

Provincial Gazette

Free State Province



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SPECIAL

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NO. 94	FRIDAY, 18 SEPTEMBER 2015	NO. 94	VRYDAG, 18 SEPTEMBER 2015
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PROVINCIAL NOTICE.

[No.63 of 2015]

DETERMINATION OF NUMBER OF COUNCILLORS IN TERMS OF SECTION 18(3) READ TOGETHER WITH SECTION 20 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998.

I, **Sarah Matawana Mlamleli**, Member of the Executive Council responsible for Local Government in the Free State Province acting in terms of section 18(3) read together with section 20 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998) and having due regard to Government Notice 712 of 9 September 2014, hereby withdraws the determination of the number of Councillors in Provincial Notice No. 65 of 17 October 2014 and 117 dated 10 October 2014 and 5 December 2015 respectively and substitute it with this Notice.

This Notice will commence on the date of the next general local government elections.

Code	Name of Municipality	Number of Councillors
DC16	Xhariep District Municipality	16
FSI61	Letsemeng Local Municipality	11
FSI62	Kopanong Local Municipality	15
FS163	Mohokare Local Municipality	11
DC18	Lejweleputswa District Municipality	36
FS181	Masilonyana Local Municipality	19
FS182	Tokologo Local Municipality	8
FS183	Tswelopele Local Municipality	15
FS184	Matjhabeng Local Municipality	72
FS185	Nala Local Municipality	24
DC19	Thabo Mofutsanyane District Municipality	41
FS191	Setsoto Local Municipality	33
FSI92	Dihlabeng Local Municipality	39
FS193	Nketoana Local Municipality	18
FSI94	Maluti-a-Phofung Local Municipality	69
FS195	Phumelela Local Municipality	15
FS196	Mantsopa Local Municipality	17
DC20	Fezile Dabi District Municipality	31
FS201	Moqhaka Local Municipality	45
FS203	Ngwathe Local Municipality	36
FS204	Metsimaholo Local Municipality	42
FS205	Mafube Local Municipality	17
	Mangaung Metropolitan Municipality	100
Total		730

DRAFT EXTRAORDINARY PROVINCIAL NOTICE OF THE FREE STATE PROVINCE

[NO.64 OF 2015]

NOTICE IN TERMS SECTION 14(5) OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998: IMPLEMENTATION OF THE MUNICIPAL DEMARCATION BOARD DETERMINATION NO DEM 4542, PUBLISHED AS NOTICE NO 27 IN THE FREE STATE PROVINCIAL GAZETTE OF 7 JULY 2015

1. I, **S.M. Mlamleli**, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlements in the Free State Province, and under powers vested in me by section 14(5) of the Local Government: Municipal Structures Act 1998(Act no 17 of 1998) and after having consulted the affected municipalities in the Province, hereby make the transitional measures contained in the Schedule hereto.

2. **MRS SARAH MATAWANA MLAMLELI**

Member of the Executive Council of the Free State Province responsible for Local Government.

SCHEDULE

PART 1

PREAMBLE

GENERAL

1. The Municipal Demarcation Board has in terms of the provisions of section 21(5) of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998), read with sections 2 and 4 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) by means of Notice 29 Of 2015 as published in the Free State Provincial Gazette of 07 July 2015 confirmed its earlier decision to determine and redetermine certain municipal boundaries as set out in Determination No DEM 4542 published in Notice No 29 of 2015 in Free State Provincial Gazette of 7 July 2015.
2. The determination and re-determinations of the Municipal Demarcation Board as mentioned above, include the following:
 - 2.1 the disestablishment of the Naledi Local Municipality (FS 164);
 - 2.2 the re-determination of the boundaries of the Mangaung Metropolitan Municipality (MAN) by including the area of the disestablished Naledi Local Municipality;
 - 2.3 the re-determination of the boundaries of Xhariep District Municipality (DC16) by excluding the area of Naledi (FS164) from Xhariep (DC16);
3. The effect of the above determination is that the municipal area of Naledi Local Municipality (FS1641) be included in the municipal area of Mangaung Metro (MAN) and excluded from the Xhariep District Municipality (DC16) municipal area.
4. To implement these determinations:
 - 4.1 Provincial Notice No 181 of 28 September 2000 as amended, is hereby amended as provided for in Part 2;
 - 4.2 Provincial Notice No 184 of 28 September 2000 as amended is hereby amended as provided for in Part 3

DEFINITIONS

5. In this Schedule, unless inconsistent with the context, a word or expression to which a meaning has been assigned in the Act has the same meaning and:

“**demarcation notice**” means Provincial Notice No29 of 2015 as published in the Provincial Gazette, Free State Province of 07 July 2015.

“**disestablished municipality**” means the Naledi Local Municipality disestablished in terms of paragraph 7;

“**effective date**” means -

- (1) the day on which the results of the next general municipal elections are declared in terms of the applicable electoral legislation; or
- (2) if the results cannot be declared, and a re-election must be held, the day in which the results of the re-election are declared;

“**proportionally elected councillors**” means councillors elected to proportionally represent the parties that contested the election in the municipality concerned;

“**the Act**” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“**the Types Act**” means the Determination of Types of Municipalities Act, 2009 (Act No.2 of 2009)

“**ward councillor**” means a councillor elected to represent a ward.

PART 2

DISESTABLISHMENT OF NALEDI LOCAL MUNICIPALITY

DISESTABLISHMENT OF EXISTING MUNICIPALITY

6. (1) The Naledi Local Municipality is disestablished with effect from the effective date.
- (2) Until it is disestablished on the effective date, the councils of the disestablished municipality referred to in sub-paragraph (1) remain competent to function for its area.

VACATION OF OFFICE

7. The councillors of the disestablished municipality vacate office on the effective date.

LEGAL SUCCESSION

8. (1) The metropolitan municipality supersedes the disestablished municipality to the extent that the disestablished municipality fall within that area. The metropolitan municipality becomes the successors in law of the disestablished municipality and depend on the specific assets, liabilities, rights and obligations allocated to the metropolitan municipality in terms of this Part.

TRANSFER OF ASSETS, RIGHTS, LIABILITIES AND OBLIGATIONS

9. (1) The assets, rights, liabilities and obligations (excluding investments, cash and cash balances) in so far as they were, immediately before the effective date, predominantly deployed in respect of, or related to, the performance by the disestablished municipality of a function or functions in a specific area, are hereby transferred to the metropolitan municipality which, on the effective date, has sole responsibility for the performance of the said function or functions in the said area.
- (2) For the purpose of sub-paragraph (1), “function” includes a power.
- (3) Administrative and other records (including minutes) relating to the assets, rights, liabilities and obligations referred to in sub-paragraph (1) vest, as from the effective date, in the metropolitan municipality to which the respective assets, rights, liabilities and obligations are transferred in terms of the said sub-paragraph.
- (4) Assets, rights, liabilities obligations and administrative records other than those referred to in sub-paragraph (1) are hereby transferred to the metropolitan municipality.

INVESTMENTS, CASH AND CASH BALANCES

10. As from the effective date all investments and all cash and cash balances in a bank account of the disestablished municipality accrue to the metropolitan municipality as follows:

The investments, cash and cash balances of the disestablished municipality accrue to the metropolitan municipality: The metropolitan municipality continues remunerating any employee of the disestablished municipality referred to in sub-paragraph 13(a) until the end of the financial year during which the new metropolitan municipality was established

TRANSFER OF STAFF

11. A person who on the effective date is an employee of the disestablished municipality becomes an employee of the metropolitan municipality in accordance with the following rules:
- (1) Employees of the disestablished municipality become employees of the metropolitan municipality which as from the effective date is responsible for the performance of that specific function;
 - (2) For the purposes of sub-paragraph (1) "function" includes a power;
 - (3) The employment of employees by the metropolitan municipality must be regulated in accordance with any collective agreement;
 - (4) Until an agreement referred to in sub-paragraph (3) has been reached employees are employed by the metropolitan municipality on the same terms and conditions (including remuneration) applicable to them as employees of the disestablished municipality which previously employed them;
 - (5) Service by a person so transferred is deemed to be service as an employee of the metropolitan municipality to which the person is transferred and any leave, pension and other benefits that may have accrued to that person by virtue of service with the disestablished municipalities shall be deemed to have accrued in favour of such a person by virtue of service with the metropolitan municipality to which she or he is transferred;
 - (6) where an employee transferred in terms of sub-paragraph (1) was a member of a medical aid scheme, pension or provident fund immediately before the effective date –
 - (a) that employee continues as such a member unless continued membership is contrary to the rules of the scheme or fund in question or unless the new metropolitan municipality to which the employee is transferred and the employee, after consultation with the fund or scheme, agree otherwise;
 - (b) The metropolitan municipality must deduct the necessary employee's contributions to the scheme or fund from the remuneration of the employee and pay it over to the scheme or fund in question together with the employer's contribution.

TRANSITIONAL PROVISIONS RELATING TO EXISTING BY-LAWS AND RESOLUTIONS

- 12 (1) By-laws and resolutions (including standing delegations) of the disestablished municipality that are in force on the effective date continue in force in the area in which they were applicable subject to any amendment or repeal by the metropolitan municipality.
- (2) A by-law or resolution (including standing delegations) other than those referred to in subparagraph (1) to the extent that they apply to the metropolitan municipality of the disestablished municipality must be applied by the metropolitan municipality to the extent to which that by-law or resolution (including standing delegations) continues in force in terms of sub- paragraph (1) in the area of the metropolitan municipality.
- (3) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law or resolution (including standing delegations) to the disestablished municipalities must be construed as a reference to the metropolitan municipality which has to apply the by-law or resolution (including standing delegations).

DUTIES OF MUNICIPAL MANAGER

13. The municipal manager of the disestablished municipality must not later than two days after the effective date compile and submit to the municipal manager of the metropolitan municipality –
- (1) a list containing the names and particulars of all persons who on that date were in the employ of that municipality; and
 - (2) an inventory of all the assets and liabilities of that municipality as at that date.

ADMINISTRATIVE UNIT

14. All the employees of the disestablished Naledi local municipality will, on the effective date, be transferred to an administrative unit, which will function as such until the Mangaung metropolitan municipality has established a staff structure and has appointed staff to the
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positions on that staff structure. The administrative unit will function in terms of the budgets systems, rules and policies, which applies to the metropolitan municipality.

- (1) The administrative unit will function under the control of the municipal manager of the metropolitan municipality
- (2) The municipal manager of the metropolitan municipality shall designate a head for the administrative unit; and
- (3) The head of the administrative unit shall, subject to the directions and instructions of the municipal manager-
 - (a) Be responsible and accountable for the management of the administrative unit and
 - (b) For the purposes of section 16 of the Occupational Health and Safety Act 1993 (Act No 82 of 1993) be deemed to be the chief executive officer in respect of the activities of the administrative unit.
- (4) The metropolitan council may disestablish the administrative unit.

TRANSITIONAL FACILITATION COMMITTEE

- 15 (1) A Transitional Facilitation Committee (TFC) is hereby established.
- (2) The TFC automatically ceases to exist and dissolves on the day immediately preceding the local government elections.
 - (2) The TFC must advise the MEC with regard to the exercise of her powers, performance of her functions and discharge of her duties in terms of this notice.
- (4) The TFC consists of-
 - (a) The Chairperson of SALGA Free State, who must be the chairperson; and
 - (c) The mayors of the disestablished municipality, the Mangaung Metro and the affected district municipality.
 - (d)
 - (3) The TFC must be assisted by a Technical Task Team consisting of-
 - (a) The Head: Cooperative Governance and Traditional Affairs who must be the chairperson;
 - (b) The Provincial Director of SALGA Free State;
 - (c) The municipal managers of the disestablished municipality, the affected district municipality and Mangaung Metro; and
 - (d) Such officials of the Department of Cooperative Governance and Traditional Affairs as the head of that department may designate.
- (6) The Department of Cooperative Governance and Traditional Affairs must provide an administrative service to the TFC.

FUNCTIONS OF THE TFC

16. The functions of the TFC are, subject to and for the purposes of section 14 of the Act, be to recommend to the MEC for Cooperative Governance and Traditional Affairs:
 - (1) Which of the assets, rights, liabilities and obligations that have been transferred from the disestablished municipality should be transferred to the metropolitan municipality;
 - (2) Subject to sub-paragraph (1), the implication of a process of reorganizing the employees transferred to the metropolitan municipality;
 - (3) The legal, practical and other consequences of the disestablishment of the local municipality and the establishment of the metropolitan municipality and also including vacation of office by councillors and implications thereof.

PROCEDURES OF THE TFC

17. The TFC may determine its own procedures, subject to the following:
 - (1) A question before the TFC is decided with supporting vote of the majority of the members present at the meeting;
 - (2) At least one half of the members must be present at a meeting before a vote may be taken on any matter.

DISPUTE RESOLUTION

18. (1). Whenever the TFC cannot resolve a question before it for any reason, the matter must be submitted to the MEC who may, in her discretion-

- (a) Resolve the matter; or
- (b) Submit it to arbitration by an arbitrator appointed by her,

(2) A decision by an arbitrator must be deemed a decision of the TFC.

EXPENSES OF THE TFC

19. Any expense incurred by the TFC in the discharge of its functions or in respect of the costs of mediation in terms of paragraph 16 must be borne, in equal in proportion by the municipalities and the department who are members of the TFC.

AMENDMENT OF ESTABLISHMENT NOTICE NO 181 OF 2000 OF THE DC 16 DISTRICT MUNICIPALITY AND THE FS 161, FS 162 AND FS 163 LOCAL MUNICIPALITIES

20 Part 2 of Provincial Notice 181 of 2000 is hereby substituted for the following Part 2 and Part 6 of Provincial Notice 181 of 2000 is hereby repealed with effect from the effective date.

PART 2

“ESTABLISHMENT OF DISTRICT MUNICIPALITY

1. For the district municipal area as a whole, a district municipality is hereby established.

CATEGORY

2. The district municipality is a Category C municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

3 The district municipality is a municipality with a mayoral executive system contemplated in section 4(b) of the Types Act.

BOUNDARIES

4 The boundaries of the district municipality are as indicated by Map DEM 4542 of the demarcation notice

NAME

5 The name of the district municipality is Xhariep.

FULL-TIME COUNCILLORS

6 The council of the district municipality may designate the executive mayor, speaker and mayoral committee as full-time.”

PART 3

AMENDMENT OF ESTABLISHMENT NOTICE NO 7 OF 2011 OF THE MANGAUNG METROPOLITAN MUNICIPALITY

ESTABLISHMENT OF METROPOLITAN MUNICIPALITY

21. For the metropolitan municipal area as a whole as set out in the demarcation notice, a metropolitan municipality is hereby established.

CATEGORY

22. The metropolitan municipality is a Category A municipality as determined by the Demarcation Board in terms of section 4 of the Act.

TYPE

23. The metropolitan municipality is a municipality with a mayoral executive system combined with a ward participatory system as contemplated in section 2(g) of the Types Act.

BOUNDARIES

24. The boundaries of the metropolitan municipality are as indicated by Map DEM 4542 of the demarcation notice.

NAME

25. The name of the Metropolitan Municipality is Mangaung.

COUNCILLORS

26. The council of the metropolitan municipality consists of 100, both proportional and ward as determined in Provincial Gazette.

FULL-TIME COUNCILLORS

27. The council of the metropolitan municipality may designate the executive mayor, speaker, members of the mayoral committee and council whip as full-time.

PROVINCIAL GAZETTE
(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied.

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You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.

Printed and published by the Free State Provincial Government

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U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnummers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op na 1 April van elke jaar begin.

Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering