

Provincial Gazette

Free State Province

Published by Authority

Provinsiale Koerant

Provinsie Vrystaat

Uitgegee op Gesag

SPECIAL

NO. 147	MONDAY, 28 MARCH 2011	NO. 147	MAANDAG, 28 MAART 2011
PROVINCIAL NOTICE			
261	NOTICE IN TERMS OF SECTION 12 AND 16, READ WITH SECTIONS 14, 15 AND 17 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998: IMPLEMENTATION OF THE MUNICIPAL DEMARCATION BOARD DETERMINATION NO DEM 387, PUBLISHED AS NOTICE NO 231 IN THE FREE STATE PROVINCIAL GAZETTE OF 1 AUGUST 2008 2		
NOTICE			
	REVIEW OF TARIFFS: PROVINCIAL GAZETTE AND REPRODUCTION SERVICES FOR THE 2011 – 2012 FINANCIAL YEAR 12		

PROVINCIAL NOTICE

[NO. 261 OF 2011]

NOTICE IN TERMS OF SECTION 12 AND 16, READ WITH SECTIONS 14, 15 AND 17 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998: IMPLEMENTATION OF THE MUNICIPAL DEMARCATION BOARD DETERMINATION NO DEM 387, PUBLISHED AS NOTICE NO 231 IN THE FREE STATE PROVINCIAL GAZETTE OF 1 AUGUST 2008

1. I, **MG Qabathe**, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlements in the Free State Province, acting in terms of section 16 and 17 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) hereby publishes the notice as set out in the Schedule for public comment.
2. Comments must please be submitted in writing to -
The Head of Department
Cooperative Governance, Traditional Affairs and Human Settlements
P O Box 211
BLOEMFONTEIN
9301
3. Comments may also be faxed to facsimile number (086) 698 8906
4. Comments must be received by not later than 14 days after publication hereof.

SCHEDULE**PART 1****PREAMBLE****GENERAL**

1. The Municipal Demarcation Board has in terms of the provisions of section 21(5) of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998), read with sections 2 and 4 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) by means of Notice No 231 as published in the Free State Provincial Gazette of 1 August 2008, confirmed its earlier decision to determine and re-determine certain municipal boundaries as set out in Determination No DEM 387 published in Notice No 160 in Free State Provincial Gazette of 13 June 2008.
2. The determination and redeterminations of the Municipal Demarcation Board as mentioned above, include the following:
 - 2.1 the re-determination of boundaries by excluding Mangaung (FS172) from the municipal area of Motheo District Municipality (DC17);
 - 2.2 the determination of the current boundaries of Mangaung (FS172) as a category A municipal area;
 - 2.3 the re-determination of the boundaries of Xhariep District Municipality (DC16) by including Naledi (FS171) into Xhariep (DC16);
 - 2.4 the re-determination of the boundaries of Thabo-Mofutsanyane District Municipality (DC19) by including Mantsopa (FS173) into Thabo-Mofutsanyane District Municipality (DC19);

3. To implement these determinations:
- 3.1 Provincial Notice No 182 of 28 September 2000 as amended, is hereby repealed and replaced by the provisions contained in Part 2;
- 3.2 Provincial Notice No 181 of 28 September 2000 as amended, is hereby amended as provided for in Part 3;
- 3.3 Provincial Notice No 184 of 28 September 2000 as amended, is hereby amended as provided for in Part 4;

DEFINITIONS

4. In this Schedule, unless inconsistent with the context, a word or expression to which a meaning has been assigned in the Act has the same meaning and:

“affected district municipalities” means the district municipalities of Xhariep and Thabo Mofutsanyane;

“demarcation notice” means Provincial Notice No. 231 as published in the Provincial Gazette, Free State Province of 1 August 2008;

“disestablished municipalities” means the Motheo District Municipality and Mangaung Local Municipality disestablished in terms of paragraph 7;

“effective date” means -

- (1) the day on which the results of the next general municipal elections are declared in terms of the applicable electoral legislation; or
- (2) if the results cannot be declared, and a re-election must be held, the day on which the results of the re-election are declared;

“proportionally elected councillors” means councillors elected to proportionally represent the parties that contested the election in the municipality concerned;

“the Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“the Types Act” means the Determination of Types of Municipalities Act, 2009 (Act No.2 of 2009)

“ward councillor” means a councillor elected to represent a ward.

PART 2

ESTABLISHMENT OF MANGAUNG METROPOLITAN MUNICIPALITY

DISESTABLISHMENT OF EXISTING MUNICIPALITIES

5. (1) The Motheo District Municipality and the Mangaung Local Municipality are disestablished with effect from the effective date.
- (2) Until it is disestablished on the effective date, the councils of the disestablished municipalities referred to in paragraph (1) remain competent to function for its area.

VACATION OF OFFICE

6. The councillors of the disestablished municipalities vacate office on the effective date.

ESTABLISHMENT OF MUNICIPALITY

7. (1) A metropolitan municipality is hereby established for the metropolitan area as set out in the demarcation notice.
- (2) The establishment of the metropolitan municipality takes effect in terms of section 12(2)(b) of the Act at the commencement of the first election of the council of this metropolitan municipality.

LEGAL SUCCESSION

8. The metropolitan municipality, the Xhariep district municipality and the Thabo Mofutsanyane district municipality become the successors in law of the disestablished district municipality of Motheo and depend on the specific assets, liabilities, rights and obligations allocated to the municipalities in terms of a determination by the MEC for local government of a notice published in the Provincial Gazette after consultation with the Transitional Facilitation committee established in terms of section 15.

TRANSFER OF ASSETS, RIGHTS, LIABILITIES AND OBLIGATIONS

9. (1) The assets, rights, liabilities and obligations (excluding investments, cash and cash balances) in so far as they were, immediately before the effective date, predominantly deployed in respect of, or related to, the performance by the disestablished district municipality of a function or functions in a specific area, will be transferred in terms of a determination by the MEC for local government as published by notice in the Provincial Gazette to the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality and the Mantsopa local municipality after consultation with the TFC established in terms of paragraph 15 which, on the effective date, have responsibility for the performance of the said function or functions in the said area.
- (2) For the purpose of sub-paragraph (1), "function" includes a power.
- (3) Administrative and other records (including minutes) relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vest, as from the effective date, in the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality and the Mantsopa local municipality as determined by the MEC for local government as published by notice in the Provincial Gazette, to which the respective assets, rights, liabilities and obligations are transferred in terms of the said sub-paragraph.

INVESTMENTS, CASH AND CASH BALANCES

10. As from the effective date all investments and all cash and cash balances in a bank account of the disestablished district municipality accrue to the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality and the Mantsopa local municipality in terms of a determination by the MEC for local government as published by notice in the Provincial Gazette after consultation with the TFC established in terms of section 15.

TRANSFER OF STAFF

11. A person who on the effective date is an employee of the disestablished district municipality becomes an employee of the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality or the Mantsopa local municipality in terms of a determination by the MEC for local government as published by notice in the Provincial Gazette after consultation with the TFC established in terms of section 15 and in accordance with the following rules:
 - (1) Employees of the disestablished district municipality become employees of the metropolitan municipality, the Xhariep district municipality and the Thabo Mofutsanyane district municipality the Naledi local municipality or the Mantsopa local municipality in terms of a determination by the MEC for local government as published by notice in the Provincial Gazette after consultation with the TFC established in terms of section 15 which as from the effective date is responsible for the performance of that specific function;

- (2) For the purposes of sub-paragraph (1) "function" includes a power;
- (3) The employment of employees by the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality and the Mantsopa local municipality must be regulated in accordance with any collective agreement;
- (4) Until an agreement referred to in sub-paragraph (3) has been reached employees are employed by the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality or the Mantsopa local municipality on the same terms and conditions (including remuneration) applicable to them as employees of the disestablished municipality which previously employed them;
- (5) Service by a person so transferred is deemed to be service as an employee of the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality or the Mantsopa local municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality or the Mantsopa local municipality to which she or he is transferred;
- (6) where an employee transferred in terms of sub-paragraph (1) was a member of a medical aid scheme, pension or provident fund immediately before the effective date –
- (a) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality or the Mantsopa local municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise;
- (b) the metropolitan municipality, the Xhariep district municipality, the Thabo Mofutsanyane district municipality, the Naledi local municipality or the Mantsopa local municipality must deduct the necessary employee's contributions to the scheme or fund from the remuneration of the employee and pay it over to the scheme or fund in question together with the employer's contribution.

TRANSITIONAL PROVISIONS RELATING TO EXISTING BY-LAWS AND RESOLUTIONS

12. (1) By-laws and resolutions (including standing delegations) of the disestablished district municipality that are in force on the effective date continue in force in the area in which they were applicable subject to any amendment or repeal by the metropolitan municipality.
- (2) A by-law or resolution (including standing delegations) other than those referred to in subparagraph (1) to the extent that they apply to the metropolitan municipality of the disestablished district municipality must be applied by the metropolitan municipality to the extent to which that by-law or resolution (including standing delegations) continues in force in terms of subparagraph (1) in the area of the metropolitan municipality.
- (3) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law or resolution (including standing delegations) to the disestablished district municipality must be construed as a reference to the metropolitan municipality which has to apply the by-law or resolution (including standing delegations): Provided that-
- (a) the Metropolitan municipality must comply with the By-laws relating to the Rules and Orders of the Mangaung local municipality promulgated under Local Government Notice No 41 of 29 June 2001; and
- (b) whenever a By-law or resolution including standing delegations of the disestablished municipalities of Motheo and Mangaung regarding the same subject matter is inconsistent with each other, the by-law or resolution (including standing delegation) as the case may be of the Mangaung local municipality must prevail.

TRANSITIONAL FACILITATION COMMITTEE

13. (1) A Transitional Facilitation Committee (TFC) is hereby established for the Metropolitan municipality and the affected municipalities to take effect from the date of publication until the day immediately preceding the local government elections.

- (2) The TFC should consist of the executive mayor or mayor of each of the affected municipalities and may invite a councillor or councillors to attend its meetings.
- (3) The TFC must be assisted by a Technical Task Team chaired by the Head: Cooperative Governance and Traditional Affairs, consisting of the relevant municipal managers from the affected municipalities as well as officials from the department of Cooperative Governance and Traditional Affairs and an official from SALGA Free State.
- (4) The Department of Cooperative Governance and Traditional Affairs must provide an administrative service to the TFC.

FUNCTIONS OF THE TFC

14. The functions of the TFC shall, subject to and for the purposes of section 14 of the Act, be to recommend to the MEC for Cooperative Governance and Traditional Affairs:
 - (1) Which of the assets, rights, liabilities and obligations that have been transferred from the disestablished municipality should be transferred to the metropolitan municipality and the affected municipalities;
 - (2) Subject to sub-paragraph (1), the implication of a process of reorganizing the employees transferred to the metropolitan municipality and the affected municipalities;
 - (3) The legal, practical and other consequences of the disestablishment of the district municipality and the establishment of the metropolitan municipality and also including vacation of office by councillors and implications thereof, and
 - (4) The name of the metropolitan municipality.

CHAIR OF TFC

15. The chairperson of SALGA Free State will be the chairperson of the TFC.
 - (1) The chairperson of the TFC decides when and where the TFC meets, but a majority of members may request the chairperson in writing to convene a meeting of the TFC at a time and place set out in the request;
 - (2) The chairperson presides at meetings of the TFC, but if the chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.

PROCEDURES OF THE TFC

16. The TFC may determine its own procedures, subject to the following:
 - (1) A question before the TFC is decided with supporting vote of the majority of the members present at the meeting;
 - (2) At least one half of the members must be present at a meeting before a vote may be taken on any matter.

DISPUTE RESOLUTION

17. (1). Where the TFC cannot, reach agreement, the matter must be submitted to the MEC for local government who may, in his discretion, decide on the matter, or may submit it to the arbitration by an arbitrator appointed by the MEC, whose decision shall be final and shall be deemed to constitute a recommendation of the TFC on the matter; and
 - (4) The MEC shall be the Arbitrator but may appoint an arbitrator if he or she deems fit.

EXPENSES OF THE TFC

18. Any expense incurred by the TFC in the discharge of its functions or in respect of the costs of mediation in terms of paragraph 18 shall be borne, in equal in proportion by the municipalities and the department who are members of the TFC.

INTERVENTION POWERS OF THE MEC

19. (1) The MEC for local government may at any time intervene in the proceedings of the TFC referred to in paragraph 15 and request the committee to refer a matter before the committee to the MEC for resolution.

- (2) The MEC for local government may reconsider a matter on which the TFC has taken a decision and confirm, vary or withdraw the decision of the TFC.
- (3) The two affected District municipalities and Metropolitan municipality, including affected employees are bound by the decision of the MEC.
- (4) The arbitration committee shall, unless otherwise stated, comprise of the executive mayor of the metropolitan municipality, the executive mayors of the two affected district municipalities and the MEC for local government.

DUTIES OF MUNICIPAL MANAGER

20. The municipal manager of the disestablished district municipality of Motheo must not later than two days after the effective date compile and submit to the municipal manager of the affected municipalities –
 - (1) a list containing the names and particulars of all persons who on that date were in the employ of that municipality and transferred to the affected municipality; and
 - (2) an inventory of all the assets and liabilities of that municipality as at that date and transferred to the affected municipality..

MUNICIPAL MANAGER

- 21 Until his or her employment contract expires the person who, on the effective date occupied the post of municipal manager of the disestablished Mangaung Local Municipality is designated with effect from that date, the municipal manager for the metropolitan municipality.

ESTABLISHMENT OF METROPOLITAN MUNICIPALITY

22. For the metropolitan municipal area as a whole as set out in the demarcation notice, a metropolitan municipality is hereby established.

CATEGORY

23. The metropolitan municipality is a Category A municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

24. The metropolitan municipality is a municipality with a mayoral executive system combined with a ward participatory system as contemplated in section 2(g) of the Types Act.

BOUNDARIES

25. The boundaries of the metropolitan municipality are as indicated by Map DEM 387_A of the demarcation notice.

NAME

26. The name of the metropolitan municipality will be determined by the MEC for local government as published by notice in the Provincial Gazette after consultation with the TFC established in terms of section 15

COUNCILLORS

27. The council of the metropolitan municipality consists of 48 proportionally elected councillors and 49 ward councillors as determined in Provincial Notice No 175 of 31 July 2009.

FULL-TIME COUNCILLORS

28. The council of the metropolitan municipality may designate the executive mayor, speaker, members of the mayoral committee and council whip as full-time.

WARDS

29. The metropolitan municipality has 49 wards with boundaries as indicated in the Notice published in the Free State Provincial Gazette No 99 of 31 August 2010.

PART 3**AMENDMENT OF ESTABLISHMENT NOTICE NO 181 OF 2000 OF THE DC 16 DISTRICT MUNICIPALITY AND THE FS 161, FS 162 AND FS 163 LOCAL MUNICIPALITIES**

30. Part 2 of Provincial Notice 181 of 2000 is hereby substituted for the following Part 2 and Part 6 is hereby inserted in Provincial Notice 181 of 2000, with effect from the effective date:-

“PART 2**ESTABLISHMENT OF DISTRICT MUNICIPALITY**

16. For the district municipal area as a whole, a district municipality is hereby established.

CATEGORY

17. The district municipality is a Category C municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

18. The district municipality is a municipality with a mayoral executive system contemplated in section 4(b) of the Types Act.

BOUNDARIES

19. The boundaries of the district municipality are as indicated by Map DEM 387_B of the demarcation notice

NAME

20. The name of the district municipality is Xhariep.

COUNCILLORS

21. The council of the district municipality consists of 16 councillors as determined in Provincial Notices No 175 and 176 of 2009 dated 31 July 2001 of whom;
- (a) 7 must be proportionally elected councillors,
 - (b) 2 must be appointed by the local municipality of Letsemeng,
 - (c) 3 must be appointed by the local municipality of Kopanong
 - (d) 2 must be appointed by the local municipality of Mohokare, and
 - (e) 2 must be appointed by the local municipality of Naledi

FULL-TIME COUNCILLORS

22. The council of the district municipality may designate the executive mayor, speaker and mayoral committee as full-time.”

"PART 6**ESTABLISHMENT OF LOCAL MUNICIPALITY**

47. For that part of the district municipal area determined in the demarcation notice published under Provincial Notice Number 231 of 1 August 2008 a local municipality is hereby established.

CATEGORY

48. The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

49. The local municipality is a municipality with a plenary executive system combined with a ward participatory system as contemplated in section 3(f) of the Types Act.

BOUNDARIES

50. The boundaries of the local municipality are as indicated by Map DEM387_B of the demarcation notice.

NAME

51. The name of the local municipality is Naledi.

COUNCILLORS

52. The council of the local municipality consists of 4 proportionally elected councillors and 4 ward councillors as determined in Provincial Notice No 175 dated 31 July 2009.

FULL-TIME COUNCILLORS

53. The council of the municipality may designate the speaker as full-time.

WARDS

54. The local municipality has 4 wards with boundaries as indicated in the Notice published in the Free State Provincial Gazette No 74 of 31 August 2010 on the Map showing the boundaries of municipality FS 164."

PART 4**AMENDMENT OF ESTABLISHMENT NOTICE NO 184 OF 2000 OF THE DC 19 DISTRICT MUNICIPALITY AND THE FS 191, FS 192, FS 193, FS195 AND FS196 LOCAL MUNICIPALITIES**

31. Part 2 of Provincial Notice 184 of 2000 is hereby substituted for the following Part 2 and Part 8 is hereby inserted in Provincial Notice 184 of 2000, with effect from the effective date,:-

"PART 2**ESTABLISHMENT OF DISTRICT MUNICIPALITY**

16. For the district municipal area as a whole, a district municipality is hereby established.

CATEGORY

17. The district municipality is a Category C municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

18. The district municipality is a municipality with a mayoral executive system contemplated in section 4(b) of the Determination of Types of Municipality Act, 2000 (Act No. 1 of 2000).

BOUNDARIES

19. The boundaries of the district municipality are as indicated by Map DEM387_C of the demarcation notice.

NAME

20. The name of the district municipality is Thabo Mofutsanyane.

COUNCILLORS

21. The council of the district municipality consists of 43 councillors as determined in Provincial Notice No 175 and 176 of 31 July 2009 of whom;
- (a) 25 must be proportionally elected councillors,
 - (b) 4 must be appointed by the local municipality of Setsoto,
 - (c) 4 must be appointed by the local municipality of Dihlabeng,
 - (d) 2 must be appointed by the local municipality of Nketoana,
 - (e) 11 must be appointed by the local municipality of Maluti-A-Phofung,
 - (f) 2 must be appointed by the local municipality of Phumelela, and
 - (g) 2 must be appointed by the local municipality of Mantsopa.

FULL-TIME COUNCILLORS

22. The council of the district municipality may designate the executive mayor, speaker and mayoral committee as full-time."

"PART 8**ESTABLISHMENT OF LOCAL MUNICIPALITY**

63. For that part of the district municipal area determined in the demarcation notice published under Provincial Notice Number 231 of 1 August 2008 a local municipality is hereby established.

CATEGORY

64. The local municipality is a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

65. The local municipality is a municipality with a collective executive system combined with a ward participatory system as contemplated in section 3(b) of the Types Act.

BOUNDARIES

66. The boundaries of the local municipality are as indicated by Map DEM387_C of the demarcation notice.

NAME

67. The name of the local municipality is Mantsopa.

COUNCILLORS

68. The council of the local municipality consists of 8 proportionally elected councillors and 9 ward councillors as determined in Provincial Notice No 175 dated 31 July 2009.

FULL-TIME COUNCILLORS

69. The council of the municipality may designate the mayor and speaker as full-time.

WARDS

70. The local municipality has 9 wards with boundaries as indicated in the Notice published in the Free State Provincial Gazette No 54 of 31 July 2009 on the Map showing the boundaries of municipality FS 196 in the Notice published in Provincial Gazette No. 99 of 31 August 2010."
-

NOTICE

REVIEW OF TARIFFS: PROVINCIAL GAZETTE AND REPRODUCTION SERVICES FOR THE 2011 - 2012 FINANCIAL YEAR

SELLING PRICE PER COPY (Distributed through post)	Current tariffs	Proposed tariffs	% increase	Average increase
Provincial Gazette	R 16.80	R 18.80	11.9%	
Tender Bulletin	R 8.70	R 11.70	34.5%	
SELLING PRICE PER COPY (Over the counter and per e-mail)				
Provincial Gazette	R 10.70	R 11.10	3.7%	
Tender Bulletin	R 2.50	R 4.00	60.0%	27.53%
SUBSCRIPTION (Distribution through post)				
Half-yearly:				
Provincial Gazette	R 420.10	R 469.40	11.7%	
Tender Bulletin	R 216.75	R 292.00	34.7%	
Yearly:				
Provincial Gazette	R 840.30	R 938.80	11.7%	
Tender Bulletin	R 433.40	R 584.05	34.8%	23.23%
SUBSCRIPTION (Collected per hand and per e-mail)				
Half-yearly:				
Provincial Gazette	R 266.20	R 277.90	4.4%	
Tender Bulletin	R 62.80	R 100.55	60.1%	
Yearly:				
Provincial Gazette	R 532.45	R 555.80	4.4%	
Tender Bulletin	R 125.70	R 201.10	60.0%	32.22%
(The cost to wrap and postage excluded)				
ADVERTISING CHARGES PER CENTIMETER (cm)				
Provincial Gazette/ Tender Bulletin	R 15.30	R 26.40	72.5%	72.55%
PHOTO COPYING COSTS				
A4 size copies:				
Single sided	R 0.45	R 0.50	11.1%	
Double sided	R 0.70	R 0.75	7.1%	
A3 size copies:				
Single sided	R 0.90	R 0.95	5.6%	
Double sided	R 1.50	R 1.60	6.7%	7.62%