

Free State, South Africa

Determination of the Types of Municipalities Act, 2009

Act 2 of 2009

Legislation as at 30 March 2009

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Determination of the Types of Municipalities Act, 2009

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Free State South Africa

Determination of the Types of Municipalities Act, 2009 Act 2 of 2009

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includes any amendments published up to 25 March 2024.]*

(Afrikaans text assented to and signed by the Premier.)

ACT

To repeal the Determination of Types of Municipality Act, 2000 ([Act No. 1 of 2000](#)) and to provide for the determination of the types of the municipalities that may be established Categories A, B and C municipalities in the Province; and to provide for matters connected to therewith.

WHEREAS section 155(1) of the [Constitution](#) defines the different categories of municipalities may be established;

AND WHEREAS section 155(2) of the [Constitution](#) requires national legislation to define different types of municipalities that may be established within each category of municipality;

AND WHEREAS Part 2 of Chapter 1 of the Local Government: Municipal Structures Act, 1998 ([No. 117 of 1998](#)), in compliance with section 155(2) of the [Constitution](#), defines the different type municipalities that may be established within each category of municipality;

AND WHEREAS section 155(5) of the [Constitution](#) requires provincial legislation to determine which of the defined types of municipalities must be established in the Province;

BE IT THEREFORE ENACTED by the Provincial Legislature of the Free State as follows:-

1. Definitions

In this Act, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Local Government: Municipal Structures Act, 1998, has a similar meaning, and-

“**category**” in relation to municipalities, means a category A, B or C municipality as defined in section 155(1) of the [Constitution](#);

“**collective executive system**” means a system of municipal government which allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested;

“**Constitution**” means the [Constitution of the Republic of South Africa Act, 1996](#);

“**mayoral executive system**” means a system of municipal government which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee;

“**MEC for Local Government**” means the Member of the Executive Council responsible for local government in the Province;

"**plenary executive system**" means a system of municipal government which limits the exercise of executive authority to the municipal council itself;

"**Province**" means the Free State Province as referred to in section 103(1)(b) of the [Constitution](#);

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 ([Act No. 117 of 1998](#));

"**subcouncil participatory system**" means a system of municipal government which allows for delegated powers to be exercised by subcouncils established for parts of the municipality; and

"**ward participatory system**" means a system of municipal government which allows for matters of local concern to wards to be dealt with by committees established for such wards.

2. Category A municipalities

The following types of Category A municipalities may be established in the Province by the MEC for Local Government:

- (a) a municipality with a collective executive system;
- (b) a municipality with a collective executive system combined with a subcouncil participatory system;
- (c) a municipality with a collective executive system combined with a ward participatory system;
- (d) a municipality with a collective executive system combined with both a subcouncil and a ward participatory system;
- (e) a municipality with a mayoral executive system;
- (f) a municipality with a mayoral executive system combined with a subcouncil participatory system;
- (g) a municipality with a mayoral executive system combined with ward participatory system; and
- (h) a municipality with a mayoral executive system combined with both a subcouncil and a ward participatory system.

3. Category B municipalities

The following types of Category B municipalities may be established in the Province by the MEC for Local Government:

- (a) a municipality with a collective executive system;
- (b) a municipality with a collective executive system combined with a ward participatory system;
- (c) a municipality with a mayoral executive system;
- (d) a municipality with a mayoral executive system combined with a ward participatory system;
- (e) a municipality with a plenary executive system; and
- (f) a municipality with a plenary executive system combined with a ward participatory system.

4. Category C municipalities

The following types of Category C municipalities may be established in the Province by the MEC for Local Government:

- (a) a municipality with a collective executive system;
- (b) a municipality with a mayoral executive system; and
- (c) a municipality with a plenary executive system.

5. Provincial government bound by Act

The Structures Act binds the MEC for Local Government when -

- (a) determining the type of municipality to be established in terms of section 12 of the Structures Act;
- (b) changing the municipality from one type to another in terms of section 16 of the Structures Act; or
- (c) amending or replacing an establishment notice in terms of section 17 of the Structures Act.

6. Repeal of laws

The Determination of Types of Municipality Act, 2000 ([Act No. 1 of 2000](#)), is hereby repealed.

7. Short title and commencement

This Act shall be called the Determination of the Types of Municipalities Act, 2009.