

TSANTSABANE MUNICIPALITY



DRAFT POLICY REGARDING THE WAYLEAVE APPLICATION PROCESS TO BOTH EXTERNAL AND INTERNAL SERVICE PROVIDERS FOR ALL CONSTRUCTION WORKS WITHIN THE PUBLIC ROAD RESERVE 2026/27

Subject: Way leave application

Date:

Council Resolution: ITEM SCM/2026

1. INTRODUCTION

In terms of Section 156 (1) of read with Part B of Schedule 4 of the Constitution of the Republic of South Africa 1996 the Municipality has executive authority in respect of, and has the right to administer, inter alia building regulations, municipal planning and stormwater management systems in built-up areas.

This policy must be read in conjunction with the Tsantsabane Municipality By-law Relating to Streets, the Tsantsabane Local Municipality By-Law Relating to Stormwater, the Tsantsabane Local Municipality By-Law on Municipal Land Use Planning, the Tsantsabane Local Municipality Integrated Zoning Scheme By-Law and the National Building Regulations and Building Standards Act 103 of 1977 (as amended). In the event of any conflict between this policy and any of the aforementioned or other legislation, the relevant legislation will apply.

This policy applies to all entities that carry out work in the Public Road Reserve (PRR) in the Municipal area of the Tsantsabane Local Municipality, such as internal Municipal departments, external Service Providers, service departments and associated contractors. It does not apply to work on state land, private developments, National or Provincial Road Reserves.

2. PURPOSE OF POLICY

The purpose of the policy is to provide a framework and guideline for the wayleave process and to define the responsible department that co-ordinates and manages all applications for work carried out in the PRR in the Municipal jurisdiction of the Tsantsabane Local Municipality.

3. OVERVIEW

The co-ordination of Work in the PRR deals with two aspects, namely:

- 3.1. Planning the time schedule for future work in the PRR so that the work can be executed in a logical sequence, i.e. avoiding the placement of a Service in a road that was surfaced during the previous 12 months. This could involve new construction, rehabilitation or Routine Maintenance Work; and
- 3.2 The application for and approval of a Wayleave for the execution of any work in the PRR.

The co-ordination of work schedules described above may result in specific coordination issues where the Roads, Transport and Storm water department (RTS) has to ensure that an acceptable solution is defined by the Service Provider / Department involved.

The RTS department's role is to manage the wayleave process and facilitate co-ordination between the various Service Providers/Departments. Each Service Provider /Department will have their own project leaders who are responsible for the implementation of their projects together with compliance with the Tsantsabane Local Municipality's policies, procedures and standards.

The approval of a Wayleave means that:

3.3 The Wayleave Holder has permission to:

- a) place a new Service, haul existing or fix damaged service in the Public Road Reserve
- b) do excavations in the Public Road Reserve;
- c) do vehicular and pedestrian control in the Public Road Reserve; and,
- d) do Reinstatement Work on the road and pavement surfaces where excavations have been made.

3.4 The cost associated with relocating any Service when a road is widened or rebuilt remains with the External Service Provider or Department that owns the Service.

3.5 The cost to relocate a Service owned by the Tsantsabane Local Municipality must be included in the project cost.

4. PLANNING WORK TIME SCHEDULE

Before the end of each financial year the RTS department shall schedule a Service coordination meeting with the various Service Providers where the proposed projects for the next financial year will be discussed.

5. BASIC WAYLEAVE PROCEDURE

The basic procedure that is required for Work in the PRR is as follows:

5.1 Permission to work in the PRR must be obtained from the RTS Department **via a wayleave application in the technical directorate.**

5.2 The Wayleave Applicant must firstly obtain Service plans, indicating the positions of existing services from the Service Departments identified by the RTS department. The service plans must indicate the positions and type of services in the area where work will be undertaken.

5.3 The control section on the wayleave application form must be approved by each Service Provider, indicating that in principle there

is no objection to the issuing of the Wayleave. This approval will be subject to technical compliance with the standards of the Service Departments involved as well as compliance with the work planned by the Tsantsabane Local Municipality within the area under consideration.

- 5.4 Once the control section has been approved by all the Service Departments, application must be made for the issuing of a Wayleave in accordance with the procedure set out in this document. No work in the PRR may commence before a wayleave has been approved and issued for that work. A construction permit is valid for 12 months or such dates as stated on the Construction Permit.
- 5.5 If the wayleave application conforms to the requirements in this document and all Service Departments have approved the application in principle, then the RTS department will review the wayleave application and either approve or reject the application. If the wayleave application is approved, then the RTS department will issue the Wayleave. If rejected, the wayleave will be referred back to the Applicant with reasons stated.
- 5.6 All preliminary work requested by the Service Providers, the specifications document or this document, must be adhered to before work will be allowed to start. Such requests include inter alia that:
 - a) The Traffic Department must always be notified in writing seven (7) working days in advance by the Wayleave Holder.
 - b) The RTS department and the contact person of each Service Provider involved must be informed 48 hours prior to commencing with the Work by the Wayleave Holder.
 - c) Alternatively notice periods specified by the Service Providers must be adhered to.
- 5.7 The work must be carried out according to the procedures and specifications as referred to in the wayleave document, the conditions under which the work was approved and any other requirements of affected Service Departments. All applicants will be required to sign the Tsantsabane Local Municipality's standard wayleave conditions of approval, including the standard indemnity and applicable specifications.
- 5.8 The Construction Permit and the service plans of the Service Departments must be kept on site while the work is in progress.

- 5.9 The Wayleave Applicant will always be issued with one copy of the approved Wayleave. Additional copies may be obtained from the RTS department if the wayleave is applicable to more than one work area or work team.
- 5.10 Work will be stopped if either the Construction Permit or the Service plans are not available during inspections on site. Until the required documents are available on-site, fines may be imposed.
- 5.11 On completion of the work all trenches and excavations in the PRR must be Backfilled and reinstated according to the Tsantsabane Local Municipality's specifications. Permanent reinstatement is the responsibility of the Wayleave Holder as per the wayleave specific conditions.
- 5.12 On completion of the work and temporary or permanent Reinstatement, as applicable, a Completion Notice must be sent to the RTS department by the Wayleave Holder.
- 5.13 The RTS department must review the Completion Notice as well as carry out an inspection of the site after receiving the Completion Notice. A Certificate of Completion confirming that all specifications have been met must be submitted by the Wayleave Holder to the department.
- 5.14 The guarantee period of 12 months will be stated on the Certificate of Completion and will commence from date of signature.

6. WORK IN THE PUBLIC ROAD RESERVE

- 6.1 Work in the PRR includes the excavation of trenches (manual or machine), tunnelling, drilling, boring, moling, erection of signboards, erection of structures, street shaping, landscaping, planting and maintenance of ground covers and trees in the PRR and any other work that may affect motorists, cyclists, pedestrians, the road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overhead Services or any other structure or Service that is contained within the PRR.
- 6.2 The types of work that require approval from the relevant Service Department before a Wayleave is granted is deemed to be provision of a new Service and will be conducted according to the procedures in Section 3 above. In general, such work refers to the positioning of a new Service, excavation in the PRR, traffic control and reinstatement of the roadway and pavements. Examples include inter alia:

- 6.2.1 Work relating to the installation or maintenance of underground or overhead Services by Tsantsabane Local Municipality's Service Departments including Roads, Transport and Storm water, Water and Sanitation, Electricity, Mechanical, Bulk Service lines for WWTW / WTW and Desalination.
- 6.2.2 Work relating to the installation or maintenance of underground or overhead Services done by non-Municipal Service Providers like ICT, telecommunication, electricity, gas, fuel, oil and regional water supply.
- 6.2.3 The erection of structures that require approved building plans in terms of the National Building Regulations and Building Standards Act 103 of 1997;
- 6.2.4 The erection of notice billboards and structures that require approval in terms of the relevant by-laws;
- 6.2.5 Road works, such as construction of new roads, road widening or accesses to developments, undertaken by developers;
- 6.2.6 Erection of hoardings in the PRR;
- 6.2.7 Installation of services by private concerns, e.g. data cables to connect different buildings;
- 6.2.8 The installation or construction of kerbing, paving, bollards, walls, gardens, etc. on sidewalks by property owners or occupiers.
- 6.2.9 Road closures for construction purposes which may include traffic accommodation.

7. Existing Service and Planned Service

- 7.1 The Wayleave Applicant must submit service drawings indicating the position of services in the area of work with the wayleave application form. This information is obtained from the relevant Service Departments.
- 7.2 Service Departments may require additional precautions relating to work in the vicinity of their services and must specify these in writing to the Wayleave Applicant.
- 7.3 As part of the Undertaking/Indemnity on the wayleave application form, the Applicant has to confirm that the necessary information has been

obtained from the Service Departments and undertakes to adhere to the additional conditions laid down by the various Service Departments. The control section on the wayleave application form, signed by the Service Departments, will serve as proof that the Service Departments approved that a wayleave may be issued.

7.4 The RTS department will verify with internal Service Departments whether future work is planned for the area indicated in the wayleave application. Such planned work may dictate whether a wayleave is approved and the conditions under which a wayleave is approved. The planning horizon will depend on the planned life of the new service as well as the Tsantsabane Local Municipality's 5-year Capital & Operational plan.

7.5 It may be required from the Applicant to do cross cuts (trial holes) in the area where work is planned. The purpose of cross cuts is to establish and confirm the position of Services in areas where the information on Services is unclear.

7.6 A cross cut (trial hole) is done by excavating a trench that runs from the verge of the road up to the property boundary, perpendicular to the normal direction of Services. Excavation must always be done by hand.

7.7 The minimum depth of the cross-cut trench is 1 meter below the lowest point of the PRR.

8. COST: (Refer to approved municipal tariff fees)

8.1 Wayleave application tariff

8.1.1 The wayleave application tariff is a amount that is payable by the applicant upon submission of a wayleave application form. This tariff amount will be determined by the RTS department and approved by Council.

8.1.2 The wayleave application tariff covers the Tsantsabane Local Municipality's costs for work done by the RTS Department to obtain comments from the various Service Departments on the Wayleave application.

8.1.3 Initially the Wayleave Applicant must obtain comments from the various Service Departments on the wayleave application. Wayleave Tariffs are subject to escalation for each subsequent financial year. The tariff payable by an Applicant is based on the date of application, or date of wayleave stage (application

or execution) the Applicant is in. It may be that there is a time delay over two financial years between application and execution, then the tariff payable will also vary due to the escalation.

- 8.1.4 All Government institutions, including Telkom SA SOC Ltd, will be exempted from paying the wayleave application tariffs. However, it will be expected of these institutions to strictly comply with this Policy in particular regarding paragraph 8.2 (wayleave deposits), 8.3 (reinstatement cost) and 8.4 (other costs).

8.2 Wayleave Deposit

- 8.2.1 A refundable security deposit (or Bank Guarantee) will be required for each wayleave being issued. Security deposits will not be required for work done by Internal Service Departments (Tsantsabane Local Municipal Departments) themselves.
- 8.2.2 The deposit amount or bank guarantee value will be based on Council approved Tsantsabane Local Municipality Tariffs and issued by the RTS Department.
- 8.2.3 Wayleave Applicants who can produce proof of sureties or deposits held by other Tsantsabane Local Municipality departments or service providers for the same project will be exempted from providing sureties or deposits if the RTS department considers the amount retained sufficient to cover the potential risks involved.
- 8.2.4 The Tsantsabane Local Municipality will have the right to use the deposit/guarantee to cover costs incurred by the Municipality in relation to the Wayleave under consideration.
- 8.2.5 The responsibility remains with the Wayleave Holder to ensure that the contractor engaged in the implementation of the work has valid and sufficient public liability insurance.

8.3 Reinstatement Cost

- 8.3.1 When permanent reinstatement or any other repair work is to be done by the Municipality, the cost involved will be payable by the Wayleave Holder.

- 8.3.2 The Wayleave application form must include a request for reinstatement based on the expected area to be reinstated. The final invoiced amount payable will be determined using the measured area of the final reinstatement as agreed between the Municipality and the Wayleave Holder.
- 8.3.3 The decision as to who is responsible to do the permanent reinstatement lies with the RTS department. The Wayleave Holder must therefore allow for the Reinstatement cost as an item in their contract document which is payable to either the contractor, or the RTS department.

8.4 Other Costs

- 8.4.1 Other costs can result from any of the following:
 - 8.4.1.1 Damages to existing Services;
 - 8.4.1.2 Relocation of existing Services;
 - 8.4.1.3 Testing of Services and Backfills;
 - 8.4.1.4 Lane rentals;
 - 8.4.1.5 Services rendered by the RTS department in completing work or altering work to conform to wayleave specifications; and
 - 8.4.1.6 Claims that may result from the work
- 8.4.2 All such costs will be borne by the Wayleave Holder who is expected to make provision for recovery thereof from the person executing work in the PRR.
- 8.4.3 A party wishing to dispute any costs charged to it as a result of any of the above reasons will do so at their own cost.

9. TRAFFIC CONTROL

- 9.1 It is the responsibility of the Wayleave Holder working in the PRR to ensure that all laws regarding traffic, safety, traffic signs and barricading are complied with while executing work.
- 9.2 The Wayleave Holder working in the PRR shall therefore take all necessary measures and provide all necessary facilities to ensure an adequately safe and easy passage for traffic and pedestrians through areas in which work is in progress.

9.3 The RTS water department can request that a traffic control plan be submitted as well as kept available on site as part of the conditions under which the wayleave is approved.

9.4 Traffic signs and barricading shall be done according to the latest edition of the South African Road Traffic Signs Manual (SARTSM)

9.5 The applicant working in the PRR must contact the relevant traffic authority to ensure that all requirements have been met for the location where the work is being done.

9.6 The importance of adequate traffic signs, ample flagmen and barricading must be stressed. These measures are intended to ensure the maximum safety for motorists, pedestrians and workers and also the minimum disruption of vehicles and pedestrians. Work sites must be properly barricaded and signed irrespective of how long the work will last. The safety precautions must be maintained for the full time that risks exist in the PRR due to the work being performed in the PRR.

10. ROAD CLOSURE

10.1 The granting of a Wayleave does not give the Wayleave Holder the authority to close any road or portion thereof to traffic. Methods of construction and programs of work must therefore be determined on the basis that no road, or portion of road, may be completely closed to traffic for any period not approved.

10.2 In exceptional circumstances permission may be granted for the temporary closure of a road or portion of road to traffic. The Wayleave Holder must apply to both the Traffic and Roads and RTS department for approval two weeks prior to a road being closed. Road closure will be approved for a specific period only, i.e. from and to a specific time on a specific date and is only valid for that specific period. If the work is not carried out in that period, a new application for a road closure will have to be made.

10.3 Work carried out on arterials, major collectors and central business district roads will only be allowed from 08:00 to 16:00, to ensure free flow of traffic during peak hours. These times applies 7 days a week.

10.4 No construction is permitted over Easter or December holiday period.

11. TEMPORARY STORAGE

11.1 Temporary Storage area rental refers to the rental of space in the PRR or a Public Open Space for the storage of construction materials, or site offices for a period not exceeding 12 months.

12. EXCAVATIONS

12.1 The area that is excavated must always be kept to a minimum. The width of the trench must be uniform in length and in depth, in other words the sides must be parallel and vertical.

12.2 All excavations must comply with the Wayleave Technical Specifications and be executed according to the Occupational Health and Safety Act

12.3 All excavated material and equipment must be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.

12.4 The view (sight distance) of motorists must at all-time be kept clear of any obstructions such as excavated material, road signs or hoardings.

12.5 A safe passage must be kept open for pedestrians at all times.

12.6 Excavation areas must be clearly demarcated with warning signs that allow ample time for motorists and pedestrians to alter their routes;

12.7 The Wayleave Holder is held responsible for any damage to existing Services and 3rd party Public Liability Claims.

12.8 Adequate preventative measures must be taken to ensure that no rainwater (e.g. surface run-off due to rain) flows into the open trenches since this will result in the weakening of the structural layers of the road. Any water that is present in the trenches must be pumped out before Backfilling. Water must be pumped into the storm water system and not into sewer manholes. Any material that has become wet must be removed from the bottom of the trench before Backfilling.

12.9 The Wayleave Holder must prevent foreign materials from entering the drains and ensure that silting does not occur either from pumping operations or as a result of rain/weather. If any silting or other contamination does occur, the Wayleave Holder must clean the network to the satisfaction of the applicable Service Department.

- 12.10 All re-usable materials such as concrete blocks, slabs, kerbs, gutters, channels and storm water inlets must be removed with care and reused if possible. Any surplus material must be removed from site.
- 12.11 If any street furniture (e.g. street names, traffic signs, bus shelters, etc.) have to be removed, arrangements must be made with the relevant authority for the removal, storage and re-erection. The cost specified by the relevant authority will be for the Wayleave Holders account.
- 12.12 Where excavations are made through entrances to properties, the occupants of the properties must be kept informed at all times of how their accesses will be affected. The RTS Department can instruct the Wayleave Holder to reinstate property driveways and surrounding surfaces.
- 12.13 The cleaning of the construction site and the reinstatement to its previous condition is considered part of the work and must be completed within 7 days after reinstatement of the trench has been done. If the Wayleave Holder fails to do so, penalties will be imposed.

13. TRENCHLESS METHODS

- 13.1 If trenchless methods are used, disruption of traffic flow and pedestrian movements can be reduced considerably or eliminated. However, it is important that the Wayleave Holder using such methods must have all the necessary equipment and expertise to complete the work successfully.
- 13.2 The position of existing services must be located accurately. If any services are damaged, the Wayleave Holder will be responsible for all associated repair costs.
- 13.3 The depth to the top of any tunnel that is drilled for the installation of new services must be at least 800 mm measured from the lowest level of the road surfacing. For sidewalk area the cover must be minimum of 700mm
- 13.4 Overhead Services - No wayleaves for new overhead distribution infrastructure (e.g. midblock distribution poles) will be allowed for telecommunication purposes. Any telecommunication fixtures (e.g. boosters, capacitors, dishes) to existing services in PRR (e.g. streetlights or poles) must be approved in writing.

14. EMERGENCY WORK

14.1 Emergency Work is defined as any work that 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. It is important to note that a lack of proper planning of work to be carried out will not justify Emergency Work and such activities will be stopped by the RTS department. Such work can include inter alia:

14.1.1 Emergency maintenance and repairs to existing services within the PRR;

14.1.2 Any work that relates to maintaining the vegetation in the road reserve through cutting planting, removing or relocating of plants;

14.1.3 The placement of advertising material on or within structures pre-erected for that purpose;

14.1.4 Temporary diversion of traffic for public events i.e. sport, mass action, parades.

14.2 A categorised list of Emergency Work will be maintained by the RTS department and will serve as a guideline for Service Providers as well as the RTS department in determining whether work is an emergency.

14.3 The RTS department will provide an emergency number for the use of Service Providers that requires information on the position of Services in the area where emergency work is to be carried out.

14.4 The RTS department must be notified in writing within 1 working day from commencing with emergency work. If the RTS department is not notified within 24 hours from the first working day, the work will be reinstated by the RTS department and the cost thereof will be deducted from the Wayleave Deposit/bank guarantee or invoiced against the Service Provider. The Emergency notification document can be obtained from the RTS department.

14.5 The emergency notification must always be certified by an Authorised Agent of the Service Provider as an emergency that requires their immediate attention.

14.6 Emergency work must be done in accordance with all procedures and specifications applicable to the type of work as set out in the specifications document.

14.7 Reinstatement of the PRR will be done by the Wayleave Holder upon receipt of a notification from the Service department that the emergency work has been completed.

14.8 The responsibility remains with the Service Departments to ensure that their drawing information is updated according to the alterations made during the emergency work.

15. BACKFILLING AND REINSTATEMENT

15.1 Any trenching activity disturbs the structural integrity of a road or footway. Backfilling and reinstatement must therefore be done in such a way as to ensure that the reinstated trench and its immediate surroundings do not fail structurally, thus resulting in road user discomfort and increased costs.

15.2 Backfilling refers to the replacement of the road structural layers in the trench or excavation and includes the base, subbase, selected upper and lower subgrades, but exclude the surfacing.

15.3 Reinstatement refers to replacing the bituminous surfacing, concrete or paving blocks in the case of roads, or the paving blocks, paving slabs, bituminous surfacing or grass in the case of sidewalks, footways and verges.

15.4 Backfilling must in all cases be done by the Wayleave Holder in accordance with the specifications as set out in the specifications document. Proof of compliance can be asked by RTS Department to verify adherence.

15.5 The Wayleave Holder must obtain prior written approval from the RTS department for the project specification to be used for backfilling PRR. The proposed specification shall be submitted to the RTS department, who shall provide written comments on the specification, or an alternative specification, within 7 working days after the receipt of the request.

15.6 When the Wayleave conditions place the responsibility for Reinstatement work on the Wayleave Holder then the Reinstatement specification must also be approved in advance by the RTS department.

15.7 Permanent Backfilling and reinstatement done by the Wayleave Holder will be subject to a guarantee period of one year (12months) based on the performance specifications described in the specifications document.

- 15.8 If permanent reinstatement is done by the RTS Department, the wayleave holder will then be charged for the permanent reinstatement at the applicable rates defined by the RTS department.
- 15.9 If the Backfill does not comply with the applicable specifications, it must be replaced at the cost of the Wayleave Holder. These costs are over and above the normal reinstatement costs.
- 15.10 Temporary reinstatement must be done where the Wayleave Holder leaves the site with the view of returning to complete the work within a reasonable and approved timeframe. The Wayleave Holder must maintain this temporary reinstatement at all times.
- 15.11 The Wayleave Holder may not leave the site without reinstating it to the satisfaction of the Municipality. If a Wayleave Holder leaves the site without complete reinstatement a penalty fee will be deducted from the deposit, or the bank guarantee will be used to cover the cost by the Municipality.

16. COMPLETION OF WORK

- 16.1 On completion of the work the Wayleave Holder must fill in the Completion Notice and return it to the RTS department within 2 working days. The RTS department will then set up a site meeting with the Wayleave Holder to do an inspection, where after the Wayleave Holder will issue a Certificate of Completion if all requirements have been met. A 12-month guarantee period will apply for permanent reinstatements by the Wayleave Holder, or a 1-week maintenance period for temporary reinstatements by the Wayleave Holder.
- 16.2 Completion of the work means that all work has been completed and that all materials, 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 Wayleave Holder. Furthermore, it requires that all applicable documentation and as-builts as specified on the wayleave form have been handed to the RTS department for recording before the Deposit is released or the Bank Guarantee returned
- 16.3 If work involves more than one street link (street block), then a Completion Notice must be submitted after completion of each place of the work.

