rural development
& land reform
Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE REGISTRAR OF DEEDS, PRETORIA, PRIVATE BAG X 183, CORNER PRETORIUS AND BOSMAN STREETS, PRETORIA, 0001.TEL: (012) 338 7000, FAX: (012) 338 7103

REGISTRARS CIRCULAR 07 OF 2017
ESTABLISHMENT OF VENTERSDORP/TLOKWE LOCAL MUNICIPALITY (NW 405) AND SUBSEQUINT CHANGE OF NAME TO JB MARKS LOCAL MUNICIPALITY

1. PURPOSE

This serves as a notification of the disestablishment of the local municipalities of Ventersdorp and Tlokwe respectively, and the subsequent change of name of the newly established local municipality.

2. AMALGAMATION OF LOCAL MUNICIPALITY

In terms of Section 12 of the Local Government Municipal Structures Act 117 of 1998, the establishment of the Ventersdorp/Tlokwe Local Municipality(NW405) was declared in terms of in terms of Notice 98 of 2016 in Provincial Gazette Extraordinary 7660 dated 22 June 2016 - See Annexure "A" attached hereto. In terms of Notice 115 of 2016 in Provincial Gazette Extraordinary 7658 dated 17 June 2016, the amendment shall apply from 3 August 2016- See Annexure "B" attached hereto.

3. CHANGE OF NAME

In terms of Section 12 of the Local Government Municipal Structures Act 117 of 1998, the amendment of Notice 98 of 2016 in Provincial Gazette Extraordinary 7660 dated 22 June 2016 was published in Notice 187 of 2017 Provincial Gazette Extraordinary 7805 dated 8 September 2017, and in which the name of Ventersdorp/Tlokwe Local Municipality (NW405) was changed to JB Marks Local Municipality - See Annexure "C" attached hereto.

4. UPDATING OF TITLES

All deeds registered from date of this circular, must reflect the name of the new municipality.

All deeds registered on or before 2 August 2016, which reflects the name of the disestablished municipalities, must be updated in terms of Section 14 of the Local Government Municipal Structures Act 117 of 1998 to effect vesting and transfer to JB Marks Local Municipality.

All deeds which was registered after 2 August 2016, in the name of Ventersdorp/Tlokwe Local Municipality (NW405), must be updated by the examiners with the following factual endorsement: (no application need to be lodged)

Endorsement:
*In terms of General Notice no. 187 of 2017, published in North West Provincial Gazette Extraordinary No. 7805 dated 8 September 2017, read with Notice 98 of 2016 in Provincial Gazette Extraordinary 7660 dated 22 June 2016, the name of the within mentioned council has now changed to "**JB Marks Local Municipality**", as will more fully appear from the said Gazette.*

REGISTRAR OF DEEDS: PRETORIA *DATE*

5. BY-LAWS

The Tlokwe Local Municipality's By-law published in the North West Provincial Gazette 7629 of 22 March 2016 will apply to all properties within its former jurisdictional geographical area till a new By-law is promulgated for the newly established Local Municipality, where after the new By-law will apply.

The Ventersdorp Local Municipality's By-law published in the North West Provincial Gazette 7629 of 22 March 2016 will apply to all properties within its former jurisdictional geographical area till a new By-law is promulgated for the newly established Local Municipality, where after the new By-law will apply.

This circular repeal **RC 23/2016**

REGISTRAR OF DEEDS
PRETORIA
DATE: 15.09.2017

"Annexure A"

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 98 OF 2016

NOTICE IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, NO 117 OF 1998

I Fenny Gaolaolwe, Member of the Executive Council responsible for Local Government in the North West Province, hereby publish in terms of section 12 of the Local Government Municipal Structures Act, No 117 of 1998, the establishment of the new municipality (NW405) in line with the Provincial Notice No. 62 of 2015 as published by the Municipal Demarcation Board in the extra ordinary provincial gazette No 7525 dated 25 August 2015 and disestablish the local municipalities of Ventersdorp and Tlokwe respectively, as detailed in Schedule A.

Given under my hand at Mahikeng, day of 9/06/2016.

FENNY GAOLAOLWE

MEMBER OF THE EXECUTIVE COUNCIL OF THE NORTH WEST PROVINCE RESPONSIBLE FOR LOCAL GOVERNMENT AND HUMAN SETTLEMENT.

Schedule A

Definitions

1. **In this notice any word or expression to which a meaning has been assigned in the Local Government : Municipal Structures Act, 1998, herein after referred to as the Act , shall, unless clearly inappropriate ,bear that meaning , and , unless the context otherwise indicates-**

"Constitution" means the Constitution of the Republic of South Africa;

"Demarcation board "means the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998(Act 27 of 1998)

"disestablished municipalities "means existing municipalities disestablished in terms of section 2 of this schedule;

"existing municipalities "means Ventersdorp andTlokwe Local Municipalities

"district municipalities "means the Category C municipality named Dr Kenneth Kaunda District Municipality;

"Effective date" means
(a) The day on which the results of the elections of the councils of the district and local municipalities in the district are declared elected in terms of section 190(1)(c) of the Constitution;
(b) If the results of any one or more of these councils cannot be declared , and a re-election must be held , the day on which the results of the re-elections are declared

"local municipality "means Category B municipality referred to in section 2 of this schedule;

"Municipal Structures Act "means the Local Government: Municipal Structures Act , 1998(Act 117 of 1998);
"North West Municipal Structures Act "means the North West Municipal Structures Act, 2000(Act 3 of 2000);
"proportionally elected councillors "means councillors elected to proportionally represent parties in a municipal council;
"MEC" means the Member of the Executive Council of the Province of North West responsible for local government and Human Settlement;
"ward councillor "means a councillor elected to represent a ward in a municipal council.
"NW405" Means the code given to the Ventersdorp /Tlokwe as redetermined by the municipal demarcation board

ESTABLISHMENT, DISESTABLISHMENT AND CATEGORISATION OF MUNICIPALITY IN TERMS OF SECTION 12 NOTICE OF THE MUNICIPAL STRUCTURES ACT NO 117 OF 1998 HEREAFTER REFFERED TO AS THE ACT

2. **The local municipality designated as NW405(Ventersdorp/Tlokwe Local Municipality) by Demarcation Board for which elections shall be held as contemplated in the Act, which –**
   (a) Shall be a juristic person;
   (b) Category B Municipality as determined by the Demarcation Board in terms of section 4 of the Act falling within the district municipal area of the category C municipality known as Dr Kenneth Kaunda District Municipality.
   (c) Shall be a type as described in Section 9 (d) of the Municipal Structures Act
   (d) Shall be known as Ventersdorp/Tlokwe Local Municipality(NW405)

Regulation of effects of establishment of municipality on existing municipalities

3. A municipality in paragraph 2, supra, supersedes the existing municipalities to the extent that existing municipalities fall with the area as demarcated by the municipal demarcation board. The superseding municipality becomes the successor in law of the existing municipalities.

4. To the extent that the municipality contemplated in paragraph 2 supersedes the existing municipalities falling with the same area as determined by the municipal demarcation board, these existing municipalities or any part thereof falling within the area of jurisdiction of the new municipality shall

   (a) be disestablished and,
   (b) The establishment of the municipality contemplated in this notice, takes effect at the commencement of the next election of the municipal council.
   (c) The municipality as contemplated, in this notice shall be the Category B municipality with mayoral executive system combined with a ward participatory system.
   (d) The municipality shall have the boundaries as determined by the Municipal Demarcation board.

Composition of the local municipality.

5. The local municipality as contemplated in this notice shall have the council consisting of 67 councillors, 8 councillors shall be appointed by the local municipality to represent the local to the district.
   (a) councillors being proportionally elected, and
   (b) ward councillors
   (c) The council of the local municipality may designate any or all of the following offices in the council to which councillors may be elected as full-time;
      (i) The speaker
      (ii) The mayor
      (iii) Members of the executive committee or mayoral committee as the case maybe.

(d) The municipality shall consists of the number of wards as determined by the municipal demarcation board Notice No. 129 of 2015 per gazette No. 7572 dated 20 November 2015 for which the number of wards shall be 34.
(e) The participation of the traditional leaders in the proceedings of the municipal council shall take place in accordance with the provision of section 81 of the Act

Exemption from the provision of the Act

6. The local municipality as contemplated in this notice is not exempted from any of the provisions of the Act

The regulation of the legal, practical and other consequences of the total disestablishment of the existing municipalities,

7. (1) A municipality established in terms of section 12 of the Act provides the following regulations;

(a) The councillors of the existing municipalities shall vacate their office when the council of the local municipality referred to in this notice has been declared duly elected.

(b) Transfer of staff from the existing municipalities to the superseding municipality- any person in the employ of the existing municipality referred to in this notice shall, in accordance with the determination of the MEC with effect from a date mentioned in such determination , be transferred to and placed in a service of local municipality, the relevant district municipality or any other local municipality within the district municipality on such terms and conditions of service which are not less favourable under which such person previously served: Provided that-

(i) The salary or salary scale of such person shall not be reduced on his or her transfer and appointment,
(ii) Vacation leave standing to the credit of such person with the existing municipality shall stand to his or her with the local municipality contemplated in this notice, the relevant district municipality or any other local municipality within the district municipal area,
(iii) Pensionable service performed by such persons in the service of the existing municipality shall be deemed to be pensionable service performed by him or her in the service of the local municipality referred to in section 2(1), the relevant district municipality or any other local municipality within the district municipal area.
(iv) Such person shall not as a consequence of such transfer and appointment, acquire a right to retire or to be offered a severance or retrenchment package.
(v) Such person shall not as a consequence of such transfer and appointment, acquire a retirement age which is less or more favourable than that which applied to him or her in the service of the existing municipality.

(vi) Such person shall within six months after his or her transfer to and appointment by the local municipality referred to in section 2(1) , the relevant district municipality or any other local municipality within the district municipal area, be afforded a non-recurrent choice either to remain a member of the pension or provident fund of which he or she was a member while in the service of the existing municipality or to become a member of pension or provident fund applicable to officers or employees, as the case may be, of the local municipality referred to in section 2(1) , the relevant district municipality or any other local municipality within the district municipal area, subject to the and rules applicable to the pension or provident fund of such municipality.

(vii) Any disciplinary action, considered or instituted, against such a person in terms of the provisions of any law arising from alleged misconduct or improper conduct committed before the date of transfer and appointment shall be dealt with in terms of the laws applicable to the officers or employees, as the case may be of the existing municipality at the time when the alleged misconduct was committed; and

(viii) Any person who refuses or withholds his or her consent to be transferred as contemplated by this section , shall not be entitled to any severance benefit or benefits

(ix) The provisions as set out above, shall not prevent the municipality concerned to from implementing a scheme to reorganise its personnel subject to the Labour Relations Act , (Act 66 of 1995)

(x) The employment of personnel referred in subsection (1) above must (a) be regularised in accordance with any collective agreement reached between the municipality concerned and the trade unions representing those employees; and (b) is subject to section 197 of the Labour Relations Act.

(xi) A determination contemplated in subsection(1) shall be published in provincial gazette for information

(xii) The effective date of the determination referred to in paragraph (a) may be a date prior to the publication of a notice for information contemplated in this subsection.

(xiii) The MEC may amend a determination in subsection (1)

(xiv) The local municipality referred to in section 2(1) may , by agreement with the relevant district municipality or any other local municipality within the district municipal area and with effect from the date determined by the agreement, after due consultation with the relevant trade unions and with the consent of employee concerned, transfer or second any of its employees to or place the services of that employee at the disposal of the district or local municipality concerned: provided that in the event of transfer such employee shall be employed on such terms and conditions and enjoy such rights and privileges as are not less favourable than those applicable to him or her at the time of such transfer.

(c) Additional duties of municipal managers of existing municipalities- municipal managers of the existing municipalities shall within seven days after the date on which the new council has been declared elected –

(i) Compile a list containing the names, identity numbers and other relevant particulars of (including , but not limited to ; Job title and post description ,salary scale, qualifications, experience and the date of commencement of service) of all persons who , on the date on which newly elected council has been declared elected, were in the employ of the existing municipality concerned.

(ii) Compile a list of all assets(as defined in section 7(5) and liabilities(including contractual obligation) of the existing municipality as on the above mentioned date, and submit such list of inventory forthwith to the MEC and the acting municipal manager as may be designated.

(d) Appointment of the acting municipal manager- the council of the local municipality referred to section 2(1) shall at its first meeting, designate a suitably qualified experienced person to act as a municipal manager of the local municipality until the substantive municipal manager is appointed by the council and such appointment shall be consistent with the Municipal Systems Act as amended.

(e) A person designated by the MEC shall call the first meeting of the council of the local municipality referred to in section 2(1) within 14 days after the council has been declared elected.

(f) The transfer assets, liabilities, rights, duties and obligations, administrative and other records of the existing municipalities,

(i) The assets, liabilities, rights, duties and obligations, administrative and other records of the existing municipalities referred to in section 2(1) of the Act shall in accordance with a determination by the MEC vest in the local municipality established by this notice, the relevant district municipality or any other local municipality within the district municipal area , with effect from the date as mentioned in the determination;

(ii) The local municipality established in terms of section 2(1) , the relevant district municipality or any other local municipality within the district municipal area ,shall in accordance with the determination of the MEC in respect of the powers , functions , assets , liabilities, rights, duties and obligations and records so vested in it , for all purposes be deemed be successor –in-law of existing municipality.

(iii) A determination contemplated in this section shall be published in the provincial gazette for information.

(iv) The effective date of the determination referred to above may be the date prior to the date of publication of notice for information as contemplated in this section.

(v) The MEC may amend a determination contemplated herein.

(vi) The local municipality contemplated in this notice as determined by the municipal demarcation board may by agreement with the relevant district municipality or any other local municipality within the district municipal area and with effect from the a date determined by such agreement, transfer or cede any assets, liabilities, rights, duties and obligations, administrative and other records referred in this notice to the district or local municipalities concerned.

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(g) The continued application of any bylaws, regulations, statutory notices, delegations, resolutions of the existing municipalities and town planning schemes shall be;

(i) In force in any such area until amended or repealed in accordance with the law.

(ii) Unless inconsistent with the context or clearly inappropriate, a reference in any such bylaws regulations, statutory notices, delegations, resolutions of the existing municipalities and town planning schemes shall be construed as a reference to the local municipality contemplated in this notice.

(iii) A structure or functionary of the existing local municipalities shall be construed as a reference to the corresponding structure or functionary of the local municipality contemplated in this notice.

(iv) In the case of the conflict between any bylaws, regulations, statutory notices, delegations, resolutions of the existing municipalities , the bylaws, regulations, statutory notices, delegations, resolutions of the local municipality shall prevail

The powers, duties and functions of the local municipality

8. **The new local municipality (NW405) as contemplated in the municipal demarcation board notice or in this notice shall**

(a) Within its area of jurisdiction, have the powers, duties and functions of a local municipality as listed in schedule 4 Part B to the Constitution.

(b) Have any other powers, duties or functions as may be assigned, allocated or reallocated in terms of the national and provincial legislations.

(c) Perform all other functions as contemplated in the constitution, national and provincial legislations.

The powers, duties and functions of the district

9. The district shall within the area of its jurisdiction within which the local municipality falls perform its district functions as contemplated in section 84(1) of the Local Government Municipal Structures Act or any other powers that may be adjusted

Effective date of the section 12 notice

This notice takes effect at the commencement of date of next elections of the municipal council of the new municipality.

Repeal

This notice repeals the whole section 12 notice of 2000 and subsequent previous amendment notices.

Short title

This notice shall be called the notice in respect of the establishment of Ventersdorp/Tlokwe Local municipality.

"Annexure B"

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 115 OF 2016

NOTICE IN TERMS OF SECTION 16 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, NO 117 OF 1998

I Fenny Gaolaolwe, Member of the Executive Council responsible for Local Government in the North West Province, hereby publish in terms of section 16(1) (c) of the Local Government Municipal Structures Act, No 117 of 1998, the amendment of certain notices relating to the establishment of certain municipalities in the North West Province as set out in a schedule hereto. The amendments shall apply to the municipal council to be elected during the next general municipal elections on the 03 August 2016.

Given under my hand at Mafikeng, day of 09/06/ 2016.

"Annexure C"

PROVINCIAL NOTICE 187 OF 2017

NOTICE IN TERMS OF SECTION 12 OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 FOR THE AMENDMENT OF THE NOTICE OF THE ESTABLISHMENT OF AN EXISTING MUNICIPALITY

I, Galaletsang Fenny Gaolaolwe, Member of the Executive Council responsible for local government in the North West Province, hereby publish for general information a notice in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) for the amendment of the notice of the establishment of an existing municipality within the North West Province as previously in published under Extraordinary Provincial Gazette No. 7660 dated 22 June 2016, Notice No. 98, Volume 259; as set out in the Schedule hereto.

Given under my hand at Mafikeng this 29th day of August 2017.

GALALETSANG FENNY GAOLAOLWE
MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL GOVERNMENT

SCHEDULE

Existing name per Gazette no. 7660	New name
Ventersdorp/Tlokwe Local Municipality	JB Marks Local Municipality