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City of Cape Town: Immovable Property By-Law, 2014

BE IT ENACTED by the Council of the City of Cape Town, as follows: –

WHEREAS Section 156 (1) of the Constitution of the Republic of South Africa provides that a municipality has the right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 and any other matter assigned to it by national or provincial legislation;

WHEREAS section 156(2) provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer;

WHEREAS Part B of Schedule 5 of the Constitution lists public places and public roads as local government matters;

AND WHEREAS a municipality is empowered by the Constitution and the Expropriation Act, 1975 to permanently or temporarily acquire immovable property;

AND NOW THEREFORE, BE IT ENACTED by the Council of the City of Cape Town as follows: –

1. Definitions

In this By-Law, unless inconsistent with the context –

"approve" in relation to a plan or diagram means a plan approved by the City or other competent authority in respect of a subdivision, rezoning or development approval or a diagram approved by the Surveyor-General in terms of applicable law;

"City" means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998, or any structure or employee of the City acting in terms of delegated authority;

"close" in relation to a public street or public place, means to close the public street or public place to vehicular or pedestrian traffic only;

"municipal area" means the area under the jurisdiction and control of the City;

"public place" includes any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram that is for use by the general public and is owned by, or vests in the ownership of the City, and includes a public open space and a servitude for any similar purpose in favour of the general public.

2. Ownership of immovable property

The ownership of all immovable property registered in the name of the City and all public places, including public streets, vests in the City.

3. Acquisition of immovable property and rights in immovable property

- (1) The City may acquire immovable property or rights in immovable property within or outside its municipal area by means of purchase, donation, gift, lease or otherwise.
- (2) Subject to the provisions of the Expropriation Act, 1975 (Act No. 63 of 1975) the City may expropriate immovable property and rights in immovable property or may temporarily take the right to use immovable property.

4. Closure of Public Places

- (1) Subject to subsection 2, the City may, by notice in the Provincial Gazette, close any public street, public place or any portion thereof.
- (2) The City must –
 - (a) advertise the intention to close any public street, public place or any portion thereof;
 - (b) serve copies of the advertisement contemplated in paragraph (a) on the owner of all immovable property abutting the public street, public place or portion thereof which it proposes to close;
 - (c) the copies of the advertisements must be served not less than 30 days before date by which objections are required to be lodged in accordance with such advertisement;
 - (d) consider any objections and comments received in accordance with such advertisement.
 - (e) submit a copy of such advertisement to Council together with any comments thereon; and
 - (f) obtain Council's authority to act in terms of subsection (1).

5. Prescriptive claims

If a person has, by prescription, acquired ownership of immovable property owned by the City, such prescription may be conceded by the City if written proof is produced to the effect that such prescription occurred 10 years prior to the expiration of the period contemplated in section 1 of the Prescription (Local

Authorities) Ordinance, 1964 (Ordinance 16 of 1964) or 10 years prior to the expiration of the period contemplated in Section 3 of the State Land Disposal Act 48 of 1961.

6. Repeal

- (1) The By-Law relating to the Management and Administration of the City of Cape Town's Immovable Property as published in the Provincial Gazette 5988 of 28 February 2003 is hereby repealed.

7. Short title

This By-Law is called the City of Cape Town: Immovable Property By-Law, 2014.