STREET TREE MANAGEMENT
BY LAW

ANNEXURE 509/18
PURPOSE OF THE BY-LAW

STREET TREE MANAGEMENT BY-LAW

To draft the City of Mbombela: By Law for Street Trees; to provide for the control, regulation and management of street trees; and to provide for the development of a sustainable environment.

PREAMBLE

WHEREAS in terms of the powers conferred by section 156(2) of the Constitution of the Republic of South Africa, 1996, City of Mbombela adopts the following By Law: Street Tree Management;

AND WHEREAS section 73 of the Local Government Council Systems Act, 2000 (Act No. 32 of 2000) places a general duty on council’s to give effect to the provisions of the Constitution;

AND WHEREAS City of Mbombela seeks to ensure the proper management of street trees within the area of jurisdiction of the City;

AND NOW THEREFORE, BE IT ENACTED by the City, as follows: -

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CHAPTER 1
1. Definitions

In these By Law, unless the context otherwise indicates:

“authorised council official” means any person or official authorised as such, in writing, by the Council;

"Council" means the City of Mbombela acting under the powers delegated to it in terms of section 58 of the Local Government (Administration and Election) Ordinance, 1960 (Ordinance No. 40 of 1960,) and any officer of the City of Mbombela to whom that Council has been empowered by the Council in terms of subsection (3) of the said section to delegate and has in fact delegated the powers, functions and duties vesting in the Council in relation to these By Law;

"City of Mbombela" means the area under control and jurisdiction of the Council as well as any outside area contemplated in section 7(b) of the Local Government Ordinance, 1939 (Ordinance No. 17 of 1939);

“Council Systems Act” means the Local Government: Council Systems Act, 2000 (Act No. 32 of 2000);

“prescribed” means determined by resolution of the Council from time to time;

“prescribed fee” means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

“public road” means a road including a street, footpath, pavement, sidewalk, square, road island, subway, bridge, public passageway or other thoroughfare, which the public has the right to use, in the council area, for which the Council is responsible, and does not include a provincial road or national road within the council area;

"regulation" means a regulation published in terms of the Ordinance;

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

“service” means a utility or other service provided to the public or a section of the public over a network including, but not limited to, electricity, water, gas and electronic communications network services and any other system for supplying a public need;

“service provider” means the provider of a service;

"tariff" means a tariff of charges as determined by the Council from time to time, by special resolution, in terms of section 80B of the Local Government Ordinance, No. 17 of 1939;

“works in the road reserve” means any work that may affect motorists, cyclists, pedestrians, the public road, footways, kerbing, traffic signs, traffic signals, street lighting, underground or overground services or any other structure or service that is contained in the road reserve and includes the digging of trenches, tunneling, erection of signboards, hoardings and other structures, shaping and landscaping in the road reserve;
CHAPTER II

INTRODUCTION

2. **Street Tree Management By Law**
   City of Mbombela’s Street Tree Management By Law is designed to protect trees, regulate cutting and ensure replacement of trees removed. The By Law applies to all properties of City of Mbombela.

3. **Management of trees in the City of Mbombela**
   Parks & Cemeteries Section is actively working with other departments in identified areas of concern.

CHAPTER III

TREE CARE

4. **Tree Planting**

4.1 The City of Mbombela will plant up sidewalks with street trees in accordance with its tree planting program.

4.2 Individual and replacement tree planting may be carried out upon written application from residents to the City of Mbombela.

4.3 Trees planted on sidewalks are to allow unobstructed pedestrian and cyclist movement on the sidewalks and should not interfere and/or obstruct the sight to road signs, traffic signals, streetlights, etc. for motorists, pedestrians, cyclists, etc. In considering these trees to be planted the ultimate fully grown potential of the tree needs to be considered. This would apply for the tree planting program of council as well as to trees to be planted by residents in terms of clause 6.2 above.

4.4 New trees will not be planted if they interfere with existing services, i.e. City of Mbombela, street lights, water, sewerage, etc;

4.5 No tree planting will be undertaken by the City of Mbombela within 10 meters of an intersection or 5 meters of an existing driveway or City of Mbombela lamp pole. Trees will not normally be planted on sidewalks less than 3 meters wide. Notwithstanding the mentioned distances, no tree planting will be undertaken if sight distances for motorists on public roads, motorists entering or exiting private properties, pedestrians, cyclists, etc. are adversely affected.

4.6 Residents requesting individual tree planting must undertake to water the tree until it becomes established (normally two seasons).

4.7 Planting distances between trees will depend on the species selected and existing services.

4.8 No person is allowed to plant any tree that is an invader or alien vegetation or by the nature of its root system, form, fruit, etc., is deemed to be undesirable. Such undesirable trees will be remove by council at the cost of the person who planted it. a Notice will be served after which the plants will be removed at the cost of the transgressor.

4.9 Choice of tree species is at the discretion of the department and will be restricted to varieties known to be suited to the local conditions and that will enhance the aesthetics of the City of Mbombela. Trees with large root systems will not be planted close to the roadway where they may later cause damage to the road construction.
4.10 No private tree planting is permitted without prior consent of council.
4.11 No tree stumps (root system in ground) will be removed.
4.12 No planting to be undertaken within 10 meters from a traffic intersection.
4.13 No planting to be undertaken within 5 meters of an existing vehicle entrance.
4.14 Planting may not be undertaken within 5 meters of an existing electrical or street light pole.
4.15 All applications to plant tree must be done through the way leave system.
4.16 Damage to underground services will be for the contractors account.
4.17 Trees must be planted 10 m to 20 m apart and directly opposite each other.
4.18 Position of trees to be marked by and authorised official from Council.
4.19 Trees must have a sunken soil basin measuring 6cm.
4.20 Selection of species per street to be done by the Parks department.
4.21 Planting hole must be square.
4.22 Holes must be square to the sidewalk.
4.23 Trees must be planted in line and should be lined up during the planting process.
4.24 Additives like can be added for water retention and as a wetter.
4.25 Tree planting tablets to be used preferably instead of granular fertiliser. 10-15cm from ground level.
4.26 When placing the tree in the hole the ground at the bottom of the hole should be made into a heap and the roots placed on top of the heap.
4.27 Bone meal may be added.
4.28 No open holes may be left unattended or overnight.
4.29 Planted trees to be mulched with a suitable medium.

5. **Pest Control**

5.1 Pest control shall be implemented at the discretion of the City of Mbombela.

6. **Tree pruning**

Trees on Council property will be pruned by the City of Mbombela in the event that -

6.1 Dead trees, tree roots, tree stumps or trees of the City of Mbombela that in the opinion of the City present a danger to the public, shall be pruned or removed.

6.2 If the tree/trees mentioned in 4.1 are situated on the sidewalks or outside the boundary of a private property, the cost shall be borne by the City of Mbombela.
6.3 Trees planted on a sidewalk by a member of the public shall become the property of the City of Mbombela and will therefore be maintained by council.

6.4 At the discretion of the City of Mbombela, trees on sidewalks damaged by a member of the public shall be removed or pruned and the transgressor may be prosecuted.

6.5 Branches from trees on private properties overhanging the sidewalk or into overhead power lines may be pruned back to the boundary at the cost of the City of Mbombela.

6.6 At the discretion of the City of Mbombela, trees growing on sidewalk may be pruned or treated at any time.

6.7 No tree may be pruned or removed from any council property except by the City of Mbombela or a competent service provider appointed by the City of Mbombela.

7. **Watering of trees**

7.1 A watering and fertilisation program shall be applied to all newly planted trees at the discretion of the City of Mbombela.

7.2 Notwithstanding the provisions of section 7.1

   (a) At any time a water shortage is experienced within the boundaries of the City of Mbombela water restrictions will be imposed;

   (b) Every home owner will be responsible to water trees planted on the sidewalks bordering his/her property;

**CHAPTER IV**

**TREE REMOVAL**

8. **Removal of trees**

Any request for the removal of a tree on a sidewalk shall only be considered if the request is submitted in writing and addressed to the City of Mbombela. The council shall determine the cost of removing the trees from time to time and this shall be recovered from the owner if it is not in the interest of the City of Mbombela to remove the said tree.

Trees shall only be removed as stipulated in item 8.3 and 8.4.

8.1 Trees on council property that cause damage to private property, or to council property such as kerbs, sewers, etc., shall be removed or treated/pruned at the discretion of the City of Mbombela;

8.2 Council may not remove or prune any tree growing on private property except for reasons outlined in Clause 8.4 (d);

8.3 Trees on council property will only be removed by the City of Mbombela under the following conditions:

   (a) Dead or dying;
(b) diseased beyond recovery;

(c) if a tree is causing a traffic hazard that pruning would not alleviate the problem;

(d) if a tree causes an electrical hazard, or causes non compliance with the relevant sections of the Occupational Health and Safety Act;

(e) if a tree causes damage to water or sewer pipes;

(f) if necessary to accommodate Council Services provided no alternative route is available;

(g) a proclaimed noxious weed or invader plant. (Regulation 15 of Conservation of the Agricultural Resources Act 43 of 1983,); 

(h) trees may only be removed from a side walk to provide vehicle access to a property if the application is supported by the City of Mbombela for the cost of the applicant;

(i) a dangerous tree where the danger cannot be alleviated by pruning or other horticultural work;

8.4 Trees on council property will be removed by the City of Mbombela in the event that

(a) The existing tree/trees causes a traffic hazard that pruning would not alleviate;

(b) The existing tree/trees obstruct or interfere with sight distance to road signs, traffic signals, street lights for motorist, pedestrians, cyclists, etc. that pruning would not alleviate;

(c) The existing trees obstruct or interfere with the safe movement of pedestrians and cyclist within the road reserve, sidewalk, etc;

(d) If in the opinion of council a tree on private property is considered to be dangerous because the type of tree is unsuitable in the urban environment or it is very old or diseased, or the nature of the soil in which it is rooted is unsatisfactory for the height and weight or the tree is causing damage to council services, the General Manager: Community Services may recommend to the Council Manager that the owner or occupants of the property on which the tree is located be issued a notice in terms of the Local Government Ordinance, 17 of 1939, as amended to have the tree removed.

(e) Trees shall not be removed simply because they drop leaves, flowers, fruit, seedpods, seeds, ooze gum or because of any other similar complaint but council may prune such trees to alleviate the problem.

(f) In cases where a tree from a private property falls onto council property and creates an obstruction or an emergency situation, the obstruction will be cleared by the City of Mbombela and the further removal of the debris will remain the responsibility of the resident.

(g) Private trees damaged or blown over during storms will only be cut to clear roads and pavements and the removal of the debris will remain the responsibility of the resident.
(h) The cost of the removal of invader trees or declared noxious weeds on council property, shall be borne by council in terms of Act 43 of 1983.

(i) No tree will be cut / pruned that is obscuring a private or business sign if the general shape and form of the tree will be destroyed. This must also be in accordance with the bill board By Laws.

(j) No tree stumps (root system left in the ground) will be removed after the tree has been cut and removed if it is not required. They will be treated with chemicals to prevent any further growth if necessary.

9. **Obstructions caused by Plants**

9.1 If a tree, shrub or other plants growing on any premises which abut a street or public place or any portion of such plant:

(a) obstructs the view of the driver of any vehicle in such street or public place;

(b) obstructs or causes a nuisance to persons using such street or public place; or

(c) obscures a road traffic sign, or

if any part of such plant causes or is likely to cause a nuisance or a source of danger to such persons, an authorised officer may serve a notice on the owner of the premises or, if the premises are occupied by a person other than the owner, on the occupier thereof, requiring him to cut down, remove or trim the plant from which the nuisance or source of danger originates to an extent and within the period stated in the notice and any person who fails to comply with such notice within the period stated shall be guilty of an offence.

10. **Tree Cutting Permit**

10.1 Proper pruning of a street tree does not require a permit. However, topping a tree is considered damage and a ticketable offence under City of Mbombela’s By Law for Street Tree Management.

10.2 The land owner of protected tree species is ultimately responsible for anything he/ she does or allows to be done on his/ her land, and Must apply for a licence from the Department of Agriculture, Forestry and Fisheries (DAFF) if he/she wants to do any of the following:

(a) Cut, damage, disturb, destroy, prune, de-limb, top, fell, harvest any part of tree including bark, roots, seed, fruit, leaves, etc.;

(b) Use, process into products, e.g. charcoal, firewood, crafts, etc.;

(c) Possess, sell, donate wood, or other produce or product;

(d) Uproot and transplant trees or seedlings to be replanted on same land, or uproot to be transplanted elsewhere;

(e) Clear land from trees for development;

(f) Carry out control of bush encroachment;

10.2 See attached diagram for assistance with obtaining permission to have a tree removed.

**CHAPTER V**

**GENERAL**
11. Prohibited acts

No person other than a duly authorised Council official shall—

(a) plant a tree or shrub in a public road or Council property; or

(b) in any way cut down a tree or a shrub in a public road or Council property or remove it, except with the written permission of the council;

(c) climb, break or damage a tree growing in a public road or Council property; or

(d) in any way mark or paint any tree growing in a public road or Council property; or

(e) attach any advertisement thereto.

12. Liability of Council in respect of injury or damage

The Council shall not be liable for any injury to a person or damage to any property if such injury or damage has been sustained from any of its trees.

CHAPTER VI

COSTS

13. Fees

(a) The prescribed fees to be paid to Council in terms of this By Law must be determined in terms of the City of Mbombela: Tariff By-law.

CHAPTER VII

GUIDELINES FOR TREE REMOVAL

14. Guidelines

Council may at any time develop guidelines and policies in respect of tree management, any matter connected therewith, and any other matter regulated in terms of this By Law.

Included is a guideline to determine the conditions for the permit to remove a tree.

14.1 Tree Removal Guideline

ANNEXURE 509/18
Is a permit needed to cut down the tree?

A permit is required from City of Mbombela of Mbombela City of Mbombela

Is the tree trunk less than 50mm in diameter?

A permit is required from City of Mbombela of Mbombela City of Mbombela

The City of Mbombela must be informed of intention to cut the tree down for permission

Is the tree on a side walk / Open Area / Council Property?

A permit is not required from City of Mbombela of Mbombela

City of Mbombela will prune the tree

If you have a request to have a tree cut down, please contact City of Mbombela at 013 759 2321/013 759 9111 or visit www.mbombela.gov.za

Authorised official of City of Mbombela will do an assessment and make a decision

The tree can be removed by complainant on his/ her cost

City of Mbombela of Mbombela City of Mbombela can remove tree on its cost