

Working with municipalities

1. Is there a law, regulation or bylaw affecting the intervention sought?
2. Understand the relevant legislation and bylaws
3. Understand the interpretation of such, also in terms of national legislation
4. Negotiate
5. Learn from other municipalities



City of Cape Town – Understanding Package Plant updated SOP

- 1. Package plants do not need to be temporary.** If your development has been approved on condition of a temporary package plant, this condition can be lifted on appeal. Our executive mayor is very clear on this: “The city will NOT force decommissioning providing the plant is working and effluent quality is within standard”.
- 2. Your DC for sewage will be discounted.** It is stated in the SOP – on successful application, developers will **not** pay the DC for sewage. Fusion Wastewater Treatment installations are no more expensive relative to the cost of the DC and connection.
- 3. There will be no sewage charge on the utilities bill for package plants.** These charges will NOT be levied for the duration that it is independent of the municipal system. In addition to cost advantages from reuse, this also provides the opportunity for a higher green rating.
- 4. Bylaws mandate.** The CoCT Water Amendment Bylaw of 2018 states that all new developments and renovations must make use of a water conservation and demand management systems or alternative water source for non-drinking purposes. Fusion Plants allow you to meet this mandate cost-effectively without sacrificing land, as the installations are underground.
- 5. Any development can apply, not only those in affected areas:** “There is nothing stopping developers doing this if they want.”

GA2013

Location of irrigation with wastewater

1.9 Wastewater irrigation in terms of this authorisation is only permitted if the irrigation takes place—

- (a) at least 50m above the 1 in 100 year flood line or riparian habitat whichever is the greatest, or alternatively at least 100 metres from a water course whichever is the greatest, or at least further than 500m radius from a borehole that is utilised for drinking water or stock watering;

Response from DWS

- 3. Irrigation withing 500m from a borehole with sewage is illegal. If treated to GL or SL and disinfected, does this still apply? Some say yes, it is a form of sewage, some say no, it is treated to discharge limits, therefore safe to be irrigated with. Within range 500m requires Licence. If treated to GL or SL – could be considered under GA. Look at standards required for volume per day 0-50 MI/day or 50 – 500 MI/d or 500 – 2000 MI/d.


Case Study: High Court Judgement December 2023

[14] Section 152(b) of the Constitution obliges municipalities to ensure the provision of services to communities in a sustainable manner. Section 73 of the Local Government: Municipal Systems Act, 32 of 2000 gives effect to this constitutional imperative by providing that:

- 1) A municipality must give effect to the provision of the Constitution and-
 - a) Give priority to the basic needs of the local community;
 - b) Provide the development of the local community; and
 - c) Ensure that all members of the local community have access to at least the minimum level of basic municipal services.


Case Study: High Court Judgement December 2023

[15] These services include provision of electricity, roads and storm water drainage, water supply, refuse removal as well as water supply. The provision of these services may be given by the municipality itself or same may be provided by the municipality through some other arrangements with other municipal service partnerships,⁵ in which case the municipality hires the service providers to provide these much needed services. The fact that the municipality may render the provision for services through a third party does not however relieve the municipality of its constitutional obligation to provide the basic municipal services to the citizens.



Case Study: High Court Judgement December 2023


[17] If one were to accept that the obligation to render refuse removal services is an executive and legislative competency of a municipality and not a right of the municipality together with what I say later in this judgment,⁶ it is difficult to accept the submission by the First Respondent that it has the exclusive authority to remove the refuse within the township of Woodlands.



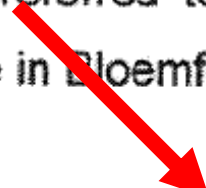
Case Study: High Court Judgement December 2023

[28] Reference to *Rademan v Moqhaka Local Municipality*⁹ is appropriate. The court in that case said the following:

“Where a municipality claims payment from a resident or ratepayer for services, it is only entitled to payment of services that it has rendered. By the same token, where a municipality claims from a resident, customer or rate payer payment for services, the resident, customer or ratepayer is only obliged to pay the municipality for services that have been rendered. There is no obligation on a resident, customer or ratepayer to pay the municipality for a service that has not been rendered.”



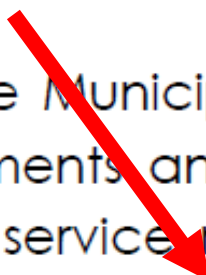
Case Study: High Court Judgement December 2023

1. It is declared that the Applicant shall be responsible for the removal of household refuse from Woodland Hills Township, being Bloemfontein Extension 166, situated on Portion 1 of the Farm Hillandale, Administrative District Bloemfontein, and Bloemfontein Extension 275, situated on the remainder of the Farm Hillandale 2960, Administrative District of Bloemfontein (Collectively referred to as 'Woodland Hills Township'), to a designated landfill site in Bloemfontein;
 2. The First Respondent shall forthwith cease to charge fees related to refuse removal services in respect of all immovable properties situated within the Woodlands Hills Township;
 3. The First Respondent shall be liable for the costs of this application, which costs shall include the costs occasioned by the employment of two counsels.
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Case study: Municipality taking over a private service

Please be advised that in accordance with Section 152 the Constitution and Section 73 of the Local Government: Municipal Systems Act, 2000 (Act no. 32 of 2000), the general duties and functions of local government are described, which require *inter alia* that the local government must provide basic services. The Local Government: Municipal Systems Act, 2000 does however allow for the provision of such a municipal service in its area or part of its area, through an external mechanism by entering into a service delivery agreement with an entity or person legally competent to operate a business activity. As such the applicant must enter into a Service Level Agreement with the George Municipality.

In light hereof, the George Municipality's Directorate: Civil Engineering Services must provide guidance on the requirements and implementation of such a service level agreement. In addition, the level of the service must be specified (i.e. service standard) and under which circumstances the municipality shall need to undertake the management and the maintenance of the facility to provide the service (i.e. failure to provide an adequate service).



Legal opinion: Municipality taking over a private service

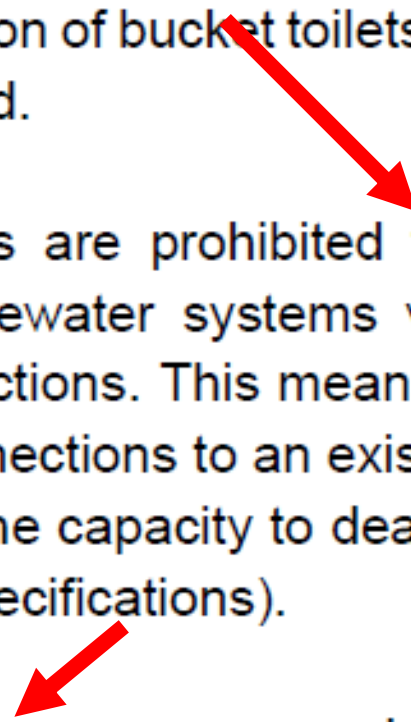
- 9.2 Met die verwysing na bedreiging in paragraaf 9.1 na verwys, word bedoel die oornome van enige stelsel wat geïmplementeer mag word deur die eienaar van onroerende eiendom, welke stelsel die munisipale dienste wat gelewer moet word, bevorder.
- 9.3 Die oornome van enige stelsel verwys na in paragraaf 9.2 hou potensieel verreikende gevolge in vir die eienaar van die onroerende eiendom, soveel so dat hy beheer mag verloor in terme van sy eienaarsregte ten opsigte van sodanige stelsel.
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New Regulations coming...

- (9) Water efficient sanitation solutions in sub-regulation (7) must be shown to include off-grid, on-site sanitation options such as Non-sewered Sanitation Systems (NSSS) as well as Decentralised Wastewater Treatment Systems (DWWTS).
- (10) A Water Services Authority may not unreasonably decline a property development to have a water efficient sanitation solution that is not connected to the central system where development will manage the system as a Water Services Intermediary and where the water uses of the system is authorised under the National Water Act.
- (11) Whenever a Water Services Institution is providing new innovative non-sewered sanitation systems, such must be guided by the requirements of SANS 30500 for Non-Sewered Sanitation Systems or the “SANS 24521:2020 Guidelines for the management of basic on-site domestic wastewater services”, whichever is applicable.

New Regulations coming...

Prohibitions

- 11.(1) The provision or distribution of bucket toilets to communities in both formal and informal settlements are prohibited.
 - (2) Municipalities and WSAs are prohibited from approving bulk user connections to existing water and wastewater systems without having the necessary capacity to service such user connections. This means that a municipality may not approve new /additional bulk user connections to an existing water or wastewater treatment system unless that system has the capacity to deal with the additional load (ability to operate according to technical specifications).
 - (3) Municipalities may not approve any new developments that will connect to an existing wastewater treatment system unless such a system has the capacity to deal with the load from the development.
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- Two red arrows originate from the first two items of the list. The first arrow starts near the word 'bucket' in item 11.(1) and points diagonally down and to the right towards the word 'approve' in item (3). The second arrow starts near the word 'connections' in item (2) and points diagonally down and to the right towards the word 'approve' in item (3).



Thank You

