

## **MANDENI MUNICIPALITY**



## **DRAFT PUBLIC OPEN SPACES AND VERGES POLICY**

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## 1. PURPOSE

These policies set out broad directions for the Municipality. It indicates high level direction rather than detailed prescriptions.

The proposed policies will assist and guide the Municipality on its mission to develop the current existing public open space, identify and the greening of environment for the future.

This policy forms part of the comprehensive management strategy for the department which will also includes this information:

### 1.1. LEGISLATIVE FRAMEWORK

- 1.1.1 The Constitution of the Republic of South Africa, 1996 Chapter 2: Bill of Rights
- 1.1.2 Forestry Act [Act No.84 of 1998]
- 1.1.3 National Environmental Management Act 73 [Act no.73 of 1989]
- 1.1.4 Conservation of Agricultural Resources Act 43 [Act No.43 of 1983]
- 1.1.5 Water services Act 108 [Act No.108 of 1997]

It is the idea of this policy to have all these principles that add value and enhance quality of life such as equity, public participation, accessibility, transparency, fairness, accountability and flexibility, upheld through its implementation.

## **2. CATEGORIZATION OF PUBLIC OPEN SPACES**

The following categories are based on the utilization of the space, type of land use and the allocation management responsibility to a certain authority. These categories comply with municipality management of public open space and Land Use Management System which deal with zoning of public open space

## Public open space and other related amenities management by community services

<b>LAND ACTIVITY DESCRIPTION</b>	<b>PUBLIC OPEN SPACE TYPE</b>
1.Land set aside for burials and associated activities	Cemetery
2. Land with recreational facilities which serve needs of local communities. Including informal recreational facilities of a small scale such as play grounds, seating areas, open grasses and gardens.	Local Parks
3. Undeveloped land zoned for Public Open Space which are vacant but may be developed some time in the future.	Undeveloped Public Open Space
4. Land occupied by natural water courses, rivers, streams, man –made canals, storm water detention ponds and “green belts” or	Green belts/Green lungs
5. Horticultural activities taking place within road reserves and town streets. Includes trees, shrub planting programme which adhere to be approved Council Greening	Road Amenities

### 2.1 Services Level Agreements

Land areas of which are not designated Public Open Space act as a multi –purpose and multi-functional resources with a range of uses and contribute to the green landscape which may be managed or maintained by the Municipality and will be subject to a service level agreement with the relevant authorities or owner. An example of this is the planting of trees.

### 2.2 Policy proposals

#### Introduction

The following section sets out the policy proposals under a set of the four themes, which are:-

- A. Development planning issues
- B. Provision of informal recreational activities
- C. Provision of infrastructure
- D. Rehabilitation of an area after use.

Each of the policy includes motivation and argument relating to issues covered in the proposed policy.

### 2.3 Leasing or disposal of public open space

Council may recommend the lease or disposal of Public Open Space provided that an integrated assessment procedure is followed and that there is a benefit to the Citizens of the town and the environment either in terms of financial gain resources. **[Provided, in a case of disposal Council complies with the provisions of section 14 (2) of Local Government Municipal Finance Management Act 56 of 2003]**

## **2.4 Motivation**

It is recognized that Council and private stakeholders are the custodians of public land and that they play an important role in conserving open space and undeveloped land for the benefit of future generations as well as for the public.

All applications for informal developments on public open space will be considered by the responsible departments.

Integrated assessments are based on a set of criteria (including intensity of usage levels) which identify the benefits and constraints to Council, the community and environment.

An integrated approach to land use planning must be followed to ensure that all potential open space is used sustainably.

## **3. COMMUNITY PARTNERSHIPS**

Municipality should adhere to Council Policy on community partnerships and will perform in line with the Integrated Development Plan for the Council.

### **3.1 Motivation**

Community partnerships have been always encouraged by the municipality and it is recognized that the local neighbourhood and wider community must be involved with the planning and design process to ensure continued support as well as maintenance of living landscape and particularly tree planting programmes.

All agreements with the local communities must be in writing and specific to each particular proposed partnership, having taken into account all role players interested and affected parties as well as the specific site and its conditions. It is noted that some communities may need assistance from the Council with the process of preparing a suitable agreement, taking into account the different languages and standards of education amongst communities (refer to Municipal System Act).

Innovative and alternative methods of involving the local community and business sectors must be pursued to ensure an increase in resources made available for the development and management of Public Open Space.

#### **4. REHABILITATION OF THE SITE**

Public open space covers a wide range of areas or habitats and serves a variety of purposes.

This approach does not necessarily mean setting aside a large tract of land as wild sanctuaries, rather, it means that the Municipality we should build into our approach of land management and awareness of the requirement of plants and animals so that the whole matrix of the urban complex becomes suitable for the natural fauna and flora population.

##### **4.1. Motivation**

Where a construction takes place on a site, there is damage to the site.

The construction could be the building of a road, office complex and open cast mines. The types of damage vary from construction site to construction site.

The rehabilitation principle shall apply to the construction site includes but not limited to:

No damage to the valuable plants

Removal and storing of topsoil

Depending on the area, the site should then be covered with grass soars, seeds or other plant material

When the contractor has completed the works the whole area should cleared of all foreign matters.

Re-establishment of damaged areas must form part of a top priority of any contractor.

#### **5. VANDALISM**

Vandalism of property and equipment owned by Council is a major problem throughout the town if not country wide Councillors and Managers in the municipality must encourage that all equipment and facilities are well maintained and repaired timeously and encourage showing „zero tolerance of vandalism and theft.

Community partnership and surveillance with the local neighbourhood should be encouraged and mechanism set up to assist with reporting incidents and unwanted behaviour by vandals. In addition and public awareness process is required to educate the Public and this could be run through schools programmes or sports and Amenities “Come and Play” programme.

## **6. SIGNAGE AND ADVERTISEMENT**

All signage and advertising in the public open space must comply with the Outdoor Advertising, Signage By - Laws and Parks By - Laws.

### **6.1. Motivation**

Signage is an important element in ensuring that the public are informed, educated and encouraged to take care of the public open space which they use. However, too many signs on the open space and Side walks can be a problem in terms of maintenance

The Municipality promotes commercial involvement in certain priority areas provided that consultation has taken place with other departments wherever necessary and the involvement is therefore carried out on an integrated basis.

The Municipality promotes creative and sustainable partnerships with the private sector to provide exposure for the appropriate or sponsorship whilst offsetting municipal costs.

## **7. LANDSCAPE PLAN REQUIREMENTS**

The Municipality must require that a landscape plan be submitted for all developments, planning regulation applications and infrastructure improvements which effect public open space.

The landscape plan must be approved prior to any development taking place and must be implemented to the satisfaction of the department.

### **7.1. Motivation**

All site development plans for applications for rezoning and subdivisions must be accompanied by a landscape plan prepared by a registered landscape architect.

In the case of smaller or less significant developments a suitably qualified or experienced person may specifically approved by the director.

An integrated approach must be adopted in terms of design requirements and reference.



## **8. PLAYGROUND EQUIPMENT**

The Municipality only provides approved playground equipments. [SABS]

### **8.1. MOTIVATION**

In consultation with communities, standard children play equipment may be provided to playground on public open space .It will supplied on Council tender to ensure consistency of standards and safety requirements. A regular maintenance and monitoring programme is recommended for all equipment to ensure that vandalism or over use is kept to a minimum and that damage to equipments does not cause danger to the public.

## **9. PLANTING**

One amongst the core function of the Parks section is to green the towns within Mandeni Municipality and it therefore aims to promote appropriate functional and aesthetically pleasure planting in accordance with available budgets and environmental guidelines.

### **9.1. Motivation**

The Municipality is responsible for the development of public open spaces, cemeteries and other related amenities in the town including the provision of sustainable planting material which includes the efficient water use and indigenous plants. Development also includes for the provision of urban and cultural landscapes where planting with a particular theme may be necessary and Council therefore intends to promote the use of appropriate plant species.

It therefore needs to encourage a wide range of plants and create interesting, protected and aesthetically pleasing environments .Council will support and promote environmental and planting legislation in terms of preventing the spread of alien invasive plants as listed in Conservation of Agricultural Resources Act Regulations under categories 1, 2 and 3.

Planting on the sidewalks, the development guidelines for designing and approving hard and soft landscape in urban road reserves.  
Council supports the protection of all plants in the town including **Champion trees** and a group of those plants having conservation values.

## **10. MANAGEMENT OF VERGES**

### **10.1 Pruning**

Trees on Council road reserve will be pruned in accordance with the Council's specifications for trees in the service level agreement, generally to:

- 10.1.1 Abate a nuisance
- 10.1.2 Ensure the trees do not create a hazard for traffic or pedestrians
- 10.1.2 Prevent or mitigate damage to pipes or power lines
- 10.1.3 Manage risk with larger senescent trees
- 10.1.4 Meet the specification for the removal of inappropriate tree species
- 10.1.5 Preserve significant views as seen from the road or footpath

### **10.2 Tree topping**

As a rule Council will not 'top trees', i.e. reduce their height.

In exceptional circumstances crown reduction may be considered:

- 10.2.1 When tree topping or regular height reduction has been carried out on a particular tree in the past and other management options are not considered sensible.
- 10.2.2 For the clearance of high voltage service or to meet other statutory requirements  
If the tree (or trees) form part of a formally planted and maintained hedge  
Where the Council has no specific interest in the future maintenance of the tree (or trees)

There is a small range of tree species that will be proactively removed due to the following factors:

Rapid growth rates eventual large size of the tree (in relation to the site)prolific at self-seeding pose a major risk when senescent trees often colonise or grow on inappropriate sites considered a pest plant.

### **10.3 Tree Removal**

Trees will not generally be removed from road reserve to preserve views, remove shading, or for the control of leaf litter.

Trees that are dead, dying, or storm damaged will be removed as a priority.  
Tree removal may be undertaken where significant public views from the road and footpath are compromised.

### **10.4 Cost recovery for Discretionary Work, Storm Damage and Potential Hazards**

Where Council is notified that a tree is blocking a view, or shading a property by the occupier of the property and Council carries out work on the tree, the following criteria will apply to cost recovery for the work:

#### **10.5 No cost recovery**

Essential work to mitigate an actual or potential hazard.

#### **10.6 Ability to waive cost recovery**

Council will consider the following factors when exercising discretion in relation to cost recovery, or the requirement to mitigate a nuisance:

the level of direct benefit to the applicant or Council as a result of the work the priority or the need for the work

## **11. TREE PLANTING**

### **11.1 Shading and re-instatement of views**

Council will assess Council owned trees, and undertake work to mitigate a nuisance in response to requests from the occupiers of properties that are affected by trees on road reserve. The cost of the work will be recovered in accordance with this policy.

The following factors are considered when making decisions on requests for work on trees from the public or a landowner/occupier:

- 11.1.1 The wider community's interests in the maintenance of an aesthetically pleasing environment. The value of the tree as a public amenity, including the ability to provide shelter from wind,
- 11.1.2 The likely effect (if any) of the removal or trimming on ground stability or the stability of other trees. The historical, cultural, botanical or scientific significance (if any) of the tree.
- 11.1.3 The length of time the property owner has resided in the property. Often the applicant has recently purchased the property and was aware of the trees at the time of purchase

### **11.2 Overhead Wires**

Trees are generally pruned around low voltage wires. (Not topped or reduced in overall height.) As a general rule trees will be allowed to grow up and through overhead wires unless a hazard is identified. The Parks and Gardens Unit will deal with requests for line clearance on an individual basis. The permission of Council must be obtained in advance of carrying out any pruning or removal of trees to clear overhead wires.

## 11.2 Clearance and Repair of Drains

**Where a significant tree is blocking a drain on road reserve, the tree takes precedence. Where a significant tree is blocking a drain the general practice will be to move and relay the drain.**

Cost recovery will be at the discretion of Council. In general there will be no cost recovery for:

- 11.2.1 Repairs to private drains on road reserve (i.e. laterals from private properties to the mains),
- 11.2.2 Work on private property with the agreement of the property owner, if the fault originated from a Council tree, and where a tree on private property is damaging a public Main (40% of public mains are on private property).
- 11.2.3 Council does not accept liability for damage by tree roots to drives and pathways where these cross road reserve.

**For trees that are not significant trees, the drainage infrastructure will take precedence.**

## 11.3 Removal of Large Senescent Trees

Where Council considers large trees to be inappropriate or high risk, the trees are added to a list of larger trees for removal and prioritised by their level of risk.

Assessment criteria:

- The condition of the trees,
- Previous failure history

The potential damage or target if the tree was to fail, the tree species and topography or other factors specific to the site.

## **11.4 STORMS AND CLEARANCE OF TREES**

The main priority during storms is to keep roads clear and open. Private access ways and drives are generally given a lower priority.

Private trees will be cleared from roads but the cost of the work will be recovered from the tree owner.

## **12. NOTES TO POLICY**

### **12.1 Road Reserve Free Shrubs**

Shrubs may be planted by residents on road reserve for the purpose of beautification and to assist residents with the maintenance of the area adjoining their property.

The planting of road reserve may only be carried out with the approval of the

Parks and Gardens Unit. New planting should be of a type, and location, that

will not cause future problems.

### **12.2 Tree planting**

The planting of new trees and the replacement of dead and vandalized trees is covered under the Parks and Gardens Service Level Agreement.

## **13. COUNCIL PRACTICES**

### **13.1 Sites developed by Council**

In planning the re-development of a site, the Parks and Gardens Unit shall assess the site and identify significant trees. Highest priority should be given to the retention of significant trees. Where retention is not practicable, transplanting should be considered only when all other feasible options for retention have been exhausted. Where either of the above options are not appropriate then suitable replacement should be carried out, or financial contributions should provide for tree planting in another area, with replacement trees being of a similar standard and maturity.

### **13.2 Maintenance of Vacant Sites**

Where privately owned vacant sites has not been developed and not maintained, thereby causing nuisance to the community, the Municipality will cut grass and invoice the owners