



ADOPT A SPOT POLICY

Contents

1. DEFINITIONS 3

2. INTRODUCTION 4

3. PURPOSE 5

4. LEGISLATIVE FRAMEWORK 5

5. APPLICATION AND SCOPE OF THE POLICY 6

6. LIMITATION 7

7. CONDITIONS FOR THE ADOPT-A-SPOT PROGRAMME 7

8. RESPONSIBILITIES OF THE APPLICANT 8

9. RESPONSIBILITIES OF THE MUNICIPALITY 8

10. APPLICATION PROCESS 10

11. MEMORANDUM OF AGREEMENT 10

12. EXTENSION AND TERMINATION 11

1. DEFINITIONS

In this Policy, words or expressions shall bear the meaning assigned to them, unless the context otherwise dictates another interpretation: -

“Adopt a spot” means the process through which applicants approach the Municipality to adopt a piece of Municipality owned land for the purpose of maintenance and beautification within a specific timeframe at no cost to the Municipality;

“Adoptee/ Applicant” means any business, companies, organizations, co-operatives, academic institutions, government entities and members of the public who choose to engage with the Adopt-a-spot programme.

“Application” means the official Municipality approved Adopt-a-spot application;

“Constitution, 1996” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), as amended;

“Memorandum of Agreement (MoA)” means the document entered into between the Municipality and the applicant which outline *inter alia*, the project implementation plan, timelines, roles and responsibilities, key conditions, maintenance plan, handover to the Municipality administration, dispute resolution mechanisms and termination;

“Municipality” means when referred thereto as:

- a) an entity, the George Municipality as a municipality described in Section 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), including a duly authorized official of the Municipality; and
- b) a geographical area, the area of jurisdiction of the Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998).

“Municipal property” means property registered in the name of the municipality or vested under the control and management of the municipality in terms of the provisions of the Townships Ordinance, 1934, the Land Use Planning Ordinance, 1985, the Land Use Planning Bylaw for George Municipality, 2015 or in terms of any other legislation which is held in trust for the inhabitants of the municipality but does not include dominium of the property.

2. INTRODUCTION

The Municipality owns, controls, and manages a significant portfolio of public open spaces, private open spaces and nature reserves across a vast municipality area. Some of these are developed into formal parks while others are undeveloped / under-developed. All of them play a vital ecological and/or social function and should not be developed in ways that reduce or impede their open space functions as described in the George Integrated Zoning Scheme¹. However, they all require continuous maintenance and upkeep.

The Municipality has adopted an immovable property asset transfer policy which deals with the disposal and the granting of a right to use, manage or control the property assets it owns.

In terms of this framework policy, the Municipality's immovable property asset portfolio consists of both developed and undeveloped portions of land which include:

- a) business properties,
- b) residential properties,
- c) agricultural smallholdings and farm land,
- d) industrial properties,
- e) community facilities (including health clinics and community halls),
- f) infrastructure properties including public streets,
- g) road reserves and sites reserved for roads and road camp purposes,
- h) parks, nature reserves and other open spaces,
- i) social facilities such as libraries and clinics
- j) sports and recreational facilities and cultural facilities,
- k) historical buildings and museums, and
- l) properties utilized for municipal operational purposes (office accommodation, parking areas, engineering depots and workshops, warehouses, vehicle depots).

The policy is applicable to:

- a) the transfer (commonly referred to as sale) and disposal of immovable property assets owned and controlled by the Municipality; and
- b) the granting of the right to use, control or manage immovable property assets commonly known as lease rights.

¹ Land use description: "public open space" - (a) means land, with or without access control – (i) owned by the Municipality or other organ of state; (ii) not leased out by the Municipality or that other authority on a long-term basis, (ii) set aside for the public as an open space for recreation or outdoor sport and designated as public open space; and (b) includes a park, playground, public or urban square, picnic area; public garden, nature area and ancillary buildings and infrastructure.

The immovable asset transfer policy is primarily oriented towards giving rights to the development of the properties concerned in a manner that changes their functionality. In this context, the policy correctly excludes property assets required for greening, open space development, playground, nature conservation, or biodiversity and ecological functions and services from being made available for any other development.

The IAT policy therefore does not address cases where a person or association of people in the form of organization, businesses or institutions (applicant) may wish to use, control or manage immovable property assets such as parks, nature reserves and open spaces, not for the purpose of developing them and changing their functionality but to maintain and enhance their functionality as a form of a contribution to the management and maintenance of such a property at no financial cost to the Municipality.

3. PURPOSE

Whilst the Policy Framework on Immovable Property Asset Transfer makes provision for the disposal of and granting the right to develop, utilise, manage or control a property asset owned by the municipality, the purpose of the Adopt a Spot policy is rather to make provision for:

- a) cases where an applicant may wish to partner with the Municipality in the form of making use, controlling or managing a public open space in order to maintain and enhance their functionality as a form of a contribution to the management and maintenance of such open spaces without being paid by the Municipality;
- b) guiding a program that aims to overcome the challenges of ecological degradation, illegal land use, illegal dumping, criminal activities and lack of safety in public open spaces;
- c) facilitating partnerships with active citizenry in enhancing the aesthetics and the ecological functionality of the Municipality's public open spaces; and
- d) it in no way is intended to replace the IPAT policy of the Municipality for leasing of property.

4. LEGISLATIVE FRAMEWORK

The basis of enhanced and functional public spaces is set out in the Constitution of the Republic of South Africa. Chapter 2 Section 24 of the Constitution states that

Everyone has the right –

- a) To an environment that is not harmful to their health or well-being; and*
- b) To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –*
 - i. Prevent pollution and ecological degradation;*

- ii. *Promote conservation; and*
- iii. *Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.*

Furthermore, Section 152 (1) (d) of the Constitution states that the objects of local government are to promote a safe and healthy environment.

This policy seeks to contribute towards the achievement of these constitutional prescripts as well as those of legislation and regulations that govern local government and environmental management including the following:

- a) Municipal Systems Act, (Act 32 of 2000) and its Regulations;
- b) Local Government: Municipal Finance Management Act (Act No. 56 of 2003) and its Regulations in terms of Section 168 of the Local Government: Municipal Finance Management Act, 2003;
- c) Municipal Supply Chain Management Regulations, 2005;
- d) Municipal Asset Transfer Regulations, 2008;
- e) Preferential Procurement Policy Framework Act, (Act 5 of 2000) and its Regulations;
- f) Spatial Planning and Land Use Management Act (Act 16 of 2013);
- g) Western Cape Land Use Planning Act, 2014;
- h) Land Use Planning Bylaw for George Municipality, 2015;
- i) George Integrated Zoning Scheme Bylaw, 2017;
- j) National Environmental Management Act (NEMA), 1998 (Act 107 of 1998); and
- k) Outeniqua Sensitive Coastal Area Regulations, 1996 and Extension Regulations, 1998

5. APPLICATION AND SCOPE OF THE POLICY

This policy is applicable to all land zoned “Open Space” or “Undetermined”, held by or vesting with the Municipality in terms of applicable laws, ordinances or bylaws, which are being considered for the purposes of establishing a partnership between the Municipality and the applicant for the purposes of making use of, controlling, or managing a public open space to maintain and enhance its functionality as a form of a contribution to the management and maintenance of such an open space without being paid by the Municipality.

It must be noted that this policy does not amount to the use, control, or management within the scope of the Municipal Asset Transfer (MAT) regulations. It does not grant rights of use, control, or management over a specific area to the exclusion of others. Rather it grants permission to successful applicants to initiate certain activities and projects which would maintain and enhance the beauty of a specific area.

6. LIMITATION

This policy is not applicable to:

- a) cases where the intention is to rezone, sell, donate, and lease the open space for the purposes of a social or economic development that will change the functionality of the property to anything other than an open space or public place;
- b) cases where the open space will be for the exclusive use of the applicant or lead to the permanent closure or enclosing of the open space or public place.
- c) the short-term or occasional use of an open space for an event;
- d) properties intended for "Agriculture" due to complications that comes with such use; and
- e) properties that are worth R10 million or more.

7. CONDITIONS FOR THE ADOPT-A-SPOT PROGRAMME

The following conditions must be noted when considering an Adopt-a-Spot application.

- a) The programme is focused on under-developed, undeveloped or semi developed municipal properties zoned Undetermined or Open Space Zone I to IV purposes, or any other zoning which is not contradictory.
- b) Only sites that are under control and management or owned by the Municipality, which in their opinion are capable of being maintained through private funding, will be considered for adoption. These include but are not limited to:
 - i. illegal dumping sites;
 - ii. recreational parks and facilities;
 - iii. public squares and parking areas;
 - iv. rivers, wetlands, flood plains, ridges and mountains;
 - v. any dilapidated area zoned for such purposes;
 - vi. unused road reserves and road medians;
 - vii. public / municipal servitudes; and
 - viii. any such other properties as the municipality may identify from time to time.
- c) The applicant will not be remunerated, rewarded or reimbursed by the Municipality as part of the implementation of the programme. The applicant will not be granted exclusive rights or any other right over the property and shall keep and maintain the property in good order for the use and benefit of the public.
- d) The successful applicant will be permitted to erect a sign at the identified site which indicates that they have "Adopted the spot" in line with this policy and in partnership with the Municipality. Only generic signage of which the design is approved by the Municipality for this purpose may be used. All signage will comply with the George

Municipality: Outdoor Advertising Bylaw. Signage must include contact details for any emergency and if the site is intended to be closed at a certain time, the hours during which it will open must be displayed on the sign

- e) As the programme is focused on public amenities, the adopted spot must be accessible to all members of the public during specified hours and at no point can any fee be charged to access the area.

8. RESPONSIBILITIES OF THE APPLICANT

- a) Upon approval of the application, it shall be made subject to the signing of the Memorandum of Agreement (MoA), in terms of which the obligations of the Adoptee shall be determined, which may include that the applicant, will also be responsible for clearing the site, remove alien vegetation, preserve indigenous vegetation, and possible water irrigation facilities. Where there are metered services on the property and the applicant has the use of the services, the MoA should include a consumer agreement.
- b) Should the Adoptee wish to install any equipment or urban furniture a maintenance plan must also be provided as part of the application.
- c) The applicant is encouraged to have public liability cover as the Municipality will not be responsible and liable for injuries, death, vandalism and theft of infrastructure items, and natural disasters during the duration of the agreement.
- d) The Municipality will be indemnified against any claims for loss of life or injury arising out of the Adoptee maintaining the property and should a member of the public be injured because of the activities at the municipal property, the applicant may be liable.
- e) Site visits confirming activities on the site will be undertaken by the Municipality on an ad hoc basis.
- f) The applicant may be removed from the site within a three months' notice by the Municipality where a need arises. However, in the case of violation of the agreement, the applicant may be requested to remedy or be removed with immediate effect. In such an event, the applicant will be liable to reinstate the property to its original state if, in the opinion of the municipality, it may be to the benefit of the public.

9. RESPONSIBILITIES OF THE MUNICIPALITY

- a) The Municipality will put measures in place to ensure that that the Adoptee adheres to all adopted and approved policies of Council in the execution of the Adoptee's responsibilities on municipal property, failing which, the municipality may take any actions it deems expedient, including the cancellation of the agreement and reinstatement of municipal property to its original state if in the opinion of the Municipality, it may be to the benefit of the public.

- b) The Municipality will ensure that the Adopt-A-Spot programme has a project manager (PM) to assist with application process and form an Adopt-a-Spot Committee to evaluate applications.
- c) Prior to the final assessment of the application by the Assessment Committee, the application will be forwarded to the Ward Councillor seeking comments.
- d) An Assessment Committee will be chaired by the Municipal Manager, or his or her delegated official. The committee is duly authorized to consider the applications and will have the necessary delegations e.g., for the approval of the site plan, the entering into the agreement, the enforcement of the agreement, monitoring, etc. This Committee should have multidisciplinary representation from at least the following Departments:
 - i. Environmental Management;
 - ii. Investment Property Management;
 - iii. Economic Development;
 - iv. Financial Services;
 - v. Legal Services;
 - vi. Protection Services
 - vii. Town Planning; and
 - viii. Any other department within the Municipality which in the opinion of the Municipal Manager may contribute its expertise to the evaluation of applications either as a permanent member of the committee or on an Ad Hoc basis.
- d) The Municipality will issue invitations via media channels (newspapers, Municipality's website and social platforms) to aspiring citizens to submit written communication indicating their desire and interests to adopt Open Spaces to the Municipal Parks Department.
- e) Once the Municipality is satisfied that the application meets all the requirements, a Memorandum of Agreement will be entered between parties which outlines *inter alia*, the project operational plan [see 10 (d)], timelines, roles and responsibilities, key conditions, maintenance plan, handover to the Municipality administration, dispute resolution mechanisms and termination.
- f) The Municipality will ensure that maintenance on the adopted spot is in accordance with the Municipality's approved municipal standards including any horticultural maintenance plans. The Municipality will further support with clean-up efforts initiated by the Adoptee and will assist with efforts in doing law enforcement to prevent illegal activities on the Municipal properties in so far as its budget permits.
- g) The Municipality will ensure that that the Adoptee complies with the EPWP (through engaging the EPWP office in the execution of the programme) as well as the Occupation Health and Safety requirements during the implementation of the project.

- h) For maintenance purposes any utilities or services on the site must always be accessible. In the event of any remedial action the site will be repaired to its original state at time of repair work. Whilst all care will be taken in this regard, there remains a risk of damage for which the Municipality cannot be held accountable
- i) Upon completion of the project, the adopted spot and any improvement reverts to the Municipality.
- j) An annual report on all adopted sites be tabled to the Mayoral Committee for noting.

10. APPLICATION PROCESS

- a) The application forms that support this policy will be publicly available on the Municipality's website.
- b) The applicant will be expected to hand in an operational plan which details what they wish to do with the identified Adopt-a-Spot.
- c) There is no set template for the operational plan, however it should outline the following as a minimum requirement:
 - i. Description of the activities to be conducted at the adopted spot;
 - ii. Pictures of the site's current condition;
 - iii. Timelines and schedule for when activities will occur;
 - iv. Estimated amount that applicant will spend on the adopted spot;
 - v. Plans regarding removal of any alien vegetation;
 - vi. Possible site upgrades (park benches, jungle gyms, art pieces, etc); and
 - vii. A letter of support from the Ward Councillor will strengthen the application but is not a key requirement for its processing.
- d) After the application is received by the Parks Department, it will be submitted to the Environmental Management Department, who in conjunction with Property Management Department and Town Planning, will investigate the status of the property, zoning and property description. This is to make sure that there are no pending agreements of lease or other rights of use on the property and whether the property is not earmarked for any other purpose. If Environmental Management Department gives a green light, the application will be assessed by the Committee.

11. MEMORANDUM OF AGREEMENT

Upon approval of the Adopt-A-Spot application, the Municipality will draft a Memorandum of Agreement with the applicant (Adoptee). The contents of the agreement will include but will not be limited to the following aspects:

- a) Right to erect a sign indicating that they have "Adopted the spot" in partnership with the Municipality and subject to outdoor advertising bylaws.

- b) Right to landscaping and beautification of the site subject to the Municipality landscape design principles.
- c) The Adoptee may only erect structures on site that have been agreed upon in the Memorandum of Agreement.
- d) The Adoptee may not deny or restrict access to the members of the public during the agreement period, unless otherwise stated in the agreement.
- e) The Adoptee must report all security incidents to the Municipality as and when they occur, as well as how they were addressed.
- f) A report on any improvements (equipment, maintenance, furniture, fencing, etc) must be submitted to Council by the 30 June each year.
- g) The application and proposed activities on the site must comply with all the Municipality policies, procedures and by-laws and other relevant National, Provincial legislative and policy requirements.
- h) The application and proposed activities on the site must not have negative impacts on the environment and appropriate measures must be taken to prevent environmental damage.
- i) The application and proposed activities on the site must comply with zoning requirements of the site and other applicable by-laws of the municipality.

12. EXTENSION AND TERMINATION

- a. The Adopt-A-Spot will be approved on a 2 year 11 months timeline.
- b. Should an applicant wish to extend their Adopt-A-Spot project, they will need to confirm their intent at least three months ahead of the agreement termination. They need to submit an updated operational plan as part of the request. This application must be submitted at least three months before a particular project expires.
- c. If at any point the municipality is of the opinion that the benefit obtained from the agreement is not in the public interest or the applicant contravenes any of the terms and conditions of the agreement or any applicable legislation, the municipality may cancel the approval and terminate the agreement and the applicant shall have no claims against the Council whatsoever arising out of the cancellation and or termination of the agreement.