

2 December 2005

## MOGALE CITY LOCAL MUNICIPALITY BY-LAW RELATING TO URBAN GREENING AND BIO-DIVERSITY PRESERVATION

The Municipal Council hereby, in terms of Section 13 of the Local Government: Municipal Systems Act 32 of 2000 and Section 84(1)(p) of Local Government : Municipal Structures Act, 117 of 1998 publishes the By-Laws set forth hereinafter, which have been approved by the Council in terms of Sections 11 and 12 of the said Act.

### 1. INTERPRETATION AND FUNDAMENTAL PRINCIPLES

#### 1.1 Terms and abbreviations:

In these By-Laws, unless the context otherwise indicates, the terms and abbreviations used will be interpreted as follows:

**Bio-Diversity-** Refers the optimum level of species diversity that will naturally occur in any habitat for the sustainability of natural ecosystems. The effective management of Bio-Diversity ensures that not a single species or natural feature's future existence in any habitat is compromised through human interference.

**Bio-Diversity Reserve-** Refers to any portion of land that has been set aside by legal process for the management and protection of its Bio-Diversity.

**Directorate Integrated Environmental Management-** The relevant department within the Mogale City Local Municipality that is responsible for managing all environmentally related functions in conjunction with relevant Directorates including Urban Greening.

**Directorate Local Economic Development-** The relevant department within the Mogale City Local Municipality that is responsible for managing all town planning, building control and economic development functions in conjunction with other departments.

**EATT-** Refers to the Environmental Advisory Task Team operating as an advisory committee to the Director of Integrated Environmental Management concerning environmental considerations for all property developments. The EATT is chaired by the Deputy Director of Environmental Management or her duly authorized representative.

**Environmental Management Framework-** Refers to a set of Geographic Information System based data sets that informs decision making about the environmental status and sensitivity of an area with reference to geology, Veld types, ridges, hydrology, bio-diversity etc.

**Fee-** will mean a fee determined by the Municipality in terms of its Tariff By-Law in respect of any matter dealt with in this By-Law;

**Garden/Landscape-** In this context will refer to a designated area for the cultivation of lawns, trees, shrubs, perennials and annuals in an organized, functional and aesthetic manner. A garden/landscape may include hard structures and surfaces such as footpaths that are purposefully designed to allow water to penetrate the area in which it is placed and will not sterilize the soils on which it is placed.

**GDACE-** Gauteng Department of Agriculture, Conservation and Environment that is the relevant authority in terms or Environmental Legislation.

**(ISC) Impermeable Surface Coverage-** Refers to the total surface area in a development which is covered by material impervious to water, which largely contributes to surface water runoff and storm water generation. This will include but not be limited to roof tiles, corrugated metal sheets, fibreglass sheets, polycarbonate sheets, glass, paving, concrete and tarmac. ISC can also be referred to as the footprint of such development, which for the purposes of this By-Law excludes gardens.

**Landscape Architect-** Refers to a professional practising in the sciences for the built environment and registered with the South African Council for Landscape Architects (SACLAP)

**Landscape Development Plan-** Refers to a two and three-dimensional plans illustrating the proposed layout of the natural landscape through soft and hard elements, which includes site or base plans, perspective drawings and Master plans.

**Municipal Open Space System-** Refers to the network of public and private open spaces within the Municipal area captured as a data set in the Municipality's Geographic Information System. Also abbreviated as MOSS.

**Municipality-** Refers to Mogale City Local Municipality or abbreviated as MCLM.

**Natural open space-** The remaining undisturbed natural and undeveloped areas within the urban edge. They are the areas that contain the core terrestrial, freshwater, estuarine and marine ecosystems. These ecosystems include land cover types such as grasslands, forests, beaches, estuaries, rivers, wetlands, etc.

**Private Open Space-** Refers to open space on private land, which is set aside for greening and or conservation and or recreation purposes and is specifically zoned as private open space. Private open space is not generally accessible to the public.

**Public Open Space-** Refers to erven that functions as open spaces and is specifically zoned as Park, Public Open Space, Agriculture or Undetermined to which the general public have access without restriction. This may include various park system classifications.

**Sub-Directorate of Parks Management-** The municipal unit responsible for parks management and urban greening as described in the context of this By-Law.

**Sustainability-** A desirable level of balance between the environment and human needs where consumption or use is equal or less than replenishment and does not compromise the ability of future generations to meet their own needs.

**Tree Ring-** Refers to a concrete ring that serves as kerbing around the base of a tree which defines a small root zone space for the tree where water can penetrate and soil gasses can exchange freely.

**Urban Greening-** Refers to a wide range of urban development actions that aim to facilitate a sustainable relationship between urban dwellers and their environment.

**Urban Greening Strategy-** Refers to a strategy document developed for Mogale City Local Municipality in which an action plan for the facilitation of urban greening in the city is presented. The Mayoral Committee approved this strategy document on 24 February 2005.

**Urban Open Space-** Any human made or legally designated places and areas within the Urban Edge that are developed for community use. They include parks, sports fields, agricultural fields, streets, town squares, road reserves, servitudes for services such as electricity transmission lines, dams, private gardens, etc.”

**Visual Impact-** Refers to the visible impact a development has on the aesthetics of the environment.

**Visual Impact Assessment-** Refers to the study of the visual impact a development has on the environment and makes recommendations to mitigate such impacts.

**Visual Pollution**-Refers to developments or components of developments and/or the urban environment that forms clutter and/or visual confusion and/or detracts from the predominant sense of place of the existing environment and/or detracts from the natural beauty of the environment and/or defaces natural features in the environment.

These By-Laws emanate from the Urban Greening Strategy and should therefore be read and interpreted with this strategy document as reference.

## 1.2 Application of By-Laws

1.2.1 These By-laws apply to every private individual, organization, company or any other legal entity.

1.2.2 These By-laws are binding on the State.

## 1.3 Purpose of By-laws

The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework-

- (a) to ensure that the way in which the Municipality controls, manages and develops its municipal region is done in an environmentally sustainable way, and is in the long-term upholding the interests of the whole community of Mogale City, including future generations; and
- (b) to give guidance to all stakeholders involved in the planning, development and management of park, open spaces and other green infrastructure; and
- (c) which clearly defines the rights and obligations of the public in relation to urban greening and sustainable development.

## 2. SUBMISSION OF LANDSCAPE DEVELOPMENT PLANS

### 2.1 Targeted property developments

2.1.1 The submission of Landscape Development Plans to the Directorate Integrated Environmental Management will be compulsory for any residential and business development whether developed as a single unit or sub-divided portions, except for individual residential 1 erven smaller than 2000m<sup>2</sup> in extent.

2.1.2 The Environmental Advisory Task Team (EATT) of the Directorate Integrated Environmental Management may exempt an applicant from submission of a Landscape Development Plan if it is in the opinion of the EATT not feasible, or if a written motivation for exemption is submitted. The decision of the EATT will be final in this regard.

2.1.3 A fee will be payable by the applicant for the submission and consideration of Landscape Development Plans, as determined in the Municipality's Tariff By-Law.

### 2.2 Scope of Landscape Development Plans

The Landscape Development Plans will reflect the following information:

**Basic Information:**

- 2.2.1 Scale (1:100, 1:200, 1:250; 1:500 as norms)
- 2.2.2 North point indicated.
- 2.2.3 Erf Number of site, suburb and street names clearly indicated.
- 2.2.4 Project Name
- 2.2.5 Site Boundaries and their dimensions
- 2.2.6 The name of the Architect, Engineer, Surveyor or company where plan/base was obtained.
- 2.2.7 Entrance and windows of the ground floor of the development.
- 2.2.8 Contours at 1-meter intervals for plans less than 1:250 scale and 5 meter intervals for plans larger than 1:250 scale.
- 2.2.9 The 1:50 and 1:100 year flood lines where identified by an engineer.

**Hard Structures and Infrastructure Information:**

- 2.2.10 Boundary treatment indicating material, finish, height, and elevation.
- 2.2.11 Building lines
- 2.2.12 Servitudes including road reserves.
- 2.2.13 Existing buildings and other structures that are being conserved if applicable
- 2.2.14 Show phasing and proposed subdivision if applicable.
- 2.2.15 Hard Structures and surfaces area coverage, properties and layout.
- 2.2.16 Vehicular and pedestrian access to the site.
- 2.2.17 Provision of electricity HT/LT chamber, water connection, storm water pipes, and sewer lines.
- 2.2.18 Refuse area indicating whether it is covered or not and measures preventing spillage and drainage from the refuse area.
- 2.2.19 Surface water runoff direction, channelling, calming, discharging and seepage /retention areas and infrastructure.
- 2.2.20 Type of developments on surrounding areas indicated (Indicated as either open space, business, residential)
- 2.2.21 Details of retaining walls locality, elevation and finish.
- 2.2.22 Elevations including vegetation and boundary treatment

**Landscaping Information:**

- 2.2.23 Location of existing trees and large shrubs, presented in a site plan, indicating whether they will be retained or removed.
- 2.2.24 Location and size of natural rock outcrops, ridges and any other geological feature.
- 2.2.25 Location and size of any natural or manmade water body which will include but not be limited to wetlands, rivers dams, ponds or pools whether permanent seasonal or temporary
- 2.2.26 Plant selection indicating species, quantities and sizes in the planting plan. This will constitute a planting plan, which will be provided as an addendum to the landscape development plan.
- 2.2.27 Planting method and soil preparation as technical specification.
- 2.2.28 Irrigation system design, water source and volume distribution, if applicable and measures to reduce water consumption.

### 2.3 Reviewing of Landscape Development Plans:

The Sub-Directorate of Parks Management will review submitted Landscape Development Plans based on the following criteria:

- 2.3.1 Plant species selection with reference to Conservation of Agricultural Resources Act, Act 43 of 1983, bio-diversity preservation (National Bio-Diversity Act, Act 10 of 2004) and suitability of location.
- 2.3.2 Effective use of plant material for optimum impact and functionality.
- 2.3.3 Soil retaining and preservation measures to prevent erosion.
- 2.3.4 Surface water runoff management to reduce impact on engineering infrastructure, and river systems in consultation with the Sub-Directorate of Roads and Storm Water.
- 2.3.5 Irrigation water requirements of design.
- 2.3.6 Compliance of landscape development plans to the requirements of the Record of Decision of GDACE and Environmental Management Plans for the development in question.
- 2.3.7 Extent to which the landscape development addresses visual pollution and visual impacts the property development has. The Municipality may request a specific Visual Impact Assessment as addendum to the Landscape Development Plans if it is of the opinion that the landscape development plan does not optimally address the areas of visual pollution or if the nature of such property development has significant visual impacts on the surrounding areas and does not adhere to the general sense of place of the environment.

The Directorate of Local Economic Development will review submitted Landscape Development Plans based on the following criteria:

- 2.3.8 Compliance to National Building Regulations.

The Directorate of Infrastructure Management will review submitted Landscape Development Plans based on the following criteria:

- 2.3.9 Compliance to Engineering Standards and conditions set by the Municipality for on-site storm water infrastructure and surface water runoff management.

### 2.4 Additional Requirements

- i) Plans will only be drafted and signed off by Professional Landscape Architects registered with the South African Council for Landscape Architectural Professions (SACLAP) in terms of the South African Council of Landscape Architect Professions Act (Act 45 of 2000)
- ii) The Landscape Architect will provide his registration details on submission of the plans.
- iii) The Landscape Architect will provide a summary document of his brief, which will include the design concept, outlining technical specifications, construction work and materials, and design criteria.
- iv) The plans will be submitted in duplicate and folded to A4 size, comprising one colour and one monochrome of the landscape development plan, planting plan and other relevant supporting documentation.

- v) Specialized engineering infrastructure must be designed in consultation with a registered Civil Engineer.
- vi) Approval of the landscape development plan does not constitute final approval of the services infrastructure, and a final approval is still required from the Municipality's Directorate of Infrastructure.

## 2.5 Systems & Procedures

- 2.5.1 The Directorate Integrated Environmental Management will determine whether an applicant needs to submit a Landscape Development Plan during review of any consent use application and or rezoning and or sub-division and or township establishment and or removal of restrictive conditions application/s. The Landscape Development Plans are due with the submission of the site development plans.
- 2.5.2 The Directorate of Local Economic Development will inform any property developer where consent use application and or rezoning and or sub-division and or township establishment and or removal of restrictive conditions has already been approved but no building plans or site development plans has been submitted yet, of the Municipality's requirement for the submission of Landscape Development Plans in terms of section 1.1. The Landscape Development Plans are due with the submission of the site development plans.
- 2.5.3 A letter will be issued to the applicant stating the Municipality's requirements for Landscape Development Plans in terms of this By-Law.
- 2.5.4 The Landscape Development Plans, folded to A4 size, will be submitted with the building plans and/or site development plans to the Directorate of Local Economic Development.
- 2.5.5 The Directorate of Local Economic Development will, once it has determined that the hard infrastructure complies with National Building Regulations, forward the Landscape Development Plans to the Directorate of Integrated Environmental Management within twenty working days of receipt thereof. The Director's office will then forward such landscape development plans to the Sub-Directorate of Parks Management.
- 2.5.6 The Sub-Directorate of Parks Management will review the Landscape Development Plans within 30 working days and inform the landscape architect of any amendments required. The landscape architect will in turn inform his client of the required changes. The Sub-Directorate of Parks Management will in the 30-day review period consult with the Sub-Directorate of Roads & Storm Water with regard to the compliance of the design to engineering standards and conditions with specific reference to storm water infrastructure and surface water management.
- 2.5.7 The Landscape Development Plans will be approved once the necessary amendments have been made and the Sub-Directorate of Parks Management is satisfied that all the requirements of the Directorate Integrated Environmental Management, Directorate Local Economic Development, Directorate Infrastructure Management and of the By-Law are met.
- 2.5.8 The approved plans will be forwarded back to the Directorate of Local Economic Development that will in turn inform the applicant.
- 2.5.9 The Directorate of Local Economic development will withhold the approval of building plans and or site development plans if the applicant has failed to submit Landscape Development Plans in terms of section 1.1.

2.5.10 The Municipality will withhold the issuing of occupation certificates or the signing of a section 101 certificate; whichever is applicable, if the applicant has failed to adhere to the requirements of the Municipality in terms of this By-Law.

### **3. PROVISION & PRESERVATION OF TREES ON PRIVATE PROPERTY DEVELOPMENTS**

#### 3.1 Provision of trees on parking lots and pedestrian walkways

- i) Any property developer providing more than four parking bays per property, will plant trees at a density of one tree for every four parking bays.
- ii) Trees will be no smaller than 2 meters in height from at least a 50ℓ container.
- iii) Trees in lawn and paved areas will be provided with a concrete tree ring of no less than 1 meter in diameter and will be covered with a grid if such tree is closer than three meters from a pedestrian walkway.
- iv) The Municipality may specify the tree species if it is of the opinion that the property developer's selection is not suitable in terms of the provisions of the Conservation of Agricultural Resources Act, Act 43 of 1983 and the National Bio-Diversity Act, Act 10 of 2004.
- v) Property owners within private residential estates will only plant suitable indigenous tree species on their sidewalks, which will be determined by the Sub-Directorate of Parks Management. The estate manager will distribute a list of such suitable trees species to every new property owner within such residential estate. The estate manager will instruct property owners to remove tree species other than those specified on the prescribed list and upon failure to do so remove such trees at the cost of the property owner.

#### 3.2 Provision of trees on private roads

Trees will be planted at an interval of 15 meters on both sides of any private road longer than 30 meters of a property development, unless otherwise indicated by an approved Landscape Development Plan.

#### 3.3 Preservation of existing trees and other significant flora on properties prior to, during and after development:

3.3.1 Any applicant contemplated under section 1.1 will submit as an addendum to a Landscape Development Plan a site/base plan indicating:

- i) All existing trees and shrubs or groups of trees and shrubs.
- ii) Their location in relation to the proposed development.
- iii) If and how the trees and shrubs will be preserved.

- 3.3.2 The Sub-Directorate of Parks Management may enforce the preservation of certain trees on the site if it is of the opinion that such tree/s are unique and has become a distinct landmark. In such a case the onus will be on the developer to propose alternative site development plans to accommodate such trees.
- 3.3.3 The developer may lodge an objection to the Director of Integrated Environmental Management regarding the decision to protect certain trees on site if he can provide sufficient substantiation that it would not be feasible to preserve the tree/s. If no alternative to removal of the tree/s can be found a penalty fee payable to the Municipality will apply for each tree, (otherwise destined for preservation) which needs to be removed. Such charge is based on the standard tree valuation method used by the Municipality. A fine of up to R5000 per tree plus the valuation of the tree/s removed is payable by developers who remove trees without the due authorization of the Municipality.
- 3.3.4 The Sub-Directorate of Parks Management may, in consultation with the landscape architect, determine the most suitable methods for preservation of the trees and shrubs on site prior to, during and after construction, which must be adhered to by the developer.

#### **4. ALLOCATION OF PRIVATE OPEN SPACE**

- 4.1 All residential property developments or townships in excess of 1Ha in extent, will allocate a minimum of 15% of the property towards zoned private open space. Such zoned private open spaces will individually not be less than 1500m<sup>2</sup> in extent.
- 4.2 All business estates including office parks and industrial parks in excess of 1Ha in extent, will allocate a minimum of 10% of the property towards private open space. Such private open spaces will individually not be less than 1000m<sup>2</sup> in extent.
- 4.3 A minimum of 75% of the allocated private open spaces will be interconnected, forming a functional network of green spaces. Such open space connectivity may only be intersected by road infrastructure.
- 4.4 This private open space will exclusively be used for greening and/or conservation and recreation purposes, dependant on the provisions of the Record of Decision of the Gauteng Department of Agriculture, Conservation and Environment, the Environmental Management Plan and any other binding conditions of establishment laid down.
- 4.5 Private Open Spaces within any development will be registered as ecological servitudes as part of the conditions of establishment of the township and relevant title deeds to preserve such open spaces and natural areas from any future development. Any amendment to an ecological servitude will require authorization from the Provincial Department of Agriculture, Conservation and Environment.

#### **5. ALLOCATION OF PUBLIC OPEN SPACE**

- 5.1 The Municipality will ensure, through its Directorate of Local Economic Development and in consultation with the Directorate of Integrated Environmental



Management, that at least 20% of all new Municipal Townships is set aside for public open spaces.

- 5.2 The Directorate of Integrated Environmental Management will, in consultation with the Directorate of Local Economic Development, determine the location, layout and extent of such open space systems. The Municipality's Environmental Management Framework, MOSS, and any other relevant and applicable environmental policy and legislative framework will inform the identification of suitable open spaces areas.
- 5.3 The Directorate of Integrated Environmental Management will determine which open space erven will be reserved for developed parks and recreation facilities, natural open spaces and Bio-Diversity Reserve.
- 5.4 A minimum of 75% of the allocated public open spaces will be interconnected, forming a functional network of green spaces. Such open space connectivity may only be intersected by road infrastructure.
- 5.5 The Municipality will, as far as reasonably possible, ensure that additional land is purchased for public open space systems where such areas are predominantly privately owned, to ensure the ongoing preservation and provision of parks as a service to the broader community, and to ensure that the provisions of section 5.1 is met within all areas of the Municipality.
- 5.6 The Directorate of Local Economic Development will ensure that the allocation of public open spaces is captured in its Precinct Plans and any other relevant town planning processes, as directed by this By-Law.

## **6. GREENING WITHIN LOW COST HOUSING PROJECTS**

- 6.1 All contractors appointed for the development of low cost housing will plant one tree per house, which will be for the account of the contractor. This requirement will be a standard clause in tender specifications for low cost housing projects, whether the Municipality, the Provincial or National Department responsible for housing or its duly appointed representative administrates such tender process.
- 6.2 During the planning phase for low cost housing projects the following must be ensured:
  - i) The house should be placed in such a manner so as to ensure that sufficient outdoor space is available for gardening purposes, which may often include household food gardens
  - ii) Households should be able to access grey water effluent for gardening purposes.
  - iii) Sidewalks should be a minimum width of 3 meters to allow for the planting of street trees.
  - iv) Landscape development plans will be submitted for each low cost housing project and its implementation will form part of the total project cost for such project.

## **7. EROSION & FLOOD CONTROL**

- 7.1 In order to minimize the impact of storm water generated within urban areas on the environment, the Directorate of Integrated Environmental Management will

regulate, in consultation with the Directorate of Local Economic Development and Directorate of Infrastructure the following parameters:

- i) The density of residential developments measured and limited to the number of residential units per Ha.
- ii) The maximum percentage of the property to be covered by impermeable surfaces, otherwise referred to as the development footprint.
- iii) The surface water runoff channelling, retaining, dissipating, seepage and discharging measures to be implemented on the development, with reference to the landscape development plans for such developments.

7.2 The Directorate of Integrated Environmental Management will determine these parameters for each township using the following environmental variables:

- i) Presence of ridges and its protection status.
- ii) Status, capacity and location of rivers, wetlands, dams, open spaces and water catchments likely to be affected by surface water runoff from the property. This will be verified by specialist studies where required by the Municipality.
- iii) Gradient of property affecting surface water runoff velocity and volume.
- iv) Presence or absence of engineering infrastructure to receive and channel surface water runoff.
- v) Current developed state and density of the surrounding areas the proposed development is situated in and its current cumulative impact on the environment.
- vi) Geology and soil conditions of the area.
- vii) State and presence of ecological reserve for primary water catchment and riverine systems.

7.3 The Directorate of Integrated Environmental Management will annually submit these parameters to the Mayoral Committee for approval, which will serve as an addendum to the Environmental Management Framework of the Municipality.

7.4 These parameters will be binding on all residential, business and industrial property developments.

## **8. WETLANDS & BIO-DIVERSITY PRESERVATION**

### **8.1 Wetland preservation**

8.1.1 Infilling, excavation, drainage and hardened surfaces (including buildings and asphalt) will not be located in any of the wetland zones (i.e. permanent, seasonal or temporary).

- 8.1.2 Hardened surfaces will be located at least 50 m outside of the outer boundary of the seasonal/permanent wetland zone (Note: if the width of the outer temporary zone is greater than 50 m and section 8.1.1 above is met then this requirement would automatically be met).
- 8.1.3 Extension to the buffer in localized areas will also be included to minimize the impact of concentrated storm water run-off into the wetland. Storm water outflows will not enter directly into the wetland. A predominantly vegetated buffer area at least 20 m wide will be included between the storm water outflow and the outer boundary of the wetland, with mechanisms for dissipating water energy and spreading and slowing water flow and preventing erosion. This buffer is particularly important when the catchment feeding the storm water drain comprises predominantly hardened surfaces.
- 8.1.4 Where the wetland has a particularly high biodiversity value, further buffering and linkages to other natural areas will be required, the width of which will depend on the specific requirements of the biota. In such cases, an environmental specialist will be appointed to determine the appropriate buffer and linkages
- 8.1.5 Roads will not be allowed to traverse a wetland. Thus, an alternative route will be sought if a wetland falls within the planned path of a road. If no viable alternative route exists then it will be ensured that the road has minimal affect on the flow of water through the wetland (e.g. by using a bridge or box culverts rather than pipes). No excavation of the wetland or any stream passing through the wetland (i.e. lowering of the base level) will be permitted. The developer will ensure that an adequate buffer is present to deal with run-off from the road (see section 8.1.3 above). Disturbance of the wetland will be minimal at, and adjacent to, the road-crossing site (see section 8.1.8).
- 8.1.6 Where a road runs alongside a wetland and it intercepts natural hill slope runoff into the wetland, the road will be set back from the boundary of the wetland by at least 20 m and feed-off points will be included at frequent intervals along the road (at least every 100 m) and the outflows of these should conform to the requirements of the storm water outflows (given in section 8.1.2 above).
- 8.1.7 Where development (e.g. hardened surfaces, infilling and drainage) in a wetland is unavoidable then the resulting impacts must be mitigated. In many cases, off-site mitigation may be the only means of achieving satisfactory mitigation.
- 8.1.8 Stringent controls will be put in place to prevent any unnecessary disturbance or compaction of wetland soils. Where any disturbance of the soil takes place in a wetland, these areas must be stabilized and any alien plants which establishes itself should be cleared and follow up control undertaken for at least 3 years thereafter. Where compaction results, remedial measures must be taken (e.g. “ripping” the affected area).

- 8.1.9 Where the infiltration rate of a wetland's catchment is naturally high and the wetland is maintained predominantly by groundwater input, adequate surface for infiltration will be ensured. In such cases, specialist input will be obtained to determine this. Where the level of development is very high, reduced surface runoff will be enforced through mechanisms such as porous pavements (see section 6). (The inclusion of these mechanisms in areas dominated by hardened surfaces is generally sound catchment management practice, and will be encouraged widely as per section 7).
- 8.1.10 The Municipality will identify and delineate wetlands contained in its area of jurisdiction (according to the wetland inventory guidelines developed by National Department of Environmental Affairs and Tourism). Mapping will be undertaken at a minimum scale of 1: 50 000. All mapped wetlands will be protected and will be managed as per the provisions of this By-Law.
- 8.1.11 The developer will in addition to the provision of section 8.1.10, identify and delineate all wetlands in the project area at scale of 1:10 000 or smaller, depending on the proposed development. All wetlands in a development site must to be mapped as part of the Site Development Plan and Landscape Development Plan or Scoping Report and EIA procedures, and the impacts of a development on any wetlands present must be assessed.
- 8.1.12 Any development must comply with the requirements of the National Water Act. Through the concept of the "ecological reserve", this act makes provision for ensuring water of acceptable quantity and quality for maintaining the ecological functioning of wetlands and river systems.

## 8.2 Bio-Diversity Preservation

- 8.2.1 The Municipality may in consultation with the Gauteng Department of Agriculture, Conservation and Environment, National Department of Environmental Affairs and Tourism and relevant legislation, declare any portion of land as a Bio-Diversity Reserve, subject to section 8.2.2, if its unique natural status will contribute to bio-diversity preservation. Such declaration will be subject to the provisions of the National Bio-Diversity Act, Act 10 of 2004 and the National Forests Act, Act 84 of 1998.
- 8.2.2 The Municipality will announce its intention to declare such portion of land as a Bio-Diversity Reserve through an advertisement in any local newspaper. It will also place visible notice/s on the proposed site of the reserve for at least thirty days. The Municipality will allow a window period of sixty days from the date of placement of the notices for public comments and objections towards the establishment of the proposed reserve. The Gauteng Provincial Department of Agriculture, Conservation and Environment will hear any objections to the establishment of such reserve and make an appropriate ruling in this regard as per its own defined systems and procedures.

- 8.2.3 If no objections have been received and if all objections have been resolved according to section 8.2.2, the Municipality will, in addition to the regulations of relevant legislation, declare the portion of land as a Bio-Diversity Reserve through a Council Resolution and publish such notice in the Government Gazette.
- 8.2.4 The Municipality may fence such reserve off and restrict access to ensure the preservation of the reserve's bio-diversity. The reserve may be used for controlled recreation and leisure activities within the guidelines determined by the Directorate of Integrated Environmental Management.
- 8.2.5 Development of recreational facilities and infrastructure in a Bio-Diversity Reserve will be subject to approval from GDACE.
- 8.2.6 The Municipality may furthermore institute a buffer zone, which will be determined through a research and consultative process, around such reserve in which certain restrictions in terms of type and density of developments are established. Such restrictions will be published as addendum to the Council Resolution and Government Gazette Notice contemplated under section 8.2.3.
- 8.2.7 The Municipality may place such reserve under private management through a Public Private Partnership subject to the provisions of the Municipal Finance Management Act. Act 56 of 2003, in order to optimise its resources.

## **9. GARDEN/LANDSCAPE ADVERTISING**

- 9.1 The Municipality may offer its traffic islands and gardens for the placement of semi-permanent advertisements for the purposes of funding Urban Greening Initiatives and maintenance thereof.
- 9.2 These advertisements will:
  - i) Not obstruct traffic view
  - ii) Not obstruct movement of pedestrians
  - iii) Not cause visual pollution or appear to be unsightly
  - iv) Will be tastefully low key, as will be defined by the Municipality.
  - v) Will not unrightfully interfere with other existing advertising rights.
- 9.3 These advertisements will also conform to the Municipality's Outdoor Advertising Policy.
- 9.4 Advertising space will be allocated on a first come first serve basis at a tariff determined in the Municipality's Tariff By-Law.
- 9.5 Applicants will submit a graphic design of the proposed advertisement, which will be subject to the approval of the Directorate of Integrated Environmental Management, Directorate of Marketing, Directorate of Local Economic Development, and Directorate of Public Safety.

- 9.6 The applicant will erect his advertisement on the allocated position once the application has been approved.
- 9.7 The lease will be valid for a period of 12 months after which the applicant can request for renewal.
- 9.8 Should a leaseholder prefer not to renew his lease, the advertising location will become available to the next applicant.
- 9.9 A penalty, as determined in the Municipality's Tariff By-Law will be payable to any leaseholder who wishes to exit such lease prior to its expiry date.
- 9.10 No other advertisement may be placed on such traffic island or garden except for temporary lamp pole advertisements. Offenders may be liable to a fine.
- 9.11 The Municipality may waive the mentioned tariff partly or in full should the applicant upgrade and develop the area and maintains such garden/landscape at its own cost to the satisfaction of the Directorate of Integrated Environmental Management.

## **10. PENALTIES**

Any person who contravenes any of the provisions of these By-Laws will be guilty of an offence and on conviction liable to a fine not exceeding R 20 000.00 (TWENTY THOUSAND RAND) or in default of payment, to imprisonment for a period not exceeding 6 (six) months or to such other sentence as a Court may deem appropriate. This fine is not applicable to the fine contemplated under 3.3.3 of this By-Law.

**11. Recommended**

It is recommended to the Mayoral Committee:

- 1.1 That the By Law related to Urban Greening and Bio-Diversity Preservation be noted.
- 1.2 That the By-Law be referred for Council adoption.
- 1.3 That the Directorate of Corporate Services facilitates the publication of the By-Law in the Government Gazette by November 2005
- 1.4 That the Directorate of Public Safety legalise the fine determination for contraventions of the By Law through the local Magistrate by December 2005
- 1.5 That the Directorate of Integrated Environmental Management implement the By-Law from January 2006.

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**MUNICIPAL MANAGER**  
**MS. I. MOKATE**  
Recommended/ not recommended

.....  
**DATE**

.....  
**PORTFOLIO HEAD:**  
**INTEGRATED ENVIRONMENTAL MANAGEMENT**  
**CLLR: B. MANELI**

.....  
**DATE**

Recommendation approved/ not approved due to the following reasons:

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**THE EXECUTIVE MAYOR:**  
**ADV. L. MOKGATLE**  
**APPROVED/ NOT APPROVED**

.....  
**DATE**

## ANNEXURE A

### FEE STRUCTURE FOR THE URBAN GREENING BY-LAW

The following fees will be payable for the submission of Landscape Development Plans for approval:

<b>SIZE OF PROPERTY DEVELOPMENT</b>	<b>FEE PAYABLE ON SUBMISSION</b>
2000m <sup>2</sup> to 10,000m <sup>2</sup>	R500
10,001m <sup>2</sup> to 5Ha	R1000
50,001m <sup>2</sup> to 10Ha	R1500
Larger than 10Ha	R2000

The following fees are payable with respect to section 3.3.3 of the Urban Greening By-Laws:

- R18.00 per cm of wood up to a stem diameter of 20cm
- R40.00 per cm of wood up to a stem diameter of 21-30cm
- R90.00 per cm of wood up to a stem diameter of 31-50cm
- R200.00 per cm of wood above a stem diameter of 51cm

The following fees are payable for the lease of advertising space in public traffic islands and gardens:

<b>Number of advertising locations</b>	<b>Price per location</b>
One to five locations leased	R1500 per location per month
Five to fifteen locations leased	R1250 per location per month
More than fifteen locations leased	R1000 per location per month

A lease cancellation penalty of R100 per location per month prior to lease expiry date will be payable if an advertising location leaseholder wishes to exit this lease agreement with the Municipality.