

**LOCAL AUTHORITY NOTICE 217****CITY OF TSHWANE METROPOLITAN MUNICIPALITY****WORK IN THE PUBLIC ROAD RESERVE BY-LAWS**

The Municipal Manager of the City of Tshwane Metropolitan Municipality, hereby publishes in terms section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), read with section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and section 7 (6) of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), the *City of Tshwane Metropolitan Municipality: Work In the Public Road Reserve By-Laws* of the City of Tshwane.

The said By-laws will come into operation on date of promulgation hereof.

**JASON NGOBENI**  
CITY MANAGER

(Notice No 229 of 2014)  
19 February 2014

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**CITY OF TSHWANE:**  
**WORK IN THE PUBLIC ROAD RESERVE BY-LAWS**

To provide for by-laws for the regulation of all work to be executed in any Public Road Reserve within the jurisdictional area of the City of Tshwane Metropolitan Municipality and to ensure that the City of Tshwane delivers on its service delivery objectives as provided for in section 152 of the Constitution of the Republic of South Africa, 1996 as provided for hereunder.

**PREAMBLE**

**WHEREAS** the City of Tshwane is required to provide uninterrupted Services to all its residents at all times and remains committed to continuously improve its capability for effective and developmental service delivery; and

**WHEREAS** the said City has an obligation to protect all Services infrastructure within its road reserve boundaries; and

**WHEREAS** the City of Tshwane is committed to prevent damage to vehicles, injuries to vehicle occupants and pedestrians, to reduce the delays caused by road works and to prevent the reduction of the effective life span and durability of roads, footways and other Services;

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

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**SECTION 1****DEFINITIONS**

The following words and phrases shall have the meaning assigned to them in these By-laws, unless the context clearly indicates otherwise in which event the meaning shall be confined to the context of the text:

**"Authorised Agent"** means a person authorized to implement the provisions of these By-laws, including but not limited to –

- (a) peace officers as contemplated in Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), as amended;
- (b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (Act 8 of 1995) or duly appointed by the Municipality; and/or
- (c) such employees, agents, delegated nominees, representatives and/or service providers of the Municipality as are specifically authorized by the Municipality in this regard.

**"Backfilling"** refers to the replacement of the structural layers in the trench or excavation and includes the base, subbase, selected subgrade and subgrade, but excludes the surfacing (see Reinstatement);

**"Certificate of Completion"** means the document issued by the Service Coordinator as proof that Work in the Public Road Reserve was completed according to the requirements of these By-laws;

**"Code" or "Code of Practice"** means the Code of Practice for Work in the Public Road Reserve as approved by the Council in 2003 and as amended from time to time;

**"Completion Notice"** means the document submitted by the Wayleave Holder to the Service Coordinator when the Work in the Public Road Reserve has been completed;

**"Council"** means the Municipal Council of the City of Tshwane (City of Tshwane) established by Provincial Notice No. 6770 of 2000 dated 1 October 2000, as amended, or its successor in title, and any committee or person to which or whom an instruction has been given or any power, function or duty has been delegated or sub-delegated in terms of, or as contemplated in, Section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**"Cross Cut"** is the excavation of a trench by hand to identify and/or confirm the positions of existing Services in the Public Road Reserve.

**"Distance of Excavation"** means the shortest horizontal distance between an existing service nearest to the excavation.

**"Emergency Work"** is defined as any Work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a Service, or to avoid any substantial losses;

**"Lane Rentals"** means the rentals determined by the Council from time to time to be paid to the Municipality in respect of Work in the Public Road Reserve that results in time delay costs being incurred by the users of the Public Road Reserve provided that departments of the Municipality shall be excluded from the liability to pay the same;

**"Municipal Department"** means any Department of the Municipality;

**"Municipality"** means the City of Tshwane Metropolitan Municipality as a corporate entity and local sphere of Government and established in terms Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), read together with the proclamations made in terms thereof and amended from time to time as referred to in Section 1.6 above;

**"Newly Surfaced"** means any road that has been constructed, re-constructed or re-surfaced in the past 5 years;

**"Outdoor Advertising"** means the act or process of notifying, warning, informing or making known or any other act of transferring information in a visual manner, primarily to attract the attention of road users;

**"Protected Road Surfaces"** are Roads across which no digging of trenches will be permitted;

**"Public Road Reserve"** means the full width of a Public road, and includes the verge and the roadway;

**“Reinstatement”** refers to replacing the bituminous surfacing or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges;

**“Service”** means any infrastructure in the Public Road Reserve that is used for supplying a product or service that is intended for public use and that is the property of a Service Agency;

**“Service Agency”** means any Municipal Department, public agency or private company that owns a Service in the Public Road Reserve;

**“Service Coordinator”** means the Executive Director of the Roads and Stormwater Division who has the responsibility to coordinate and regulate any Work undertaken in those sections of the Public Road Reserve that fall within the Municipal area of the Council provided that these responsibilities may be delegated to an official within the Council administration;

**“Service Enquiry”** is the process that must be followed by a Wayleave Applicant to obtain positions of existing services from all Service Agencies prior to applying for a Wayleave.

**“Trenchless Methods”** are methods used to place Services under the road without excavating trenches through the surfacing and structural layers. Specialized drilling equipment is normally used.

**“Wayleave”** means the formal approval, and its accompanying conditions, in the prescribed format of Council to carry out Work in the Public Road Reserve. A Wayleave is issued by the Service Coordinator and consists of a Wayleave form and approved drawings;

**“Wayleave Applicant”** means the Municipal Department, public agency or private company who applies for a Wayleave, or on whose behalf an application is made for a Wayleave;

**“Wayleave Holder”** means the Municipal Department, public agency or private company who is in possession of a Wayleave approved by the Service Coordinator;

**“Work”** in the Public Road Reserve means any activity related to a Service, carried out within the Public Road Reserve. It includes, but is not limited to, any project related activities, irrespective of the size of the project.

**“Work Not Requiring a Wayleave”** means all types of work which do not require excavation, traffic control or Reinstatement activities and for which a Wayleave is not required.

## SECTION 2

### BASIC WAYLEAVE PROCEDURE

- 2.1 Only the holder of a valid Wayleave (Service Agency) may order Work to be carried out in the Public Road Reserve. The Work must be done by a Contractor under supervision of a Professional Engineer.
- 2.2 Permission to Work in the Public Road Reserve must be obtained from the Service Coordinator through a formal Wayleave application. The Wayleave application forms are available from the Service Coordinator. The application must be submitted by a Professional Engineer.
- 2.3 The Wayleave Applicant must first conduct a Service Enquiry, which is the process of obtaining Service plans indicating the positions of existing Services from the Service Agencies identified by the Service Coordinator. The Service plans must indicate the positions and type of Services in the area where Work will be undertaken.
- 2.4 The control section on the Wayleave application form must be signed by each Service Agency, indicating the following:
  - (a) The Service Agency has, in principal, no objection to the issuing of the Wayleave approval;
  - (b) The Service Agency has given the Applicant details of its Services in the immediate area where the Applicant proposes to work;
  - (c) The Wayleave Applicant has been given the conditions for working in the vicinity of the Service Agency's Services, and
  - (d) Whether the Service Agency has the need to review the detail design before commencement of construction.

- This approval will be subject to technical compliance with the standards of the Service Agencies involved as well as compliance with the Work planned by the Municipality within the area under consideration.
- 2.5 Once the control section has been signed by all the Service Agencies, application must be submitted for the issuing of a Wayleave in accordance with the procedure set out in these By-laws. No Work in the Public Road Reserve may commence before a Wayleave has been approved and issued by the Municipality for such Work.
- 2.6 The Wayleave application with the final designs will be re-submitted to the Service Agencies by the Service Coordinator if the need for a review of the final design has been indicated in the control section of the Wayleave application. Service Agencies will then be allowed two working days to review the application and if required by them indicate their further requirements and/or conditions that must be complied with.
- 2.7 If the Wayleave application complies with the provisions of these By-laws and all Service Agencies have approved the application in principle, then the Service Coordinator will review the Wayleave for approval. A Wayleave will be rejected or withdrawn, as the case may be, if all provisions of these By-laws are not met or if there are conflicts with existing or planned future Services. If the Wayleave application is approved then the Service Coordinator will issue a Wayleave.
- 2.8 The approval of a Wayleave means that:
- (a) the Wayleave Holder has permission to:
    - (i) place a new Service in the Public Road Reserve (or do maintenance/upgrading/alterations of existing Service); do excavations in the Public Road Reserve;
    - (ii) do vehicular and pedestrian control in the Public Road Reserve; and,
    - (iii) do Reinstatement Work on the road and pavement surfaces where excavations have been made;
  - (b) the Council has to protect the new Service in its position in the Public Road Reserve against damage by other Service Agencies working in the Public Road Reserve, and
  - (c) any Service which is not installed, upgraded or removed, as the case may be according to the Wayleave and approved drawings, will be relocated or removed at the Wayleave Holder's cost. The Wayleave Holder's responsibility in this regard will remain, even after a Certificate of Completion has been issued.
- 2.9 All conditions contained in the Wayleave shall be deemed to be part of these By-laws.
- 2.10 All preliminary Work requested by the Service Agencies, the specification documents, and these By-laws, must be adhered to before commencement of the Work. Such requests include inter alia that:
- (a) the Metro Police must always be notified in writing seven (7) working days in advance by the Wayleave Holder;
  - (b) the Service Coordinator must be informed 48 hours prior to commencing with the Work by the Wayleave Holder;
  - (c) any additional notification requirements or notice periods specified by the Service Agencies must be adhered to;
  - (d) the Metro Police must be requested to remove parking meter heads where Work necessitates the removal of parking meters with due agreement for compensation in loss of revenue where applicable, and
  - (e) written proof must be submitted that the Wayleave Holder and/or the Contractor carrying out the Work, has adequate public liability insurance, as may be determined by the Service Coordinator from time to time.
- 2.11 The Work must be carried out according to the procedures and specifications as referred to in the Wayleave document, the conditions under which the Work was approved and any other requirements of affected Service Agencies.
- 2.12 The Wayleave and the approved Service plans of the Service Agencies must be kept on site at all times while the Work is in progress.

- 2.13 The Wayleave Applicant will always be issued with one copy of the approved Wayleave. Additional copies may be obtained from the Service Coordinator if the Wayleave is applicable to more than one work area or work team.
- 2.14 Work will be stopped if the Wayleave with the approved Service plans are not available during inspections on site. Work will be stopped until the required documents are available on site.
- 2.15 On completion of the Work, all trenches and excavations in the Public Road Reserve must be backfilled and reinstated according to the specifications referred to in these By-laws and to the satisfaction of the Service Coordinator. Permanent Reinstatements are the responsibility of the Municipality's Roads and Stormwater Division or the Wayleave Holder as per the Wayleave specific conditions.
- 2.16 Where permanent Reinstatement is to be done by the Municipality's Roads and Stormwater Division, a request must be submitted within 24 hours after Backfilling has been completed.
- 2.17 On completion of the Work and temporary or permanent Reinstatement, as may be applicable, a Completion Notice must be sent to the Service Coordinator by the Wayleave Holder. Any requirements by the Service Agencies with regard to interim notices after completion of certain activities must be adhered to.
- 2.18 The Service Coordinator must review the Completion Notice and ensure that all Wayleave requirements have been met. A Certificate of Completion will be issued by the Service Coordinator once all requirements have been met.
- 2.19 The applicable guarantee period will be 12 months from the date of completion.

### SECTION 3

#### WORK IN THE PUBLIC ROAD RESERVE

- 3.1 Work in the Public Road Reserve includes the digging of trenches, tunnelling, erection of outdoor advertising signs, erection of structures, street shaping and landscaping, planting and maintenance of ground covers and trees in the Public Road Reserve and any other Work that may affect motorists, cyclists, pedestrians, the road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overhead Services or any other structure or Service that is contained within the Public Road Reserve.
- 3.2 The types of Work that require approval from the relevant Service Agencies before a Wayleave is granted and that will be conducted according to the procedures in Section 4 of these By-laws, in general refer to the positioning of a new Service (or maintenance of an existing Service), excavation in the Public Road Reserve, traffic control and Reinstatement of the roadway and pavements. Examples include inter alia:
- (a) Work relating to the installation or maintenance of underground or overhead Services by Municipality's Service Agencies like Roads and Stormwater, Water and Sanitation, Electricity, Land and Environmental Planning and City Planning;
  - (b) Work relating to the installation or maintenance of underground or overhead Services done by non-Council Service Agencies like telecommunication, electricity, gas, oil and regional water supply;
  - (c) The erection of structures that require approved building plans in terms of the National Building Regulations and Building Standards Act, 103 of 1997;
  - (d) The erection of advertising signs and structures that require approval in terms of the relevant by-laws;
  - (e) Road works, such as construction of new roads, road widening or accesses to developments, undertaken by developers;
  - (f) The installation of new connection points for municipal Services, such as water, sewers, electricity and Stormwater drainage from developments;
  - (g) Erection of hoardings in the Public Road Reserve;
  - (h) Installation of Services by private concerns, e.g. data cables to connect different buildings;
  - (i) The installation or construction of kerbing, paving, bollards, walls, gardens, etc. on sidewalks by property owners or occupiers;

- (j) The planting of trees or any other plants and the installation of irrigation pipes;
  - (k) Temporary road closures for construction purpose, and
  - (l) Traffic calming devices.
- 3.3 The types of Work for which prior approval from Service Agencies cannot be obtained due to the nature of the Work is deemed Emergency Work and must be undertaken according to the procedures set out in Section 13 of these By-laws.
- 3.4 The types of Work that do not include any construction Work but will require traffic control due to the activities taking place within the Public Road Reserve (Work Not Requiring a Wayleave) must be executed according to the procedures set out in Section 14 of these By-laws.

#### SECTION 4

##### WAYLEAVES

- 4.1 All Work in the Public Road Reserve is controlled by a Wayleave.
- 4.2 A single Wayleave Application may be submitted for a large project that covers Work in a multiple streets, provided that the positions and expected commencement/completion dates of all Work in the Public Road Reserve are adequately described in the Application. Each street and position where Work will be carried out must be clearly identified in the Wayleave Application.
- 4.3 General conditions are stated on the Wayleave form and may include, but are not restricted to, the following:
- (a) Description of Work to be done;
  - (b) Timeframe within which the Work must be done, and
  - (c) Location of Work to be done. (Provision can be made for big projects with multiple locations. The scope of big projects must be limited to manageable portions from the Wayleave perspective. The Service Coordinator will be able to direct project managers in this regard).
- 4.4 Additionally, there may be Specific conditions relating to the Wayleave which will be stated on or referred to on the Wayleave. Such conditions may include:
- (a) Specific working conditions required in terms of the Occupational Health and Safety Act (Act no 85 of 1993);
  - (b) Methods of Work execution in Protected Roads and precincts;
  - (c) Specific conditions required by the Service Agencies, and
  - (d) Reinstatement requirements.
- 4.5 To obtain a Wayleave, a Wayleave application form must be submitted, together with:
- (a) a traffic control plan showing how vehicular and pedestrian traffic will be accommodated during the execution of the Works in the Public Road Reserve;
  - (b) design drawing showing details of the proposed Work;
  - (c) Digital and printed photographs clearly showing the area of the proposed work;
  - (d) written proof that Environmental Impact Assessment (EIA) and Water Use License Application (WULA) requirements have been met;
  - (e) the payment of the required deposit or submission of proof of financial guarantees, and
  - (f) payment of the prescribed processing fee.

- 4.6 Details required on the design drawing referred to above are:
- (a) A clear depiction of the proposed Work;
  - (b) Indication where Services are to be installed and the depth of the Service below the surface level of the relevant portion of the Public Road Reserve;
  - (c) Distance of the Service from the Public Road Reserve boundary (i.e. the property boundary);
  - (d) The position of all existing above ground structures, traffic signals, trees and street furniture;
  - (e) Position and extent of all underground structures such as manholes, chambers and junction boxes;
  - (f) The location of all other Services in the Public Road Reserve. Services are located by obtaining information from the Service Agencies (Service Enquiry) and by doing Cross Cuts. Cross Cuts are required in all cases where excavations form part of the Work, and
  - (g) A Wayleave will only be issued once all the requirements have been complied with and will be subject to the conditions specified in these By-laws and on the Wayleave form.
- 4.7 When the Wayleave application is for a Municipal Department and the Wayleave Applicant can provide a written assurance that the relevant Municipal Department will be responsible for obtaining the deposit or proof of sureties that are required to protect the Municipality's interests, then the payment of a security deposit will not be required. Having regard hereto the relevant Municipal Department thus responsible will also ensure that the Risk Management Division within the Finance Department of the Municipality is duly notified and has consented to approval of the Wayleave.
- 4.8 The application for a Wayleave must be submitted in time to ensure that the Wayleave can be issued before the Work is programmed to start. Work being carried out in the Public Road Reserve without a Wayleave must be reported to the Service Coordinator and will be stopped by an Authorised Agent on site. A copy of the Wayleave must therefore always be on site when Work is being done in the Public Road Reserve.
- 4.9 The Service Coordinator will limit the duration of the application process to a period of 30 calendar days for a new Wayleave application, to 14 calendar days for a review application and to 7 calendar days for a Cross Cuts Wayleave.
- 4.10 The Wayleave Holder accepts full responsibility for all costs associated with and resulting from the Work carried out in the Public Road Reserve.
- 4.11 Only Work described in the Wayleave may be executed. If the conditions on site necessitate a deviation from the planned Work, the Service Coordinator must be informed before any Work is done. These deviations may be in relation to the position of the Service or the timing of the Works. The Service Coordinator may inform the Wayleave Holder of additional approvals that must be obtained from the Service Agencies affected by the deviation as well as further requirements in terms of drawings and specifications. Work will only be allowed to continue once the Service Coordinator is satisfied that all the additional requirements have been met.
- 4.12 The Wayleave Holder must complete the Work within the time specified on the Wayleave or the approved time extension.
- 4.13 A Wayleave Holder who fails to complete the Work within the specified time window will be given a written notice to either complete the Work or apply for a time extension within two (2) days.
- 4.14 If upon expiry of the notice period of two days referred to above the Wayleave Holder has not completed the Work or applied for an extension, the Work will be stopped and made safe by the Service Coordinator at the expense of the Wayleave Holder.

## SECTION 5

### EXISTING SERVICES AND PLANNED SERVICES

- 5.1 The Wayleave Applicant must submit Service drawings indicating the position of Services in the area of Work with the Wayleave application form. This information is obtained by means of a Service Enquiry from the relevant Service Agencies.
- 5.2 Service Agencies may require additional precautions relating to Work in the vicinity of their Services and must specify these in writing to the Wayleave Applicant.
- 5.3 As part of the Undertaking/Indemnity on the Wayleave application form, the Applicant has to confirm that the necessary information has been obtained from the Service Agencies and undertakes to adhere to the additional conditions laid down by the various Service Agencies. The control section on the Wayleave application form, signed by the Service Agencies, will serve as proof that the Service Agencies approved that a Wayleave may be issued.
- 5.4 It is the responsibility of each Service Agency, and not the Service Coordinator, to ensure that their information given to Wayleave Applicants is accurate and up to date. Approval of a Wayleave by the Service Coordinator will not in any way be interpreted as an approval for the waiving of any of the conditions or requirements of a Service Agency.
- 5.5 The Service Coordinator will verify with all Service Agencies whether future Work is planned for the area indicated in the Wayleave application. Such planned Work may dictate whether a Wayleave is approved and the conditions under which a Wayleave is approved. The planning horizon will depend on the planned life of the new Service as well as the Municipality's 5-year Integrated Development Plan (IDP).
- 5.6 Cross Cuts must always be done by the Wayleave Applicant in the area where Work is planned. The purpose of Cross Cuts is to establish and confirm the position of Services in areas where the information on Services are unclear or uncertain.
- 5.7 A Cross Cut is done by excavating a trench that runs from the edge of the Road up to the property boundary, perpendicular to the normal direction of Services. Excavation must always be done by hand. The minimum depth of the Cross Cut trench is 1 meter below the lowest point of the Public Road Reserve.
- 5.8 Because Cross Cuts are excavations in the Public Road Reserve in the immediate vicinity of existing Services, a Wayleave must be obtained before Cross Cuts may be done. The application process is essentially the same as that described for a Wayleave in these By-laws, but a much quicker procedure is followed and the Cross Cuts Wayleave will be issued immediately after a Service Enquiry has been done by the Wayleave Applicant.

## SECTION 6

### ROAD CATEGORIES

- 6.1 All roads are classified under one of the functional categories described below. The functional category of a road determines the Backfilling and Reinstatement specifications applicable to that road.
- 6.2 The following road categories will be applicable:

Category	Road Type
1	Urban Freeway/Motorways
2	Major (inter) urban arterials
3	Minor (intra) urban arterials
4	Inter neighbourhood distributors Intra neighbourhood distributors
5	Residential streets

- 6.3 All Roads have been categorised into one of the above by the Council. For any specific Road this information can be obtained from the Service Coordinator.



**SECTION 7****PROTECTED ROAD SURFACES**

- 7.1 Protected Road surfaces are road surfaces where excavation of trenches is not permitted. A road surface is protected if it has been designated a Protected Road Surface by the Council. A road surface is designated as protected when the road is of particular strategic importance (Categories 1 to 3 roads in Table 1 above), if it poses special engineering difficulties or if it has been newly constructed or resurfaced.
- 7.2 Any road surface that has been newly constructed, reconstructed or resurfaced must be protected for a minimum period of five (5) years. A longer period may be applicable, depending on the type of surfacing and pavement layers. A list of roads that fall in this category is available from the Service Coordinator. The Service Coordinator may relax the protected period, depending on specific circumstances and after consultation with the relevant Roads and Transport Department.
- 7.3 If a road surface is protected it will be indicated as such on the Wayleave by the Service Coordinator.
- 7.4 Protected Road surfaces or such other road surfaces as may be indicated on the Wayleave at the discretion of the Municipality, may only be crossed using Trenchless methods. If such methods cannot be used for some reason, special permission to excavate must be obtained from the Service Coordinator.
- 7.5 For the purpose of planning Work by Service Agencies, Categories 4 and 5 in Table 1 above may be regarded as unprotected unless they have been newly constructed or resurfaced and provided that the first 20m from an intersection with any other road category is considered to be protected.

**SECTION 8****PROTECTED PRECINCTS**

- 8.1 Work in protected precincts is subject to special trenching methods and care to ensure minimal damage to specialised and expensive material and furniture. The Service Coordinator will inform the Wayleave Applicant of the required methods and may request that a third party contractor be used to carry out the Work.
- 8.2 A list of protected precincts is available from The Open Space Management Division of the Council.

**SECTION 9****COSTS**

- 9.1 A processing fee will be charged on the following basis:
- (a) The processing fee is a fixed amount that is payable by the Wayleave Applicant upon submission of a Wayleave application form. This fee amount will be determined by the Council on the recommendation of the Service Coordinator from time to time;
  - (b) The processing fee covers the Municipality's costs for work done by the Service Coordinator. Processing fees will not be payable by National-, Provincial- or Local Government bodies, and
  - (c) The processing fee will only be applicable from the 1st of July of any particular year.
- 9.2 Security Deposit
- The following arrangements will apply:
- (a) A refundable security deposit will be charged for each Wayleave being issued. Security deposits will not be charged for Work done departmentally by Municipal Departments;
  - (b) The deposit amount will be based on a percentage (currently 5%) of the Work to be carried out for large Works, and a fixed amount for smaller Works;
  - (c) Wayleave Applicants who can produce proof of sureties or deposits held by other Municipal agencies for the same project will be waived if the Service Coordinator considers the amount retained sufficient to cover the potential risks involved;

- (d) As an alternative to a security deposit a guarantee may also be submitted, subject to approval by the Service Coordinator. The guarantee can be used for more than one approved Wayleave, provided that the validity period and guaranteed sum are sufficient for the multiple Wayleaves;
- (e) The Municipality will have the right to use the deposit to cover costs incurred by the Service Coordinator in relation to the Wayleave under consideration, and
- (f) The responsibility remains with the Wayleave Holder to ensure that the contractor engaged in the implementation of the Work has valid and sufficient Public liability insurance.

#### 9.3 Reinstatement Cost

Arrangements for the Reinstatement cost will be as follows:

- (a) When the permanent Reinstatement or any other repair work has to be done by the Municipality and coordinated through the Service Coordinator, the cost involved will be payable by the Wayleave Holder in advance upon request to the Service Coordinator;
- (b) The cost for Reinstatement will be determined using the relevant Reinstatement rates as determined by the Service Coordinator;
- (c) The Wayleave Holder must submit a request for reinstatement based on the expected area to be Reinstated. The work will be done by the Municipality and the final invoiced amount payable will be determined using the measured area of the final Reinstatement as agreed between the Service Coordinator and the Wayleave Holder, and
- (d) The Reinstatement area will be measured using straight lines along the edge of the trench. Proper cutting tools must be used in order to ensure a smooth and straight edge.

#### 9.4 Other Costs can result from any of the following:

- (a) Damages to existing Services;
- (b) Relocation of existing Services;
- (c) Testing of Services and Backfills;
- (d) Costs claimed by the Metro Police from external Service Agencies for loss in revenue due to removed parking meters;
- (e) Lane rentals;
- (f) Services rendered by the Service Coordinator in completing Work or altering Work to conform to Wayleave specifications, and
- (g) Claims that may result from the Work, e.g. third party claim

9.5 All such costs will be borne by the Wayleave Holder who is expected to make provision for recovery from the person executing Work in the Public Road Reserve.

9.6 A party wishing to dispute the costs charged to him as a result of any of the above reasons will do so at their own cost.

### SECTION 10

#### TRAFFIC CONTROL

10.1 It is the responsibility of the Wayleave Holder to ensure that all laws regarding traffic, safety, traffic signs and barricading are complied with while executing Work in the Public Road Reserve.

10.2 The person working in the Public Road Reserve shall therefore take all necessary precautions and measures and provide all necessary facilities to ensure an adequately safe and easy passage for traffic and pedestrians through areas in which Work is in progress, or is uncompleted.

- 10.3 An approved traffic control plan must be kept available on site as part of the conditions under which the Wayleave is approved.
- 10.4 Traffic signs and barricading shall be done according to the latest edition of the Southern African Development Community Roads Traffic Signs Manual.
- 10.5 The Wayleave Holder must contact the relevant traffic authority to ensure that all requirements have been met for the particular location where the Work is being done and whether points-men will be required.
- 10.6 Work carried out on arterials, major collectors and central business district roads and such other roads as may be determined by the Municipality or the Service Coordinator will be restricted to outside peak traffic periods. Peak periods are from 6:30 to 08:00 and 15:30 to 18:00. These times apply 7 days a week. The Service Coordinator may allow work to be done during peak periods in cases where traffic and/or pedestrian flow will not be affected by the work.
- 10.7 The importance of adequate traffic signs and barricading will at all times be observed and respected and the Service Coordinator shall be at liberty to demand compliance of such measures which he or she may deem appropriate under the circumstances. These measures are intended to ensure the maximum safety for motorists, pedestrians and workers and also the minimum disruption of vehicles and pedestrians. Work sites must be properly barricaded and signed irrespective of how long the Work will last. The safety precautions must be maintained for the full period that risks exist in the Public Road Reserve due to the Work being performed.

#### SECTION 11

##### TEMPORARY ROAD CLOSURES FOR CONSTRUCTION PURPOSE

- 11.1 The granting of a Wayleave does not give the Wayleave Holder the authority to close the road completely to traffic. Methods of construction and programmes of work must therefore be determined on the basis that no road, or portion of road, may completely be closed to traffic for any appreciable period.
- 11.2 In exceptional circumstances permission may be granted for the temporary closure of a road or portion of road to traffic. The Wayleave Holder must apply to the Council separately for approval two weeks prior to the road being closed. A road closure will be approved for a specific period only (time and date) and will only be valid for that specific period. If the Work is not carried out in that period, an application for a new road closure will have to be made.

#### SECTION 12

##### LANE RENTAL

Lane rental refers to the rental of space in the Public Road Reserve for any purpose other than providing a service to road users.

The payment of lane rentals for work in the Public Road Reserve is mainly aimed at encouraging Wayleave Holders to reduce the impact on road users by limiting construction time to a minimum. Lane rentals will be payable from the date that work commences in the road reserve up to the date that a Certificate of Completion has been issued.

#### SECTION 13

##### EMERGENCY WORK

- 13.1 Emergency Work is defined as any Work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a Service, or to avoid any substantial losses. Lack of proper planning of Work to be carried out will not be deemed so as to justify the carrying out of Emergency Work.
- 13.2 A categorised list of Emergency Work will be maintained by the Service Coordinator and will serve as a guideline for Service Agencies as well as the Service Coordinator in determining whether Work is an Emergency. Examples of Emergency Work include inter alia:
  - (a) Electricity supply failures;
  - (b) Burst water pipes;
  - (c) Waste water blockages resulting in overflows;
  - (d) Flooding damage, and
  - (e) Sinkholes

- 13.3 The Service Coordinator will provide an emergency number for the use of Service Agencies that require information on the position of Services in the area where Emergency Work is to be carried out.
- 13.4 The Service Coordinator must be notified in writing within one working day from commencing with Emergency Work. An Emergency Notification Certificate (obtainable from the Service Coordinator) must be used for this purpose. An alternative electronic Emergency Notification system can be used if mutually agreed upon by the Service Agency and the Service Coordinator. If the Service Coordinator is not notified within 24 hours from the first working day, the Work will be reinstated by the Service Coordinator and the cost thereof will be invoiced against the Service Agency.
- 13.5 The Emergency Notification must always be certified by an Authorised Agent of the Service Agency as an emergency situation that requires their immediate attention.
- 13.6 Emergency Work must be done in accordance with all procedures and specifications applicable to the type of Work as set out in these By-laws and as required by other Service Agencies whose Services are affected.
- 13.7 Reinstatement of the affected roads and verges will be done within two weeks by the Service Coordinator upon receipt of a notification from the Service Agency that the Emergency Work has been completed.

#### SECTION 14

##### WORK NOT REQUIRING A WAYLEAVE

- 14.1 Work not requiring a Wayleave is limited to Work with a short duration and with minimal effect on existing Services, traffic and pedestrians.
- 14.2 A categorised list of Work not Requiring a Wayleave will be maintained by the Service Coordinator and will serve as a guideline for Service Agencies as well as the Service Coordinator in determining whether work falls under this category.
- 14.3 Typical examples of Work not Requiring a Wayleave are:
- (a) Routine maintenance of Services in the public road reserve which does not require excavation, traffic control or Reinstatement of roads and verges;
  - (b) any Work that relates to maintaining the vegetation in the Road reserve through cutting, removing or relocating of plants;
  - (c) the placement of advertising material on or within structures pre-erected for that purpose;
  - (d) the erection of signs and road furniture, with or without outdoor advertising, where foundation excavations do not exceed a depth of 350 mm, and
  - (e) temporary diversion of traffic for public events such as sport events, mass action, parades, etc.

#### SECTION 15

##### EXCAVATIONS

- 15.1 The area that is excavated must always be kept to a minimum. The width of the trench must be uniform in length and in depth, in other words the sides must be parallel and vertical. The top of the trench in a road must be cut with a saw to ensure smooth, uniform edges. The minimum width of the trench must be 400mm and the surfacing must be cut 100mm wider on both sides of the trench.
- 15.2 All excavations must comply with the statutory requirements for health and safety standards. The Wayleave Holder must pay specific attention to:
- (a) excavations that need to be executed in accordance with the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and its Regulations, as amended from time to time;
  - (b) excavations deeper than 1.5 m must be shored or V-cut according to the said Occupational Health and Safety Act, 1993, and

- (c) excavations deeper than 1.5 m must be registered with the Department of Labour prior to commencement of the work. The registration includes the scope of the work, depth of trench and the construction method (shoring or V-cut method according to the said Occupational Health and Safety Act, 1993).
15. 3 For all Work where excavations are required, a construction board (Wayleave name board) must be conspicuously displayed at the site indicating the approved Wayleave number, name of Wayleave Holder and name of Construction Company. The said name board layout must be in accordance with the standard specifications of the Municipality.
15. 4 The minimum depth at which any Service may be placed under a road surface or at any other place in the public road reserve will be according to the Standard Specifications of the Municipality.
15. 5 All excavated material and equipment must be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.
15. 6 The view of motorists must be kept clear at all times and not be affected by any obstructions such as excavated material, road signs or hoardings.
15. 7 A safe passage must be kept open for pedestrian traffic at all times.
15. 8 Excavation areas must be clearly demarcated with warning signs that allow ample time for motorists and pedestrians to alter their routes when necessary.
15. 9 The Wayleave Holder is held responsible for any damage to existing Services. Services, indicated on the drawings or on site by representatives of the relevant Service Agencies, must be opened by careful hand excavating. If the Services cannot be found, the relevant Service Agency must be contacted by the Wayleave Holder again for further clarity and instructions. Under no circumstances may a Wayleave Holder excavate with mechanical equipment or use drilling equipment (Trenchless Methods) before known Services have been identified, found and clearly marked. When found, services must be marked and protected or supported as required by the Service Agency. If Services need to be relocated, instructions from the Service Agency must be complied with as if the same were the instructions and requirements of the Municipality. The Wayleave Holder will be responsible for all relocation costs. If any Service is damaged as a result of the Work, the relevant Service Agency and the Service Coordinator must be contacted immediately and be informed of the full detail and extent of the damage as well as the cause of damage. Any wrong information that is wilfully wrong or withheld shall constitute a criminal offence in terms of these By-laws.
15. 10 Adequate preventative measures must be taken to ensure that no water (e.g. due to rain or otherwise) flows into the open trenches since this will result in the weakening of the structural layers of the road. Any water that is present in the trenches must be pumped out before Backfilling. Water must be pumped into the stormwater system and not into sewer manholes. Any material that has become wet must be removed from the bottom of the trench before Backfilling may commence.
15. 11 The Wayleave Holder must prevent foreign materials from entering the drains and ensure that silting does not occur either from pumping operations or as a result of rain. If any silting or other contamination does occur, the Wayleave Holder must clean the drains or request the Service Coordinator to do it at the cost of the Wayleave Holder.
15. 12 All re-usable materials such as concrete blocks, slabs, kerbs, gutters, channels and stormwater inlets must be removed with care and re-used if possible. Any surplus material must be returned to the Division Roads and Stormwater stores. The address will be available from the Service Coordinator.
15. 13 If any street furniture (e.g. street names, traffic signs, bus shelters, etc.) or other services (e.g. cables, pipes etc) have to be removed, arrangements must be made with the relevant Service Agency for the removal, storage and re-erection thereof. The cost specified by the relevant authority will be for the Wayleave Holder's account.
15. 14 Where excavations are made through entrances to properties, access must be maintained by using steel plates, planks or other temporary bridges of sufficient strength that are properly secured against movement. The occupants of the properties must be kept informed at all times of how their accesses will be affected.
15. 15 The finishing, cleaning up and reinstatement of the construction site to its previous condition is considered part of the Work and must be completed within 14 days after Reinstatement of the trench has been done. If the Wayleave Holder fails to do so, action will be taken by the Council as started in these By-laws.

**SECTION 16****TRENCHLESS METHODS**

- 16.1 If Trenchless Methods are used, disruption of traffic flow and pedestrian movements can be reduced considerably or totally eliminated. However, it is important that the Wayleave Holder using such methods must have all the necessary equipment and expertise to complete the Work successfully. These methods can be used for all road categories, but shall be used for all roads classified as "Protected" as defined in these By-laws.
- 16.2 Work using these methods can only be done as approved in the Wayleave. The position of existing Services must be located accurately. If any Services are damaged, the Wayleave Holder will be responsible for all costs.
- 16.3 The depth to the top of any tunnel that is drilled for the installation of new Services must be at least 800 mm measured from the lowest level of the road surfacing.

**SECTION 17****BACKFILLING AND REINSTATEMENT**

- 17.1 Any trenching activity inevitably disturbs the structural integrity of a road or footway. Backfilling and Reinstatement must therefore restore the pavement to prevent any failures or deterioration that will result in road user discomfort and/or increased costs.
- 17.2 Backfilling refers to the replacement of the structural layers in the trench or excavation and includes the base, subbase, selected subgrade and subgrade, but excludes the surfacing.
- 17.3 Reinstatement refers to replacing the bituminous surfacing or paving blocks in the case of Roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges.
- 17.4 Backfilling must in all cases be done by the Wayleave Holder in accordance with the specifications as set out in the Wayleave. Permanent Reinstatement can either be done by the Municipality's Roads and Stormwater Division or by the Wayleave Holder. Approval for the Wayleave Holder to do the permanent Reinstatement will be based on proven resources and performance history.
- 17.5 The Wayleave Holder must obtain prior written approval from the Municipality's Roads and Stormwater Division for the Backfilling specification to be used. The proposed specification shall be submitted to the Municipality's Roads and Stormwater Division, who shall provide written comments on the specification, or an alternative specification. The standard Roads and Stormwater backfilling specifications shown on the typical plans will normally be accepted, but specific requirements may be applicable, depending on site-specific conditions.
- 17.6 The standard Backfill specifications of the Roads and Stormwater Division will be applicable, but the Wayleave holder must nevertheless obtain approval for his proposed Backfill specifications.
- 17.7 When the Wayleave conditions place the responsibility for the permanent Reinstatement on the Wayleave Holder, then the Reinstatement specification must also be approved in advance by the Municipality's Roads and Stormwater Division. This shall be done in accordance with the principles set out in section 17.5 above.
- 17.8 Permanent Backfilling and Reinstatement done by the Wayleave Holder will be subject to a guarantee period of one year based on the performance specifications provided in the standard specifications of the Council's Roads and Stormwater Division.
- 17.9 If permanent Reinstatement is done by the Municipality's Roads and Stormwater Division, the Wayleave Holder must do a temporary Reinstatement as specified. The Wayleave Holder will then be charged for the permanent Reinstatement at the applicable rates defined by the Service Coordinator.
- 17.10 The temporary Reinstatement will be removed by the Municipality's Roads and Stormwater Division and the Backfilling will be tested. If the Backfill does not comply with the applicable specifications, it will be replaced at the cost of the Wayleave Holder. These costs are over and above the normal Reinstatement costs. The temporary Backfill must be done according to the standard specifications of the Roads and Stormwater Division.

17. 11 The Wayleave Holder is responsible for maintaining the temporary Reinstatement for a 2-week period after issuing of the Certificate of Completion by the Service Coordinator. During this period the Wayleave Holder will be held liable for any claims relating to the Work that was carried out; provided that the Wayleave Holder shall be held liable for an indefinite period due to any latent defects in the design or construction of the Work. The Wayleave Holder must inspect and repair any damage to the temporary Reinstatement on a daily basis.
17. 12 Temporary Reinstatement must be done where the Wayleave Holder leaves the site with the view of returning to complete the Work. The Wayleave Holder must maintain the temporary Reinstatement during this period. The Wayleave Holder may not leave the site for more than 14 working days if a permanent Reinstatement is not done.
17. 13 The use of temporary Reinstatements is generally not desirable and the use thereof must be kept to a minimum. The Wayleave Holder must send a request for permanent Reinstatement to The Roads and Stormwater Division as soon as the permanent Backfilling of the pavement layers has been completed. The permanent Reinstatement by the Roads and Stormwater Division will be done within two weeks after written request has been received, provided that the Backfilling has been done according to specification.

### SECTION 18

#### COMPLETION NOTICE AND CERTIFICATE OF COMPLETION

18. 1 Upon completion of the Work, the Wayleave Holder must fill in the Completion Notice and return it to the Service Coordinator within 2 working days thereafter. The Wayleave Holder must also notify all other Service Agencies as specified in the Wayleave. Notifications may also be required by some Service Agencies before final completion (e.g. after pipes have been laid, before Backfilling, etc.).
18. 2 After receipt of the Completion Notice, the Service Coordinator will do an inspection of the completed work and inform all Service Agencies that a Completion Notice has been submitted.
18. 3 When the Service Coordinator is satisfied that all Work has been completed according to the requirements of the Wayleave, a Certificate of Completion will be issued to the Wayleave Holder. The 12-month guarantee period for permanent Reinstatements and the 2-week maintenance period for temporary Reinstatements respectively, shall only then commence.
18. 4 Completion of the Work means that all Work has been completed according to the specification document(s), and that all materials, equipment and rubble have been removed and the site is completely cleared and cleaned to the satisfaction of the Service Coordinator and that either the permanent or temporary Reinstatement, as the case may be, was duly executed by the Wayleave Holder. Furthermore, it requires that all applicable documentations and *as-built information* as specified on the Wayleave have been handed to the Service Coordinator for proper and accurate recording purposes.
18. 5 Where a single Wayleave has been issued for Work in more than one street or area, a Completion Notice must be submitted after completion of each street or area.

### SECTION 19

#### OFFENCES AND PENALTIES

Any person who-

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) does, or causes to be done, or permits or suffers to be done, or is concerned in doing, anything whatsoever contrary to or otherwise than as provided by these By-laws;
- (c) omits, or neglects to do, or permits or suffers to remain undone, anything which according to the true intent and meaning of these By-laws ought to be done at the time and in the manner provided therein;
- (d) knowingly permits or allows any condition of things to exist or continue to exist contrary to these By-laws;
- (e) does not cease any action which that person is required to cease under these By-laws;

- (f) fails or refuses, neglects to comply and/or continuously fails, refuses and/or neglects to comply even after notices of breach or lawful institutions have been issued in terms of these By-laws;
- (g) fails to comply with any notice, or direction, or conditions contained in any approval granted by the Municipality, or
- (h) obstructs an authorised agent in the execution or performance or attempted execution or performance of any duty to be discharged by such authorised agent in the exercise of any power conferred by these By-laws,

shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand Rand (R10 000,00) or such higher amount as may be determined by the Magistrate of the Magistrate's Court, or imprisonment for a period not exceeding three years, and, in the case of a continuing offence, to 16a further fine not exceeding ten thousand Rand (R10 000,00), for every day during the continuance of such offence after a written notice has been issued by the Municipality and served on the person concerned requiring the discontinuance of such offence.

The Council may also withdraw the Wayleave of an offender and furthermore seize and impound the equipment used to carry out any Work that is in contravention of these By-laws.

#### SECTION 20

#### SHORT TITLE AND COMMENCEMENT

These By-laws will be called the "*City of Tshwane Metropolitan Municipality: Work in the Public Road Reserve By-laws*" and takes effect on date of publication hereof in the Provincial Government Gazette.

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