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As 'n Nuusblad by die Poskantoor Geregistreer

INHOUD

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SWARTLAND MUNICIPALITY
WATER AND SANITATION SERVICES
AMENDMENT BY-LAW, 2019

To amend the Swartland Municipality By-law Relating to Water Supply, Sanitation Services and Industrial Effluent

BE IT ENACTED by Swartland Municipality as follows:

Substitution of section 69 of the By-law Relating to Water Supply, Sanitation Services and Industrial Effluent (principal by-law)

1. Section 69 of the principal by-law is hereby substituted by the following section—

“69. Water Restrictions

- (1) The municipality may, by public notice, whenever there is scarcity of water for distribution and supply to consumers, or for any other cause—
 - (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction—
 - (i) in general or for specified purposes;
 - (ii) during specified hours of the day and on specified days; or
 - (iii) in a specified manner;
 - (b) determine and impose limits on the quantity of water that may be consumed over a specified period;
 - (c) impose restrictions or prohibitions on the use or manner of use of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation; and
 - (d) invoke special tariffs in respect of water restrictions, determined in terms of the Tariff By-law.
- (2) The municipality may limit the application of the provisions of a notice issued under subsection (1) to specified areas or categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of any of such provisions on reasonable grounds, provided that there will be no deviation from the tariffs referred to in subsection (1)(d).
- (3) The municipality may by written notice, order a consumer to take such measures, including the installation of meters and devices for restricting the flow of water, as may be necessary to ensure compliance with a notice published as contemplated in subsection (1), at the cost of such consumer.
- (4) The municipality—
 - (a) may discontinue the supply of water for such period as deemed fit or limit the supply of water to any premises in the event of a failure to comply with the terms of a notice referred to in subsection (1); and
 - (b) may, where the supply has been discontinued in terms of paragraph (a), restore it only when the fee for discontinuation and reconnecting the supply has been paid.
- (5) The provisions of this section also apply in respect of water supplied by the municipality to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice as contemplated in subsection (1).
- (6) Where a local disaster has been declared due to a scarcity of water or to prevent such a disaster from being declared, the municipality may impose water restrictions by issuing a direction in terms of sections 54(3)(b) and 55(2) of the Disaster Management Act, 2002 (Act 57 of 2002).

SWARTLAND MUNISIPALITEIT
WATER- EN SANITASIEDIENSTE
WYSIGINGSVERORDENING, 2019

Om die Swartland Munisipaliteit Verordening insake Watervoorsiening, Sanitasiedienste en Nywerheidsuitvloei te wysig

DERHALWE VERORDEN Swartland Munisipaliteit soos volg-

Vervanging van artikel 69 van die Verordening insake Watervoorsiening, Sanitasiedienste en Nywerheidsuitvloei (hoofverordening)

1. Artikel 69 van die hoofverordening word hiermee vervang deur die volgende artikel—

“69. Waterbeperkings

- (1) Wanneer daar waterskaarste ondervind word vir verspreiding en voorsiening aan verbruikers, of vir enige ander doel, mag die munisipaliteit deur openbare kennisgewing—
 - (a) die verbruik van water in sy regsgebied of gedeelte daarvan verbied of beperk—
 - (i) in die algemeen of vir spesifieke doeleindes;
 - (ii) tydens bepaalde ure van die dag en op bepaalde dae; of
 - (iii) op 'n bepaalde wyse.
 - (b) beperkings bepaal en plaas op die hoeveelheid water wat oor 'n bepaalde tydperk verbruik mag word;
 - (c) beperkings of verbodsbepalings oplê met betrekking tot die gebruik of wyse van gebruik van 'n toestel waardeur water gebruik of verbruik word, of die verbinding van sodanige toestelle aan die waterinstallasie; en
 - (d) spesiale tariewe hef ten opsigte van waterbeperkings, vasgestel in terme van die munisipaliteit se Tarieweverordening.
- (2) Die munisipaliteit mag die toepassing van die bepaling van 'n kennisgewing deur subartikel (1) beoog beperk tot bepaalde areas en kategorieë verbruikers, persele en aktiwiteite en mag afwykings, vrystellings of die verslapping van enige van die bepalinge op redelike gronde toelaat, met dien verstande dat geen afwyking van die tariewe bedoel in subartikel (1)(d) toegelaat mag word nie.
- (3) Die munisipaliteit mag 'n verbruiker by wyse van skriftelike kennisgewing gelas om sodanige maatreëls, insluitend die installering van meters of toestelle vir die beperking van watertoevoer, op sy of haar eie koste in te stel wat nodig mag wees om nakoming van 'n kennisgewing wat ingevolge subartikel (1) uitgereik is, te verseker.
- (4) Die munisipaliteit mag—
 - (a) vir sodanige tydperk as wat dit nodig ag, die watervoorsiening na enige perseel afsluit of beperk in die geval van 'n oortreding of nie-nakoming van die bepalinge van 'n kennisgewing uitgereik ingevolge subartikel (1); en
 - (b) mag, waar die toevoer gestaak is, dit slegs herstel wanneer die vasgestelde fooi vir staking en heraansluiting betaal is.
- (5) Die bepalinge van hierdie artikel sal ook van toepassing wees op water wat regstreeks deur die munisipaliteit aan verbruikers buite sy regsgebied voorsien word, nieteenstaande enigiets tot die teendeel in die voorwaardes wat sodanige voorsiening beheer, tensy anders gespesifiseer in die kennisgewing soos beoog in subartikel (1).
- (6) Waar 'n plaaslike ramp verklaar is as gevolg van 'n skaarste aan water, of om te voorkom dat sodanige ramp verklaar word, mag die munisipaliteit waterbeperkings instel deur die uitreik van 'n aanwysing ingevolge artikels 54(3)(b) en 55(2) van die Wet op Rampbestuur, 2002 (Wet 57 van 2002).

- (7) A person who—
- (a) contravenes any of the provisions of this section;
 - (b) fails to comply with a notice issued in terms of this section; or
 - (c) fails to comply with water restrictions imposed in terms of this by-law;
- commits an offence.”

2. Short title and commencement

This By-law shall be known as the Swartland Municipality Water- and Sanitation Services Amendment By-law, 2019 and shall come into operation on the date of publication thereof.

58193

1 October 2019

SWARTLAND MUNICIPALITY

BY-LAW RELATING TO THE INSTALLATION OF TELECOMMUNICATIONS INFRASTRUCTURE

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, Swartland Municipality enacts as follows:—

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- (7) 'n Persoon wat—
- (a) enige bepaling van hierdie artikel oortree;
 - (b) versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie artikel; of
 - (c) versuim om te voldoen aan enige waterbeperking opgelê ingevolge hierdie verordening;
- pleeg 'n misdryf.”

2. Kort titel en inwerkingtrede

Hierdie verordening staan bekend as die Swartland Munisipaliteit Water- en Sanitasiedienste Wysigingsverordening, 2019 en tree in werking by publikasie daarvan in die Provinsiale Koerant.

58193

1 Oktober 2019

SWARTLAND MUNISIPALITEIT

VERORDENING INSAKE DIE INSTALLASIE VAN TELEKOMMUNIKASIE-INFRASTRUKTUUR

Ooreenkomstig die bepalings van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, bepaal Swartland Munisipaliteit hiermee soos volg:—

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CHAPTER 1: DEFINITIONS AND PURPOSE

1. Definitions

In this by-law, and unless the context otherwise indicates—

“**administration fee**” means the fee that must be paid in advance for a permit to be processed and considered;

“**annual permit fee**” means the fee that must be paid as a condition of issue and continuing validity of a permit issued by the municipality in terms of this by-law;

“**as-built information**” means information relating to how infrastructure has been installed by an operator;

“**authorised official**” means an employee of the municipality responsible for carrying out any duty or function or exercising any power in terms of this by-law and includes a person or agent delegated to carry out or exercise such duty or function;

“**competent person**” means a person who is qualified by virtue of his or her education, training, experience and contextual knowledge to decide regarding the performance of an operator in the provision of electronic communications infrastructure;

“**completion of work**” means the work has reached a state where the permit conditions are met to the satisfaction of the authorised official;

“**ECA**” means the Electronic Communications Act, 2005 (Act No 36 of 2005);

“**electronic communications**” has the meaning in the ECA, namely the emission, transmission or reception of information, including without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures, signals or a combination thereof by means of magnetism, radio or other electromagnetic waves, optical, electromagnetic systems or any agency of a like nature, whether with or without the aid of tangible conduct, but does not include content service;

“**electronic communications facility**” has the meaning in the ECA, namely any wire, cable including undersea and land-based fibre optic cables, antenna, mast, satellite transponder, circuit, cable landing station, international gateway, earth station, and radio apparatus or other thing, which can be used for, or in connection with, electronic communications, including—

- (a) collocation space;
- (b) monitoring equipment;
- (c) space on or within poles;
- (d) ducts;
- (e) cable trays;
- (f) manholes;
- (g) hand holds and conduits; and
- (h) associated support systems, sub-systems and services, ancillary to such electronic communications facilities or otherwise necessary for controlling connectivity of the various electronic communications facilities for proper functionality, control, integration and utilisation of such electronic communications facilities, and “**telecommunications infrastructure**” has a corresponding meaning;

“**electronic communications network**” means any system of electronic communications facilities, excluding subscriber equipment, including without limitation—

- (a) satellite systems;
- (b) fixed systems (circuit- and packet-switched);
- (c) mobile systems;
- (d) fibre optic cables (undersea and land-based);
- (e) electricity cable systems (to the extent used for electronic communications services); and
- (f) other transmission systems, used for conveyance of electronic communications;

HOOFSTUK 1: DEFINISIES EN DOEL

1. Definiesies

In hierdie verordening, tensy uit die samehang anders blyk, beteken—

“**administrasiegelde**” die gelde wat vooruit betaal moet word vir permit om geprosesseer en oorweeg te word;

“**bevoegde persoon**” persoon wat uit hoofde van sy of haar opvoeding, opleiding, ervaring en kontekstuele kennis gekwalifiseer is om besluite te neem in verband met die prestasie van operateur in die voorsiening van elektroniese kommunikasie-infrastruktuur;

“**diensgebruik**” die gebruik van munisipale dienste, insluitend maar nie beperk nie tot water en sanitasie, elektrisiteit en vullisverwydering terwyl munisipale eiendom deur die elektroniese kommunikasie-operateur gebruik of beset word;

“**elektroniese kommunikasie**” in die WEK die uitsending, oorsending of ontvangs van inligting, insluitend sonder beperking, stem, klank, data, teks, video, animasie, visuele beelde, bewegende beelde en prente, seine of kombinasie daarvan deur middel van magnetisme, radio- of ander elektromagnetiese golwe, optiese, elektromagnetiese stelsels of agentskap van soortgelyke aard, hetsy met of sonder hulp van tasbare geleiding, maar dit sluit nie inhouddiens in nie;

“**elektroniese kommunikasiefasiliteit**” in die WEK, enige draad, kabel met insluiting van ondersese en landgebaseerde veseloopiese kables, antenne, mas, satellietantwoordsender, kringbaan, kabellandstasie, internasionale poort, aardstasie, en radioapparaat of ander ding, wat gebruik kan word vir, of in verband met elektroniese kommunikasie insluitend—

- (a) plasingsruimte;
- (b) moniteertoerusting;
- (c) ruimte op of binne pale;
- (d) kanale;
- (e) kabelhouers;
- (f) mangate;
- (g) handvatsels en geleibuisse; en
- (h) geassosieerde steunstelsels, substelsels en dienste, bykomstig by sodanige elektroniese kommunikasiefasiliteite of andersins nodig om verbinding van die verskillende elektroniese kommunikasiefasiliteite te beheer vir behoorlike funksionaliteit, kontrole, integrasie en benutting van sodanige elektroniese kommunikasiefasiliteite, en “**telekommunikasie-infrastruktuur**” het ooreenstemmende betekenis;

“**elektroniese kommunikasienetwerk**” stelsel van elektroniese kommunikasiefasiliteite, uitgesonderd intekenaarstoerusting, insluitend sonder beperking—

- (a) satellietstelsels;
- (b) vaste stelsels (kringbaan- en pakketgeskakel);
- (c) mobiele stelsels;
- (d) veseloopiese kables (ondersee en landgebaseer);
- (e) elektrisiteitkabelstelsels (in soverre dit vir elektroniese kommunikasiedienste gebruik word); en
- (f) ander oorsendingstelsels, wat vir die dra van elektroniese kommunikasie gebruik word;

“**elektroniese kommunikasie-operateur**” persoon wat elektroniese kommunikasienetwerk bedryf, elektroniese kommunikasiedienste of netwerkdienste lewer en wat of gelisensieer is of vrygestel is ingevolge die WEK, met inbegrip van daardie persoon se agente en kontrakteurs, en **operateur** het soortgelyke betekenis;

“**gelde**” heffings of tariewe ten opsigte van enige funksie of diens van die munisipaliteit soos bepaal ingevolge artikel 75A van die Wet op Munisipale Stelsels 2000 (Wet 32 van 2000);

“**electronic communications operator**” means any person who operates an electronic communications network, provides electronic communications services or network services and is either licensed or exempted in terms of the ECA, including that person’s agents and contractors and “**operator**” has a similar meaning;

“**fees**” mean charges or tariffs in respect of any function or service of the municipality as determined in terms of section 75A of the Municipal Systems Act, 2000 (Act 32 of 2000);

“**ICASA**” means Independent Communications Authority of South Africa;

“**municipality**” means the Swartland Municipality, established in terms of Section 12 of the Municipal Structures Act, 1998 (Act 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“**municipal property**” means property that, for the purposes of this by-law, can be used or is required for the roll-out of electronic communications networks or the installation of electronic communications facilities including but not limited to—

- (a) roads and road reserves;
- (b) pavements, curbs, pedestrian walks and cycle paths;
- (c) drainage facilities;
- (d) buried ducts, pipes, conduits and tunnels;
- (e) poles, gantries, signs and similar structures;
- (f) other high sites such as water towers, buildings, masts etc;
- (g) municipal water and sewer lines;
- (h) municipal utility facilities;
- (i) municipal traffic signals and signs;
- (j) street lighting poles and similar street installations including overhead cables;
- (k) trees on municipal property;
- (l) land and buildings owned by the municipality; and
- (m) any structure owned by the municipality;

“**permit**” means a document in terms of which the municipality grants an electronic communications operator the right to use or occupy municipal property for the purposes of installation of electronic communications facilities;

“**permit conditions**” means the conditions associated with a permit, including the rights, obligations and liabilities of the operator as well as the payment of fees determined by the municipality;

“**service consumption**” means the use of municipal services, including but not limited to, water and sanitation, electricity and refuse removal while municipal property is used or occupied by the electronic communications operator;

“**work**” means the electronic communications network or electronic communications facility to be installed by an electronic communications operator, and includes any pipe, duct, cable, manhole, jointing pit, draw box, equipment cabinet or any electronic communication infrastructure which forms part of the installation of the service on municipal property.

2. Purpose

The purpose of this by-law is to provide for mechanisms to regulate and manage the installation of electronic communication facilities that may affect the municipality’s own services infrastructure by—

“**gemagtigde beampte**” werknemer van die munisipaliteit verantwoordelik vir die uitvoering van enige plig of funksie of die uitoefening van enige mag ingevolge hierdie verordening en sluit persoon of agent in met gedelegeerde magte om sodanige plig of funksie uit te voer of uit te oefen;

“**ICASA**” die Onafhanklike Kommunikasie-owerheid van Suid-Afrika;

“**jaarlikse permitgelde**” die gelde wat betaal moet word as voorwaarde van die uitreiking en voortgesette geldigheid van permit wat ingevolge hierdie verordening deur die munisipaliteit uitgereik word;

“**munisipaliteit**” die Swartland Munisipaliteit, ingestel ingevolge artikel 12 van die Wet op Munisipale Strukture, 1998 (Wet 117 van 1998), en sluit enige politieke struktuur, politieke ampsdraer, raadslid, behoorlik gemagtigde agent of enige werknemer wat in verband met hierdie verordening optree uit hoofde van magte wat in die munisipaliteit vestig, en gedelegeer of subgedelegeer aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer;

“**munisipale eiendom**” eiendom wat vir die doel van hierdie verordening, gebruik kan word of vereis word vir die installasie van elektroniese kommunikasienetwerke of die installasie van elektroniese kommunikasiefasiliteite, insluitend maar nie beperk nie tot—

- (a) paaie en padreserwes;
- (b) sypaadjies, randstene, voetgangerpaaie en fietspaaie;
- (c) dreineringsfasiliteite;
- (d) ondergrondse kanale, pype, leipype en tonnels;
- (e) pale, stellasies, tekens en soortgelyke strukture;
- (f) ander hoë persele soos watertorings, geboue, maste, ensovoorts;
- (g) munisipale water- en rioolpype;
- (h) munisipale nutsfasiliteite;
- (i) munisipale verkeerseiens en -tekens;
- (j) straatligpale en soortgelyke straatinstallasies, insluitend oorhoofse kables;
- (k) bome op munisipale eiendom;
- (l) grond en geboue wat deur die munisipaliteit besit word; en
- (m) enige struktuur wat deur die munisipaliteit besit word;

“**permit**” dokument ingevolge waarvan die munisipaliteit aan elektriese kommunikasie-operateur die reg verleen om munisipale eiendom te gebruik of te beset met die doel om elektroniese kommunikasiefasiliteite te installeer;

“**permitvoorwaardes**” die voorwaardes geassosieer met permit, insluitend die regte, pligte en aanspreeklikhede van die operateur, sowel as die betaling van gelde soos bepaal deur die munisipaliteit;

“**soos-opgerig-inligting**” inligting oor hoe infrastruktuur deur operateur geïnstalleer is;

“**voltooiing van werk**” die werk het punt bereik waar die permitvoorwaardes tot bevrediging van die gemagtigde beampte nagekom word;

“**WEK**” die Wet op Elektroniese Kommunikasie, 2005 (Wet 36 van 2005);

“**werk**” die elektroniese kommunikasienetwerk of elektroniese kommunikasiefasiliteit wat deur elektroniese kommunikasie-operateur geïnstalleer moet word en sluit in enige pyp, kanaal, kabel, mangat, lasgat, deurtrekkassie, toerustingkas of enige elektroniese kommunikasie-infrastruktuur wat deel vorm van die installasie van die diens op munisipale eiendom.

2. Doel

Die doel van hierdie verordening is om voorsiening te maak vir meganismes om die installasie van elektroniese kommunikasiefasiliteite wat effek op die munisipaliteit se eie dienste-infrastruktuur kan hê te reguleer en te bestuur deur—

- (a) requiring electronic communication operators to notify the municipality of their intention to undertake the installation of electronic communication facilities in the jurisdictional area of the municipality prior to commencement of such installation;
- (b) requiring such operators to furnish the municipality with all information about the location and nature of the work to be undertaken, including plans and drawings;
- (c) requiring such operators to obtain a permit for the right to occupy municipal property and to locate and operate electronic communications facilities on such property; and
- (d) giving the municipality the right to impose conditions upon issuing of a permit envisaged in subparagraph (c) and to levy fees and charges as envisaged in terms of section 75A of the Municipal Systems Act, 2000 (Act 32 of 2000);

CHAPTER 2: NOTIFICATION AND PERMIT CONSIDERATIONS

3. Notification and information required

- (1) An operator, whether licensed or exempted under the ECA, who intends to undertake the installation of an electronic communications facility in the municipal area, must notify the municipality at least 90 days prior to the commencement of such installation.
- (2) The notification must be accompanied by the following information—
 - (a) name and contact details of the operator;
 - (b) proof of license or exemption issued by ICASA;
 - (c) a description of the facilities proposed, including—
 - (i) the area to be served;
 - (ii) a description of the technical characteristics of the facility;
 - (iii) maps or diagrams of the proposed location on the scale required by the municipality;
 - (iv) technical drawings with descriptive layers and legend indicating in detail the proposed works in a file format as prescribed by the municipality;
 - (d) date of commencement of the intended work;
 - (e) estimated date of completion of the work; and
 - (f) any other information required by the municipality.

4. Permit considerations

The issue of a permit to the operator in terms of section 3, shall be considered and decided against the following factors—

- (a) whether the physical space the operator intends to occupy is available and suitable for the purpose;
- (b) whether the operator has existing similar infrastructure occupying the same physical space;
- (c) whether the proposed occupation of the physical space may limit or prevent the future occupation of the same space by other electronic communications operators, the municipality or other entities;
- (d) whether similar infrastructure owned by other electronic communications operators already occupies the same physical space; or
- (e) any other consideration that the municipality may find necessary.

- (a) te vereis dat elektroniese kommunikasie-operateurs die munisipaliteit kennis moet gee van hulle voorneme om die installasie van elektroniese kommunikasiefasiliteite in die regsgebied van die munisipaliteit te onderneem voor daar met sodanige installasie begin word;
- (b) te vereis dat sodanige operateurs die munisipaliteit voorsien van alle inligting oor die ligging en aard van die werk wat onderneem gaan word, met insluiting van planne en sketse;
- (c) te vereis dat sodanige operateurs permit verkry vir die reg om munisipale eiendom te beset en om elektroniese kommunikasiefasiliteite op sodanige eiendom aan te bring en te bedryf; en
- (d) die munisipaliteit die reg te gee om voorwaardes op te lê vir die uitreiking van permit soos beoog in subparagraaf (c) en om gelde te hef en heffings op te lê soos beoog ingevolge artikel 75A van die Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000);

HOOFSTUK 2: KENNISGEWING EN PERMITOORWEGINGS

3. Kennisgewing en inligting verlang

- (1) Operateur, hetsy gelisensieer of vrygestel ingevolge die WEK, wat beoog om die installasie van elektroniese kommunikasiefasiliteit in die munisipale gebied te onderneem, moet die munisipaliteit minstens 90 dae voor die aanvang van sodanige installasie daarvan in kennis stel.
- (2) Die kennisgewing moet die volgende inligting bevat—
 - (a) naam en kontakbesonderhede van die operateur;
 - (b) bewys van lisensie of vrystelling uitgereik deur ICASA;
 - (c) beskrywing van die voorgestelde fasiliteite, met inbegrip van—
 - (i) die gebied wat bedien gaan word;
 - (ii) beskrywing van die tegniese eienskappe van die fasiliteit;
 - (iii) kaarte of diagramme van die voorgestelde ligging op die skaal wat deur die munisipaliteit verlang word;
 - (iv) tegniese tekeninge met beskrywende lae en legendes wat die voorgestelde werk in detail aandui in lêerformaat wat deur die munisipaliteit voorgeskryf word;
 - (d) datum waarop die beoogde werk sal begin;
 - (e) geraamde datum van voltooiing van die werk; en
 - (f) enige ander inligting wat die munisipaliteit verlang.

4. Permitoorwegings

Die uitreiking van permit aan die operateur ingevolge artikel 3 sal oorweeg word en besluit sal op grond van die volgende faktore geneem word—

- (a) of die fisiese ruimte wat die operateur beoog om te beset beskikbaar en geskik is vir die doel;
- (b) of die operateur bestaande soortgelyke infrastruktuur het wat dieselfde fisiese ruimte beset;
- (c) of die voorgestelde besetting van die fisiese ruimte die toekomstige besetting van dieselfde ruimte deur ander elektroniese kommunikasie-operateurs, die munisipaliteit of ander entiteite kan beperk of verhoed;
- (d) of soortgelyke infrastruktuur wat deur ander elektroniese kommunikasie-operateurs besit word reeds dieselfde fisiese ruimte beset; of
- (e) enige ander oorweging wat die munisipaliteit nodig mag vind.

5. Issue of permit

- (1) Upon receipt of a notification in terms of section 3, the municipality may, subject to the considerations in section 4, furnish the operator with a permit, setting out the conditions, specifications and standards for the work to be undertaken by the operator.
- (2) The issue of the permit does not derogate from the municipality's right to impose additional requirements relating to—
 - (a) entering into lease agreements and to levy rental for the right to make use of municipal property for purposes of—
 - (i) installation of telecommunications infrastructure; or
 - (ii) the storage of equipment or the establishment of site offices and workshops;
 - (b) payment of fees and other costs associated with occupation such as the cost for service consumption; or
 - (c) compliance with—
 - (i) environmental or other impact studies required by the municipality;
 - (ii) heritage protection policies; or
 - (iii) any other applicable law or municipal policy;
- (3) No operator may commence with the installation of electronic communications facilities until the permit has been issued by the municipality and all required fees have been paid.
- (4) The issue of the permit does not confer or transfer any proprietary or exclusive rights in respect of municipal property to the operator.
- (5) The transfer of a permit to another party shall be subject to the provisions of section 12.

CHAPTER 3: SPECIFIC PERMIT CONDITIONS**6. Payment of annual permit fees**

- (1) The operator must pay the prescribed annual permit fee in advance, provided that the municipality and the operator may agree that use of the electronic communications facility, or capacity of the network which it supports, shall be made available to the municipality in lieu of payment, or in part-payment of the fee.
- (2) The payment of the annual permit fee by the operator shall not replace any once-off installation fee, ongoing service fee for service consumption or other similar charge which the municipality may levy to recover costs incurred as a result of the installation, construction or operation of the operator's facilities.

7. Provision of bank guarantee

- (1) The operator must furnish the municipality with an irrevocable bank guarantee, in the amount specified in the permit, to provide for damages caused by the operator to other municipal services or property and not repaired to the original condition.
- (2) The guarantee shall allow for individual claims payable within 30 days to repair damages and must be submitted to the municipality for approval prior to issue by the financial institution.
- (3) The guarantee shall remain valid for a period of 12 months after completion of the work by the operator and no work may commence prior to approval of the guarantee by the municipality.

5. Uitreiking van permit

- (1) Na ontvangs van kennisgewing ingevolge artikel 3 mag die munisipaliteit, onderworpe aan die oorwegings in artikel 4, permit aan die operateur uitreik, waarin die voorwaardes, spesifikasies en standaard vir die werk wat deur die operateur onderneem moet word, uiteengesit word.
- (2) Die uitreiking van die permit maak nie inbreuk op die munisipaliteit se reg om addisionele vereistes op te lê ten opsigte van—
 - (a) die aangaan van huurooreenkomste en om huurgeld te hef vir die reg om munisipale eiendom te gebruik vir die doel van—
 - (i) die installasie van telekommunikasie-infrastruktuur; of
 - (ii) die stoor van toerusting of die vestiging van terrein-kantore en werksinkels;
 - (b) die betaling van gelde en ander kostes geassosieer met okkupasie, byvoorbeeld die koste van diensteverbruik; of
 - (c) die nakoming van—
 - (i) omgewing- of ander impakstudies wat deur die munisipaliteit verlang word;
 - (ii) beleide in verband met die beskerming van erfenis; of
 - (iii) enige ander toepaslike wet of munisipale beleid;
- (3) Geen operateur mag met die installasie van elektroniese kommunikasiefasiliteite begin voordat die permit deur die munisipaliteit uitgereik is en al die nodige gelde betaal is nie.
- (4) Die uitreiking van die permit verleen of dra nie enige eienaars- of eksklusiewe regte met betrekking tot munisipale eiendom na die operateur oor nie;
- (5) Die oordra van permit na enige ander party sal onderworpe wees aan die bepalinge van artikel 12.

HOOFSTUK 3: SPESIFIEKE PERMITVOORWAARDES**6. Betaling van jaarlikse permitgelde**

- (1) Die operateur moet die voorgeskrewe jaarlikse permitgelde vooruit betaal op voorwaarde dat die munisipaliteit en die operateur mag ooreenkom dat die gebruik van die elektroniese kommunikasiefasiliteit, of kapasiteit van die netwerk wat dit ondersteun, aan die munisipaliteit beskikbaar gestel sal word in plaas van betaling of as gedeeltelike betaling van die gelde.
- (2) Die betaling van die jaarlikse permitgelde deur die operateur sal nie enige eenmalige installasiegelde, deurlopende diensfooi vir dienste wat verbruik word of enige ander soortgelyke heffing wat die munisipaliteit mag oplê om kostes wat weens die installasie, konstruksie of bedryf van die operateur se fasiliteite te verhaal, vervang nie.

7. Verskaffing van bankwaarborg

- (1) Die operateur moet die munisipaliteit van onherroeplike bankwaarborg vir die bedrag gespesifiseer in die permit voorsien om voorsiening te maak vir skade wat deur die operateur aan ander munisipale dienste of eiendom aangerig word en nie tot die oorspronklike toestand herstel word nie;
- (2) Die waarborg sal voorsiening maak vir individuele eise wat binne 30 dae betaalbaar is om skade te herstel en moet by die munisipaliteit ingedien word vir goedkeuring voor dit deur die finansiële instelling uitgereik word.
- (3) Die waarborg sal geldig bly vir tydperk van 12 maande na voltooiing van die werk deur die operateur en geen werk mag begin voor die waarborg deur die munisipaliteit goedgekeur is nie.

8. Commencement and execution of work

- (1) The operator must—
 - (a) exercise the rights granted in terms of the permit within 180 days of the date of issue, provided that if the permitted occupation of municipal property is not taken up, the municipality may revoke the permit;
 - (b) preserve, as far as is possible, the aesthetics of the municipality's property;
 - (c) take responsibility for the cost of any loss, including the repair of the municipality's property or facilities, should any damage occur during construction or operation;
 - (d) not endanger any person in exercising its rights in terms of the permit; and
 - (e) maintain the upkeep of its facilities, at its own cost.
- (2) The operator must execute all work as prescribed in the permit, and repair and reinstate to the original condition, all existing services and surfaces affected by the work undertaken, including sidewalks, roads, water pipes, storm water ducting, sewerage pipes, electrical cables, electrical panels and enclosures and street lighting poles.
- (3) Upon failure by the operator to comply with subsection (2), the municipality may undertake the repairs or appoint a contractor to undertake the repairs and to recover the total cost from the operator or by means of the bank guarantee referred to in section 7 of this by-law.

9. Construction and sharing of infrastructure

- (1) The municipality may, upon issuing a permit—
 - (a) require the operator to delay construction and co-ordinate with other operators, telecommunications infrastructure owners or municipal departments to minimize road trenching or other disruptions;
 - (b) require the operator to co-ordinate with other operators or municipal departments to share installation work, especially road trenching;
 - (c) require the operator to share infrastructure with another operator particularly in circumstances where demand by electronic communications operators for access to municipal property exceeds availability;
 - (d) require the operator to install additional infrastructure as supplied by the municipality; or
 - (e) impose any other condition that the municipality may deem necessary.
- (2) The municipality may, at any time, install or construct new services infrastructure or modify, re-locate or remove any of its existing infrastructure.
- (3) In such event, if necessary, for the proper provision of services infrastructure, the municipality may request an operator, within a specified time frame, to remove, re-locate or modify existing telecommunications infrastructure at the cost of the operator.
- (4) In the event of a private developer or other institution wishing to install services infrastructure, the municipality may request an operator to relocate existing telecommunications infrastructure at the cost of such developer or institution.
- (5) To ensure fairness to the parties involved, the municipality shall determine the reasonableness of the cost for any work to be undertaken in terms of subsection (4), and if necessary, appoint another operator to undertake such work.
- (6) The municipality shall not be liable for any loss of income suffered by the operator whose infrastructure has to be re-located in terms of subsection (4), or for any claims for damages resulting from such removal or re-location.

8. Aanvang en uitvoering van werk

- (1) Die operateur moet—
 - (a) die regte wat ingevolge die permit verleen is binne 180 dae van die datum van uitreiking uitoefen op voorwaarde dat, indien die vergunde okkupasie van munisipale eiendom nie plaasvind nie, die munisipaliteit die permit mag intrek;
 - (b) die estetika van die munisipaliteit se eiendom so ver as moontlik bewaar;
 - (c) verantwoordelikheid neem vir die koste van enige verlies, met insluiting van die herstel van die munisipaliteit se eiendom of fasiliteite indien enige skade tydens die konstruksie of bedryf sou plaasvind;
 - (d) in die uitoefening van die regte verleen ingevolge die permit, nie enige persoon in gevaar stel nie; en
 - (e) die fasiliteite op eie koste in stand hou.
- (2) Die operateur moet alle werk uitvoer soos voorgeskryf in die permit en alle bestaande dienste en oppervlaktes wat deur die werk geraak geword herstel tot die oorspronklike toestand, insluitend sypaadjies, paaie, waterpype, stormwaterkanale, rioolpype, elektriese kables, elektriese panele en omheinings en straatligpale.
- (3) Indien die operateur versuim om aan subartikel (2) te voldoen, mag die munisipaliteit die herstelwerk onderneem of kontrakteur aanstel om die herstelwerk te doen en die totale koste van die operateur verhaal, of deur middel van die bankwaarborg waarna in artikel 7 van hierdie verordening verwys word, verhaal.

9. Oprigting en deel van infrastruktuur

- (1) Die munisipaliteit mag met die uitreiking van permit—
 - (a) vereis dat die operateur konstruksie uitstel en met ander operateurs, eienaars van telekommunikasie-infrastruktuur of munisipale departemente koördineer ten einde die grawe van slote oor paaie of ander ontwigting tot die minimum te beperk;
 - (b) vereis dat die operateur met ander operateurs of munisipale departemente koördineer om installasiewerk te deel, veral die grawe van slote oor paaie;
 - (c) vereis dat die operateur infrastruktuur met ander operateur deel, veral onder omstandighede waar die vraag deur elektroniese kommunikasie-operateurs vir toegang tot munisipale eiendom beskikbaarheid oorskry;
 - (d) vereis dat die operateur addisionele infrastruktuur soos wat deur die munisipaliteit verskaf word, installeer; of
 - (e) enige ander voorwaarde oplê wat die munisipaliteit nodig mag ag.
- (2) Die munisipaliteit mag te eniger tyd nuwe dienste-infrastruktuur installeer of oprig of enige van sy bestaande infrastruktuur modifiseer, verskuif of verwyder.
- (3) In so geval mag die munisipaliteit, indien nodig, vir die behoorlike verskaffing van dienste-infrastruktuur, binne gespesifiseerde tydsraamwerk operateur versoek om bestaande telekommunikasie-infrastruktuur op die kontrakteur se koste te verwyder, te verskuif of te modifiseer.
- (4) In die geval van privaat ontwikkelaar of ander instelling wat dienste-infrastruktuur wil installeer, mag die munisipaliteit operateur versoek om bestaande telekommunikasie-infrastruktuur op die koste van sodanige ontwikkelaar of instansie te verskuif.
- (5) Om billikheid vir alle betrokke partye te verseker, sal die munisipaliteit die redelikheid van die koste bepaal vir enige werk wat ingevolge subartikel (4) gedoen word, en indien nodig ander operateur aanstel om sodanige werk te onderneem.
- (6) Die munisipaliteit sal nie aanspreeklik wees vir enige verlies van inkomste deur die operateur wie se infrastruktuur ingevolge subartikel (4) verskuif moet word nie, of vir enige eise met betrekking tot skade as gevolg van sodanige verwydering of verskuiving.

10. Sharing of existing municipal services infrastructure

- (1) Subject to the provisions of section 5(2)(a), the municipality may consider and approve the installation of telecommunications infrastructure on insulated electrical overhead infrastructure or in municipal underground ducting, provided that the municipality may reject such application on the grounds of safety considerations.
- (2) If the municipality finds it necessary to upgrade, remove or renew infrastructure referred to in subsection (1), the operator shall, at own cost, be responsible to remove or re-locate its installation.
- (3) The municipality shall not be responsible for damages to the operator's installation as result of maintenance done or any failure of the associated electrical infrastructure.
- (4) The installation referred to in subsection (1) must be undertaken by an electrician qualified to do work on energised electrical lines and no work may commence without a permit referred to in section 5 of this by-law.

11. Sharing of information

- (1) The municipality shall avail its geographical information system database to the operator insofar as it is needed for the installation of electronic communications facilities.
- (2) The operator may use such information for the purposes of the permit issued in terms of this by-law only and may not share such information with any other party without the permission of the municipality.
- (3) The operator must—
 - (a) provide the municipality with as-built information pertaining to the operator's installed facilities, in a file format as may be prescribed by the municipality and that this information be updated by the operator if any modifications are made;
 - (b) allow the municipality to provide as-built information to other electronic communications operators and or electronic communications facility owners, municipal departments, entities, and other occupants of municipality property, for the purpose of limiting damage to or disruption of the facilities and other assets of those involved; and
 - (c) allow the municipality to use the as-built information pertaining to the operator's installed facilities in any other way that it may deem necessary.

12. Period of validity of permit

A permit issued in terms of this by-law shall remain valid for a period of two years from date of issue of the permit, provided that the operator pays the annual permit fees and complies with the conditions applicable to the permit issued.

13. Transfer of permit

- (1) The operator may transfer a permit with the permission of the municipality on condition that—
 - (a) there has been no transgression of the conditions set out in the permit;
 - (b) payment of the annual permit fee is up to date;
 - (c) the party to which the operator wishes to transfer the permit is an electronic communications operator, properly licensed or exempted by ICASA; and
 - (d) the operator provides the municipality with all the relevant information about the new operator as envisaged in section 3.

10. Deel van bestaande munisipaledienste-infrastruktuur

- (1) Onderworpe aan die bepalings van artikel 5(2)(a) kan die munisipaliteit die installasie van telekommunikasie-infrastruktuur op geïsoleerde elektriese oorhoofse infrastruktuur of in munisipale ondergrondse kanale oorweeg en goedkeur op voorwaarde dat die munisipaliteit sodanige aansoek op grond van veiligheidsoorwegings kan verwerp.
- (2) Indien die munisipaliteit dit nodig vind om infrastruktuur waarna in subartikel (1) verwys word op te gradeer, te verwyder of te vernuwe, sal die operateur verantwoordelik wees om op eie koste die installasie te verwyder of te verskuif.
- (3) Die munisipaliteit sal nie verantwoordelik wees vir skade aan die operateur se installasie weens instandhoudingswerk wat gedoen word of enige fout van die geassosieerde elektriese-infrastruktuur nie.
- (4) Die installasie waarna in subartikel (1) verwys word, moet gedoen word deur elektrisiëen wat gekwalifiseer is om met aangeskakelde elektriese lyne te werk en geen werk mag begin sonder permit waarna in artikel 5 van hierdie verordening verwys word nie.

11. Deel van inligting

- (1) Die munisipaliteit sal die databasis van sy geografiese inligtingstelsel aan die operateur beskikbaar stel in soverre dit nodig is vir die installasie van elektroniese kommunikasiefasiliteite.
- (2) Die operateur mag sodanige inligting slegs vir die doel van die permit wat ingevolge hierdie verordening uitgereik is gebruik en mag sodanige inligting nie sonder die toestemming van die munisipaliteit met enige ander party deel nie.
- (3) Die operateur moet—
 - (a) die munisipaliteit voorsien van soos-gebou-inligting met betrekking tot die operateur se geïnstalleerde fasiliteite, in lêerformaat soos wat deur die munisipaliteit voorgeskryf kan word, en dit moet deur die operateur bygewerk word indien enige modifikasies aangebring word;
 - (b) die munisipaliteit toelaat om soos-gebou-inligting te verskaf aan ander elektroniese kommunikasie-operateurs en/of eienaars van elektroniese kommunikasiefasiliteite, munisipale departemente, entiteite en ander okkupeerders van munisipale eiendom met die doel om skade aan of die ontwrigting van die fasiliteite en ander bates van die betrokkenes te beperk; en
 - (c) die munisipaliteit toelaat om die soos-gebou-inligting met betrekking tot die operateur se geïnstalleerde fasiliteite te gebruik op enige ander manier wat die munisipaliteit nodig mag ag.

12. Geldigheidstydperk van permit

Permit wat ingevolge hierdie verordening uitgereik is, sal geldig bly vir tydperk van twee jaar vanaf die datum waarop die permit uitgereik is, op voorwaarde dat die operateur die jaarlikse permitgelde betaal en die voorwaardes wat op die uitgereikte permit van toepassing is, nakom.

13. Oordrag van permit

- (1) Die operateur mag permit oordra met die toestemming van die munisipaliteit op voorwaarde dat—
 - (a) geen voorwaardes wat in die permit uiteengesit is, oortree is nie;
 - (b) betaling van die jaarlikse permitgelde op datum is;
 - (c) die party na wie die operateur die permit wil oordra, elektroniese kommunikasie-operateur is wat behoorlik gelisensieer is of deur ICASA vrygestel is; en
 - (d) die operateur die munisipaliteit voorsien van al die toepaslike inligting oor die nuwe operateur soos beoog in artikel 3.

- (2) The new operator must, once the municipality has approved transfer of a permit, apply to the municipality for the issue of a new permit and the municipality reserves the right to change or add new conditions to the re-issued permit.

14. Revocation of permit

- (1) The municipality may, upon prior written notice, revoke a permit if—
- the annual permit fee is not paid, or the operator does not comply with the conditions applicable to the permit;
 - the operator fails to obtain approval of the municipality for the transfer of a permit to another party as required in terms of section 13 of this by-law; or
 - continued occupation of the property by third parties is no longer viable due to changes in circumstances relating to the physical nature of the municipality's property;
- (2) In the case of changes as contemplated in subsection (1)(c), the municipality may offer the operator an alternative to relocate infrastructure, where possible, and all costs relating to the consequent relocation of the facilities shall be at the operator's cost.
- (3) If a permit is revoked—
- any outstanding annual permit fees shall remain due *pro rata* to the time of revocation;
 - annual permit fees already paid for the portion of the twelve-month period after revocation shall not be refunded;
 - the operator shall be required to remove the electronic communication facilities, where possible, from the municipality's property within 30 days unless the municipality directs otherwise, and reinstate the condition of the municipality's property to its original condition;
- (4) Facilities not removed within the specified time shall become the property of the municipality, and any subsequent removal or rehabilitation required shall be at the cost of the operator, and the municipality shall not be liable for any damages that may be caused as a result of such removal.

15. Expiry of permit

- (1) The permit shall expire if—
- the electronic communications operator's license expires, is revoked or transferred without informing the municipality;
 - if the operator fails to obtain approval of the municipality to transfer the permit as required in terms of section 13 of this by-law;
 - the operator is liquidated or otherwise wound up.
- (2) Upon expiry of a permit, the operator or the liquidator may be required to remove the electronic communication facilities, where possible, from the municipality's property within 30 days unless the municipality directs otherwise.
- (3) The operator or liquidator shall also be required to reinstate the property to its original condition, unless the liquidator applies to the municipality to transfer the permit.
- (4) Facilities not removed within the specified time period shall become the property of the municipality, and any removal or rehabilitation subsequently required will be at the cost of the operator, and the municipality shall not be liable for any damages that may be caused as a result of such removal.

- (2) Die nuwe operateur moet, sodra die munisipaliteit die oordrag van permit goedgekeur het, by die munisipaliteit aansoek doen om die uitreiking van nuwe permit en die munisipaliteit behou die reg voor om voorwaardes van die permit te verander of om nuwe voorwaardes by te voeg.

14. Intrekking van permit

- (1) Die munisipaliteit mag, na vooraf skriftelike kennisgewing, permit intrek indien—
- die jaarlikse permitgelde nie betaal is nie of die operateur die voorwaardes wat op die permit van toepassing is, nie nakom nie;
 - die operateur versuim om goedkeuring van die munisipaliteit te kry vir die oordra van permit na ander party soos vereis ingevolge artikel 13 van hierdie verordening; of
 - voortgesette okkupasie van die eiendom deur derde partye nie meer lewensvatbaar is nie weens veranderinge in omstandighede met betrekking tot die fisiese aard van die munisipaliteit se eiendom;
- (2) In die geval van veranderinge soos beoog in subartikel (1)(c) kan die munisipaliteit vir die operateur alternatief aanbied om infrastruktuur te verskuif, waar moontlik, en alle kostes met betrekking tot die gevolglike verskuiwing van die fasiliteite sal kostes vir die operateur wees.
- (3) Indien permit ingetrek word—
- sal enige uitstaande jaarlikse permitgelde verskuldig bly *pro rata* tot die tyd van intrekking;
 - sal die jaarlikse permitgelde wat reeds betaal is vir die gedeelte van die twaalfmaandtydperk na intrekking nie terugbetaal word nie;
 - sal daar van die operateur vereis word om die elektroniese kommunikasiefasiliteite, waar moontlik, binne 30 dae van die munisipaliteit se eiendom te verwyder, tensy die munisipaliteit andersins opdrag gee, en om die toestand van die munisipaliteit se eiendom tot die oorspronklike toestand te herstel;
- (4) Fasiliteite wat nie binne die gespesifiseerde tyd verwyder is nie, sal die eiendom van die munisipaliteit word, en enige latere verwydering of rehabilitasie wat nodig is, sal vir die koste van die operateur wees, en die munisipaliteit sal nie aanspreeklik wees vir enige skade wat as gevolg van sodanige verwydering veroorsaak mag word nie.

15. Verstryking van permit

- (1) Die permit sal verstryk indien—
- die lisensie van die elektroniese kommunikasie-operateur verstryk, teruggetrek word of oorgedra word sonder dat die munisipaliteit ingelig word;
 - indien die operateur versuim om goedkeuring van die munisipaliteit te kry om die permit oor te dra soos vereis word ingevolge artikel 13 van hierdie verordening;
 - die operateur gelikwedeer word of andersins ontbind word.
- (2) Na verstryking van permit mag daar van die operateur of die likwidateur vereis word om die elektroniese kommunikasiefasiliteite, waar moontlik, binne 30 dae van die munisipaliteit se eiendom te verwyder, tensy die munisipaliteit andersins opdrag gee.
- (3) Daar sal ook van die operateur of likwidateur vereis word om die eiendom tot die oorspronklike toestand te herstel, tensy die likwidateur by die munisipaliteit aansoek doen om die permit oor te dra.
- (4) Fasiliteite wat nie binne die gespesifiseerde tydperk verwyder word nie, sal die eiendom van die munisipaliteit word en enige later verwydering of rehabilitasie wat nodig mag wees sal vir die koste van die operateur wees en die munisipaliteit sal nie aanspreeklik wees vir enige skade wat weens sodanige verwydering veroorsaak mag word nie.

CHAPTER 4: COMPLIANCE AND ENFORCEMENT**16. Compliance with legislation**

A permit granted in terms of this by-law does not exempt the operator from complying with any other law, or by-law or zoning provisions of the municipality.

17. Right of access and inspection

An authorised official of the municipality shall have unlimited access to the work undertaken by the operator to inspect such work for compliance with the provisions of this by-law.

18. Supervision, inspection and testing

- (1) The relevant user department of the municipality shall determine the level of supervision and supervise the work undertaken by the operator at a fee determined by the municipality, which fee shall be payable by the operator monthly in advance.
- (2) The supervision of works referred to in subsection (1) shall include inspection of the work and testing of samples where necessary.
- (3) The municipality may, where necessary, appoint an independent competent person at the cost of the operator, to do quality assurance on work undertaken by the operator to ensure compliance with the standards set out in the permit.

19. Notice of compliance

- (1) Where an authorised official has reasonable grounds to believe that the operator failed to comply with any provision of this by-law, or is in breach of any of the conditions of the permit, he or she may serve a written notice of compliance on the operator, which notice must state—
 - (a) the provision of the by-law or permit which is not complied with;
 - (b) the steps or measures to be taken by the operator to comply with the notice;
 - (c) the time frame within which the operator must comply with the notice;
 - (d) that the operator may submit representations to the municipal manager within the time specified in the notice, provided that the right to submit representations may be waived in case of an emergency.
- (2) The authorised official, when considering any measure or period envisaged in subsection (1) must have regard to the objectives of this by-law, the nature of the non-compliance, and other relevant factors.
- (3) Where the operator fails to comply with the notice within the stipulated time frame, the municipality may—
 - (a) deny the operator physical access to the permitted electronic communications facilities;
 - (b) upon prior written notice revoke the permit; or
 - (c) where necessary, approach a competent court for an order to stop the work undertaken by the operator or any other form of relief.

CHAPTER 5: GENERAL PROVISIONS**20. Fees and tariffs**

- (1) The municipality shall determine fees or deposits necessary to recover costs, including but not limited to—
 - (a) administration fees;
 - (b) fees for supervision, inspection and testing; or
 - (c) any other fees as contemplated in section 75A of the Municipal Systems Act, 2000 (Act 32 of 2000).

HOOFSTUK 4: NAKOMING EN AFDWINGING**16. Nakoming van wetgewing**

Permit wat ingevolge hierdie verordening toegestaan is, stel die operateur nie vry van die nakoming van enige ander wet, verordening of soneringsbepalings van die munisipaliteit nie.

17. Reg van toegang en inspeksie

Gemagtigde amptenaar van die munisipaliteit sal onbeperkte toegang hê tot die werk wat deur operateur gedoen word om sodanige werk te inspekteer vir die nakoming van die bepalings van hierdie verordening.

18. Toesig, inspeksie en toetsing

- (1) Die betrokke gebruikersdepartement van die munisipaliteit sal die vlak van toesig bepaal en teen fooi wat deur die munisipaliteit bepaal sal word toesig hou oor die werk wat deur die operateur onderneem word, welke fooi maandeliks vooruit deur die operateur betaalbaar sal wees.
- (2) Die toesig oor werk waarna in subartikel (1) verwys word, sal inspeksie van die werk en toetsing van monsters, waar nodig, insluit.
- (3) Die munisipaliteit mag, waar nodig, onafhanklike bevoegde persoon op die operateur se koste aanstel om gehalteversekering te doen met betrekking tot die werk wat deur die operateur onderneem word om te verseker dat die standaard wat in die permit uiteengesit word, nagekom word.

19. Kennisgewing van nakoming

- (1) Waar gemagtigde amptenaar redelike gronde het om te glo dat die operateur versuim het om enige bepaling van hierdie verordening na te kom, of enige van die voorwaardes van die permit oortree het, mag hy of sy skriftelike kennisgewing van nakoming aan die operateur bedien, welke kennisgewing die volgende moet uiteensit—
 - (a) die bepaling van die verordening of permit wat nie nagekom is nie;
 - (b) die stappe wat die operateur moet neem of die maatreëls wat die operateur moet instel om die kennisgewing na te kom;
 - (c) die tydsraamwerk waarbinne die operateur die kennisgewing moet nakom;
 - (d) dat die operateur versoë mag rig tot die munisipale bestuurder binne die tydperk in die kennisgewing gespesifiseer, op voorwaarde dat daar in noodsituasie afstand gedoen sal word van die reg om versoë te rig.
- (2) Wanneer enige maatreël of tydperk beoog in subartikel (1) oorweeg word, moet die gemagtigde beampte die doelwitte van hierdie verordening, die aard van die nie-nakoming en ander toepaslike faktore in ag neem.
- (3) Indien die operateur versuim om binne die gestipuleerde tydsraamwerk aan die kennisgewing gehoor te gee, kan die munisipaliteit—
 - (a) die operateur fisiese toegang weier tot die elektroniese kommunikasiefasiliteite waarvoor die permit uitgereik is;
 - (b) na vooraf skriftelike kennisgewing die permit intrek; of
 - (c) waar nodig, bevoegde hof nader vir bevel om die werk wat deur die operateur onderneem word te staak of vir enige ander vorm van regshulp.

HOOFSTUK 5: ALGEMENE BEPALINGS**20. Gelde en tariewe**

- (1) Die munisipaliteit sal gelde of depositos bepaal wat nodig is om kostes te verhaal, insluitend maar nie beperk nie tot—
 - (a) administrasiegelde;
 - (b) gelde vir toesig, inspeksie en toetsing; of
 - (c) enige ander gelde soos beoog in artikel 75A van die Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000).

- (2) Prior to the commencement of work, the operator shall pay the deposits or fees as determined by the municipality which shall be reflected in the permit issued to the operator.

21. Indemnity

The operator shall indemnify the municipality against claims in respect of—

- (a) damages caused to the work and or disruption of services by the municipality or any other third party or cost incurred by the operator to relocate, remove or protect the facilities; or
- (b) damages or injury caused to a third party by the operator during the installation of electronic communications facilities.

22. Offences and penalties

- (1) A person who—

- (a) contravenes or fails to comply with the provisions of this by-law;
- (b) refuses to give effect to a lawful directive by an authorised official or obstructs such official in the execution of his or her duties; or
- (c) fails to comply with any notice issued in terms of this by-law,

is guilty of an offence and liable on conviction to a fine or imprisonment, and in the case of a continuing offence, to an additional fine for each day on which such offence is continued.

- (2) Failing to comply with a notice issued in terms of section 19 shall constitute a continuing offence.
- (3) In addition to the penalties in subparagraph (c), a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

23. Appeal

An operator who feels aggrieved by a delegated decision of the municipality may appeal against such decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Municipal Systems Act, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

24. Short title and commencement

This by-law shall be known as the Swartland Municipality: By-law Relating to the Installation of Telecommunications Infrastructure and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

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- (2) Voor die aanvang van die werk sal die operateur die depositos of gelde betaal, soos bepaal deur die munisipaliteit, wat in die permit wat aan die operateur uitgereik word, weerspieël sal word.

21. Vrywaring

Die operateur sal die munisipaliteit vrywaar van eise ten opsigte van—

- (a) skade veroorsaak aan die werk of ontwrigting van dienste deur die munisipaliteit of enige ander derde party of kostes aangegaan deur die operateur om die fasiliteite te verskuif, te verwyder of te beskerm; of
- (b) skade of beserings veroorsaak aan derde party deur die operateur tydens die installasie van elektroniese kommunikasiefasiliteite.

22. Misdrywe en straf

- (1) Persoon wat—

- (a) die bepalinge van hierdie verordening oortree of versuim om daaraan te voldoen;
- (b) weier om uitvoering te gee aan wettige opdrag deur gemagtigde beampte of sodanige beampte dwarsboom in die uitvoering van sy of haar pligte, of
- (c) versuim om te voldoen aan enige kennisgewing uitgereik ingevolge hierdie verordening,

is skuldig aan oortreding en is by skuldigbevinding strafbaar met boete of gevangenisstraf, en in die geval van voortdurende misdryf, met addisionele boete vir elke dag wat sodanige misdryf voortduur.

- (2) Indien persoon versuim om te voldoen aan kennisgewing uitgereik ingevolge artikel 19, sal dit neerkom op voortdurende misdryf.
- (3) Benewens die straf in subartikel (1)(c), verdere bedrag gelyk aan enige koste en uitgawes wat na bevinding van die hof deur die munisipaliteit aangegaan is as gevolg van sodanige oortreding of versuim.

23. Appèl

Operateur wat ontevrede is oor gedelegeerde besluit van die munisipaliteit mag appèl aanteken teen sodanige besluit deur binne 21 dae van die datum van kennisgewing van die besluit aan die munisipale bestuurder skriftelik kennis te gee van die appèl en die redes daarvoor ingevolge artikel 62 van die Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000).

24. Kort titel en inwerkingtrede

Hierdie verordening heet die Swartland Munisipaliteit: Verordening insake die Installasie van Telekomunikasië-infrastruktuur, en sal in werking tree op die datum van publikasie daarvan in die *Provinsiale Koerant*.

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