

PROPOSED BY-LAW RELATING ON WAYLEAVES MANTSOPA MUNICIPALITY

The Municipal Council of Mantsopa Local Municipality in the Schedule hereto 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 By-law on Wayleaves.

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CHAPTER 1

PURPOSE, DEFINITIONS AND APPLICABILITY OF BY-LAW

1. Objectives

The objectives of this By-Law are to provide the mechanisms for the control of the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area,

2. Definitions

In this By-Law any word or expression to which a meaning has been assigned in the By-Law shall have the meaning so assigned to it and, unless the context otherwise indicates:

“compliance officer” means a person who is authorised to implement and enforce the provisions of this By-law by virtue of his or her –

(a) declaration as a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

(b) appointment as a police officer as contemplated in the South African Police Service Act, 1995 (Act 68 of 1995);

(c) a traffic officer appointed in terms of section 3 of the Road Traffic Act, No. 29 of 1989 or section 3A of the National Road Traffic Act No. 93 of 1996 as the case may be;

(d) appointment as a law enforcement officer or traffic officer by the Municipality and declaration as peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

(e) appointment by the Municipality as a compliance officer or an inspector; or

(f) an employee, agent, representative or service provider of the Municipality who are specifically authorised by the Municipality in this regard;

“backfilling” means the replacement of the structural layers in a trench or excavation and includes the base, subbase, selected subgrade, wearing course but excludes the surfacing;

“surfacing” means the replacement of the structural layer of a road/sidewalk that is the pavement and might include the Final Tar/Bitumen, pavement Bricks or gravel, etc. which is the Final layer of the road/sidewalk and should be as per the existing surrounding surface or as per pre-construction surface.

“fee” means any fee, charge or deposit determined for purposes of this By-law, by the Municipality in terms of the Mantsopa Municipality: Tariff By-law, ;

“footway” for the purpose of determining a lane rental for a footway, means that part of the verge that is normally used by pedestrians or the whole constructed width of a constructed footway and to the boundary of the Building or property;

“form” means a form approved by the Municipality for the purposes of this By-law;

“lane rental” means rental in respect of a demarcated traffic lane, area in a road reserve or a footway which is payable to the Municipality by a service agency whose work in the road reserve results in time delay costs being incurred by the users of the road reserve and includes any section within the road reserve or work which affects the footway;

“municipal area” means are of jurisdiction of the Municipality;

“municipal road” means a road for which the Municipality is responsible;

“Municipality” means the Mantsopa Municipality and includes the Council, any executive councillor, or committee established by the Municipality, or any employee thereof, or duly authorised agent thereof acting in connection with this By-Law by virtue of a power vested in the Municipality and delegated to such employee or agent;

“protected road” means a road which has been classified by the Municipality as such and across which no digging of trenches is permitted;

“public road” means a square, road, sidewalk, island in a road, subway, avenue, bridge, public passageway and any thoroughfare shown on the general plan of a township or in respect of which the public has acquired a prescriptive or other right of way and which is vested in the Municipality and for the purpose of this By-law includes the road reserve;

“reinstatement” means replacing the bituminous surfacing or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of footways and verges; not limited to.

“road reserve” means the full width of a public road, and includes the verge and the roadway;

“service” means any system for supplying a public need that a service agency has on the public area including road reserve;

“service agency” means any municipal department, other organ of state, public agency or company that has a service in the public area including road reserve;

“wayleave” means a formal approval to carry out work in the public area including road reserve of a municipal road; and **“work in the public area including road reserve”** means, but not limited to the following;

(a) the installation or maintenance of underground or overhead services by means of digging a trench or tunnelling;

(b) the erection of signboard or structure;

(c)shaping and landscaping; and

(d) any other work that may affect a motorist, cyclist, pedestrian, the road, footway, kerbing, traffic sign, traffic signal, street lighting, an underground or overhead service or any other structure or service that is contained within the public area including road reserve of a municipal road.

3. Applicability of By-Law

(1) This By-law applies to every person who carries out work in a public area including road reserve of a municipal road and includes an internal municipal department, an organ of state other than the Municipality, a service agency and a contractor.

(2) This By-law does not apply to work in a road reserve of a national or provincial road within the municipal area:

(3) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates wayleaves, roads and streets, the provisions of this By-Law shall prevail to the extent of the inconsistency.

CHAPTER 2

BASIC WAYLEAVE APPLICATION PROCEDURE BEFORE WORK IN PUBLIC AREA INCLUDING ROAD RESERVE

4. Application for approval to undertake work in public area including road reserve

(1) No person or services agency may undertake any work in the public area including road reserve unless that person or services agency obtains a written wayleave from the Municipality prior to the undertaking of such work. The work must be done by a contractor or agent of the applicant shall at all times be under the supervision of a Professional Engineer.

(2) A person or services agency who wishes to undertake work in the public area including road reserve shall submit an application for a wayleave on the applicable form to the Municipality. Such application must be submitted by a Professional Engineer. The following shall be applicable to all applications;

(a) the Applicant shall first conduct a service enquiry, which is a process of obtaining service plans indicating the positions of existing services from the Project Management Section-Technical Services (PMU). The plans shall indicate major Water, Wastewater, Storm water and Electrical networks in or near the service area.

(b) the PMU may refer the applicant to other service agents such as Eskom, Telkom, Transnet, Provincial or District Departments, existing Electronic Communication Services Agencies (ECN), or any other service providers as may be applicable to the proposed site.

(c) on return of completed control section of the Service Enquiry, after taking consideration of the prescriptions of all the technical departments, the application for Wayleave shall be submitted as outlined in (3) below.

(d) if the Wayleave application complies with the provisions of these By-laws and the final designs have been resubmitted to the technical departments, the departments should be afforded Ten (10) working days to review the application. If the technical departments have further requirements, the Applicant shall liaise with the PMU. In the event that the technical departments have liaised with the applicant to agreed specific trenching methods, installation of additional sleeves, provision of common use manholes and trenches, such conditions shall form part of the application portfolio.

(e) a wayleave may be rejected or withdrawn if all provisions of these By-laws are not met or where conflicts exist in the event of future or planned services, Municipal Master Plans, other By-laws or Council Resolution.

(f) the **Technical Department** (Roads, Water and Sewer and the Electrical Department) may request for to meet the Professional Engineer in charge of the excavation works, as the case may be, at any time during the application process and up to the final reinstatement of the services.

(3) The application form for a wayleave referred to in subsection (2) must be accompanied by -

- (a) two copies of the design drawing referred to in subsection (4) showing details of the proposed work;
- (b) a traffic control plan showing how vehicular and pedestrian traffic will be accommodated during the execution of the work in the public area including road reserve;
- (c) photographs clearly showing the area of the proposed work;
- (d) conditions that are imposed by all technical departments relating to work in the vicinity of its service;
- (e) proof that an environmental impact assessment as required in the National Environmental Management Act, 1998 (Act 107 of 1998) was undertaken, if applicable
- (f) proof that the requirements of a water use licence application have been met; if applicable
- (g) payment of the required deposit, submission of proof of financial guarantees or an official order of an amount of estimated reinstatement costs plus 30 percent; and
- (h) proof of payment of the applicable fee as may be determined by Council from time to time.
- (i) in the event that the trenching route encounters other service agents, for example, SANRAL, Provincial or District roads, proof of such service providers' application of wayleaves shall be attached with the application, as may be advised by the PMU.
- (j) any proof of statutory requirements as provided in section 16 of these By-laws.

(4) The design drawing referred to in subsection (3) that must accompany an application form must contain the following:

- (a) a clear depiction of the proposed work;
- (b) where any service is to be installed, the depth of every service below the level of the surface of the road to a minimum of 800mm and sidewalks a minimum of 350mm;
- (c) distance of the service from the road reserve boundary;
- (d) position and extent of all structures, traffic signals, trees and street furniture;
- (e) position and extent of all underground structures including manholes, chambers and junction boxes;
- (f) the location of all other services in the public area including road reserve.

5. Granting of wayleave

(1) The Municipality may, after receipt of the application, grant the wayleave on such conditions as it may deem necessary which conditions may include -

- (a) a description of the work to be done;
- (b) the timeframe within which work must be done;
- (c) location of the work to be done;
- (d) specific working conditions required in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);
- (e) methods of work execution in protected roads;
- (f) specific conditions required by technical departments; and
- (g) reinstatement requirements and costs.

(2) Only the work determined in the wayleave granted by the Municipality in terms of subsection (1) may be undertaken by the holder of the wayleave.

(3) Work in the public area including road reserve may only be undertaken at the location determined in the wayleave.

6. Exemption from obtaining wayleave

(1) A wayleave application is not required for the following work, including work carried out by municipal employees -

- (a) the erection of a structure that requires an approved building plan in terms of the National Building Regulations and Standards Act ;
- (b) the erection of an advertising sign and structure that require approval in terms of the Mantsopa By-law on the Control of Outdoor Advertising;
- (c) erection of hoardings in the public area including road reserve where foundations of excavations exceed 350mm;
- (d) a road closure;
- (e) a traffic calming device.

(2) An exemption in terms of this section does not absolve the person responsible for undertaking the work referred to in subsection (1) from obtaining approval in terms of any other applicable By-law of the Municipality, if so required.

7. Guarantee

Prior to commencement of any installation of optic fibre cables in Mantsopa, a bank guarantee to the value that is determined by the Municipality subject to the project cost and scope. It must be in possession of the Mantsopa Municipality. This guarantee will be cancelled on final completion of the works, except for 10% retention, which equates to the sum as determined. This retention fund bank guarantee will be cancelled after 12 (twelve) months, except for funds used to repair defects occurring due to the use of substandard material and/or labour. The client will be informed in writing of such an occurrence.

8. Period of validity of wayleave

- (1) The work approved in the wayleave must commence within 90 days of date of issue of the wayleave.
- (2) If the work does not commence within the period referred to in subsection (1), the wayleave shall lapse and submission of a new application to the Municipality is required.

CHAPTER 3

RENTAL, INDEMNITY AND COSTS

9. Lane rental

- (1) Before commencement of the work, the Municipality and the service agency shall agree on the duration of the work to be undertaken
- (2) Lane rental that is equal to 50 percent of the time delay costs shall be paid by the services agency for the period contemplated in subsection (1).
- (3) If the work is not completed within the period contemplated in subsection (1) the lane rental that is equal to 100 percent of time delay costs shall be paid by the services agency.
- (4) If work on the public area including road reserve is undertaken after normal working hours, lane rental that is equal to 30 percent of the time delay costs shall be paid by the services agency, provided that work may only be undertaken during the period contemplated as per application approval
- (5) For the purposes of this section, normal working hours are the hours between 07:00 and 17:00 on Monday to Friday and between 06:00 to 13:00 on Saturday.
- (6) The department that is responsible for providing and maintaining the road network within the municipal area is exempt from payment of lane rental when any construction, resurfacing, maintenance, improvement or rehabilitation work is being done on the road itself.
- (7) Lane rental for a footway shall be paid if the footway is completely closed so that pedestrians are required to use a traffic lane or is partially obstructed in such a way that is causes a delay for pedestrians.
- (8) If a traffic lane is not available for vehicular traffic as a result of the footway that is completely closed the lane rental charged in terms of subsections (2), (3) and (4) shall be paid by the services agency.
- (9) If a footway is partially obstructed the lane rental referred to in subsection (2) shall be paid by the Services Agency.

10. Indemnity associated with work undertaken in public area including road reserve

The holder of a wayleave granted by the Municipality is responsible for all costs associated with the work undertaken in the public area including road reserve, including any damage to any other service, the cost of relocation of any other service, backfilling and reinstatement, test and any claim that may result from the work so undertaken and shall indemnify the Municipality from such costs.

11. Permanent reinstatement cost

- (1) If the conditions of approval require that the Municipality undertakes the permanent reinstatement of the public area including road reserve, the cost for such permanent reinstatement shall be paid to the Municipality by the applicant for the wayleave.

(2) If the Municipality undertakes the permanent reinstatement of the public area including road reserve, the costs of that reinstatement shall be calculated at the actual cost-plus 30 percent.

CHAPTER 4

CATEGORIES OF ROADS

12. Works

This wayleave includes an open trench sleeve reticulation within the road reserve and a mid-block aerial reticulation linking the homes. The mid-block aerial poles to be planted must be agreed with the private home owners. Note that the municipality will take no responsibility and risk involved in regard to the latter. Where mid-block deployment is not possible/ best option the alternative to road side deployment is an option with consultation.

In all other case, conventional trenching, micro trenching and directional drilling for all road crossings must be made use of.

The contractor must consider alternative cutting or reticulation processes to cause minimal damage to the infrastructure and a Method Statement must be submitted to the municipality prior to commencement of works.

Work schedule

The following conditions are applicable and if not adhered to, sanctions could be enforced:

- Trenching, including street cleaning, as per predetermined daily target, limited to 1200m on any single day;
- No trenches will be left open and any damage / incident that originates from their workmanship will be for their account
- Installation and slurry/backfilling amounting to the equivalent as per daily trenching, to be completed on the same day as trenching;
- Full reinstatement, including bitumen work and site clearance, to be completed within five days of trenching;
- If installation or reinstatement lags behind, for whatever reason, including rain days, trenching for the following day may not continue;
- Work plans do be executed in accordance with the programme and sections to be finalised before relocating to new site and municipal sign off for compliance requirements.
- Weekly work plans must be furnished to the Technical department so that we are fully aware of their whereabouts

13. Categories of roads

(1) The Municipality shall, in its approved and adopted Wayleaves Policy, classify all of its municipal roads into categories for purposes of determining the specifications for backfilling and reinstatement of a particular road.

(2) The Municipality may, as one category of road, classify any municipal road as a protected road, and the provisions of section 12 applies to any road so classified.

14. Protected road

(1) Any road that has been newly constructed, overlaid or resurfaced is, due to the working of this section, a protected road for a period of seven years from the date that the work is completed.

(2) A protected road may only be crossed using a trenchless method and if a trenchless method cannot be used, special permission to excavate must be obtained from the Municipality.

15. General

- As-built drawings must be submitted to the municipality for record purposes;
- Local labour must be sourced and used as far as possible for any unsophisticated work;
- All COVID-19 regulations shall be adhered to;
- Reinstatements must be of sound nature without being eroded and tie in with existing surfacing;
- Progressive and systematic finishing and trimming shall form an essential part of the Works. Under no circumstances shall, spoil, rubble, materials, equipment or unfinished operations be allowed to accumulate unnecessarily and in the event of this occurring, the Municipality shall have the right to suspend the Works until the applicant has satisfactorily complied with the condition;
- In the event that the Municipality have to do repairs due to substandard work, we will get a sub-contractor to do the work , which will also be for their account
- The applicant shall, on written order of the Municipality, suspend the progress of the Works or any part thereof for such time and in such a manner that the Municipality may order, during such suspension, properly protect and make safe the works;
- Quality of workmanship and housekeeping must be maintained at all times. Contractor supervisor report is required to be available to ensure that projects are implemented successfully. To this effect, the applicant must appoint a registered ECSA Professional Engineer to inspect, sign off and at completion submit as-built drawings of the works.

CHAPTER 5

DUTIES OF HOLDER OF WAYLEAVE

16. Traffic signs and barricading

- (1) The holder of a wayleave shall ensure that any law regarding traffic, safety, traffic signs and barricading is complied with.
- (2) The holder of a wayleave shall take all necessary measures and provide all necessary facilities to ensure a safe and easy passage for traffic and pedestrians through areas in which work is in progress or is uncompleted.
- (3) Any traffic sign and barricading must be done in accordance with the requirements of the South African Roads and Traffic Signs Manual.
- (4) The holder of a wayleave may contact the municipal department responsible for traffic to ensure that all requirements have been met for the said location where the work is being done.
- (5) The holder of a wayleave shall ensure that all work sites are properly barricaded and signed irrespective of the duration of the work.

17. Road closure and restriction

- (1) The granting of a wayleave does not give the holder of a wayleave the authority to close the applicable road completely to traffic.
- (2) The Municipality may, in exceptional circumstances grant approval for the closure of a road or portion of road to traffic, subject to the provisions of any law.
- (3) The holder of a wayleave shall, two weeks prior to a road being closed, apply to the Municipality for approval of a road closure.
- (4) The Municipality may approve such a road closure for a specific period and the approval is only valid for the duration of that period and if the work is not completed in the period approved by the Municipality, the holder of the wayleave shall apply to the Municipality for another road closure.
- (5) Work on any road determined by the Municipality in its approved and adopted Municipal Infrastructure and Wayleaves Policy, shall be restricted to outside the following periods, namely from 6:30 to 09:00 and 15:30 to 18:00

18. Excavation

- (1) The holder of a wayleave shall ensure that -
 - (a) the area which is excavated is kept to a minimum;
 - (b) the width of the trench is uniform in length and in depth; in other words the sides must be parallel and vertical.
 - (c) the top of the trench is cut with a saw to ensure smooth, uniform edges;
 - (d) a safe passage is provided for pedestrians at all times;
 - (e) adequate preventative measures are taken to ensure that no water flows into any open trench;

(f) any service indicated on the design drawings or on site by a representative from any service agency is located accurately and opened by hand digging;

(g) no mechanical equipment is used to excavate the area before every known service have been found and marked;

(h) when a service is found, it is marked and protected or supported as required by the service agency;

(i) no foreign material enters any drain and that no silting occurs either from pumping operations or as a result of rain.

(2) The minimum depth that any service may be placed under a road is 800mm measured from the level of the surfacing of the road to the top of the service and 350mm for sidewalks.

(3) The minimum depth at any other place in the public area including road reserve is 800 mm measured from the level of the surfacing of the road and not from natural ground level.

(4) Any services not subject to being laid at a specific grade such as water pipes and cables, shall not be placed at a depth in excess of the 800 mm and 350mm for sidewalks.

(5) All excavated material and equipment shall be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.

(6) If the holder of the wayleave cannot locate a service when excavating, the relevant service agency must be contacted for instructions.

(7) If any service needs to be moved, instructions from the service agency shall be followed by the holder of the wayleave.

(8) If any silting or other contamination referred to in subsection (1)(i) does occur, the holder of the wayleave shall clean the drain or request the Municipality to do it at the cost of the holder of the wayleave.

(9) Any water that is present in a trench must be pumped out before backfilling.

(10) Water must be pumped into the storm water system and not into a sewer manhole.

(11) Any material that has become wet must be removed from the bottom of the trench before backfilling.

(12) If any street furniture has to be removed, arrangement must be made with the Municipality for the removal, storage and re- erection thereof.

(13) If an excavation is made through the entrance to a property, the holder of the wayleave shall -

(a) ensure that access is maintained by using steel plates, planks or other temporary bridges of sufficient strength and properly secured against movement;

(b) inform any occupier of such a property how his or her access will be affected.

(14) Notwithstanding any of the provisions above, all excavations must comply with statutory requirements for health and safety standards. The Wayleave Holder must pay specific attention to ;

(a) Excavations that need to be executed in accordance with the Occupational Health and Safety Act 85 of 1993 and its Regulations as amended from time to time.

(b) excavations deeper than 1.5m must be shored and V-cut according to the said Occupational Health and Safety Act of 1993 and Construction regulations,

(c) excavations deeper than 1.5 m must be registered with the Department of Labour prior to commencement of the work. The registration includes the scope of work, the depth of trench and the construction method.

(d) the requirements of Construction Regulations of 2014 and as when amended shall be fully complied with and the Competent person in the said Regulations shall always be on site.

19. Trenchless method

(1) The holder of a wayleave may use a trenchless method for excavation of any road category contemplated in section 11 but shall use it for any road classified as protected in terms of section 12.

(2) The depth to the top of any tunnel that is drilled for the installation of a new service, shall be at least 800 mm measured from the level of the surfacing of the road.

20. Emergency Work

(1) The services agency who needs to undertake emergency work, shall inform the Municipality thereof in writing within 48 hours from commencing such work.

(2) If the services agency concerned is not informed within the period referred to in subsection (1), the work will be reinstated by the Municipality and the cost thereof shall be for the account of the services agency concerned calculated as contemplated in section 10.

(3) For the purposes of this section, emergency work is defined as any work which is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a service or to avoid any substantial losses.

CHAPTER 6

BACKFILLING AND REINSTATEMENT

21. General

- (1) The Municipality shall determine the specifications for backfilling and reinstatement in its approved and adopted Municipal Infrastructure and Wayleaves Policy and the holder of a wayleave shall ensure that backfilling is done in every case where work is undertaken on a public road in accordance with the applicable specifications referred to the Municipal Infrastructure and Wayleaves Policy.
- (2) Permanent reinstatement may be done by the Municipality or the holder of a wayleave if the Municipality grants the holder of that wayleave permission to do so.
- (3) Permanent backfilling and reinstatement done by the holder of the wayleave, is subject to a guarantee period of one year based on the performance specifications determined in the Municipal Infrastructure and Wayleaves Policy.
- (4) If the Municipality undertakes the permanent reinstatement, the holder of the wayleave shall undertake the temporary reinstatement as referred to in section 24 of this By-law
- (5) The Municipality shall remove the temporary reinstatement and test the backfilling.
- (6) If the backfilling does not comply with the applicable specifications, the Municipality shall replace it at the cost of the holder of the wayleave and such costs are over and above the reinstatement costs referred to in section 10
- (7) The holder of the wayleave shall undertake temporary reinstatement if he, she or it abandons the site for a period not exceeding two weeks with the view of returning to complete the work and the wayleave holder shall maintain the temporary reinstatement.

22. Preparation of bottom of trench and backfilling around service

- (1) The trench bottom and backfilling around the service shall be prepared and compacted according to the requirements of the service agency concerned.
- (2) If any service with a diameter of more than 300 mm is installed, the subgrade material used for the reinstatement shall be soilcrete (in-situ material mixed with eight percent cement), up to a level of 300 mm above the top of the service.

23. Backfilling of roads

- (1) The minimum requirement is that the structural layers of the backfilled trench (which is the base, subbase, selected subgrade and subgrade) down to a depth of 800 mm below the level of the surfacing of the road, shall have at least the same shear strength as those of the adjacent undisturbed structural layers.
- (2) The holder may use any one of the methods contemplated in Schedule 1 to this By-law to ensure adequate shear strengths in trench backfill.
- (3) Quality control of the backfilled structural layers can be done by measuring the shear strengths of the adjacent structural layers as well as that of the backfilled layers.
- (4) The shear strength can be measured with a dynamic cone penetrometer (DCP) or a rapid compaction control device (RCCD).
- (5) Although the shear strengths of the backfilled layers will be measured against the undisturbed structural layers, an indication of probable acceptance on most roads can be obtained from the typical DCP and RCCD Penetration diagram shown in Figure 2 in Schedule 2.

24. Backfilling of footways

(1) Any footway, where there is no possibility of vehicles crossing the footway, shall be backfilled using the excavated material, placed in the trench in 150 mm layers and compacted to 90 percent Mod AASHTO density (maximum DCP penetration of 19 mm/blow) for all layers below the base and 93 percent Mod AASHTO density (maximum DCP penetration of 14 mm/blow) for the base.

(2) Any footway where there is a possibility of light motor vehicles crossing the footway, typically where there is mountable kerbing, must be backfilled using Method A or Method B referred to in Schedule 1 according to the standards for local streets specified in Figure 1 in the Schedule.

(3) Where any heavy motor vehicles make use of a footway, such as a loading zone in an industrial area, the footway must be backfilled using Method A or Method B referred to in Schedule 1 according to the standards for arterials, collectors and industrial roads specified in Figure 1 in the Schedule.

(4) Any excavation in an unconstructed verge must be backfilled in such a way that the verge is in the same condition after backfilling as it was before excavation and all excess material must be removed and not spread over the verge.

(5) Topsoil must be removed and stored separately and replaced as the final layer.

25. Permanent reinstatement of roads

(1) The same method of reinstatement shall be used independent of the method of backfilling of the structural layers.

(2) The permanent reinstatement of the surfacing must consist of 100 mm hot-mix asphalt.

(3) The lower 70 mm must be "blackbase" (26, 5 mm nominal stone size, continuously graded) and the top 30 mm fine (4, 75 mm nominal stone size, continuously graded).

(4) Cold mix may only be used for temporary reinstatement.

(5) Both these surfacing layers must be compacted to 95 percent Marshall density.

(6) The reinstated surfacing must be at least 100 mm wider than the trench on both sides to accommodate any edge break where saw cutting was not possible.

(7) The material used for the reinstatement of the surfacing must comply with the relevant requirements of section 4200: Asphalt Base and Surfacing of the Committee of Land and Transport Officials or its successor in title, Standard Specification for Road and Bridge Works.

(8) In the case of any road surfaced with interlocking paving blocks, the general procedure would be to re-use the material removed during the excavation of the trench and if new material has to be used, it must be of the same type and size as the existing material and must comply with the requirements of SABS 1058-1985.

26. Permanent reinstatement of footways

(1) The general procedure for the reinstatement of footways is to re-use all the material removed during the excavation of the trench.

(2) If new material has to be used, it must comply with the following requirements:

(a) A precast concrete kerb and channel must comply with the requirements of section 2300: Concrete Kerbing, Concrete Channelling, Open Concrete Chutes and Concrete Linings for Open Drains of the COLTO Standard Specification for Road and Bridge Works and all cast in-situ concrete must be Class 25/19L;

(b) a concrete paving block must comply with the requirements of SABS 1058- 1985;

(c) a cast in-situ concrete block must comply with the relevant requirements of section 6400: Concrete for Structures of the COLTO Standard Specification for Roads and Bridge Work and all cast in-situ concrete must be Class 25/19;

(d) a precast concrete paving slab must comply with the requirements of SABS 541-1971

(3) Any constructed footway must be reinstated with the same surfacing materials that existed originally and material may be re-used if undamaged, or else replaced with similar material.

(4) If a private driveway and footway with non-standard materials are to be excavated, the owner of the property concerned must be informed in advance and in writing of the intended work and the holder of the wayleave shall supply the materials that are to be used for the reinstatement.

(5) If any unconstructed verge has an established lawn, this must be removed, stored and replaced in sods in such a way that the lawn is in the same condition after reinstatement as it was before excavation and if the sods dry out or become damaged in any way, it must be replaced with similar sods.

(6) If an unconstructed verge has been planted with garden vegetation other than lawn, the owner of the adjacent property must be consulted before excavation, to obtain instructions on what to do with the plants that are affected and every effort must be made to preserve all plants.

27. Temporary reinstatements by holder of wayleave

(1) If the permanent reinstatement is to be done by the Municipality, the holder of the wayleave shall do temporary reinstatement with a suitable material that is compacted to an adequate density to ensure that it will carry the traffic for a period of at least 21 days without deforming or potholing.

(2) The temporary reinstatement must be maintained by the holder of the wayleave in a serviceable condition for a period of 21 days from the date on which the completion certificate has been issued by the Municipality.

(3) After the 21 days period the maintenance shall be taken over by the Municipality.

(4) Cold mix asphalt may be used for temporary reinstatement.

28. Performance specifications

(1) The performance of any trench permanently reinstated by the holder of the wayleave shall be monitored for 12 months, during which period the holder of the wayleave shall be held responsible for any remedial work that may be required.

(2) The tests that were used for quality control (density or shear strength) will be used to determine whether or not the work was done according to specifications.

(3) The Municipality may do additional tests, at the expense of the holder of the wayleave, if the quality control tests are not considered to be adequate.

(4) Remedial work are required if any of the following defects exists:

- (a) Depressions;
- (b) humps (crowning);
- (c) edge depression at the interface; or
- (d) cracking.

(5) Any depression or hump will be measured with a straight edge across the reinstatement and will require remedial work if the following limits are exceeded over 100 mm or more of the length of the trench:

Reinstatement Height of Deformation or Hump as measured with Width straight edge (mm)

<i>Reinstatement Width (mm)</i>	<i>Height of Deformation or Hump as measured with straight edge (mm)</i>
Up to 400	10
400 to 500	12
500 to 600	14
600 to 700	17
700 to 800	19
800 to 900	22
Over 900	25

(6) Remedial work be required if a depression results in standing water wider than 500 mm or exceeding one square metre, two hours after rain has stopped.

(7) Any edge depression exceeding 10 mm over 100 mm or more of the length of the trench will require remedial work.

(8) Any open crack wider than 3 mm and longer than 100 mm will require remedial work.

CHAPTER 7

BACKFILLING AND REINSTATEMENT

29. General

(1) The Municipality shall determine the specifications for Road and Street works for all service departments: Roads, Transport and Stormwater; Water and Sanitation and Electricity.

(2) Permanent reinstatement may be done by the Municipality or the holder of a wayleave if the Municipality grants the holder of that wayleave permission to do so.

(3) If the Municipality undertakes the permanent reinstatement, the holder of the wayleave shall undertake the temporary reinstatement as referred to in section 24 of this By-law

Minor Roads and Streets

- Directional drilling/ micro trenching is preferred as far as possible for all road crossings;
- Fill shall be compacted in layers not exceeding 300mm at to 93 – 95% Mod. AASHTO. The ducting/pipe zone shall be embedded in a selected sand layer with the ducting/pipes on a suitable bedding. Random test results must be submitted on request.
- Underlying conventional trenches or adjacent to streets shall be backfilled with subbase and shall be cement Stabilized (C3). Base course to be a 200mm G2 with a 40mm premix surface;
- Upon completion, the existing surfaces shall be repaired and reinstated to its original finishing (i.e gravel, lawn, paved surfaces, etc.), and;

Sidewalks

- The same specifications apply to sidewalks as for minor roads and streets however the existing surface of a particular sidewalk will determine what treatment it should receive and must be discussed and clarified on site;
- No hindrances must be caused as a result of the establishment of the said infrastructure during and after construction to road users.

Stormwater

- An irrigation/stormwater channel exists along the desired route, hence special care must be taken during construction, albeit that the kerbside trenching method is recommended;
- Reinstatements must be of sound nature without being eroded and tie in with existing surfacing;
- Construction in the vicinity of stormwater infrastructure must be done in conjunction with a representative (051 924 0654) of the municipality.

Water and Sewerage

- On site identification of existing water and sewer services must be done in conjunction with a representative (051 924 0654) of the municipality at the time of construction;
- The location of existing water and sewer services are for the account of the applicant;
- The making good of existing water and sewer services that get damaged during construction is for the account of the applicant.

Electricity

- On site identification of existing electrical services must be done in conjunction with a representative (051 924 0654) of the municipality at the time of construction;
- The location of existing electrical services is for the account of the applicant;
- The making good of existing electrical services that get damaged during construction is for the account of the applicant;
- Medium voltage electrical services have been identified and so indicated on drawings. Cables are normally between 500mm – 850mm deep. Low voltage cables have however not been marked. For this reason, it is suggested that the contractor do not trench deeper than 400mm;
- It is required from the applicant to notify the municipality before commencing work on site, as it is much safer that these services are shown directly on site. If any of the services are damaged, the applicant will be responsible for the repairs as per requirements and standards of Mantsopa Municipality.

Telkom and other services not under the municipality

- Construction in the vicinity of any other service of which the local authority is not the owner of, must be taken up with the relevant institution but in conjunction with a representative of the local authority.

Safety

- Progressive and systematic finishing and trimming shall form an essential part of the Works. Under no circumstances shall, spoil, rubble, materials, equipment or unfinished operations be allowed to accumulate unnecessarily and in the event of this occurring, the municipality shall have the right to suspend the Works until the applicant has satisfactorily complied with the condition;
- All aspects in terms of the Occupational Health and Safety Act 85 of 1993 and in relation to construction sites must be adhered to;
- Contact must be made with the municipality's safety representative, prior and during construction;
- For work as in this case and from a traffic safety point of view, contact must be made with the Traffic prior and during construction;
- Safety and Traffic Accommodation Plans must be submitted to the municipality for consideration prior commencement of works.

CHAPTER 8

COMPLETION NOTICE AND CERTIFICATE OF COMPLETION

30. Completion notice and certificate of completion

- (1) Within 24 hours after completion of the work concerned the holder of the wayleave shall submit a completion notice to the Municipality.
- (2) The Municipality shall arrange a site meeting with the holder of the wayleave to do an inspection and to issue a certificate of completion if all requirements have been met.
- (3) The 12-month guarantee period for permanent reinstatement by the holder of the wayleave, or the 21 day maintenance period for temporary reinstatement by the holder of the wayleave, commences on the day after the date of issue of the certificate of completion.
- (4) Completion of the work means that all work has been completed and that all material, equipment and rubble have been removed and the site is completely cleared and cleaned and that either
the permanent or temporary reinstatement as applicable, has been done by the holder of the wayleave.
- (5) If work involves more than one street link, a completion notice shall be submitted by the holder of the wayleave after completion of each link.

CHAPTER 8

ENFORCEMENT AND OFFENCES

31. Appointment of compliance officer

- (1) The Municipality may appoint or designate a person or employee to serve as a compliance officer for purposes of compliance and enforcement monitoring of this By-law.
- (2) A compliance officer shall take all lawful, necessary and practicable measures to enforce the provisions of this By-law.
- (3) The Municipality shall issue each compliance officer with a written appointment stating that he or she has been appointed for purposes of this By-law or with an identification card that contains the municipal logo, department and name of the officer.

32. Administrative enforcement

- (1) The holder of a wayleave granted by the Municipality shall keep a copy of that wayleave at the location where the work is undertaken and if, when requested to do so by a compliance officer, the holder cannot produce the wayleave, the compliance officer may instruct that the work cease forthwith until such time as the wayleave is shown to that compliance officer.
- (2) If a person or services agency is not in possession of a wayleave granted by the Municipality a compliance officer may instruct that person or services agency or his, her or its agent to cease forthwith until such time as the Municipality grants a wayleave.
- (3) The Municipality may withdraw a wayleave of a holder and seize and impound the equipment used to carry out any work that is in contravention on this By-law.

33. Offences and penalties

- (1) Any person shall be guilty of an offence if such person -
 - (a) omits, or neglects to do, or permits or suffers to remain undone, anything which according to the true intent and meaning of this By-law ought to be done at the time and in the manner provided herein;
 - (b) knowingly permits or allows any condition of things to exist or continue to exist contrary to this By-law;
 - (c) does not cease any action which that person is required to cease under this By-law;
 - (d) fails or refuses, neglects to comply or continuously fails, refuses or neglects to comply even after notices of breach or lawful institutions have been issued in terms of this By-law;
 - (e) fails to comply with any notice, direction, condition contained in any approval granted by the Municipality; or
 - (f) fails to comply with a decision taken or condition imposed by the Municipality in terms of this By-law.
 - (g) wilfully and with intent provides false or misleading information in connection with an application contemplated in this By-law;
 - (h) unlawfully prevents a compliance officer entry to his or her premises or causes or permits any other person to prevent entry;

- (i) obstructs or hinders a compliance officer in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the compliance officer;
- (j) refuses or fails to provide to a compliance officer such information as is required to allow a compliance officer to perform a function in terms of this By-law;
- (k) furnishes false or misleading information to an official of the Municipality when called upon to furnish information;
- (l) impersonates a compliance officer;
- (m) contravenes or fails to comply with any provision of this By-law; or
- (n) supplies particulars, information or answers in an application or on knowing it to be false, incorrect or misleading.

(2) Any person convicted of an offence in terms of this By-law, shall be liable upon conviction to a fine not exceeding ten thousand Rand (R10 000) , or imprisonment for a period not exceeding three (3) months or to both such fine and imprisonment.

(3) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, is guilty of a continuing offence and upon conviction is liable to a fine not exceeding ten thousand Rands (R10 000.00) for every day during the continuance of such an offence or to imprisonment, or to both such fine and imprisonment, in respect of each day on which he or she so continues with that conduct.

(4) The Council may further withdraw the Wayleave of an offender and furthermore seize and impound the equipment used to carry out any work that is contravention of these By-laws.

34. Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (a) a corporate body established in terms of any law; or
- (b) a partnership; and such person failed to take reasonable steps to prevent the offence.

CHAPTER 9

GENERAL MATTERS

35. Appeals

Any person may appeal against any decision taken under this By-Law by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal Systems Act, 2000, as amended.

36. Short title and commencement

This By-law shall be known as the Mantsopa Local Municipality: Wayleaves By-law and shall come into operation on the date of publication thereof in the *Provincial Gazette*.

SCHEDULE 1

METHODS FOR BACKFILLING

Method A. Re-using excavated material

During excavation of the trench, the material from the top 400 mm of the excavation (or in the case of arterials, collectors and industrial roads, the top 550 mm) must be stockpiled separately from the rest of the material being excavated. This material must then be improved through chemical stabilisation with cement and used for the base and subbase layers during backfilling, and in the case of arterials, collectors and industrial roads also for the selected subgrade layers.

The requirements for this method is given in Figure 1.

If the material is not stockpiled separately during excavation, the road authority will require that material with the required properties be imported. Material which was originally stabilised cannot be re-used and must be discarded.

Method B. Importing material

Import a G5 gravel material and stabilise with 60 kg of cement per m³ of material. Water must be uniformly mixed into the material. The material must then be placed in the trench in 75 to 100 mm layers and compacted to the required Mod. AASHTO densities as specifies in Figure 1. The final layer must be finished to a level of 100 mm below the level of the surrounding sound surface of the road.

Layer	Treatment		Layer thickness (mm)	Depth (mm)
Surfacing	<u>Temporary Surfacing</u> Material from top 400 (550)mm 4 % OPC 98 % Mod AASHTO	<u>Permanent Surfacing:</u> 30mm Bitumen hot-mix fine 70mm Bitumen hot-mix BTB	100	100
	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 98 % Mod AASHTO			
Base	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 98 % Mod AASHTO		150	250
Subbase	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 95 % Mod AASHTO		150	400
Selected Subgrade	<u>Local streets:</u> Compact to 93 % Mod AASHTO	<u>Arterials, collectors and Industrial streets:</u> Material from top 550mm stockpile Stabilize with 4 % OPC Compact to 93 % Mod AASHTO	150	550
	Compact to 90 % Mod AASHTO			
Subgrade	Compact to 90 % Mod AASHTO		250	800

Figure 1
Recommended method for permanent backfilling

Method C. Low strength concrete:

Specially designed concrete mix (SDCM) for Trench Backfilling *All Road Trenches / Openings*:

Place 300 mm SDCM concrete of minimum 2.5 Mpa crushing strength (28 days) and manufactured to an approved manufacturer's specification. The SDCM concrete mix is to be placed 50 mm below the level of the surrounding sound surface of the road. The rest of the trench is backfilled with selected approved material compacted to 90 percent of MOD AASHTO density.

All Footway Trenches / Openings:

Place 150 mm SDCM concrete of minimum 2.5 Mpa crushing strength (28 days) and manufactured to an approved manufacturer's specification. The SDCM concrete mix is to be placed 30 mm below the level of the surrounding sound surface of the road. The rest of the trench is backfilled with selected approved material compacted to 90 percent of MOD AASHTO density.

SCHEDULE 2

TYPICAL DCP AND RCCD PENETRATION DIAGRAM

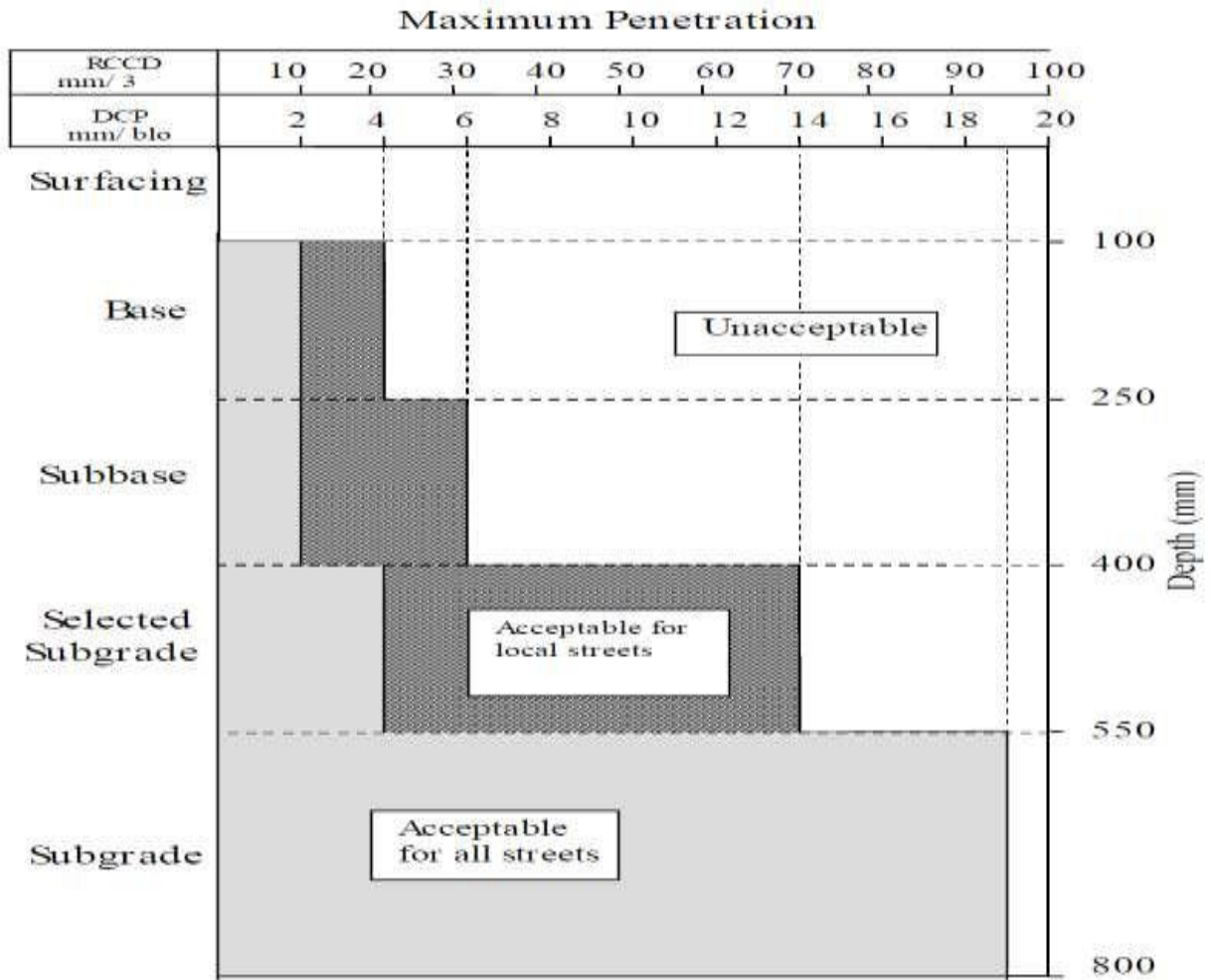


Figure 2
Typical DCP and RCCD Penetration Diagram

EXAMPLE OF WAY LEAVE TEMPLATE PREVIOUSLY UTILISED

ENQUIRIES : Technical Services

CONTACT : N.A Kelepu - Director

DATE : 05 August 2021

Ceenex (Pty) Ltd

1st Floor, Block D, Menlyn Woods

Faerie Glen

PRETORIA

0181

E-mail: sampie@ceenex.com

ATTENTION: Mr. S De Wit

RE: WAYLEAVE APPLICATION FOR THE FITH REACH NETWORK IMPLEMENTATION IN THE MANTSOPA MUNICIPLAITY: BRIDGETON AND BONGOLETHU

The abovementioned application dated 15 March 2021 and as well as discussions in August 2021 with our Mr. N.A Kelepu refers.

Your request for permission to install infrastructure as per the indicated areas is granted with conditions as stipulated further in this correspondence.

1) The works

This wayleave includes an open trench sleeve reticulation within the road reserve and a mid-block aerial reticulation linking the homes. The mid-block aerial poles to be planted must be agreed with the private home owners. Note that the municipality will take no responsibility and risk involved in regard to the latter. Where mid-block deployment is not possible/ best option the alternative to road side deployment is an option with consultation.

In all other case, conventional trenching, micro trenching and directional drilling for all road crossings must be made use of.

The contractor must consider alternative cutting or reticulation processes to cause minimal damage to the infrastructure and a Method Statement must be submitted to the municipality prior to commencement of works.

2) **Work schedule**

The following conditions are applicable and if not adhered to, sanctions could be enforced:

- Trenching, including street cleaning, as per predetermined daily target, limited to 1200m on any single day;
- No trenches will be left open and any damage / incident that originates from their workmanship will be for their account
- Installation and slurry/backfilling amounting to the equivalent as per daily trenching, to be completed on the same day as trenching;
- Full reinstatement, including bitumen work and site clearance, to be completed within five days of trenching;
- If installation or reinstatement lags behind, for whatever reason, including rain days, trenching for the following day may not continue;
- Work plans do be executed in accordance with the programme and sections to be finalised before relocating to new site and municipal sign off for compliance requirements.
- Weekly work plans must be furnished to the Technical department so that we are fully aware of their whereabouts

3) **Roads and Streets**

Minor Roads and Streets

- Directional drilling/ micro trenching is preferred as far as possible for all road crossings;
- Fill shall be compacted in layers not exceeding 300mm at to 93 – 95% Mod. AASHTO. The ducting/pipe zone shall be embedded in a selected sand layer with the ducting/pipes on a suitable bedding. Random test results must be submitted on request.
- Underlying conventional trenches or adjacent to streets shall be backfilled with subbase and shall be cement Stabilized (C3). Base course to be a 200mm G2 with a 40mm premix surface;
- Upon completion, the existing surfaces shall be repaired and reinstated to its original finishing (i.e gravel, lawn, paved surfaces, etc.), and;

Sidewalks

- The same specifications apply to sidewalks as for minor roads and streets however the existing surface of a particular sidewalk will determine what treatment it should receive and must be discussed and clarified on site;
- No hindrances must be caused as a result of the establishment of the said infrastructure during and after construction to road users.

4) **Stormwater**

- An irrigation/stormwater channel exists along the desired route, hence special care must be taken during construction, albeit that the kerbside trenching method is recommended;
- Reinstatements must be of sound nature without being eroded and tie in with existing surfacing;
- Construction in the vicinity of stormwater infrastructure must be done in conjunction with a representative (Mr Koalane.....) of the municipality.

5) Water and Sewerage

- On site identification of existing water and sewer services must be done in conjunction with a representative (Mr) of the municipality at the time of construction;
- The location of existing water and sewer services are for the account of the applicant;
- The making good of existing water and sewer services that get damaged during construction is for the account of the applicant.

6) Electricity

- On site identification of existing electrical services must be done in conjunction with a representative (Ms.....) of the municipality at the time of construction;
- The location of existing electrical services is for the account of the applicant;
- The making good of existing electrical services that get damaged during construction is for the account of the applicant;
- Medium voltage electrical services have been identified and so indicated on drawings. Cables are normally between 500mm – 850mm deep. Low voltage cables have however not been marked. For this reason, it is suggested that the contractor do not trench deeper than 400mm;
- It is required from the applicant to notify the municipality before commencing work on site, as it is much safer that these services are shown directly on site. If any of the services are damaged, the applicant will be responsible for the repairs as per requirements and standards of Mantsopa Municipality.

7) Telkom and other services not under the municipality

- Construction in the vicinity of any other service of which the local authority is not the owner of, must be taken up with the relevant institution but in conjunction with a representative of the local authority.

8) Safety

- Progressive and systematic finishing and trimming shall form an essential part of the Works. Under no circumstances shall, spoil, rubble, materials, equipment or unfinished operations be allowed to accumulate unnecessarily and in the event of this occurring, the municipality shall have the right to suspend the Works until the applicant has satisfactorily complied with the condition;
- All aspects in terms of the Occupational Health and Safety Act 85 of 1993 and in relation to construction sites must be adhered to;
- Contact must be made with the municipality's safety representative, Mr.....prior and during construction;
- For work as in this case and from a traffic safety point of view, contact must be made with the Traffic Chief, Mr. prior and during construction;
- Safety and Traffic Accommodation Plans must be submitted to the municipality for consideration prior commencement of works.

9) Cost

- All cost involved in the establishment of the wayleave is for the account of the applicant;

- The cost of making good of poor workmanship, damages, claims that may arise from this, etc. will be for the account of the applicant.

10) Penalty

If the applicant contravenes or fails to comply with any provision of these conditions, commits an offence and is liable upon conviction to –

- a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and;
- in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and;
- 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.

11) General

- As-built drawings must be submitted to the municipality for record purposes;
- Local labour must be sourced and used as far as possible for any unsophisticated work;
- All COVID-19 regulations shall be adhered to;
- Reinstatements must be of sound nature without being eroded and tie in with existing surfacing;
- Progressive and systematic finishing and trimming shall form an essential part of the Works. Under no circumstances shall, spoil, rubble, materials, equipment or unfinished operations be allowed to accumulate unnecessarily and in the event of this occurring, the Municipality shall have the right to suspend the Works until the applicant has satisfactorily complied with the condition;
- In the event that the Municipality have to do repairs due to substandard work, we will get a sub-contractor to do the work , which will also be for their account
- The applicant shall, on written order of the Municipality, suspend the progress of the Works or any part thereof for such time and in such a manner that the Municipality may order, during such suspension, properly protect and make safe the works;
- Quality of workmanship and housekeeping must be maintained at all times. Contractor supervisor report is required to be available to ensure that projects are implemented successfully. To this effect, the applicant must appoint a registered ECSA Professional Engineer to inspect, sign off and at completion submit as-built drawings of the works.

12) Bank guarantee

- Prior to commencement of any installation of optic fibre cables in Mantsopa, a bank guarantee to the value of R250 000.00 (Two Hundred and Fifty Thousand Rand) must be in possession of the Mantsopa Municipality. This guarantee will be cancelled on final completion of the works, except for 10% retention, which equates to the sum of R25 000.00 (Twenty-Five Thousand Rand). This retention fund bank guarantee will be cancelled after 12 (twelve) months, except for funds used to repair defects occurring due to the use of substandard material and/or labour. The client will be informed in writing of such an occurrence.

Failure to comply with the requirements will lead to contravention of the provisions made under the applicable by-law of the municipality.

All risk involved with the construction and establishment of the said wayleave is for the account of the applicant.

For any further related queries, please feel free to contact the Technical Services Department of the Mantsopa Local Municipality.

Sincere regards,

Me. MM MOGPODI

ACTING MUNICIPAL MANAGER