

# **THE CITY OF CAPE TOWN'S DRAFT WATER AMENDMENT BY-LAW OF 2017**

The City of Cape Town is in the process of amending the current water by-law. The amendments are quite far-reaching. Here is a summary of the amendments that I feel are most important for us to know about.

## **1. AMENDMENTS TO SECTION 14 – THE WATER CERTIFICATE OF COMPLIANCE**

- 1.1. The format of the certificates should become simpler, but the requirements for issue will be more onerous. The certificates will now only have to certify that water installation conforms to the National Building Regulations and Building Standards Act (Act 103 of 1977), and the City's by-law. In the previous by-law, there was no specific requirement of compliance with the Building Standards Act.
- 1.2. The certificate will now have to be issued by a plumber who is registered the City. There will be more about the registration of plumbers later in this article.
- 1.3. Any person who provides false information on a certificate will be guilty of a crime and may be prosecuted. On conviction, the guilty party would be liable to a fine or a prison sentence, not exceeding five years.

## **2. AMENDMENTS TO SECTION 28 (20) & (21) – METERING OF WATER SUPPLIED**

- 2.1. Previously, the City could have provided multiple water connections to a property which had more than one accommodation unit. This is now no longer the case. Only one connection will be supplied. It is now the obligation of the owner of the property, or the person in charge of the management of the property, to install and maintain an isolating valve, along with a water management device or prepayment meter or private sub meter on all branch pipes providing a supply of water to the different accommodation units. The owner of the property will remain liable to the City for the water supplied through the primary water connection.
- 2.2. Section 28 is also amplified. Where a property has different units, and where the water supply to these different units is being meted with separate private sub-meters, the owner of the property or the person in charge of the management of the premises needs to monitor and record the monthly water usage of each individual unit. These records must be kept for at least 24 months.
- 2.3. Such person must also report water usage which exceeds water restrictions or usage limits within 21 days. The purpose of this reporting is to enable the City to take enforcement steps against the owner or the person in charge of the relevant unit to prevent this transgression.

## **3. AMENDMENTS TO SECTION 34 - WATER LEAKS**

- 3.1. The current by-law provides that an owner is not entitled to a reduction on the water account for water wasted or lost due to visible leaks. A reduction will only be allowed for

underground leaks, and this would be only if the leak fell within the category specified in the City of Cape Town's Tariff Policy.

- 3.2. I have looked at the City of Cape Town's Tariff Policy as regards rebates for water wasted as a result of leaks and it makes for interesting reading.
- 3.3. The Tariff Policy would exclude leaks on plumbing to convenience fixtures such as irrigation systems, automatic filling systems to ponds, pools, fountains, etc. where the disconnection of these systems from the primary erf plumbing installation would have prevented the water wastage in the first instance. The Tariff Policy also makes provision for the cost of the wasted water to be shared equally between the City and the property owner, so the owner will always have to pay half. The cost of the water, will however be calculated at the bulk water cost plus the estimated actual distribution cost. The City will therefore not make a profit off the wasted water. The rebate on the cost of the wasted water will also only apply for the period covering the last three municipal bills, which bills were based on actual readings. The City believe that you should have noted the excessive water use and taken steps to fix the leak within this period.
- 3.4. An owner is limited to one rebate claim in respect of each property that he owns. The rebate will also be made conditional on the owner applying for and paying the fee for the installation of an activated water management device to reduce the risk of further water losses from leaks.

#### 4. AMENDMENTS TO SECTION 35 – SPECIAL MEASUREMENT (OF WATER USAGE)

- 4.1. In section 35 of the current by-law, the City already have the power to force an owner to allow the installation of a water measuring device at any place in the water installation. The purpose of this would be to ascertain the quantity of water which is being used in that specific part of the water installation. This section will now be expanded to allow the City to install a prepayment meter at any such point.

#### 5. AMENDMENTS TO SECTION 36 – WATER RESTRICTIONS

- 5.1. Section 36 of the current by-law deals with water restrictions. It gives the City the power to prohibit or restrict the consumption of water and to invoke special tariffs. These restrictions may be of general application, or they may be specific to certain times, parties, places or activities.
- 5.2. The proposed by-law now allows for water restrictions to be imposed in terms of the Disaster Management Act, where a local disaster has been declared due to a scarcity of water or in an effort to prevent such disaster from being declared. The by-law also makes it a crime to fail to comply with water restrictions that might be imposed in accordance with this Disaster Management Act. People found guilty of non-compliance will be liable to a fine or to a period of imprisonment not exceeding six months.

#### 6. AMENDMENTS TO SECTION 38 – WATER CONSERVATION AND DEMAND MANAGEMENT

- 6.1. Section 38 of the current by-law obliges owners and consumers to comply with the good water conservation and demand management practices as contained in Schedule 1 to the by-law. Schedule 1 also makes for interesting reading. The current by-law already

prohibits many wasteful practices, including the watering of a garden using potable water between 9 am and 6 pm and hosing down hard surfaced areas using water from a potable source. It also prescribes that water that is available in public facilities for hand washing and showers must be provided with demand type taps. The current schedule also limits the maximum flow rate of any showerhead to 7 litres per minute and any hand wash basin to 6 litres per minute. The new by-law proposes limited changes to this schedule. These changes are:

- 6.1.1. a hose pipe used for irrigation purposes must be fitted with a controlling device such as a sprayer or an automatic self-closing device at the hose end;
- 6.1.2. Automated sprinkler systems must be able to be correctly positioned, and be able to be adjusted to prevent water wastage;
- 6.1.3. the holding capacity of new or replaced toilet cisterns has been reduced from 9 litres to 6 litres;
- 6.1.4. automatic flushing systems to urinals may be replaced with waterless systems that must be properly maintained; and
- 6.1.5. all swimming pools must be covered by a pool cover to avoid evaporation when not in use.

## 7. AMENDMENTS TO SECTION 42 – PLAN APPROVAL PROCEDURES

- 7.1. In section 42 of the existing by-law, an owner who wished to install the new water installation already needed to submit plans for scrutiny. The proposed by-law will now make it mandatory for an owner to obtain planning approval for any extensions which a person might want to make to an existing water installation.
- 7.2. These plans for extensions to existing water installations must meet the same requirements as those for a new water installation. They must disclose full details of any water conservation and demand management systems or alternative water systems such as a greywater system, treated effluent, surface or groundwater system, air conditioner or bleed off for flushing toilets, irrigation, swimming pool filling or top up or other non-domestic purposes. While I am uncertain as to what all of these requirements relate to, it would appear that the plans for the proposed extensions to the water installation need to be quite comprehensive. In terms of the existing by-law the plans must also include a schedule of each type of terminal water fitting (a device for controlling the discharge of water – usually a tap) and its nominal size. The proposed by-law requires the plans to disclose the number of terminal water fittings to be installed.
- 7.3. A major amendment to the existing by-law is found in subparagraph 42(6) of the proposed by-law. This section requires all new developments to provide for the installation of alternative water systems for non-domestic purposes and full details of this alternative water system must accompany the building plans. Alternative water is water sourced from a supply other than the municipal drinking water supply and includes greywater, rainwater, treated effluent, surface water and water from a borehole, well, well point or spring. This alternative water system must supply water for “non-domestic purposes.” Water for “domestic purposes” is defined as water for drinking, ablution

(washing your body) and culinary (cooking) purposes. Non-domestic purposes would therefore include water for irrigation. It might also include water for a washing machine or dishwasher or for filling up your swimming pool.

- 7.4. The new section 42(7) places an obligation on an owner of a property to notify the City when you install or when you change a fixed water heater, a heat pump installation or a solar hot water panel. Clearly the City wants to know more about what you are doing as far as your water installation is concerned.

## 8. AMENDMENTS TO SECTION 46 – UNAUTHORISED WORK (AND THE REGISTRATION OF PLUMBERS)

- 8.1. The proposed by-law includes new sections numbered 46A, and 46B. These deal with the registration of plumbers. In terms of these sections, the City will maintain a register of qualified plumbers who are qualified and accredited in terms of the National Qualifications Framework Act (Act 67 of 2008). Plumbers registered in terms of the by-law are obliged to ensure that work done by them complies with the by-law. They are obliged to submit a certificate of approval for work done in installing a new installation or making an extension to an existing installation. This certificate must confirm that the work was carried out in compliance with the by-law. The plumber must submit the certificate to the City and furnish a copy to the property owner.
- 8.2. The City will maintain a register of plumbers, which will be published, presumably on the City's website. A plumber's registration can be cancelled if he fails to comply with the by-law or if he falsely or misleadingly issues a certificate of compliance or if he allows his or her registration details to be used in a fraudulent manner.
- 8.3. All plumbers who are qualified and accredited in terms of the National Qualifications Framework Act are entitled to carry out the installation or the extension of the water installation at a property. Only plumbers who are registered with the City are however able to issue certificates of compliance. For this reason, I believe that all plumbers in the City will apply for registration.
- 8.4. Section 48 of the proposed by-law confirms this view. It provides that property owners must ensure that plumbing work is carried out by qualified plumbers and that certificates of approval are provided to the City for newly completed or altered water installations. These certificates can only be provided by registered plumbers.
- 8.5. A plumber will have to pay to be registered with the City. While this by-law might make the provision of plumbing services more professional, I have no doubt that it will increase the costs of plumbing services. There will now be a whole new level of administrative compliance that a registered plumber will have to conform to, and this will take time and cost money.

## 9. AMENDMENTS TO SECTION 49 & 53 – STORAGE TANKS

- 9.1. In section 49 and 53, the existing by-law already provides for the hygienic maintenance of water storage tanks on a property. These tanks must be drained, inspected and disinfected at least once every five years in accordance with the standards and procedures published in a South African National Standards document (SANS 10252).

The proposed amendments to the by-law merely updates the compliance to the latest version of the SANS document.

9.2. The manner of installation of these storage tanks is also prescribed.

9.3. While on the issue of storage of water it is noteworthy that section 52(1)(d)&(e) of the current by-law already makes it compulsory for certain owners of buildings to store a minimum quantity of water on the premises.

9.4. Section 52(1)(d) refers to water for purposes other than firefighting or air conditioning. The total amount of water required to be stored is as follows:

- For hospitals, clinics, old age homes or other facilities from which the occupants cannot readily be moved – 250 litres for each bed the building is designed to accommodate;
- Educational institutions – 40-50 litres per capita;
- Multiple dwelling units exceeding 3 stories – 135 litres per dwelling unit;
- Hotels, boarding houses and hostels – 90 litres for each person the building is designed to accommodate;
- Restaurant kitchens – 8-12 litres per meal prepared;
- Hairdressers and dentists – 4 hours demand per day;
- Industry - 8 hours demand per day;

9.5. Section 52(1)(e) refers to water for flushing toilets in commercial and industrial premises. The total amount of water required to be stored is as follows:

- Commercial premises including shops and offices – 70 litres for every 100m<sup>2</sup> of gross floor area;
- Factories – 5 litres per capita;
- Super stores (such as Hyper markets) – 125 litres per toilet of 600mm of slab urinal;
- Educational institutions – 5 litres per capita.

9.6 While the drafting of these sections leaves a lot to be desired, these requirements do apply to all buildings built since the promulgation of the first water by-law in 2011. I can't recall ever seeing this type of water storage facility in new buildings of this nature, but then I have not specifically looked for one. The question arises whether a tenant of such a property that was built after 2011 can insist that the landlord installs such a storage facility? It could come in quite handy if we do get to day zero, when the water runs out. If the city has not been enforcing this part of the by-law this might be one of the factors why certain buildings and certain areas will continue to receive a water supply after the water has technically run out.

## 10. AMENDMENTS TO SECTION 54 –PREVENTION OF POLLUTION OF WATER

- 10.1. In section 54, the current by-law deals with the prevention of pollution of water, and provides for measures to be taken to prevent the water supply becoming contaminated. The new by-law expands on this for properties where there is a supply of potable water from the municipality and a supply of alternative water. In terms of the new by-law, the two water supplies must be completely separate, with no interconnection at all. The alternative water supply must also have pipework of a different colour to the potable water supply, and it must be properly labelled.
- 10.2. What this section means is that you will now no longer be able to feed “alternative water” into your current irrigation system that was designed to run off the municipal supply. You will have to create a whole new installation to use this water in your garden. In addition, if you have a filtration system that filters groundwater to drinking water standards, you cannot feed this water into the water installation used for the municipal supply of potable water. Once again, you will need a duplicate installation to all the points where you intend to use the filtered groundwater. If strictly applied this will be a major headache for many property owners who are using the same water installation to distribute both municipal water and water from another source.
- 10.3. But please read on, as there may be a way to get around this revised section 54.

## 11. MISCELLANEOUS PROVISIONS

- 11.1. Section 56 of the existing by-law deals with the use of water from sources other than the municipal water supply. The current by-law prohibits the use of any water, other than water obtained from the municipal system, for domestic use. The proposed amendment allows water from alternative sources to be used for domestic use, but you need to apply for permission first.
- 11.2. The current by-law also prevents water from an alternative source being distributed through an existing water distribution system without permission. This is repeated in the new by-law.
- 11.3. This appears to contradict the proposed new section 54 in that it seems to allow alternative water to be distributed through the existing installation if you obtain permission for this from the City. I am sure many people will be making applications of this nature in the near future, as the use of water from alternative sources becomes more popular.
- 11.4. An owner of the premises on which an alternative water source is located must also provide information to the City about this water source. This could include certificates of analysis and bacteriological investigations which will have to be acquired by the owner at their own cost. Failure to provide this information might result in the City withdrawing its permission to allow the domestic use of this water.
- 11.5. In the newly proposed subsection 56(7)(a) the consumer assumes full responsibility for consequences of the use of water which is not from the City’s water supply system. In subsection 26(7)(b) this position is restated from the City’s point of view and confirms that the City bears no responsibility or liability for the use of water, not from the City’s

water supply system. The position is therefore clear. You use water from an alternative supply sources at your own risk.

## 12. WELLS, BOREHOLES, WELL POINTS AND EXCAVATIONS

- 12.1. Section 57 deals with wells, boreholes, well points and excavations. The proposed subsection (d) requires all owners with any well, borehole, well point or alternative water installation on their premises to register themselves on the City's database. Subsection (e) goes on to require these owners to use this water sparingly and efficiently, and when used for irrigation purposes, in line with the watering times laid down by the Water By-Laws of the City. It would appear therefore, that if this by-law comes into force, and if the watering of gardens is prohibited by the City, owners of well points or boreholes will not be able to use this water to irrigate their gardens either.
- 12.2. Section 58 of the existing by-law prevents the digging of well points or boreholes without first giving no less than 14 days' notice to the City. If the owner intends discharging any of this water into the City's sewers, the owner must meter the water abstracted from the well point or borehole.

## 13. IN CLOSING...

- 13.1. A lot of the hype surrounding this proposed amendment to the existing by-law is not merited as many of the "controversial" provisions are already law as part of the existing by-law. The aspects of the proposed by-law which I believe merit most attention are:
  - 13.1.1 The additional requirements for the issue of the water certificate of compliance;
  - 13.1.2 The requirement that work done on extending an existing plumbing installation is to be certified by the plumber who carried out the work;
  - 13.1.3 The City's right to require the fitting of a pre-payment meter at any place in an existing water installation;
  - 13.1.4 The requirement of planning approval for extensions to water installations and the more onerous requirements for the details of the installation to be noted on the plans;
  - 13.1.5 The requirement for all new developments to provide for the installation of alternative water systems for non-domestic purposes;
  - 13.1.6 The requirement for plumbers working in the City to be registered with the City;
  - 13.1.7 The requirement for a second water installation for the use of "alternative water";
  - 13.1.8 The requirement for ground water users to be registered; and
  - 13.1.9 The requirement for borehole water to be metered if it is to be disposed of via the City's sewers.

13.2 Whether all of these proposed changes will find their way into the final version of the by-law is yet to be seen. We will keep you updated on further developments.

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