

5. ECONOMIC DEVELOPMENT AND SPATIAL PLANNING DEPARTMENT
REPORT ON THE DRAFT POLICY FOR RESTRICTION OF ACCESS TO PUBLIC
PLACES IN THE CITY OF TSHWANE IN TERMS OF THE GAUTENG
RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS ACT, 1998 (ACT 10 OF
1998)
**(From the Executive Committee: 22 July 2019 and the Mayoral Committee:
13 August 2019)**

1. PURPOSE

The purpose of the report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

The public participation process will be arranged in consultation with Office of the Speaker and will cover all seven (7) regions.

2. STRATEGIC PILLARS

The City will focus on Spatial, Economic and Ecological transformation as envisioned in the Roadmap towards Tshwane 2030. The approved IDP contain the strategic context within which the 2017/21 IDP has been developed and contain five strategic pillars which is guiding the focus for the 5 year term.

The five pillars as indicated in the Roadmap towards Tshwane 2030 can be summarised as follows:

1. A City that facilitates economic growth and job creation;
2. A City that cares for residents and promotes inclusivity;
3. A City that delivers excellent services and protects the environment;
4. A City that keeps residents safe; and
5. A City that is open, honest and responsive.

Pillar 2 and 4 are applicable to the Draft Policy on Restriction of Access to Public Places.

3. BACKGROUND

On 26 September 2003 and 2 October 2003, the Policy: Restriction of Access to Public Places was approved by Mayoral Committee (MAYCO) and Council respectively. The said policy is applied by Municipality till to date.

For the purposes of this report Restriction access “gated communities” refer to what is also known as ‘enclosed neighbourhoods’ or the temporary “restriction of access” as contemplated in the Rationalization of Local Government Affairs Act, Act 10 of 1998 (the “Act”).

These enclosed neighbourhoods are existing properties that, post establishment and development thereof, are enclosed by means of controlled access through gates or booms across existing “*public roads*” that formed part of the initial development and are now under control and management of the Municipality as “*public roads*”.

Many are fenced or walled off as well, with a limited number of controlled entrances/exits and security guards at these points. The roads within these neighbourhoods are still *public property*.

The review process started with consultation process with some of the internal and external stakeholders to solicit their inputs in reviewing and enhancing the current Restriction of Access to Public Places Policy, 2003. The “*one-on-one*” consultation approach was followed and inputs received are incorporated in the draft policy.

The public participation will commence immediately after approval by Council and will include consultations with various stakeholders e.g: Councillors, business community, homeowner’s association, town planners, transport engineers, school governing bodies, members of communities, applicants (who submitted applications for restriction access) etc.

4. DISCUSSION

4.1 METHOD APPLIED FOR THE REVIEW

The first action was to go through the current policy and follow desktop exercise of benchmarking with three (3) Metropolitan (Metro’s) Municipality and one Local Municipality:

1. City of Ekurhuleni Metropolitan Municipality,
2. City of Johannesburg Metropolitan Municipality,
3. City of Cape Town Metropolitan Municipality, and
4. Polokwane Local Municipality.

The benchmarking assisted with the enhancement of the current draft policy.

The internal and external stakeholders were also identified and consulted:

Internal departments:

- Roads and Transport;
- Community Safety;
- Group Legal and Secretariat Services; and
- Office of the Executive Mayor.

External stakeholders:

- Centre for Transport Development and Department of Town and Regional Planning- University of Pretoria;
- Council for Scientific and Industrial Research (CSIR);
- South African Association of Consulting Professional Planners, and
- UNISA - Centre for Transport Economics, Logistics and Tourism.

Technical Committee:

Technical team consisting of MMC's for Finance, Community Safety, Economic Development and Spatial Planning were also consulted.

The input of all stakeholders were incorporated in the draft Policy.

4.2 MATERIAL AMENDMENTS TO THE POLICY

The top eleven (11) level material changes to the Policy are listed below:

1. The role and responsibility of Mayoral Committee (MAYCO) and Council in the application process;
2. Efficiency of application process;
3. Consolidated advertisement approach;
4. Decision making;
5. Timelines for decision making;
6. Enforcement: on conditions of approval and Municipal bylaw;
7. Validity Period of application: after two (2) years;
8. Cost of application (Non-refundable fee): Initial and renewal applications;
9. Appeal Process: role of Strategic Land Development Tribunal (SLDT);
10. Signage: validity period of the Restriction Access area; and
11. Scanning of: driver's license, Identity Document (ID) and car disc.

The detail on these amendments are contained in the draft policy attached as "ANNEXURE 1".

4.3 LEGISLATION PERTAINING TO RESTRICTION OF ACCESS

The legislated requirements guiding the processing and management of Restriction access "*gated communities*" and use and function of Public roads/streets" in South Africa are covered extensively in the draft policy. The said legislations are:

- Constitution of the Republic of South Africa, 1996;
- Municipal System Act, 32 of 2000 (MSA);
- The Local Government Ordinance 17 of 1939 (the "LGO");
- Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA); and
- Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998) (RLGA).

4.4 CURRENT APPLICATIONS

Description	Number of applications
Existing applications	78* *
Renewal application: application fee paid in full	3
Renewal application: application fee paid at City of Johannesburg application fee	15
New application received- decision still pending. Still in circulation process	6
Application with pending decision by: MAYCO and COUNCIL	3

** City Planning and Development Division is in the process to audit all applications. This number might change.

5. COMMENTS OF THE STAKEHOLDER DEPARTMENTS

5.1 COMMENTS OF THE CHIEF AUDIT EXECUTIVE

The policy on "Restriction of Access to Public Places" is supported as it mitigates the risk of non-compliance with laws, rules and regulations. Emerging risks and management action that might arise during public participation must be considered and managed accordingly. A standing committee to adjudicate and protect the COT for any approval must ensure that the COT rights comes first, and strict compliance is ensured.

5.2 COMMENTS OF THE CHIEF FINANCIAL OFFICER

Cognisance is taken of the contents of the report.

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by the Mayoral Committee (MAYCO) and for public participation process that will be arranged in consultation with Office of the Speaker.

Group Financial Services has no objection to the proposed policy subject to positive comments from Group Legal Counsel indicating whether it is in line with the requirements of existing policies, and applicable legislation.

Comments from the Office of the Speaker must be obtained to indicate their commitment as well as their financial contribution towards the public participation process.

Group Financial Services will render financial comments on future reports in this regard.

5.3 COMMENTS OF THE CHIEF OF EMERGENCY SERVICES

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

The public participation process will be arranged in consultation with Office of the Speaker and will cover all seven (7) regions.

On this the Emergency Service Department wishes to comment as follow –

That in the draft Restriction Policy –

1. The terminology / definition of Emergency Services be changed to read as follow
“EMERGENCY SERVICES – means the City of Tshwane Emergency Services, and includes institutions and organisations such as the S.A. Police Service, ambulance and para-medical services, community protection services or municipal police services.”
2. The terminology / definition of the word “fire fighting” in SERVICES or MUNICIPAL SERVICES be changed to read as follow “City Emergency Services”
3. The word “Director: Fire Services” in item 38 of Annexure D be changed to read as follow “Chief of Emergency Services”

Towards road closures, the requirements of Section 35, especially sub section 35 (1)(a) and (e) of the Fire Brigade Bylaws as published under Local Authority Notice 396 of 2016 as quoted below must be adhered to –

“35. ACCESS FOR FIRE-FIGHTING AND RESCUE PURPOSES

(1) When in the opinion of the controlling authority, premises are not readily accessible from public roads it must be provided with emergency vehicle access and, notwithstanding the provisions in Regulation T1 of the National Building Regulations, may be required to comply with the following –

- (a) an access road must be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises.
- (b) a motorised or electronically operated gate must be equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device.
- (c) fire lanes must be provided for all premises which are set back more than 45 metres from a public road or exceed nine metres in height and are set back over 15 metres from a public road.

- (d) fire lanes must be at least 4 metres in width, the position of which must be decided upon after consultation with the controlling authority, and the area from ground level to a clearance height of 4 metres above the fire lane must remain unobstructed.
- (e) A cul-de-sac that is more than 90 metres in length, must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises."

5.4 COMMENTS OF THE CHIEF OF POLICE

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

The public participation process will be arranged in consultation with Office of the Speaker and will cover all seven (7) regions.

The Tshwane Metro Police notes the contents of the report and the revised draft Restriction of Access to Public Places Policy, 2019. The Department further supports the recommendations as set out in the report.

5.5 COMMENTS OF THE CHIEF OF STAFF

The process to revise the drafting of the Restriction of Access to Public Places Policy 2019 has been rigorous in addressing some of the deficiencies and shortfalls that were identified in the previous policy through extensive internal and external stakeholder consultation. This policy has high levels of public interest attached to it and the public participation processes that are to follow will add increased value towards obtaining further inputs before final adoption. Therefore, the OEM supports the report and its recommendations.

5.6 COMMENTS OF THE GROUP HEAD: GROUP LEGAL AND SECRETARIAT SERVICES

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

The public participation process will be arranged in consultation with Office of the Speaker and will cover all seven (7) regions.

The provisions of section 11(3)(a) and (b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) stipulate that a municipality exercise its legislative and executive authority by developing and adopting policies, plans, strategies and programs, including setting targets for service delivery; and promoting and undertaking development.

Section 3.1 of the Guidelines for the Development of Policies, Strategies, and By-laws for the City of Tshwane, adopted by the Council on the 16 May 2018, confirm that the convention and case law generally ascribe the following characteristics to a policy of local government:

1. It must be approved by Council;
2. It defines principles for decision making to guide administrative actions; and
3. It identifies desired outcomes, programmes and prescribed actions for specific actors.

The City has the legal authority to prescribe its own policy environment and to, and within the legislative framework mentioned above, define clearly what each policy instrument would be used for. Based on the definitions above, the City will ensure that policies:

1. Are meticulously linked to the various activities and functions of the Municipality and more particularly specific plans such as the IDP and other overarching strategies;
2. Are matter specific, and not encompass too many elements which could lead to ambiguity in a single document; and
3. Include the identification of different alternatives such as programs or spending priorities, and choosing among them on the basis of the impact they will have.

Having regards to the aforesaid and with specific reference to the context of the report, Group Legal Services and Secretariat Department takes cognizance of the report and to support the approval of the recommendations thereof.

5.7 COMMENTS OF THE GROUP HEAD: CITY STRATEGY AND ORGANISATIONAL PERFORMANCE

The City Strategies and Organizational Performance Department has no objection to the report on the draft Policy for restriction of access to public places in the City of Tshwane. The Policy is prepared in the of the Municipal Systems Act of 2000; Spatial Planning and Land Use Management Act, 2013 and the Gauteng Rationalization of Local Government Affairs Act of 1998.

In terms of provisions of section 11(3) (a) and (b) of the Local Government: Municipal Systems Act, 2000, (Act 32 of 2000) stipulates that a municipality must exercise its legislative and executive authority by developing and adopting policies, plans, strategies and programs, including setting targets for service delivery to promote and undertake development.

The City of Tshwane Integrated Development Plan has the following pillars that supports this report;

2. A City that cares for residents and promotes inclusivity;
4. A City that keeps its residents safe; and
5. A City that is open, honest and responsive.

This report is for the approval of the Policy on Restriction of Access to Public places and it's there to process City Planning application for gated communities. Upon approval this report will be taken to communities for public participation. Upon receiving all comments from the public the policy will be refined and submitted for final approval by Council.

The City Strategies has no objection to this report as it supports the principles and pillars contained in the IDP.

5.8 COMMENTS OF THE GROUP HEAD: COMMUNICATIONS, MARKETING AND EVENTS

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by the Mayoral Committee and finally Council for public participation.

The Communication, Marketing and Events (CME) Department takes cognisance of the content of the report and supports its recommendations. CME will play its role by promoting the public participation process on the draft Policy on Restriction of Access to Public Places on its existing platforms.

5.9 COMMENTS OF THE GROUP HEAD: ECONOMIC DEVELOPMENT AND SPATIAL PLANNING

Economic Development and Spatial Planning Department is the author of the report.

5.10 COMMENTS OF THE GROUP HEAD: ENVIRONMENTAL AND AGRICULTURAL MANAGEMENT

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process. The review of the existing policy and the associated public participation, aims to enhance the current restriction of Access to Public Places Policy, providing detailed information on the procedures and processes regarding access restrictions. The Department of Environmental and Agriculture Management Services submit that, access should always be granted to municipal officials executing their official waste management duties. It should also be noted that any building or premises generating waste in a gated community should apply to the city to render waste management services. The Department supports the proposed policy.

5.11 COMMENTS OF THE GROUP HEAD: HEALTH

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

Health Department takes cognizance of the report and its recommendations both of which are supported.

5.12 COMMENTS OF THE GROUP HEAD: HUMAN SETTLEMENT

The purpose and the content of the report are noted. This department has no objection to the policy and the recommendation are supported.

5.13 COMMENTS OF THE GROUP HEAD: REGIONAL OPERATIONS AND COORDINATION

The purpose of this report is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

ROC takes cognisance of the contents of the report.

The updating of the current restrictions policy is welcomed considering today's context wherein security estates and developments are the order of the day around the City. The proposed Draft policy clearly proposes and discourages unnecessary 'self determined' illegal and unnecessary restrictions by private entities. Private security estates in particular have tendencies of illegally restricting access even on public roads meant for everyone's use, and not adhering to related by-laws.

The proposed draft policy is supported. ROC also supports the public participation process to be undertaken in all the seven Regions. However, the draft policy should be 'checked' for spelling and grammar errors that are apparent when perusing the document prior to distribution to external stakeholders.

5.14 COMMENTS OF THE GROUP HEAD: ROADS AND TRANSPORT

The Roads and Transport Department takes cognizance and has no objections to the report on the draft policy for the Restriction of Access to Public Places in the City of Tshwane. The policy is in line with stipulations of the Gauteng Rationalization of Local Government Affairs Act of 1998 and comprehensively addresses the principles of Monitoring of Access in line with the evaluation requirements of this Department, to be evaluated on a specific application-by-application basis.

5.15 COMMENTS OF THE GROUP HEAD: SHARED SERVICES

Cognisance is taken of the report the purpose of which is to seek approval for the draft Policy on Restriction of Access to Public Places by Mayoral Committee (MAYCO) and finally Council for public participation process.

The report is supported together with the recommendations.

5.16 COMMENTS OF THE GROUP HEAD: UTILITY SERVICES

The Energy Business and Electricity Development and Planning Divisions take cognizance of the report and support the draft policy. It is important that municipal officials have access to these restricted areas to attend to repairs and maintenance of services as and when required. This will also ensure additional security to infrastructure such as Substations, metering infrastructure that are within these restricted areas. In addition to that the Energy Business and Electricity Development and Planning Divisions proposes that the following be added to the policy: Item 4.9.2 - Consideration must be given to the availability of connection points for electricity and reticulation services when planning the location and erection of a guardhouse or related structures. Item 4.9.3 - Applicants should apply for and pay the required connection fees to have access to municipal services.

The Water and Sanitation Division take cognizance of the report and support the draft policy. It is important that municipal officials have access to these restricted areas to attend to repairs and maintenance of services as and when required. This will also ensure additional security to infrastructure such as Reservoirs and pumpstations that are within these restricted areas. In addition to that the Water and Sanitation Division proposes that the following be added to the policy: Item 4.9.2 - Consideration must be given to the availability of connection points for water and sanitation services when planning the location and erection of a guardhouse or related structures. Item 4.9.3 - Applicants should apply for and pay the required connection fees to have access to municipal services.

6. IMPLICATIONS

6.1 HUMAN RESOURCES

None.

6.2 FINANCES

None.

6.3 CONSTITUTIONAL AND LEGAL FACTORS

The draft Policy complies with Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998) (RLGA) and other relevant acts.

6.4 COMMUNICATION

None.

6.5 PREVIOUS COUNCIL OR MAYORAL COMMITTEE RESOLUTIONS

Mayoral Committee Action Plan, 8 March 2018, and

Council approval: Policy: Restriction of Access to Public Places, 2 October 2003.

7. CONCLUSION

The current Tshwane Policy on Restriction to Public Spaces gives guidelines around the application process for Restriction access. However, gaps were identified in the current policy hence the review.

The Legislative framework (acts) only provide strategic guidelines, therefore it is imperative for Municipality to have policy that highlights the process and procedures on how access restriction will be managed.

The department therefore request that the draft policy be approved for Public Participation.

The Mayoral Committee on 13 August 2019 resolved to recommend to Council as set out below:

During consideration of this item by Council on 29 August 2019, and after Councillors LS Matlala, MO Mabogwana, RT Mashego, OS Ramabodu, MMC IJ Pietersen and the Executive Mayor addressed Council on this matter, it was resolved as set out below:

ANNEXURE:

- A. Draft Review Policy for Restriction of Access to Public Places, 2019

RESOLVED:

1. That cognisance be taken of the revised draft Restriction of Access to Public Places Policy, 2019.
2. That the revised draft Restriction of Access to Public Places Policy, 2019 be approved for Public Participation.



CITY OF TSHWANE RESTRICTION OF ACCESS TO PUBLIC PLACES POLICY, 2019



The balance we seek to strike is probably most difficult to find in matters that deal with the enforcement of law and crime and violence. The public debate around closed neighbourhoods and the erection of boom gates certainly demonstrated how passionate people felt about these matters and how all sought to find solutions and justify positions using the Constitution as a point of reference.” Quote from Constitutional Judge Jody Kollapen the former Chairperson of the South African Human Rights Commission in the Foreword on a Report by the Human Rights Commission on Road Closures:

TERMINOLOGY/DEFINITIONS

1. PURPOSE OF DOCUMENT

2. LEGAL FRAMEWORK

2.1 Constitution of South Africa, 1996

2.2 Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998)

2.3 The Local Government Ordinance 17 of 1939 (the “LGO”)

2.4 Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

3. POLICY ON IMMOVABLE PROPERTY DISPOSAL, TRANSFER AND GRATING OF A RIGHT TO USE, MANAGE OR CONTROL A PROPERTY ASSET, 2019

3.1 Policy overview

3.2 Guidelines for the transfer, disposal or granting of rights to use, manage or control property assets

3.2.1 Notarial Lease Agreements

3.2.2 Long term Lease Agreements

3.2.3 Short term lease agreements

3.2.4 Temporary short term use rights

4. POLICY FRAMEWORK.....

4.1 Submission of application

4.2 Administration procedure

4.2.1 Receipt of the application

4.2.2 Failure to submit documents

4.3 Meeting with South African Police Service

4.4 Advertisement process

4.4.1 Consolidated advertisement approach

4.7 Appeal

4.8 Fees applicable

4.9 Institutional arrangements

- 4.9.1 Work in Public Road Reserve
- 4.9.2 National Building Regulations and Standards
- 4.9.3 Water, Sewer, Electricity connections
- 4.9.4 Enforcement

4.10 Resubmission after two (2) years

5. ASSESSMENT CRITERIA

5.1 Impact on Public Transport

- 5.1.1 Scale of closure
- 5.1.2 Layout

5.2 Implication on access restriction on Land Use Planning

- 5.2.1 Traffic flow
- 5.2.2 Public Transport integration
- 5.2.3 Public Open Space and Social facilities
- 5.2.4 Visual impact and interfaces
- 5.2.5 Emergency services and law enforcement access
- 5.2.6 Services and Infrastructure

5.3 Access Management and Monitoring

LIST OF ANNEXURES

- Annexure A: Application form: New and renewal
- Annexure B: Application process
- Annexure C: List of owners/tenets supporting application
- Annexure D: Terms and conditions which may be imposed if application is approved
- Annexure E: Pro Forma for consolidated advertisement

LIST OF TABLES

- Table 1: Information to be submitted with application
- Table 2: Erven in the application area
- Table 3: Departments to provide comments on the application

TERMINOLOGY/DEFINITIONS

ACT – The Rationalisation of Local Government Affairs Act, Act no. 10 of 1998 as promulgated on 5 March 1999, as amended.

ACCESS RESTRICTION – means control access by means of various access control measures eg. street closures, fences, booms, guards and visitor log books, acceptable to the Municipality. This power excludes denial of access and must assure free access to government officials, Police and emergency services.

ACCESS CONTROL POINT – means access point area where gate or boom are placed for restriction in terms of an authorisation granted in terms of Section 45 read with Section 44 of the Act.

AFFECTED AREA – The public place in respect of which the application is sought as well as any areas outside the public that may be affected by the restriction

PUBLIC PLACE – Any space or area vested in a municipality which the public have the right to use.

APPLICANT- Any person, body or organisation who submits an application to the City of Tshwane Metropolitan Municipality for the restriction of access to a public place for safety and security purposes.

APPLICATION – means application for authorisation in terms of Section 45 of the Gauteng Rationalisation of Local Government Affairs Act

APPLICATION FEE – means amount payable on submission of restriction of access to application as annually determined by Municipal Council.

AFFECTED PERSON - means persons living or owning the property within the proposed area where restriction access is proposed.

BODY CORPORATE – means a body corporate as contemplated in the Companies Act, 2008 (Act 71 of 2008) and the Sectional Title's Act, 1986 (Act 95 of 1986)

CID –The Gauteng City Improvement District Act, Act no. 12 of 1997

CITY MANAGER – means the accounting officer of the City of Tshwane Metropolitan Municipality as defined in the Municipal System Act, 2000.

EMERGENCY SERVICES – means institutions and government organisations which deliver life essential services to the general public and includes institutions and organisations such as the S.A. Police Service, ambulance and para-medical services, community protection

services or city police force services and fire brigade services rendered by the local municipality. 107

ENCLOSED NEIGHBOURHOOD – refers to post establishment and development of the neighbourhood that are enclosed by means of controlled access through gates or booms across existing public roads within a registered township.

GATED COMMUNITIES – For the purposes of this policy gated communities refer to what is also known as ‘enclosed neighbourhoods’, but excludes security villages.

PUBLIC SPACE – means any open and/or enclosed place, park, street, road, bridges, public transport areas or thoroughfare or other similar area of land shown on the a general plan or diagram which is for the use and benefit of the genral public and is owned by or vests with Municipal Council to which the public has common right of access, and includes a public open space and a servitude for any similar purposes in favour of the general public as contemplated in section 63 of the Local Government Ordinanace, 1939 (Ordinance 17 of 1939).

RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS ACT, (RLGA) – The Rationalisation of Local Government Affairs Act, Act no. 10 of 1998 as promulgated on 5 March 1999

SECURITY VILLAGES – Security villages refer to private residential developments that are, as part of the township or land use application, as the case may be, physically walled or fenced off and usually have a security gate or controlled access point with or without a security guard. The roads in these developments are private, and in most of the cases, the management and maintenance is done by a private management body.

SERVICES or MUNICIPAL SERVICES – means internal and external engineering services and includes water, sewerage, electricity, stormwater, roads and telecommunication. It also includes *inter alia* those other services rendered by the local municipality and therefore also includes inter alia services for refuse removal, health control, land use control, building control., fire fighting, law enforcement, Metropolitan Police Services or any other municipal rudimentary services which the Council may render.

SERVITUDE – means a servitude registered agains a title deed of a property(ies) taken up in the registered Township establishment deed or which has been created through legislation.

SITE DEVELOPMENT PLAN – means a plan which reflects full details of the intended development, including the relative location of existing buildings and structures, the location of engineering services, access to the property(ies), parking, existing developments and features that will/must be retained, areas for landscaping, and any other required information or details as may be determined by the Municipiplaity.

STREET or ROAD or PUBLIC ROAD – means the area or portion occupied by any street, road, bridge, subway, avenue, lane, thoroughfare or right of way shown on the General Plan of a township or agricultural plot/holding or in respect whereof the public has acquired a right of way by prescription, the concept known as *vetustas* or otherwise [also refer to Section 63 of the Local Government Ordinance, 1939, (Ordinance No. 17 of 1939)].

LEASE AGREEMENT – means contract between a lessor (municipality) and lessee (applicant) that allows the lessee rights to use of a property owned or managed by the lessor for a period of time

RENEWAL APPLICATION – mean an application submitted after the two year

SIGNAGE – means advertsing sign(s) displaced at the main gate(s) of the application site displaying information relating to the application.

WAYLEAVE – means the right to use municipality property (road reserve) to put infrastructure or services

1. PURPOSE OF POLICY

The purpose of the policy is to outline effective process and requirements for applications made in terms section 45, read with sections 43 and 44 of the Gauteng Rationalization of Local Government Affairs Act, 1998 (Act 10 of 1998). The further seekd to provide guidelines for the control and management of Restriction of aAccess to public places policy in the City of Tshwane Metropolitan Municipality jurisdiction area.

Chapter 7 of the Gauteng Rationalisation of Local Government Affairs Act, Act 10 of 1998:

- It grants a municipal council the power to impose a restriction on access to a public place on its own initiative subject to certain requirements and procedures; and
- It grants any person or body or organisation the right to apply to a municipal council for restriction of access to a public place subject to certain requirements and procedures.

Where it grants any person or body or organisation to apply to a municipal council for restriction of access the legislation provides that the Municipality is tasked with receiving, processing and evaluating these application and therefore would be required to put processes in place to deal with these applications.

2. LEGAL FRAMEWORK

2.1 Constitution of South African, 1996

- The Constitution of the Republic of South Africa Act, 1996 is the supreme law of the Republic of South Africa and any law inconsistent with the constitution is invalid.
- Chapter 2 outlines the Bill of rights e.g: (i) the right to equality (ii) the right to dignity, (iii) the right to freedom and security of person, (iv) the right to privacy and (v) the right to freedom of movement.
- The two Bill of rights applicable in the case are 'the right to freedom of movement' versus 'the right to security'.

2.2. Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998)

The requirements of sections 43 to 48 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998) are outlined below:

The authorizing legislation in terms of which applications for restriction of access to public places are considered is the Rationalisation of Local Government Affairs Act, Act 10 of 1998 (the "RLGA").

The RLGA makes provision for two types of processes. The one whereby the Municipality undertakes a restriction of access at its own accord and the other where a community makes an application to the Municipality for the restriction of access.

In both of these instances the same fundamental rules of vetting and public consultation found in this policy should apply to ensure consistency in decision making in terms of administrative law. The type of closures that are received are predominantly from communities desiring to restrict access to the general public place for safety and security purposes.

Section 43 to 45 of the RLGA provide as follows:

"43. A municipal council's power to restrict access.—For purposes of enhancing safety and security, a municipal council may—
(a) on its own initiative impose a restriction on access to any public place if it complies with the provisions of section 44; or
(b) authorise any person, body or organisation to restrict access to any public place if the provisions of section 45 have been complied with."

Section 44 determines the process where a Municipality wishes to restrict access, while section 45 outlines the procedure to be followed where the restriction of access is applied for by persons, bodies or organizations other than the Municipality. For purposes of the policy, the Municipality shall comply with section 44, however since the type of closures that are received are predominantly from communities section 45 will be focused on (which in turn cross references back to section 44 for public participation):

- “44. Procedure for municipal councils to impose restrictions on access.—**(1) *When intending to impose a restriction on access to a public place, a municipal council must—*
- (a) determine the proposed terms of the restriction after consultation with the South African Police Service;*
 - (b) pass a resolution confirming the proposed terms and resolve to impose the restriction; and thereafter*
 - (c) comply with the following procedure:*
 - (i) The intention to impose the restriction must be announced by notice in the Provincial Gazette and where these exist, in one or more newspapers circulating in the area concerned.*
 - (ii) The notice must specify—*
 - (aa) that comment is being sought on the draft terms of a restriction;*
 - (bb) the public place affected by the restriction;*
 - (cc) the proposed terms of the restriction;*
 - (dd) the documents or written reports relied upon by the municipal council to pass its resolution;*
 - (ee) the person to whom or place where enquiries relating to the draft terms of the restrictions may be directed;*
 - (ff) subject to subsections (6) and (7), the place, time and circumstances when and in which a copy of the documents or original reports may be obtained or displayed for inspection;*
 - (gg) the period for comment on the draft terms of restrictions which must not be less than one month; and*
 - (hh) the person on whom or place where comment on the draft terms of the restriction may be lodged.*
 - (iii) At any time before imposing the restriction, consultations with any relevant interest group may be held in any form, including the holding of an enquiry; and*
 - (iv) Comments received and the content of all consultations must be considered before imposing the restriction.*
 - (2) If the municipal council has not imposed the restriction within four months of the announcement referred to in subsection (1)(c)(i), that restriction cannot be made unless the procedure provided for in subsection (1) has been repeated.*
 - (3) A municipal council may dispense with the procedures specified in subsection (1) in respect of any restriction which in the public interest requires to be imposed without delay, but must implement this procedure within one month of the restriction coming into operation, failing which the restriction will no longer be valid.*
 - (4) A restriction will come into operation on the date of its publication in the Provincial Gazette or such other date as specified in the Provincial Gazette.*
 - (5) A municipal council may determine the fee for obtaining a copy of any document or written report relevant to determining the draft terms of the restriction.*
 - (6) The place where the documents and written reports may be obtained or displayed for inspection must enable all those affected by the restriction to be expeditiously and conveniently informed of its contents.*
 - (7) Every municipal council must develop and implement policies and programmes to assist members of the public to comment on the draft terms of the restriction.*

- 45. Procedure for municipal councils to authorise others to restrict access.—**(1) *Any person, body or organisation may apply to a municipal council for authorisation to restrict access to a public place by—*
- (a) submitting a written application specifying—*

- (i) the name and contact details of the applicant;
- (ii) a description of the public place which is the subject of the application;
- (iii) a description of the circumstances giving rise to the application;
- (iv) the category and estimated number of persons affected by the circumstances giving rise to the application;
- (v) the nature and extent of the restriction in respect of which the application is sought; and
- (vi) the category and an estimate number of persons who may be affected by the restriction in respect of which the application is sought;
- (b) furnishing proof that at least two thirds of the persons affected by the circumstances giving rise to the application approve of the restriction in respect of which the application is sought; and
- (c) paying a non-refundable administrative fee as may be determined by the municipal council.
- (2) After receiving the application, the municipal council must arrange for a meeting to be convened with the applicant and the South African Police Service for purposes of enabling it to determine—
 - (a) the merits of the application; and
 - (b) the terms and conditions for granting the authorisation including the payment of fees and deposits.
- (3) If the municipal council intends granting the authorisation to restrict access to a public place pursuant to a determination made in terms of subsection (2), the provisions of section 44 are applicable, with the changes as may be required by context.”

2.3 THE LOCAL GOVERNMENT ORDINANCE 17 OF 1939 (the “LGO”)

A restriction of access application or security closure has the intention of restricting access to a “public place”. The Municipality through development obtain public places in different ways. The first and easier way of obtaining public places is where the public places are created with title and transferred into the name of the Municipality. However, the Municipality obtains public places through development by means of “vesting” as contemplated in section 63 of the LGO.

Section 63: Provides that public places including road reserves, vests in trust within the control and management of municipalities. It must keep the same open (save as is otherwise provided in this Ordinance or any by-law), and in repair so far as the finances of the council will permit, for the use and benefit of the inhabitants. Sec 63 provides as follows:-

Public places vested in council.

63(1) The Council shall have the control and management of all-

- (a) **roads, streets, thoroughfares, bridges, overhead bridges**, subways, including foot pavements, footpaths, side-walks, and lanes;
- (b) **squares and other open spaces, gardens, parks and other enclosed spaces**;
- (c) culverts, and ferries;
- (d) dams, canals, reservoirs, water-courses, and water-furrows;

Which have been or shall be at any time set apart and appropriated by proper authority **for the use and benefit of the public**, or to which the **inhabitants** of the municipality shall at

any time have or acquire a **common right**, and the same shall be **vested in the council in trust to keep the same open** (save as is otherwise provided in this Ordinance or any By-law), and **in repair so far as the finances of the council will permit**, for the **use and benefit of the inhabitants**.

For the purposes of this sub-section –

- (i) the expression “**set apart and appropriated by proper authority**” shall mean the filing in the Deeds Office or other registration office of any *general plan of a township, agricultural holdings or other division of land* or any alternation, addition to or amendment thereof approved by the Surveyor-General on which are marked such roads, streets, squares, to which the public have a common right of user;
 - (ii) the term “**vested in the council**” shall mean the statutory grant to the council of a servitude for the purposes mentioned in this section over the property so vested but shall not include the *dominium* of such property, except when by any law such *dominium* expressly passes to the council.
- (2) Any **person who without the previous consent in writing of the council excavates or removes from any public place any soil, sand, gravel, stone or other material or any tree or plan, shall be guilty of an offence** and liable upon conviction to a fine not exceeding fifty pounds or in default of payment, to imprisonment for a period not exceeding three months.
- (3) Subject to the provisions of subsection (5), **the council may on such conditions as it may deem expedient, let any portion of a street**, which is vested in the council in terms of subsection (1) and **which is not taken up by the roadway or sidewalk of such street**, to the owner of land abutting on such portion of the street, or may permit such owner to make use of such portion: Provided that such owner may plant lawn grass on such portion without the permission of the council.
- (4) Any lease or permission referred to in subsection (3), shall be binding on the successors in title of such owner until any such successor shall have notified the council that he does not intend to continue with such lease or use.
- (5) (a) In respect of that portion of a street in regard to which a lease or permission in terms of subsection (3) applies, no building or structure, other than a wall or fence, shall be erected.
- (b) The council may at any time, and if required so to do by the Administrator, shall cancel such lease or permission by giving one month's written notice addressed to the owner concerned at his last known address.
- (c) Whenever the lease or permission is cancelled in terms of paragraph (b), the owner shall, if so directed by written notice of the council, remove any wall or fence at this own expense within the period stated in the notice, and if such owner fails so to remove such wall or fence, the council may, at the expense of such owner, remove such wall or fence.
- (d) The council shall not be liable for any damage, resulting directly or indirectly from any cancellation or removal in terms of paragraph (b) or (c).
- (6) For the purpose of this section –

“**roadway**” means that portion of a street improved, constructed or intended for vehicular traffic and includes those portions commonly known as the shoulders’ and

“**side-walk**” means that portion of a street intended for the exclusive use of pedestrians. 114

“**public place**” shall include any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path sidewalk, lane, square, open space, garden, park, enclosed space vested in a town or village council under section *sixty-three* of this Ordinance, provided that for the purposes of by-laws regulating traffic under this Ordinance the expression “**public space**” includes any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public have the right to use;

Safety of public places, sidewalks and road reserves remains paramount and the Municipality has a particular obligation in this regard to all interested parties. These include pedestrians, traffic, other licensee holders in terms of the electronic communications act etc.

In general the Municipality is obliged to execute its powers in a manner which protect the rights and interests of all stakeholder parties and to the extent which the law provides.

In the consideration of an application for restriction of access, the above must be kept in mind. Moreover, the provisions relating to the control and management of such public places must be adhered to. Chapter 7 of the RLGA, specifically allows the restriction of access to **public places**, which public places can be found in section 63 of the LGO.

2.4 Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The act aims to correct spatial fragmentation, racial inequality, segregation and unsustainable settlement patterns. However the Spatial Planning and Land Use Management Act, 2003 (Act 16 of 2013, SPLUMA) does not make reference to application for restriction of access “Gated Communities” or neighbourhood enclosures.

The Gauteng is the only province in the country that makes provision for public road closure for safety and security purpose.

The Chapter 2 SPLUMA principles require planners to address the past spatial by:

- ensuring that imbalances are addressed
- ensure inclusion
- make decision that minimise negative impact on the municipal spatial pattern
- ensure inclusivity
- ensure spatial sustainability

3. TSHWANE POLICY: IMMOVABLE PROPERTY DISPOSAL^{4.15} TRANSFER AND GRANTING OF A RIGHTS TO USE, MANAGE OR CONTROL A PROPERTY ASSET, 2019

This policy was approved by Council on 28 March 2019 and replaced the, 2007 policy for the alienation of immovable property assets.

3.1 POLICY OVERVIEW

The City of Tshwane has an immovable property asset portfolio that consist of developed and undeveloped portions of land and its concludes amongs others: public streets, road reserves and site reserves, recreational facilities such as Sport and recreational facilities (sport groundss, parks etc).

The policy is applicable to:

- The transfer (commonly reffered to as sale) and disposal of immovable property owned and controlled by the Municipality and its Municipality Entities
- The grating of the right to use, control or manage immovable property assets commonly known as lease rights, and
- The granting of a serivutudes

3.2 GUIDELINES FOR THE TRANSFER, DISPOSAL OR GRANTING OF RIGHTS TO USE, MANAGE OR CONTROL PROPERTY ASSETS

The policy identify three (3) different lease agreements and temporary short term use rights to be considered in case where municipal property is to be used.

3.2.1 Notarial Lease Agreements

The Notarial lease agreements is greater than 9 (nine) years and 11 (eleven) months and may be considred in the following instances:

- Property asset is required for institutional purposes where institutions rely on developing a long term brand and/or reputation such as research institutions, schools, universities, hospitals and community organisations.
- Corporate expansion of headquarters and/or manufacturing plants.
- Prevailing circumstance and the proposed value of the development justify a notarial term lease.
- Property is leased as a Specific Use Facility
- Invetsment on the property asset may require a notarial lease depending on the investment maturity and Council in its discretion may therefore consider a notarial lease period.

The Long term lease agreements are greater than three (3) years and not exceeding nine (9) years eleven (11) months. This kind of lease will be considered in instances where land is intended to be used for the provision of:

- Sporting, recreation or cultural purposes.
- Religious purposes.
- Addressing public interest and/or the plight of the poor by NPO's and NGO's
- Cellular and/or radio masts
- Residential purposes- existing improved property asset used for residential purposes (municipal houses, flats, duplexes and simplexes) which specifically excludes the provision of low cost and social housing that fall within the core mandate of the City's Housing Department and Housing entity (HCT).

The lease agreement entered between the City and the applicant for access restriction shall be in terms of this policy.

3.2.3 Short term lease agreements

Short term leases will be between 1 to 3 months and may be considered for commercial entities or private or public sector persons for community, social, religious, commercial or other purposes, such as the making of movies or advertisements or the hosting of events as outlined in the policy.

3.2.4 Temporary short term use rights

Temporary short term use rights is for use of municipality property for a period of one month and are generally used for leasing out property assets facilities such as venues like halls and/or grounds for events.

4 POLICY FRAMEWORK

4.1 SUBMISSION OF APPLICATION IN TERMS OF SECTION 45 OF THE ACT (RLGA)

- Any person, body or organisation can apply in terms of Chapter 7 of the Act, for the restriction of access in a specific area, on the form set out in Annexure “A” and the application must be accompanied by proof of non refundable application fee.
- Access restriction application must be accompanied by documents listed in “**TABLE 1**” below.

TABLE 1: INFORMATION TO BE SUBMITTED WITH APPLICATION

THIS DOCUMENTS SHALL BE SUBMITTED WITH APPLICATION	Provided	No of copies required
APPLICATION FEE: AMOUNT		
APPLICATION FORM		
MOTIVATING MEMORANDUM IMPACT ON MSDF/RSDF AND IMPACT ON PUBLIC TRANSPORT / BRT /IRPN		10
BUILDING PLAN (indicating buildings, structures, toilets facilities to be used at each access point and whether any municipal services will be required)		5
MAP OF GATED AREA OVERLAYED ON TO RSDF MAP OF AREA.		10
RESIDENTS' SUPPORT IN TABLE FORMAT (EXCELL)		5
APPLICANT TO PROVIDE PROPOSED TERMS OF CONDITIONS AND TYPE OF ACCESS CONTROL		10
POWER OF ATTORNEY		3
MINUTES OF MEETING (with resolutions that gave effect to the application including attendance register)		5
LIST OF AFFECTED ERVEN AND STATUS OF PROPERTIES (RESIDENTIAL /OPEN SPACE/ BUSINESS / PLACE OF INSTRUCTION)		10
TWO THIRDS (2/3) (67%) SUPPORT (the people affected giving rise to the application: owners and tenants of properties)		10
SECURITY STRATEGY AND CRIME STATISTICS (if not included reasons must be submitted as part of the application)		5
SITE DEVELOPMENT PLAN OF INTENDED CLOSURES POINTS (including Boom gate, camera, guard house and automation machines positions)		10
SDP OF SECURITY / ACCESS POINT		10
TRANSPORT/TRAFFIC IMPACT ASSESSMENT REPORT IF APPLICABLE (IMPACT ON PUBLIC TRANSPORT / BRT /IRPN)		5
PEDESTRIAN ACCOMMODATION IN DETAIL AT ALL		5

ACCESS POINTS		118
SITE PLAN INDICATING EXACT GATED AREA. (All applicable erven to be indicated)		10
SIGN AND NOTICE (to be erected in all access control points, setting out any wording of the notice)		5
LEASE AGREEMENT PRO FORMA (term of lease shall be in line Council approved policy, 2019 including detail plan of the area to be leased)- to be concluded with Group Property department		3
WAYLEAVE APPLICATION (if applicable). All wayleave applications are submitted to Roads and Transport department		3

The detail requirements are set out below:

Without derogating from the provisions of the Act, the applicant shall be required to provide the following information in order to place the Municipality in a position to properly consider the application and the impact on the infrastructure and forward planning in the City.

- (1) A statement setting out the full names, contact details, identity number and signature of the Applicant and/or each and every person on whose behalf the application is made as well as the name and contact details of the chairman of and secretary of the proposed Home owners Association (HOA). If the Applicant is a juristic person, also the name and details of the authorised representative, together with the relevant Power of Attorney.
- (2) A description of the relevant public place(s) as defined in the Act, which are the subject of the application with reference to the proclaimed township (and agricultural holdings and/or farm land) and the streets inside and on the boundary of the public place.
- (3) A description of how the application will adhere to the principles and the proposal of the Metropolitan Spatial Development Framework and Regionalist Spatial Development Framework (RSDF) of the specific Region. A map must be provided of the RSDF applicable and an overlay of the proposed access restriction application. The Regionalist Spatial Development Framework can be obtained on the internet.

<http://www.tshwane.gov.za/AboutTshwane/CityManagement/CityDepartments/City%20Planning,%20Development%20and%20Regional%20Services/Pages/RSDF-2018.aspx>
- (4) An indication of the category and estimated number of persons affected by the circumstances giving rise to the application and written proof that all the property owners (and tenants) have been notified of the proposed restriction of access and were invited to the public meeting/s and details of such meeting/s .
- (5) Written proof that at least two thirds (2/3) (67%) of the people affected by the circumstances giving rise to the application (owners and tenants of properties) as well as all Community Based Organisations (CBO's), Non Governmental Organisations

(NGO's) and businesses operating within the area. All applications for restriction of access to public places submitted to the City for consideration must provide support of two thirds of units and that the total amount of units within an enclosed area will be determined by the sum of all full title units and sectional title units registered and unregistered.

- Full names and address of person(s) giving concern to the application
- Signed concern document with the date

The following information must be provided for the applicable area.

TABLE 2: Erven in the application area

Uses	Total
Total Erven effected	
Single residential	
Sectional title (registered and unregistered)	
Other uses (church, parking, schools)	
Total Units	

- (6) A site plan on a scale of 1:10 000, relating to each and every property situated within the area that will be affected by the proposed restriction, which must specifically include the following:
 - A zoning plan and existing land use plan of each property (e.g. residential, business, public institution, or sport and recreational facility and a description of erven in each zoning category). The zoning plan can be obtained at cost from the City Planning and Development Division information counters.
- (7) A site plan on a applicable scale, indicating, to the satisfaction of the Group Head: Economic Development and Spatial Planning Department or his nominee, the location and nature of all proposed access control structures (for vehicles and pedestrians), the exact location of all municipal services and the location of turning facilities, visitor's parking facilities and entrance layout.
- (8) A locality plan on a scale of 1: 10 000, indicating the adjacent road network of the area concerned as well as the location of the public place within its regional context.
- (9) A comprehensive memorandum addressing the following:
 - A description of the circumstances giving rise to the application, in relation to the purpose of Chapter 7 and section 43 of the Act, namely "enhancing safety and security", including the crime statistics for at least the last 6 months (applicable in the area concern). **If crime statistics cannot be obtained reasons must be outlined in the application.**
 - An description of how the application align with the principles as set out in this policy.

- An Environmental Crime Prevention Plan in conjunction with the City of Tshwane Metropolitan Police Service:
 - The suitability of 'Restriction of access' as far as enhancing safety and security as a determining factor;
 - The extent of area(s) to be fenced, including all critical areas such as public open spaces, municipal infrastructure (reservoir, electrical sub stations etc), open stands, greenbelts and any other escape routes.
 - Detail sketch plans on a scale of 1:200 indicating the position and the full details of the access control gates and guard house. The following information must be indicated on the plans. Location of Council services and all other external services, such as Telkom services, Stormwater information, Road Markings and Road Signs, accommodation of traffic during construction.
 - Full details of the proposed mechanisms measures and procedures of access control at the various access control points and specifically the accessibility in respect of:
 - The general public.
 - The residents within the restricted area.
 - Emergency service vehicles (including SAPS), as well as bus service, waste removal and maintenance vehicles.
 - Internal and external pedestrian accommodation
 - Municipal officials.
 - Proof of compliance with the specifications of the GROUP HEAD: Roads and Transport: Director: Roads and Stormwater regarding the nature of the access control structures, waiting space for vehicles and turning circles.
 - Proof of compliance with the technical standards for closures, as envisaged in the Guideline Document of the Group Head: Roads and Transport and Group Head: Utility Services.
- (10) At the cost of the Applicant a Traffic Impact Study or traffic assessment (observing the access or close approximate around the application) providing details of the impact on the road network relating to the application must be conducted and which must specifically include the following details:
- Traffic patterns, re-routing and redistribution of traffic (vehicles and pedestrians), concentration of routes at proposed access control points, and position and location of access control structures.
 - Accessibility of emergency service vehicles as well as bus service, refuse removal and maintenance vehicles.
 - The likely effect of the redistribution of traffic on the adjacent road networks.
 - The likely effect of the change in road pattern on access to schools, other public institutions, small businesses, sport and recreational facilities.
 - Pedestrian movements in relation to all public transport.
 - Possible changes of pedestrian movement due to proposed access control.

- Details regarding the influence of BRT and Feeder routes (if applicable).

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Note: For more information on the traffic impact study requirements contact Roads and Transport Officials.

- (11) An indication of the municipal services required at the access control points.
- (12) Draft Long Term Lease Agreement in line with section 23.1 of the Policy on Immovable Property Disposal, Transfer and Granting of a Right to Use, Manage or Control a Property Asset, must be submitted with the application. The detail site plan with exact dimensions, position of the area to be leased, proposed position and type of the structure to be constructed, position of existing municipal infrastructure (electricity water and sanitation).
- (13) Copy the Way leave application submitted to Roads and Transport Department.
- (14) Payment of full non refundable administrative fee as contemplated in the terms Section 45 (1)(c) of the act and as approved and adjusted annually by Municipality must accompany the application.
- (15) The applicant on request of the City of Tshwane shall pay the actual cost of the *Provincial Gazette Notice* (s) and newspaper advertisement costs of publishing the notice(s) in at least one local and one daily newspapers.
- (16) Minutes of the Public meeting(s) and Attendance Register(s).
- (17) Applicant must submit all supporting documents listed in “Table 1” to the Group Head: Economic Development and Spatial Planning or his nominee, in the format set out this policy.

4.2 ADMINISTRATIVE PROCEDURE: FOLLOWING SUBMISSION OF THE APPLICATION (refer to ANNEXURE B)

4.2.1 On receipt of the application, the City Planning and Development Division must:

- 4.2.1.1 Open the file and allocate reference number to the application.
- 4.2.1.2 Scrutinise the application and acknowledge receipt in writing within fifteen (15) days or any period not exceeding 25 days.
- 4.2.1.3 On acknowledgement of the application indicate to the applicant whether the application contains all the relevant information and documents required in terms of the Act and this policy including full payment of the non refundable application fee.
- 4.2.1.4 Where certain documents are outstanding, provide the applicant with timeous of submission of such information. Such period must not exceed thirty (30) days
- 4.2.1.5 When the application is complete, the department must circulate to :Roads and Transport, Metro Police, Group Property, Group Legal, or any other Departments listed in “**Table 3**” below including the Ward Councillor for

comments and representations. If the comments of the Ward Councillor were submitted with the application no further comments will be required. 122

4.2.1.6 Comments must be submitted within 32 days from date of notification.

TABLE 3: DEPARTMENTS TO PROVIDE COMMENTS ON APPLICATIONS

COMMENTS:	
LEGAL SERVICES AND SECRETARIAT SERVICES	
ECONOMIC DEVELOPMENT AND SPATIAL PLANNING	
SECTION TRAFFIC ENGINEERING AND OPERATIONS	
TRANSPORT DEPARTMENT TSHWANE BUS SERVICES	
TRANSPORT AND ROADS DEPARTMENT IRPTN/BRT	
INFRASTRUCTURE PLANNING & MANAGEMENT	
UTILITY DEPARTMENT: WATER AND SANITATION	
UTILITY DEPARTMENT: ELECTRICITY	
METRO POLICE: CRIME PREVENTION	
EMERGENCY SERVICES	
HEALTH SERVICES	
PARKS & ENVIRONMENTAL MANAGEMENT	
PROPERTY VALUATION	
CHIEF FINANCIAL OFFICER	
WASTE MANAGEMENT	
GROUP PROPERTY	
WARD COUNCILLOR	

4.2.2 Failure by the applicant to submit outstanding documents:

- 4.2.2.1 If the applicant fails to submit the required information within the timelessness stipulated in terms of section 4.2.1.4 above, the application shall be deemed refused.
- 4.2.2.2 The applicant can request the extension of time to submit the required information prior to the period stated in the letter expires.
- 4.2.2.3 Failure by applicant to submit outstanding documents or information and written request for extension of time the department must notify the applicant that the application is refused.
- 4.2.2.4 New application must be submitted.

4.3 MEETING WITH SOUTH AFRICAN POLICE SERVICE (SAPS)

The applicant must submit comments of the SAPS for the Restriction Access area

After submission of the application, the department shall arrange the meeting with SAPS in terms of Section 45(2) of the act and notify Applicant, Tshwane Metro Police (Crime

- 4.3.1 The department must notify Metro Police (Crime Prevention), Roads and Transport department in writing of the date, time and venue for the meeting.
- 4.3.2 The applicant shall prepare minutes of the meeting and submit to the City Planning and Development Division. Such minutes must be submitted within ten (10) days from the date of the meeting.
- 4.3.3 Notwithstanding the provision of section 4.3.1 and 4.3.2 above the Municipality may accept the comments received from SAPS and finalised the application.

4.4 ADVERTISEMENT PROCESS

4.4.1 Consolidated advertisement approach

Sections 44(1)(c)((i)(ii) and 46(1) of the RLGA require that restriction on access to public place be announced by notice in the *Provincial Gazette* and one or more newspapers circulating in the area concerned and state the proposed terms/period of the restriction. The duration of a restriction or authorisation to restrict access is valid for no longer than two (2) years {or any period is stated in the *Provincial Gazette*}.

4.4.1.1 Where administrative department determine that the Council intends to grant the application, simultaneous/consolidated/concurrent advertisements must be placed on the *Provincial Gazette* and in one or more newspapers circulating in the area concerned.

4.4.1.2 Such notices must be placed at the cost of the applicant within the period of thirty (30) days from the date administrative department notified the applicant.

4.4.1.3 The notice must specify –

- (i) The terms and conditions of a restriction on access to public space in terms of section 45(1)(c)(i)(ii) of the Rationalisation of Local Government Affairs Act, 10 of 1998 (RLGA).
- (ii) The closure of the portions on which structures are to be erected in terms of section 67(3)(b) of the Local Government Ordinance 17 of 1939 (LGO)
- (iii) The lease in terms of section 79(18) of the Local Government Ordinance 17 of 1939 and Municipal Policy that deal with lease agreement

4.4.1.4 The advertisement must states-

- (a) comments being sought on the draft proposed restriction on access and lease of the municipal owned portion(s) to be used.
- (b) states that the application is available for inspection at specific municipal offices.
- (c) the extent of the portion(s) to be leased and duration of lease.
- (d) the public place affected by access restriction
- (e) the proposed period/term of the restriction.
- (f) the person on whom and place where comment and enquiries on the draft terms of the restrictions must be submitted.

(g) states that representations, comments or objections must be submitted within thirty two (32) days from the date of publications. ¹²⁴

(h) Any other requirements stipulated in terms of section 44(1)(c)((ii) of RLGA, LGO.

- 4.4.1.5 Site notices must also be placed at the proposed access point(s) for period of fifteen (15) days from date of the publication of the notices in the *Provincial Gazette* and newspaper(s).
- 4.4.1.6 Proof of the required publications and photo's of site notice(s) must be submitted to City Planning and Development Division by the applicant within fifteen (15) days after the last date of the objection period.
- 4.4.1.7 The applicant must submit all comments received within period of fifteen (15) days from the last date of the objection period.

4.5 CONSIDERATION OF COMMENTS

- 4.5.1 The City Planning and Development Division must consider all comments.
- 4.5.2 Advise the applicant in writing of such comments and solicit representation from the applicant.
- 4.5.3 Where objections are received the applicant shall response within fifteen (15) days from the date of notification by the department.
- 4.5.4 After consideration of all representation made the administrative section must prepare report for consideration by Section 45 Committee. Such report must include terms and conditions which is applicable to the restriction.
- 4.5.5 Where necessary, the committee may invite interested and affected parties including the applicant. The period of the notification to appear at Section 45 committee must not exceed twenty (20) days.
- 4.5.6 The Committee must hear the objections and take the decision.
- 4.5.7 Applicant or objectors must appeal the decision of the committee twenty (20) days from date of notice of such decision.

4.6 DECISION MAKING

- 4.6.1 Section 45 Committee must consider the report within 60 days or any period not exceeding 80 days.
- 4.6.2 After taking all representations and recommendations made the committee must consider the report and take decision.
- 4.6.3 If no objections are received the access restriction will be implemented on the date when the final decision is published in the *Provincial Gazette*.
- 4.6.4 The committee will advice in writing the applicant and objectors (if applicable) of its final decision on the access restriction application.
- 4.6.5 The department can at any time prior to the finalisation of the application request the applicant to submit additional information.
- 4.6.6 THEREAFTER:
 - 4.6.6.1 Any aggrieved party must submit appeal within perion of twenty (20) days from the date of written notification on the decision of the access restriction application and any other application referred in the advertisement.

- 4.6.6.2 If no written appeal is received the City Planning and Development Division must advise the applicant to publish the final approval of access restriction in the *Provincial Gazette* as require in terms of section 44(4) of RLGA. 125

4.7 APPEAL

Any person whose rights are affected by the decision of the Committee may appeal the decision by:

- 4.7.1 Delivering a notice of the appeal and reasons for the appeal to the accounting officer (Municipal Manager).
- 4.7.2 Applicant must pay the prescribed fee as may be determined by the Municipality for appeal.
- 4.7.3 Appeal must be made within 25 days from the date of notice of the decision of the Committee prior to the publication of final notice of the restriction access on the *Provincial Gazette*.
- 4.7.4 Late appeals and condonation will not be consider.
- 4.7.5 The appeal shall be made submitted in terms of section 62 of Municipal System Act to the office of the account officer (City Manager).
- 4.7.6 Strategic Land Development Tribunal (SLDT) must consider the appeal and confirm, vary or revoke the decision of the committee.
- 4.7.7 SLDT shall determine the procedure of hearing: written or Oral hearing
- 4.7.8 SLDT shall take final decision on the matter before it.

4.8 FEES APPLICABLE

- That in terms of Section 45(1)(c) of the Act, a non-refundable administrative fee determined Municipal Council shall be paid in full or an adjusted amount determined annually by Municipality.
- That the applicant on request of the Municipality shall pay the actual cost of the *Provincial Gazette* Notice fee and the newspapers advertisement costs of publishing the notice in at least one local and one daily newspaper(s).
- Fee for obtaining a copy of any document or written report relevant to determining the draft terms of restriction in terms of Section 44(5) shall apply.
- Fee for the appeal of Committee decision.

Note: If a cheque is used as the method of payment, the cheque must be made out to the City of Tshwane Metropolitan Municipality. Post-dated cheques and credit card will not be accepted as payment methods.

4.9 INSTITUTIONAL ARRANGEMENTS

4.9.1 WORK IN PUBLIC ROAD RESERVE

- All application shall comply with Municipality's Wayleave By-laws published under **Local Authority Notice 217 in Provincial Gazette 38 of 19 February 2014, as amended.**
- No works of any kind can be conducted in order to implement or facilitate any restriction of access without the approval Municipality.
- The applicant shall pay applicable application fee and deposit for Wayleave.

4.9.2 NATIONAL BUILDING REGULATIONS AND STANDARDS ACT, 103 OF 1977

- If the applicant have authorisation to erect guardhouses or any structure, building plans must be submitted and approved prior to construction.
- The position and design of the structure must not interfere with municipal services.

4.9.3 WATER, SEWER, ELECTRICITY CONNECTIONS

- An owner of land may not sub-lease or sub-contract any of Municipal metered services.
- The property adjacent to the structures related to restriction of access may not sell water, electricity or do any connection of services on his land.
- If an authorisation is granted for access restriction the applicant must apply for connection of municipal services.
- If road closure has been done, the property/erf on which the structure will be erected must apply for connection of municipal services.

4.9.4 ENFORCEMENT

Metro Police must:

- remove illegal structures, and
- enforce all other municipal by-law

Relevant department(s) must:

- ensure that applicant comply with all approval conditions for access restriction
- monitor access restriction regularly.
- deal with contravention of non-compliance with the approved conditions and illegal structures.

4.10 RESUBMISSION AFTER 2 YEARS

4.10.1 The duration of restriction to access or authorisation to restrict access: Section 46(1) states *"Unless otherwise stated in the Provincial Gazette and subject to this section, a restriction or authorisation to restrict access is valid for no longer than two (2) years"*.

4.10.2 An initial application for access restriction shall be limited to a period of two (2) years.

4.10.3 *In terms section 46(2) municipal council may extent the duration of the restriction or authorisation at least one month before the expiry of the authorisation.*

- 4.10.4 The applicant must apply for extension of the existing authorisation for the period of more than 2 years but not exceeding five (5) years. 127
- 4.10.5 Notwithstanding the provision of 4.10.4 the restriction access areas shall only renewed twice.
- 4.10.6 The City shall use its sole discretion in determining numbers of years for the extension.
- 4.10.7 All the restriction or authorised shall only be valid after publication in the *Provincial Gazette*.
- 4.10.8 If no renewal application is submitted one month before the expiry of the authorisation, the access restriction shall automatically lapse and new application must be submitted (the conditions of resubmission shall not apply).
- 4.10.9 The information required for renewal application are:
- a) Detail Motivational Memorandum for the extension of time
 - b) Previous approval letter and layout plan.
 - c) Application for extension of lease agreement (including previous lease agreement).
 - d) All amendments (if any) to security structure which differ from the original approval (road closures, access gates on different places than originally approved).
 - e) Written proof of Ward Councillors support.
 - f) Written proof that at least two thirds (2/3) of the people affected by the circumstances giving rise to the application (owners and tenants of properties) as well as all CBO's, NGO's, schools and businesses operating within the area.
 - g) Updated traffic impact / observation as determined by the Roads and Transport Department. (please discuss with Roads and Transport department before submission)
 - h) Copy of previous approved building plan if structures such as a guard house have been erected.
 - i) Crime report updates and comments from SAPS.
 - j) All complaints and mitigations measures registered since inception of original closure.
 - k) Proof of payments of non refundable application fee.

Note:

1. The administration department and any city's departments may require additional reports/documents and such information shall be prepared and submitted at the cost of the applicant.
2. Subject to the provision as quoted above the permission to restrict access shall automatically lapse without any further notice from the Municipality provided that extension of the duration of the period was approved by Council.

5 ASSESSMENT CRITERIA

All application submitted for access restriction shall comply with requirements, criteria and guidelines set out below.

5.1 IMPACT ON PUBLIC TRANSPORT.

The impact of the closure on the Municipal Spatial Development Framework (MSDF) and Regionalised Spatial Development Framework for different regions must be addressed including whether or not the closure would have an impact in the current and future alignment of the BRT routes. Determination must be made if the closure could compromise the access both the physical and non-physical dimension(s).

But of utmost importance as highlighted by the Metropolitan Spatial Development Framework is the notion of transit orientated development (TOD). TOD supports the basic spatial concept of sustainability (both social and economic). Sustainability in this context refers to the optimal use of land through densification, infill and consolidation and spatial integration giving equal opportunity; correction of spatial imbalances, creation of sustainable human settlements and social equity.

Transit-oriented development addresses spatial restructuring by 'stringing' the city's nodes together, effectively making the city 'smaller' and travel distances 'shorter' through an efficient integrated rapid transport network (IRPTN), which will optimally integrate road, rail and air transport within the CoT.

The IRPTN will thus allow that, regardless of one's location in the city, equal access for all residents to all nodes will be provided for. In addition, labour markets will be spatially integrated and true flexibility regarding one's place of residence versus place of work will be catered for. Therefore in this regard, all road closures would have to take cognisance of the above.

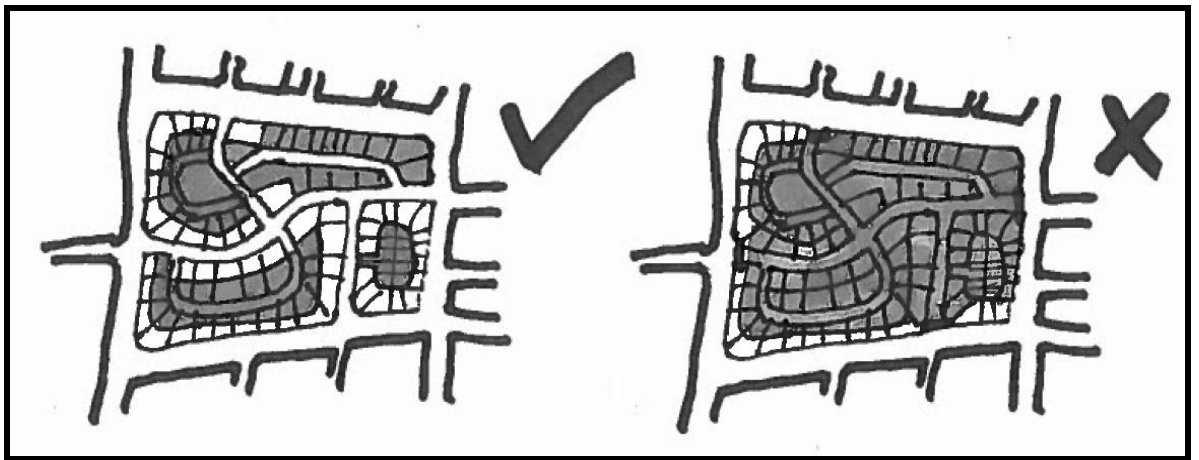
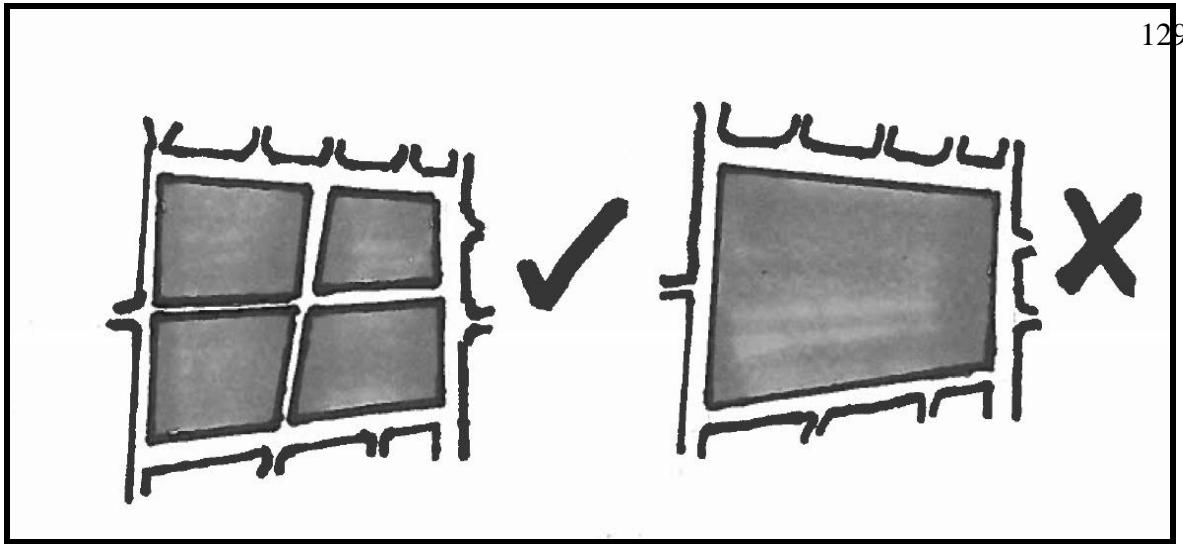
The same may also be true in the case of spatial fragmentation. Again, one area is not likely to have a significant impact and may not in context create significant fragmentation of the urban form and between neighbourhoods. But, as soon as the numbers escalate, the problem becomes more severe, as is visible when one starts to consider enclosed neighbourhoods as closed spatial entities. Eventually this may lead to an ensemble of closed cells connected by high-speed arterials in the city, where only the privileged and their workforces have access to these enclaves.

5.1.1 Scale of closure

The scale of area of access control will play a large part in determining if a application will be supported.

Smaller access restriction closure will be regarded more positive than larger areas which lead to superblocks with no access.

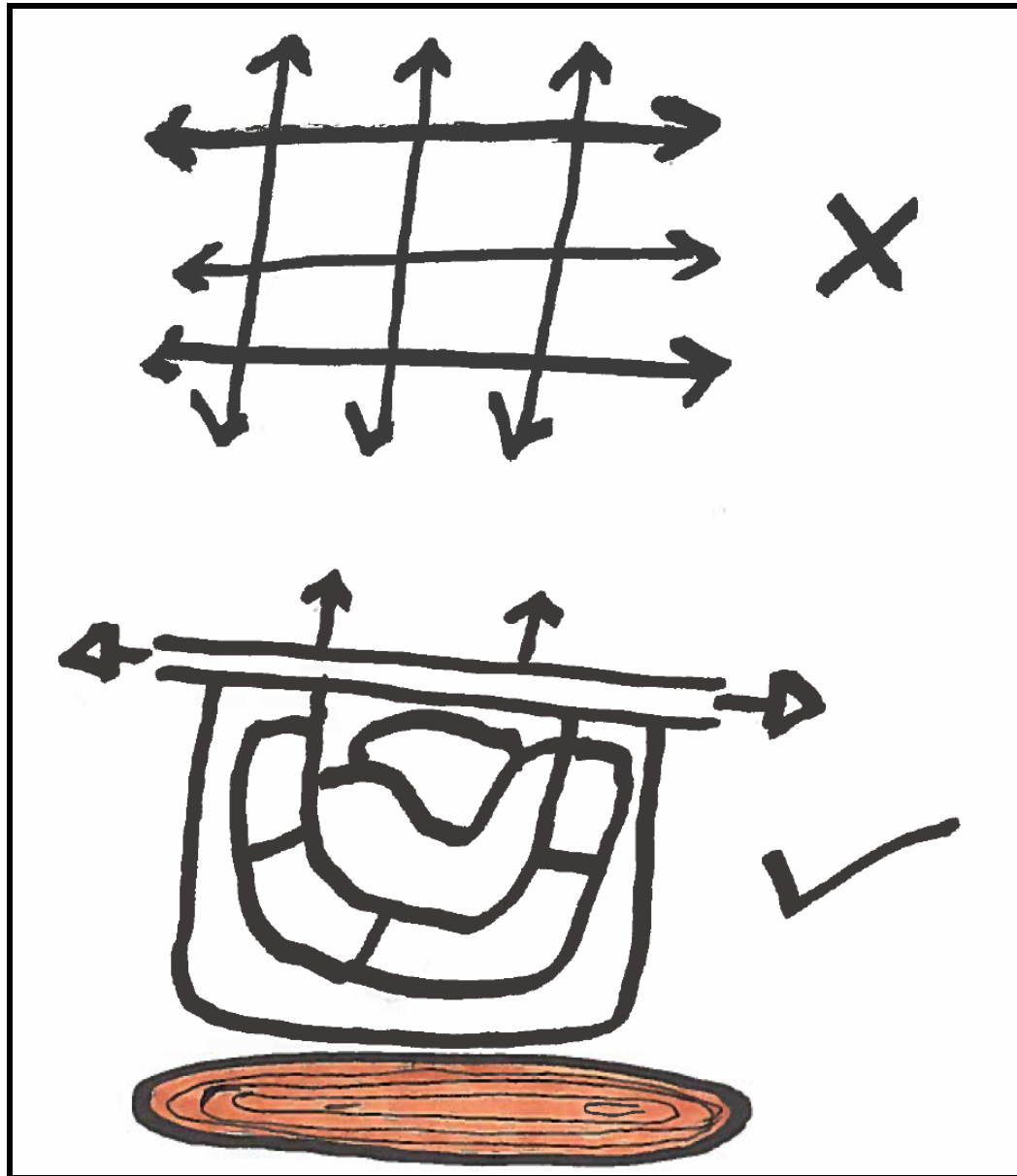
Cul-de-sac with are seen as a better option to larger access restriction areas.



The township layout of a area shall form an integral part in determining the support of an application for access restrictions.

A grid layout (access from all sides. as indicated below will generally not be supported in terms of access restrictions. Layouts that are only have access from one or two side will be regarded as a better option in terms of access restrictions.

Factores such as natural barriers, e.g ridges will be considered when application for access control is evaluated.



5.2 IMPLICATIONS OF ACCESS RESTRICTIONS ON LAND USE PLANNING

When considering applications for access restriction the following must be considered:

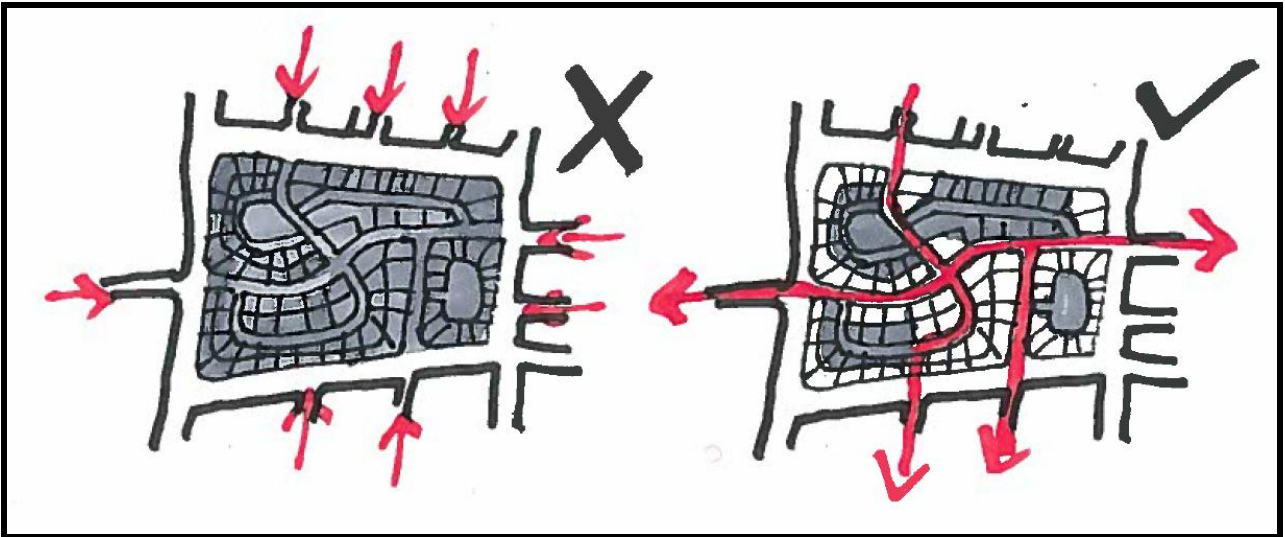
- The access restrictions should not affect the functional structure of any particular neighbourhood or part of the city relating to parks, schools and other non residential uses.
- Ensure that **inclusive community amenities** such as childcare facilities, municipal halls, parks, recreational areas, cemeteries, sports grounds, markets and libraries are accessible.
- The access restrictions should not affect the legibility of any part of the city; and affect the normal dynamic processes in the city for example the densification of nodes, corridors and land use application processes.
- The Metropolitan Spatial Development Framework and Rationalised Spatial Development Frameworks will be regarded as the guiding policy on the impact of access restrictions on future land uses.
- All new and renewal access restrictions applications will be evaluated in terms of the Rationalised Spatial development frameworks for the applicable Region and other relevant municipal policy's.

Note: If a particular access restrictions is situated in an area that in future becomes ripe for redevelopment or is a logical area for redevelopment in terms of the spatial development framework or any other Council/Mayoral Committee decision, the existing "access restriction" must be re-evaluated.

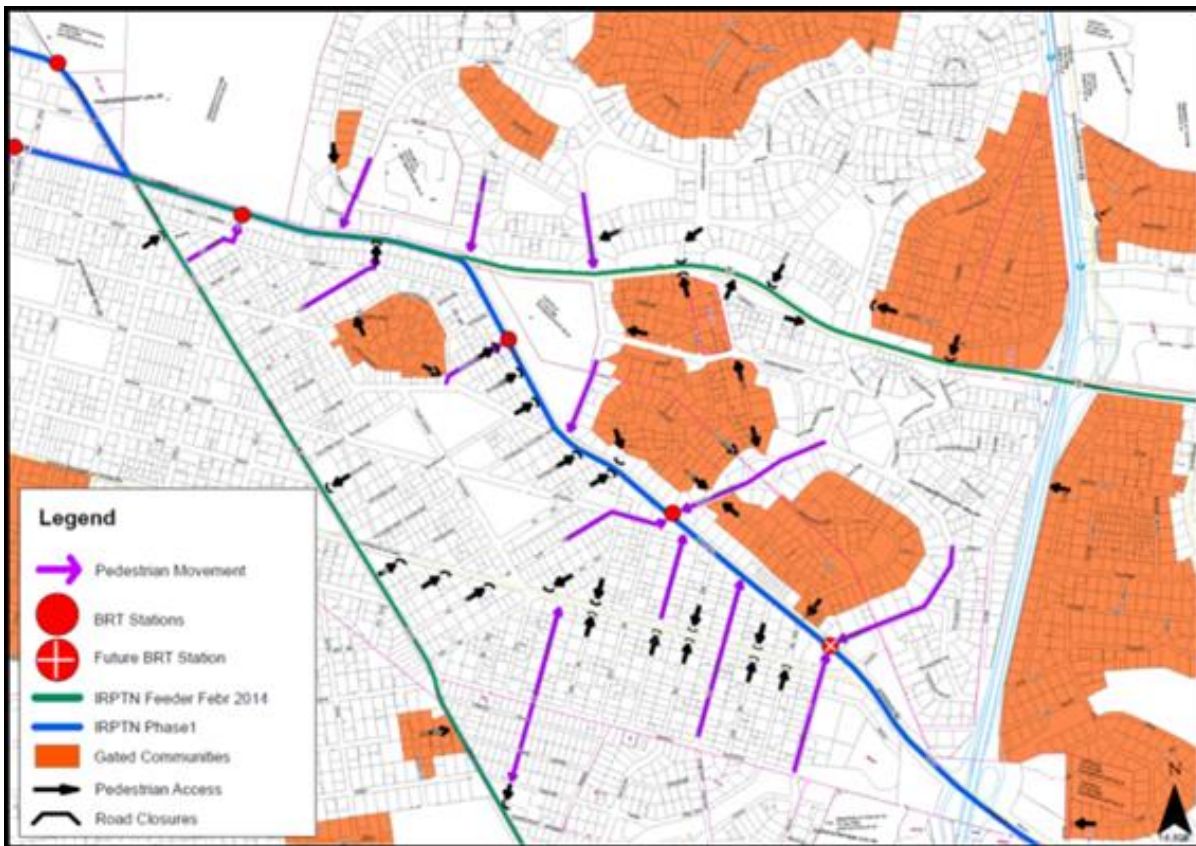
LOCATION CRITERIA AND SCALE

5.2.1 .Traffic flow

Larger access restriction area which restrict through traffic are not supported in terms of the policy.



Public transport routes and pedestrian access will play a major role in the evaluation of access restriction application.



Pedestrian restrictions as indicated will not be supported along major public transport routes such as the IRPTN/BRT and bus routes.



Pedestrian restrictions as indicated will not be supported along major public transport routes such as the IRPTN/BRT trunk routes.

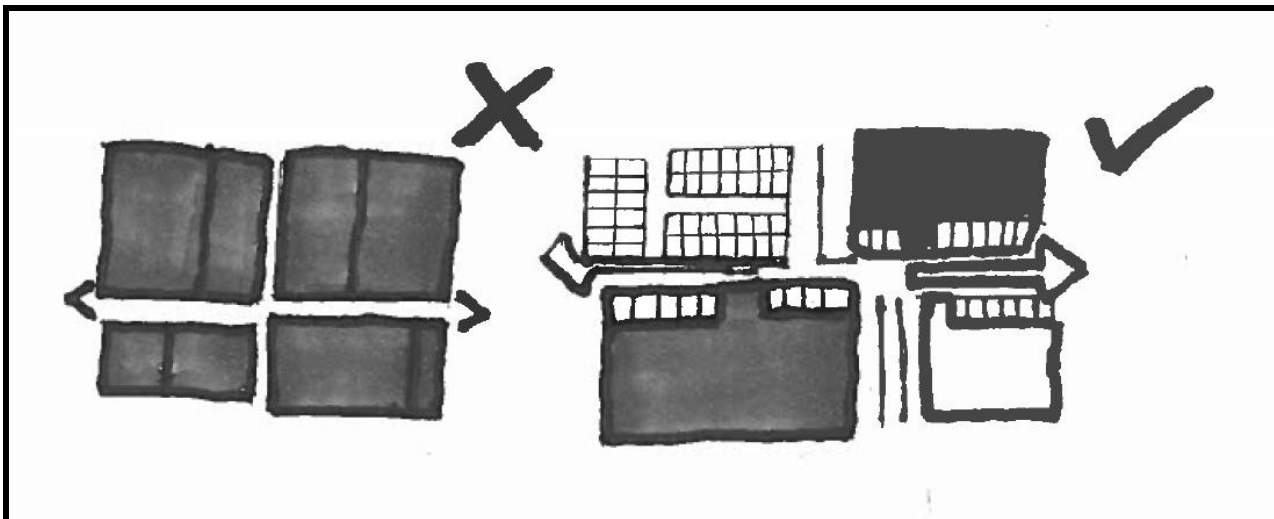
		<p>Pedestrian restrictions, as indicated will not be supported along major public transport routes such as the IRPTN/BRT trunk routes.</p>
		<p>Vechcilar restriction and not pedestrian restrictions will be applicable in nodal areas. As indicated on the right.</p>
		<p>Vechcilar restriction and not pedestrian restrictions will be applicable along major public transport routes such as the IRPTN/BRT trunk route. As indicated on the right.</p>
		<p>Vechcilar restriction and not pedestrian restrictions will be applicable along major public transport routes such as the IRPTN/BRT trunk route. As as indicated on the right.</p>

5.2.3 Public Open Space and Social facilities

Establishing and maintaining inclusive community amenities such as childcare facilities, municipal halls, parks, recreational areas, cemeteries, sports grounds, markets and libraries is one of the main spatial visions of the city. All applications will be evaluated in terms of this vision.

5.2.4 Visual impact and interfaces (edge)

Access controlled areas which limit the visual impact on the neighbourhood will be regarded as more acceptable. The access restriction should not affect the legibility of any part of the city.

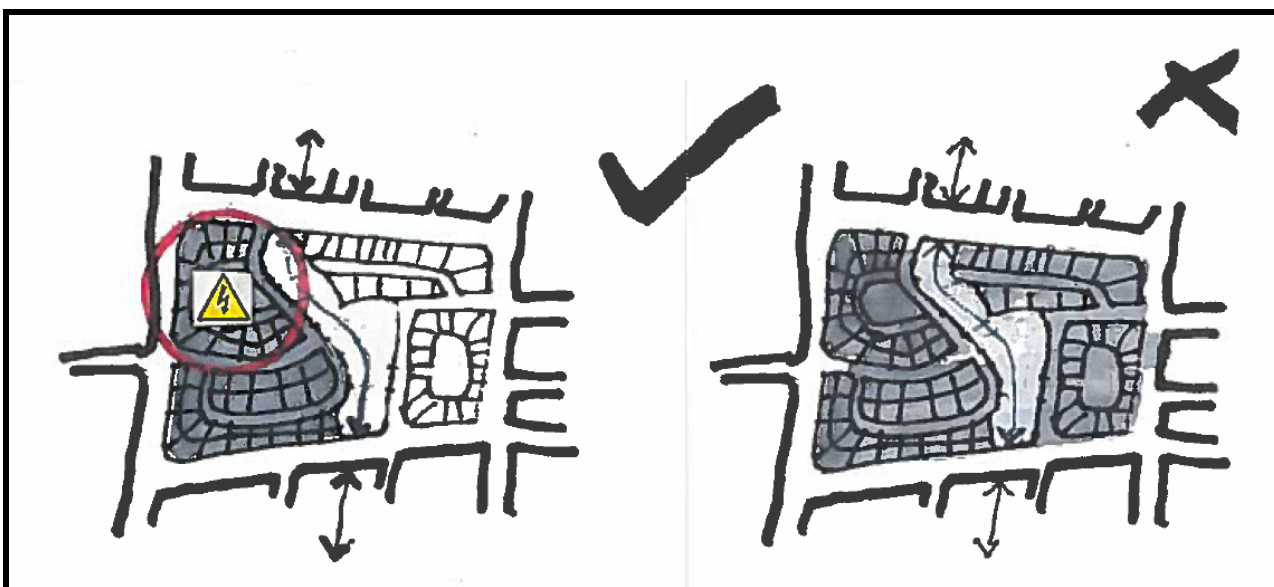




5.2.5 Emergency services and law enforcement access

Applications will be evaluated in terms of ease of access for emergency services and law enforcement agencies.





5.2.6 Services and infrastructure

Access restricted areas with create additional security to council infrastructure such as electrical sub stations, reservoirs and pump stations will be support in terms of this policy.



			<p>Access restricted areas, with create additional security to council infrastructure such as electrical sub stations, reservoirs and pump stations will be support in terms of this policy.</p>
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5.3 ACCESS MANAGEMENT AND MONITERING.

			<p>Use of this method for access control is encouraged.</p>
			<p>Use of this camera's at the access points is supported. Provided such information is stored, used responsible accesble to Metro Police.</p> <p>Where possible such camera;s must be linked to CoT system.</p>

 <p>Eldo 3 Manor Security Notice</p> <ol style="list-style-type: none"> 1. YOU ARE NOW ENTERING A SECURITY AREA 2. ALL VISITORS MUST BE SIGNED IN 3. RESIDENTS MUST USE ACCESS CARDS PROVIDED TO GAIN ACCESS 4. SECURITY GUARDS ARE INSTRUCTED NOT TO OPEN THE BOOMS FOR RESIDENTS 5. ELDO 3 MANOR WILL NOT BE HELD RESPONSIBLE FOR ANY LOSS OR DAMAGE ACCRUED <p>Security Officers on duty: Oupa David</p> <p>SECURITY OFFICE TEL: 012 653 7213</p>		<p>Signage: wording on the signage is discouraged. The application is to control access and not to deny access to residents and non-residents. The street(s) remain public street.</p>
		<p>Lifting of boom gate: encouraged during peak hours.</p>
		<p>Lifting of boom gates encouraged during peak hours.</p>

- This policy will become effective from the date of Council approval
- The policy is to be read and interpreted together with Policy on Immovable Property Asset Transfer, Disposal and Granting of a Right to Use, Manage or Control a Property Asset owned by the Municipality in so far as the use of public streets and road reserves.
- Should there be any conflict between this policy and the Policy on Immovable Property Asset Transfer, Disposal and Granting of a Right to Use, Manage or Control a Property Asset owned by the Municipality and this policy's interpretation on use of public street and road reserves, the policy applicable to municipal immovable property assets shall prevail.
- All applications submitted prior to the approval of this policy shall be finalised in terms of the requirements and procedure of Restriction of Access to Public Places Policy, 2003 (unless the application is withdrawn and submitted in terms of this policy)

This policy replaces:

- (a) Restriction of access to Public Places Policy, 2003

NEW APPLICATION & RENEWAL**CITY OF TSHWANE METROPOLITAN MUNICIPALITY****APPLICATION FORM – RESTRICTION OF ACCESS TO PUBLIC PLACES
FOR SAFETY AND SECURITY PURPOSES IN TERMS OF THE
RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS ACT, 1998 (ACT
10 OF 1998)**

Please ensure that all the information is completed on the form. If any information is missing/incomplete this might result in a rejection of the application. This application can be submitted to: Group Head : Economic Development & Spatial Planning (at the relevant offices)

- Centurion Council Offices, Room 8, City Planning.
- Mutoria Council Offices, Room G10.c/o Madiba and Lilian Ngoyi Street, Pretoria
- Akasia Office : Akasia Municipal Complex, 485 Heinrich Avenue.

PROPOSED RESTRICTION OF ACCESS TO -

.....

.....

.....

.....

.....

.....

(Description of the relevant public place)

A APPLICANT

1. Full name

.....

2. Name of authorised agent:

.....

3. Physical Address of agent

.....
4. Postal address of agent:

.....
5. Telephone number of agent: (.....)

6. Fax number of agent: (.....)

7. Cellular Phone Number:.....

8. E-mail

9. Other applicable information:

.....
.....
.....
.....
.....

.....
SIGNATURE

.....
DATE

APPLICATION PROCESS

ADMINISTRATIVE PROCEDURE

1. Receive application.
2. Capture application on data system and open file- allocate reference number: **{within 10 business days}**
3. Scrutinise and acknowledge (check application for completeness) **{within 15 business days or any period not exceeding 25 days}**.
4. Applicant to submit outstanding information, if any **{within 30 days from date of notice}**
5. Circulate application for comments to relevant internal departments and Ward Councillor. **{to be submitted within 32 days}**
6. On receipt of comments compile report for a meeting to be held between the South African Police Service (SAPS), invite all relevant internal departments and the applicant.: **{within 15 days or any period not exceeding 20 days}**
7. Finalize report for submission to Section 45 Committee: **{within 30 days or any period not exceeding 45 days}**
8. Submit report to Section 45 Committee. **{within 15 days}**
9. Invite the applicant and objector. **{notice for hearing: 20 days or any period not exceeding 25 days}**
10. Section 45 Committee consider the application with recommendations: **within 60 days or any period not exceeding 80 days.**
11. Notify the applicant and Objection on decision. **{25 days or nay period not exceeding 35 days from the date of the hearing}**

ADVERTISEMENT PROCESS

12. Notice for publication prepared in order to obtain comments or objections on the principle approval.
13. Place site notice at proposed access points **{ for 15 days}**
14. Publication of the notice in local newspapers and *Provincial Gazette*.

15. Submission of Objections or representations. **{32 days from date of the advertisement}** ¹⁴¹

16. Applicant submit proof of the required publications and photo's of site notice **{15 days after last date of the objection period}**

17. If no objections are received, prepare final notice for publication in *Provincial Gazette*.

CONSIDERATION OF OBJECTIONS (IF APPLICABLE)

18. If objections are received, prepare report for consideration by Section 45 Committee.

19. Notify the applicant and objector(s) in writing of the date, time and venue for the hearing. **{20 days before the hearing date}**

20. Notify the applicant and objector(s) in writing of the decision of the Committee **(25 day to appeal committee decision from date of notice)**

APPEAL

21. Appeal shall be submitted within 25 days from the date of the decision of the Committee

IMPLEMENTATION PROCESS

22. Prepare and place final notice for publication in the *Provincial Gazette*.

23. Lease Agreement must be signed.

24. Wayleave process must be concluded

25. Prior to the commencement of the construction, the applicant shall take out a public liability policy.

26. The applicant must submit proof that a Section 21 Company has been established.

27. A site inspection will be carried out.

28. The approval will be valid for a period of two (2) years.

29. If the restriction has not been imposed within four (4) months from the date of the first announcement, that the restriction cannot be made, unless the application is resubmitted.

ANNEXURE: C

TITLE : LIST OF OWNERS / TENANTS SUPPORTING THE APPLICATION			
CONFIRMATION: 2/3 (67%) SUPPORT:			
Yes <input type="checkbox"/>			
No <input type="checkbox"/>			
Name & surname	Capacity Owner/Tenant	Tel No: Cell No: e-mail address	Signature

1. That authorisation be granted to the applicant to restrict access to public place (..... *include all street names to be closed as per the application*), for a period of 2 (two) years in terms of Chapter 7 of the Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), as indicated on the plan attached as Appendix A, subject to the following terms and conditions:
2. The period of the restriction may, however, be extended: Provided that a new application be submitted one (1) month prior to the expiry of the two-year term, for the extension of the authorisation in terms of the Act (for administrative purposes three months are imposed although the policy makes provision for one (1) month). The same procedure as required for the initial application will apply for the extension of the duration of the application.
3. That after expiry of the period referred to above, and if no application for extension of the restriction has been submitted, the Applicant must immediately reopen and reinstate all roads and remove all access control structures, failing which the Municipality will have the roads reopened and the access control structures removed, and will recover from the Applicant all costs incurred in doing so.
4. The Applicant's deposit bank guarantee, as required in paragraph (35) below, will be used to cover the costs incurred by the Municipality for the removal of the access control structures in the road and road reserve. However, upon satisfactory removal of the restrictions and reinstatement of roads, the deposit or bank guarantee will be returned after the 2 (two) year term of the initial approval has expired.
5. That a representative from the Home Owners association and the Security Company responsible for the access control should liaise with Tshwane Metropolitan Police Department: Section Pro-active Environmental Design and Re-design.
6. That major crime related issues should be reported as soon as possible to the TMPD: Section Pro-active Environmental Design and Re-design.
7. That the TMPD: Section Pro-active Environmental Design and Re-design be informed of any Home Owners Association meetings that should be attended by the above-mentioned section.
8. That if members of the TMPD identify any by-law transgressions, a notice to rectify will be issued to the Home Owners Association for their attention.
9. That road policing transgressions as identified by the Home Owners Association should be reported to the TMPD: Section Pro-active Environmental Design and Re-design.
10. That the Applicant must maintain all equipment and material used for installing the access restriction measures to the satisfaction of the Municipality.
11. That all access control structures and turning facilities required by the Municipality must be constructed in a manner and at the location approved by the Group Head: Roads and Transport.
12. That all costs incurred in erecting and maintaining any access control structures (including security fences), managing access control measures and upgrading the road network evolving from the authorisation to restrict access must be borne by the Applicant.

13. That all costs involved in relocating service connections and the costs of the consumption of and repairs to any services on the Municipality's property, which may have been damaged as a result of the erection must be borne by the Applicant.
14. That the costs for new water and sewer connection points for the guardhouse will be for the account of the applicant.
15. That any additional essential engineering services (including electricity, water, sewerage and roads and stormwater) required must be installed and maintained by the Applicant in accordance with the standard of the Municipality (or a standard agreed on beforehand). The Municipality will maintain all existing services, including water, sewerage, electricity and roads and stormwater unless otherwise agreed. No person may carry out work on the services or interfere with the services without the approval of the Municipality and its respective Departments.
16. That prior to the erection of access control structures, a site development plan and building plan must be submitted to the Group Head: Economic Development and Spatial Planning (Building Control Section) or his nominee, for approval. The site development plan shall at least indicate all services, access control points, road closures, security gates, pedestrian facilities, fencing, booms, guard houses, ablution facilities and waiting areas.
17. That the arrangements for water and sewer connections to the guardhouse must be finalised prior to the guardhouse being operational.
18. That no permanent structure or concrete slab will be allowed over the municipal services.
19. That the manned gates must take visitors into consideration by providing parking or an additional inbound lane as indicated in the Traffic Impact Study.
20. That the access lanes must be at least 4,2 meters wide (or any size indicated in the approved Traffic Impact Study).
21. That the development may have no adverse impact on any existing street tree or result in the removal of any street tree. Should any form of road upgrading or road reserve upgrading be contemplated, such upgrading must take existing street trees into consideration and integrate such trees within the overall planning solution.
22. That any alterations to the existing electricity network resulting from the access control, will be carried by Tshwane Electricity, after the costs thereof has been paid by the applicant.
23. That if a separate electrical connection (metering point) is required, an application has to be lodged at the relevant Municipal offices.
24. That unrestricted access of 24 hours per day, 7 days per week, to the application portion must be granted to Tshwane Electricity for maintenance, construction and repairs to be carried out on the existing electricity services.
25. Way leaves must be submitted and finalised prior to any work undertaken on the street/road reserve.
26. That a 3 meter clearance between the wall or gate and any overhead electrical equipment of the Council must be maintained.
27. That the following requirements are applicable with regard to waste removal services:
 - 27.1 The driver of the vehicle must be able to enter the area without the need to reverse to get close enough to containers to service it.
 - 27.2 A suitable turn area must be provided if the vehicle cannot travel through the area in one direction.

- 27.3 If a circle may not be suitable, damage caused by the turning action and extensive wear on the surface of such circle will not be for the account of the Municipality. ^{P46}
- 27.4 Entrance to the area to be serviced must be opened daily between 06:00 and 20:00.
28. The Municipality must obtain indemnity regarding damage to roads or associated structures in the area.
29. That should it not be possible for refuse removal trucks to make use of all roads for collection of refuse bags, alternative arrangements be made to the satisfaction of the Municipality for the collection of refuse at accessible central points.
30. That the Applicant must, at his or her own cost and to the standard and satisfaction of the Group Head: Roads and Transport, provide signage within and around the restricted area to warn to road users and pedestrians of the access control measures restricting access to members of the public, and to effectively direct emergency, vehicular and pedestrian traffic to alternative access points or along alternative routes.
31. That a deposit or an acceptable bank guarantee equal to 20% (twenty per cent) of the erection costs (material and labour) of the access control structures erected on the road and road reserve must be provided by the Applicant, prior to erection of any access control structures. Such deposit will be utilised or guarantee will be realised to recover costs incurred by the Municipality for removing any means of restriction, if necessary, in terms of Section 46(5) of the Act.
32. That the Municipality reserves the right to instruct an Applicant to reopen and reinstate any road(s) which have been closed in terms of an approval by the Municipality, and remove any access control structures at the Applicant's own expense and within a period specified by the Municipality, in the following instances:
- i. When the essential terms and conditions relating to the restriction of access are not fully complied with.
 - ii. When the public place is to be utilised by the Municipality for purposes of the Municipality performing its duty in terms of section 63 of the LGO to keep the road open and in repair for the use and benefit of the inhabitants even during the initial 2 (two) year period.
 - iii. If the Municipality, upon receipt of a written complaint or as result of a site inspection, considers that any term of approval is not being honoured, it will immediately notify the applicant in writing of the nature and extent of any failure, with a deadline of thirty (30) calendar days, for:
 - iv. Compliance with all the terms and conditions of approval imposed by Municipality; and/or rectification of any non-compliance or contravention related to the approved restriction of access.
 - v. If the Applicant fails to comply with this instruction within the specified period, the Municipality reserves the right, subject to compliance with due process of law and the rules of administrative justice, to reopen and reinstate the roads remove any access control structures and recover from the Applicant all costs incurred by the Municipality.

33. That the Municipality reserves the right to require alterations at the Applicant's expense if access control operations create traffic problems and hinders municipal service delivery.
34. That after approval but prior to implementation, the Applicant must submit written proof to the Municipality that a Section 21 company or a similar legal entity or association to fulfil the Applicant's obligations in terms of these conditions has been established, so as to ensure that all persons in the Policy Framework are liable to the Municipality in respect of each and every obligation and condition the Municipality may impose in approving an application. In event of a natural person applying for authorisation to restrict access, a written motivation must be submitted for exemption of this condition.
35. That prior to the commencement date of implementation of the proposed restriction, the Applicant must take out, at his or her own expense, a public liability policy and maintain it for the relevant period in terms of which policy the Municipality and the Applicant enjoy full coverage for their respective rights and interests, subject to the following:
- a) Prior to the commencement of the restriction measures, a copy of the policy document, together with written proof that the premium has been paid in full, must be submitted to the Municipality for its approval.
 - b) When this policy is renewed for a further term, written proof of this must again be submitted to the Municipality for its approval.
 - c) During the insurance period the policy must provide for claims of at least R5 000 000,00 (five million Rand) per incident, the number of incidents being unlimited.
 - d) The Municipality reserves the right to insist on increased insurance coverage, if, in the discretion of the Municipality, this is necessary.
36. That access control points must allow restricted vehicular and pedestrian access to the public and full, free and continuous vehicular and pedestrian access to Municipality officials within the scope and ambit of their employment. (e.g. of Electricity, Water, Sewerage, Cleansing, Roads and Storm-water, Parks), and any other agency, utility or contractor of the Municipality, as well as emergency services (e.g. Fire, Ambulance, Civil Defence, Traffic and the SA Police Service), at all times.
37. That continuous unrestricted access at the access control point for fire-fighting and rescue purposes in accordance with the provisions of the National Building Regulations read with the relevant Deemed to Satisfy Rules must be guaranteed.
38. That fire-fighting equipment at the access control point must be accessible and positioned to the satisfaction of the Director: Fire Services.
39. That all access control points must have information signs to the standard and satisfaction of the Municipality that display numbers that can be called for information and/or complaints.
40. The applicant shall display sign indicating the period of validity of the access restriction
41. That any identification/naming/branding of the entrance structure shall comply with Municipal requirements.
42. That access at all reasonable times must be guaranteed for meter readers from Municipality.
43. That a 24-hour manned access control gates be provided.

44. That a lease agreement be concluded between the Municipality and the applicant in respect of the portion of the road and road reserve to be utilised for the erection of access control structures, for a period of 2 (two) years at a once-off rental of R and subject to the terms and conditions determined by the Municipality.
45. That an approved land surveyor's diagram, indicating the location of the access control structure, be submitted as soon as it is available so that a lease agreement with the Municipality can be drawn up.
46. That the access controlled area must be managed and administered to the satisfaction of the Municipality.
47. That the applicants cannot deny any member of the general public access to the affected area. The approval of the application does not imply that access to the area by "non paying residents and community members", may be prohibited.
48. The applicant or security company shall not scan car registration number plates, drivers license, car registration discs, Identity documents of any member of community.
49. That the conditions of the Municipal Departments must be adhered to.
50. At least two access control points must be manned 24 hours with full vehicular and pedestrian access at all times to any person.

ANNEXURE: E

LOCAL GOVERNMENT NOTICE

NOTICE IN TERMS OF SECTION 44 (1) (c) (i) OF THE RATIONALISATION OF LOCAL GOVERNMENT AFFAIRS ACT, 1998 AND THE LOCAL GOVERNMENT ORDINANCE 17 OF 1939

The City of Tshwane Metropolitan Municipality hereby gives notice in terms of Section 44(1)(c)(i) read with Section 45(3) of the Local Government Affairs Act, No. 10 of 1998 and Local Government Ordinance, 17 of 1939 that it intends to authorise

- (a) (description of streets to be closed) to restrict access to a public place, based on an application received in terms of Section 45 of the Act
- (b) (description of lease portions of the road (s) and the extent) in terms of Section 78(18) of the Local Government Act

Comments are being sought on the terms of the restriction which are as follows:

(method of access control / restriction that will apply at each intersection, e.g. palisade fence with 24hour boomed access control; palisade fence with pedestrian gate, gate control times etc.)

The application, sketch plan of the area and other written reports relied on by the Municipality to pass the resolution will lie for inspection during normal office hours at the office of the undersigned,

.....
 (specify where the application can be inspected: address, name of the municipal building, room number)

.....
 Comments on the terms of restriction and lease of the portion(s) of the road may be lodged with theor delivered at the on or before

.....
 Description of the public place:

The public place is known as enclosed by the following streets.

ADDRESS:

CITY / TOWN:

REGION:

DATE: **CITY MANAGER**

REFERENCE: