



DRAFT BY-LAW ON THE ESTABLISHMENT OF THE KING SABATHA DALINDYEBO MUNICIPALITY YOUTH DEVELOPMENT UNIT. 2021

1. PURPOSE OF THIS BY-LAW

To provide for the establishment, powers and functions of a King Sabatha Dalindyebo Municipality Youth Development Unit, provide for the principles guiding the composition of the KSD Youth Development Unit, outline mechanisms for the appointment and disqualification of members of the King Sabatha Dalindyebo Municipality Youth Development Unit, determine the term of office and the manner in which vacation of office should be managed, to establish basic guidelines for operations of the King Sabatha Dalindyebo Municipality Youth Development Unit that include its planning processes, the remuneration of its members, its meetings, its administration and staff matters, to empower the King Sabatha Dalindyebo Municipality Youth Development Unit on matters of its performance management framework and system, to create regulatory environment for its financial activities, to provide for legal matters pertaining to the King Sabatha Dalindyebo Youth Development Unit; and to provide for matters connected herewith.

2. PREAMBLE

Whereas the King Sabatha Dalindyebo Municipality, a member of a democratic and developmental system of local government in the Republic of South Africa, contribute to the necessary creation of a united, non-racial, non-sexist and prosperous society in which the youth shall promote reconciliation and unity, build a new patriotism and foster peace, justice and a human rights culture;

Whereas a need exist to provide principles, mechanisms and processes for the Municipality of King Sabatha Dalindyebo to empower the youth uplift their social and economic empowerment progressively to enable their meaningful participation in governance;

Whereas it is imperative that the King Sabatha Dalindyebo Municipality recognise the role played by the youth, which they still continue to play, as the most energetic and creative sector of society in relation to the challenges they face and opportunities they are exposed to;

Whereas a holistic approach is required to achieve the institutionalisation of youth development and youth participation in the governance of the King Sabatha Dalindyebo Municipality complementing the developmental fundamentals of national and provincial legislative and policy suites;

Be it therefore promulgated by the Municipal Council of the King Sabatha Dalindyebo Municipality as follows: -

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3. THE BY-LAW ON THE ESTABLISHMENT OF THE KING SABATHA DALINDYEBO YOUTH DEVELOPMENT UNIT

Be it promulgated by the Municipal Manager of the King Sabatha Dalindyebo Municipality in terms of section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and read with section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the By-Law on the establishment of the King Sabatha Dalindyebo Youth Structure which shall come into operation after promulgation thereof and set out as follows:

1. DEFINITIONS

(1) For the purposes of the by-laws, unless the context indicates otherwise -

- (a) **“Chairperson”** means the chairperson of the Structure designated in terms of this by-law;
- (b) **“Municipal Development Strategy”** means the Municipal Development Strategy as approved by the KSDM Council.
- (c) **“The Structure”** means the King Satha Dalindyebo Youth Structure established in terms of this By-Law.

- (d) “**Committee**” means a committee established under section 16 (1) of this by-law.
- (e) “**Council**” means the municipal council of the King Sabatha Dalindyebo Municipality;
- (f) “**KSD**” means the abbreviated version of the King Sabatha Dalindyebo;
- (g) “**KSDM**” means the abbreviated version of the King Sabatha Dalindyebo Municipality;
- (h) “**Deputy Chairperson**” means the deputy chairperson of the Structure designated in terms of this by-law;
- (i) “**Executive Mayor**” means the person appointed in terms of section 55 of the Municipal Structures Act as Executive Mayor of the Municipality or his duly authorised nominee;
- (j) “**Integrated Development Plan**” means the integrated development plan as defined in Chapter 5 of the Local Government: Municipal Systems Act and approved by the KSDM Council;
- (k) “**Member**” means a member appointed in terms of section 8 of this by-law;
- (l) “**Member of the Mayoral Committee**” means the person appointed by the Executive Mayor in terms of section 60 of the Municipal Structures Act as Member of the Mayoral Committee or his duly authorised nominee;
- (m) “**MMC**” means the abbreviated version of the Member of the Mayoral Committee;
- (n) “**Municipality**” means King Sabata Dalindyebo Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of the Municipal Structures Act;
- (o) “**Municipal Finance Management Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act 56, 2003);

- (p) **“Municipal Manager”** means the person appointed in terms of section 82 of the Municipal Structures Act as Municipal Manager of the Municipality or his duly authorised nominee;
- (q) **“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- (r) **“Municipal Systems Act”** means the Local Government:: Municipal Systems Act, 2000 (Act 32 of 2000);
- (s) **“Performance Management Framework”** means the performance management framework as approved by the KSDM Council;
- (t) **“Strategic Plan”** means the 2006 – 2011 Strategic and Business Plan as approved by the CTMM Council;
- (u) **“YDU”** means the abbreviated version of the King Sabata Dalindyebo Youth Development Unit established under section 4 of this By-Law;
- (v) **“Youth”** means persons between the ages of 14 and 35;

2. APPLICATION OF THIS BY-LAW

This by-law applies to all organs of the King Sabatha Dalindyebo Municipality and all residents within the area of jurisdiction of this Municipality.

3. GENDER

Any reference in this by-law to one gender includes, in spirit and purport, the opposite gender and any other gender recognised by law.

4. ESTABLISHMENT OF THE KING SABATHA DALINDYEBO YOUTH DEVELOPMENT UNIT

- (1) A KSD municipal youth commission to be known as the KSD Youth Structure is established. It is hereinafter referred to as the “YDU”.

(2) The YDU –

- (a) is juristic person; and
- (b) must exercise its functions in accordance with this By-Law or any other by-law and legislation relevant.

(3) The YDU is –

- (a) to be listed as a municipal structure in terms of the Municipal Finance Management Act; and
- (b) must comply with all the applicable provisions of the Municipal Finance Management Act.

5. SEAT OF THE KING SABATA DALINDYEBO MUNICIPALITY YOUTH DEVELOPMENT UNIT

The Executive Mayor must determine the seat of the Structure.

6. MANDATE (PURPOSE) OF THE KSD YOUTH DEVELOPMENT UNIT

(1) The YDU must –

- (a) co-ordinate, facilitate advise and monitor the mainstreaming of youth development in the policies and programmes of the Local Government.
- (b) build relations with other youth organisations and nongovernment organisations in the Municipality on youth issues.

7. LEGISLATIVE AND POLICY IMPERATIVES INFORMING THIS YDU BY-LAW

- (1) The National Youth Commission Act 19 of 1996 (as amended) provides that the, amongst others, the object of the National Youth Commission (NYC) shall be to “promote a uniformity of approach by all organs of state (**local government included ... our emphasis**), including provincial governments, to matters relating to or involving the youth”;
- (2) The NYC Policy 2000 established in 1997 provides a general approach on the role of local government as part of the institutions and agencies for youth development and paragraph 9.0 states that: “The National Youth Commission Policy seeks to ensure a coordinated

and holistic response by all stakeholders involved in youth development programmes and activities to the major issues facing young men and women. This will involve the three levels of government as well as the wide range of non-government institutions”. The policy provides further in 9.1.3. “that local government is the most direct level of government affecting young men and women. It provides essential services and along with a mechanism for promoting leadership, policy planning and development efforts. Mechanisms should be designed for the creation of youth services and facilities at the local level and the role local governments can play in identifying youth needs and development opportunities, designing youth development services and working with local youth organisations is extremely important. The National Youth Policy recognises the integral role of local government and traditional leaders should play in rural areas when pursuing youth development objectives.”

- (3) The National Youth Development Policy Framework (NYDPF), (2002 – 2007), approved by Cabinet with the object of outlining the mainstreaming of youth development as an integral part of the broader transformation project and challenges in South Africa, provides in clause 6.1. of the Policy Framework that part of the institutional environment is that: “all three spheres of government (national/provincial/ and local) should be centrally involved in their areas of influence”.
- (4) The Eastern Cape Commission on Youth Development Act of 2005 provides in clause 5 (1), as part of the functions of the Eastern Provincial Youth Commission, that: “the Commission must liaise with the national, provincial and local spheres of government on youth issues”. This is for an effective facilitation of cooperative governance and relationship to achieve the National Youth Policy objectives.

8. FUNCTIONS AND POWERS OF THE KSD YOUTH DEVELOPMENT UNIT

(1) The YDU must –

(a) Be empowered with:

(i) advisory and implementing roles on matters affecting youth development.

(b) liaise with:

(i) the provincial, national and other local spheres of government on youth issues; and

- (ii) other youth organisations and non-government organisations in the municipality, nationally and internationally.
- (c) Monitor, review and input on the development and impact of CoT policies on youth in the Municipality and make recommendations; and
- (d) advocate and lobby for an enabling environment for youth participation in all private and public institutions; and
- (e) drive strategic research and policy development on youth development, capacity building and resource mobilisation initiatives;
- (f) recommend policy interventions, strategies and programmes for youth development across the all CoT departments and structures.

9. PRINCIPLES GUIDING THE KSD YOUTH DEVELOPMENT UNIT

(1) The composition of the YDU shall be guided by these principles –

- (a) developmental and integrated approach;
 - (b) redress for racial and gender equity;
 - (c) non-discriminatory practices;
 - (d) recognition of diversity;
 - (e) responsive to stakeholder engagement;
 - (f) sustainable expertise on youth development;
 - (g) participatory and inclusive in nature informed by Good Governance practices;
 - (h) transparency and accessibility, guided by Batho Pele principles.
- (2) YDU must develop a strong working relationship with the Youth Council and other bodies.

10. APPOINTMENT OF MEMBERS

- (1) The YDU consists not more than seven members and not less than three members;
- (2) At least fifty percent of members of the YDU appointed must serve on a fulltime basis;
- (3) The Executive Mayor must appoint members of the YDU from a shortlist compiled by a portfolio committee;
- (4) The factors to be taken into account in the appointment shall include:
 - (i) Expertise in youth development;
 - (ii) participation in community development work; (iii) CoT racial diversity and equitable representation; (iv) unity.
- (5) The portfolio committee referred to in subsection (3) must meet after the Executive Mayor has published a public call for nominations;
- (6) The Executive Mayor, in her or his exercise of executive powers, must designate one member of the YDU as chairperson and any other member as deputy chairperson, who will act as chairperson of the YDU when the chairperson is absent or is unable to perform his or her duties.

11. DISQUALIFICATION

- (1) A person may not be appointed as a member of the YDU if he or she –
 - (a) is not a South African citizen and ordinarily resident in the jurisdiction of the Municipality;
 - (b) is an unrehabilitated insolvent;
 - (c) is a member of Parliament, any provincial legislature or any municipal council;
 - (d) is employed by the national, provincial or local government on a full-time basis;

(e) has notwithstanding paragraph (f), at any time been convicted of theft, fraud, perjury, or an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or any other offence involving dishonesty;

(f) has been convicted after commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and has been sentenced to a period of imprisonment of not less than one year without an option of a fine;

(g) has, as a result of improper conduct, been removed from office of trust;
or

(h) has been declared by a court to be mentally ill or disordered.

12. TERM OF OFFICE OF MEMBERS OF THE KSD YOUTH DEVELOPMENT UNIT

(1) Commissioners appointed into the YDU shall hold office for a period of three years, in its first term of establishment and shall thereafter hold office for a period of five years in subsequent terms in order to correspond with the political terms of office in the CoT.

(2) No person may be appointed as a member of the YDU for more than two consecutive terms.

13. TERMINATION OF OFFICE OF MEMBERS

(1) A member of the YDU ceases to be a member and must vacate his or her office –

(a) if he or she resigns;

(b) if he or she dies;

(c) if he or she is absent from three consecutive meetings of the YDU without prior leave of the chairperson; or

(d) if his or her term of office is terminated under subsection (2);

(2) The Executive Mayor may at any time terminate the term of office of any member of the YDU if, in the Executive Mayor's opinion, there are good reasons for doing so and after following due process;

(3) A vacancy in the YDU must be filled in accordance with section 9 for the unexpired portion of the vacating member's term of office.

14. REMUNERATION OF MEMBERS OF THE KSD YOUTH DEVELOPMENT UNIT

(1) The Executive Mayor must determine remuneration, allowances and terms and conditions of members of the YDU.

15. MEETINGS OF THE KSD YOUTH DEVELOPMENT UNIT

(1) The YDU must meet at least four times a year;

(2) Meetings of the YDU will be held on such dates and at such times and places as the commission may determine;

(3) The procedure at a meeting of the YDU will be determined by the YDU;

(4) The quorum for a meeting of the YDU will be a simple majority of the members of the YDU;

(5) When both the chairperson and deputy chairperson of the YDU are absent from a meeting of the YDU, the members present at the meeting must elect one of their number to preside at such a meeting;

(6) A decision of the YDU will be taken by a majority of the votes of the members present at a meeting of the YDU. In the event of an equality of votes on any matter, the chairperson will have a casting vote in addition to his or her deliberative vote;

(7) Minutes of the every proceedings of the YDU must be recorded and entered into a book kept for that purpose.

16. COMMITTEES OF THE KSD YOUTH DEVELOPMENT UNIT

(1) The YDU may, from time to time, form committees to enable it to perform its functions.

17. HEAD: YDU SUPPORT UNIT OF THE KSD YOUTH DEVELOPMENT UNIT

(1) The YDU must, after consultation with the Executive Mayor, recommend to the Executive Mayor the appointment of a suitably qualified person as YDU Head of Administration.

(2) The Head: YDU Support Unit shall be appointed for a contract of three years with a provision for a renewal of a contract not exceeding one year, thereafter, subsequent appointments of the Head of Administration shall be for a period of five years in order to correspond with the terms of office of the appointed Members of the YDU;

(3) The Head: YDU Support Unit –

(a) is an ex-officio member of the YDU;

(b) is the accounting officer of the YDU for purposes of the Municipal Finance Management Act;

(c) be accountable to the YDU and be responsible for the management and administrative control of the staff of the YDU;

(4) The employment contract of the Head: YDU Support Unit must be in writing and must be incorporated into the broad performance management framework of the CoT;

(5) The Head: YDU Support Unit holds office for an agreed term as may be determined, and may be re-appointed upon expiry of that term of office.

18. APPOINTMENT OF STAFF

(1) The Head: YDU Support Unit may appoint such other staff, or contract with other persons, to assist the YDU in carrying out its functions subject to the CoT staffing policy and supply chain management.

(2) The Head: YDU Support Unit, in consultation with the CoT Municipal Manager, must determine the remuneration and other terms and conditions of employment of staff which must be consistent with the terms and conditions of employment of persons employed in terms of the CoT Human Resources policies.

19. YDU OUTCOMES, PERFORMANCES AND TARGETS

(1) The YDU, must submit for approval to the Executive Mayor, two months prior to the start of the new financial year –

(a) the identified the YDU's outcomes; and

(b) the performance measures and indicators for assessing the YDU's performance in delivering the objectives and outcomes;

(2) The YDU must submit to the Executive Mayor proposals concerning the matters dealt with sub-section (1) within the time-frame set for annual budget process of the CoT or such other date as may be prescribed.

20. FINANCES

In line with the applicable provisions of the Municipal Finance Management Act:

(1) The YDU is financed from:

(a) money that is appropriated by Council for the YDU;

(b) income derived by the YDU from its legally compliant activities that are duly authorised legislation governing this;

(c) money received from a source approved by the CoT Treasury department;

(2) The financial year of the YDU is the period 1 July in any year to 30 June in the following year, except that the first financial year of the YDU begins on the date that this by-law comes into operation, and ends on 30 June next following that date.

- (3) The YDU must be apportioned the necessary financial tools to access and utilise its appropriated budget as approved by Council;
- (4) The Head: YDU Support Unit is the accounting officer of the YDU for the purposes of the Municipal Finance Management Act;
- (5) Within the CoT established time-frames, after the end of each financial year, the YDU must prepare and submit to the Executive Mayor and the auditors, financial statements in accordance with the generally recognised accounting practices and procedures as approved by Council;

21. REPORTING

- (1) In addition to nay other duties or functions assigned to the YDU by this bylaw or any other Council directive, the YDU shall on quarterly basis submit to the Executive Mayor a report on its activities;
- (2) Within the CoT prescribed time-frames after the end of the financial year, the YDU must prepare and submit to the Executive Mayor and Council an annual report, including –

(a) the audited financial statements prepared in terms section 19;

(b) a report of activities undertaken in terms of its functions set out in the Act; and

(c) a statement of the progress achieved during the preceding year towards the realization of its functions.

(3) The Executive Mayor must table in Council each annual report submitted in terms of the Municipal Systems Act;

22. SHORT TITLE AND COMMENCEMENT DATE

(1) This By-Law:

(a) is called the KSD Youth Development Unit By-Law, 2021; and

(b) commences on the date fixed by the Municipal Manager by promulgation.