

CHAPTER 7

RESTRICTION OF ACCESS TO PUBLIC PLACES FOR SAFETY AND SECURITY PURPOSES

A municipal council's power to restrict access

- 43 For purposes of enhancing safety and security, a municipal council may---
- (a) on its own initiative impose a restriction on access to any public place if it complies with the provisions of section 44; or
 - (b) authorise any person, body or organisation to restrict access to any public place if the provisions of section 45 have been complied with.

Procedure for municipal councils to impose restrictions on access

- 44 (1) When intending to impose a restriction on access to a public place, a municipal council must---
- (a) determine the proposed terms of the restriction after consultation with the South African Police Services;
 - (b) pass a resolution confirming the proposed terms and resolve to impose the restriction; and thereafter
 - (c) comply with the following procedure
 - (i) The intention to impose the restriction must be announced by notice in the Provincial Gazette and where these exist, in one or more newspapers circulating in the area concerned.
 - (ii) The notice must specify –
 - (aa) that comment is being sought on the draft terms of a restriction:
 - (bb) the public place affected by the restriction
 - (cc) the proposed terms of the restriction
 - (dd) the documents or written reports relied upon by the municipal council to pass its resolution:
 - (ee) the person to whom or place where enquiries relating to the draft terms of the restrictions may be directed:
 - (ff) subject to sub-sections (6) and (7), the place, time and circumstances when and in which a copy of the documents or original reports may be obtained or displayed for inspection:
 - (iii) At any time before imposing the restriction, consultations with any relevant interest group may be held in any form, including the holding of an enquiry; and
 - (iv) Comments received and the content of all consultations must be considered before imposing the restriction.
- (2) If the municipal council has not imposed the restriction within four months of the announcement referred to in sub-section (1)(c) (i), that restriction cannot be made unless the procedure provided for in sub-section (1) has been repeated.

- (3) A municipal council may dispense with the procedures specified in sub-section (1) in respect of any restriction which in the public interest requires to be imposed without delay, but must implement this procedure within one month of the restriction coming into operation, failing which the restriction will no longer be valid.
- (4) A restriction will come into operation on the date of its publication in the Provincial Gazette or such other date as specified in the Provincial Gazette.
- (5) A municipal council may determine the fee for obtaining a copy of any document or written report relevant to determining the draft terms of the restriction.
- (6) The place where the documents or written reports may be obtained or displayed for inspection must enable all those affected by the restriction to be expeditiously and conveniently informed of its content.
- (7) Every municipal council must develop and implement policies and programs to assist members of the public to comment on the draft terms of the restriction.

Procedures for municipal councils to authorise others to restrict access

- 45 (1) Any person, body or organisation may apply to a municipal council for authorisation to restrict access to a public place by ---
 - (a) submitting a written application specifying --
 - (i) the name and contact details of the applicant;
 - (ii) a description of the public place which is the subject of the application;
 - (iii) a description of the circumstances giving rise to the application;
 - (iv) the category and estimated number of persons affected by the circumstances giving rise to the application;
 - (v) the nature and extent of the restriction in respect of which the application is sought; and
 - (vi) the category and an estimate number of persons who may be affected by the restriction in respect of which the application is sought;
 - (b) furnishing proof that at least two thirds of the persons affected by the circumstances giving rise to the application approve of the restriction in respect of which the application is sought; and
 - (c) paying a non-refundable administrative fee as may be determined by the municipal council.
- (2) After receiving the application, the municipal council must arrange for a meeting to be convened with the applicant and the South African Polices Services for purpose of enabling it to determine ---
 - (a) the merits of the application; and
 - (b) the terms and conditions for granting the authorisation including the payment of fees and deposits.
- (3) If the municipal council intends granting the authorisation to restrict access to a public place pursuant to a determination made in terms of sub-section (2), the provisions of section 44 are applicable, with the changes as may be required by context.

Duration of restriction to access or authorisation

- 46 (1) Unless otherwise stated in the Provincial Gazette and subject to this section, a restriction or authorisation to restrict access is valid for no longer than two (2) years.
- (2) A municipal council may extend the duration of the restriction or authorisation to restrict if ---
- (a) it or the applicant initiates the procedures referred to in sections 44 and 45 respectively; and
 - (b) the procedures are initiated at least one month before the expiry of the restriction or authorisation to restrict.
- (3) For purpose of sub-section (2), the procedures are deemed to be initiated ---
- (a) in respect of restricting access, when a municipal council passes the resolution referred to in section 44(1)(b); and
 - (b) in respect of an authorisation to restrict access, on the date on which the application referred to in section 45(1) is received by a municipal council.
- (4) Pending the outcome of the procedures contemplated in sub-section (2), a restriction or authorisation to restrict access remains valid.
- (5) The terms and conditions may include the payment of a deposit to recover costs incurred by a municipal council for removing any means of restriction.

Offences relating to authorisation to restrict access

- 47 It is an offence for any person, body or organisation to ---
- (a) restrict access to a public place without having obtained authorisation in terms of this Act or any other law; or
 - (b) present itself as being validly authorised to restrict access to a public place in terms of this Act, when it is not so authorised.

Access to and inspection of the terms of a restriction or authorisation to restrict access

- 48 For purposes of ensuring that members of the public have access to or are able to inspect the terms of a restriction or authorisation to restrict access, the provisions of section 9, apply with the changes as may be required by context.