



Environment & Infrastructure Services Department



Water Services By-laws, 2023 Groundwater Boreholes Provisions

Gauteng Precinct Management Association, 13 February 2024



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Legislation Governing Water And Sanitation Provision

The Constitution – Bill of Rights

- Section 27 (1) (b) of the Constitution states that (1) everyone has the right to have access to sufficient food and **water**;
- Section (2) states that the state (government) must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
- Section 152 (1) stipulates that the objects of local government amongst others, is to **ensure the provision of services (water and sanitation) to communities in a sustainable manner**





Legislation Governing Water And Sanitation Provision

Water Services Act 108 of 1997

- The Water Services Act gives provision on the duty to provide access to water services.
 - Section 11(1) states that every Water Services Authority has a duty to all consumers or potential consumers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to water services.





Legislation Governing Water And Sanitation Provision

National Water Act 36 of 1998

- The National Water Act gives provision on the duty to regulate access to water resources.
 - Section 26(1)(g) empowers the Minister to make regulations prohibiting or regulating any activity in order to protect a water resource or instream or riparian habitat.

does not confine the Minister to any specific measures – it allows the Minister to prohibit completely, or to regulate, any activity with the purpose of protecting water resources or instream or riparian habitats.



Legislation Governing Water And Sanitation Provision

- Water Services Act: Section 21 states that every WSA must make by-laws which contain conditions for the provision of water services
- The By-laws must comply with the Constitution and the National legislation.
- It is imperative that there is an effective development of the Water Services By-laws in terms of section 139(a) of the Local Government Municipal System Act, 2000 (Act No.32 of 2000)



CoJ Water Services By-laws, 2023

The objectives of this By-law are to:

- Provide, in conjunction with other applicable law, an effective legal and administrative framework within which the municipality can manage, regulate, prevent activities that can or do cause non-compliance to the national legislations and have potential to impact adversely on the water security, public health and well-being, and the environment.

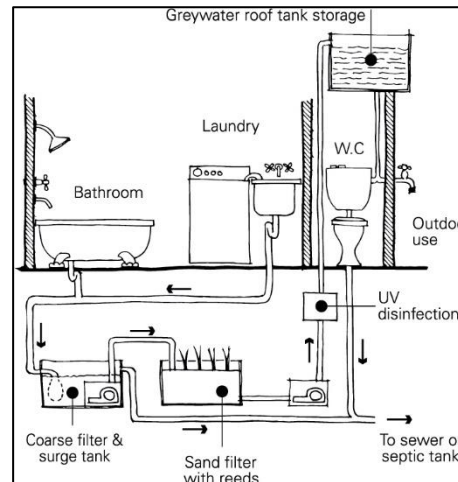




CoJ Water Services By-laws, 2023

Main Changes made in the revision:

- Previously amended in 2008 from a 2004 version
- New chapter on water conservation and demand management
- New chapter on alternative water sources
- Constitutionality tested and rephrased
- Re-arrangement of the chapters to make it reader-friendly
- Changing SABS to SANS
- Alignment with draft Dolomite by-laws





CoJ Water Services By-laws, 2023

Some Rules to remember:

- 5.(1) No person, other than a consumer on Service Level 1, may consume, abstract or be supplied with water from the water supply system, or utilize the sewage disposal system or any other sanitation services, unless he or she has applied to the Council on the prescribed form for such services, and such application has been agreed to.
- 16.(1) No person is permitted to have access to water services from a source other than the Council, without its written approval.



CoJ Water Services By-laws, 2023

Some Rules to remember around alternative water sources:

- 43. An owner must provide and maintain effective measures to prevent entry of any substance or matter, which may be a danger to health or may adversely affect the quality of water or affect its fitness for use, in -
 - (a) the water supply system or plant; and
 - (b) any part of the water installation on his or her premises.

43B (1) A backflow preventer contemplated in section 43A must be designed and installed in accordance with the requirements of SABS Code 0252 Part 1, or as amended.



CoJ Water Services By-laws, 2023

Some changes to highlight:

- **Fitness for purpose and limitation of liability**

69. (1) All water obtained from sources other than the Council's water supply system must conform to the prescribed requirements or standards of the purpose for which it is being used.

(2) The Council is not liable for water that does not conform to the requirements or standards referred to in subsection (1).



Water Services By-laws Boreholes Provisions

72. (1) No person may sink a borehole on premises situated on a dolomite area and where settlements have already been established, the Council may make an assessment and prescribe appropriate action, including stoppage.

(2) All boreholes sunk before the amendment of this by-law must be registered with the Council within a year of promulgation of the amendments and provide such information as the Council may require

(3) An application to sink a borehole for commercial use must be made directly to the Department of Water and Sanitation in order to obtain Water Use License (WUL) and approval thereof will be subject to an endorsement letter obtained from the Council.

(4) An application to sink a borehole for residential use must be made directly to the Council wherein approval maybe granted by the Council.



Water Services By-laws Boreholes Provisions

72. (5) If water obtained from a borehole is used for a purpose which gives rise to the discharge of such water or a portion thereof into the Council's sewerage system, the owner must install a meter to the specification of the Council in the pipe leading from such borehole or other source of supply to the point or points where it is so used, and the owner must apply to the municipality for sanitation services.
- (6) The Council may, at any time, require water quality and yields of the borehole from the owner of the borehole.



Procedure on Drilling Boreholes (Commercial)

1. Apply to Department of Water and Sanitation for WULA before drilling borehole – they will determine based on quantities and drainage area whether WUL or GA
2. Apply to CoJ Planning _ Land Use Scheme, 2018, Clause 14(1)
... Lot of property owners drilling within servitude of Gautrain tunnel; property owners drilling boreholes without consultation with tenants

Thank you



... Questions?