Executive Mayor, Deputy Mayor, Chief Whip and Speaker
- Chief Resilience Officer

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, including the power to sub delegate:

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 approve the external use of the City branding and logo.

2. Organisational Policy and Planning

Integrated Development Plan

- (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 of the Systems Act, to allow for the local community to be consulted on its development needs and priorities, organs of state, and other role players to be identified on the drafting of the integrated development plan in terms of Section 29 and Regulation 15 of the Municipal Systems Act.

Legislative Development

- (3) To draft proposed by-laws and amendments thereto and after the Council approval of the proposed or amended by-law, to proceed with the promulgation process.

Research

- (4) To consider any request for the commissioning of an organizational wide research report in the City and to approve or refuse such a request.
- (5) To grant authority to external parties that wish to conduct research within the City of Cape Town and/or publish the results thereof.

- (6) To after consultation with the relevant Executive Director: grant permission to employees of the City of Cape Town to conduct research, surveys etc related to their studies, within the relevant directorate.

3. Communications

- (1) To approve the City's communication campaigns.

4. 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 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).
- (6) 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)
- (7) 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 of the MFMA.
- (8) 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) To recommend to the Executive Mayor and the City Manager performance management targets and evaluations for the City and its executive managers.

5. Moved to the City Manager

Council 31 May 2018 C22/05/18

6. Moved to the City Manager.

Council 31 May 2018 C22/05/18

- PART 30 -

EXECUTIVE DIRECTOR: CORPORATE SERVICES

The Executive Director: Corporate Services is responsible for the following Corporate functional areas:

Council 31 May 2018 C22/05/18

The Executive Director: Corporate Services is responsible for the following Corporate functional areas:

- Human Resources
- Legal Services
- Executive and Council Support
- Information and Knowledge Management
- Information Systems and Technology

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, including the power to sub delegate:

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) Moved to the City Manager.

Council 31 May 2018 C22/05/18

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 in consultation with relevant departments.
- (4) To create co-operative student posts and to appoint the said students.
- (5) To formulate a process to regularly evaluate the staff establishment, remuneration and conditions of services.
- (6) To determine guidelines for the job evaluation process.
- (7) To make application for refunds in respect of training from SETA.
- (8) 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.

3. Information and Knowledge Management

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).

In terms of Land Survey Act 8 of 1997

Town Survey Mark Reference System

- (10) To position, create and maintain the City's Town Survey Mark Reference System in terms of section 42(4).

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 matter 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 provided that a report is submitted forthwith to the Executive Mayor for information.
- (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 provided that a report is submitted forthwith to the Executive Mayor for information.
- (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 from 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 appoint mediators and arbitrators.
- (23) To agree or to authorise an official to agree, on behalf of the City, to plea bargain agreements in terms of the Criminal Procedure Act, provided that in the case involving Councillor/s, the Speaker is consulted.
- (24) To issue instructions and sign any necessary documents to invest money held in trust by attorneys on behalf of the City in terms of section 78(2) or (2A) of the Attorneys' Act 53 of 1979, as amended.

- PART 31 -

EXECUTIVE DIRECTOR: ENERGY

The Executive Director: Energy is responsible for the following functional areas:

- Electricity Generation and Distribution
- Sustainable Energy Markets

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

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.

- PART 32 -

EXECUTIVE DIRECTOR: SOCIAL SERVICES

The Executive Director: Social Services is responsible for the following functional areas:

- City Health
 - Municipal Health Services
 - Primary Health Care Services
 - Specialised Health Services
- Library and Information Services
- Recreation and Parks
- Social Development and Early Childhood Development
- Planning, development and Project Management Office

Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Executive Director: Social Services, including the power to sub delegate:

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 refer to the applicable Sub-council.
- (2) To grant licences 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. Health Services

In terms of National Health Act 61 of 2003

- (1) To exercise the powers, duties and functions which vest in the Municipality and Council, in terms of Sections 18(2), 32 and 76.

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

- (2) To exercise the powers, duties and functions which vest in the Municipality and Council, in terms of Sections 27(1)(d), 3(1)(a), 3(1)(b), 2(2)(a), 2(2)(b), 4(3), 4(4), 5, 6, 7(1) and 9.

Regulations relating to hygiene requirements for milking sheds, the transport of milk and related matters 961 of 23 November 2012

Promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, No 54 of 1972

- (3) To exercise the powers, duties and functions which vest in the Municipality and Council, in terms of Sections 2(3), 3(3) – 3(5), 4, 4(1)(a), 4(1)(b), 4(3), 5 and 12.

Regulation governing general hygiene requirements for food premises and the transport of food and related matters 364 of 30 April 2015

Promulgated under the Foodstuffs, Cosmetics and Disinfectants Act, No 54 of 1972.

- (4) To exercise the powers, duties and functions which vest in the Municipality and Council, in terms of Sections 3(5), 3(8), 3(9)(c), 4(4) and 14.

*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.*

- (5) To exercise and enforce powers which vest in the Municipality in terms of the Act and the Regulations.

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

- (6) To exercise and enforce powers which vest in the Municipality in terms of the Provincial Notice.

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

- (7) 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*

- (8) To exercise the powers, duties and functions which vest in the Municipality and Council, in terms of Sections 2(1), 2(3), 3(1), 3(2), 7, 9, 23(6)(a), 24(4), 24(6), 25(3)(a), 26(1), 26(2), 28(1)(h), 28(3)(a), 28(3)(b), 28(3)(c), 28(3)(d) and 41.

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

- (9) To exercise the powers, duties and functions which vest in the Municipality, in terms of the by-law.

In terms of the City of Cape Town Air Quality Management Bylaw, 2016

- (10) To exercise the powers, duties and functions which vest in the Municipality and Council, in terms of Sections 4(1) – (5), 11(1) and (3) and (4); 12(2) and (3) 17(1) – (3) read with sections 31, 19(1) – (4), 20 and 31.

4. Parks and Recreation

- (1) To implement the provisions of the Cemeteries, Crematoria and Funeral Undertakers By-Law 2011.
- (2) To, after consultation with the Commissioner: TDA, grant or refuse permission to plant a tree or shrub in a public road, or in any way cut down same or remove it therefrom, in terms of section 9(1)(a).

- (3) Where section 9(1) of the by-law is contravened, to serve notice, instruction or other directive on an offending party, undertake on behalf of such party appropriate action to rectify the contravention where they fail to comply with a notice, and to recover the costs thereof from the owner or the offender, in terms of section 22.

5. Social Development and Early Childhood Development

- (1) To authorise street collections.
- (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 grant permission for temporary public art as designated by the Arts and Culture and Creative Industries Policy and the Public Art Management Framework.
- (4) To request or instruct the removal of temporary public art due to non-compliance or as may be required from time to time.

- PART 33 -

EXECUTIVE DIRECTOR: SAFETY AND SECURITY

The Executive Director: Safety and Security is responsible for the following functional areas:

- Metropolitan Police Services
- Law Enforcement
- Traffic and Coordination
- Disaster Risk Management Centre
- Public Emergency Communication Centre (107)
- Fire and Rescue Services
- Events

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:

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 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.

- (3) To act as Incident Commander with authority to issue reasonable instructions to relevant officials and departments necessary to assist in the process of relief, rehabilitation and repair required in respect of the major incident and report thereon to the City Manager on a weekly basis.

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 Metro Police Department, Traffic Services, Law Enforcement Department and Special Investigations Unit.
- (2) To authorise the payment of a reward not exceeding R5 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 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 Risk Management Service and assistance outside the metropolitan boundary.

Fire and Rescue Services

In terms of Fire Brigade Services Act 1987

- (2) To decide on the most appropriate systems for the control, management, planning, coordination and regulation of firefighting services which serve the area of the municipality.
- (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).
- (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).
- (6) To grant authority that goods placed in safe storage may be sold, in terms of Section 9(6).
- (7) 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.

- (8) To grant authority for the utilisation of the fire service outside the area of jurisdiction of the municipality, as provided for in Section 12.
- (9) To initiate the process of ensuring a written agreement for the rendering of Fire and Rescue Services and assistance outside the metropolitan boundary.
- (10) To appoint a person(s) as a member(s) of the Fire Brigade Reserve Force.

4. Traffic Services

Parking, Parking Meter and Toll Parking

In terms of Regulation 305 Sub Regulation (1) – (6) R/W Section 80 Act 93 of 1996

- (1) To grant exemption regarding any stipulation of law on the parking of a motor vehicle inside the jurisdiction of the City with regard to:
 - (a) A doctor
 - (b) A registered midwife
 - (c) A disabled person

Traffic Safety

- (2) 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.

- (3) 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.

- (4) 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

- (5) 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

- (6) To regulate and control traffic upon any public road.

In terms of Road Traffic Act 29 of 1989 section 3

Appointment of persons

- (7) To appoint the following staff members:
(a) Inspector of licences

- (b) Examiner of vehicles
- (c) Examiner of drivers licences
- (d) Traffic officers
- (e) Traffic wardens
- (f) Reserve traffic officers/traffic wardens/casual constables

5. Metropolitan Police

Regulations for Municipal Police Services

In terms of Government Gazette 11 June 1999

- (1) 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)

- (2) 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).
- (3) To issue a permit to an employee to possess and use a firearm under its control in terms of section 98 (2).
- (4) To authorise the application to the Registrar for a copy of any licence, permit or authorization which has been defaced, lost or stolen in terms of section 29.
- (5) To authorise the storage and transport of firearms and ammunition in the prescribed manner in terms of section 83.

- (6) To authorise the acquisition, use, safe keeping and disposal of firearms, subject to the conditions imposed by the Registrar in terms of section 97.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) To report the loss or theft of any firearm immediately to the Registrar and to the nearest police station.
- (11) To dispose of or destroy a firearm in the prescribed manner.

Civil Aviation Act, 2009 (Act No. 13 of 2009)

- (12) To exercise the powers, duties and functions which vest in the Municipality, in terms of Regulation 101.05.2 (b).

The following delegations were relevant, 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.

6. Events, Arts and Culture Institutions

- (1) To negotiate and conclude all agreements and business contracts 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 events 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.
- (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.

- (6) 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.

- PART 34 -

EXECUTIVE DIRECTOR: ASSETS AND FACILITIES MANAGEMENT

The Executive Director: Assets and Facilities Management is responsible for the following functional areas:

- Property Management
- Home Ownership Transfer, Tenancy Management and Staff Housing
- Facilities Management
- Fleet Management
- Cape Town Stadium and Sea Point Precincts

Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Executive Director: Assets and Facilities Management including the power to sub delegate:

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 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.

- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) To authorize the demolition of unoccupied informal structures on Council housing schemes.

Leasing

- (8) To lease immovable property to and from private and public bodies or any

person where the value of the rental does not exceed R200 000 per annum provided that such lease is in the best interests of the City.

- (9) To cancel all lease and/or rental agreement/(s).
- (10) To cancel, amend, sign and exercise all rights and duties in terms of a lease entered into where the City is the Lessee.

2. Property Management

Property Matters

- (1) To recommend, administer and manage the acquisition, enhancement, alienation, leasing and utilisation of City owned immovable property and rights in property in terms of the City of Cape Town Immovable Property By-law, 2015.
- (2) To exercise all the rights and obligations of the City as lessor or Principal in respect of agreements of lease, servitudes and other legal instruments related to the incumbent's area of jurisdiction.
- (3) 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 longer than 3 years such advice must include a comment from the Sub-council in whose area of jurisdiction the asset is situated.
- (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, granting of rights, acquisitions and sales to execute all documents and rights in connection with the letting, selling and acquisition of immovable property, including Powers of Attorney.
- (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 or dispose of City owned capital assets in so far as it relates to Immovable Property or acquire immovable property.
- (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.
- (11) To renew an agreement of lease with the existing lessee in respect of immovable property where the lease provides for a renewal.
- (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 City owned capital assets in so far as it relates to Immovable Property limited to a short term use of less than 30 days.
- (16) To give possession of land or buildings prior to conclusion of the formal lease agreement provided that 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 and/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.
- (18B) Recommend the tender value as per paragraph (18A) to the decision-making authority.
- (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.
- (19) 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.

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

- (20) To enter into Lease Agreements and determining rentals for the letting of offices, business premises, garages, stables, vacant plots, and other non-residential units, at economic related rentals.

In terms of Municipal Systems Act

- (21) 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.

- (22) 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 Registries Act, No 47 of 1937

- (23) 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.
- (24) 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.
- (25) 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*

- (26) 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.
- (27) 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.
- (28) To repudiate claims to ownership of municipal land by acquisitive prescription.

3. Events

- (1) To negotiate contracts with global sport, artistic, music or other global / national and local icons/organisations/clubs/associations/bodies with their South African or International agents subject to Council's due processes.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) To negotiate outdoor media and other marketing related agreements such as naming rights with media companies, corporate investors, 3rd parties and any/all other relevant parties (be it internal or external entities), 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.

- (6) To conclude (sign) agreements where such agreements are standardised and where such agreements entail the hiring of this portfolio's assets when it is let-out according to Council's approved tariff schedule only.

4. Home Ownership Transfer, Tenancy Management and Staff Housing

- (1) To authorise the lease and/or sale of Council dwellings, financed ex National Housing Funds and Council funding, and single residential property (and related properties) to persons on the Council's waiting lists (housing estates only).
- (2) To authorise the selling of saleable Council dwellings, and serviced sites, 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.
- (3) To authorise the repossession, repurchasing and resale of Council property, financed ex National Housing Funds and Council funds.
- (4) To exercise Council's right of pre-emption in regard to houses in the Council's selling schemes on the terms and conditions contained in the agreement of sale and the Housing Act.
- (5) To authorise the voluntary cancellation of sales of housing scheme land and dwellings in accordance with Council policy.
- (6) To allocate housing scheme dwellings on a priority basis on the terms and conditions determined by Council.

- (7) To allocate rental housing opportunities in new settlement developments as determined by Council.
- (8) To exercise all the rights and obligations of the City as lessor or Principal in respect of agreements of lease and/or sale, servitudes and other legal instruments related to the incumbent's area of jurisdiction.
- (9) To determine in consultation with the Director: Legal Services:
 - (a) whether or not to cancel leases and/or sales where the terms and conditions thereof have been breached;
 - (b) institute legal proceedings for the eviction of tenant's/purchasers consequent upon such cancellation, and
 - (c) for the recovery of monies owing to Council.
- (10) To frame the conditions of lease and sales to execute all documents and rights in connection with the letting and selling of Council dwellings, financed from national or provincial housing funds and City funds, including Powers of Attorney.
- (11) To renew an agreement of lease with the existing tenant in respect of Council dwellings, financed from national or provincial housing funds and City funds where the lease provides for a renewal.
- (12) To grant prior occupation, give possession and pass risks in Council dwellings, financed from national or provincial housing funds and City funds, prior to conclusion of the formal lease/sale agreement provided that the relevant authorities have been obtained and the tenant/purchaser has indemnified the Council in respect of such prior occupation.

- (13) To authorize and approve the relocation of dwellings on residential sites within housing schemes, necessitated by adverse subsoil conditions or by other unforeseen circumstances.
- (14) To initiate the process for the demolition of unoccupied structures in Council housing schemes.
- (15) To in consultation with the Chief Financial Officer, authorize the cancellation of bonds registered over Council property, financed from national or provincial housing funds and City funds, in favour of the City.
- (16) To authorise the issuing of power of attorney to Conveyancers, institutions or consultants to sign deeds of sale and transfer documentation on behalf of the City in respect of Council dwellings financed from national or provincial housing funds and City funds.
- (17) To initiate the eviction process from Council premises occupied unlawfully and where tenants are in contravention of the lease agreement.
- (18) To serve notices on tenants to vacate Council owned properties, financed from national or provincial housing funds and City funds, required for the development of housing schemes/projects or for undertaking any town planning improvement, services upgrading or other public work.
- (19) To authorise the payment of all transfer, survey and incidental costs, in respect of Council owned properties, financed from national or provincial housing funds and City funds, where such costs are for the City's account.
- (20) To apply for amendments to plans and specifications of rental dwellings in consultation with the Executive Director Transport Development Authority.

- (21) To consider the application of abutting owners to Council owned properties, financed from national or provincial housing funds and City funds, requiring consent in respect of the relaxation of zoning scheme regulations and building plan approval.

- PART 35 -

CHIEF FINANCIAL OFFICER

The Chief Financial Officer is responsible for the following functional areas:

- Expenditure
- Budgets
- Revenue
- Treasury
- Supply Chain Management
- Valuations
- Grant Funding

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:

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 manage and certify the annual stocktaking of Council's assets.
- (6) To make investments on behalf of the municipality within a policy framework determined by the Minister of Finance and the investment of surplus funds in terms of Council policy.

**NOTE: See the relevant sections of the Credit Control and Debt Collection Policy.*

2. Revenue

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

In terms of the Systems Act

- (2) To sign and issue Section 118 clearance certificates.
- (3) To sign and issue Low Cost Housing [S118(4)] clearance certificates.

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

- (4) To collect and refund any credits and/or deposits held for property transactions, including housing debtors and property leases.
- (5) To collect, adjust and refund any credits and deposits held for property leases debtors.
- (6) To implement all actions associated with the Housing Indigent Grant of Council.
- (7) To implement debt relief processes in respect of Council dwellings, in accordance with the Credit Control and Debt Collection By-law.
- (8) To exercise all powers, duties and functions which vest in the Municipality, in terms of the Credit Control and Debt Collection By-law (sections 6 and 8) and Credit Control and Debt Collection Policy.
- (9) To approve applications for a rates rebate in terms of Council's Rates Policy.

3. Valuations

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

- (1) To exercise the powers, duties and functions which vest in the Municipality, in terms Sections 14(2), 23, 33(1), 33(4), 35(4), 35(5), 36(4), 36(5), 41(2), 49(2), 50(4), 66(1) and 79 of the Local Government: Municipal Property Rates Act
- (2) Approve the remuneration and compensation of valuation appeal board members in terms of the Conditions of Appointment of Members of an Appeal Board.

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. Grant Funding

- (1) To sign all conditional grant funding documents and grant funding Memoranda of Agreements, after consultation with Legal Services where applicable, related to projects funded from transversal Provincial and National Conditional grant allocations.

- PART 36 -

COMMISSIONER: TRANSPORT AND URBAN DEVELOPMENT AUTHORITY

The Commissioner is responsible for the following functional areas:

- Transport Planning Authority
- Contracting Authority
- Municipal Regulatory Entity
- TDA Business Management
- Investment Management
- Enforcement
- Liaison, Communication and Stakeholder Management
- Infrastructure Management
- Network Operations Management
- Urban Planning
- Human Settlements
- Urban Sustainability

Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers, functions and duties to the Commissioner: Transport and Urban Development Authority (TDA) including the power to sub-delegate:

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) In respect of conditional grant funding allocations associated with the Public Transport Network (PTNG), Integrated City Development (ICDG), Urban Settlements Development (USDG) and the Human Settlements Development Grants (HSDG), to
 - (a) sign documentation on behalf of the City to give effect to projects funded from such allocations;
 - (b) report to the relevant Provincial and National departments on the prescribed bases;
 - (c) enter into Memoranda of Agreement on approved projects in terms of such grant allocations, and
 - (d) approve individual human settlement subsidy applications from beneficiaries relating to approved projects.

2. Roads and Integrated Transport

Advertising on Roads and Ribbon Development Act, No 21 of 1940

- (1) To exercise the powers, duties and functions vested in the Municipality, in terms of sections 8, 9, 9A, 10 and 11.

Urban Transport Act, No 78 of 1977

- (2) To exercise the powers, duties and functions vested in the Municipality, in terms of sections 17(a), (b), (c), (d), (e), (f), (h) and (i).

National Road Traffic Act, No 93 of 1996

- (3) To exercise the powers, duties and functions vested in the Municipality with regard to the erection, display and maintenance of road traffic signs and signals, or to authorise another person to do so, in terms of section 57.

National Land Transport Act, No 5 of 2009

- (4) To exercise the powers, duties and functions vested in the Municipality, in terms of sections 11, 14, 15, 16, 17, 18, 19, 27, 33, 36, 37, 38, 39, 40, 41, 42, 43, 86 and 87.

Roads Ordinance, No 19 of 1976

- (5) To exercise the powers, duties and functions vested in the Municipality, in terms of sections 7(2), 8(1), 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 28 and 59, including signing non-compensation agreements on behalf of the City where such arise out of a condition of approval in terms of section 17 and to grant written consent to transfer a property where such agreements require a prospective owner to enter into a similar agreement with the City prior to transfer of such property.

*By-law relating to Streets, Public Places
and the Prevention of Noise Nuisances, 2007*

- (6) To exercise the powers, duties and functions vested in the Municipality, in terms of sections 5(2), 7, 8, 10, 11, 15, 16, 17, 18, 21 and 22, including granting of wayleaves.

- (7) 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 17.

By-law relating to Stormwater Management, 2005

- (8) To exercise the powers, duties and functions vested in the Municipality, in terms of sections 3, 4, 5, 9(1)(a) and 10(1), (2) and (3).

3. Land Use Management

Title deeds

- (1) 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 planning or building development or aesthetic restrictions set in the title deed conditions of a property with the written consent of Council.
- (2) To grant or refuse consent to amend or cancel a notarial tie required in terms of conditions imposed as part of a previous approval.

Sectional Titles Act, No 95 of 1986

- (3) To exercise the powers, duties and functions vested in the Municipality, in terms of section 4(5).

Land Survey Act, No 8 of 1997

- (4) To exercise the powers, duties and functions vested in the Municipality, in terms of section 37(2).

Cape Town Municipal Planning By-law, 2015

- (5) To exercise the powers, duties and functions vested in the Municipality, in terms of section 30(3) and (6), 37(9), 47(4)(a), 62(2) and (4), 63(1) and (4), 65(3), (4), (7), (8) and (11), 66(2), 70(1), 73(1) and (2), 79(1), (2) and (3), 94(1) and (3), 102(2), 105(4), 106(1) and (2), 109(3) and (10), 113(1) and (3), 115(3) and (8), 125(2) and (3), 126(1), 127(1), (2) and (4), 128(1) and (2), 135(1), 136(1), (7) and (8) and 140.
- (6) To grant an exemption or rebate from the payment of development charges in accordance with approved policy or the applicable legislation, in terms of section 66(2) of the Planning By-law, in consultation with the Executive Director: Informal Settlements, Water and Waste Services.
- (7) To perform all other administrative functions set out in the by-law, including signing documentation, the execution of recordals, the updating of the zoning map and the zoning register, providing copies of documentation upon payment of the prescribed fees and other information required, and giving notice of a decision, as required in terms of the by-law.
- (8) 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.

*Schedule 3 (ie the Development Management Scheme) of the Cape Town
Municipal Planning By-law, 2015*

- (9) To limit the approval of a consent use application to one or more uses included within the definition of the consent use concerned.

- (10) To notify or consult with owners where required to do so in terms of the development management scheme.
- (11) 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.
- (12) To call for a cessation of a land use or activity, or impose conditions in order to minimize any potential nuisance to surrounding neighbours or the general public.
- (13) To prepare a contextual framework in respect of a particular development/site as a component of a package of plans, in terms of item 136.
- (14) To require a package of plans be submitted for approval, in terms of item 136.
- (15) To approve or refuse one or all components of a package of plans, in terms of item 136.
- (16) To approve, refuse or amend a plan or plans which indicate(s) the areas deemed to be PT1 and PT2 areas, or similar plans or maps, in terms of item 137.
- (17) 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.
- (18) In respect of land above Boyes Drive and subject to the overlay zone, determine that Council is satisfied that a building to be erected or the

subdivision of land 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.

- (19) To, where provided for in the development management scheme, exercise the power to. –
- (a) formulate requirements and/or make determinations;
 - (b) waive a requirement or exempt matters;
 - (c) approve matters,
 - (d) lay down restrictive requirements; and
 - (e) approve agreements and enter into same, provided where relating to City land, after consultation with the Executive Director Assets and Facilities Management.

*By-law relating to Streets, Public Places
and the Prevention of Noise Nuisances, 2007*

- (20) To exercise the powers, duties and functions vested in the Municipality, in terms of section 20(1), (2), (3) and (4) and 21.

4. Building Control

National Building Regulations and Building Standards Act, No 103 of 1977

- (1) To exercise the powers, duties and functions vested in the Municipality, in terms of section 2(4), 4(2), 5(2), 7(1), (3), (4) and (6), 10(1), 11(1), (2), (3) and (4), 12(1), (3), (4) and (5), 13(3), 14(1) and (1A), 15 and 18(1).

- (2) To comment on appeals lodged in term of section 9 as read with the regulations thereto and authorising officials to appear at the Review Board Hearing of the appeal.

National Building Regulations (GNR 2378 of 12 October 1990)

- (3) Application and enforcement of the National Building Regulations GNR 2378 of 12 October 1990 (as amended).
- (4) 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 Regulation A11(2).

5. Environmental Resource Management

Environment Conservation Act, No 73 of 1989

- (1) To exercise the powers, duties and functions vested in the Municipality, in terms of section 28(A) and 31(A)(1),(2),(3) and (4).

Directions in terms of the Environment Conservation Act, No 73 of 1989 (PN 161/1997: Declaration of Lourens River Protected Natural Environment)

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

National Environmental Management Act, No 107 of 1998

- (3) To monitor whether City departments take reasonable measures to prevent pollution or degradation of the environment from occurring, where it occurs, to instruct the relevant service unit or official to take appropriate remedial action as contemplated in section 28(3), to identify measures needed to minimize and rectify such pollution or degradation, to compile an environmental compliance register and report same to the City Manager such that he can report it to the Minister or MEC as appropriate, in terms of section 28(1).
- (4) To exercise the powers, duties and functions vested in the Municipality in terms of section 30(6), (7), (8), (9) and (10), 35(1), 39 and 43(1), (1A) and (2).
- (5) To recommend to the Executive Mayor to institute a prosecution in respect of any breach or threatened breach of any duty concerned with the protection of the environment where the breach of that duty is an offence, in terms of section 33.
- (6) To recommend to the Executive Mayor that the City enter into agreements with the Minister, Director-General or MEC with regard to the delegation or powers or duties vested in him/her in terms of the Act or a specific environmental management act, in terms of section 42 and 42A.
- (7) To submit responding statements on appeals lodged, in accordance with any appeal regulations made by the Minister, in terms of section 44(1)(a) read with section 43(4).

NEMA Regulations on Environmental Authorisation & Regulations on Exemptions

- (8) To make comments, objections and representations in a basic assessment, full scoping or other EIA process, and on an advertised report or submission including applications for exemption from any provision of the Act or Specific Environmental Management Act.

NEMA Regulations on Environmental Management Frameworks

- (9) To initiate, prepare, publicly participate and submit for approval by the relevant authority Environmental Management Frameworks.

National Heritage Resources Act, No 25 of 1999

- (10) To exercise the powers, duties and functions vested in the Municipality, in terms of section 8, 25, 26(1), 27, 29(2) and (10), 30(5), (10) and (13), 31(7)(a) and (c), 39(3)(b), 42(1), 44, 49(2), 51(1) and (9), and 58.
- (11) To compile an inventory of heritage resources within the City's area of jurisdiction, submit same to the provincial heritage resources authority, recommend aspects thereof to be listed in the provincial Heritage Register and assist in compiling Cape Town's part of same, in terms of section 30(5).
- (12) To request the Provincial Heritage Resources Authority to apply section 34(3), 38(9) and 48(3) exemptions within an identified area.
- (13) To comment on HIAs, or where the power to decide an application is delegated to the City in terms of section 38, or where impact is assessed in an application in terms of the Municipal Planning By-law, 2015, Development Management Scheme or other relevant law, approve same.

- (14) To maintain a list of and assist and cooperate with heritage bodies, as provided for in section 25(1).

Minerals and Petroleum Resources Development Act, No 28 of 2002

- (15) To comment on applications for prospecting, mining, exploration, production or related activities, or an environmental management programme or environmental management plans, in terms of sections 10, 16, 22 and 27.

National Environmental Management: Protected Areas Act, No 57 of 2003

- (16) To manage a nature reserve or protected environment (if assigned by the MEC or Minister as the case may be) in terms of section 38, and to develop and implement internal rules and management procedures for same including nature reserves declared in terms of section 52(1).
- (17) To prepare or ensure the preparation of management plans and submission thereof to the relevant authority for approval, in terms of section 39(2) or provide input to same initiated by other management authorities, in terms of section 39(3).
- (18) To co-manage protected areas and regulate human activities that affect the environment with regard to the issues listed in section 42(2) and (3), in terms of an agreement in terms of section 42(1)(a).
- (19) To, in accordance with prescribed norms and standards, make internal rules for the proper administration of nature reserves and protected areas where the City is the management authority, in terms of section 52.

NEMPAA Regulations for the proper administration of nature reserves, 2012

- (20) To where the City is the management authority, exercise the powers, functions and duties of the management authority of a nature reserve or protected area, in terms of regulation 4(1), 5, 6, 7, 15 to 50.
- (21) To establish one or more advisory committees in respect of a nature reserve or protected area where the City is the management authority, in terms of regulation 9, appoint its members (except where these are councillors, as they are appointed by the executive mayor and/or chief whip), including City employees as ex officio members, define such committees' specific mandate, and undertake all other required and related actions to give effect to such establishment as set out in regulation 10 to 14.

National Environmental Management: Biodiversity Act, No 10 of 2004

- (22) To exercise the powers, duties and functions vested in the Municipality, in terms of section 43(1), 43(3)(c), 44, 46(2), 49(2), 76 and 77(1).
- (23) To, where the City is the management authority of a protected area, prepare and submit to the MEC or Minister invasive species status reports, in terms of section 77(1).

National Environmental Management:

Integrated Coastal Management Act, No 24 of 2008

- (24) To exercise the powers, duties and functions vested in the Municipality, in terms of section 18(1) and (5), 25(3) and 48(1),(3) and (4), and where designated thereto in terms of section 31C of the National Environmental Management Act, No 107 of 1998, also those in terms of section 59(1) and (5), 60(1).

- (25) To request the relevant MEC to approve and publish the establishment of a coastal management setback line(s) or the amendment thereof, or comment on same where proposed by the MEC, in terms of section 25.
- (26) To prepare and submit for adoption by Council a coastal management programme and associated policies for managing the coastal zone or parts thereof, including review or amendment thereof where necessary, and where so adopted, publish same for general notification, in terms of section 48(1), (3) and (4).
- (27) To upon instruction, prepare a draft by-law to provide for implementation, administration and enforcement of a coastal management programme and submit same to the Executive Mayor together with Mayco for consideration, in terms of section 50.
- (28) To where a contravening party fails to comply with a notice issued in terms of section 59(1) or (5), or section 60(1), instruct and appropriate person to carry out the required actions, and to recover the costs reasonably incurred from the relevant party.

Nature Conservation Ordinance, No 19 of 1974

- (29) To appoint persons as nature conservation rangers, subject to the law governing the appointment of employees of a local authority, for the purposes of carrying out the provisions of the ordinance, in terms of section 23(1).

Outdoor Advertising and Signage By-law, 2001

- (30) To exercise the powers, duties and functions vested in the Municipality, in

terms of section 2.4, 2.5, 2.7, 3, 4, 6, 8, 10.1, 11, 27.1, 27.3, 42, 44 to 50, 55, 67 to 70, 73, 75, 76, 78 and 79, as well as Schedule 10(10).

(31) In addition to the above, to also;

- (a) call for documentary proof (which may include bank statements) of the non-profit status or community benefit objective of a non-profit body;
- (b) remove or alter an unlawful sign erected or displayed on municipal property, or to do such work as may be specified in a notice, without a court order, where a notice in terms of section 75 is not heeded;
- (c) remove a sign displayed on municipal property in contravention of the by-law in cases where no prior notice is required;
- (d) make amendments and modifications to areas of control and to approve or amend a list or map of designated areas, prohibited areas and Areas of Control;
- (e) waive, or refuse to waive parameters set out in Schedules 4 and 5 where the power to waive is provided for; and
- (f) determine that the specified standards and criteria set out in the schedules for a specified sign, have been met.

Outdoor Advertising and Signage By-law, 2017

(Note: Delegations hereunder only become effective once this bylaw has been promulgated.)

(32) To exercise the powers, duties and functions vested in the Municipality, in terms of section 3(3) and (4), 4(1), (2)(c) and (3), 6(1), (2) and (6), 7(1), (2), (4) and (5), 8(1) and (2), 9, 11(1) to (4), (6), (7), (9) and (11)(d) and (h), 12(3), (4) and (6), 14(2) and (4), 19(1)(b) and 25(1), (2), (6) and (7), as well as Schedules 3 to 8.

- PART 37 -

EXECUTIVE DIRECTOR: AREA-BASED SERVICE DELIVERY

The Executive Director: Area-based Service Delivery is responsible for the following functional areas:

- Area Based Management and Sub-councils
- Customer Relations
- Area Management
- Public Participation
- Local Tourism Development
- Informal Trading
- Mayoral Urban Renewal Programmes

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: Area-Based Service Delivery including the power to sub delegate:

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 Social Development Implementation Protocol Agreement entered into between the City and Western Cape Provincial Administration within their respective areas.
- (3) 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.

- (4) To facilitate the celebration of important local, national and international celebrations and events e.g. Youth Day, Human Rights Day etc.

2. Area Based Management and Sub-councils

- (1) To, in consultation with the relevant line departments, identify and prioritise projects and service delivery initiatives for approval by Council.
- (2) To, in consultation with the relevant line departments, facilitate and oversee the implementation of Service Level and Service Level Agreements within all operational areas.
- (3) To oversee implementation of transversal projects and service delivery initiatives and resolve service delivery issues across areas.

3. Liquor Licences

- (1) To lodge a complaint with the Western Cape Liquor Authority regarding the conduct of a licenced business or the renewal of a liquor licence.
- (2) 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.
- (3) 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.

- PART 38 -

EXECUTIVE DIRECTOR: INFORMAL SETTLEMENTS, WATER & WASTE SERVICES

The Executive Director: Informal Settlements, Water and Waste Services is responsible for the following functional areas:

- Informal Settlements and Backyarders
- Water and Sanitation
- Solid Waste Management

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: Informal Settlements, Water & Waste Services including the power to sub delegate:

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 Management

In terms of Integrated Waste Management Policy

- (1) To exercise the powers, duties and functions which vest in the Municipality, in terms
Part 1, Paragraph 5(a)
Part 2, Paragraph 5(ii)(b)
Part 3, Paragraph 2.1.3
Part 3, Paragraph 7

of the Integrated Waste Management Policy.

In terms of Solid Waste Management Tariffs (Tariff Policy)

- (2) To exercise the powers, duties and functions which vest in the Municipality, in terms of
Clause 14, 17, and 21
of the Solid Waste Management Tariffs (Tariff Policy)
Clause 14 may not be sub-delegated
Clause 17 must be exercised within the parameters of Chapter 6 of the Credit Control & Debt Collection Policy.
- (3) 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.

*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*

- (4) To exercise all powers, duties and functions which vest in the City, in terms of Sections 8(5), 10(10(j)), 13(1), 13(2) and 17(1),
of the Integrated Waste Management By-law.
- (5) To exercise all powers, duties and functions which vest in the Municipality, in terms of
Sections 7(2), 10(6) and 15(7)
of the Policy for the Accreditation of Service Providers of Waste Management Services in Cape Town, 2009.

In terms of the National Environmental Management:

Waste Act, Act No 59 of 2008

- (6) To exercise the powers, duties and functions which vest in the Municipality, in terms of
Sections 58 and 61
of the National Environmental Management: Waste Act.

3. Water and Sanitation Management

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

- (1) To exercise all powers, duties and functions which vest in the Municipality, in terms of
Sections 19, 20, 21, 22, 33, 34, 35, 39, 40, 59, 118, 120 and 141
of the National Water Act.

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

- (2) To exercise the powers, duties and functions which vest in the Municipality, in terms of
Sections 1 to 27
of the Water Services Act.

In terms of By-law relating to

Stormwater Management (PN 31420/2005)

- (3) To exercise all powers, duties and functions which vest in the Council, in terms of
Sections 3, 4, 5, 7, 8(1), 9(1) and 10,
of the By-law relating to Stormwater Management.

4. Informal Settlements and Yards

- (1) To provide temporary housing relief measures in emergencies/disasters (e.g. Fire and flood kits).
- (2) To authorise the demolitions of all illegal unoccupied structures in Informal Settlements in circumstances where these are vacant and not occupied at any time.
- (3) To authorise and arrange for the relocation of families from informal settlements within City boundaries.

- PART 39 -

BUILDING CONTROL OFFICER

Acting in terms of section 59 of the Systems Act, as read with section 6(4) of the National Building Regulations and Building Standards Act no 103 of 1977 (the Act) Council hereby 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.

PART 40 -

SUPPLY CHAIN MANAGEMENT BID ADJUDICATION COMMITTEE

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.
- (3) To approve awards to other organs of state as contemplated in section 110 of the Municipal Finance Management Act.
- (4) To approve and award a tender or to approve and award any part of such a tender.

- PART 41 -

IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

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.
- (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.
- (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.
- (4) To approve or not approve transfer of ownership or disposal or granting of rights to use, control or manage non-exempted immovable capital assets provided that:
 - (a) Public participation process has been conducted (where necessary);
 - (b) S14 MFMA determinations (where applicable); 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 in principle approval by the relevant decision-making authority.