

BY-LAW RELATING TO MEETING AND PROCESSIONS

By-Laws Relating to Meetings and Processions

The Municipal Manager of Fetakgomo Local Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the By-Law Relating to Meetings and Processions for the Fetakgomo Local Municipality, approved by the Council, as set out hereunder.

1. THE OBJECTS OF THIS BY-LAW

The objects of this By-Law are --

- (a) To recognise the right of peaceful assembly; and
- (b) To ensure, so far as it is appropriate to do so, that persons may exercise the right to participate in public assemblies; and
- (c) To ensure that the exercise of the right to participate in public assemblies is subject only to such restrictions as are necessary and reasonable in a democratic society in the interests of-
 - i. Public safety; or
 - ii. Public order; or
 - iii. The protection of the rights and freedoms of other persons;
 - iv. To ensure that the right of persons to participate in public assemblies may be exercised without fear, prejudice and harassment.

This is in line with the Section 17 of the Chapter 2: Bill of Rights of the Constitution of the Republic of South Africa that states that *“Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.”* Section 18 points out that *everyone has a right to freedom of association.*

This Meetings and/or Procession By-Law expressly states that a person has the right to peacefully assemble with others in a public place. This right is subject to the restrictions set out in the Bill of Rights Limitation Clause. Accordingly, the rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and

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democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -

- (a) The nature of the right;
- (b) The importance of the purpose of the limitation;
- (c) The nature and extent of the limitation;
- (d) The relation between the limitation and its purpose; and
- (e) Less restrictive means to achieve the purpose.

This By-Law provides that the right to peaceful assembly is subject only to such restrictions as are necessary and reasonable in a democratic society in the interests of:

- (a) Public safety; or
- (b) Public order; or
- (c) The protection of the rights and freedoms of other persons.

2. DEFINITION

For the purposes of the present Law the following main terms and definitions are used:

“Meetings and/or processions” – a gathering, meeting, street rally, demonstration, picketing and other meeting and/or procession;

“Other Meeting and/or procession” – a sport, cultural or other entertaining activity or religious activity held in places specially designed for this purpose in open air or in a building;

“Gathering” – a joint presence of communities in an earlier determined place in open air or in a building in the fixed time gathered for collective discussion and solution of questions effecting their interests;

“Meeting” – a mass presence of citizens in a certain place in open air gathered for public discussion and expression of their attitude towards actions (inaction) of persons and organizations, events of public and political life, and also for solving the problems effecting their interests;

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“Street Rally” – an organized mass movement of a group of citizens on pedestrian or traffic area of a street (road), boulevard, prospect or square for the purposes of drawing attention to any problems or for public expression of their public and political moods or for a protest;

“Demonstration” – an organized mass movement of a group of citizens on pedestrian or traffic area of a street (road), boulevard, prospect or square including the one with the usage of vehicles and other transportation means for the purposes of drawing attention to any problems or for public expression of their public and political moods or for a protest with the usage of posters, transparencies or other means;

“Municipality” means -

- (a) Fetakgomo Local Municipal which as a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998); exercising its legislative and executive authority through its Municipal Council; or
- (b) Its successor in title; or
- (c) A structure or person exercising a delegated power or carrying out an instruction, where any power in this By-Law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; or
- (d) A service provider fulfilling a responsibility under this By-Law, assigned to it in terms of section 81(2) of the Act, or any other law, as the case may be;

“Municipal Manager” means -

- (a) The person appointed by the Municipality as the Municipal Manager in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person acting in that position; or
- (b) In relation to a service provider referred to in paragraph (d) of the definition of “Municipality”, the chief executive officer of that service provider.

“Municipal Council” or **“Council”** means - a Municipal Council referred to in section 157(1) of the Constitution. According to section 157(1) of the Constitution, a Municipal Council consists of -

- (a) Members elected in accordance with subsections (2), (3), (4) and (5); or
- (b) If provided for by national legislation -

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- (i) Members appointed by other Municipal Councils to represent those other Councils; or
- (ii) Both members elected in accordance with paragraph (a) and members appointed in accordance with subparagraph (i) of this paragraph.

“Picketing” – a public expression by a citizen or by a group of citizens of public and political, group or individual and other interests or the protest (without a procession), including by a hunger-strike, on any problems with the usage or without usage of posters, transparencies and other means;

“Substantial harm caused to rights and legal interests of citizens, organizations or state or public interests” – a failure of meeting and/or procession, temporal termination of activity of organizations or violation of transport traffic, death of people, causing a severe physical injury to one or several victims;

3. THE SCOPE OF THIS BY-LAW

The By-Law relating to Meetings and Procession deals with the procedure for organising and holding of local meetings and processions.

The procedure of organization and holding of other meetings and/or processions established by the present Law is not extended on meetings and/or processions held under the decision of state bodies on the days of state holidays and memorial dates celebrated in the Republic of South Africa

4. PROCEDURE FOR ORGANISING AND HOLDING OF MEETINGS AND/OR PROCESSIONS: ORGANISERS OF MEETINGS AND PROCESSIONS

Organisers of a gathering, meetings and processions within the Municipality shall citizens of the Republic of South Africa permanently residing within the area of jurisdiction of the Municipality with one of the following:

- (a) Have reached the majority age;
- (b) Have been mentioned in the given number in the application on holding a meeting and/or procession and who have taken in writing the obligation on its organisation and holding of the meeting or procession

5. APPLICATION ON HOLDING A MEETING AND/OR PROCESSION

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Application on holding a meeting and/or a procession is submitted by the organiser(s) to the Municipality offices.

The application is submitted in writing on a prescribed form not later than 15 days before the supposed date of holding the meeting and/ or procession.

The following shall be indicated in the application:

- (a) purpose, kind, place of holding the meeting and/or procession;
- (b) date of its holding, time of its beginning and end;
- (c) routes of movement in case of a procession;
- (d) expected/ supposed number of participants;
- (e) name, middle and last name of an organizer (organisers), his (their) place of residency and work (study);
- (f) measures connected with medical service (in extreme cases), cleaning the territory after holding the meeting and/or procession;
- (g) date of submitting the application.

The term of submitting the application is calculated from the day of its registration in the Municipality.

6. PROCEDURE OF CONSIDERATION OF THE APPLICATION AND PASSING OF THE DECISION

The Municipal Manager or any delegated authority is obliged to consider the application and not later than 5 days before the date of holding the meeting to notify in writing the organiser(s) about the decision taken.

A permission or ban to hold the meeting and/or procession shall be indicated in the decision and also the motives for banning the meeting and/or procession.

The decision of the Municipal Manager or any delegated authority on permitting or banning the meeting and/or procession is taken with consideration of the date, place, time of its holding, number of participants, weather conditions, payment of expenses connected with protection of public safety, medical services, cleaning of the territory after holding the meeting and/or procession and other

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circumstances influencing the securing of public safety upon the agreement with the republican state bodies responsible for securing the public safety.

The Municipal Manager or any delegated authority at consideration of the application for the purposes of securing the rights and freedoms of citizens, public safety and also of normal functioning of transport and organizations has the right to suggest the change of date, place and time of its holding upon the agreement with the organizer(s).

7. APPEALING THE DECISION ON BANNING TO HOLD THE MEETING AND/ OR PROCESSION OR ON CHANGING THE DATE, PLACE AND TIME OF ITS HOLDING

The decision of the Municipal Manager or any delegated authority on banning to hold the meeting and/or procession or on changing the date, place and time of its holding can be appealed in writing to the Mayor and Municipal Council.

8. PREPARATION OF A MEETING AND/OR PROCESSION

Preparation of a meeting and/or procession remains the responsibility of the meeting organisers.

Before the permission to hold the meetings and/or procession is received, its organiser(s) and also other persons do not have the right to announce in mass media the date, place and time of its holding, prepare and distribute the leaflets, posters and other materials for this purpose.

9. PLACE AND TIME OF HOLDING A MEETING AND/OR PROCESSION

A meeting and/or procession can be held in any places suitable for this purpose.

Permanent places for holding meeting and/or procession and also places, where their holding is prohibited, can be determined by the Municipality, with announcing about it in mass media.

Holding of meeting and/or procession is not allowed:

- (a) In places, the usage of which for such purposes is prohibited by the decisions of the Municipality (e.g. Council Chambers);

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Gatherings, meetings, street rallies, demonstrations and picketing can be held from 8 to 22 o'clock.

10. THE PROCEDURE OF HOLDING MEETINGS AND/OR PROCESSIONS

Meetings and/or processions, and also speeches of their participants are held in certain fixed place in accordance with the purposes mentioned in the application.

Organizer(s) of the meeting and/or procession or the person(s) responsible for organization and holding the meetings and/or processions are obliged:

- (a) to be constantly present at the meetings and/or processions held;
- (b) to provide observance of conditions and order of holding the meetings and/or processions, safety of citizens, safety of buildings, constructions, vehicles and other property and also of green plants;
- (c) to carry out all legal requirements of employees of internal affairs bodies and representatives of public, carrying out the duties on securing the public order and to assist them in securing the public order;
- (d) in extreme cases of termination of the held meetings and/or processions, to inform the participants about it;

The Municipality shall and can additionally regulate the order of holding the meeting and/or procession with the consideration of local conditions and requirements of the present Law.

11. OBSERVANCE OF PUBLIC SAFETY AT HOLDING OF MEETINGS AND/OR PROCESSIONS

At holding a meeting and/or procession its participants shall observe the public order and shall fulfill all legal requirements of the organisers of the meeting and/or procession being held, requirements of the employees of internal affairs bodies and representatives of public fulfilling the duties on protection of public order.

At the course of the gathering, meeting, street rally, demonstration or picketing it is prohibited to their organisers and participants to:

- (a) To impede the traffic of vehicles and pedestrians;

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- (b) To create obstacles for uninterrupted functioning traffic signs;
- (c) To set tents or other temporal structures;
- (d) To influence in any form on employees of militia for the purposes to impede their fulfillment of service duties, and also on representatives of public fulfilling the duties on protection of public order;
- (e) To have cold steel, fire, gas or other weapon, explosives and ammunition, their imitators or casts, and also specially produced or equipped articles the usage of which can threaten life and health of people or can cause material damage to citizens and organizations;
- (f) To act in a manner that is inciting public violence
- (g) To act in a manner that is creating the threat to public safety, life and health of participants of the mentioned meetings and/or processions or of other persons, or to hide their faces under masks;
- (h) To carry out the sale of alcohol drinks and beer in place of holding such activities and within the radius of 500 meters of adjacent territories.

The sale of alcohol drinks and beer in places of holding other meetings and/or processions and within the radius of 500 meters of adjacent territories is prohibited for the period of holding such meetings and/or processions also to the organizations and persons not being their organisers and participants except for the sale of alcohol drinks and beer in organizations (restaurants, cafes, etc) having the right to sale them in accordance with the legislation of the Republic of South African for the celebration and ritual activities planned earlier.

12. PROHIBITIONS OF WEAPONS AT PUBLIC MEETINGS AND PROCESSIONS

Any person, who, while present at any public meeting or on the occasion of any public meeting and/or procession, has with him any lethal weapon, other than in pursuance of lawful authority shall be guilty of an offence.

For the purposes of this section, a person shall not be deemed to be acting in Pursuance of lawful authority unless he is acting in his capacity as a police officer (South, or as a member of a fire brigade.

13. TERMINATION OF A MEETING AND/OR PROCESSION

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A meeting and/or procession and also preparation to it shall be terminated under the demand of the head (his deputy) of the relevant local executive and administrative body, body of internal affairs, organizer(s) of the mentioned meeting and/or procession in cases:

- (a) If there has been no application submitted or the decision on banning to hold the meeting and/or procession has been taken;
- (b) If provisions of articles 9-11 of the present Law are infringed;
- (c) Of appearance of the threat to life and health of citizens.

In case of refusal of participants of meeting and/or procession to fulfill the demand of the head (his deputy) of the relevant executive and administrative body, internal affairs body, organizer(s) or person(s) responsible for organization and holding of the meeting and/or procession to stop meeting and/or procession, the bodies of internal affairs in accordance with legislation of the Republic of South Africa take necessary measures on termination of meeting and/or procession.

14. NON-INTERFERENCE OF STATE BODIES AND OTHER ORGANIZATIONS AND ALSO OF CITIZENS IN HOLDING MEETINGS AND/OR PROCESSIONS

State bodies, political parties, trade unions and other organizations and also citizens have no right to interfere and impede holding the meetings and/or processions held within the Municipality and held with observance of the requirements of the present By-Law and other acts of legislation of the Republic of South Africa.

15. DISRUPTING OF MEETINGS AND/OR PROCESSIONS

A person is guilty of disrupting meetings and processions when with intent to prevent or disrupt a lawful meeting, procession or gathering, he does any act tending to obstruct or interfere with it physically or makes any utterance, gesture or display designed to outrage the sensibilities of the group.

16. EXEMPTIONS

The provisions of this by-law shall not apply to any funeral, wedding, military or police procession.

17. OFFENCES AND PENALTIES

Any person who:

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1. Contravenes or fails to comply with any provision of these by-laws or any term, condition, restriction, requirement, notice or order imposed or issued in terms thereof;
2. Resists, hinders, obstruct, molests or interferes with any officer or employee of the Council in the performance of his duties or the execution of his powers under these by-law; or
3. Cause or permits any other person to commit any of the aforesaid -

Shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding five hundred rand, or in default of payment of any fine imposed, imprisonment for a period not exceeding six months

18. DAMAGES

1. Notwithstanding the stipulations contained in section 17 above, the Council shall hold responsible any person or organizer of a public meeting and gathering or participant in such gathering or procession for any damage to any property of the Council and shall claim the cost to repair such damage from such a person or organizer.