

AGENDA: COUNCIL: CITY OF TSHWANE METROPOLITAN MUNICIPALITY:
29 FEBRUARY 2024

PART I of the agenda of the Council Meeting of the

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

(FIFTH TERM OF THE CITY OF TSHWANE)

to be held on THURSDAY, 29 FEBRUARY 2024

REPORT OF THE MAYORAL COMMITTEE

01/2024 report

17 JANUARY 2024

AGENDA: COUNCIL: CITY OF TSHWANE METROPOLITAN MUNICIPALITY:
29 FEBRUARY 2024

Order of business of the Council Meeting convened in terms of Section 2 (read with Section 8) of the Rules and Orders:

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- D. UNOPPOSED PROPOSALS BY THE SPEAKER AND OTHER PROPOSALS ALLOWED BY THE SPEAKER
- E. CONSIDERATION OF THE MINUTES OF THE PREVIOUS COUNCIL MEETINGS:
 - Special Council: (Election of the Deputy Executive Mayor): 18 January 2024
 - Ordinary Council: 25 January 2024

F. REPORTS TO THE COUNCIL

The Chairperson (Executive Mayor) of the Mayoral Committee or member called upon by the Executive Mayor to do so, submit to Council the reports of the Mayoral Committee, as contained in the respective Parts.

AGENDA: COUNCIL: CITY OF TSHWANE METROPOLITAN MUNICIPALITY:
29 FEBRUARY 2024

F. REPORT TO THE COUNCIL

PART I: FROM THE MAYORAL COMMITTEE MEETING: 17 JANUARY 2024

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AGENDA: COUNCIL: CITY OF TSHWANE METROPOLITAN MUNICIPALITY:
29 FEBRUARY 2024

Reference no. 70860/4
Pheko Letlonkane (1064)
COUNCIL: 29 February 2024

1. ROADS AND TRANSPORT DEPARTMENT
APPROVAL OF PUBLIC PARTICIPATION FOR WORK IN THE PUBLIC ROAD
RESERVE BY-LAW
(From the Mayoral Committee: 17 January 2024)

1. PURPOSE

The purpose of the report is to obtain Council approval to conduct Public Participation on revising the existing By-law for work in the Public Road Reserve. The existing By-law was approved by Council in 2014 through Notice 229 of 2014.

In terms of section 8(1)(b) of the *Rationalisation of Local Government Affairs Act, 1998(Act 10 of 1998)*, a *Gauteng Provincial Act*, By-laws must periodically be reviewed every *ten (10) years*.

2. STRATEGIC PRIORITIES

Strategic Objective 5: To ensure good governance, financial viability and optimal institutional transformation with capacity to execute its mandate.

3. BACKGROUND

The city has a legal obligation to protect all services infrastructure within its road reserve boundaries while new infrastructure is being installed, without causing any damage to:

- Vehicles;
- Occupants of vehicles and pedestrians; and
- Roads, footways, and other services.

To achieve this, and to ensure uninterrupted service to all residents, the Tshwane Metropolitan Municipality (CoT) is required to provide by-laws for the regulation of all work to be executed in any public road reserve within its jurisdiction.

4. DISCUSSION

The Roads and Transport Department has since 2014 after initial intensive public participation process to get the By-law approved, further developed three major complementary policy or system to enhance the legal goals as set out in the By-law for work in the Public Road Reserve.

4.1 Public Road Reserve By-law and further complimentary policy documents namely Fines approval by Magistrate and Micro Trenching Policy and the Electronic Wayleave Management System (WLMS)

4.1.1 Public Roads Reserve By-Law(promulgated in 2014-02-19) and WLMS . The Public Road Reserve is pinned around a well-developed process of controlling work in the Road Reserve and also include the following:

- Ensuring accurate data on existing services;
- Collection of Wayleave processing fees;
- Controlling of notifications to affected parties;
- Enforcing minimum standards for backfills and reinstatement; and
- Minimising the impact of work by controlling time schedules.

All of the above steps have been inherently developed into the Electronic Wayleave Management System (WLMS) allowing for better control and coordination of all work in the Public Road Reserve.

4.1.2 Fines approved by magistrate (Promulgated in 2015-02-09). The services infrastructure contained within the Public Road Reserve (PRR) and the road itself is a major asset of the Municipality which needs to be maintained, periodically rehabilitated, and replaced from time to time. Such activities can result in considerable delays, inconvenience, danger and additional costs to the Road Users and the Municipality itself if not well planned and coordinated.

Careful control and coordination of all work in the Public Road Reserve is a prerequisite for effective service delivery and can only be achieved if a legally binding and fines regimen, approved by the Magistrate is implemented to complement the By-law and the WLMS.

4.1.3 Micro Trenching Policy approved by the City in 2020-09-11. This policy addresses the increasing demand for high-speed broadband capacity for data transfer and internet connections. It aims to protect all services within the road reserve while minimising the impact of work on road users.

4.1.4 WLMS: This system automates the wayleave application and approval process, ensuring accurate data on existing services, collecting wayleave processing fees, controlling notifications to affected parties, and enforcing minimum standards for backfills and reinstatement.

5. COMMENTS OF THE STAKEHOLDER DEPARTMENTS

5.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER

Cognisance is taken of the content of the report and annexures.

The purpose of the report is to obtain Council approval to conduct Public Participation on revising the existing By-law for work in the Public Road Reserve.

Group Financial Services, in principles, has no objection to the proposed public participation process for the revising the existing By-law for work in the Public Road Reserve.

The comments from all stakeholder departments must be obtained to confirm their financial obligations towards the above-mentioned public participation process.

Group Financial Services would like to reiterate that the City's cash position remains severely constrained. Therefore, the relevant departments need to strictly adhere to the cost containment measures as outlined in the Circular 35 of 2022: "Cost Containment" issued by the Office of the City Manager when procuring any goods and services relating to proposed public participation process.

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

The purpose of the report is to obtain Council approval to conduct Public Participation on revising the existing By-Law for work in the Public Road Reserve. The existing By-Law was approved by Council in 2014 through notice 229 of 2014.

In terms of section 8(1)(b) of the Rationalisation of Local Government Affairs Act, [1998 Act 10 of 1998], a Gauteng Provincial Act, Municipal By-Laws must periodically be reviewed and at least every (10) years.

In accordance with the provisions of section 11(1) to (4) of the Municipal Systems Act,[2000 Act NO.32 of 2000], the executive and legislative authority of a municipality is exercised by the Council of the municipality, and the council takes all the decisions of the municipality subject to section 59; and the municipality exercises such legislative or executive authority by, inter alia, developing and adopting plans , strategies and programmes; administering and regulating its internal affairs and local government affairs; and doing anything else within its legislative and executive competence.

The provisions of section 17(2) of the Municipal Systems Act,[2000], prescribes that the municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality, and must for this purpose, inter alia, provide for notification and public comment procedures, when appropriate; public meetings and hearings by the Municipal Council and other political structures and political office bearers of the municipality; when appropriate; and consultative sessions with locally recognised community organisations and, where appropriate, traditional authorities; and report-back to the local community.

In terms of subsection (3) when establishing mechanisms, processes and procedures for community participation, the municipality must take into account the special needs of people who cannot read or write; people with disabilities; and other disadvantaged groups.

Having taken regard to the aforesaid and with specific reference to the contents of the report, Group Legal and Secretariat Services Departmen counsel that at the consideration of the report note should be taken of the above and that the report be in compliance with the above-mentioned legislative prescripts and further counsel as follows:

1. That the intended public participation is in compliance with the provisions of section 17(2) above.

2. In conducting public participation, the municipality must take into account the special needs of people who cannot read or write; people with disabilities; and disadvantaged groups.
3. The publication of the intended participation process must be in compliance with the provisions of section 21A of the Municipal Systems Act,[2000 Act No.32 of 2000] and section 8(1)(b) of the Rationalisation of Local Government Affairs Act,[1998 Act 10 of 1998].
4. The by-law sought to be reviewed must be attached as annexure in the report as part of public participation.
5. The draft by-law must indicate which parts of the old by-law were reviewed as part of public participation.
6. Whether the draft by-law in question is in line with other laws.

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

The purpose of the report is to obtain Council approval to conduct Public Participation on revised by-law for work in the Public Road Reserve. The existing By-law was approved by Council in 2014 through Notice 229 of 2014.

The review of the by-law will ensure that any work that has to be executed in the city's road reserves are properly managed.

The recommendations are supported.

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

The Communication, Marketing, and Events (CME) Department acknowledges the presented report to seek Council approval to conduct public participation for the revision of the current by-law governing work within the public road reserve. The department supports the report's recommendations.

It is important to highlight that CME has implemented a streamlined media procurement process, centralising the procurement of newspaper advertisements on behalf of all departments. Consequently, to ensure seamless coordination, the Office of the Speaker should promptly notify CME of the planned public participation. This proactive communication will enable CME to effectively budget, plan and execute timely newspaper ad purchases in support of the planned public participation process.

5.5 COMMENTS OF THE GROUP HEAD: ECONOMIC DEVELOPMENT AND AMP; SPATIAL PLANNING

We take note of the content of the report and in particular the draft attached to the report.

As per paragraph 6.3 of the report the Municipality obtains Control and Management of public roads through the vesting thereof in terms of section 63 of the Local Government Ordinance, 17 of 1939 (LGO). However, through township establishment in many instances public roads are also obtained through the creation of Erven that are zoned and transferred as such to the Municipality in terms of Section 81 of the Town-

Planning and Townships Ordinance, 15 of 1986 as well as section 16(11) of the Land Use Management By-law, 2016 as may be amended (LUM by-law). We suggest that a definition be included that refers to "public road" that is a hybrid of the definition contained in the LGO, Tshwane Town Planning Scheme, 2008 (Revised 2014) (including the new draft Land Use Scheme), the LUM By-law, in order to ensure that this by-law applies to any and all definitions that may nominally be regarded as a "public road" and public road reserve. This would also attend to the fact that right of way servitudes may be registered for purposes of a public road.

Municipal practice in various municipalities, included the enacting "street and miscellaneous" by-laws, wherein the road reserves, read with the provisions of section 63 of the LGO shall be kept open in trust for the benefit of the inhabitants. This may be an opportunity to deal with issues of obstruction of "sidewalks" and ensuring free pedestrian movement as per the definition contained in section 63 of a "roadway" and "sidewalk" read with section 63(2) and (3).

We suggest that section 3.1 only describes the "work" in public road reserve, but then, to some extent, is contradicted in section 3.2 (except for (j)), by confining activity to essentially engineering services that are listed. Section 3.1 does not include a prohibition provision i.e. not do any such work in the road reserve, and therefore we suggest that a prohibition be included in general under section 3.1 of the draft By-law. A suggested provision may read *"that no activities may be conducted within the road reserve without the permission of the Municipality as contemplated in section 3.2 and any owner or person that fails to obtain such permission from the Municipality contemplated under Section 2 of this By-law, shall be guilty of an offence; provided that where no permission may be required as per section 3.2 read with section 15 other activities including street shaping, landscaping, planting and maintenance of ground covers and trees shall not obstruct or effect motorists, cyclists, pedestrians, the road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overhead services or any other structure or service that is contained within the road reserve and that an area of 1,5 metres shall be kept open at all times of any sidewalk as defined in section 63 of the LGO, by any abutting owner of a property, to the sidewalk as part of the road reserve."*, or a condition to the same effect. We note the Offences and Penalties section under section 21, but the above will strengthen enforcement.

We note the process of wayleave applications but wish to point out that for purposes of land development applications, consideration should be given by the services departments regarding the alignment of guarantees requires for wayleaves as opposed to performance guarantees and maintenance guarantees contemplated in section 21(3) of the LUM By-law as part of engineering services agreements.

Section 8.1 appears to be a definition and may be better located in the definition section of the By-law.

Section 18.1 please consider how this will be enforceable. We suggest that an "opinion" provision be included, i.e. *"if in the opinion of the Municipality.... it is found that an application was submitted with the sole purpose of blocking competitors, the applicant shall be guilty of an offence."*

6. IMPLICATIONS

6.1 HUMAN RESOURCES

The organogram approved by the Executive Mayor dated 27 September 2017 read as follows:

Functional Unit: Public Road Reserve Management;

1 x Functional Head; and

1 x Admin Officer.

Current organogram is inadequate for the task at hand but will be updated as soon as Council allows changes to the approved organogram.

6.2 FINANCES

No financial human resources implication.

6.3 CONSTITUTIONAL AND LEGAL FACTORS

Constitution and legal factors: Ownership *in trust*, of the public road reserve vests in the Municipality in terms of section 63 of the *Local Government Ordinance, 1939 (Ord. 17 of 1939)* to manage the same for the benefit of the community. This responsibility is reinforced in terms of Part B of Schedule 5 of the *Constitution of the Republic of South Africa, 1996*. It is indeed the competency of the Municipality to make By-laws of the kind proposed and to be submitted for consideration by Council in terms of section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and the ultimate promulgation thereof in terms of section 13 of the said Act, 2000. The granting of way leaves will amongst others, form an integral part of the management of work to be conducted in the public road reserve.

6.4 COMMUNICATION

A Public Participation Process will be followed, and written comments that is receive will be incorporated if applicable into the proposed new By-Law.

6.5 PREVIOUS COUNCIL OR MAYORAL COMMITTEE RESOLUTIONS

- Existing By-Law approved by Council 2013-11-19; and
- Micro Trench Policy approved by Administrator 2020-09-11.

7. CONCLUSION

The Roads and Transport Department has made significant progress in developing and implementing policies and systems to enhance the legal goals of the Public Road Reserve By-law. The Fines Approval by Magistrate, Micro Trenching Policy, and Electronic Wayleave Management System (WLMS) all play an important role in protecting services infrastructure, minimising disruption to road users, and ensuring that all work in the public road reserve is well-planned and coordinated.

Continued investment in these policies and systems is essential to maintaining and improving the efficiency and effectiveness of work in the public road reserve. This will benefit all stakeholders, including the municipality, road users, and service providers.

By allowing Public Participation for the enhance work in the Public Road Reserve By-law it will:

- Continue to invest in the WLMS: The WLMS is a critical tool for automating the wayleave application and approval process and ensuring that all work in the public road reserve is properly coordinated. Continued investment in the WLMS will help to improve its functionality and efficiency.
- Promote awareness of the by-law and its supporting policies: It is important that all stakeholders, including road users, service providers, and municipal staff, are aware of the by-law and its supporting policies. This can be achieved through education and outreach programs.
- Enforce the by-law and its supporting policies: It is important to enforce the by-law and its supporting policies fairly and consistently. This will help to ensure that all work in the public road reserve is conducted in a safe and responsible manner.

The Mayoral Committee on 17 January 2024 resolved to recommend to Council as set out below:

ANNEXURE:

- A. Watermark 13 October 2023

RECOMMENDED:

1. That Council takes note of the proposed By-Law attach as annexure A to this report;
2. That Council approve the Public Participation Process; and
3. That Council resolves that the Office of the Speaker be authorised to conduct the PPP.

CITY OF TSHWANE

WORK IN THE PUBLIC ROAD RESERVE BY-LAWS

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

PREAMBLE

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

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

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

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

ARRANGEMENT OF BY-LAWS

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SECTION 1: DEFINITIONS

Works permit process consist of Service Enquiry, Cross-Cut approval and Construction permit approval.

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

- 1.1 **"Applicant"** means an individual, organization, or entity that appoints a professional engineer to apply for a wayleave by using the electronic wayleave management system (WLMS) on its behalf and will be known as the wayleave holder. The applicant will be responsible for paying any required fees and refundable deposits of hand deliver an original guarantee.
- 1.2 **"Authorised Agent"** means a person authorized to implement the provisions of these By-laws, including but not limited to –
 - (a) peace officers as contemplated in Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), as amended;
 - (b) municipal or metropolitan police officers as contemplated in the South African Police Services Act, 1995 (Act 8 of 1995) or duly appointed by the Municipality; and/or
 - (c) such employees, agents, delegated nominees, representatives and/or service providers of the Municipality as are specifically authorized by the Municipality in this regard.
- 1.3 **"Backfilling"** refers to the replacement of the structural layers in the trench or excavation and includes the base, subbase, selected subgrade and subgrade, but excludes the surfacing (see Reinstatement);
- 1.4 **"Certificate of Completion"** means the document issued by the Service Coordinator as proof that Work in the Public Road Reserve was completed according to the requirements of these By-laws;
- 1.5 **"Code" or "Code of Practice"** means the Code of Practice for Work in the Public Road Reserve as approved by the Council in 2003 and as amended from time to time;
- 1.6 **"Completion Notice"** means the document submitted by the Wayleave Holder to the Service Coordinator when the Work in the Public Road Reserve has been completed;
- 1.7 **"Council"** means the Municipal Council of the City of Tshwane (City of Tshwane) established by Provincial Notice No. 6770 of 2000 dated 1 October 2000, as amended, or its successor in title, and any committee or person to which or whom an instruction has been given or any power, function or duty has been delegated or sub-delegated in terms of, or as contemplated in, Section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

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- 1.8 “Wayleave Management System” CoT developed an Electronic Wayleave Management System (WLMS) to be used by Professional Engineers to submit wayleave applications; <https://wayleave.tshwane.gov.za/>
- 1.9 “**Cross Cut**” is the excavation of a trench by hand to identify and/or confirm the positions of existing Services in the Public Road Reserve.
- 1.10 “**Distance of Excavation**” means the shortest horizontal distance between an existing service nearest to the excavation.
- 1.11 “**Emergency Work**” is defined as any Work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a Service, or to avoid any substantial losses.
- 1.12 “**Lane Rentals**” means the rentals determined by the Council from time to time to be paid to the Municipality in respect of Work in the Public Road Reserve that results in time delay costs being incurred by the users of the Public Road Reserve provided that departments of the Municipality shall be excluded from the liability to pay the same. The following are lane (but not limited to) road lane, parking lane, pedestrian lane, bicycle lane, bus lane.
- 1.13 “**Micro Trench (MT)**” A micro trench is a narrow, shallow trench typically cut into asphalt pavement using specialized equipment. The depth and cross-section of the trench vary depending on the number of ducts to be laid but are typically less than 300mm deep and 50mm wide. Micro trenches are used to install underground cables and other utilities without the need for disruptive excavation.

To ensure the longevity and integrity of the installed services, it is important to lay them at a constant level within the micro trench. This can be achieved by using a variety of methods, such as bedding the ducts in sand or using a dedicated micro trenching machine that cuts a precise groove in the pavement. Micro trenching is a relatively new technology, but it is quickly gaining popularity due to its many advantages, including:

- Reduced disruption to traffic and pedestrians
- Minimized environmental impact
- Faster and more cost-effective installation
- Increased service life of underground infrastructure

- 1.14 “**Municipal Department**” means any Department of the Municipality;
- 1.15 “**Municipality**” means the City of Tshwane Metropolitan Municipality as a corporate entity and local sphere of Government and established in terms Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), read together with the proclamations made in terms thereof and amended from time to time as referred to in Section 1.6 above;
- 1.16 “**Newly Surfaced**” means any road that has been constructed, re-constructed or re-surfaced in the past 5 years;

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- 1.17 **“Outdoor Advertising”** means the act or process of notifying, warning, informing or making known or any other act of transferring information in a visual manner, primarily to attract the attention of road users;
- 1.18 **“Professional Engineer”** a person must be registered in terms of act 114 of 1990 at ECSA, the person must be registered as a Professional Engineer, or professional engineering Technician, or professional engineering Technologist. The person must take full responsibility for the documentation, designs and site supervision as prescribed by the code of conduct of ECSA. The person must have professional liability insurance.
- 1.19 **“Protected Road Surfaces”** are Roads across which no digging of trenches will be permitted;
- 1.20 **“Public Road Reserve”** means the full width of a Public road, and includes the verge and the roadway;
- 1.21 **“Reinstatement”** refers to replacing the bituminous surfacing or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges;
- 1.22 **“Certificate of Completions”** (CoC) a CoC consist of the correctly signed Certificate, As Build drawings, Material Test results and Compaction Test results. As per GCC.
- 1.23 **“Service”** means any infrastructure in the Public Road Reserve that is used for supplying a product or service that is intended for public use and that is the property of a Service Agency;
- 1.24 **“Service Agency”** means any Municipal Department, public agency or private company that owns a Service in the Public Road Reserve;
- 1.25 **“Service Coordinator”** means the official that work in Roads and Transport Department who has the responsibility to coordinate and regulate any Work undertaken in those sections of the Public Road Reserve that fall within the Municipal area of the Council.
- 1.26 **“Service Enquiry”** is the process that must be followed by a Wayleave Applicant to obtain positions of existing services from all Service Agencies prior to applying for a Wayleave.
- 1.27 **“Standard Construction Details and Design Standards”** The newest version of all Roads and Stormwater details can be found at <https://wayleave.tshwane.gov.za/page/details/3/> and will be abbreviated as STD in this By-Law.
- 1.28 **“Trenchless Methods”** are methods used to place Services under the road without excavating trenches through the surfacing and structural layers. Specialized drilling equipment is normally used.
- 1.29 **“Wayleave”** means the formal approval, and its accompanying conditions, in the prescribed format of Council to carry out Work in the Public Road Reserve.
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A Wayleave is issued by the Service Coordinator and consists of a Wayleave form and approved drawings;

- 1.30 **“Wayleave Holder”** means the Municipal Department or who is in possession of a Wayleave approved by the Group Head Road and Transport or his delegated official.
- 1.31 **“WARD”** A ward in a municipality is a subdivision of a city or town that is used for electoral or administrative purposes. A ward usually has a representative, called a ward councillor, who is elected by the residents of the ward to serve on the municipal council.
- 1.32 **“Work”** in the Public Road Reserve means any activity related to a Service, carried out within the Public Road Reserve. It includes, but is not limited to, any project-related activities, irrespective of the size of the project.
- 1.33 **“Work Not Requiring a Wayleave”** means all types of work which do not require excavation, traffic control or Reinstatement activities and for which a Wayleave is not required.

SECTION 2 BASIC WAYLEAVE PROCEDURE

- 2.1 The professional engineer must have a valid registration on the CoT's WLMS. After completing the basic information electronically, the application must be submitted by the professional engineer. The Work must be done by a Contractor under supervision of a Professional Engineer.
- 2.2 Payment of application fee: Service Enquiries: Section 9 Permission to Work in the Public Road Reserve must be obtained from the Service Coordinator through a formal Wayleave application. The Wayleave application forms are available from the Service Coordinator. The application must be submitted by a Professional Engineer.
- 2.3 Cross-Cut: The Wayleave Applicant must first conduct a Service Enquiry, which is the process of obtaining Service plans indicating the positions of existing Services from the Service Agencies identified by the Service Coordinator. The Service plans must indicate the positions and type of Services in the area where Work will be undertaken.
 - 2.3.1 Cross-Cut report: after the cross-cut was done a report must be uploaded to WLMS; the report must have photo evidence of before, during and after cross-cut. The Professional engineer must with his statement and signature confirm that no existing services was broken and the cross-cut trenches was compacted to at least 90% MODASTHO.
- 2.4 Wayleave: The control section on the Wayleave application form must be signed by each Service Agency, indicating the following:
 - (a) The Service Agency has, in principle, no objection to the issuing of the Wayleave approval;

- (b) The Service Agency has given the Applicant details of its Services in the immediate area where the Applicant proposes to work;
- (c) The Wayleave Applicant has been given the conditions for working in the vicinity of the Service Agency's Services, and
- (d) Whether the Service Agency has the need to review the detail design before commencement of construction.

This approval will be subject to technical compliance with the standards of the Service Agencies involved as well as compliance with the Work planned by the Municipality within the area under consideration.

- 2.5 Refundable Deposit / Guarantee: Practical Completion: Once the control section has been signed by all the Service Agencies, application must be submitted for the issuing of a Wayleave in accordance with the procedure set out in these By-laws. No Work in the Public Road Reserve may commence before a Wayleave has been approved and issued by the Municipality for such Work.
- 2.6 Extension of Time: An extension of time is an increase in the duration of a project. The engineer must submit a written request to the service coordinator, stating the valid reason for the delay and providing supporting evidence. Outdoor advertisement wayleave approvals are excluded from this requirement. If an outdoor advertisement approval has lapsed, see outdoor advertisement By-Law.
- 2.7 Material and compaction test results: The Wayleave application with the final designs will be re-submitted to the Service Agencies by the Service Coordinator if the need for a review of the final design has been indicated in the control section of the Wayleave application. Service Agencies will then be allowed two working days to review the application and if required by them indicate their further requirements and/or conditions that must be complied with.
- 2.8 As build drawings: If the Wayleave application complies with the provisions of these By-laws and all Service Agencies have approved the application in principle, then the Service Coordinator will review the Wayleave for approval. A Wayleave will be rejected or withdrawn, as the case may be, if all provisions of these By-laws are not met or if there are conflicts with existing or planned future Services. If the Wayleave application is approved, then the Service Coordinator will issue a Wayleave.
- 2.9 Certificate of Completion: The approval of a Wayleave means that:
 - (a) the Wayleave Holder has permission to:
 - (i) place a new Service in the Public Road Reserve (or do maintenance / upgrading / alterations of existing Service); do excavations in the Public Road Reserve;
 - (ii) do vehicular and pedestrian control in the Public Road Reserve; and,

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- (iii) do Reinstatement Work on the road and pavement surfaces where excavations have been made;
 - (b) the Council has to protect the new Service in its position in the Public Road Reserve against damage by other Service Agencies working in the Public Road Reserve, and
 - (c) any Service which is not installed, upgraded or removed, as the case may be according to the Wayleave and approved drawings, will be relocated or removed at the Wayleave Holder's cost. The Wayleave Holder's responsibility in this regard will remain, even after a Certificate of Completion has been issued.
- 2.10 Processing Refund Deposit: Section 9 All conditions contained in the Wayleave shall be deemed to be part of these By-laws.
- 2.11 Final Completion: All preliminary Work requested by the Service Agencies, the specification documents, and these By-laws, must be adhered to before commencement of the Work. Such requests include inter alia that:
- (a) the Metro Police must always be notified in writing seven (7) working days in advance by the Wayleave Holder;
 - (b) the Service Coordinator must be informed 48 hours prior to commencing with the Work by the Wayleave Holder;
 - (c) any additional notification requirements or notice periods specified by the Service Agencies must be adhered to;
 - (d) the Metro Police must be requested to remove parking meter heads where Work necessitates the removal of parking meters with due agreement for compensation in loss of revenue where applicable, and
 - (e) written proof must be submitted that the Wayleave Holder and/or the Contractor carrying out the Work, has adequate public liability insurance, as may be determined by the Service Coordinator from time to time.
- 2.12 The Work must be carried out according to the procedures and specifications as referred to in the Wayleave document, the conditions under which the Work was approved and any other requirements of affected Service Agencies.
- 2.13 The Wayleave and the approved Service plans of the Service Agencies must be kept on site at all times while the Work is in progress.
- 2.14 The Wayleave Applicant will always be issued with one copy of the approved Wayleave. Additional copies may be obtained from the Service Coordinator if the Wayleave is applicable to more than one work area or work team.
- 2.15 Work will be stopped if the Wayleave with the approved Service plans is not available during inspections on site. Work will be stopped until the required documents are available on site.
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- 2.16 On completion of the Work, all trenches and excavations in the Public Road Reserve must be backfilled and reinstated according to the specifications referred to in these By-laws and to the satisfaction of the Service Coordinator. Permanent Reinstatements are the responsibility of the Municipality's Roads and Stormwater Division or the Wayleave Holder as per the Wayleave specific conditions.
 - 2.17 Where permanent Reinstatement is to be done by the Municipality's Roads and Stormwater Division, a request must be submitted within 24 hours after Backfilling has been completed.
 - 2.18 On completion of the Work and temporary or permanent Reinstatement, as may be applicable, a Completion Notice must be sent to the Service Coordinator by the Wayleave Holder. Any requirements by the Service Agencies with regard to interim notices after completion of certain activities must be adhered to.
 - 2.19 Once notification of completion of the work is received, the service coordinator will generate a CoC on the WLMS. The professional engineer must download the CoC and schedule a site meeting with all relevant officials listed on the certificate. After the site meeting, the professional engineer must upload the signed and completed CoC, signed as-built drawings, compaction test results, and material test results to the WLMS.
 - 2.20 The wayleave holder must include a guarantee period of 12 months from the date of completion certificate (CoC) in their contract with the contractor. At the end of this period, the contractor is responsible for correcting all defects in the work.

SECTION 3

WORK IN THE PUBLIC ROAD RESERVE

- 3.1 Work in the Public Road Reserve includes the digging of trenches, tunnelling, erection of outdoor advertising signs, erection of structures, street shaping and landscaping, planting and maintenance of ground covers and trees in the Public Road Reserve and any other Work that may affect motorists, cyclists, pedestrians, the road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overhead Services or any other structure or Service that is contained within the Public Road Reserve.
- 3.2 Section 3.1 outlined the various types of work that require conditions from the relevant Service Agencies before a Wayleave is granted, and these activities will be conducted in accordance with the procedures outlined in Section 4 of these By-laws. These activities primarily pertain to the positioning of a new Service or the maintenance of an existing Service within the Public Road Reserve. Examples of such activities encompass a broad range, including but not limited to:
 - (a) Work relating to the installation or maintenance of underground or overhead Services by Municipality's Service Agencies like Roads and Stormwater, Water and Sanitation, Electricity, Land and Environmental Planning and City Planning;

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- (b) Work relating to the installation or maintenance of underground or overhead Services done by non-Council Service Agencies like telecommunication, electricity, gas, oil and regional water supply;
 - (c) The erection of structures that require approved building plans in terms of the National Building Regulations and Building Standards Act, 103 of 1997;
 - (d) The erection of advertising signs and structures that require approval in terms of the relevant by-laws;
 - (e) Road works, such as construction of new roads, road widening or accesses to developments, undertaken by developers;
 - (f) The installation of new connection points for municipal Services, such as water, sewers, electricity and Stormwater drainage from developments;
 - (g) Erection of hoardings in the Public Road Reserve;
 - (h) Installation of Services by private concerns, e.g. data cables to connect different buildings;
 - (i) The installation or construction of kerbing, paving, bollards, walls, gardens, etc. on sidewalks by property owners or occupiers;
 - (j) The planting of trees or any other plants and the installation of irrigation pipes;
 - (k) Temporary road closures for construction purpose, and
 - (l) Traffic calming devices.
 - (m) Electronic Communication Infrastructure
- 3.3 The types of Work for which prior approval from Service Agencies cannot be obtained due to the nature of the Work is deemed Emergency Work and must be undertaken according to the procedures set out in Section 13 of these By-laws.
- 3.4 The types of Work that do not include any construction Work but will require traffic control due to the activities taking place within the Public Road Reserve (Work Not Requiring a Wayleave) must be executed according to the procedures set out in Section 14 of these By-laws.
- 3.5 Maintenance notification: A maintenance notification is an essential document that the Professional Engineer is required to submit to the Service Coordinator regarding planned maintenance activities for damaged infrastructure or services. The maintenance notification should include the following information:
- The purpose and scope of the maintenance work
 - The date and time of the maintenance work
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- The expected duration and impact of the maintenance work
 - The contact details of the maintenance contractor and the Engineer.
 - Professional Liability Insurance of the appointed Engineer.

SECTION 4 WAYLEAVES

- 4.1 All Work in the Public Road Reserve is controlled by approved Wayleave.
- 4.2 Large projects must be divided into Wards. A single Wayleave Application may be submitted for a large project in a Ward that covers Work in a multiple streets, provided that the positions and expected commencement/completion dates of all Work in the Public Road Reserve are adequately described in the Application. Each street and position where Work will be carried out must be clearly identified in the Wayleave Application.
- 4.3 Required application information are stated on the Electronic Wayleave Management System (WLMS) and may include, but are not restricted to, the following:
- (a) Description of Work to be done;
 - (b) Timeframe within which the Work must be done, and
 - (c) Location of Work to be done. Provision can be made for big projects with multiple locations. The scope of big projects must be limited to Wards from the Wayleave perspective.
- 4.4 Additionally, there may be Specific conditions relating to the Wayleave which will be stated on or referred to on the Wayleave. Such conditions may include:
- (a) Specific working conditions required in terms of the Occupational Health and Safety Act (Act no 85 of 1993);
 - (b) Methods of Work execution in Protected Roads and precincts;
 - (c) Specific conditions required by the Service Agencies, and
 - (d) Reinstatement requirements.
- 4.5 To obtain a Wayleave, a Wayleave application on the Electronic Wayleave Management System (WLMS) must be submitted by a Professional Engineer, together with:
- (a) a traffic control plan showing how vehicular and pedestrian traffic will be accommodated during the execution of the Works in the Public Road Reserve;
 - (b) design drawing showing details of the proposed Work.
 - (c) Digital photographs clearly showing the area of the proposed work;

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- (d) written proof that Environmental Impact Assessment (EIA) and Water Use License Application (WULA) requirements have been met;
 - (e) the payment of the required deposit or submission of proof of financial guarantees, and
 - (f) payment of the prescribed processing fee.

4.6 Details required on the design drawing referred to above are:

- (a) All detail design drawings to be done in accordance with the Standard specifications for municipal civil engineering works, third edition 2005 and the standard CoT detail drawings STD.
- (b) A clear depiction of the proposed Work;
- (c) Indication where Services are to be installed and the depth of the Service below the surface level of the relevant portion of the Public Road Reserve and in relations of exiting services;
- (d) Distance of the Service from the Public Road Reserve boundary (i.e. the property boundary);
- (e) The position of all existing above ground structures, traffic signals, trees and street furniture;
- (f) Position and extent of all underground structures such as manholes, chambers and junction boxes;
- (g) The location of all other Services in the Public Road Reserve. Services are located by obtaining information from the Service Agencies (Service Enquiry) and by doing Cross-Cuts. Cross-Cuts are required in all cases where excavations form part of the Work, and
- (h) A Wayleave will only be issued once all the requirements have been complied with and will be subject to the conditions specified in these By-laws and on the Electronic Wayleave Management System (WLMS).

4.7 The relevant Municipal Department making applications have responsibility to upload proof that the Risk Management Division within the Finance Department of the Municipality was duly notified and has consented to cover the construction works.

4.8 The application for a Wayleave must be submitted in time (at least 30 working days before) to ensure that the Wayleave can be issued before the Work is programmed to start. Work being carried out in the Public Road Reserve without a Wayleave must be reported to the Service Coordinator and will be stopped by an Authorised Agent on site. A copy of the Wayleave must therefore always be on site when Work is being done in the Public Road Reserve.

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- 4.9 The Service Coordinator will endeavour to limit the duration of the application process to a period of 30 working days for a new Wayleave application.
- 4.10 Expiry of Application Phases
- (a) Service Enquiry: A service enquiry will expire if there is no activity or payment of fees within 60 calendar days of the date of the enquiry.
 - (b) Cross-Cut: A cross-cut application will expire if there is no activity or payment of fees within 60 calendar days of the date of the application.
 - (c) Wayleave: A wayleave application will expire if there is no activity or payment of fees within 60 calendar days of the date of the application.
 - (d) Approved Wayleave: An approved wayleave will expire if there is no activity or payment of fees within 60 calendar days of the date of approval.
 - (e) Validity Period: Approved wayleaves have a validity period that must be adhered to. If the construction activity exceeds the expiry date, an
 - (f) extension of time application is required. See section 4.14 for more details.
 - (g) Refunds: Application fees are non-refundable for all applications, but security deposits will be refunded once the project is completed.
- 4.11 The Wayleave Holder accepts full responsibility for all costs associated with and resulting from the Work carried out in the Public Road Reserve.
- 4.12 Only Work described in the Wayleave may be executed. If the conditions on site necessitate a deviation from the planned Work, the Service Coordinator must be informed before any Work is done. These deviations may be in relation to the position of the Service or the timing of the Works. The Service Coordinator may inform the Wayleave Holder of additional approvals that must be obtained from the Service Agencies affected by the deviation as well as further requirements in terms of drawings and specifications. Work will only be allowed to continue once the Service Coordinator is satisfied that all the additional requirements have been met.
- 4.13 The Wayleave Holder must complete the Work within the time specified on the Wayleave or the approved time extension.

SECTION 5

EXISTING SERVICES AND PLANNED SERVICES

- 5.1 Documentation received from Service Agencies do not constituted approval.
- 5.2 After submitting a wayleave application on the WLMS, a notification will automatically be sent to all known Service Agency within the Municipal area a service enquiry. If the consultant knows of any that is not part of the know

services he must do the service enquiry on his own. The Wayleave Applicant must submit Service drawings indicating the position of Services in the area of Work with the Wayleave application form. This information is obtained by means of a Service Enquiry from the relevant Service Agencies.

- 5.3 Service Agencies may require additional precautions relating to Work in the vicinity of their Services and must specify these in writing to the Wayleave Applicant.
- 5.4 It is the responsibility of each Service Agency, and not the Service Coordinator, to ensure that their information given to Wayleave Applicants is accurate and up to date.
- 5.5 Approval of a Wayleave by the Service Coordinator will not in any way be interpreted as an approval for the waiving of any of the conditions or requirements of a Service Agency.
- 5.6 The Service Agencies must not only give information about exiting service but also future services. The Service Coordinator will verify with all Service Agencies whether future Work is planned for the area indicated in the Wayleave application. Such planned Work may dictate whether a Wayleave is approved and the conditions under which a Wayleave is approved. The planning horizon will depend on the planned life of the new Service as well as the Municipality's 5-year Integrated Development Plan (IDP).

SECTION 6 CROSS-CUT APPLICATIONS

- 6.1 Cross-Cuts applications must indicate in detail where the cross-cut will be made and what services is expected to be found. The purpose of Cross-Cuts is to establish and confirm the position of Services in areas where the information on Services is known but the exact position is unclear and uncertain.
- 6.2 A Cross-Cut is done by excavating a trench that runs from the edge of the Road up to the property boundary, perpendicular to the normal direction of Services. Excavation must always be done by hand. The minimum depth of the Cross-Cut trench is 1 meter below the lowest point of the Public Road Reserve.
- 6.3 Because Cross-Cuts are excavations in the Public Road Reserve in the immediate vicinity of existing Services, a Wayleave must be obtained before Cross-Cuts may be done.

SECTION 7 ROAD CATEGORIES

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

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

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

https://e-gis002.tshwane.gov.za/E_GIS_Web/

And Provincial roads:

<https://pta-gis-2->

[Web1.csr.co.za/portal/apps/sites/#/gpdtrams/apps/7ff2a873b8d74a69b273a139c293fa61/explore](https://pta-gis-2-Web1.csr.co.za/portal/apps/sites/#/gpdtrams/apps/7ff2a873b8d74a69b273a139c293fa61/explore)

SECTION 8 PROTECTED ROAD SURFACES

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

SECTION 9 PROTECTED PRECINCTS

- 9.1 Work in protected precincts is subject to special trenching methods and care to ensure minimal damage to specialised and expensive material and furniture. The Service Coordinator will inform the Wayleave Applicant of the required methods and may request that a third-party contractor be used to carry out the Work.

SECTION 10 COSTS

- 10.1 A processing fee will be charged on the following basis:

- (a) The processing fee is a fixed amount that is payable by the Wayleave Applicant upon submission of a Wayleave application. This fee amount will be determined by the Council on the recommendation of the Service Coordinator from time to time and will be subjected to Public Participation;
- (b) The processing fee covers the Municipality's costs for work done by the Service Coordinator. Processing fees will not be payable by National-, Provincial- or Local Government bodies, and
- (c) The processing fee will only be applicable from the 1st of July of any particular year.
- (d) No processing fee will be refunded.

- 10.2 Security Deposit

The following arrangements will apply:

- (a) A refundable security deposit will be charged for each Wayleave being issued. Security deposits will not be charged for Work done departmentally by Municipal Departments;
- (b) The deposit amount will be based on a percentage (currently 5%) of the Work to be carried out for large Works, and a fixed amount for smaller Works;
- (c) **Wayleave Holder** who can produce proof of sureties or deposits held by other Municipal agencies for the same project will be waived if the Service Coordinator considers the amount retained sufficient to cover the potential risks involved;
- (d) As an alternative to a security deposit a guarantee as per the Financial By-Law promulgated for that financial year may also be submitted, subject to approval by the Service Coordinator. The guarantee can be used for more than one approved Wayleave, provided that the

guaranteed sum is sufficient for the multiple Wayleaves as per the Financial By-Law promulgated for that financial year;

- (e) The guarantee cannot have an expiry date, but can only be returned after a Certificate of Completions is uploaded to the WLMS;
- (f) The Municipality will have the right to use the security deposit to cover costs relating to safety on site and damage to Municipal infrastructure in relation to the Wayleave under consideration, and
- (g) The responsibility remains with the Wayleave Holder to ensure that the contractor engaged in the implementation of the Work has valid and sufficient Public liability insurance, proof thereof must be submitted as part of that wayleave application process.

10.3 Other Costs can result from any of the following:

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

10.4 Claims that may result from the Work, e.g. third party claim Extension of time applications Temporary Road Closure Applications All such costs will be borne by the Wayleave Holder.

10.5 A party wishing to dispute the costs charged to him as a result of any of the above reasons will do so at their own cost, during the financial public participation process.

10.6 The Security Deposit will be refunded after completion of the works, the refund process is part of the WLMS and will be subject to the Professional Engineer uploading seven different types of documents.

10.7 Return of Guarantee

SECTION 11 TRAFFIC CONTROL

11.1 It is the responsibility of the professional Engineer to ensure that all laws regarding traffic, safety, traffic signs and barricading are complied with while

executing Work in the Public Road Reserve to this end he must submit a detail traffic and pedestrian management plan as part of his wayleave submission.

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

SECTION 12

TEMPORARY ROAD CLOSURES FOR CONSTRUCTION PURPOSE

- 12.1 The granting of a Wayleave does not give the Wayleave Holder the authority to close the road completely to traffic. Methods of construction and programmes of work must therefore be determined on the basis that no road, or portion of road, may completely be closed to traffic for any appreciable period.
- 12.2 In exceptional circumstances permission may be granted for the temporary closure of a road or portion of road to traffic. The Wayleave Holder must apply to the Council separately through his Professional Engineer as soon as he becomes aware that a TRC is needed – at least 14 working days before the planned temporary closure. A road closure will be approved for a specific period only (time and date) and will only be valid for that specific period. If the Work is not carried out in that period, an application for a new road closure will have to be made.

12.3 Fees as per Section 9.3.(i)

**SECTION 13
LANE RENTAL**

- 13.1 Lane rental refers to the rental of space in the Public Road Reserve for any purpose other than providing a service to road users.
- 13.2 The payment of lane rentals for work in the Public Road Reserve is mainly aimed at encouraging Wayleave Holders to reduce the impact on road users by limiting construction time to a minimum.
- 13.3 Lane rentals will be payable from the date that work commences in the road reserve up to the date the lane rental is no longer needed.

**SECTION 14
EMERGENCY WORK**

- 14.1 Emergency Work is defined as any Work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a Service, or to avoid any substantial losses. Lack of proper planning of Work to be carried out will not be deemed so as to justify the carrying out of Emergency Work.
- 14.2 Examples of Emergency Work include inter alia:
- (a) Electricity supply failures;
 - (b) Burst water pipes;
 - (c) Waste water blockages resulting in overflows;
 - (d) Flooding damage, and
 - (e) Sinkholes
- 14.3 The Service Coordinator will provide an emergency number for the use of Service Agencies that require information on the position of Services in the area where Emergency Work is to be carried out.
- 14.4 The Service Coordinator must be notified in writing within one working day from commencing with Emergency Work. An Emergency Notification Certificate (obtainable from the Service Coordinator) must be used for this purpose. An alternative electronic Emergency Notification system can be used if mutually agreed upon by the Service Agency and the Service Coordinator. If the Service Coordinator is not notified within 24 hours from the first working day.
- 14.5 The Emergency Notification must always be certified by an Authorised Agent of the Service Agency as an emergency situation that requires their immediate attention.

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- 14.6 Emergency Work must be done in accordance with all procedures and specifications applicable to the type of Work as set out in these By-laws and as required by other Service Agencies whose Services are affected.
- 14.7 Reinstatement of the affected roads and verges will be done within two weeks by the Wayleave Holder.

SECTION 15 WORK NOT REQUIRING A WAYLEAVE

- 15.1 All projects involving excavation, traffic management, and pedestrian control require wayleave approval.
- 15.2 However, certain types of work may be exempt from this requirement, provided they are short in duration and have minimal impact on existing services, traffic, and pedestrians.
- 15.3 Typical examples of work that does not require a wayleave include:
- (a) Routine maintenance of services in the public road reserve that does not require excavation, traffic control, or reinstatement of roads and verges.
 - (b) Vegetation management in the road reserve, such as cutting, removing, or relocating plants.
 - (c) Placement of advertising material on or within structures that were pre-erected with an approved wayleave for that purpose.
 - (d) Erection of signs and road furniture, with or without outdoor advertising, where foundation excavations do not exceed 350 mm in depth.
 - (e) Temporary diversion of traffic for public events such as sporting events, mass gatherings, and parades.
 - (f) If you are unsure whether your project requires a wayleave, please contact the relevant authorities for clarification.
 - (g) Please note that this is a general guide, and there may be other types of work that are exempt from wayleave requirements. Please consult the relevant regulations for more specific information.

SECTION 16 EXCAVATIONS

- 16.1 The area that is excavated must always be kept to a minimum. The width of the trench must be uniform in length and in depth, in other words the sides must be parallel and vertical. The top of the trench in a road must be cut with a saw to ensure smooth, uniform edges. The minimum width of the trench must be 400mm and the surfacing must be cut 100mm wider on both sides of the trench. As shown on STD006 sheet 1 of 1.

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- 16.2 All excavations must comply with the statutory requirements for health and safety standards. The Wayleave Holder must pay specific attention to:
- (a) excavations that need to be executed in accordance with the Occupational Health and Safety Act, 1993 (Act 85 of 1993) and its Regulations, as amended from time to time;
 - (b) excavations deeper than 1.5 m must be shored or V-cut according to the said Occupational Health and Safety Act, 1993, and
 - (c) excavations deeper than 1.5 m must be registered with the Department of Labour prior to commencement of the work. The registration includes the scope of the work, depth of trench and the construction method (shoring or V-cut method according to the said Occupational Health and Safety Act, 1993).
- 16.3 For all Work where excavations are required, a construction board (Wayleave name board STD001) must be conspicuously displayed at the site indicating the approved Wayleave number, name of Wayleave Holder and name of Construction Company. The said name board layout must be in accordance with the standard specifications of the Municipality.
- 16.4 The minimum depth at which any Service may be placed under a road surface or at any other place in the public road reserve will be according to the Standard Specifications of the Municipality.
- 16.5 All excavated material and equipment must be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.
- 16.6 The view of motorists must be kept clear at all times and not be affected by any obstructions such as excavated material, road signs or hoardings.
- 16.7 A safe passage must be kept open for pedestrian traffic at all times.
- 16.8 Excavation areas must be clearly demarcated with warning signs that allow ample time for motorists and pedestrians to alter their routes when necessary.
- 16.9 The Wayleave Holder is held responsible for any damage to existing Services. Services, indicated on the drawings or on site by representatives of the relevant Service Agencies, must be opened by careful hand excavating. If the Services cannot be found, the relevant Service Agency must be contacted by the Wayleave Holder again for further clarity and instructions. Under no circumstances may a Wayleave Holder excavate with mechanical equipment or use drilling equipment (Trenchless Methods) before known Services have been identified, found and clearly marked. When found, services must be marked and protected or supported as required by the Service Agency. If Services need to be relocated, instructions from the Service Agency must be complied with as if the same were the instructions and requirements of the Municipality. The Wayleave Holder will be responsible for all relocation costs. If any Service is damaged as a result of the Work, the relevant Service Agency and the Service Coordinator must be contacted immediately and be informed of the full detail
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and extent of the damage as well as the cause of damage. Any wrong information that is wilfully wrong or withheld shall constitute a criminal offence in terms of these By-laws.

- 16.10 Adequate preventative measures must be taken to ensure that no water (e.g. due to rain or otherwise) flows into the open trenches since this will result in the weakening of the structural layers of the road. Any water that is present in the trenches must be pumped out before Backfilling. Water must be pumped into the stormwater system and not into sewer manholes. Any material that has become wet must be removed from the bottom of the trench before Backfilling may commence.
- 16.11 The Wayleave Holder must prevent foreign materials from entering the drains and ensure that silting does not occur either from pumping operations or as a result of rain. If any silting or other contamination does occur, the Wayleave Holder must clean the drains or request the Service Coordinator to do it at the cost of the Wayleave Holder.
- 16.12 All re-usable materials such as concrete blocks, slabs, kerbs, gutters, channels and stormwater inlets must be removed with care and re-used if possible. Any surplus material must be returned to the Division Roads and Stormwater stores. The address will be available from the Service Coordinator.
- 16.13 If any street furniture (e.g. street names, traffic signs, bus shelters, etc.) or other services (e.g. cables, pipes etc) have to be removed, arrangements must be made with the relevant Service Agency for the removal, storage and re-erection thereof. The cost specified by the relevant authority will be for the Wayleave Holder's account.
- 16.14 Where excavations are made through entrances to properties, access must be maintained by using steel plates, planks or other temporary bridges of sufficient strength that are properly secured against movement. The occupants of the properties must be kept informed at all times of how their accesses will be affected.
- 16.15 The finishing, cleaning up and reinstatement of the construction site to its previous condition is considered part of the Work and must be completed within 14 days after Reinstatement of the trench has been done. If the Wayleave Holder fails to do so, action will be taken by the Council as started in these By-laws.

SECTION 17 TRENCHLESS METHODS

- 17.1 If Trenchless Methods are used, disruption of traffic flow and pedestrian movements can be reduced considerably or totally eliminated. However, it is important that the Wayleave Holder using such methods must have all the necessary equipment and expertise to complete the Work successfully. These methods can be used for all road categories but shall be used for all roads classified as "*Protected*" as defined in these By-laws.

- 17.2 Work using these methods can only be done as approved in the Wayleave. The position of existing Services must be located accurately. If any Services are damaged, the Wayleave Holder will be responsible for all costs.
- 17.3 The depth to the top of any tunnel that is drilled for the installation of new Services must be at least 800 mm measured from the lowest level of the road surfacing.

SECTION 18

ELECTRONIC COMMUNICATION NETWORKS (ECN) INCLUDING MICRO TRENCHING and Close Circuit Television (CCTV)

- 18.1 It is an offence under this By-Law to make a wayleave application with no intention to go into construction, but only to block competitors from applying. See Section 4.10.
- 18.2 A wayleave approval document is issued to a wayleave holder (ECN) for the purpose of construction, a wayleave document cannot be transferred from one wayleave holder (ECN) to another nor can an approve wayleave be sold.
- 18.3 Before submitting a wayleave application, professional engineers should use the Wayleave Management System (WLMS) search map function to investigate existing applications and approvals.
- 18.4 Electronic Communication Networks
- 18.4.1 ECN's must be installed as shown on in the STD PLN specifications. Generally overhead ECN's is not permitted. Motivation to Service Coordinator can be made and if exceptional circumstances was motivated the service coordinate will recommend to the GH: Road and Transport for approval.
- 18.4.2 The following minimum specifications will be applicable to all manhole covers for ECN's within the PRR: in the carriage way; minimum load bearing capacity = 40 000kg. (SANS 50124, 1994 – D400); in the verge minimum load bearing capacity = 4 000kg. (SANS 1882, 2003-Medium Duty)
- 18.5 Micro Trenching:
- (a) In the project feasibility phase the professional engineer must make contact with all network licensee to find out if they are interested in co-building or leasing of new micro trench fibre sleeves. This active network licensee's details can be obtained at FTTX council 'juanita@ftxcouncil.com'
 - (b) Documented proof of this communications must accompany the wayleave application.
 - (c) Implementation programme
- Micro-trenching will only be allowed in streets with the following classification:

Class 5(a): Local street residential access collector;
 Class 5(b): Local street residential access loop;
 Class 5(c): Local street access cul-de-sac;
 Class 5(d): Local street access way;
 Class 5(e): Local street access court;
 Class 5(f): Local street access strip.

(d) Communication with residents:

The applicant will communicate at his cost with residents at least 14 days before construction starts about the upcoming micro-trench construction in the area.

(e) Fees and Tariffs:

All fees and tariffs will be determined by the City as part of the Annual Budget. See Section 9

(e) Standard

- a) All standards as set out in the Standard Specification for Municipal Civil Engineering Works (1991) and the General Conditions of Contract for the Construction of Civil Engineering Works (2005) must be adhered to;
- b) This By-Law is for Class 5 (a to f) residential roads only;
- c) Crossing of Class 4 and Class 3 roads will only be allowed if motivated by the professional engineer for the applicant and approved by the Group Head Roads and Transport;
- d) All fibre to residential premises must be installed in such a way that no new manhole, hand hole or junction boxes are built in the public road reserve. Jointing boxes can be motivated by the professional engineer and must be approved by the Group Head Roads and Transport;
- e) Micro trench = maximum 50 mm wide and maximum 300 mm deep;
- f) Before micro trenching can start a slot-cut at 56 mm from the kerb, 5 mm deep and 4 mm wide must be done, this will insure a straight edge break;
- g) At road crossings the pre-cut slot must be 62 mm apart, 5 mm deep and 4 mm wide, before the micro trench is cut;
- h) A trench on the verge must be a minimum of 450 mm deep and have a warning plastic ribbon 300 mm from the natural ground level.
- g) No micro trench can be open for more than 48 hours, the construction programme and method must support this.

(f) Specification

- a) No specification will be prescribed in this By-Law for sleeves, fibre and bedding around the fibre, this is for the licensee and his professional engineer to determine;
- b) Backfill material: The material that was excavated must/can be used for backfilling. It must be modified to have an unconfined

compressive strength (UCS) of 3,0 MPa. No aggregates may be larger than 26,4 mm. Care must be taken to do the backfill as “green” as possible and to reuse all the extracted material and not import new material;

- c) Rejuvenating product: A bituminous product must be applied to the inside wall of the micro-trench and must be 25 mm wide to rejuvenate the old asphalt;
- d) Reinstatement: Only hot fine asphalt with a minimum thickness of 35 mm will be allowed and no more than 1 000 kg may be on site at any time. Asphalt with a temperature of 112 °C and lower must be removed from the site and cannot be used for reinstatement.

18.6 Close Circuit Television (CCTV)

- (a) All CCTV infrastructure can only be installed inside the PRR with and approved wayleave. Any construction work relating to CCTV network installations inside the PRR without an approved wayleave will be an offence in terms of this By-Law.
- (b) Wayleave applicants will only be ICASA network licensees.
- (c) At traffic signal intersections, the traffic signal installation will have the highest priority, and the CCTV infrastructure will have secondary priority.
- (d) All CCTV infrastructure will be painted gray (gray Hex triplet #808080 or dimgray Hex triplet #696969).
- (e) Electricity supply: An agreement for electricity supply must be in place with the CoT Electrical Department before a CCTV wayleave application is made.
- (f) UPS: If the CCTV network is installed at an intersection with traffic signals and the CCTV has an uninterrupted power supply (UPS), the possibility of supplying the traffic signal with this UPS must be investigated. If feasible, the traffic signal must be supplied with no cost to the CoT. Requirements for traffic light supply are 50 HZ, 220V pure-sine wave with a low frequency inverter.
- (g) Data feed: As part of the CCTV feasibility study pre-application, a data feed to the CoT's Metro Police future data facility must be investigated and incorporated at the cost of the wayleave applicant.
- (h) Damaged CCTV infrastructure must be removed and/or replaced within 24 hours after the incident at the cost of the Wayleave Holder, with a Maintenance notification to the Service Coordinator.
- (i) Security on equipment must be supported by a tamper-proof facility with notification on equipment vandalism, to be made a standard technology.
- (j) Placement of CCTV infrastructure at non-signalized intersections must be done in such a way that the future signalization of the intersection will not be hampered in any way.

- (k) Removal of CCTV infrastructure for the following reasons: road upgrades, intersection upgrades, changes to or new traffic signal installations will be to the wayleave Holder's cost and must be done within 14 working days after written instructions from the Service Coordinator.

18.7 As-built information

- (a) On completion inspection, all as-built information must be submitted to the City of Tshwane in the prescribed format;
- (b) The "as-built" drawing/information will be treated as proprietary and confidential, to the extent permitted by law.

18.8 Monitoring, evaluation and review

- (a) Wayleave approval documents that expire before construction commences cannot be renewed. Instead, the approval will be cancelled, and a new application must be made.
- (b) For construction that started before the expiry date but has the potential to go over the expiry date, the professional engineer must make an application to extend the time.
- (c) Construction must start within 30 calendar days of approval and must be completed 60% within 12 months.
- (d) All construction work must be executed under the supervision of a professional engineer.
- (e) Backfill Evaluation:

One year after the date of the completion certificate has been signed by CoT, the licensee, consultant, and CoT's dedicated representative must evaluate the backfill of the micro-trench. All defects must be fixed within two months after this inspection.

18.9 Cancellation of application:

Applicants who employ applications with the intention of impeding competition from participating in micro trench installation will have their applications promptly removed upon receipt of reports from fellow applicants regarding this unethical practice.

Furthermore, should an application be initiated but show no progress within a period of 14 working days, the Service Coordinator will initiate the deletion of the application. However, the consultant is encouraged to provide a formal justification for the lack of progress and to submit a request for an extension.

SECTION 19

BACKFILLING AND REINSTATEMENT

- 19.1 Any trenching activity inevitably disturbs the structural integrity of a road or footway. Backfilling and Reinstatement must therefore restore the pavement to prevent any failures or deterioration that will result in road user discomfort and/or increased costs. As shown on STD006 sheet 1 of 1
- 19.2 Backfilling refers to the replacement of the structural layers in the trench or excavation and includes the base, subbase, selected subgrade and subgrade, but excludes the surfacing. As shown on STD006 sheet 1 of 1
- 19.3 Reinstatement refers to replacing the bituminous surfacing or paving blocks in the case of Roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges.
- 19.4 Backfilling must in all cases be done by the Wayleave Holder in accordance with the specifications as set out in the Wayleave. Permanent Reinstatement can either be done by the Municipality's Roads and Stormwater Division or by the Wayleave Holder. Approval for the Wayleave Holder to do the permanent Reinstatement will be based on proven resources and performance history.
- 19.5 The Wayleave Holder must obtain prior written approval from the Municipality's Roads and Stormwater Division for the Backfilling specification to be used. The proposed specification shall be submitted to the Municipality's Roads and Stormwater Division, who shall provide written comments on the specification, or an alternative specification. The standard Roads and Stormwater backfilling specifications shown on the typical plans will normally be accepted, but specific requirements may be applicable, depending on site-specific conditions. As shown on STD006 sheet 1 of 1
- 19.6 The standard Backfill specifications of the Roads and Stormwater Division will be applicable, but the Wayleave holder must nevertheless obtain approval for his proposed Backfill specifications.
- 19.7 When the Wayleave conditions place the responsibility for the permanent Reinstatement on the Wayleave Holder, then the Reinstatement specification must also be approved in advance by the Municipality's Roads and Stormwater Division. This shall be done in accordance with the principles set out in section 17.5 above.
- 19.8 Permanent Backfilling and Reinstatement done by the contractor on behalf of the Wayleave Holder will be subject to a construction guarantee period of one year.
- 19.9 Temporary Reinstatement must be done where the Wayleave Holder leaves the site with the view of returning to complete the Work. The Wayleave Holder must maintain the temporary Reinstatement during this period. The Wayleave Holder may not leave the site for more than 14 working days if a permanent Reinstatement is not done.

- 19.10 The use of temporary Reinstatements is generally not desirable and the use thereof must be kept to a minimum on more than 14 calendar days will be allowed.

SECTION 20 PRACTICAL COMPLETION AND CERTIFICATE OF COMPLETION (CoC)

- 20.1 As soon as the contractor request the engineer to do a practical completion inspection, the Professional Engineer must request the creation of a practical completion certificate on WLMS. This certificate must be sign on site by the engineer, contractor and CoT official (as indicated on the generated certificate).
- 20.2 Upon completion of the Work, the engineer must request on WLMS for the creation of the CoC. This CoC must be signed on site by The Engineer, Contractor, and all officials as indicated on the generated CoC.
- 20.3 When uploading the CoC to WLMS the following documents will be part of the Completion: CoC, As Built, Material test results, compaction test results and safety report if applicable. The 12-month guarantee period for the works shall only then commence.
- 20.4 Completion of the Work means that all Work has been completed according to the specification document(s), and that all materials, equipment and rubble have been removed and the site is completely cleared and cleaned to the satisfaction of the Service Coordinator and that either the permanent or temporary Reinstatement, as the case may be, was duly executed by the Wayleave Holder. Furthermore, it requires that all applicable documentations and *as-built information* as specified on the Wayleave have been handed to the Service Coordinator for proper and accurate recording purposes.

SECTION 21 OFFENCES AND PENALTIES

Any person who-

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

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- (f) fails or refuses, neglects to comply and/or continuously fails, refuses and/or neglects to comply even after notices of breach or lawful institutions have been issued in terms of these By-laws;
 - (g) fails to comply with any notice, or direction, or conditions contained in any approval granted by the Municipality, or
 - (h) obstructs an authorised agent in the execution or performance or attempted execution or performance of any duty to be discharged by such authorised agent in the exercise of any power conferred by these By-laws, shall be guilty of an offence and liable on conviction to a fine That was set by the Magistrate. The Council may also withdraw the Wayleave of an offender and furthermore seize and impound the equipment used to carry out any Work that is in contravention of these By-laws.

SECTION 21 SHORT TITLE AND COMMENCEMENT

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