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**No. 484**

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**LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**

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**LOCAL AUTHORITY NOTICE 1922 OF 2015****CITY OF TSHWANE MUNICIPALITY:  
BY-LAW on PETITONS, 2015**

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes in terms of Sections 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), read with Section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000), and Section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); the City Of Tshwane Municipality: By-law on Petitions, 2015, as contemplated hereunder and approved by the said Council on 30 July 2015

The said By-law will come into operation on date of publication hereof in the Provincial Gazette.

**JASON NGOBENI**  
**CITY MANAGER**  
**2015-11-06**  
**Notice 551 of 2015**

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**CITY OF TSHWANE MUNICIPALITY:  
BY-LAW on Petitions, 2015**

The purpose of this By-law is to provide for the establishment of appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality within the jurisdictional area of the City of Tshwane Metropolitan Municipality, by way of a Petition as a tool to raise service delivery concerns as an alternative to protests and to lay down rules and legislative requirements in respect thereof.

**PREAMBLE**

**WHEREAS** City of Tshwane Metropolitan Municipality recognises its' legal mandate as contemplated in the Constitution of the Republic of South Africa, 1996, read with section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), and section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000);

**AND WHEREAS** the said Municipality in honouring its' obligations has the legal mandate and legal duty to adopt rules and make By-laws for the establishment of appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the Municipality;

**AND WHEREAS** the Municipality remains mindful of the legislative responsibility regarding Petitions to enable a process of public participation in local government and desiring that public participation engender and maintain the spirit of cooperative governance in the community, and substantiate democracy through a management model, the By-law on Petitions is hereby published by the City of Tshwane Metropolitan Municipality;

**AND WHEREAS** the post-1994 era brought about major changes in South Africa which impacted on all aspects of the lives of its people, including spheres of government such as the Municipality and others alike. The most significant changes were those aimed at improving service delivery and making services more accessible and responsive to the needs of the residents. This transformation process is still in progress and presents numerous challenges to all involved, particularly residents and taxpayers. The Municipality has been given a mandate to ensure provision of the best possible services to its residents. The issue of petitions thus comes as an intervention mechanism to ensure that, in the event of residents being dissatisfied about service delivery, there must be a platform and a manner in which they can voice their concerns;.

**AND WHEREAS** this by-law provides for the right to submit a petition to the City of Tshwane Metropolitan Municipality, as well as general principles and procedures for submitting such petition to the Municipality and consideration of a petition by the Section 79 Committee of the Municipality assigned to deal with petitions, as well as matters incidental thereto. The by-law sets forth solutions to challenges and targets for transformation that will have an impact on how, where and by whom petitions shall be dealt with. Among other things, the Municipality must ensure the efficiency and effectiveness of its administration through dealing with petitions;

**BE IT THEREFORE ENACTED** by the City of Tshwane Metropolitan Municipality as follows:

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## 1. DEFINITIONS AND ABBREVIATIONS

In this by-law, unless the context indicates otherwise, the following words have the following meaning:

**“Appeal”** means a formal request to the Council by a petitioner, in terms of this by-law, to review a decision taken by the Petitions Committee.

**“City Manager”** means a head of administration and accounting officer of the Municipality appointed by the Council in terms of section 82 of the Municipal Structures Act, 1998 (Act 117 of 1998).

**“Chairperson”** means the councillor appointed by the Council to chair a committee in terms of section 79 of the Municipal Structures Act, 1998.

**“Constitution”** means the Constitution of the Republic of South Africa, 1996, (Act No. 108 of 1996).

**“Council”** means the Municipality’s body of elected ward and proportional representative councillors, established in terms of Municipal Structures Act, 1998.

**“Council rules”** means the duly proclaimed by-laws and rules and orders approved by the Council as required to conduct the business of the Council and Section 79 Committees.

**“Councillor”** means a municipal councillor of the Municipality duly elected in terms of section 22 of the Municipal Structures Act, 1998.

**“Mayoral Committee”** means the executive body of municipal councillors appointed by the Executive Mayor in terms of section 60 of the Municipal Structures Act, 1998.

**“Memorandum”** means a demand or a list of demands that are presented to the Municipality by a person or a group of people which the Speaker may refer to the Petitions Committee if he deems it appropriate.

**“Municipality”** means the City of Tshwane Metropolitan Municipality established in terms of section 12 of the Municipal Structures Act, 1998.

**“Municipal officials”** mean employees of the Municipality duly assigned to give effect to the implementation, management and execution of this by-law.

**“Petition”** means a written complaint or request or representation or submission addressed by a person or group of persons to the Municipality on a matter on which the Municipality has jurisdiction in terms of this by-law.

**“Petitions Committee”** means the committee established in terms of section 79 of the Municipal Structures Act, 1998 charged with the consideration and resolution of petitions submitted in terms of this by-law.

**“Petitioner”** means a person or group of persons who submits a petition in terms of this by-law.

“**Petitions File**” means the file in which all documents relating to a petition submitted in terms of this by-law are collected and filed according to the Council's approved filing plan.

“**Petitions Register**” means the register required to be opened and maintained in terms of this by-law.

“**Relevant authority**” means a municipal council, national or provincial government department or other government institution or agency, as the case may be, having jurisdiction in the matter in hand.

“**Section 79 Committee**” means the

“**Speaker**” means the municipal councillor elected as Chairperson of the Council in terms of section 36 of the Municipal Structures Act, 1998.

## **2. LEGISLATIVE FRAMEWORK**

2.1 Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

2.2 Gauteng Petitions Act, 2002 (Act 5 of 2002)

2.3 Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)

2.4 Promotion of Access to Information Act, 2000 (Act 2 of 2000)

2.5 Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

## **3. OBJECTIVES**

3.1 In keeping with the Municipality's broader objectives, this by-law strives to –

- (a) promote participatory democracy and active citizenry;
- (b) encourage residents and stakeholders to submit petitions on matters that affect them;
- (c) establish a sound relationship between the Municipality and its residents;
- (d) determine the requirements and mechanisms for submission of petitions.
- (e) provide a further mechanism by which residents and stakeholders may raise service delivery concerns.

## **4. GENERAL PRINCIPLES**

4.1 A petitioner may submit a petition in any of the official languages of the Republic of South Africa.

4.2 The Petitions Committee must –

- (a) respect, protect and promote the rights of a petitioner provided for in this by-law and in any other prescripts;
- (b) take appropriate steps to promote and facilitate participation; and
- (c) enhance democracy by exercising maximum accountability and transparency in its consideration of petitions.

4.3 The Petitions Committee must promote and facilitate a fair and equitable process of considering petitions submitted to the Municipality in terms of this by-law.

4.4 The following principles underpin this by-law:

- (a) **Accessibility:** Accessibility in terms of physical and geographical conditions, time, language and need must be taken into account. This must be done by ensuring that there are satellite offices where residents can submit their petitions and relevant personnel to accept the petitions.
- (b) **Accountability:** Any person dealing with petitions must comply with all legislative prescripts. This shall include adherence to the Batho Pele principles and the Constitution.
- (c) **Appropriateness:** The submission of a petition must be responsive to social, economic and political conditions.
- (d) **Efficiency and effectiveness:** Objectives must be achieved in the most cost-effective manner.
- (e) **Empowerment:** The outcome of a petition must enhance participatory democracy and good governance, empower and capacitate the residents and communities on the tangible benefits of the petitions process.
- (f) **Equity:** Redistribution of resources must be based on need, priorities and historical discrepancies.



- (g) **Public awareness:** There must appropriate training of residents and communities on the benefits of this by-law to ensure active involvement of residents and communities in the petition process.
- (h) **Transparency:** Residents must be regularly apprised of the status of their petitions.

## 5. RIGHT TO PETITION

Any person or groups of persons may submit a petition in terms of this by-law, provided that it complies with the procedure contemplated in this by-law

### 5.1 A petition may be –

- (a) a single petition, submitted by an individual.
- (b) an association petition or corporate entity petition, submitted by a duly authorised representative on its behalf, which concerns a particular complaint or request; or
- (c) a collective petition, submitted by a number of persons concerning a particular complaint or request.

### 5.2 A petition may be submitted by any person duly acting –

- (a) as a member of or in the interest of a group or class of persons; and

### 5.3 A petition must be signed, in the case of -

- (a) a single petition by the individual concerned;
- (b) an association or corporate entity petition by the duly authorised representative;
- (c) a collective petition by members of the group provided that the group must nominate not more than three persons duly representing the group to submit the petition.

**6. PROCEDURE FOR SUBMITTING A PETITION**

6.1 A petition must –

- (a) be submitted to the relevant office in terms of this by-law by the person or the duly authorised persons /representatives who signed the petition;
- (b) provide –
  - (i) the signatories of the petition;
  - (ii) the area from which the petitions come;
  - (iii) full contact details of the person or the duly authorised persons /representatives who submitted the petition.

6.2 The assigned officials must open all petitions and record the following details in the Petitions Register –

- (a) the date of receipt of the petition;
- (b) the time received;
- (c) the name and contact details of the petitioner/s; and
- (d) a short description of the content of the petition.

6.3 The assigned officials must render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition but who meets all the requirements imposed by this by-law so that the person may properly submit a petition.

**7. PROCEDURE FOR CONSIDERING A PETITION**

7.1 The assigned officials must –

- (a) take all prescribed steps to prepare the petition for consideration by the Petitions Committee including -

- 
- (i) where a petition is illegible the assigned officials must ascertain the purpose of the petition and render the necessary assistance;
  - (ii) does not state the correct name and contact details of the petitioner and, where applicable, the name of the association or group on whose behalf the petition is being submitted;
  - (iii) has not been signed by the petitioner, except in the case of a petitioner who is unable to write, in which case the assigned officials must ascertain that the mark of the petitioner was made in the presence of not less than two witnesses;
  - (iv) addresses a matter previously considered by the Committee, unless that petition contains new information that may have a material impact on the outcome of the consideration of the petition, in which case such information must be made available to the Petitions Committee at the same time as all other pertinent information is submitted to it ; or
  - (vi) contains defamatory statements or improper language.
- 
- (b) acknowledge in writing receipt of the petition to the parties involved within three (3) working days after receipt of the petition;
  - (c) Refer petitions which fall outside the Council's jurisdiction to the relevant national or provincial department or other institution and inform the petitioner accordingly;
  - (d) open a file for every petition received;
  - (e) meet with the petitioner or representative of the petitioners within seven working days (7) of receiving petitions to seek clarity and more information on the petition.
  - (f) two (2) working days after meeting with the petitioner or the petitioners representative/s, meet with officials from the relevant department/s to share information on the petitions;
  - (g) one (1) working day after meeting with the relevant department/s, refer the petition to the relevant department/s within the Municipality for comments, and such comments must be provided within five (5) working days;

- (h) inform the petitioner or representative of the petitioners of the date, time and venue where the petition will be considered and ensure that the representative of the petitioners attend that sitting of the Petitions Committee;
- (l) inform the petitioner or petitioners representative/s of other remedies available, if any;
- (j) make the petitioner or petitioners representative/s aware of the fact that they have access to the petition file at all reasonable times;
- (k) from time to time, inform the petitioner or petitioners representative/s of progress in respect of the consideration of a petition;
- (l) communicate to all relevant parties any decision taken by the Petitions Committee in respect of a petition; and
- (m) advise the petitioner or petitioners representative/s of the right of appeal in terms of section 12 hereunder.

7.2 In addition to the mandatory comments from the Finance Department and Legal Services Department, relevant Departments must, after the meeting with the assigned officials as required in section 7.1(f) above, take note of the following:

- (a) consider whether an inspection *in loco* is necessary and, if so, liaise with the other relevant departments regarding the date and time of such inspection and the outcome of said inspection;
- (b) Compare matters raised in the petition with the report to determine if all aspects have been addressed;
- (c) Interact with other departments on any ambiguities or lack of clarity;
- (d) All reports must be dated and include full details of [the] any investigation, including the dates and times of inspections *in loco*, legal and financial implications and proposed solutions and recommendations.

7.3 Recommendations to the Petitions Committee must be properly formulated in line with Circular 9, including:

- (a) The person responsible for executing the resolution.
- (b) The timeframe, where applicable, within which the resolution must be executed.
- (c) A clear indication of what must be executed.

## 8. LIMITATION

The Petitions Committee must decline to consider a petition if it –

- (a) falls outside the jurisdiction of the Council;
- (b) falls outside the scope of its powers;
- (c) concerns a matter pending in a court of law or other tribunal or forum contemplated in the Constitution;
- (d) concerns the conviction and sentencing by a criminal court of law of a person to a period of imprisonment;
- (d) falls outside the powers and functions of the Municipality or its area of jurisdiction; or
- (e) addresses a matter that falls within the scope of a commission of inquiry established by the national or provincial government or a commission of enquiry established by the Council.

## 9. ESTABLISHMENT, COMPOSITION AND DURATION OF PETITIONS COMMITTEE

9.1 The Petitions Committee is established by Council in terms of section 79 of the Municipal Structures Act, 1998.

9.2 The Council shall in a prescribed manner appoint the members of the Petitions Committee.

### 9.3 The Council -

- (a) must determine the functions of the Petitions Committee;
- (b) may delegate duties and powers to it in terms of section 32 of the Municipal Structures Act, 1998;
- (c) must appoint the chairperson;

- (d) may authorise the Petitions Committee to co-opt advisory members who are not members of Council within the limits determined by Council from time to time;
- (e) may remove a member or co-opted member of the Petitions Committee at any time; and
- (f) may determine the Petitions Committee's procedure.

9.4 The Petitions Committee shall exist for the duration of the term of office of the municipal Council.

9.5 At the expiry of the term of office of the Council, the Petitions Committee shall be deemed to be dissolved.

## **10. FUNCTIONS AND POWERS OF THE PETITIONS COMMITTEE**

10.1 The Petitions Committee has the following functions as determined by the Council -

- (a) To adjudicate and decide on all petitions received and to make recommendations.
- (b) To record the oral submission or evidence of a petitioner given in terms of this by-law.
- (c) To convene monthly Petitions Committee meetings in accordance with the Council calendar.
- (d) To require a relevant department to which a petition was referred to furnish the Petitions Committee with a detailed report on the steps taken by the department to address the complaint or request.
- (f) To report to the Council on a quarterly basis on petitions submitted to it during the period concerned and on all its activities regarding the petitions, including –
  - (i) the responsiveness and efficiency with which petitions were dealt with; and
  - (ii) the number of petitions received and resolved.
- (e) If the Petitions Committee declines to consider a petition in terms of this by-law, it must inform the petitioner in writing of the reasons for its decision.

10.2 The Petitions Committee has the following powers delegated to it in terms of section 32 of the Municipal Structures Act:

- (a) The Petitions Committee may invite a petitioner to –
  - (i) supplement the petition with additional oral or written submissions; or
  - (ii) call a witness to present oral or written evidence to the Committee.
- (b) The Petitions Committee may make recommendations to an appropriate or relevant department with a view to settling the request or complaint contained in the petition to the satisfaction of the petitioner.
- (c) The Petitions Committee may make recommendations to an appropriate or relevant department regarding the general approach to be followed in future for settling a request or complaint.
- (d) The Petitions Committee may decline to accept a report from the relevant department if it is not signed by the member of the Mayoral Committee or the Strategic Executive Director.
- (e) The Petitions Committee may make a recommendation to refer the petition to –
  - (i) another committee of the Council;
  - (ii) the Executive Mayor or City Manager; or
  - (iii) a body supporting constitutional democracy established in terms of chapter 9 of the Constitution.
- (f) The Petitions Committee may conclude its consideration of a petition if it is of the opinion that no steps, or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner.
- (g) The Petitions Committee may close the petition file if the complaint or request in the petition, since its submission, has been settled to the satisfaction of the petitioner.

- (h) The Petitions Committee may require a relevant department to present its case during the Petitions Committee meeting.
- (i) The Petitions Committee must resolve the petitions received within a period of ninety (90) working days (three months).
- (j) The Petitions Committee may rotate the venue for its meetings within the seven (7) regions of Tshwane Municipality.

## **11. PUBLIC HEARING**

- 11.1 The Petitions Committee may conduct public hearings either to consult with the broader community or to grant the community enough opportunity to speak on the petitions submitted.
- 11.2 The officials of the relevant municipal departments will be invited to take part in such hearings.
- 11.3 Such public hearings will be convened according to City of Tshwane's by-law on Public Participation.

## **12. RIGHT TO APPEAL**

- 12.1 Petitioners have the right to appeal to the Council against the decision of the Petitions Committee within seven working days of such a decision being made.
- 12.2 A formal written appeal must be lodged with the Speaker of Council, clearly stating the reasons for the appeal.
- 12.3 The Council may appoint a special committee to deal with the said appeal and to submit its recommendations to the Council.
- 12.4 The special committee has the right to summon any person it deems necessary to appear before it.
- 12.5 The decision of the Council on the said appeal is final.
- 12.6 The appeal process must be finalised by the Council within a period of 90 days.

## **13. HANDLING OF A MEMORANDUM**

- 13.1 Every member or members of the community has a right to submit a memorandum.



- 13.2 Upon receipt of such a memorandum, the Speaker may, if he deems it appropriate, dispose of such a memorandum in the form of a petition and all processes related to this by-law will be applicable.

#### **14. ACCOUNTABILITY OF THE PETITIONS COMMITTEE**

- 14.1 The Petitions Committee must report to the Council as contemplated in paragraph 10.1(f).
- 14.2 A member of the Council may, while the Committee is considering a petition, only put a question in respect of that petition that relates to the process of considering the petition and not in respect of the merits thereof.

#### **15. RETENTION OF MATERIAL EVIDENCE**

- 15.1 The Committee must make a copy or reproduction in any format of materials of evidence submitted to it.
- 15.2 The Committee must retain such copy or reproduction for such period as the Council's filing plan determines read with the Archives Act after conclusion of the consideration of a petition.
- 15.3 The assigned official must include the copy or reproduction in the particular petition file.

#### **16. GUIDELINES**

- 16.1 The Petitions Committee may develop guidelines for –
- (a) the process and procedures for submitting a petition;
  - (b) any timeframes to be adhered to during any process or for any procedure contemplated in this by-law;
  - (c) the registration of a petition and opening of a petition file by assigned officials;
  - (d) Preliminary investigation of a petition by the assigned officials;
  - (e) the archiving or disposal of a petition file that has been closed in terms of the National Archives and Records Service of South Africa Act 1996 (Act No. 43 of 1996) ;

- (f) the procedure and process for issuing and serving notices for the purposes of this by-law;
- (g) any measures to promote and facilitate participation by the people of Tshwane;
- (h) in general, any matter not provided for in this section that may be necessary to prescribe in order to achieve or promote the objective of this by-law; and
- (i) the process and procedures for handling a petition when the Council is not in session.

16.2 The Petitions Committee must develop guidelines for –

- (a) the rights of a petitioner contemplated in this by-law;
- (b) the process and procedures for a petitioner to submit an appeal;
- (c) the procedure to deal with conflicts of interest;

**17. SHORT TITLE OF BY-LAW AND REPEAL OF PREVIOUS TERMS OF REFERENCE AND STANDARD PETITIONS PROCEDURE**

17.1 This by-law is called City of Tshwane's By-law on Petitions.

17.2 This by-law repeals and substitutes all previous standard procedures relating to petitions, including policies and/or by-laws of the former Metsweding District Municipality as well as the Kungwini and Nokeng tsa Taemane Local Municipalities which have merged with the City of Tshwane Metropolitan Municipality consequential to Government Notice No. 1866 published in Provincial Gazette Extraordinary No. 128, Vol. 16 of 30 June 2010, as amended.

**LOCAL AUTHORITY NOTICE 1923 OF 2015****NOTICE ON THE DRAFT BY-LAW ON PUBLIC PARTICIPATION 2015 FOR IMPLEMENTATION IN THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes in terms of section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), read with section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000), and section 162 of The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); the City Of Tshwane Municipality: By-law on Public Participation, as contemplated hereunder and approved by the said Council on 25 June 2015

The said By-law will come into operation on date of publication hereof in the Provincial Gazette.

**JASON NGOBENI**  
**CITY MANAGER**  
2015-11-06  
Notice 550 of 2015

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**BY-LAW on Public Participation, 2015**

The purpose of this By-law is to encourage and create conditions in respect of rules, forms, procedures, appropriate mechanisms, and processes to enable the local community to participate in the affairs of the Municipality within the jurisdictional area of the City of Tshwane Metropolitan Municipality, and to repeal the Bylaw on the Public Participation: Ward Committees, Petitions, Public Meetings and Hearings as published under Local Authority Notice 127 in Provincial Gazette Extraordinary, No 21 dated 1 February 2012 and policies pursuant.

**PREAMBLE**

**WHEREAS** City of Tshwane Metropolitan Municipality recognises its' legal mandate as contemplated in the Constitution of the Republic of South Africa, 1996, read with section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), and section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000);

**AND WHEREAS** the said Municipality in honouring its' obligations has the legal mandate and legal duty to adopt rules and make By-laws for the establishment of appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality;

**AND WHEREAS** governments around the world increasingly understand the significance of public participation in decision making processes. They appreciate the intrinsic and instrumental value of this principle in promoting and strengthening good governance and democratic ethos. The intrinsic value of public participation lies in increasing accountability and transparency, broadening the sphere in which citizens can make or influence decisions, building civic capacity and trust between government and the public. The instrumental value lies in the strengthening of the evidence base for By-Law making, the reduction of the implementation costs and the tapping of greater reservoirs of experience and creativity in the design and delivery of public services.

**AND WHEREAS** the City of Tshwane is committed to good governance and democratic principles. It understands that public participation is an essential ingredient for good governance in any democratic country. It believes that public participation is a means to improve 'democratic performance' i.e. the degree to which a government decision making process live up to democratic ethos. It understands that it cannot, on its own, find solutions to address the complex challenges facing the municipality. Thus, it believes that it can improve this 'By-Law performance' and the delivery thereon by working closely with citizens, communities, civil society organizations, interest groups, businesses and other stakeholders. Through this By-Law the City of Tshwane commits itself to establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality in terms of the provisions of the Local Government: Municipal Systems Act No. 32 of 2000.

**BE IT THEREFORE ENACTED** by the City of Tshwane Metropolitan Municipality as follows:

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**DEFINITIONS**

CBO	Community Based Organisation
Community Development Worker (CDW)	Is a special public servant who engages with citizens to determine what services are needed, to ensure that these services are made available by the relevant government department
Community	Residents of and all stakeholders in a Ward, total ward community duly represented by an elected Ward Committee
Council	The Municipal body of elected ward councillors and proportionally representative councillors comprising the local government structure as established in terms of the Municipal Structures Act
Municipality	When referred to as an entity means as described in section 2 of the Local Government: Municipal Systems Act, act No. 32 of 2000 and when referred to as a geographic area means the municipal area determined in terms of the Local Government: Municipality Demarcation Act. Act No. 27 of 1998.
Mayoral Committee	An Executive political body of councillors of the Municipality appointed by the Executive Mayor as prescribed in terms of Section 60 Municipal Structure Act
NGO	Non-Governmental Organisations
Public Participation Consultation	Is an open accountable and inclusive process through which individual, citizen's community and interest groups, and other stakeholders can exchange views, make or influence the decisions that affect their lives.
Stakeholders	Persons and organisations that are actively involved or whose interests may be positively or negatively affected by execution or completion of a project or resolution. They may also exert influence over the decision or project and its deliverables.
Structure Act	Means the Local Government: Municipal Structures Act, Act No. 117 of 1998, as amended.
Systems Act	Means the Local Government: Municipal Systems Act, Act No. 32 of 2000, as amended.
Ward	A geographically demarcated area in the Municipality as stipulated by the Municipal Demarcated Board.
Ward Councillor	A municipal councillor elected in terms of section 22 (1)(b), of the Structures Act, to represent the population of a demarcated council ward

Ward Committees	Committee established in terms of Sections 73 of the MSA and relevant approved by-law of the Municipality
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## 1. LEGISLATIVE FRAMEWORK

This By-Law signals the City's intention to not only fulfil its constitutional obligation to facilitate public participation in its decision making processes, but to exceed it. Public participation is one of the fundamental principles of our constitutional democracy. The Constitution of the Republic of South Africa, 1996 (Constitution) embraces both representative and participatory democracy. Firstly, it entrenches the right of citizens to elect (political rights in s19 of the Bill of Rights) their representatives into government (representative democracy). It also enshrines many other human rights in the Bill of Rights and imposes state obligations to facilitate participatory democracy. These include the right of access to information (s32); the right to equality (s9); right to have their dignity respected and protected (s10); the right to freedom of belief and opinion (s15); right to freedom of expression (s16); right to assembly, demonstration, picket and petition (s17); the right to education (s29) and the right to citizenship (s20).

There are various constitutional provisions mandating the City to facilitate public participation. Section 195 of the Constitution sets out the values and principles governing public administration and states that "people's needs must be responded to and the public must be encouraged to participate in By-Law making (s195 (e)); public administration must be accountable (s195 (f)) and transparency must be fostered by providing the public with timely, accessible and accurate information (s195 (g))." In addition, there are pieces of legislation requiring provincial departments to engage with the public and consult with interest groups and stakeholders on specific sectoral matters.

## 2. OBJECTIVES OF PUBLIC PARTICIPATION

2.1 The following are the objectives of the public participation:

- a) To meet the statutory requirements on community participation as spelled out in the constitution of the country and the Municipal Systems Act no 32 of 2000;
- b) To build an open, transparent and accountable Municipality;
- c) To promote the values of good governance and human rights;
- d) To acknowledge the fundamental right of all people to participate in the governance system;
- e) To narrow the social distance between the local community and the Municipality's political structures, political office bearers and administration;
- f) To provide an approach which underlies all of the Government's Interaction with communities;
- g) To provide a conceptual basis for following up specific areas to promote community action and dialogue;
- h) To suggest some practical approaches which can be taken forward to make public participation a reality;
- i) To develop a culture of community participation through the creation of conditions for local communities to participate in the affairs of the municipality.
- j) To assist disadvantaged communities to participate effectively in the system of local government.

## 3. PRINCIPLES GUIDING PUBLIC PARTICIPATION

3.1 The following are principles guiding public participation:

- a) **Inclusivity** – embracing all views and opinions in the process of Community participation;
- b) **Diversity** – understanding the differences associated with race,

Gender, religion, ethnicity, language, age, economic status and sexual orientation. These differences should be allowed to emerge and where appropriate, ways sought to develop a consensus. Planning processes must build on this diversity;

- c) **Building Community participation** – capacity building is the active empowerment of role players so that they clearly and fully understand the objective of public participation and may in turn take such actions or conduct themselves in ways that are calculated to achieve or lead to the delivery of the objective;
- d) **Transparency** – promoting openness, sincerity and honesty among all the role players in a participation process;
- e) **Flexibility** – the ability to make room for change for the benefit of the participatory process. Flexibility is often required in respect of timing and methodology. If built into the participatory processes upfront, this principle allows for adequate public involvement, realistic management of costs and better ability to manage the quality of the output;
- f) **Accessibility** – at both mental and physical levels – collectively aimed at ensuring that participants in a public participation process fully understand the aim, objectives, issues and the methodologies of the process, and are empowered to participate effectively. Accessibility ensures not only that the role players can relate to the process and the issues at hand, but also that they are, at the practical level, able to make their input into the process.

#### 4. GUIDELINES ON PUBLIC MEETINGS, CONSULTATIONS AND HEARINGS

4.1 The following are guidelines on public meetings, consultations and hearings:

- a) The Office of the Speaker must be regarded as the custodian of all public/ community consultation process.
- b) All requests for a matter to be subjected to community/ public consultations be referred by different Departments to the Office of the Speaker for action.
- c) A notice of a Public Hearing must be advertised at least once in two newspapers that covers the bigger portion of the municipality. The newspaper advertisements must be done 14 days before the start of the public consultation/hearing.
- d) All notifications must be in a language understood by the majority of its intended recipients,
- e) All meetings/hearings must be held in an accessible locations and, whenever possible, close to transit routes
- f) Language used in all the meetings must be accommodative and whenever possible interpreters / translators for hearing impaired individuals must be made available upon request; requests must be made at least two weeks prior to the meeting date
- g) Meetings/hearings must be scheduled at the most convenient time of the day to maximize participation.
- h) Where the Municipality invites the community to submit written comments or representation on any matter before the Council, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a dedicated staff member of the Municipality named in the invitation will help that person to transcribe that person's comments or representation;
- i) The community must be fully informed on the role that they are expected to play during the community participation process, and on the impact of their inputs, unless it is specified in legislation or exceptional circumstances, the minimum time required for informing the community about a community meeting, must be 14 (fourteen) days.

## **5. DEVELOPMENT OF CULTURE OF COMMUNITY PARTICIPATION**

- 5.1 In giving effect to section 16 of the Systems Act and as set out in this By-Law, the Office of the Speaker must ensure that:
- 5.1.1 The municipality encourages and creates conditions for the local community to participate in the affairs of the municipality, including in –
  - 5.1.2 The preparation, implementation and review of its integrated development plan;
  - 5.1.3 The establishment, implementation and review of its performance management system;
  - 5.1.4 Determination, consideration and adoption of by-laws and specific policies;
  - 5.1.5 The monitoring and review of its performance, including the outcome and impact of such performance;
  - 5.1.6 The preparation of its budget; and strategic decisions relating to the provision of municipal services;

## **6. MECHANISMS, PROCESSES AND PROCEDURES**

- 6.1 The Office of the Speaker must notify the public of all the available methods for participation. Notification may take the form as provided for in this By-Law.
- 6.2 The municipality must, when implementing methods for public participation provide –
- 6.2.1 For a staff member to help members of the community who cannot read or write;
  - 6.2.2 Appropriate access to public meetings and hearings for people with physical disability; and
  - 6.2.3 A translator, after having assessed the language preferences and usage and where appropriate.

## **7. COMMUNICATION OF INFORMATION REGARDING COMMUNITY PARTICIPATION**

- 7.1 The municipality must communicate to the City of Tshwane municipal community information concerning: -
- 7.1.1 The available mechanisms, processes and procedures to encourage and facilitate community participation;
  - 7.1.2 The matters with regard to which community participation is encouraged;
  - 7.1.3 The rights and duties of members of the local community;
  - 7.1.4 Municipal governance, management and development

## **8. METHODS FOR PUBLIC PARTICIPATION**

- 8.1 The Office of the Speaker must inform the community of any public comment procedures available through which the members of the community can voice their opinions and views on any affair of the municipality on which the community's input is required, which may include, but not limited to –
- 8.1.1 Public meetings and hearings by the council and other political structures and office bearers of the municipality.
  - 8.1.2 Consultative sessions with locally recognized community organizations and traditional authorities,
  - 8.1.3 Izimbizo/Mayoral Roadshows
  - 8.1.4 The submission of written public comment
- 8.2 Invitation for public comment and open sessions**
- 8.2.1 When the municipality considers and deliberates on any of the issues set out hereunder, it must hold open sessions to which members of the public and interested organizations must be invited to submit their views and comments –
- 8.2.1.1 The identification of the needs of the community in the municipal area, including the prioritization of those needs for the purpose of assisting the council;
  - 8.2.1.2 On strategies, programs and services to address their priority needs through the Integrated Development Plan for the purpose of assisting the council;



- 8.2.1.3 In the development, implementation and the review of the council's Performance Management System, including the setting of appropriate Key Performance Indicators and Performance Targets for the municipality, for the purpose of assisting the council.
- 8.2.1.4 The views and comments of the public and interested organizations on a proposed tariff as contemplated in section 74 of the Systems Act as well as its Credit and Debt control policy.
- 8.2.1.5 Decisions on mechanisms for the provision of services through service delivery agreements and the other matters referred to in section 2 of this policy.
- 8.2.1.6 The relevant department must, after the council has held an open session on any of the matters contemplated in this policy or other relevant legislation and after conclusion of the session concerned:
- 8.2.1.6.1 Formulate a full report thereon together with any advice or recommendations that council may deem necessary or desirable.
- 8.2.1.6.2 Make copies of the report available to the community in one or more of the following manners:
- a) by publication in the local newspaper;
  - b) placing a copy on the notice board at the council's offices;
  - c) and providing every councillor of each ward with copies for distribution to the communities
- 8.3 The Office of the Speaker must ensure that the report is published in accordance with council's language policy to the municipality area.

#### **8.4 Public meetings and hearings by the Municipality**

- 8.4.1 Notwithstanding the provisions of section 8 of the Systems Act, the Office of the Speaker must publish an appropriate notice and in a manner provided for in this By-Law, notifying the community of any public meeting and /or hearing arranged to discuss and consider By-Laws and Policies.
- 8.4.2 Any such public meeting and/or hearing must take place within 7 (Seven) days of the Office of the Speaker having notified the Community of the important issues raised and considered by the council and after it had called for comments, if any.

#### **8.5 Comments via electronic mail**

- 8.5.1 The Office of the Speaker must provide the public with a central e-mail address, whereby members of the local community may submit written comments directly to the municipality on any matter referred to in this By-Law and/or other relevant legislation.
- 8.5.2 The municipality's website must also provide a facility for the members of the public to provide comments of any nature and any matter to the municipality, without necessarily allowing for abuse of the facility;
- 8.5.3 The Office of the Speaker must ensure that the comments are addressed regularly and collated by a member specifically allocated to this task.
- 8.5.4 A social network in the name of the municipality must be established for the community to interact with the municipality on any matters of interest as detailed in this By-Law.

#### **8.6 Notification**

- 8.6.1 Whenever the council:
- a) holds a meeting as provided for under this By -Law;
  - b) holds a session about any matter contemplated in this By-Law or any relevant legislation;
  - c) holds a public meeting on any other matter decided by the council that warrants notifying the community in terms of this By-Law within a reasonable period,
- 8.6.2 Copies of all notices must be posted at:
- 8.6.2.1 The notice board located at the Customer care Centres;
- 8.6.2.2 All libraries in the municipal area; and
- 8.6.2.3 Ward information centres; or
- 8.6.2.4 Such other place/s as may be determined by the ward committee

**9. PUBLIC NOTICE OF A COUNCIL MEETING**

- 9.1 The Office of the Speaker must give notice to the public in manner provided for in section 19 of the System Act setting out the time, date and venue; whenever there is a scheduled ,
- 9.1.1 Ordinary meetings of council; and
- 9.1.2 Special urgent meeting of council; except when circumstances make this impossible.

**10. VENUE FOR PUBLIC MEETINGS AND HEARINGS**

The Office of the Speaker must make use of an appropriate venue for any public meeting and/or hearing as provided for in this By-law in terms of:

- 10.1 The size of the venue after gauging and taking into consideration the approximate number of people who might be attending;
- 10.2 The location of the venue and access to it via public and private transport;
- 10.3 The amount of staff members of the council to be made available to ensure the smooth administration of the meeting; and
- 10.4 The provision for security for both the members of the municipality as well as members of the local community attending the meeting.

**11. COMMUNICATION TO LOCAL COMMUNITY**

- 11.1 Whenever anything to the community through the media under this by-Law or any other applicable legislation, it must be done through one or more of the following:
- 11.1.1 In the local newspaper/s of its areas and in an appropriate language for its area;
- 11.1.2 In a newspaper/s circulating in its area and having been approved by council as its newspaper of record;
- 11.1.3 Radio broadcast covering the area of the municipality;
- 11.1.4 Distribution of flyers and pamphlets at such points as might be determined by the ward committee;
- 11.1.5 Loud-hailing using a public address system; or
- 11.1.6 Announcement/s at public meeting/s;
- 11.1.7 Pasting posters at all ward information centres’;
- 11.1.8 In the municipality’s official website;

**12. Community participation in the Integrated Development Plan (IDP)**

- 12.1 Once the council has formulated a Process Plan setting out a guide for the planning, drafting, adoption and review of its integrated development plan, the City Manager must through appropriate mechanisms, processes and procedures set out in this policy consult the local community before adopting the process.
- 12.2 The notice must inform the community about their rights and duties for input required on the integrated development plan as well and how to go about commenting on such a process.
- 12.3 The Office of the Speaker must ensure that the publication does specify a date, time and/or place or where the input from the community may be submitted.
- 12.4 Once the municipality has finalised its integrated development plan, it must within 14(fourteen) days of the adoption of such a plan, give notice to the public in a manner provided for in this by-law as well as make available copies of or extracts for public inspection at specified places and publish in the local newspaper a summary of the plan.

**13. PETITIONS**

- 13.1 Petitions will be addressed in terms of the By-Law on Petitions

**14. ROLE OF THE WARD COMMITTEES IN ENHANCING PUBLIC PARTICIPATION**

The role of the Ward Committees in enhancing public participation is provided in the promulgated by-law on ward committees.

**15. ROLE OF WARD COUNCILLOR IN ENHANCING PUBLIC PARTICIPATION**

- 15.1 Ward Councillors must convene public meetings on a quarterly basis in their respective wards for amongst others the following purpose:
- 15.1.1 Abreast members of the community on service delivery agenda of the municipality and other developmental matters provided in this by-law;
- 15.1.2 Allow members of the community to exchange views, make or influence decisions that affect their lives.

**16. SHORT TITLE OF BY-LAW AND REPEAL OF PREVIOUS BY-LAW AND/POLICIES**

- 16.1 This by-law is called the City of Tshwane: By-Law on Public Participation 2015.
- 16.2 This By-Law repeals and substitutes all/or any preceding by-laws and or policies on Ward Committees of the City of Tshwane Metropolitan Council, including policies and or By-Laws of erstwhile of Kungwini and Nokeng tsa Temane Local Municipalities and Metsweding District Municipality which have been incorporated with the City of Tshwane Metropolitan Municipality pursuant to Government Notice No. 1866 published in Provincial Gazette Extraordinary No. 128, Vol. 16 of 30 June 2010, as amended.

# IMPORTANT

## Information

### from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.

# RULES

#### GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – [www.gpwonline.co.za](http://www.gpwonline.co.za))
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za))
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za).



# eGazette



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