

BY-LAWS ON STREET TREES MANAGEMENT

RUSTENBURG LOCAL MUNICIPALITY

(NEW BY-LAW)



The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the Street Trees Management By-Laws which by-laws shall come into operation on the date of publication thereof.

The purpose of these by-laws is to promote the achievement of a safe and peaceful environment and to provide for procedures, methods and practices to regulate the removal of street trees within the municipal jurisdiction

[1] Definitions

In these By-laws, unless the context otherwise indicates –

"authorized official" means an official of the Council to whom powers and/or functions to administer and implement these by-laws have been lawfully delegated or assigned;

"compliance notice" means a notice issued in terms of section 5 to comply with these by-laws.

"council" means the Council of the Local Municipality of Rustenburg or its successor in title, and any committee or person to which or whom an instruction has been given or any power 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] as amended.

"conservation of public open space" means public open space that is managed by or on behalf of the Council for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value

"designated area" means an area designated by the Council as an area in which an active game or any other activity, which would otherwise be prohibited under Chapter III of these by-laws, may be undertaken;

“enforcement officer” means any peace officer, as defined in the Criminal Procedure Act, 1977 [Act No. 51 of 1977], who is duly appointed by the Council to enforce any provision of these by-laws;

“environment” means the surroundings within which humans exist and that are made up of –

- [a]** the land, water and atmosphere of the earth;
- [b]** micro-organisms, plant and animal life;
- [c]** any part or combination of [a] and [b] and the interrelationships among and between them; and
- [d]** the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“environmentally sustainable” means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –

- [a]** the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- [b]** the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and
- [c]** legislation intended to protect the environment and human health and safety is complied with;

“municipal area” means the proclaimed area of jurisdiction of the Council as envisaged in Section 2 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended.

“municipal manager” means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person -

- [a]** acting in such position; and
- [b]** to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

“municipal property” means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes buildings, lapa’s, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

“occupier”, in relation to any premises, means any person –

- [a]** occupying the premises;
- [b]** leasing the premises;
- [c]** who is not occupying the premises but is entitled to do so; or
- [d]** who manages the premises or a business on the premises on behalf of a person referred to in [a], [b] or [c];

“owner” in relation to any premises, means -

- [a]** the person in whose name the title to the premises is registered, and includes the holder of a stand licence; or
- [b]** if the person referred to in [a] is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person’s estate;

“person” means a natural or a juristic person.,

"premises" means -

- [a]** any land without any buildings or other structures on it;
- [b]** any building or other structure and the land on which it is situated; or
- [c]** any land that adjoins land referred to in [a] or [b] and any building or other structure on that land, if the land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in [a] or [b];

“prohibition notice” means a notice issued in terms of section 6;

“public health hazard” means any actual threat to public health, and without limitation, includes –

- [a]** the circumstances referred to in section 3[3];
- [b]** unsanitary conditions;
- [c]** circumstances that make it easier for a communicable disease to spread;

[d] circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and

[e] circumstances that allow pests to infest any place where they may affect public health;

“public health nuisance” means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant,

“removal of street trees” means removal of the above ground level portion of a tree including the grinding away of the roots up to 30cm below ground level. The complete root system will not be removed but may be poisoned if necessary to prevent further re-growth of the tree

“street trees” means any tree or shrub, which has been planted on property, which is the property of the Rustenburg Local Municipality.

"tariff" means the charges as determined by the Council of the municipality from time to time in terms of these by-laws;

2. INTRODUCTION

The purpose of these By-laws is to

2.1 Regulate the removal of street trees and long-term management of trees in the Rustenburg Local Municipality jurisdiction

2.2 Encourage the proper protection and maintenance of all existing trees.

3. REMOVAL OF TREES

[3.1] Trees will be removed on the municipality’s property by the Parks Division of the Department of Community Development at no charge in respect of the following:

3.1.1 Dead or diseased beyond recovery;

3.1.2 Causes a traffic hazard, where pruning will not alleviate the problem;

3.1.3 Obstructs the view of Traffic Signs and Signals, where pruning will not alleviate the problem

3.1.4 To accommodate road widening;

- 3.1.5 Causes an electrical problem, where pruning will not alleviate the problem;
- 3.1.6 Tree roots interfere with underground infrastructure and services, where pruning will not alleviate the problem;
- 3.1.7 Is damaging private or Council property eg. walls, paving, where another horticultural solution will not solve the problem;
- 3.1.8 Has been proclaimed a noxious weed or invasive plant in terms of Regulation 15 of the Conservation of Agriculture Resources Act of 1983;
- 3.1.9 Is considered to be dangerous and where pruning will not alleviate the problem

[3.2] Removal of the street trees in the Rustenburg Local Municipality:

- 3.2.1 The fee for removing a street tree for an additional driveway will be determined by the size of the tree i.e. the diameter of the trunk one meter above ground level as follows:

Stem diameter of tree at 1m above ground level	Tariff (including VAT)
0 – 150mm	Market purchase value in 150lt bag
150 – 300mm	Market purchase value in 150lt bag
300 – 600mm	Market purchase value in 150lt bag
≥600mm	Market purchase value in 150lt bag

- 3.3] The removal of trees for a driveway using the services of a private service provider shall be done on the recommendation of the Technical Services Department in consultation with the Department of Community Development. This is to ensure minimal damage to municipal equipment buried underneath.

- 3.3.2 The application for the removal of the trees has to be motivated in writing to the Director Community Development for approval
- 3.3.3 The application for the removal of a tree for a driveway has to be accompanied by a site plan approved by Town Planning Division and DITS
- 3.3.4 No tree on Council property may be removed except by the Parks Division or a contractor approved by the Parks Division
- 3.3.5 The removal of a tree according to standards require that portion of the tree above ground level including the roots up 30cm below ground level be left

- 3.3.6** The Parks Division of the Directorate Community Development will not operate on Private property or remove trees growing on private property
- 3.3.7** Ward Councillors will be informed when in the opinion of the Director Community Development it becomes necessary to remove any trees at single locality within the Councillor's ward
- 3.3.8** The Director Community Development in consultation with the Municipal Manager are authorized to consider and finalize application for the exemption from the tariffs from registered indigents or other applicants in dire need.

4. PRUNNING OF TREES

- **Role of municipality**
It is the responsibility of the municipality to prune all street trees.
- **Role of community**
Community has to serve as watch dogs for those vandalising street trees and report to relevant Directorates.
- **Which trees**
Only law lying and obstructing / obscuring trees will be pruned.

4. HOW OFTEN

- Trees are pruned at least once a year but as and when required for certain types of trees. This can be done more often.
- Removal of dead trees will be done as and when required or depending on the request submitted.
- Reeds in ravines are removed by specialists that the municipality partnered with on an as when basis. The municipality applies to relevant authorities for this removal of reeds and budget allowing, the municipality is allocated people. This project will be done on an annual basis to selected river beds.

5. PLANTING OF TREES

- Street trees must be planted by the municipality. Communities or private sectors must consult with the municipality in case they want to plant on the pavement or road reserve. Correct and approved trees to be planted. This is to ensure that the municipal infrastructure is not damaged by community members or the private sector during planting.
- Should trees be planted without the municipality approval, the municipality has the right to remove those trees and institute a fine against the people that planted them.

6. ROLE OF MUNICIPALITY

The role of the municipality is to plant street trees as per municipal capacity for the financial year.

7. ARBOR DAY/WEEK/ MONTH

It is a day / week /month in which individuals and groups are encouraged to plant trees. It is usually observed in September each year. Municipality give out trees to schools, churches and individuals to promote greening of the environment. Tree planting sessions and awareness are also held with different institutions.

8. PERMITTED TREES TO BE PLANTED WITHIN RUSTENBURG LOCAL MUNICIPALITY'S JURISDICTION

The municipality encourages the planting of indigenous trees and other drought resistant plants.

9. DEBUSHING

- Debushing in the RLM will be undertaken within the limitations of the Rustenburg Open Spaces and Heritage Management Plan (ROSHMAP)
- The municipality will debush municipal owned stands on a two-year basis
- No debushing will be undertaken in protected Areas eg The Greenbelt

10. PRUNING, GRASS CUTTING AND DEBUSHING OF PRIVATE PROPERTIES

- The municipality will not undertake any work in private properties
- Should a private property owner not maintain their property resulting in the municipality having to intervene, the property owner will be charged at private sector rates plus a fine by the municipality.

